

Atlantic States Marine Fisheries Commission

**ADDENDUM I TO AMENDMENT 1 TO THE INTERSTATE
FISHERY MANAGEMENT PLAN FOR INSHORE STOCKS OF
WINTER FLOUNDER**



May 2009

ASMFC Vision Statement:

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

1.0 Introduction

On May 4, 2009, the Winter Flounder Management Board (Board) approved Addendum I to the Interstate Fishery Management Plan (FMP) for Inshore Stocks of Winter Flounder. This Addendum includes measures to achieve F_{msy} for the Gulf of Maine (GOM) stock, rebuild the overfished Southern New England/Mid-Atlantic (SNE/MA) stocks, and prevent excessive fishing effort from shifting to state waters in response to federal management measures.

This Addendum does not rescind any prior regulations from Amendment 1. States are required to implement all measures in this Addendum in addition to continuing those contained in Amendment 1¹.

2.0 Statement of the Problem

The SNE/MA winter flounder stock is severely depleted and the GOM stock is experiencing overfishing. Results of the August 2008 Groundfish Assessment Review Meeting (GARM III) estimated that the SNE/MA spawning stock biomass (SSB) is at only 9% of the target biomass with fishing mortality (F) at 260% of the target and GOM winter flounder stock to be likely overfished with overfishing probably occurring. The new stock determination in the GOM and record low levels in the SNE/MA stock were not anticipated by managers because the previous management measures were projected to reduce F to a level that would rebuild/maintain the SSB of winter flounder stocks.

The unexpected low SSB and high F estimates were due to retrospective patterns from the previous two winter flounder assessments. The retrospective pattern significantly overestimated biomass which led managers to believe that the stock was in a healthier condition than the assessments had concluded. GARM III addressed this retrospective pattern for the first time.

3.0 Background

The Atlantic States Marine Fisheries Commission (Commission) and New England Fishery Management Council (Council) have had complementary management plans for winter flounder since 1992. 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, making it easy for anglers to locate and remove a substantial portion of them. Concentrated fishing effort on spawning females, which are the most productive part of the population, can result in a larger net loss to the population than the landings may suggest. These nearshore grounds are also vulnerable to water pollution and habitat loss. Recent tagging studies have shown spawning-site fidelity in winter flounder, meaning that individuals will often return to the location where they were hatched, or close by. This suggests that subpopulations of winter flounder may be vulnerable to localized depletion.

¹ Amendment 1 to the Interstate FMP for Inshore Stocks of Winter Flounder completely replaced all previous ASMFC management plans for inshore stocks of winter flounder.

The Council manages winter flounder under Amendment 13 and Framework 42 to the Northeast Multispecies FMP which focuses on offshore commercial fisheries and aims to rebuild overfished stocks by reducing fishing mortality and minimizing adverse effects on all essential fish habitat. Winter flounder are managed as part of the large-mesh Northeast multispecies group employing seasonal closures, gear restrictions, minimum size limits, trip limits, limited access, and days-at-sea restrictions to reduce fishing pressure on the stocks.

The Commission's Amendment 1, passed in November 2005, focuses on complementary management between the Commission and the Council. It is intended to rebuild and then maintain SSB at or near target biomass levels by controlling fishing pressure on spawning fish. In addition, Amendment 1 prioritizes restoration and maintenance of essential winter flounder habitat. Management measures of Amendment 1 are as follows:

Recreational Management Measures (4.1)

Southern New England/Mid-Atlantic Stock

States in the Southern New England/Mid-Atlantic stock area must implement a 12" minimum size limit and a 10-fish creel limit. Each state in the SNE/MA stock area may have a 60-day open season for recreational winter flounder fishing. In addition, 20 days must be closed to recreational winter flounder fishing during March and April. The 60-day open season can be split into no more than two blocks.

Gulf of Maine Stock

States within the GOM stock must maintain the existing 12" minimum size and adopt an 8-fish creel limit. There are no required recreational closed seasons in the GOM stock area.

