

# Atlantic States Marine Fisheries Commission

## Winter Flounder Management Board

October 22, 2012  
1:30 -3:00 p.m.  
Philadelphia, Pennsylvania

### 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> )                                       | 1:30 p.m. |
| 2. Board Consent  | 1:30 p.m. |
| • Approval of Agenda  |           |
| • Approval of Proceedings from August 2012  |           |
| 3. Public Comment   | 1:35 p.m. |
| 4. Draft Addendum II for Final Approval <b>Final Action</b>                         | 1:45 p.m. |
| • Review Options ( <i>T. Kerns</i> )  |           |
| • Public Comment Summary ( <i>T. Kerns</i> )  |           |
| • Consider final approval of Addendum II  |           |
| 5. Consider Draft Addendum III for Public Comment ( <i>T. Kerns</i> ) <b>Action</b> | 2:15 p.m. |
| 6. Elect Vice Chair <b>Action</b>   | 2:55 p.m. |
| 7. Other Business/Adjourn   | 3:00 p.m. |

The meeting will be held at the Radisson Plaza-Warwick Hotel, 220 South 17th Street, Philadelphia, PA 215.735.6000

*Working towards 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 Meeting**  
**Monday, October 22, 2012**  
**1:30-3:00 p.m.**  
**Philadelphia, PA**

Chair: Ritchie White (NH) Assumed Chairmanship: 10/12	Vice Chair: Vacant	Law Enforcement Committee Representative: Blanchard/Overturff
Winter Flounder Technical Committee Chair: Steve Correia	Winter Flounder Advisory Panel Chair: Bud Brown	Previous Board Meeting: August 7, 2012
Voting Members: ME, NH, MA, RI, CT, NY, NJ, DE, NMFS, USFWS (10 votes)		

**Board Consent**

- Approval of Agenda
- Approval of Proceeding from August 7, 2012

**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.

<b>6. Draft Addendum II for Final Approval (1:45-2:15 p.m.) Final Action</b>
<p><b>Background</b></p> <ul style="list-style-type: none"> <li>• Massachusetts requested adjusting the GOM Addendum I measures because the federal GOM state waters ACL-subcomponent was increased by 450%, specifically removal of the Addendum I 11% recreational harvest reduction measures and an increase the state waters commercial possession limit from 250 to 500 lbs.</li> <li>• The Board approved initiation of draft Addendum II pending review of the proposal by the TC. The TC reviewed the proposal via 2 calls (<b>Briefing CD</b>).</li> <li>• The draft Addendum was released for public comment in late September and public hearings were held in October.</li> </ul>
<p><b>Presentations</b></p> <ul style="list-style-type: none"> <li>• Staff will present an overview of options, public comment summary, and committee reports</li> </ul>
<p><b>Board actions for consideration at this meeting</b></p> <ul style="list-style-type: none"> <li>• Select management options and implementation dates.</li> <li>• Approve final document.</li> </ul>

<b>5. Consider Draft Addendum III for Public Comment (2:15-2:55 p.m.) Action</b>
<p><b>Background</b></p> <ul style="list-style-type: none"> <li>At the August meeting, the Board tasked the PDT to draft management options to address a specification process that would enable the Board to respond to changes in the state waters ACL subcomponent. The Board also tasked the PDT to draft management options for in-season and post season accountability measures. These draft options were to be included in draft Addendum II if possible or a standalone addendum.</li> <li>Due to the tight timeline of draft Addendum II, the PDT included the draft options in draft Addendum III.</li> </ul>
<p><b>Presentations</b></p> <ul style="list-style-type: none"> <li>Staff will present draft Addendum III for public comment (<b>Supplemental Materials</b>)</li> </ul>
<p><b>Board actions for consideration at this meeting</b></p> <ul style="list-style-type: none"> <li>Approve draft Addendum II for public comment.</li> </ul>

<b>6. Elect Vice Chair (2:55-3:00 p.m.) Action</b>
<p><b>Background</b></p> <ul style="list-style-type: none"> <li>Ritchie White assumed Chairmanship in September 2012, leaving the Vice Chair seat vacant.</li> </ul>
<p><b>Board actions for consideration at this meeting</b></p> <ul style="list-style-type: none"> <li>Elect Vice Chair</li> </ul>

**7. Other Business/Adjourn**

**DRAFT**

**DRAFT**

**DRAFT**

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

**The Crowne Plaza  
Alexandria, Virginia  
August 7, 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 November 10, 2011 by consent** (Page 1).
3. **Move that the technical committee review the Massachusetts Proposal and the board develop a fast track addendum to move the proposal forward** (Page 11). Motion by Pat Augustine; second by Jaime Geiger. Motion carried (Page 15).
4. **Move to substitute that the board approve Massachusetts' request provided a technical committee analyses does not indicate the proposed increase in possession limit and year-round recreational fishery will increase winter flounder catch beyond the level the technical committee believes is scientifically justified. This action would be undertaken consistent with Amendment 1, Section 4.3.1, alternative state management regimes, general procedures** (Page 11). Motion by David Pierce; second by Bill McElroy. Motion declared out of order (Page 13)
5. **Motion to adjourn by consent** (Page 15).

**ATTENDANCE**

**Board Members**

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

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)  
 Jaime Geiger, USFWS

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

**Ex-Officio Members**

Harold Brown, Advisory Panel Chair

**Staff**

Robert Beal  
 Toni Kerns  
 Danielle Chesky

Katie Drew

**Guests**

Wilson Laney, USFWS  
 Matt Cieri, ME DMR  
 Charles Lynch, NOAA

Amy Roe, Sienna Club, Newark, NJ  
 Raymond Kane, CHOIR  
 Peter Burns, NMFS

The Winter Flounder Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel, Alexandria, Virginia, August 7, 2012, and was called to order at 5:05 o'clock p.m. by Chairman David Simpson.

### **CALL TO ORDER**

CHAIRMAN DAVID SIMPSON: Okay, welcome to the Winter Flounder Board.

### **APPROVAL OF AGENDA**

CHAIRMAN SIMPSON: The first item on the agenda is to approve the agenda. Are there any changes or additions? Seeing none, we'll consider the agenda approved.

### **APPROVAL OF PROCEEDINGS**

CHAIRMAN SIMPSON: We need to approve the proceedings from our last meeting, which was apparently the annual meeting last year.

Do we have a motion to approve those? Thanks, Bill McElroy; second from Jim Gilmore. Is there any objection to the motion? We will consider the proceedings approved.

### **PUBLIC COMMENT**

CHAIRMAN SIMPSON: Is there any public comment on items that are not on the agenda on winter flounder? Seeing none, we need to review Addendum I Management Measures, which Toni is going to help us do.

### **REVIEW OF ADDENDUM I MANAGEMENT MEASURES**

MS. TONI KERNS: I'm going to review the Addendum I Management Measures so that the board can have a discussion concerning the request from the Commonwealth of Massachusetts to change the requirements that were done in Addendum I to Amendment 1 to realign federal management plan regulations with a conservative 500 pound trip limit, which is currently 250 pounds.

Addendum I passed in 2009 responded to the 2008 GARM III Assessment. The resulting stock status was likely overfished and overfishing was probably occurring. The requirement was an 11 percent reduction in F on the Gulf of Maine winter flounder to reach MSY. Addendum I requirements for

commercial measures was a 250 pound possession limit.

This equated to approximately a 31 percent reduction in harvest for state-water vessels without federal permits. Federal water fishermen were not subjected to the same possession limits with one exception. The common pool federal fishermen that continued to operate under the days-at-sea management were subject to the 250 pound commercial trip limit.

The final federal interim rule was estimated to reduce F by 16 percent. These were through days-at-sea reductions. Then as the New England Fishery Management Council moved away from days at sea, they shifted to the ACLs and sector management. Addendum I requirements for the recreational measures was that states had to implement management measures that reduced F by 11 percent.

This was done through various closed seasons in the states of Maine, New Hampshire and Massachusetts that are seen up on the board. There was also a 12-inch minimum size limit and an eight-fish bag limit. Those are your Addendum I regulations.

### **REVIEW SARC 52 GULF OF MAINE RESULTS AND TECHNICAL COMMITTEE RECOMMENDATIONS**

CHAIRMAN SIMPSON: All right, any questions for Toni? A review of the SARC 54 Gulf of Maine results and technical committee recommendations; I think Katie is going to help us with that.

DR. KATIE DREW: This is actually SARC 52, which is a typo on the agenda, but that's okay. Basically I'm just going to go over this real quick. The analytical model was not accepted for the Gulf of Maine stock. The model had problems dealing with the conflicting signals within the data where catch was declining but the indices showed no signal and the catch at age did not show an increase or decrease.

The age structure wasn't responding and the model couldn't deal with that. As a result the model went to – they used an area-swept biomass estimate to assess the stock, This is basically using survey data from three different surveys to produce estimates of F and exploitable biomass;

so by calculating the exploitable biomass as – so your 30 centimeter plus biomass per tow divided by the area swept by the trawl for each tow times the total area covered by the survey adjusted for the efficiency of the trawl, and then you use this total catch divided by this exploitable biomass to get your exploitation rate.

This was able to compare it to some of the – to go over some of the assumptions, no herding between the doors in the surveys, the fish are distributed similarly among habitats that the survey covers, there are similar efficiencies among the surveys and that those efficiencies are known and that there is no movement of fish into or out of the survey area when the surveys are conducted.

Obviously the model is sensitive to these assumptions, if any of these are violated. The estimated catch rate was compared to the biological reference points. We have an F reference point of F 40 percent SPR as our Fmsy proxy, but we were unable to develop biomass reference points.

As a result we can say whether or not overfishing is occurring, but we can't say whether or not the stock is overfished, so we don't have a reference point to compare those biomass estimates to. Overfishing was not occurring. This graph is showing your little point down there in 2010 the exploitation rate was well below the threshold, but again we can't say whether or not overfishing is occurring – I'm sorry, whether or not the stock is overfished.

This is just a graph showing sort of the probability of exceeding your Fmsy proxy as a function of the quota; and obviously as you increase your quota, the chance that you'll exceed your reference point, your F reference point go, but it's also sensitive to your assumptions about the efficiency of the trawl survey. This is the same graph that is showing it for your probability of exceeding the 75 percent mark on that Fmsy proxy.

MS. KERNS: Katie and I are going to change jobs, and the technical committee had given a report to the board after the assessment came out to give concerns with any large increases in the ABC. Their concerns included that the assessment was based on an area-swept survey indices, which had uncertainties and assumptions that Katie just went over; the ABC is conditional on the estimate of catchability; and that the spatial distribution of the stock was truncated relative to its former distribution.

