

*Fishery Management Report No. 30
of the*

ATLANTIC STATES MARINE FISHERIES COMMISSION

**Addendum 2 to the Fishery Management Plan for Inshore
Stocks of Winter Flounder**

February 1998

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Approved by the Winter Flounder Management Board
on February 3, 1998,
in Baltimore, Maryland.

Preface

This document was prepared under the direction of the Atlantic States Marine Fisheries Commission's Winter Flounder Management Board, chaired by Eric Smith (CT), with review by the Winter Flounder Technical Committee including: Richard Langton (ME), Douglas Grout (NH), Steve Correia (Chair, MA), Mark Gibson (RI), Penny Howell (CT), Alice Weber (NY), and Paul Scarlett (NJ). Funding support for this activity was provided by the Atlantic Coastal Fisheries Cooperative Management Act, grant number NA77FGO029.

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Addendum 2 to the Fishery Management Plan for Inshore Stocks of Winter Flounder

Introduction

On February 3, 1998, the Atlantic States Marine Fisheries Commission's (ASMFC) Winter Flounder Management Board approved Addendum 2 to the Fishery Management Plan for Inshore Stocks of Winter Flounder (*Pleuronectes americanus*). Addendum 2 adjusts the implementation schedule for management measures by the participating states. Plans to reach the target fishing mortality goal for rebuilding (F_{40}) should be developed and submitted to the Board for approval by August 1, 1998. The deadline for implementation of these plans will now be May 1, 1999, in contrast to the original date of January 1, 1999 as stipulated previously in Addendum 1 to the Winter Flounder FMP.

Responsibility for managing the winter flounder resource lies with the coastal states and the federal government through the ASMFC and the New England Fishery Management Council (NEFMC). Final management responsibility for the coastal areas lies with the ASMFC while final responsibility for the offshore area rests with the NEFMC and the National Marine Fisheries Service (NMFS). The Winter Flounder Management Board acknowledges the fact that cooperative planning by these groups is necessary to ensure that complementary and effective management regimes are established and maintained. In approving Addendum 2, the Board expressed its desire to create a joint subcommittee of Council and Commission representatives to examine and develop cooperative management measures to achieve the goals of the winter flounder FMP and rebuild the stocks to their former abundance.

Background

The Atlantic States Marine Fisheries Commission (ASMFC) authorized development of a Fishery Management Plan (FMP) for winter flounder (*Pleuronectes americanus*) in October 1988. Member states declaring an interest in this species were the states of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Delaware. During 1989, the purpose of the plan evolved to address: 1) management of inshore stocks of winter flounder; and 2) to prominently consider habitat and environmental quality as factors affecting the condition of the resource.

The decision to consider only inshore stocks of winter flounder was deliberate, based upon the principal focus of the ASMFC on fisheries in nearshore waters, and the differences in the biological characteristics of the offshore stock (*i.e.* Georges Bank). In addition, winter flounder in the offshore fishery were managed under the aegis of the New England Fishery Management Council's (NEFMC) Northeast Multispecies Management Plan.

The plan was prepared from April 1989 through September 1991. The plan was approved at the May 1992 Spring ASMFC meeting in Washington, D.C. An implementation strategy (Addendum 1) was also approved at that time to guide agency resource managers in their implementation efforts. This original implementation strategy included a timetable for the individual states to follow regarding the submission and implementation of plans to reach target fishing mortality levels. This schedule was as follows:

“Effective one year after adoption of this plan, it is expected that all states will achieve F_{25} based on stock and fishery characteristics applicable in that state. By July 1, 1993, each state must provide a plan for S & S Committee (= *Technical Committee*) review which will achieve F_{30} and, if approved by the Board, this plan shall be implemented by January 1, 1995. By July 1, 1997, each state must provide a plan for S & S Committee (= *Technical Committee*) review which will achieve F_{40} and, if approved by the Board, this plan shall be implemented by January 1, 1999.”