Commercial Management Measures (4.2)

Southern New England/Mid-Atlantic Stock

States within the Southern New England/Mid-Atlantic stock area must implement a 12" minimum size limit, a minimum 6.5" square or diamond mesh in the cod-end, and maintain any existing seasonal closures.

The mesh size regulation includes a 100 lb. trip limit for winter flounder if smaller mesh is being used. This 100 lb. "mesh trigger" provides for the landing of a small amount of winter flounder as bycatch in smaller-mesh fisheries.

Gulf of Maine Stock

States within the Gulf of Maine stock area must maintain the existing 12" minimum size limit and remain consistent with the adjacent EEZ mesh size regulations. The current mesh size in the EEZ adjacent to the states in the GOM stock area is a 6.5" diamond or square mesh in the cod-end.

States must maintain existing season closures, including any Federal rolling closures that affect state waters in the GOM stock area.

2008 state regulations, which meet the requirements in Addendum I, are listed in Tables 1 and 2.

Table 1. 2008 state recreational regulations for winter flounder.

	Stock Unit	Creel Limit	Size Limit	Season
Maine	GOM	8	12"	N/A
New Hampshire	GOM	8	12"	N/A
Massachusetts	GOM; SNE/MA	8, 4	12", 12"	N/A; April 22 - May 22, and Sept. 23 - Oct. 22
Rhode Island	SNE/MA	4	12"	April 22 - May 22, and Sept. 23 - Oct. 22
Connecticut	SNE/MA	10	12"	April 1 - May 30
New York	SNE/MA	10	12"	April 1 - May 30
New Jersey	SNE/MA	10	12"	March 23 - May 21
Delaware	SNE/MA	10	12"	Feb. 11 - Apr. 10

Table 2. 2008 state commercial regulations for winter flounder.

	Stock Unit	Size Limit	Mesh Size (in cod end of net)	Trip limit if mesh < 6.5"
Maine	GOM	12"	6.5"	N/A
New Hampshire	GOM	12"	6.5"	N/A
Massachusetts	GOM SNE/MA	12", 12"	6.5", 6.5"	N/A, 100 lb.
Rhode Island	SNE/MA	12"	6.5"	No
Connecticut	SNE/MA	12"	6.5"	100 lb.
New York	SNE/MA	12"	6.5"	100 lb.
New Jersey	SNE/MA	12"	6.5"	100 lb.
Delaware	SNE/MA	12"	Trawling Prohibited	Trawling Prohibited

NOAA Fisheries Service published the Final Temporary Groundfish Interim Rule (interim rule) on April 13, 2009. The interim rule extends the 2:1 days at sea counting from Framework 42 in the GOM and prohibits possession of winter flounder in the SNE/MA stock unit. These measures apply only to the 2009 fishing year (May 1, 2009 – April 30, 2010) and were intended to reduce overfishing while the Council continues its work on Amendment 16 to the Northeast Multispecies FMP. Amendment 16 is expected to be completed and implemented by the beginning of the 2010 groundfish fishing season on May 1, 2010. The interim measures are estimated to reduce the F by 16% in the GOM and 62% in the SNE/MA. The GOM stock requires an 11% reduction in F to reach F_{msy} while the SNE/MA stock requires a 100% reduction in F to reach $F_{rebuild}$ (Table 3). See Appendix A for a summary of the rule or visit <http://www.nero.noaa.gov/nero/hotnews/multipir/> to download a full copy.

Table 3. Fishing mortality reduction objectives and estimated reductions for the interim action.

	2008 F	Fishing Mortality Rate Goal	Value Associated With Fishing Mortality Rate Goal	Fishing Mortality Rate Reduction Objective	Estimated Reduction in Fishing Mortality
GOM	0.317	F _{msy}	0.283	-11%	16%
SNE/MA	0.265	Frebuild	0	-100%	62%

4.0 Management Program

4.1 Gulf of Maine

Management measures for the GOM stock are designed to reduce fishing mortality to F_{msy} or below. An 11% reduction in fishing mortality rate will achieve F_{msy} for the GOM stock.