Looking at trip limits, the previous trip limit analyses that were done were done to reduce the trip limit. In discussions with a couple of technical committee members, they do have a concern that there would not be the data to support an analysis to increase the trip limit if the board was looking to determine what the breaking is for a bycatch fishery versus a targeted fishery for winter flounder. Lastly, this is just a reminder to the board on what the current ACLs and sub-sector ACLs are for the fiscal year 2011 and 2012.

CHAIRMAN SIMPSON: Questions for Katie or Toni? Okay, seeing none, David there is the subject of the request that you had for the board.

### **MASSACHUSETTS GULF OF MAINE WINTER FLOUNDER REQUEST**

DR. DAVID PIERCE: Mr. Chairman, I appreciate the fact that the board was willing to meet today, late in the day to discuss this specific request that the Commonwealth is making of the board. I have a very short presentation that describes exactly what we are requesting and the reasons why, so I would like to give that, if I may, Mr. Chairman.

It is a presentation that closely follows the July 19 letter that was sent to you describing what we are requesting. It is a slightly different approach. Well, it is a different approach from the one that we had initially suggested to you as the Chair in our July 3<sup>rd</sup> letter where we specifically requested that an addendum be performed – that the board approve an addendum that would provide for an increase in the trip limit from 250 to 500 pounds and the removal of the recreational fishing season.

The reason why we have taken a different approach is that after discussing the addendum approach versus something we would hope would be more timely, those individuals who have state permits only, not federal permit holders but just fishermen in state waters with no federal permits, they indicated that an addendum would mean time passing and bring us to the end of this year most likely, and that would mean that they would not be able to fish for winter flounder at a higher possession limit in September, end of August/September; maybe into October and November, although October and November present a special challenge this year because we have a closure to gill netting; harbor porpoise closure which is October and November in the inshore portion of the Gulf of Maine, so it takes

their opportunity to fish for winter flounder or anything else, for that matter.

If I may, I'll briefly go through this. It sets the stage and I think it will help the board members form their questions. This board certainly understands that for groundfish ASMFC only deals with winter flounder. Massachusetts, Maine and New Hampshire, as well as the other states, have to deal with a whole suite of groundfish species, so it makes for a real interesting mix of management measures that we have to impose in order to be consistent with federal management for groundfish.

In this particular case we are dealing with Gulf of Maine winter flounder, so really three states, Maine, New Hampshire and Massachusetts, responding to some rather good news relative to the status of Gulf of Maine winter flounder and an increase in the state waters ACL sub-component. Now, my presentation has to reference Addendum I to Amendment 1 requirements, and specifically has to highlight Amendment 1 itself because that is the key document that we feel would enable the board to move forward in a quick way; not through an addendum but by just approving the request of Massachusetts, which has the support of New Hampshire, I believe, and potentially the support of the state of Maine.

Terry has a perspective I suspect that he will provide when I finish my presentation. We are requesting that Addendum 1 to Amendment 1 requirements be realigned to the new federal management plan regulations, and again a conservative 500-pound commercial trip limit, currently 250 pounds.

We are very aware of the fact that our own technical committee has made it clear that they don't feel that it is appropriate to, for example, ease up on regulations by 450 percent or so, which is the size of the increase in the state waters ACL sub-component. We're not proposing that at all. We're proposing the conservative 500 pounds as opposed to the 250 pounds.

Then the other aspect, the other element of this proposal is to remove that recreational fishery closure that is in Maine, Massachusetts and New Hampshire, and that would enable us to provide for consistent Gulf of Maine measures between the states; that is, the 12-inch minimum size, the eight-fish bag limit, and then open year round.

It would also improve compatibility and fairness with the federal measures; 12-inch minimum size, unlimited retention and open year round. That

pertains primarily to sector fishermen that have a lot of free rein. It does not pertain to common pool fishermen that still would be restricted to 250 pounds.

We're aware of that, but there is really nothing we can do for common pool fishermen and federal permit holders who are not in sectors because the National Marine Fisheries Service, when they made the recent change in the state waters sub-component, state waters ACL sub-component, they said they couldn't figure out – they couldn't determine what an appropriate trip limit increase would be for common pool vessels, and that is very clearly stated in the Federal Register announcement describing that particular situation.

So, common pool vessels, common pool fishermen still are faced with this problem. This is not a problem the states can address. We're looking to address specifically the state waters ACL sub-component. So, Addendum I to Amendment 1 was indeed appropriately termed an addendum because it adopted restrictions for Gulf of Maine winter flounder to conserve the resource and it dealt with an overfishing determination and now that situation is reversed.

We don't have an overfishing determination. We're no longer overfishing and indeed as indicated by the presentation that was given prior to mine, there still is this question about the status of the biomass, the abundance of the Gulf of Maine resource. There is a lot of uncertainty with regard to that, but the fact of the matter is the overfishing determination is no longer there.

So, we are saying that the requested change will lessen the economic impact being felt now by commercial groundfish fishermen and it will provide additional opportunities for recreational fishing. For those of you who paid attention to the groundfish fishery and the dilemma in the New England area, you're well aware of the fact that we are in this fishing year and the next fishing year, the fishermen are being faced with very dramatic restrictions in the overall take for many groundfish species.

So, at least in 2012, potentially in 2013 but certainly now would lessen that economic impact and provide more opportunities for recreational fishermen. Now, the logical rationale for this request is that we have updated stock information and stock status information; and importantly the New England Fishery Management Council and

NMFS, they took action to increase the fishing year 2012 state waters annual catch limit, that sub-component by 450 percent.

It went from 60 metric tons to 272 metric tons. That federal action made the 11 percent reduction in fishing mortality required by Addendum I – again, that is May 2009 – it made it no longer necessary and it made it inconsistent with the Addendum I objective for complementary federal and interstate plans. We need to focus on that objective – it is still there – complementary federal and interstate plans.

As I said before, overfishing is no longer occurring. So, the need for timely action; we're not requesting emergency action. We are saying that there is a need for timely action and we believe Amendment 1 provides us with the means to do that. Our state waters fishermen harvest about 95 percent of their annual take of Gulf of Maine winter flounder between May and September.

Obviously, we're at the beginning of August. We make the point that delaying implementation of any revision would take away any advantage to our fishermen and those in New Hampshire and the state of Maine of the increased fishing year 2012 sub-ACL. Also, this is something that most people haven't thought about, but I think that New England Council states are beginning to think about it more so than ever before.

There are potential repercussions for federal reallocation of any unused state waters sub-ACL in fishing year 2013 and beyond. If we don't use it, it is taken away from us to deal with federal permit holders. Fine enough, but at the same time we do have a state waters sub-ACL set-aside for non-federal permit holders.

And then also by delaying implementation it ignores the fact that a portion of state waters as well as federal waters will close in October and November for harbor porpoise protection. This is a new event, a new restriction that will happen this year. All right, Amendment 1, that was back in November of 2005. Amendment 1 still exists.

Obviously it does have an addendum and we're living with that now. That amendment was written and adopted in response to SARC 36, way back when, indicated that the Gulf of Maine winter flounder was not overfished and overfishing was not occurring, but the Southern New England/Mid-Atlantic Complex was overfished and overfishing was occurring.

So, one of the amendment's objectives was to establish an interstate management program that complements the management system for federal waters. I just wanted to highlight that once again. Now, here is an important Amendment 1 requirement that we bring to the board's attention because it is very relevant to our request.

States are required to obtain prior approval from the board of any changes to their management program for which a compliance requirement is in effect. We're here before the board making that request. A state can request permission to implement an alternative for any mandatory compliance measure only if that state can show to the board's satisfaction that its alternative proposal will have the same conservation value as the measure contained in this amendment or any addenda. Then, finally, states submitting alternative proposals must demonstrate that the proposed action will not contribute to overfishing of the resource.

Obviously with the increased state waters sub-component of the ACL going up 430-some-odd percent, contributing to overfishing of the resource is no longer a factor. That will not happen. Now, Amendment 1, Section 4.3 – this section does exist. It is entitled "Alternative State Management Regimes", and these are the general procedures that we highlight for the benefit of the board.

A state may submit a proposal for a change to its regulatory proposal or any mandatory compliance measure under this amendment to the commission. And then the Winter Flounder Management Board will decide whether to approve the state proposal for an alternative management program if it determines that it is consistent with the target fishing mortality rate applicable and the goals and objectives of this amendment.

Indeed, we contend that is the case. It is consistent with the target fishing mortality rate and it is consistent with the goals and objectives of this amendment. Now, adaptive management, it is commonly talked about by ASMFC and we've used it often for many initiatives; not necessarily for winter – well, winter flounder, yes, one time.

Now some may argue that this Section 4.4, adaptive management, should be used – that is the addendum – should be used for any proposed

change. Now, we're suggesting that adaptive management is to be used – and this is out of the amendment – to be used if the change is to conserve the winter flounder resource and prevent overfishing of the stock complex or any spawning component.

Our request is in response to the scientific findings that we are no longer overfishing and the state waters ACL sub-component has increased significantly by 450 percent. Now, I'm sure some people around the table, some board members are curious about landings, landings by the non-federal permit holders, what have they been; also, landings by the recreational fishermen.

It is good to know what it has been for both elements of the fishery recently in order to put this into better perspective. Massachusetts is the only state with appreciable non-federal Gulf of Maine winter flounder landings; that is, we had about 45 metric tons in 2010 and 2011. The 2012 state waters ACL sub-component is 271 metric tons.

Then for the recreational fishery in 2010 and 2011 we had, in all three states respectively – 2010 was 34 metric tons and in 2011 it was 38 metric tons, so obviously as it stands right now the levels of catch are low in the commercial fishery relative to the state waters ACL sub-component and certainly very low recreational landings.

With Gulf of Maine states supporting this change, notwithstanding the state of Maine's possible hesitation and with no other state being affected by this action, we're hopeful – we suspect that the non Gulf of Maine states will appreciate the efficiency and the effectiveness of this approach and rule changes complementing the management system in federal waters and the fact that we would be responding in a timely way to new assessment information without the need for an addendum.

It could be done through board approval, and that is our contention and we believe it is supported by Amendment I language. Now, I have a motion to make, Mr. Chairman, but I will hold off on that. I'll turn to you for guidance as to when you would like me to make that. I'll certainly respond to any questions, statements of concern, what have you.

CHAIRMAN SIMPSON: Thanks, David; I think that was big help. Let's take some questions. Tom, you had one.

MR. THOMAS FOTE: I don't have a question. I have a statement so when you get into statements

about whether we can support this or not, that is a little different. I have no question for Dave. I understand what he presented. It is his opinion.

MR. TERRY STOCKWELL: Mr. Chairman, I don't have any questions. I do have some comments when it is appropriate, so I'll defer to your judgment on that.

