

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10 Maine Groundfish Management Plan

1. Groundfish Management Plan

B. Size, Possession and Gear Restrictions

(1) Commercial - size, possession and gear restrictions

(b) The minimum fish size applies to the whole fish or any part of a fish while possessed on board a vessel, except as provided in paragraph (c) of this section, and to whole fish only, after landing. Fish or parts of fish must have skin on while possessed on board a vessel and at the time of landing in order to meet minimum size requirements. "Skin on" means the entire portion of the skin normally attached to the portion of the fish or fish parts possessed.

(i) Winter flounder

It shall be unlawful for persons who do not possess a federal groundfish permit to fish for, take, possess or land more than 250 lbs (113.4 kg) of winter flounder per vessel, per day.

(d) Limits – summary table

<u>Cod:</u>	<u>200 lbs (90.7 kg), vessel trip limit</u>	<u>Ch. 34.10 (1)(C)(6)</u>
<u>Monkfish:</u>	<u>150 lbs (68 kg) of monkfish tails or</u> <u>498 lbs (225.9 kg) of whole monkfish per vessel trip</u>	<u>Ch. 34.10(1)(4)(d)(ii)</u>
<u>Winter flounder:</u>	<u>250 lbs (113.4 kg), per vessel, per day</u>	<u>Ch. 34.10(1)(B)(1)(b)(i)</u>

(2) Recreational - size, possession and gear restrictions

(c) Possession restrictions

Each person on board a charter, party or recreational fishing vessel may not possess more than 8 winter flounder; and winter flounder may not be possessed on board a charter, party or recreational fishing vessel from October 1 through June 30, dates inclusive.

C. Maine Territorial Waters

(6) Vessel Trip Limit.

It is unlawful to take, possess or land more than 200 pounds (90.7 kg) of cod taken from Maine's territorial waters.

See Chapter 34.10(1)(B)(1)(d) for additional vessel limits.

Basis Statement

Chapter 34.10(1)(B) Winter Flounder
ASMFC compliance limits for recreational and commercial harvest

According to Addendum I the Gulf of Maine stock is experiencing overfishing and record low stock levels. These new stock determinations were not anticipated because the previous management measures were projected to reduce fishing mortality to a level that would rebuild/maintain the spawning stock biomass of winter flounders stocks. These unexpected low numbers were due to retrospective patterns from the previous two winter flounder assessments, which underestimated biomass. Additional information is available at the ASMFC web site <http://www.asmfc.org/> by selecting managed species, winter flounder, then Addendum I (May 2009). These rules would impact commercial fishermen who do not hold a federal groundfish permit and recreational fishermen.

Winter flounder possession limits are adopted for compliance with the Atlantic States Marine Fisheries Commission Addendum I to the Interstate Fishery Management Plan for Inshore Stocks of Winter Flounder. Commercial possession by persons who do not hold a federal groundfish permit would be limited to a maximum of 250 lbs per vessel, per day; and the recreational possession limit of 8 fish per person per day would remain with an added seasonal closure of October 1 through June 30, both dates inclusive.

Summary of Comments

Chapter 34.10(1)(B) Winter Flounder
ASMFC compliance limits for recreational and commercial harvest

A public hearing was held in West Boothbay Harbor on January 14, 2010. The summary of comments with the Department's responses is followed by the individual summarized hearing and written comments.

Hearing Attendees – West Boothbay Harbor:

Barry Gibson, East Boothbay
Steve Rosen, Vinalhaven
Bob Baines, S. Thomaston
Jeff Ritter, East Boothbay
DMR: Kohl Kanwit, Trisha DeGraff, L. Churchill

Summarized comments and responses (opposed):

- The ASMFC data is meaningless as the 173 fish per two years amounts to zero and you can not cut back on zero.
- Go another year or two to collect more recreational fishing data possibly with an annual total allowable catch (TAC) instead.
- This is unfair reduction when compared to the 250 pound limit per day for commercial take that three times exceeds the entire recreational fishing annual harvest reported.
- Maine should seek *de minimus* status for Maine's recreational flounder fishery and continue the current regulations until better data is collected.