4.1.1 GULF OF MAINE RECREATIONAL MEASURES

This Addendum requires states to implement regulations to reduce the F in the recreational fishery by 11% from the average of 2006 – 2007 levels. 2006 – 2007 were selected as the base years because they reflect F after states had implemented measures required by Amendment 1 and before the GARM III assessment. Taking the average of multiple years helps to smooth out annual variability in the recreational data.

Reductions in F may be achieved through possession limits, seasons, or a combination of both. States may submit conservation equivalency proposals to achieve the necessary reduction using alternative management measures. All management proposals are subject to Board approval.

Table 4 shows estimated reductions in harvest for the GOM stock based on a recreational trip analysis using Marine Recreational Fishery Statistics Survey (MRFSS) data from 2006 and 2007. Amendment 1 established an 8 fish bag limit for recreational fishermen in the GOM beginning July 2005.

Table 4. Estimated reductions for GOM stock for reduced bag limits. General PSE's for this data can be found in the appendix.

Number of fish caught during trip	% Reduction Achieved at or Below Trip limit
1	62.14
2	36.27
3	19.17
4	5.81
5	3.16
6	0.94
7	0.25
8	0

Currently there are no recreational seasons for the GOM. Figure 2 and Table 5 show recreational harvest in the GOM for 2006 & 2007.

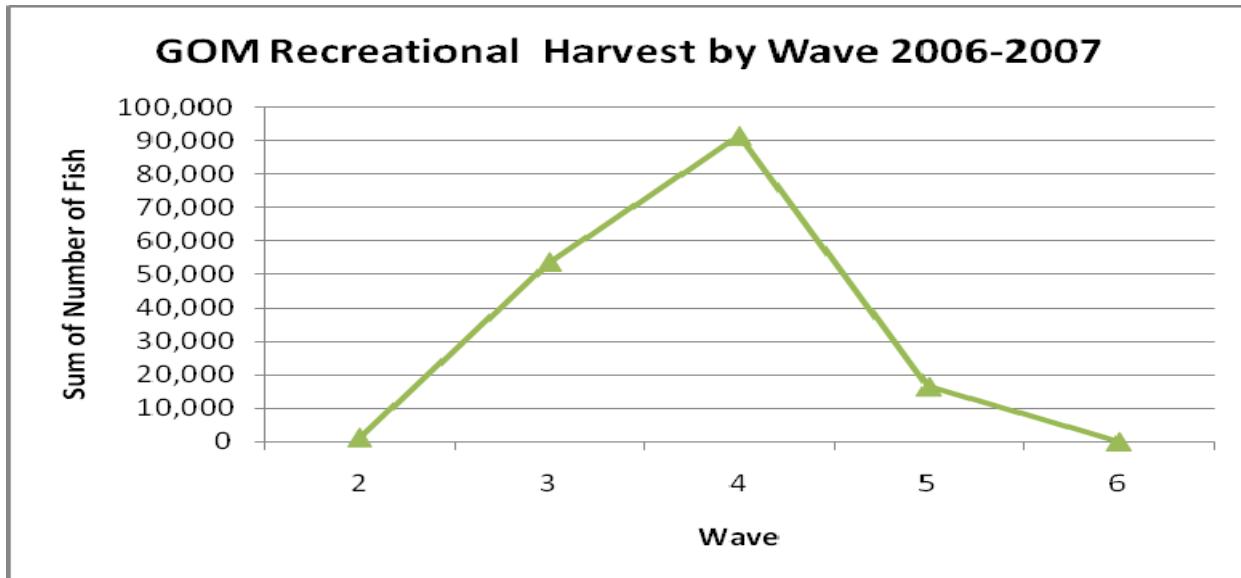


Figure 2. Gulf of Maine recreational landings by wave, sum for 2006 and 2007. Applies a 15% discard mortality rate to B2 fish.

