Atlantic States Marine Fisheries Commission

1050 N. Highland Street • Suite 200A-N • Arlington, VA 22201
703.842.0740 • asmfc.org

# MEMORANDUM

**TO:** **Winter Flounder Management Board**

**FROM:** **Tracey Bauer, ASMFC FMP Coordinator and Robin Frede, NEFMC Groundfish Plan Coordinator**

**DATE:** **July 28, 2026**

**SUBJECT:** **Winter Flounder Specifications Process**

At its February 2026 meeting, the Winter Flounder Management Board requested a staff memo detailing the current specification process for winter flounder. This request was, in part, to better understand concerns raised by the Winter Flounder Technical Committee (TC). As per the TC's January 2026 memo to the Board:

> *Currently, the federal output control-based management requires accounting for all removals, including assumptions of state water removals, to estimate the ACLs in the federal groundfish fishery. The NEFMC's Groundfish PDT makes an initial estimate what state water fishery catch is likely to be in the future (state sub-component) for the specifications. However, the Groundfish PDT does not know what potential changes ASMFC will make since their call is held well before the Board meeting, so they have been basing their recommendations on the average of recent catches in state waters with the underlining assumption that there will be little to no change in current state waters measures. As a result, the state sub-component has continued to decline with declining state waters harvest, regardless of any increases in the sub-ACL on the federal side due to recent management track assessment results. In addition, if the TC ever recommends and the Board approves a liberalization of measures for either winter flounder stock in the future, the process for how the NEFMC might incorporate the Board's decision into their previously approved sub-ACLs is unclear, and has not yet been established.*

The following memo addresses this request, detailing the New England Fishery Management Council's (Council's) specification process, as well as the Atlantic States Marine Fisheries Commission's Winter Flounder Management Board's (Board's) current role.

## Overview of Cooperative Management between the Commission and New England Fishery Management Council

Currently, the Council and the Board cooperatively manage two winter flounder stocks, Southern New England/Mid-Atlantic (SNE/MA) and Gulf of Maine (GOM), with complementary FMPs. Stocks with complementary FMPs differ from those managed *jointly* (e.g., summer flounder, scup, and black sea bass), where FMPs are developed together between the relevant Council(s) and the Commission, requiring both bodies to approve the same actions, ensuring close coordination and consistency between state and federal waters. Conversely, complementary FMPs are developed in coordination with the relevant Council(s), but do not require like actions for approval of management measures. This can allow for more flexibility and speed in management, but can also cause issues if one management body makes a decision that does not align with decisions previously made by the other.

***New England Council's Groundfish Specifications Process***

The process for setting OFLs, ABCs, and ACLs for all stocks under the Council's Northeast Multispecies (Groundfish) FMP, which includes both SNE/MA and GOM winter flounder, was established in the Council's Amendment 16. This section details the process followed by the Council on a specification-setting year. The Council's specification setting years are based on their schedule for specifications and stock assessments for all of their species set in advance by the Council and the Northeast Fisheries Science Center (NEFSC). While Amendment 16 states it's expected OFLs, ABCs, and ACLs will be determined every two years, they are set for least three years in case of a delay in determining future values. In September 2025, the Council approved an omnibus amendment to its fishery management plans that includes an action allowing a specifications frequency of up to five years, in response to recent reductions in federal agency resources. As a result, beginning in 2025, OFLs, ABCs, and ACLs are set for up to five years, with the expectation that they will be revisited sooner (i.e., by year 3).

In June of a specification setting year, the Council initiates a framework adjustment for specifications and other management measures. From July through September, the Groundfish Plan Development Team (PDT) and Groundfish Committee, with input from the Groundfish and Recreational Advisory Panels, begin developing draft alternatives for the framework adjustment.

The Groundfish PDT's role in the process is to develop the framework adjustment and provide recommendations regarding specifications for each multispecies stock. To make their recommendations, the PDT reviews available data, including information on catch and other measures of fishing effort, the results of recent assessments, enforcement and compliance with measures, fishery independent data, and any other relevant information.

If a management track stock assessment is completed that year, peer review will occur in mid-September. The Council reviews progress on the development of the framework adjustment at their meeting in late September. Between October and November, the Groundfish Committee, PDT, and Advisory Panels meet to continue to develop draft alternatives.