Response:

The Atlantic States Marine Fisheries Commission (ASMFC) Addendum I to Amendment I of the Interstate Fishery Management Plan for Inshore Stocks of Winter Flounder, section 4.1.1, requires member states to implement regulations to reduce the fishing mortality rate in the recreational fishery by 11% from the average of 2006-2007 levels. The assumption that Maine should seek *de minimus* status and that this would allow the status quo in the recreational fishing regulations is not accurate. In accordance with 4.3.3 of Amendment 1, *De minimus* fishery guidelines, *de minimus* states are only exempted from biological monitoring/sub-sampling activities for the sector for which *de minimus* status has been granted.

States must still report annual landings and comply with all recreational and commercial mandatory management measures, plus re-apply on an annual basis for de minimus status.

The winter flounder fishery management plan applies to the entire Gulf of Maine not just individual states as the winter flounder stock is managed as a whole stock in the Gulf of Maine. Maine also prohibits all fishing for winter flounder by both the commercial and recreational fisheries during the months of April, May and June in accordance with the Maine Groundfish Spawning Closure in territorial waters with the exception for recreational taking of groundfish from the shore, wharves or attached floats.

The original 11% fishing mortality rate reduction was proposed to be a 2 fish bag limit, but was unacceptable to many so conservation equivalents were requested in the form of a reduction from 8 to 3 fish per person per day; or, retain the 8 fish per person per day limit and add a seasonal component, which were accepted by the Winter Flounder Technical Committee and these were presented in the proposed regulations. The proposed season component was based on the only months in which data had been collected in 2006 and therefore could be used in the future for management decisions.

Based upon the ASMFC compliance requirement, the comment(s) that the 8 fish per day with the season would be preferable to the 3 fish/year round option, and the recent decisions by New Hampshire and Massachusetts to adopt the 8 fish/season option that would provide enforcement consistency throughout the Gulf of Maine, the 8 fish per day and season option would be recommended for adoption in Maine territorial waters.

Individual summarized comments:

Barry Gibson, East Boothbay

The proposal to reduce the recreational catch in Maine of winter flounder, one is to reduce the season to 3 months, July – September, or to decrease the bag limit from 8 flounder per day to 3. I'd like to point out that according to ASMFC the Maine recreational take of flounder in 2006 and 2007 total combined was 173 fish. That works out to 76.5 per year being caught here in Maine in those two years. I don't have the numbers for 2008 or anybody has them yet for 2009. But it seems to me we're looking at a diminimus fishery, 173 fish for 2 years seems that the data indicates that number is 0% of the total catch of Maine, New Hampshire (NH) and Massachusetts, which is 75,227 fish. So top put things in perspective, Massachusetts in those two years caught 50,586 winter flounder and NH caught 24,468 and Maine caught 173.

I think that it is inappropriate to at this time to reduce, to constrict the season, or reduce the bag limit given this very diminimus catch. It seems to me it would be more beneficial to maintain the year round season and the 8 fish. Get the recreational people out there fishing and get a better handle on what is available out there and on what people are catching. This is not going to give us very good data or very good science to jump in and try to restrict 173 flounder. I don't think this a conservation issue. Yes, ASMFC, the states do need to cut back on flounder but Maine, it seems to me, catching 0% which the data shows, I don't see how you can get much less than zero. So I would very strongly recommend that we go another year or possibly two with the full season and the 8 fish bag limit. The new recreational fishing statistics program, MRIP [Marine Recreational Information Program], and everything should give us, and the federal registry which is now online should give us a much better handle on what Maine is catching for flounders, recreationally in the course of a year. I think we ought to stay the course with the season and the bag limit. Let's get this data and see what we come out with but by artificially constricting it we're just not going to get, we don't have a good data base to go with except for the 173 fish in two years. And let's catch a few of these fish. I would support putting a TAC of some reasonable number, 5,000 or whatever, which is still a quarter or an eighth of what Massachusetts and NH are catching and perhaps shut it down or restrict it if the TAC is reached or 90% of it is reached or whatever. But I don't see what the benefit is of either of those options and I think I guess the bottom line is I think we need to catch a few more than 72.5 flounder per year in the State of Maine to try and get some reasonable data as to where the fishery is. As a charter boat captain run out of here for many years I'm starting to catch a lot of flounder. We're seeing them come back in a lot of areas, areas that used to have flounder. In some areas it is right back to the 60's and 70's. Not every area but we're catching some nice keeper flounder between 12 and 17 inches. I think the resource should be able to stand an 8 fish bag limit. Not very many people are fishing for flounders recreationally. There are a few down in the southern end of the state, it is starting to catch on a little bit but up in this area I think I'm perhaps the only person in the last two years that has gone out and targeted flounder and caught them.