Table 5. GOM sum of total harvest (A + B1 + 0.15*B2) from 2006 – 2007 in numbers of fish and percent of catch. Applies a 15% discard mortality rate to B2 fish. General PSE's for this data can be found in the appendix.

WAVE	MAINE		NEW HAMPSHIRE		MASS GOM		GOM Total	
	Harvest	%	Harvest	%	Harvest	%	Harvest	%
2	0	0.0%	0	0.0%	193	0.4%	193	0.3%
3	173	100.0%	9,804	40.1%	10,759	21.3%	20,736	27.6%
4	0	0.0%	13,702	56.0%	32,181	63.6%	45,883	61.0%
5	0	0.0%	962	3.9%	7,453	14.7%	8,415	11.2%
6	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Total Harvest or % of Stock Catch	173	0%	24,468	32.5%	50,586	67.2%	75,227	

To calculate potential seasonal reduction that could be achieved for each state, divide total percent harvest for a wave by the number of days that the state's season is open during that wave. Reduction per day = % harvest in wave/number of days open in that wave. The values in Table 4 & 5 are not additive.

4.1.2 GOM COMMERCIAL POSSESSION LIMITS

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. This possession limit is estimated to reduce 2006 – 2007 harvest levels by 31% for state water fishing vessels that do not hold a federal permit.

4.2 Southern New England / Mid Atlantic

The measures for the SNE/MA stock are designed to achieve the lowest possible F rate while minimizing economic and social impacts and dead discards, and prevent an influx of effort into state waters. Zero possession limits were considered by the Board, but are problematic for two main reasons—discarding may increase with zero possession limits and fisheries-dependent data beneficial to the assessment would not get collected. Under zero possession limits, the catch-at-age data used in the assessment would be solely based on estimation from at-sea samples. Unless at-sea sample coverage is adequate for estimating discards, the quality of the assessment is likely to degrade creating problems when trying to bridge GARM III with future assessments.

4.2.1 SNE/MA RECREATIONAL BAG LIMITS

Recreational anglers may possess a maximum of 2 winter flounder that were taken in state waters of the SNE/MA stock area. All winter flounder must be a minimum of 12" in length in accordance with Section 4.1 of Amendment 1. This bag limit is estimated to reduce harvest by approximately 46%.

4.2.2 COMMERCIAL POSSESSION LIMITS

Commercial vessels that have not been assigned a federal groundfish permit may possess a maximum of 50 lbs of winter flounder. Commercial vessels that have been assigned a federal groundfish permit are not restricted to the 50 lb possession limit. This possession limit is estimated to reduce harvest by approximately 65%.

This provision is more restrictive than the 100 lb “mesh trigger” allowance for commercial fishermen using nets smaller than 6.5” square or diamond mesh in the cod-end from Section 4.2 of Amendment 1. The 50 lb possession limit is intended solely to allow for bycatch and is the maximum amount that any commercial fishermen, who does not hold a federal groundfish permit, may possess.

5. 0 Compliance Schedule

State must implement Addendum I according to the following schedule in order to be in compliance.

June 15, 2009: Due date for states to submit proposals to meet fishing mortality target.

August 17, 2009: Management Board will review and take action on final state proposals.

November 1, 2009: States implement regulations to meet fishing mortality targets.

Appendix:

The following is a summary² of the Temporary Final Interim Rule for the Northeast Multispecies Fishery as they pertain to regulation of Gulf of Maine and Southern New England-Mid Atlantic winter flounder stocks. They do not apply to non-federally permitted vessels that fish for winter flounder within state waters.