<u>*OFLs and ABCs*</u>

In October, the Scientific and Statistical Committee (SSC) recommends OFLs and ABCs for all groundfish stocks under consideration in the framework adjustment. These recommendations should prevent overfishing, be consistent with the Council's groundfish ABC control rule and rebuilding plans and consider the Council's Risk Policy Statement and Concept[1]. OFL estimates for the specification years should be based on the point estimates of $F_{MSY}$ (or its proxy) and the point estimate of future stock size. ABCs should be based on the groundfish ABC control rules[2], which are as follows:

*These ABC control rules will be used in the absence of better information that may allow a more explicit determination of scientific uncertainty for a stock or stocks. If such information is available - that is, if scientific uncertainty can be characterized in a more accurate fashion - it can be used by the SSC to determine ABCs, these ABC control rules can be modified in a future Council action (an amendment, framework, or specification package):*

A. *ABC should be determined as the catch associated with 75% of FMSY.*

[1] The Council recently approved its revised Risk Policy Statement and Concept. See: https://d23h0vhsm26o6d.cloudfront.net/Risk-Policy-Statement-and-Concept-Overview-for-posting-v1-final.pdf
[2] The Council is in the process of revising its groundfish ABC control rules. See: https://www.nefmc.org/library/northeast-multispecies-groundfish-framework-68

B. *If fishing at 75% of FMSY does not achieve the mandated rebuilding requirements for overfished stocks, ABC should be determined as the catch associated with the fishing mortality that meets rebuilding requirements (Frebuild).*
C. *For stocks that cannot rebuild to BMSY in the specified rebuilding period, even with no fishing, the ABC should be based on incidental bycatch, including a reduction in bycatch rate (i.e., the proportion of the stock caught as bycatch).*
D. *Interim ABCs should be determined for stocks with unknown status according to case-by- case recommendations from the SSC.*

PDT recommendations for setting OFLs and ABCs, which generally follow the groundfish ABC control rules, will be provided to the SSC. Guided by TORs prepared by the Council, the SSC will review the PDT's recommendations for OFLs and ABCs and will either approve those recommendations or provide an alternative recommendation. Should the SSC recommend an ABC that differs from that originally recommended by the PDT, the PDT will revise its ACL recommendations to be consistent. In either case, the SSC will explicitly describe the elements of scientific uncertainty that were considered in developing its recommendation. If requested by the Council, the SSC may comment on the uncertainty and risk that should be considered by the Council when setting ACLs and whether the PDT has identified those elements sufficiently for Council consideration.

*ACLs*

Once an overall ABC is determined, the PDT and Groundfish Committee can then consider recommendations regarding the ACL (i.e., the overall available catch) and how catches are distributed to the sub-components of the fishery.

Before sub-annual catch limits (sub-ACLs) are determined, an adjustment needs to be made for 1) the catch that is expected to be harvested within state waters by vessels not subject to the federal FMP, which is referred to as the "state sub-component," and 2) the catch expected to be caught in federal non-groundfish fisheries that do not receive an allocation, which is referred to as the "other sub-component."

The PDT conducts a "sub-component review" to determine recommendations of how much catch to assign to the state and other sub-components. Generally, the PDT compares the current other fisheries or state waters sub-component percentage (and associated value) to the updated three-year average catch to develop recommendations for state and other sub-components, in the absence of other information. In its review the PDT would flag any potential concerns, such as increased utilization or a large decline in ABC for a stock that may warrant additional consideration for determining sub-components. The PDT provides its sub-component recommendations in a guidance document to the Groundfish Committee for their consideration.

The Committee, with input from the Groundfish and Recreational Advisory Panels, will either accept the PDT's sub-component recommendations or may request additional analysis or information to consider alternative approaches for determining state or other sub-components on a stock-by-stock basis. For example, in a case where state waters catches are increasing for a highly utilized stock or for a stock expecting a large decline in ABC, the Committee may recommend maintaining the sub-component percentage amount, to signal to the states a request for their cooperation in aligning management measures to help prevent the ACL from being exceeded.

After the state and other sub-components are deducted, the remaining portion of the U.S. ABC is divided into sub-ACLs for specific fisheries, calculations for which are described in the specifications package or management action adopting the ACLs and accompanying PDT guidance document. Allocation is made first to non-groundfish fisheries (e.g., scallop, midwater trawl, small-mesh fisheries) and recreational groundfish fisheries, and the portion of the U.S. ABC remaining is the commercial groundfish allocation. These allocations of catch to the different fisheries facilitate management of the catch of a stock so that if catches are excessive, measures can be designed for the portions of the fishery that are responsible for the excessive catch.

Once the U.S. ABC is distributed to the various fishery components, sub-ACLs are set by reducing the amount of the ABC distributed to each component to account for management uncertainty (i.e., the likelihood that management measures will result in a level of catch greater than the catch target). For each stock, management uncertainty is estimated using the following criteria: enforceability and precision of management measures, adequacy of catch monitoring, latent effort, and catch of groundfish in non-groundfish fisheries.