MR. ROY MILLER: Mr. Chairman, very quickly; how confident are we that what happens to Gulf of Maine stocks have no impact on Southern New England stocks? In other words, if the fishery is liberalized in Gulf of Maine; can we assume that it will not jeopardize recovery of the Southern New England stocks?

CHAIRMAN SIMPSON: Thanks, Roy. Katie or Toni, do you guys want to handle that?

DR. DREW: They are managed as separate stocks so sort of our best scientific information supports that, but I don't think the technical committee could right now give you an opinion on how interconnected they are or any kind of number on that at all.

CHAIRMAN SIMPSON: Right, but the way they're assessed and managed is Gulf of Maine, Georges Bank and Southern New England, is that right, or is Georges Bank combined? David.

DR. PIERCE: I'm not a member of the technical committee, but I certainly have spent a lot of time working with winter flounder over the years going back to 1978 involved with the winter flounder research program in Massachusetts. I'm very much aware of the tagging information that is out there.

We did extensive tagging of winter flounder back in the seventies and, of course, it still goes on. There is quite a bit of movement of winter flounder in southern estuaries, Southern New England area, in the Mid-Atlantic, back and forth movement in response to change in water temperatures. However, in the Gulf of Maine there is very restricted movement of winter flounder.

They don't undertake migrations. There is movement from shallow water into deeper water, responding to changes in water temperature. There may be some movement of winter flounder into the Georges Bank area, but likely not that much. Georges Bank is considered a separate

stock. The Gulf of Maine winter flounder resource I guess it's safe to say is fairly isolated from the other components, other stock components of the Gulf of Maine resource regionwide.

CHAIRMAN SIMPSON: Okay, thanks, David. I had a couple of questions that you might be able to help me with just to put our part of this management issue in perspective. You were talking about a fivefold increase in the state waters sub-ACL. Is the overall increase that the New England Council has approved; is it the same order of magnitude, fivefold increase, or is it larger or smaller?

DR. PIERCE: The increase in the state waters sub-ACL was about 450 percent. Again, we're not requesting that we go that high. Obviously, the states of Massachusetts, Maine and New Hampshire are heavily invested in winter flounder research and management; so whatever we offer up as a proposal is a conservative one.

That I want all board members to understand; so we go up from 250 up to 500 pounds on a trip limit is relatively small. I should also highlight the fact that if anyone is concerned about the effect of fishing on the winter flounder biomass in the Gulf of Maine, I suspect that you should be concerned about the effect of federal waters fishermen on that biomass; because federal waters fishermen, most of them being in sectors, have no trip limits.

They're free to catch what want subject to specific allocations they would have in their sectors. It can be argued that the monitoring of that sector catch may not be as good as it should be. That is another issue that is kind of a thorn in my side. If biomass is to be affected by fishing, it is going to be federal permit holders and not by state fishermen with no federal permits, fishing with a very modest increase in the trip limit from 250 to 500 pounds.

CHAIRMAN SIMPSON: Right, thanks, and what I was hoping to do is put the state waters sub-ACL into a context of what the total allowable catch is and then ask if you had a sense of what percentage of total removals would come from state waters only permitted vessels. Are we talking about are we half of the total, are we a tenth of the total, less?

DR. PIERCE: I have to look at the specific percent breakdown of Gulf of Maine winter flounder for common pool vessels, sector vessels and for all the different sub-components, with state waters being one of those sub-components. I believe it is less than 5 percent, maybe around 2 percent, something like that.

MR. PATRICK AUGUSTINE: Very definitive presentation, Dr. Pierce. I'm wondering, Dr. Drew, have you folks looked at this and made – I haven't seen a paper on it, but have you folks taken a position one way or the other on this? Are you going to weigh in or is this strictly a board decision?

MS. KERNS: The technical committee has not been requested to weigh in on this, and so the board would have to task that to the technical committee.

MR. AUGUSTINE: To that point, Mr. Chairman, could we have the technical committee weigh in on this and come back with either a position or white paper or assessment with a thumbs up or thumbs down? I know that Dr. Pierce and staff have done a tremendous amount of work on this. They have given us a lot of background on it; but again it is being presented at the board for immediate action. I think in all fairness to us we really need to have the technical committee weigh in on this and come back with some kind of a position. Otherwise, I think we're abdicating our responsibility to assess this proposal by Massachusetts.

CHAIRMAN SIMPSON: Okay, thanks, Pat. I think David's point of bringing it here today is the time urgency, and a technical review would either be met by conference call in a couple of weeks, if they could meet instantaneously, or we'd be pushing it to the annual meeting. My sense is that's later than would be helpful.

MR. AUGUSTINE: Well, Mr. Chairman, that's part of the problem. Again it is immediacy; we need an answer tomorrow, yesterday or today, and I think in all fairness to the process, as much as I'd like to see us move forward with this because the stock obviously has increased tremendously, it's still without the technical committee weighing. I think we'd be remiss in our duty to go forward with it until such time. How fast could the technical committee respond and would it require a conference call by the board to take action on that for the greater benefit of Massachusetts to enjoy the benefits of this increase in stock?

CHAIRMAN SIMPSON: We would be guessing. It is summer; there are a lot of vacations and whatnot happening now. It could be a week or two, anyway, before we could get the technical committee together. It would be a few weeks I

think before it would come back to us for a decision. I think people are getting ready to move into comments and statements and so forth, and I had at least Terry and I saw Doug raise his hand; so we can to Terry Stockwell, if you ready, and then Doug.

MR. STOCKWELL: Last week's dismal groundfish updates on six of New England's primary species has really taken a whole lot of my time and a number of other people in this room and outside of this room as well. One of the reasons why we're at where we are with those stocks is the recent updates on the science that we have received that basically concluded that three years ago we way overestimated the stock sizes and allowed too much harvesting.

Now we're looking at essentially crippling every component and aspect of the New England fishery and the scallop fishery for some bad decisions that were made. I'm very supportive of the concept of Dave's proposal to increase catch when we can, but Katie highlighted some problems with the model and I share those.

Quite frankly, the status of the fishery and the resource off the coast of Maine is between poor and nonexistent. I've got some concerns, some of which Dave raised. One is with the differential limits between the common pool vessels and the state-permitted vessels. One is with the sector vessels have extremely limited groundfish ace; and when they catch too much, they have to shut down.

This would essentially award a component of the fishery 500 pounds per day year round. Katie mentioned a concern I also have about is 500 pounds enough to target. I don't know that. I am concerned that we're moving forward into a process that is brand new to me at least without any public input. The figures that David has been working with, we have to underscore that's an annual ACL. It may or may not change next year. If it does, we're going to have to change our plan around it. If we go 500, we may go up, we may go down, I don't know.

As I think about this, in all fairness to the fishermen in the Commonwealth and through the Gulf of Maine with severe economic restrictions coming up, I'd like to think of some way to link this process together so that our measures for both our recreational and commercial fisheries in state waters can be hardwired into the ACLs that go up and down, so the industry members, for instance, that David is referring to right now can be awarded when we're assured that we can work within the science, but we're not coming back and either micromanaging and we are meeting too

often to do that. We couldn't do that this afternoon. I think we have to think to think through an addendum and come back at the fall meeting. I am very sensitive to the needs of the fishermen in Massachusetts, and I do have no concerns about removing the measures for the recreational fisheries.

MR. DOUGLAS GROUT: When the state of Massachusetts brought this forward, the state of New Hampshire was fully supportive of this given the increase that has gone in the total ACL. If you look at Dr. Pierce's first letter to you on July 3<sup>rd</sup>, it shows that the total ACL in the fishery went from 2011 524 metric tons up to over a thousand metric tons.

As Dr. Pierce had also pointed out, the state waters component here has landed – I believe his figure showed somewhere around 40-some-odd metric tons. You can correct me I'm wrong on what they've done in past two years, but now they have the ability to, according to the National Marine Fisheries Service and the council, safely harvest 272 metric tons in the state waters component.

I don't think it is a technical issue. This kind of increase in the trip limit would not – I can't imagine it would even come close to that 272 metric tons, and it is certainly not going to affect the whole ACL. The question here from my standpoint is not whether it is appropriate to do it; it is how to do it.

Originally we had discussed – and the letter from Massachusetts originally contemplated an addendum, which from our standpoint and from the recreational standpoint and I believe Terry's standpoint that was the appropriate way to go. Dr. Pierce today in his more recent letter is arguing that Amendment 1 already gives us the authority to change these because of the change in the status of stock advice. I'm just putting that very simply.

My question for staff here is having looked at the Amendment 1, is Dr. Pierce correct that we have the authority here to change this today at a board meeting or should we – is it more appropriate that we go to the addendum process? To me that is the question we have to answer here from a policy standpoint. I ask that of staff, if they could possibly comment on if they feel that Dr. Pierce's arguments are correct, that we can make that change today.

ACTING EXECUTIVE DIRECT ROBERT E. BEAL: That's a loaded question. To give a bit of background, I think this is very similar to the scup situation that the Southern New England states were in last year, I guess it was, where there is new information an apparent change in the regulations could be implemented that would not have a lot of biological impact.

However, there was no ideal vehicle to make that change. It didn't really fit the emergency rule provisions. There wasn't time for an addendum. This is the currency that the chairman knows and loves the scup situation, so I know David is sympathetic to that. During David Pierce's presentation, there were a number of vehicles that he brought up.

One was the addendum and that would be too long because even if we did an emergency sort of fast-track addendum, we probably couldn't get that in place before the annual meeting. A final decision at the annual meeting is too late for this year's fishery. Part of that was adaptive management that he brought, but the adaptive management section of the Amendment 1 is the addendum provision. Those two in my mind are linked, anyway.

The emergency rule provisions, traditionally the commission has not used emergency rules to relax fishery regulations, and David said this is an urgent situation and not an emergency, so that brings back to the alternative management programs or alternative management sections in Amendment 1. Traditionally the commission has used that for conservation equivalency.

There is that clause in there – David had it in his presentation – the same conservation value as the previous regulations. The conservation value standard, for better or for worse, is that of Addendum I, which was the 11 percent reduction on the recreational fishery for the Gulf of Maine and the 250-pound trip limit for the Gulf of Maine, which was a 31 percent reduction.

I think we're in a similar spot here with none of these vehicles that we're talking about here are ideal. I can't really give you a yes or no of whether the board has the authority to make this change through board action, but historically this would be something different than what the boards have done to make management changes for a species even when there is new emerging information. I hope that is helpful.

CHAIRMAN SIMPSON: Yes, I think it is. As I listened to what David offered and your responses and that a particular response is reminiscent of the difference between how we have approached winter flounder management, which is occasional modifications to a plan, and something like fluke, scup and sea bass that anticipate adjusting every single year in response to an update assessment and the target and the idea of conservation equivalency, you put in your new rules because you're trying to hit a certain target. The question that we have to deal with is the Winter Flounder Plan really built for that at this point or not and can we make it work for us or not now and then should we? Tom.