I. Commercial Gulf of Maine

- a. Proposed regulations are estimated to reduce fishing mortality on GOM stock by 16%.
- b. Maintains existing differential DAS counting area in GOM, as established in FMP.
- c. A DAS cut 18% for federally permitted groundfish vessels.
- d. Differential DAS counted 2:1 within entire stock area for federally permitted groundfish vessels.
- e. Incidental TAC set at 19 tons with 100% allocated to regular B DAS program.
- f. Stock classified as stock of concern and is no longer allowed as a target in B DAS program.

II. Recreational Gulf of Maine

- a. No changes.

III. Commercial SNE/MA area

- a. Proposed regulations are estimated to reduce fishing mortality on SNE/MA stock by 62%.
- b. No retention of winter flounder within entire SNE/MA area for all federally permitted vessels.
- c. Interim Differential SNE DAS Area with A DAS charged at rate of 2:1. This area includes waters between 40° 30' and 41° 30' N. lat., and west of 68° 50' W. long. (i.e., west of the border of the Western U.S./Canada Area) to the shore, including all of Nantucket Sound and the Great South Channel (Figure 1).
- d. Elimination of the SNE/MA Special Access Program (SAP). Disallows fluke vessels from landing 200 lb of winter flounder when not under a groundfish DAS.
- e. Elimination of state waters winter flounder exemption. Disallows federally permitted groundfish vessels to land winter flounder when fishing within state waters with small mesh.
- f. DAS conservation tax removed (allows permit stacking).

IV. SNE/MA Recreational

- a. No possession of winter flounder within EEZ portion of SNE/MA area for all party-charter boat and private recreational anglers.

² For a full copy of the rule, go to
<http://www.nero.noaa.gov/nero/regulations/frdoc/09/09multiInterimrule.pdf>