The original FMP and Addendum 1 called for reductions in fishing mortality on winter flounder and allowed states the flexibility to achieve those reductions based on the life history characteristics of the individual stocks inhabiting each region. Implementation of the plan has required the interaction and cooperation of state fishery management agencies, the New England Fishery Management Council, the National Marine Fisheries Service, and the ASMFC. A suite of management measures designed to reduce fishing mortality on winter flounder have been implemented in state and federal waters over the past five years. In addition, management measures designed to reduce fishing mortality on groundfish (*i.e.* Amendments 5 and 7 to the NEFMC’s Northeast Multispecies Management Plan) have also beneficially impacted winter flounder stocks.

The ASMFC’s Winter Flounder Technical Committee is responsible for monitoring the health of the winter flounder stocks and providing technical advice to the Winter Flounder Management Board. As such, the technical committee last performed a Virtual Population Analysis (VPA) of the Southern New England/Mid-Atlantic (SNE/MA) stocks in the fall of 1995. Until late 1995, states were in compliance with the plan *i.e.* they had achieved the target fishing mortality rate of F_{30} . The 1995 VPA results however, revised a number of model parameters and the consequence was that the F_{30} target was no longer being achieved. This VPA was scheduled to be updated in the fall of 1997 and should provide a picture of the health of the winter flounder stocks in that area. This analysis will incorporate the results of the suite of management measures implemented since the adoption of the plan and provide a basis for states to formulate management plans to achieve the F_{40} target levels.

Recognizing that the majority of commercial landings of winter flounder are now taken in federal waters (EEZ), the Board has worked closely with the NEFMC to coordinate management efforts. Recent preliminary results of projection analyses suggest that fishing mortality on winter flounder has decreased relative to the results of the 1995 VPA, and that recent recruitment (the 1993 and 1994 yearclasses) may be significant. This recruitment offers the best chance of

rebuilding the stocks quickly and the Board is working with the NEFMC to develop management measures to conserve these yearclasses.

In response to this situation, the Management Board requested staff to develop a list of options to address the implementation schedule outlined in Addendum 1 to the FMP. These options were presented to the Board in May, 1997 and to the public during hearings held in July and August of 1997. Public comment was in favor of delaying the development and implementation of new management measures until the Technical Committee could review the current status of the stock. Public comment also suggested that new management measures take into account the distribution of landings, i.e. reductions in fishing mortality would be most effective if the measures were implemented where the majority of landings occur.

The Winter Flounder Technical Committee met in December 1997 to review the status of the SNE/MA and Gulf of Maine stocks. Fishing mortality in 1996 for the SNE/MA stock (0.36) was slightly above the F_{30} (0.30) target and well above the F_{40} target (0.21). The committee then applied the NEFMC'S Multispecies Monitoring Committee's estimate of a 22% reduction in nominal fishing effort due to Framework 20 and the Vessel Capacity Reduction Program to estimate fishing mortality for 1998. Fishing mortality in 1998 is expected to be 0.27, which is below the F_{30} target but still above the F_{40} target. A further reduction in fishing mortality of 22% is necessary to reach the F_{40} target. The committee also concluded that the 1993 and 1994 yearclasses were of moderate to good size and protecting these will allow faster rebuilding of stock biomass. The 1995 yearclass appears to be poor in all surveys, emphasizing the importance of utilizing the 1993 and 1994 yearclasses to rebuild stock biomass.

The Committee was not able to provide an estimate of fishing mortality for the GOM stock that was comparable to the target F values due to the lack of data. The committee concluded that biomass for GOM winter flounder remains lower than the levels seen in the early 1980's although recruitment in recent years has been well above average. This suggests that fishing mortality on the fully-recruited portion of the stock remains high. The recent good recruitment offers an opportunity to rebuild the stock biomass if the fully recruited fishing mortality is reduced. The committee added that the effects of Framework 25 to the NEFMC Multispecies FMP may indirectly reduce mortality of GOM winter flounder. Framework 25 implements area closures and trip/possession limits designed to reduce mortality on GOM cod and may enhance the rebuilding of GOM winter flounder biomass.

Although the majority of winter flounder landings are taken from federal waters presently, the possibility of tightening state regulations in the future remains. This possibility will depend on the success or failure of current state and federal regulations. The overall winter flounder stock is composed of smaller, localized spawning populations which return to natal inshore waters each year. Increased fishing mortality in state waters will have a direct effect on the status of these local populations. In addition, the makeup of the offshore landings should be investigated to determine the impact on the inshore populations.