MR. FOTE: There is a big difference between scup, summer flounder, black sea bass. They're all jointly managed plans. We've had a long history of basically doing addendums to the plan to accommodate those kinds of changes. That is why we can do it with summer flounder, scup and black sea bass because it's a different – where we do not have a joint management plan with the New England Fishery Council when it comes to winter flounder.

They're two separate entire different plans. From what I understood, and maybe I was mistaken, but the technical committee was not looking favorably about increasing anything on winter flounder. I have a problem when we're going to go out with doing this through some kind of action here. It just doesn't send the right message without having it go through the technical committee.

Third, this stock assessment came out in the annual meeting in October. If it was such a criteria problem, we should have got this months ago if there was thinking about it and not at the last minute and says, well, now it is urgent. There was a whole period of time from October that we could have been looking at some kind of addendum that started out at either the February meeting or the spring meeting. That's my other concern here, and then it is process.

I have got one other thing; when it becomes bycatch – and when Bob brought up conservation equivalency, I remember my famous motion allowing for a hundred pound bycatch, which I assumed meant it was only a hundred pound bycatch, and then somebody used a hundred pound bycatch and says, "By the way, because you didn't state that it couldn't be used for

conservation equivalency, that is now changed to a thousand pound, which can make it a directed fishery.”

That is my other concern here. I need things spelled out in an addendum. Then the other problem I'm dealing with is I've got to go back – I look at Maine. We started this plan looking at Maine and saying, well, when is the recreational fishery going to recover and when are they going to start catching fish in the Gulf of Maine?

I am looking at this and it's still zeros in the recreational catch. I don't see any rebuilding there. I'm looking at the recreational catch; I've got a problem. Then it goes to the perception thing. I've got one fish from – where is it – Rhode Island south, we've got one fish and a 50-pound limit in our commercial fishery, and that is just in our pound fishery, which comes down to 46 fish.

So you think about a 250-pound bycatch and the weight of the summer flounder; that would probably make 200 days of fishing by my recreational for one bycatch landing. This I need to sell to the public, and the perception will be how come you let this go on without even going through an addendum while we're being restricted so high. We need to go through a process, an addendum process and we need to fully air this out, and that's the only way I can deal with this.

MR. PAUL DIODATI: Well, it's an interesting dilemma, and I think everyone has provided excellent input. The trouble I'm having is that there seems to be a major disconnect between the federal program and our program here. It's going to be very difficult – I think Tom just made a point that he has to go home I guess and justify to somebody, I don't know who, but I know who I have to justify it to when I go home as well, when I have to explain that we have, yes, your annual catch levels, your ACLs have increased 450 percent, but we can't go from 250 pounds to 500 pounds because this board is not comfortable with that.

The common pool – it is all based on the ACLS. If the council wants to make a difference to the common pool daily trip limits, they're free to do that and have that discussion, but we shouldn't be punitive on the state waters fisheries that we have an opportunity here today to adjust. If we don't do that, I'm looking for the rationale that I have to give back to the fishermen that depend on making an extra \$250 a day is about what we're talking about here; a 450 percent increase in the ACL for this year that came out after the interstate plan has been adopted, and so

they're out of sync. If you want to wait a year or two before you catch up, I think we're going to seem like we're a very non-responsive government bureaucracy by not acting on this. Thanks.

MR. JAMES GILMORE: Paul, those are good comments and I understand that, but I guess the concern I have is there is some discomfort with this with some of us right now. I think it goes back to – I mean, scup has been raised as an example. The difference with scup was that the stock wasn't overfished and overfishing wasn't occurring.

It was really a data uncertainty issue, and I think we felt comfortable with it. I got the sense the technical committee is not completely comfortable with it. We've all talked about overfishing, but that caution about we don't know if the stock is overfished seems to be a question that at least I'd like to get a better sense of.

Now, I don't think we have to go through a full addendum to get to this, but I really would like to get at least a little bit of a feedback from the technical committee on their feeling on this before we're just sort of – I'm shooting from the hip right now, and again I just feel uncomfortable and I'd like to get a little input from the technical folks of whether they think this is a good idea or bad idea or neutral. I think we may have the opportunity to do in a shorter term and still maybe meet what the Commonwealth wants to get out of this in terms of their fishery.

DR. PIERCE: To the question of technical committee input, I obviously appreciate the value of technical committee input. I thank staff for highlighting during their presentations the fact that the technical committee did give a recommendation a while ago in October 2011 that we should not increase by 452 percent.

Sure, that was a very reasonable position for the technical committee to take, especially in the context of stock abundance not really being well known; some management uncertainty there. They couldn't wrestle with that; they couldn't come up with it. So 452 percent; we nowhere near 452 percent.

This very conservative increase and the changes in the recreational season would not provide for that sort of an increase. Now, going to the technical committee, I think that Toni said that

she had touched base with a few technical committee members, and she said that they wouldn't have the data to enable them to do an analysis as to what any particular increase in the trip limit would result in.

So, maybe I'm mischaracterizing it, but that's what I believe you said, Toni, so I don't believe the technical committee is going to be in a position to provide any more guidance, any better guidance than that which they have already given us; don't increase flounder catch by 452 percent, which is what, of course, the New England Council has allowed and NOAA Fisheries has agreed. So, it has happened and the sub-ACL component has increased.

Paul Diodati made the point about now having to come up with some rationale as to why we would not allow for that particular increase. I have that same problem in dealing with our industry that asks very pointed questions and frankly has been very complimentary about ASMFC in the past and continues to compliment, praising us for our ability to respond in a relatively quick manner to changing resource conditions, the need to restrict or the need to remove some of the restrictions.

So, going to the technical committee I suggest is not going to provide us with any additional information. It will only delay the procedures, delay the process; and as I said in my presentation, put us in the position where we in all likelihood will lose the ability to take advantage this year of the increased state waters ACL sub-component.

MR. ADAM NOWALSKY: I'm glad Bob made the comment that this in his eyes looked a lot like scup last year because that was exactly what I was thinking when I saw this. Again, I'm reminded of the people we represent and the job we're here to do to protect both the fisheries and provide access to the fisheries for our fishermen.

When we went through the scup issue last year, there were a lot of questions about process; was it followed; wasn't it followed. In this particular case I've got to appreciate the fact that Massachusetts did come to us to get our input and to offer our input before acting unilaterally. I think that is definitely a positive step.

I think that this does highlight – you know, Bob mentioned the fact that this isn't an emergency measure we need to take. I think it brings further impetus to the fact, though, that when fisheries become rebuilt we need better mechanisms in place to be able to respond on behalf of the fishermen. It's

very difficult – when it is good enough for the Service to increase an ACL at the level that it did, it is difficult to sit here and say, well, we can't do the same in state waters.

It sounds like we have a process here to do it. There are a lot of questions about how the technical committee might respond to it, but apparently the Service looked at it and it was certainly good enough for them. Doug made the comment that he is not sure what the right way to do it is, but there is certainly – we should be looking very hard to find a way to do this.

I'll just wrap up with one question for Dave in that I think we're all comfortable walking out of here with an addendum, which is what the ask was in the original July 3<sup>rd</sup> letter. I'm just curious as to what changed between then and the July 19<sup>th</sup> letter that really upped this request to something more than the addendum in the original ask at this point?

DR. PIERCE: Simply put, the state waters fishermen were told what we were intending to do, and their response was that is just too late. They then clarified their specific situation, their fishing patterns, when they can fish, when they cannot fish, so frankly I was premature in sending that letter to David. My fault; I should have consulted with those fishermen to get their perspective beforehand, but, anyway, I got it and that's why I made this proposal on behalf of the division today.

MR. G. RITCHIE WHITE: Mr. Chairman, I guess I'm not concerned about the technical committee review. Clearly, this quota is there to be fished, and we're not even going to go close to what we would be allowed to. I think that is not an issue for me, but the process is an issue. I believe we had a white paper after the scup issue from the policy board that talked about emergency actions used in this kind of circumstance.

I'm not saying this is an emergency action, but I believe the policy board said that the commission didn't need some new structure. I may be wrong on that, but I think that was the outcome and that the addendum process was the proper process to use. I guess my question to Bob is – and you may have already answered this and I didn't retain it – has this ever been used in another fishery, the equivalent use that is being proposed here?

ACTING EXECUTIVE DIRECTOR BEAL: The alternate management program provisions in the FMP? I can't recall any instances where it was.

MR. WHITE: And that being said, I guess it would give me great concern to use that in this instance without the policy board kind of coming up with a policy that we could be using this in a general instance going forward with all species. Short of that, I think it needs an addendum.

MR. AUGUSTINE: Mr. Chairman, all the points are very important and salient. Ritchie, you hit on the direction I wanted to go with it. Thank you for the clarification, Bob. **I would move that the technical committee review the Massachusetts Proposal and we develop a fast track or fast track an addendum with the salient points as identified to move this forward.** If that is enough to get us started, then I would suggest how we would do that.

It would be a follow up with a conference call by the board if it is a thumbs up on behalf of the technical committee to move it even quicker. Then I'm not sure you want to go ahead and fast track the addendum through a conference call. But if we could do all that and there is a comfort level with the fact that the National Marine Fisheries Service has felt comfortable with the stock assessment and our technical committee feels likewise, then I think we could do it. Does that make sense, Mr. Chairman?

CHAIRMAN SIMPSON: We have a motion; is there a second to this motion? Jaime, are you seconding the motion? Thanks, we have a motion in front of us. David.

DR. PIERCE: **I would move to substitute. I would move that the board approve Massachusetts' request provided a technical committee analyses does not indicate the proposed increase in possession limit and year-round recreational fishery will increase winter flounder catch beyond the level the technical committee believes is scientifically justified.**

It is a motion that keeps away from an addendum, fast track of otherwise. It gets specific to approval and references, as I said before, the Amendment 1 language. Go right to the technical committee, see what they say; and if they indicate that there is no problem with this, it is scientifically justified that we're not going to have a catch that goes too high, then the board would give approval.

CHAIRMAN SIMPSON: Okay, we have a motion that was seconded by Bill McElroy. Could you add to that motion for clarity the mechanism in the current FMP that the board would be using to make this happen?

DR. PIERCE: Okay, as a clarification the mechanism would be Amendment 1, Section 4.3.1, alternative state management regimes, general procedures. That is the language I referenced in my presentation that describes that the state may submit a proposal for change under certain circumstances and those circumstance relate to the target fishing mortality rate, the goals and objectives of the amendment.