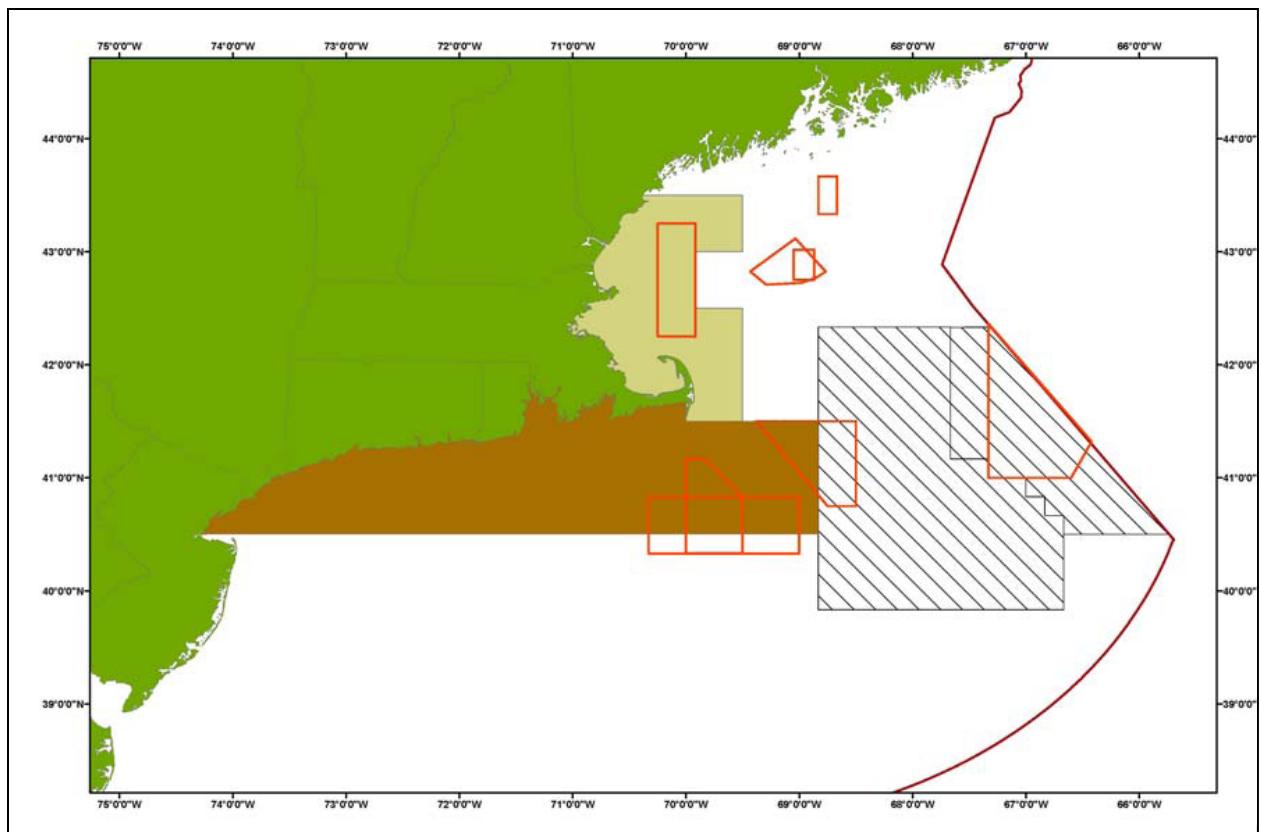


Figure 1. The Interim SNE Differential DAS Area. Brown area is SNE DAS Area. Source: Secretarial Interim Action Environmental Assessment.