Schedule for Implementation

The Winter Flounder FMP recognizes that individual states have implemented a number of winter flounder conservation measures since planning began in 1989. These measures have resulted in all states achieving the initial management milestone (F_{25}) established in the plan. In addition, management measures implemented in the Exclusive Economic Zone (EEZ) by the New England Fishery Management Council under the Northeast Multispecies Management Plan, have also led to a decrease in winter flounder mortality. The combination of state and Federal measures, along with the effects of the New England Vessel Buyback Program, have resulted in near achievement (based on preliminary projection analyses) of the second management milestone (F_{30}) established in the plan.

The schedule for implementation (changes in boldfaced type) of this plan shall now read:

“Effective one year after adoption of this plan, it is expected that all states will achieve F_{25} based on stock and fishery characteristics applicable in that state. By July 1, 1993, each state must provide a plan for Technical Committee review which will achieve F_{30} and, if approved by the Board, this plan shall be implemented by January 1, 1995. By **August 1, 1998**, each state must provide a plan for Technical Committee review which will achieve F_{40} and, if approved by the Board, this plan shall be implemented by **May 1, 1999**.”

Fishery Management After Adoption of the Plan

This plan calls for reductions in fishing mortality on winter flounder and allows states the flexibility to achieve those reductions. Implementation of the plan will require the interaction of state fishery management agencies, the New England Fishery Management Council, the National Marine Fisheries Service, and ASMFC. Therefore, the following institutional arrangements will be maintained:

1. The ASMFC Winter Flounder Management Board will continue in existence and will include all states with a declared interest in managing winter flounder. The Board will make management decisions germane to implementation of the plan. Board findings and decisions will be reported to ASMFC's Interstate Fisheries Management Program Policy Board which will have final authority for judging non-compliance with measures contained in the plan.
2. ASMFC's Winter Flounder Technical Committee will be maintained to collect data and conduct analyses necessary for the implementation and monitoring of the plan. The Technical Committee will be comprised of fisheries scientists from states that declare an interest in managing winter flounder.
3. Participating states are encouraged to establish fishery advisory committees if necessary to promote implementation of the plan.

Management in the Exclusive Economic Zone

Implementation of management measures in the Exclusive Economic Zone (EEZ) comparable to those enacted by the states will be essential in order to achieve effective management of inshore stocks. Recommended measures initially included a 12" length limit and a 5.5" or larger cod-end mesh size (diamond) throughout the EEZ to postpone fishing mortality on older age groups and increase spawning stock biomass. Additional measures implemented in the EEZ following adoption of the ASMFC Plan included area closures and other effort reductions such as days at sea.

The Winter Flounder Management Board requested that the New England Fishery Management Council include a 12" minimum length and 6" minimum cod-end mesh size in Amendment #5 of the Northeast Multispecies Fishery Management Plan. These measures are now in effect for EEZ waters (12" minimum fish size; 6" diamond or square cod-end mesh east of 72° 30' or Shinnecock Inlet, NY; 12" minimum fish size; 5.5" diamond or 6" square cod-end mesh west of 72° 30'). The NEFMC has decided to postpone further amendment to the Northeast Multispecies Management Plan regarding winter flounder conservation measures until the updated VPA for the SNE/MA stock is completed.

Schedule for Addendum 2 Development

Table 1. Schedule for development/approval of Addendum 2.

Stage	Date(s)
Initial Draft of Addendum 2 to the Winter Flounder Fishery Management Plan	April 25, 1997
Approval of Draft Addendum 2 by Winter Flounder Board	May 19, 1997
Draft Addendum 2 Public Meetings	July/August 1997
Approval of Addendum 2	February 3, 1998

Table 2. Current state regulations for winter flounder.