CHAIRMAN SIMPSON: Can we add that to the motion. You may have to repeat it but just so that's it embodies in there.

DR. PIERCE: Okay, so the next sentence I guess – this action would be undertaken consistent with Amendment 1, Section 4.3.1, alternative state management regimes, general procedures. This is the language that we contend – Bob has expressed some ambivalence, I guess, as to the way in which we can go or cannot go.

This is the language that to me and to my colleagues makes it very clear that we do not need – in this particular case we do not need to go the addendum route. We can take advantage of the strategy, the approach offered in that section of Amendment 1.

CHAIRMAN SIMPSON: Thanks, David, and the seconder is okay with that perfection? Okay. Okay, comments to this substitute motion. Tom.

MR. FOTE: Again, process. We asked Bob how – I've been sitting here 22 years. I don't remember us ever doing this. We have a process that we go through. We have amendments and addendums and that's way we do this type of thing. I'm not about to go out on a limb and basically do this in a certain – you know, I also look at New England a little differently and then I look at the Mid-Atlantic and how they handle these kind of – especially how they handle ACLs.

I mean, I wish my scup and black sea bass and summer flounder were up in New England instead of down in the Mid-Atlantic in some respects. I have concerns. Again, Dave can interpret all he wants but we've all sat around this table and we have never interpreted it this way. This is a whole

new idea and I don't want to go down that route since we just had a white paper that basically said we shouldn't be going down this route.

MR. AUGUSTINE: My motion is to table this motion. I agree with Mr. Fote. We're playing games with trying to put together apples and oranges and come up with an interpretation of something in another addendum. If this was a part of adaptive management, then I would agree a hundred percent, but we're just skirting around the fact that without doing an addendum we're meeting a state's needs to take action immediately.

Sooner or later it is going to come back and bite us, so I move to table this motion and let's get back on an even keel for where we started when the request came in May or June – as Mr. Nowalsky said, that is what the original request was, and all of a sudden this has to be done tomorrow. I think this is another one of those slam dunks to satisfy a particular group's need.

No offense to Massachusetts; I have the highest regard for Dr. Pierce. I have yet to find anybody who can ferret out how to solve a problem better than him, and I mean that sincerely. But this is a case where we're skirting the process and again we're going to set a precedent, and I don't think we want to go there, Mr. Chairman. I move to table this motion.

CHAIRMAN SIMPSON: Okay, is there a second to that motion?

DR. PIERCE: Point of order. Tabling would be inappropriate; it would be more appropriate to move to postpone indefinitely or definitely. However, that really is a not very veiled attempt to kill the motion. I just offer that as a point of order and voice of concern regarding strategy.

CHAIRMAN SIMPSON: Right, and I agree. We've spent an entire day tabling and doing and undoing and changing things. Although it is good practice, I think your motion offers up the questions that the board has to decide on, and that is does the authority already exist – the clear authority in the amendment and the addendum to take this action now following technical committee guidance or not.

That is one of the questions I think in front of the board. Then the other is whether to take the action that is being requested. I don't want to get into gamesmanship of parliamentary procedure so I'm asking Pat if you're willing to withdraw your motion to table so that we can decide these things clearly.

MR. AUGUSTINE: I would under the condition, Mr. Chairman, that I get a clear definition from Mr. Beal that this is appropriate and falls under the guidance of our procedures. If it does, I'd be more than happy to withdraw my motion and have no reservations about that.

CHAIRMAN SIMPSON: Bob, do you have anything to add to this? I know you made a pretty good stab at it before, but maybe one more time through will help us.

ACTING EXECUTIVE DIRECTOR BEAL: Well, I don't think my opinion should or shouldn't influence if Mr. Augustine wants to make a motion. As I said earlier, this would be a new way of looking at the alternative management provisions in the FMP, but just because it is new it doesn't mean you can't do it. It's up to the comfort level of the board. It would be somewhat precedent setting and it's up to the folks around the table to decide that.

CHAIRMAN SIMPSON: And that's pretty much how saw it. Bill, as the second did you have a comment? Sorry, there is no seconder if we're talking about this motion. Based on the response you got from Bob Beal, Pat, what do you want to do with your tabling?

MR. AUGUSTINE: I'll withdraw my motion and let's take a vote on it. I think there is some concern around the table that we are forging new ground. Maybe I stand corrected and maybe we do take a new approach, but, wow, it is a hard way to do it. I personally can't support this motion. I'm not sure my other compatriots from New York will also support it, but it is a difficult one. I withdraw my motion.

CHAIRMAN SIMPSON: Okay, thanks, I appreciate that. Toni had a question for the maker.

MS. KERNS: David, is your motion just for fishing year 2012 or is it for future years? Is it an indefinite change to the trip limit?

DR. PIERCE: Yes, it would stand until we determine that there is a need for a change that occur as a consequence of council and the National Marine Fisheries Service change in the status of the resource and a change in the state waters ACL sub-component.

MR. MILLER: Mr. Chairman, I've heard the term twice now that the potential approval of this substitute motion would be precedent setting. I wonder if this particular board is the proper body to take precedent-setting action, and I wonder if perhaps we should defer a decision in that regard to the full ISFMP Board.

CHAIRMAN SIMPSON: I think the maker of the motion has pointed to a specific section of the addendum. This is an unusual circumstance, but I think it comes to this board to decide if the board agrees that authority to act in this way exists. That is the first part this motion asks, and then the second part is this particular action the right one to make under these circumstances.

I hear the board collectively really weighing this seriously, but that is the question this poses; does the authority or the mechanism in the plan that Dr Pierce refers to – are people comfortable using that mechanism in winter flounder management. I'm comfortable going forward and asking the question. Jim.

MR. GILMORE: I agree with Ritchie; I think we should be following some kind of process; so just a question to David. I have Section 4.3.1 of the general procedures, and there is actually a bunch of requirements in there. Have they all been followed because it is talking submitting it to the chair of the plan review team, the management board, the technical committee, the stock assessment subcommittee, the advisory panel. Has that all been done?

DR. PIERCE: No, that has not been done. I'm being very specific with regard to the – well, Jim raises a good question. He has taken a close look at the procedures. I have referenced that part of the general procedures that references submitting a proposal. This complicates matters.

CHAIRMAN SIMPSON: I think under those circumstances, unless I hear something different from you, I think the motion is out of order because it hasn't met the requirements of the authority that you're citing.

DR. PIERCE: All right, I will have to go with what you say, Mr. Chairman. Jim has made a good point. There was a lot to that section. I didn't intentionally mean to do it, but I guess I did cherry-pick. It wasn't intentional. However, before you rule it out of order, let's focus on the fact that the intent is there to have the technical committee – there really is the

overarching controller as to what we use for technical advice.

The stock assessment subcommittee is irrelevant here. I guess the motion is relevant to some of the procedures within Section 4.3.1, highlighting the necessity of our getting that technical committee recommendation. If you would like, I can modify the motion so that it would be the section would be undertaking consistent with the technical committee review of the action cited in Amendment 1, et cetera, et cetera; so it is undertaking consistent with the need for technical committee review.

CHAIRMAN SIMPSON: Yes, David, I think failing the clear authority and process that your substitute motion depended on, we go back to the original motion, which was have the technical committee look at it and pending a favorable outcome move ahead with the fast-track addendum. The clear mechanism we would have to make a change I think is where we end up.

At this point we have no process mechanism and the process is important. Another alternative is always emergency action. There is clear authority in there to liberalize or restrain a fishery. Those are almost the exact words in there, to authorize or require, liberalize or restrict. I have become familiar with that section of our guiding documents.

**So I am ruling the substitute out of order for that reason.** That would take us back to the original motion, would be move a technical committee review of Massachusetts' Proposal and to develop a fast-track addendum to more this proposal forward. That is the question that is before us now. Ritchie.

MR. WHITE: Question; what is a fast-track addendum?

CHAIRMAN SIMPSON: Can you brief us on the fast-track process?

ACTING EXECUTIVE DIRECTOR BEAL: It's not a technical term that is in the Charter. It is kind of an art of the language. I think it's just an addendum that you do as fast as you can. Really drafting an addendum for this is going to be very easy. It is going to taking Dr. Pierce's memo and repackaging that a little bit to be a problem statement and a description of what needs to be

done. Really, all the background is almost there already.

I think drafting the document can be done within a week. The technical committee review, that is just depending on the availability of the technical folks. I don't think that is going to hopefully take that long either. It is a relatively small group of technical committee members. Then I think to approve the document for public hearing, if the board is comfortable, that can be done via conference call. I think all those transactions, if the people are available, can be done in the next two weeks or so.

Then all of our adaptive management requires a 30-day public comment period, and then there is a decision that needs to be made by the board, which is does the board need to meet face to face to approve this or has there been enough discussion here today face to face and you feel comfortable doing this via conference call or some other mechanism.

I think the fastest possible rate this could be done in – you know, two weeks to get all the technical work done and document drafted, about a 30-day comment period, so six or so weeks from now we could – there is a scenario where the board could approve an addendum to do this. It is fast-paced but this is a very sort of finite issue that has already been spelled out by state of Massachusetts.

CHAIRMAN SIMPSON: Right, so that would put us toward the end of September I would say at best. David.

DR. PIERCE: I like what the Acting Executive Director has posed. It sounds like a reasonable way forward. I would support that approach. It will not get us what we need in time. However, it is the best of all possible worlds; and if indeed the board does support that approach, we will be grateful for that support. It will be a reasonable and best foot forward by the board to deal with our specific concerns.

ACTING EXECUTIVE DIRECTOR BEAL: A quick question for the maker, Mr. Augustine; I assume one other provision that makes some sense for this document would be an annual specification setting process or some thing that allows the board to have flexibility to deal with this in the future so that we don't get into this to-do loop for the last hour and half. The reality is the sub-ACLs for state waters for winter flounder is going to move around with the federal process, and the commission is going to need to be able to respond to that in a timely manner. I

think including something in this document probably makes a lot of sense for that.

CHAIRMAN SIMPSON: Yes, I was going to suggest that ultimately needs to be addressed, and I'll just voice my own concerns about moving that quickly as opposed to moving it thoughtfully. Now, as Bob described, fast track is just sort of a term of art and we'll decide, based on how thick it all gets, how fast that fast track will be. I think that makes sense; we need to figure out how – with some of these council/federal process led management plans, how the commission is going to respond. Toni.

MS. KERNS: David just said that the fast-track addendum wouldn't get you what you needed in time. I'm not sure what the timing of the fishery is. At best scenario, using Bob's calculations, I would think that maybe we could have a final document the last week in September. That is everything moving perfectly. I just ask of you if it doesn't get you what you need in time; is it necessary to do a fast-track addendum or could we follow the regular process?