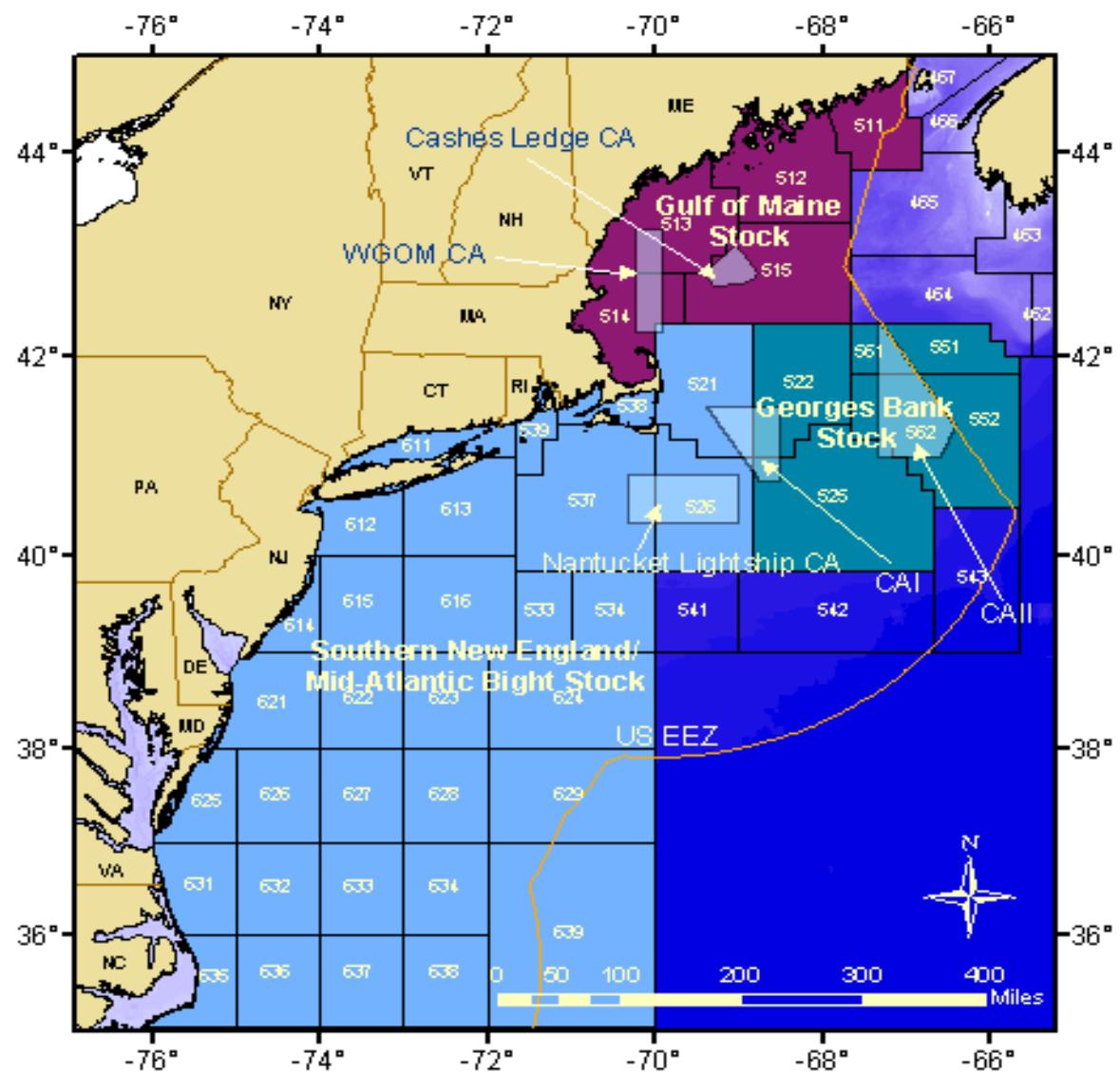


Figure 2. Statistical areas used to define he stock areas for the SNE_MA, Georges Bank and Gulf of Maine winter flounder stocks.

Table 11. Total catch in number (A+B1+B2) and proportional standard error (as percentage of mean) by state, wave, and year. Note that catch in the seasonal analysis used (A+B1) + 15% of the B2 to account for the assumed 85% survival rate of released fish. NA means no catch estimates. Massachusetts data are not disaggregated by stock unit.

State	wave	Year 2006		Year 2007	
		Number	PSE	Number	PSE
DE	wave 4	660	100.1	NA	NA
DE	wave 6	681	72.6	449	100
NJ	wave 2	102,289	34.3	224,694	33.2
NJ	wave 3	3,641	100	9,003	82.9
NJ	wave 4	7,738	71.4	2,492	100
NJ	wave 6	121,216	48.3	NA	NA
NY	wave 2	137,869	31.9	16,740	41.2
NY	wave 3	161,594	35.4	12,883	39.4
CT	wave 2	10,721	74	8,000	41.7
CT	wave 3	17,453	38.9	9,019	47.3
CT	wave 4	3,582	75.3	1,238	100
RI	wave 3	NA	NA	2,858	53
RI	wave 4	NA	NA	581	100
RI	wave 5	561	99.9	NA	NA
RI	wave 6	45	57.2	NA	NA
MA	wave 2	3,856	100	NA	NA
MA	wave 3	29,547	36.7	4,085	72.4
MA	wave 4	23,587	67.5	43,471	34.4
MA	wave 5	21,491	52.9	5,616	58.3
NH	wave 3	8,060	49.8	6,004	34
NH	wave 4	6,027	51	14,896	34.6
NH	wave 5	106	78.5	1,731	42.5
ME	wave 3	1,154	100	NA	NA

***De minimis* fishery guidelines (4.3.3 of Amendment 1)**

States may apply for *de minimis* status if, for the preceding three years for which data are available, their average commercial landings or recreational landings (by weight) constitute less than 1% of the coastwide commercial or recreational landings for the same three year period. A state that qualifies for *de minimis* based on their commercial landings will qualify for exemptions in their commercial fishery only, and a state that qualifies for *de minimis* based on their recreational landings will qualify for exemptions in their recreational fishery only.

States that apply for and are granted *de minimis* status are exempted from biological monitoring/sub-sampling activities for the sector for which de minimis has been granted (i.e., commercial de minimis qualifies for a commercial monitoring exemption). States must still report annual landings, comply with recreational and commercial management measures, and apply for *de minimis* on an annual basis.