Jeff Ritter, East Boothbay

Never can tell when I'll be fishing winter flounder so I support Barry's comments.

Barry Gibson, East Boothbay continued

I hate to say this but I would have to say if there is no other way and we are forced to take one of the draconian reductions that are proposed I think from a personal perspective I would rather keep the 8 fish limit and cut the season to 3 months out of the year. But on the other hand I would have to say perhaps from the general recreational public that don't really target flounder very much or might go out once in a while they may in fact rather have the 3 fish limit and the year round giving them the opportunity to fish in May and June which is a good flounder fishing time obviously. But personally I think I'd rather have the 8. As a charter boat operator I'd rather have the 8 than the 3.

Written comments:

Barry Gibson, East Boothbay, New England Regional Director, Recreational Fishing Alliance

I would like to offer my comments on the proposed winter flounder rule, Ch. 34.10(1)B.

According to the National Marine Fisheries Service, as contained in the *Draft Addendum to Amendment 1 to the Interstate Fishery Management Plan for Inshore Stocks of Winter Flounder* dated 3/30/09, here is the breakdown for three New England states as to the number of winter flounder harvested recreationally in 2006 and 2007, and the percentages of the total Gulf of Maine recreational catch:

MA 50,586 flounder 67.2% of total

NH 24,468 flounder 32.5% of total

ME 173 flounder 0% of total

Given this data, which is considered by ASMFC to be "the best scientific information available" for current management purposes, it is inconceivable that Maine would accept any harvest reduction at all, much less the draconian proposed measures of prohibiting recreational possession of winter flounder for nine months of the year, or reducing the bag limit from eight fish per day to three fish.

What would this accomplish in this clearly *di minimus* fishery? Nothing. If it is indeed felt that the Maine blackback data is inaccurate or incorrect, it would seem to be more appropriate to let recreational anglers prosecute the fishery under the current regulations to get a better idea as to how many flounder are being taken **when**, and **where**, and to get a handle on size-frequency data.

If we accept the NMFS number of 173 flounder taken recreationally in two years, we might surmise, by reducing the catch in half, that 86.5 flounder were caught each year. If we want to reduce that by 11%, as required by ASMFC, that TAC would be approximately **77 flounders per year for the entire recreational fishery**. Contrast that with the proposed commercial trip limit for winter flounder in state waters of 250 lbs. per vessel per day. One commercial vessel -- in one day -- would be able to catch **over three times the entire projected annual recreational harvest!**

Given the data being used, there can be absolutely no justification by the state or ASMFC for further restricting the recreational winter flounder harvest in Maine. It is unnecessary, it is an unreasonable burden on the recreational sector that has so few saltwater species to catch in Maine and a short weather-window of a fishing season as it is. And, it is counterproductive to the collection of important data we need in order to effectively manage this stock.

In closing, I would urge the Dept. of Marine Resources to seek *di minimus* status for Maine's recreational flounder fishery, and to continue the current regulations until better data is collected.