DR. PIERCE: Well, obviously, it doesn't provide what state-permitted fishermen have said they need. However, it does provide them with an opportunity to let's say give it their best shot during October/November outside those areas that are closed down because of harbor porpoise. It doesn't occur everywhere so it would afford some opportunity for those fishermen to pursue winter flounder and let's see how they do. I still think the fast track is responsive. It's sensitive to our request and it is the right way to go.

CHAIRMAN SIMPSON: Right, I appreciate that. I think we've pretty well shaped what we've got in front of us. Bob.

ACTING EXECUTIVE DIRECTOR BEAL: The last thing, I promise. If there is concern from the Chair that the annual specification process or whatever it may end up being called and should be thought out a little longer, that can be left out of the fast track and that can be started on essentially a concurrent timeline so there is some more time for the plan development team and the board to chew on that one. It theoretically won't be an issue for six to eight months down the road. We can take a shot at it as we draft this document and the board can look at it; and if they don't think it is ready to go, pull it out, and we put that in a separate document and go from there.

CHAIRMAN SIMPSON: Yes, I think that makes sense. In its simplest form you're talking about a change in the trip limit, change in the recreational season. That might be all we do in a fast track and the more fully developed how do we do this for the future can happen in a subsequent addendum. Tom, and then I think we've probably talked this to death.

MR. FOTE: I'm just listening to Toni. If it does come out that this is done like the last week of September or the first week in October, I really hope that we wait until the annual meeting, which is in October this year and not in November to do basically do this so we can be a face-to-face meeting.

CHAIRMAN SIMPSON: Okay, thanks, Tom. As I said, I think we have discussed this pretty thoroughly. I will give you all a moment to caucus and then we'll vote on it.

(Whereupon, a caucus was held.)

CHAIRMAN SIMPSON: Are we ready for the question? All those in favor of this motion please raise your hand, 10 in favor; any opposed; any null votes; any abstentions. **The motion passes 10, 0, 0, 0.** I guess we really got it down just right. Thank you, and I appreciate your effort in bringing this to us. It was difficult to work through the process, but I think this is probably the best we can do for Massachusetts and the Gulf of Maine fishermen at this point.

DR. PIERCE: Just a word of appreciation to the board for meeting and being patient; I appreciate that.

### ADJOURNMENT

CHAIRMAN SIMPSON: Thanks, David. That should be it for us. Is there any other business to come before the board? Seeing none; good night.

(Whereupon, the meeting was adjourned at 6:25 o'clock p.m., August 7, 2012.)

*Atlantic States Marine Fisheries Commission*

**DRAFT ADDENDUM II TO AMENDMENT 1 TO THE WINTER  
FLOUNDER FISHERY MANAGEMENT PLAN FOR PUBLIC  
COMMENT**

*Gulf of Maine Commercial and Recreational Fishery Measures*



**This draft document was developed for Public Comment**

*ASMFC Vision Statement:*

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

**September 2012**

# Draft Document 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 the commercial and recreational measures in the Gulf of Maine (GOM) portion of the fishery. These measures are proposed in reaction to updated stock status information and federal action that increased the GOM winter flounder state waters annual catch limit subcomponent for 2012 fishing year. Specifically, this document proposes a change to the commercial trip limit in state waters from 250 to 500 pounds per trip and proposes removing the recreational fishery closure to allow for a year round fishery in the states of Maine, New Hampshire, and Massachusetts. Development of the draft Addendum was contingent on a Winter Flounder Technical Committee review of possible impacts on the GOM winter flounder stock. 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.

In order to provide timely relief to fishery participants, the addendum process was accelerated for review of final measures at the ASMFC Annual meeting in October of 2012.

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 October 17, 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.

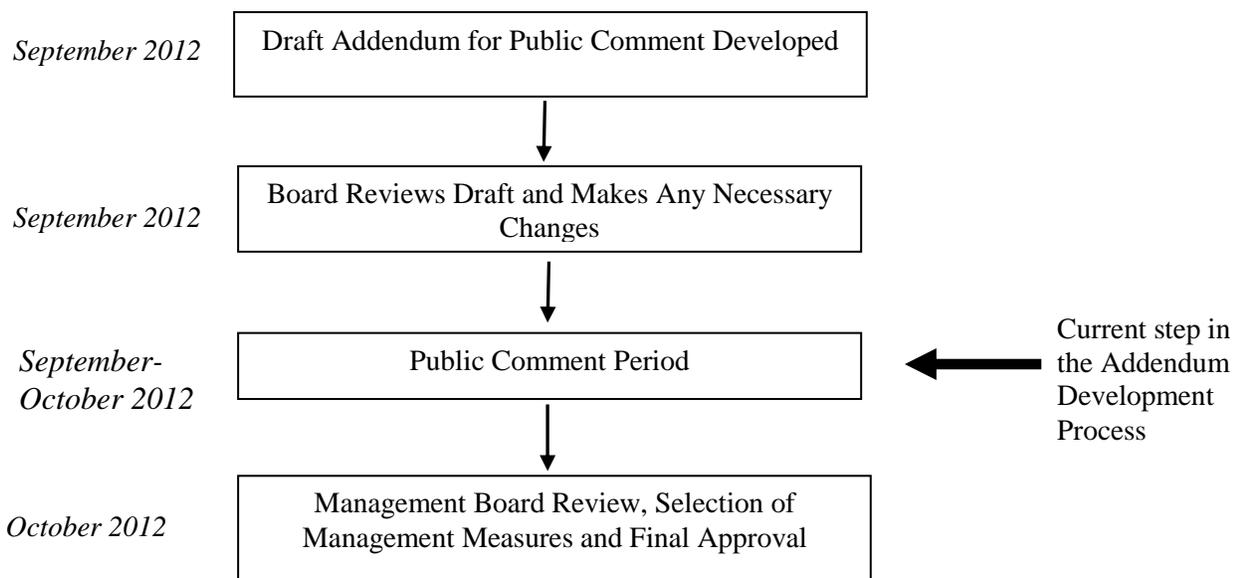
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# Draft Document for Public Comment

## 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 response to updated stock status information and federal action to substantially increase the GOM winter flounder state waters annual catch limit subcomponent the Board initiated this addendum to the Winter Flounder FMP. This draft Addendum proposed changes to commercial and recreational management measures for the state waters component of the GOM stock only. In order to provide timely relief to fishery participants, the addendum process was accelerated for review of final measures at the ASMFC Annual Meeting in October of 2012.

## 2.0 Background

The ASMFC FMP for Inshore Stocks of Winter Flounder was last modified in 2009 through Addendum I to Amendment 1. The addendum responded to the results of the 2008 GARM III assessment, where the review panel found it was highly likely that the GOM stock was overfished and subject to overfishing. Correcting this required an overall 11% reduction in fishing mortality (F) on GOM winter flounder to reach maximum sustainable yield.

The Board selected 2006 – 2007 as the reference period in Addendum I to determine reductions for the fishery in state waters. Addendum I required Maine, New Hampshire, and Massachusetts to implement a 250 pound commercial possession limit (estimated to reduce 2006 – 2007 commercial harvest levels by 31% for state water fishing vessels that did not hold a federal permit) and implement recreational regulations to reduce the fishery's F by 11%. The three states selected state-specific closures to achieve the required recreational reduction: Maine - October 1 through June 30; New Hampshire - May 15 through May 24; and Massachusetts - September 1 through October 31.

Addendum I's requirements were also intended to complement the federal reaction to the GARM III results. At the time, the NEFMC was developing Amendment 16 to the Northeast Multispecies FMP, and requested that NOAA Fisheries intervene with interim measures for the groundfish complex for the May 1, 2009 – April 30, 2010 federal fishing year (FY). The final interim rule included a scheduled 18% days-at-sea (DAS) reduction that was estimated to reduce

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F on GOM winter flounder by 16%<sup>1</sup>. The target total allowable catch (TAC) adopted for GOM winter flounder was 379 mt.

With the implementation of Amendment 16 in FY 2010, target TACs were replaced by “hard” annual catch limits (ACLs); and DAS management, with its associated trip limits and seasons, was replaced by annual catch entitlements and sectors. State water fishermen without federal permits primarily fish under the state waters ACL subcomponent. As a species of concern (due to the GARM III findings), GOM winter flounder was placed under an ACL substantially less than recent catch levels (Table 1). Sixty metric tons of the ACL were apportioned to the state waters ACL subcomponent.

Table 1. FY 2010 and FY 2011 (Initial) Gulf of Maine Winter Flounder ACL, Sub-ACLs, and ACL-Subcomponents

	Total ACL	Sector Sub-ACL	Common Pool Sub-ACL	State Waters ACL-Subcomponent	Other ACL-Subcomponents
FY 2010 <sup>2</sup>	231 mt	133 mt	25 mt	60 mt	12 mt
FY 2011 <sup>3</sup>	231 mt	150 mt	8 mt	60 mt	12 mt

Unlike state waters fishermen, federal waters fishermen were not subject to a recreational bag limit and season closure or commercial trip limit – with the exception of a 250 pound commercial trip limit for common pool fishermen that continue to operate under DAS management. This trip limit was implemented by the Northeast Regional Administer on May 27, 2010 in recognition of catch monitoring that indicated over 33% of the common pool sub ACL had been taken less than three weeks into the fishery.

A new peer reviewed stock assessment (SAW/SARC 52) of GOM winter flounder was completed in 2011, which changed the stock’s status to not experiencing overfishing, but the overfished status could not be determined. NOAA Fisheries took emergency action to more than double the ACL for the remainder of FY2011; and for FY 2012, the ACL was nearly doubled again (Table 2). The state waters ACL subcomponent for FY 2012 had increased to 272 mt.

Table 2. FY 2011 Emergency and FY 2012 Gulf of Maine Winter Flounder ACL, Sub ACLs, and ACL Subcomponents

	Total ACL	Sector Sub-ACL	Common Pool Sub-ACL	State Waters ACL-Subcomponent	Other ACL-Subcomponents
FY 2011, Emergency Revision <sup>4</sup>	524 mt	313 mt	16 mt	163 mt	32 mt
FY 2012 <sup>5</sup>	1,040 mt	690 mt	25 mt	272 mt	54 mt

<sup>1</sup> 74 FR 17030, April 13, 2009.

<sup>2</sup> 75 FR 29459, May 26, 2010 (based on final sector membership).

<sup>3</sup> 76 FR 34903, June 15, 2011 (based on final sector membership).

<sup>4</sup> 77 FR 7000, February 10, 2012.

<sup>5</sup> 77 FR 37816, June 25, 2012.