Commercial			
State	Minimum Size Limit	Cod-end Mesh	Closed Season(s)
ME	12"	6.0"	
NH	12"	6.0" (to take, transport or possess winter flounder or other groundfish)	No mobile gear allowed in state waters
MA ¹	12"	6.0" square or diamond; 100 lb limit for all flounder species for mesh < 6.0";	Year round night closure to mobile gear; Gulf of Maine spawning closure and inshore net areas closed to all gear from: 2/1 - 5/31; Year round prohibition of commercial netting in inshore net area and Buzzards Bay; Year round prohibition of commercial harvest of winter flounder in Mount Hope Bay; at least 12 other seasonal/area/gear closures
RI	12"	6.0" (except fyke nets)	Open 3/1 in CMLMA ² until 1/2 quota (89,000 lbs. in 1997) is reached; reopens 10/1 to 11/15, or until quota is met; 100 - 300 lb. trip limit in CMLMA
CT	12"	4.5" from 7/1-11/14; 5.5" from 11/15-6/30 (diamond mesh)	Closed: 3/1 - 4/14 (bycatch allowance of 100 lbs for small-mesh regulated fisheries)
NY	12"	5.5" (diamond) 6.0" (square) 100 lb. mesh trigger	Fyke nets closed: 3/23-9/30; Pound/trap nets: 6/15-7/25; All other comm. gear closed: 6/14-11/30
NJ	12"	5.0"	Trawling prohibited < 2 miles; Fyke nets closed: 2/20-9/30; All other comm. gear closed: 6/1-11/30
DE	10"	None	Trawling prohibited

¹ Massachusetts also has a maximum vessel size limit of 72 feet length overall.

² Coastal Marine Life Management Area - Narragansett Bay, coastal salt ponds, and Little Narragansett Bay; quota varies yearly and was proposed to be 53,900 for 1998.

Table 2. State regulations for winter flounder (cont.).

	Recreational			
State	Minimum Size Limit	Bag Limit	Closed Season(s)	Last Update
ME	12"	None	None	3/2/98
NH	12"	None	None	2/12/98
MA	12"	10; 4 in Mt. Hope Bay during open season	Closed: 3/1 - 4/30; Mt. Hope Bay only: closed 5/20 - 9/27 and 10/29 - 4/12	3/3/98
RI	12"	4 ³	Open: 4/12/98 to 5/18/98; and 9/27/98 to 10/27/98	3/6/98
CT	12"	8	None	3/6/98
NY ⁴	11"	15	All state waters closed from 7/1 to 9/14 and from 12/1 to 3rd Saturday in March	2/12/98
NJ	10"	None	Closed: Jan 1 - Feb 28 and June 1 - Sep 14	2/26/98
DE	10"	None	None	2/27/98

³ Unlawful to sell recreational catch.

⁴ Winter flounder may not at any time be taken for commercial purposes aboard party and charter vessels.

Appendix I. Public Meeting Statement for Winter Flounder Addendum 2

Public Meeting Statement for Winter Flounder Addendum 2

The Atlantic States Marine Fisheries Commission (Commission), acting through its member states, is seeking to amend the existing Fishery Management Plan for Inshore Stocks of Winter Flounder (FMP). To generate and facilitate public input into the fishery management process, the Commission is holding public meetings in member states on this issue. States expressing an interest in either holding a public hearing on this or adding it to the agenda for comment during regularly scheduled meetings include: Massachusetts, Rhode Island, Connecticut, New York and New Jersey. The Commission seeks your input on the proposed measure and any comments concerning other aspects of the fishery are welcome as well.

Addendum 1 to the winter flounder FMP outlined an implementation strategy and schedule for the plan's provisions. Addendum 2 seeks to modify the schedule for submission of plans to achieve the next and final target fishing mortality milestone. The Winter Flounder Management Board approved a Draft Addendum 2 to the FMP at its last meeting, May 19, 1997. This addendum proposes to postpone the date of submission for plans to reach F_{40} in order to allow the technical committee to update the VPA upon which management measures will then be developed.

Addendum 1 to the Winter Flounder FMP provided a schedule whereby each state would submit plans to reach target mortality rates corresponding to F_{25} , F_{30} , and F_{40} reference points. States were to submit plans to reach F_{30} by July 1, 1993 and implement those by January 1, 1995. Plans to reach F_{40} were to be submitted by July 1, 1997 and implemented by January 1, 1999. The most recent assessment performed by the technical committee in January, a preliminary projection analysis, suggested that fishing mortality rates were very close to the F_{30} reference point. Given that information, and the fact that the majority of commercial landings are taken from the EEZ, the Board decided that no additional actions to reduce fishing mortality should be required by states at this time. However, in order to protect two moderately strong yearclasses (1992 and 1993) poised to enter the fishery, the Board pledged to work with the New England Fishery Management Council to develop measures to protect these yearclasses as framework adjustments to Amendment 7 of the Groundfish Plan.