The PDT will consider management uncertainty by developing an informal document that describes the issues that will be considered, the risks, and uncertainties. When evaluating management uncertainty, the PDT will consider uncertainty that may be different for different sub-components of the ACL. The current default adjustment for management uncertainty for groundfish stocks is 5 percent of the ABC. For stocks with less management uncertainty, the buffer is set at 3 percent of the ABC; for stocks with more uncertainty, the buffer is set at 7 percent of the ABC. Stocks not caught in state waters have a lower management uncertainty buffer of 3 percent of the ABC; zero possession, discard-only stocks, and recreational fisheries have a higher management uncertainty buffer of 7 percent of the ABC. The PDT recommendations will specifically comment on the evaluation of the uncertainty for different sub-components in its review of management uncertainty.

Once development of the draft alternatives and specifications is complete, the Groundfish Committee, with input from the Groundfish and Recreational Advisory Panels, considers the PDT's recommendations for ACLs in the specifications included in the draft framework adjustment and any public comment received, and makes recommendations to the Council.

*Final action and approval of specifications*

The Council will consider the draft framework adjustment, including the OFLs and ABCs established by the SSC and ACL recommendations of the PDT, and take final action at the December Council meeting, typically occurring either the first or second week in December. If the Council questions the SSC recommendation, it can ask for a more detailed explanation from the SSC, but the Council must establish ACLs that are equal to or lower than the ABC established by the SSC. When setting ACLs, the Council will consider the advice of the SSC and the PDT, and will provide the rationale used for setting the ACLs.

Once the Council has approved its recommended ACLs, they will be submitted to NMFS for approval and implementation. ACLs can be implemented in several ways. If the Council submits a management action as part of the periodic adjustment process, the ACLs can be included in that document along with any necessary analysis required by applicable law. Alternatively, the ACLs can be submitted as part of a specification package supported by the appropriate NEPA document, if necessary.

After receipt of the Council recommendations for ACLs, either as part of a new management action or specification package, NMFS will review the Council's recommendations, and if consistent with applicable law, will implement the ACLs consistent with the Administrative Procedure Act, with a target implementation of May 1 for the start of the fishing year.

*Accountability Measures*

Accountability measures are required for sub-ACLs. There are no accountability measures if the state sub-component or other sub-component is exceeded, and no management uncertainty buffer is applied, since these are expected catches. These sub-components are not subject to specific catch controls by the Groundfish FMP, although in many instances states do adjust their measures accordingly.

It should be noted that for stocks that are highly utilized by the federal groundfish fishery, there is increased potential that catches in the state waters or other federal fisheries could result in an overage of the total ACL. In the event of an ACL overage, accountability measures apply to the fisheries that have an allocation. For both GOM and SNE/MA winter flounder, the only allocation is to the federal commercial groundfish fishery. In this case, the commercial groundfish fishery could incur accountability measures (pound-for-pound payback), even if the overage resulted from state or other sub-component catches. However, utilization by the federal groundfish fishery for both stocks has been low and so this has not been an issue to date.

**ASMFC Specification Process for SNE/MA and GOM Winter Flounder**

As per the Commission's Addendum III to the Winter Flounder FMP, the Board may set specifications for up to three years based on the federally established state waters sub-component using the following procedure:

The Winter Flounder Technical Committee (TC) reviews the best available data including, but not limited to, the Council-approved specifications, commercial and recreational catch/landing statistics, current estimates of fishing mortality, stock status, survey indices, assessment modeling results, and target mortality levels. Based on their data review, the TC makes recommendations for changes to commercial and recreational specifications to the Board. The Winter Flounder AP also meets to review similar information as provided to the TC, as well as to make their own recommendation(s). The Board will review TC and AP recommendations before setting commercial and recreational specifications for up to three years through Board action. The Board has the option to review the trip limit if new information is released within the 3-year period. States may provide an opportunity for public input before the Board sets the specifications.

**Proposed Modifications to Process**

Following the Board's February 2026 meeting, Commission and Council staff met to discuss concerns raised by the Board and TC on the disconnect between the Council's specification process and any actions the Board may consider taking.

Commission and Council staff do not think any formal changes are needed to the FMP at this time. Instead, the Council and Commission staff agreed to focus on improving communication and collaboration between the Council and Board in the future. For example, Commission staff will keep the Board informed of all of the various meetings the Council is holding during a Council specifications-setting year. This will allow the Board to determine if changes to management measures are needed prior to the Council setting the state sub-component of the catch. In addition, Commission and Council staff will also inform the TC of meetings of the Groundfish PDT, particularly when they meet to discuss the winter flounder state sub-component. This would enable the TC to participate in discussions related to GOM and SNE/MA winter flounder.