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Due to the change in GOM winter flounder stock status and the substantial (450%) increase in the state waters ACL subcomponent from 2010 to 2012, the Commonwealth of Massachusetts proposed the Board consider a change to the commercial and recreational measures established by Addendum I in 2009. Increasing the commercial trip limit would provide some relief to state waters groundfish fishermen that continue to be bound by groundfish rolling closures (lifted for sector fishermen), are bracing for an October – November gillnet closure in coastal GOM for harbor porpoise protection, and the more restrictive GOM cod measures due to its now overfished status. Removing the recreational closures implemented by Maine, New Hampshire, and Massachusetts would reinstate consistent GOM measures between the states (12” minimum size, 8 fish bag, open year-round), and improve compatibility and fairness with federal measures (12” minimum size, unlimited retention, open year-round).

### 2.1 Description of the Fishery

While the state waters subcomponent is a set-aside for all northeast states, the Commonwealth of Massachusetts accounts for more than 99% of the non-federal commercial groundfish landings in recent years. New Hampshire has landed less than 1% since from 2009-2011. Massachusetts state waters landings of GOM winter flounder in 2010 and 2011 were roughly 45 mt and 35 mt, respectively.

Prior to the 250 pound trip limit, about 43% of non-federally permitted landings came from the 7% of trips that landed more than 250 lbs; and about 19% of the landings came from the 2% of trips landing more than 500 lbs (Table 3). After the trip limit was implemented about 88% of trips landed less than 99 pounds accounting for 44% of the landings (Table 4). The trip limit essentially caused the fishery to switch from a directed fishery to a bycatch fishery. Note also that participation in Massachusetts’ commercial groundfish fishery cannot increase due to the limited entry nature of the state’s groundfish permit endorsement.

Table 3: Cumulative distribution of trips and landings by landings per trip bins for non-federally permitted vessels landing in Gulf of Maine states prior to the implementation of the 250 lb trip limit.

<b>Winter flounder landings (per trip)</b>	<b>Cumulative percentage of trips (2005 – 2008)</b>	<b>Cumulative percentage of landings (2005 – 2008)</b>
<50 lbs	67.1%	14.9%
50 – 99 lbs	81.0%	30.0%
100 – 250 lbs	93.3%	56.8%
251-500 lbs	98.1%	81.1%
>500 lbs	100.0%	100.0%

Table 4: Cumulative distribution of trips and landings by landings per trip bins for non-federally permitted vessels landing in Gulf of Maine states after implementation of the 250 lb trip limit.

<b>Winter flounder landings (per trip)</b>	<b>Cumulative percentage of trips (2010 - 2011)</b>	<b>Cumulative percentage of landings (2010 - 2011)</b>
<50 lbs	75.4%	24.3%
50 – 99 lbs	87.8%	43.8%
100 – 250 lbs	99.2%	92.2%
251-500 lbs	99.7%	96.0%
>500 lbs	100.0%	100.0%

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On the recreational side, NOAA Fisheries harvest estimates averaged 55 mt/year since 2006 (Table 5). A doubling of the recreational catch is also unlikely given the expected reduction (11%) from implementing the closures.

Table 5. State Waters Recreational Harvest of Winter Flounder (NOAA Fisheries, MRIP Data)

Year	Maine		New Hampshire		Massachusetts		Total	
	Harvest (mt)	PSE	Harvest (mt)	PSE	Harvest (mt)	PSE	Harvest (mt)	PSE
2006	0.00	0	4.22	62	30.51	55.6	34.73	117.6
2007			6.37	40.5	23.12	40.7	29.48	81.2
2008	0.00	0	7.83	35.3	124.69	57.8	132.52	93.1
2009	0.00	0	5.54	52.1	55.24	36.3	60.78	88.4
2010			0.83	52.8	32.95	44.3	33.79	97.1
2011			7.89	71.6	30.24	54.8	38.12	126.4

### 3.0 Proposed Management Changes

#### 3.1 Commercial Measures

##### *Trip Limits*

##### **Option 1: Status Quo**

Commercial vessels that have not been assigned a federal groundfish permit may possess a maximum of 250 lbs of winter flounder per vessel. Commercial vessels that have been assigned a federal groundfish permit are not restricted to the 250 lb possession limit.

##### **Option 2:**

Commercial vessels that have not been assigned a federal groundfish permit may possess a maximum of 500 pounds of winter flounder per vessel. Commercial vessels that have been assigned a federal groundfish permit are not restricted to the 500 lb possession limit.

#### 3.2 Recreational Measures

##### *Seasonal Measures*

##### **Option 1: Status Quo**

Addendum I required states to implement regulations to reduce the F in the recreational fishery by 11% from the average of 2006 – 2007 levels. States met the 11% reduction with closed seasons. The three states selected state-specific closures to achieve the required recreational reduction: Maine - October 1 through June 30; New Hampshire - May 15 through May 24; and Massachusetts - September 1 through October 31. Under this option states will be required to maintain these recreational closures.

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### **Option 2:**

Remove the requirement that states must reduce the F in the recreational fishery by 11%. By removing the reduction in F requirement the states of Maine, New Hampshire, and Massachusetts could adjust their recreational regulations to open the season to a year round fishery.

### **4.0 Compliance**

Management programs established through Addendum II would be effective immediately upon approval of this addendum.



# *Atlantic States Marine Fisheries Commission*

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*Paul J. Diodati, (MA), Chair      Dr. Louis B. Daniel, III, (NC), Vice-Chair      John V. O'Shea, Executive Director*

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

## **MEMORANDUM**

September 10, 2012

To: Winter Flounder Management Board  
From: Winter Flounder Technical Committee  
RE: Review of Massachusetts Winter Flounder Proposal

The Board tasked the Technical Committee (TC) to review the Massachusetts proposal that proposed the following changes to the Gulf of Maine (GOM) winter flounder fishery: (1) opening the recreational closed seasons to open year round and (2) increasing the commercial trip limit to 500lbs. The Board asked the TC to evaluate if these changes were implemented would the state waters sub-ACL be exceeded. Note that the state waters sub-component comprises catch from both recreational and non-federally permitted commercial vessels fishing within state waters. The state waters sub-component differs from sub-ACL's by the lack of accountability measures.

Currently, there is a 250-lb trip limit for winter flounder in the Gulf of Maine, which states were required to implement by November 1, 2009. Even before the trip limit, the approximately 73% of trips that landed winter flounder landed less than 50 lbs (Table 1 and 2). Prior to the trip limit, about 44% of non-federally permitted landings came from trips that landed more than 250 lbs; after the trip limit, only 8% came from trips landing more than 250 lbs (Table 1 Table , Figure 1 and 2).

Recreational closed seasons for winter flounder in the Gulf of Maine were implemented in 2010 and vary by state. Maine's closed season is from October 1 – June 30 (Waves 1, 2, 3, 5, and 6). New Hampshire's closed season is from May 15 – May 24 (part of Wave 3). Massachusetts's closed season is from September 1 – October 30 (Wave 5). From 2000 – 2011, the majority of directed trips for winter flounder (defined as trips that either harvested or targeted winter flounder) originated in Massachusetts (Table 4). Most trips occurred in Waves 3 and 4, both before and after the season closures (Figure 3).

With the proposed change, catch would still be subject to the state-waters ACL set for 2012 (272 MT), but that limit might be reached faster under a higher trip limit. Prior to the 2009 trip limit, about 19% of non-federally permitted landings came from the 2% of trips that landed more than 500 lbs (Table 2).

To look at the potential effects of the increase, two scenarios were considered for the 2010 and 2011 commercial trip data. One scenario assumed, in effect, no change in behavior: landings for trips that were close to the old trip limit (those that landed 200 – 500 lbs) were increased to 500 lbs, while landings less than 200 lbs were not changed, to reflect the assumption that those trips

are not directing on winter flounder and would not have caught the higher limit. The second scenario assumed that behavior would substantially change as a result of the new limits and targeting of winter flounder would result in all trips retaining the new limit of 500 lbs. For both scenarios, trips that landed more than 500 lbs were not changed. The recreational landings of winter flounder for Gulf of Maine states were then added to each of these scenarios; no changes were made to recreational landings. Given the small proportion of directed trips that occurred before the seasonal closures were implemented in 2010, the TC concluded that eliminating the closed seasons would likely not significantly impact total recreational landings for winter flounder.

The cumulative sum of the landings by two month wave was plotted over the course of a year for both scenarios, along with the observed cumulative sum under the 250 lb trip limit, the annual state-waters sub-component, and the higher 2012 sub-component.

In 2010 and 2011, the combined recreational and non-federally permitted landings were close to the state-waters ACL. Increasing only trips that were already close to the 250 lb trip limit did not significantly change this. Under the scenario where all trips met or exceeded the 500 lb trip limit, the total landings exceeded the 2010 and 2011 state-waters sub-component (60 mt) by Wave 3 (May-June). However, the total annual landings under this scenario remain below the 2012 state-waters sub-component (272 mt).

## **Conclusion**

After a review of the available data the TC concluded that the state waters sub-component would not be exceeded with the proposed change in regulations, unless there is a significant change in effort. The TC cannot predict the change in effort with the current available data. Median trips in the commercial fishery harvest 17 pounds per trip (Table 3). The reduction in the trip limit has made the state water's fishery mostly a bycatch fishery. There is a possibility the increase in the trip limit could possibly change the fishery from bycatch to a directed fishery. Because the TC cannot predict possible changes in effort, we recommend the Board adopt in-season accountability measures such as trip limit triggers, trip limit adjustments, and/or season closures. These accountability measures would prevent large overages of the state waters sub-component if significant increases in effort were to occur. 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 (Table 4). The TC also recommends the Board adopt a payback provision or other accountability measures that could be implemented if the total state waters sub-component is exceeded.

Table 1: Cumulative distribution of trips and landings by landings per trip bins for non-federally permitted vessels landing in Gulf of Maine states after implementation of the 250 lb trip limit.

Winter flounder landings (per trip)	Cumulative percentage of trips (2010 - 2011)	Cumulative percentage of landings (2010 - 2011)
<50 lbs	75.4%	24.3%
50 – 99 lbs	87.8%	43.8%
100 – 250 lbs	99.2%	92.2%
251-500 lbs	99.7%	96.0%
>500 lbs	100.0%	100.0%

Table 2: Cumulative distribution of trips and landings by landings per trip bins for non-federally permitted vessels landing in Gulf of Maine states prior to the implementation of the 250 lb trip limit.

Winter flounder landings (per trip)	Cumulative percentage of trips (2005 – 2008)	Cumulative percentage of landings (2005 – 2008)
<50 lbs	67.1%	14.9%
50 – 99 lbs	81.0%	30.0%
100 – 250 lbs	93.3%	56.8%
251-500 lbs	98.1%	81.1%
>500 lbs	100.0%	100.0%

Table 3: Summary statistics for winter flounder landings per trip (lbs) for non-federally permitted vessels landing in Gulf of Maine states (MA, NH, ME).