The Technical Committee has been charged with updating the VPA for winter flounder this fall. The last VPA was performed in 1995 and was based on data up to and including 1993. The Technical Committee will examine the status of the winter flounder resource through an updated assessment which will include data through 1996. The current level of fishing mortality will then be determined and, if necessary, states can develop plans to reach the F_{40} reference point based on this information. Another benefit to this course of action is that the updated assessment will incorporate the effects of measures already implemented under the NEFMC's Groundfish Plan.

The Winter Flounder Management Board's preferred alternative (Option 3) is to postpone the plan submission date by six months to January 1, 1998. The implementation date would remain January 1, 1999 as it was originally set in Addendum 1. Other options include adhering to the

original schedule in Addendum 1 (Option 1), taking no action (Option 2), or postponing submission of plans by one year (Option 4). The benefits and consequences of following each of the options are laid out in the draft addendum for review. The implementation dates may also be postponed as another option or in conjunction with one of the above options, although the Board chose not to postpone the implementation date as part of its preferred option.

Fishermen and other interested parties can provide their input into the decision-making by attending any of the scheduled meetings, contacting their state agency, or contacting the Commission. To obtain a copy of draft Addendum 2, or for further information, please contact: Dr. Joseph Desfosse, Fishery Management Plan Coordinator, at (202) 289-6400, ext. 329.

Appendix II. Summary of Public Comment Regarding Addendum 2

Summary of public comments regarding proposed Addendum 2 to the Fishery Management Plan for Inshore Stocks of Winter Flounder

A total of five (5) public hearings were held regarding the proposed Addendum 2 to the Winter Flounder FMP. Meetings were held either in conjunction with state's regularly scheduled meetings (Rhode Island, Connecticut), or as separate meetings (Massachusetts, New York, New Jersey). In addition to these meetings, staff received comments via phone, fax and mail. The majority of comments were in favor of the proposed measure to postpone the date of submission for state plans to reach F_{40} , and allow the Technical Committee time to update the VP in order to provide the best possible information. Specifically, public comments were directed at the appropriateness of F_{40} as a target, careful consideration of existing state regulations in terms of reaching F_{40} , and cooperation with the New England Council in reducing fishing mortality in the EEZ. The public comment period closed August 22, 1997. The following is a meeting by meeting summary and copies of the comments received by staff.

Massachusetts: No members of the public attended the meeting.

Rhode Island: Members of the RI Council and the public expressed concern that inshore fishermen were being targeted for future restrictions given that the majority of (commercial) landings are taken from the EEZ.

Connecticut: The meeting was lightly attended; those in attendance listened to the prepared statement (enclosed); no comments were voiced in opposition of the proposed measure, the only comment voiced was that the mesh size implemented by states should be the same as is in effect in the EEZ (see attached CT DEP report).

New York: This meeting was also lightly attended; no comments were voiced in opposition of the proposed measure; discussion centered on habitat issues and their effects on winter flounder recruitment and survival; presence of a brown tide in New York waters which kills seagrasses and hence, destroys nursery areas; decreased flushing rates in some estuaries leading to poor larval survival.

New Jersey: This meeting was also lightly attended; only one person spoke regarding the proposed measures; he was in support of the 6 month delay in order to allow the best possible information to be available prior to forming any new plans; he also suggested that the F_{40} goal be examined and that the status of the resource be considered prior to implementing any further management measures.

Other public comments received by staff: Written comments on the proposed measure were also received from Jim Lovgren (NJ); Raymond Bogan (NJ), Andrew Jones (NY), and Lewis Newsky (NH member of AP). These are attached. Staff also received comments (via phone) from Steve Correia (Technical Committee Chair) in which he noted that the New England Council would begin discussions on Framework measures to the Groundfish Plan in

January 1998. He stated that it might be more efficient if the framework measures and state plans were developed together to reach the F_{40} goal, therefore it might be better time-wise if the submission date for state plans was postponed until July 1, 1998. Staff also received a letter from Robert Hamilton, Jr. on September 9, after the close of the public comment period (August 22) and it has been included in this packet as well.