Year	Minimum	25 <sup>th</sup> Quantile	50 <sup>th</sup> Quantile	Mean	75 <sup>th</sup> Quantile	95 <sup>th</sup> Quantile	Maximum
2005	1	10	39	80	96	290	1025
2006	1	5	13	40	39	145	1350
2007	1	8	20	57	55	260	1145
2008	0.5	7	25	84	85	397	1035
2009*	1	7	24	82	119	309	960
2010	1	6	15	48	45	240	1185
2011	1	6	15	37	47	155	330
Pre-Trip Limit (2005-2008)	0.5	7	24	68	70	300	1350
Post-Trip Limit (2010-2011)	1	6	17	54	59	240	1185

\*The 250 lb trip limit was not required to be implemented until November 1, 2009.

Table 4: Percentage of non-federally permitted landings of winter flounder by state and year.

Year	Massachusetts	New Hampshire	Maine
2009	99.4%	0.6%	0.0%
2010	99.8%	0.2%	0.0%
2011	99.6%	0.4%	0.0%

Table 5: Percentage of recreational directed trips for winter flounder by state and year.

Year	Massachusetts	New Hampshire	Maine
2000	95.3%	4.7%	0.0%
2001	89.9%	8.6%	1.4%
2002	89.2%	10.2%	0.6%
2003	85.4%	9.5%	5.1%
2004	93.1%	5.1%	1.8%
2005	71.5%	12.4%	16.1%
2006	78.7%	17.1%	4.2%
2007	77.0%	23.0%	0.0%
2008	87.6%	12.0%	0.4%
2009	81.6%	13.8%	4.7%
2010	91.2%	6.8%	2.0%
2011	81.5%	17.3%	1.2%

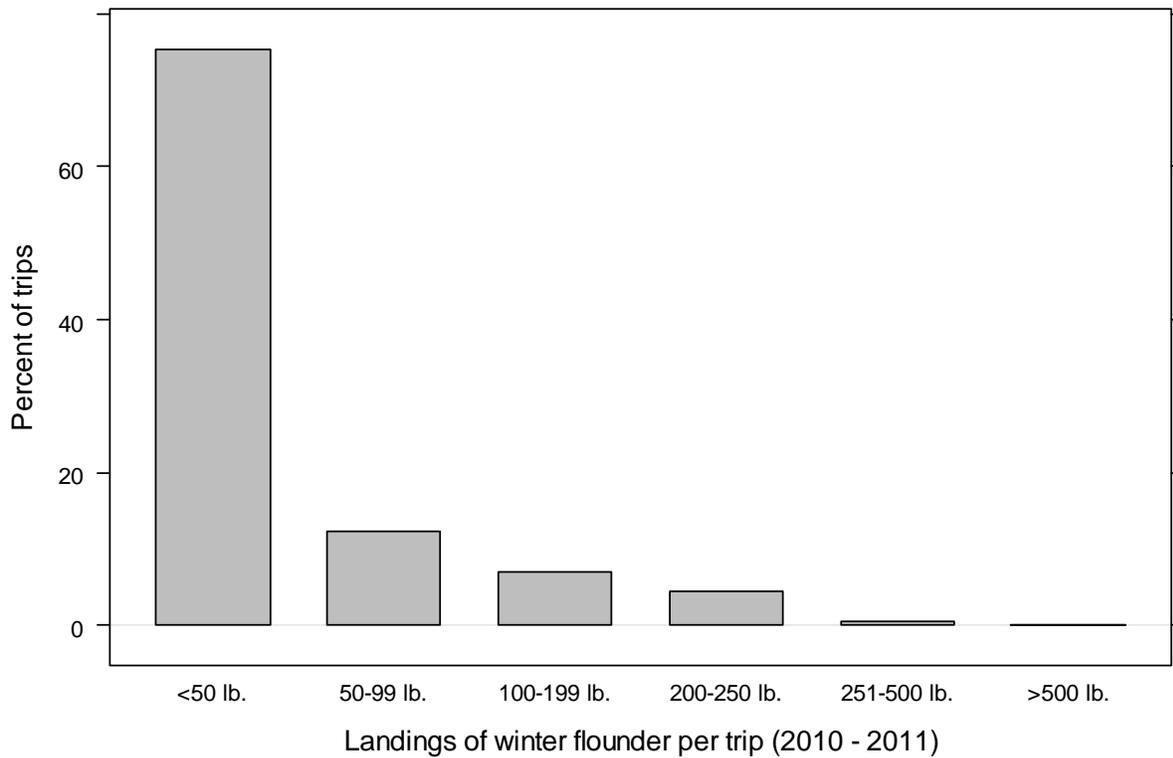


Figure 1: Distribution of winter flounder landings per trip for Gulf of Maine states only (MA, NH, ME) for 2010 - 2011.

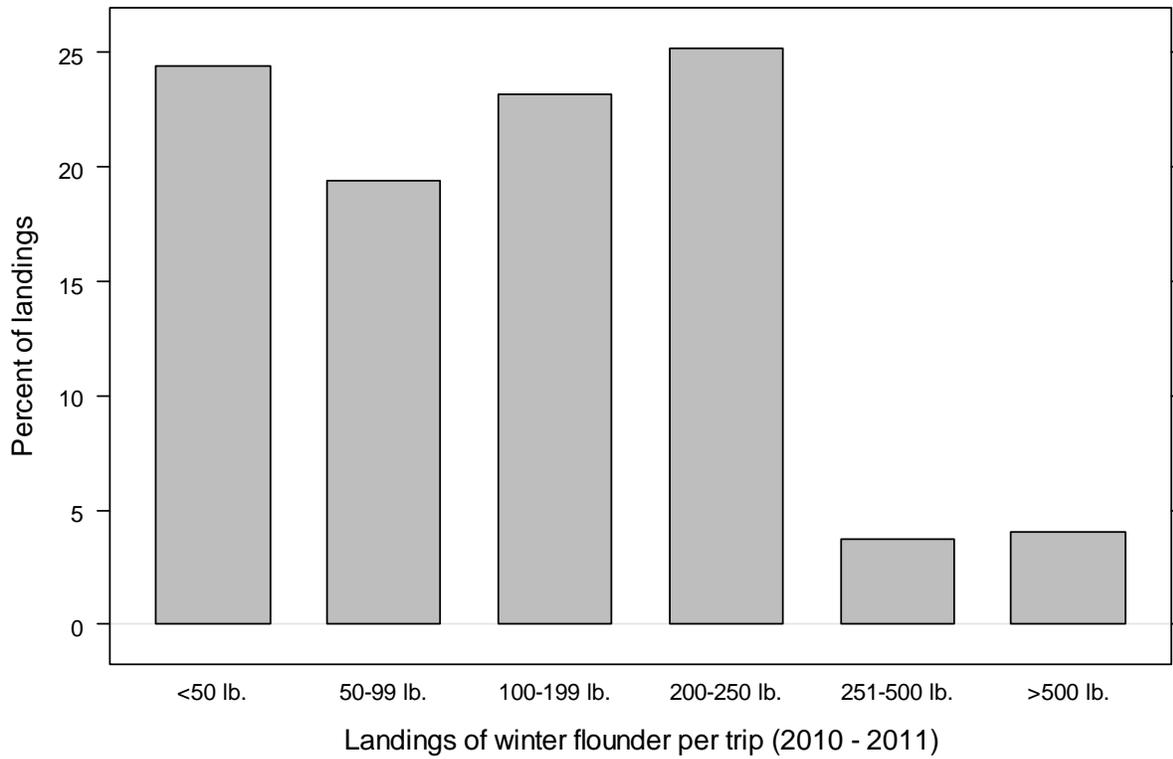


Figure 2: Percentage of total landings from each landings-per-trip bin for Gulf of Maine states only (MA, NH, ME) for 2010 - 2011.

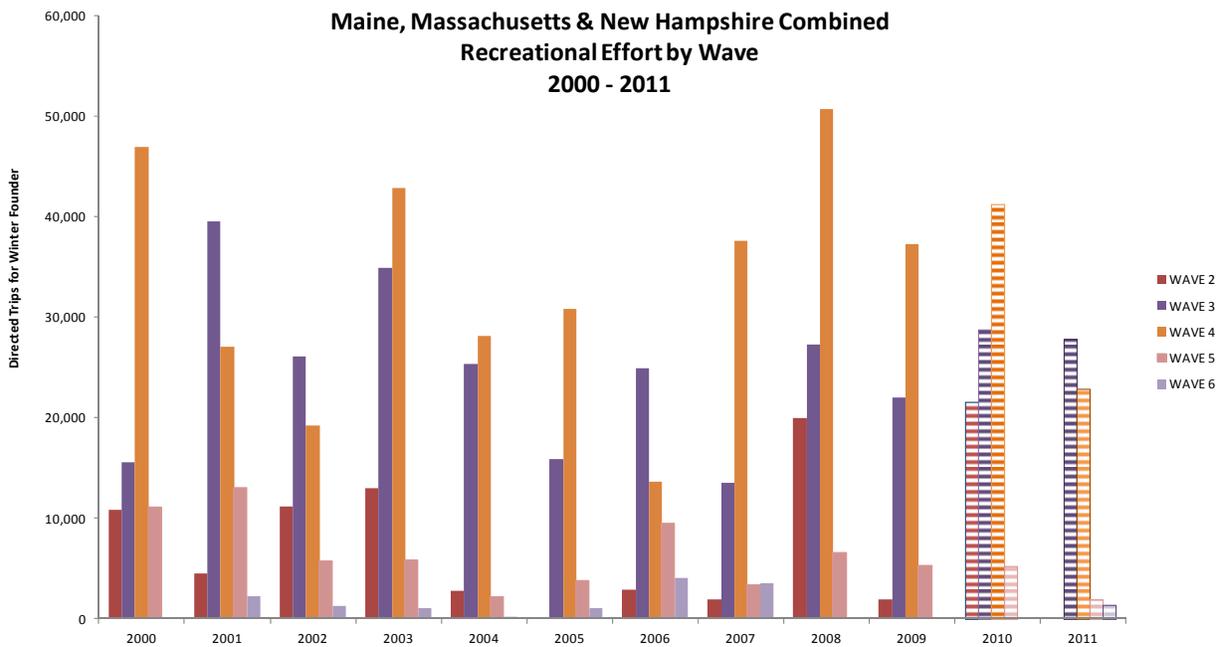


Figure 3: Number of directed winter flounder trips by wave and year for Gulf of Maine states only (MA, NH, ME) for 2000 – 2011. Dashed bars represent years with recreational closed seasons.