

# Amendment 10 to the Fishery Management Plan for the Dolphin Wahoo Fishery of the Atlantic



Discussion Document for the Dolphin Wahoo Advisory Panel  
April 2017



**Redefine optimum yield for dolphin, allow adaptive management of sector annual catch limits, modify authorized gear that may be onboard when possessing dolphin or wahoo, and remove the operator card requirement for the dolphin wahoo fishery.**

## **Actions in Dolphin Wahoo Amendment 10**

- Action 1. Revise the optimum yield (OY) definition for dolphin.
- Action 2. Modify the recreational annual catch target (ACT) for dolphin.
- Action 3. Establish a commercial annual catch target (ACT) for dolphin.
- Action 4. Allow adaptive management of sector annual catch limits (ACLs) for dolphin.
- Action 5. Revise the accountability measures for dolphin.
- Action 6. Revise the acceptable biological catch (ABC) control rule for dolphin and wahoo.
- Action 7. Allow properly permitted vessels with gear onboard that are not authorized for use in the dolphin wahoo fishery to possess dolphin or wahoo.
- Action 8. Remove the requirement of vessel operators or crew to hold an Operator Card in the Dolphin Wahoo Fishery.

## **Background**

In 2015, the commercial sector for dolphin in the Atlantic met the sector annual catch limit (ACL) and closed on June 30, 2015 for the remainder of the calendar year. In 2015, the recreational sector's estimated harvested was a little over half of the recreational sector ACL, resulting in approximately 6.7 million pounds whole weight (lbs ww) of the total ACL for dolphin going unharvested.

Because the dolphin commercial sector closed while several million pounds of the total ACL was not landed, the South Atlantic Fishery Management Council (South Atlantic Council) is considering options in Amendment 10 to the Fishery Management Plan (FMP) for the Dolphin Wahoo Fishery of the Atlantic Region (Dolphin Wahoo FMP) that would allow for quota sharing between the commercial and recreational sectors. These actions are intended to provide flexibility in managing the ACL for dolphin and to prevent or reduce the length of harvest closures in the commercial dolphin sector.

The South Atlantic Council is also considering changing the optimum yield (OY) definition for dolphin to better address the needs of the commercial and recreational sectors, modifying the ACT for dolphin for the recreational sector for use in defining OY, establishing an annual catch target (ACT) for dolphin for the commercial sector, revising the acceptable biological catch (ABC) control rule to allow uncaught ACL to be used in the following year, and removing the Operator Card requirement in the Dolphin Wahoo FMP. In response to a request from commercial fishermen in New England who would like to harvest dolphin by hook and line gear while having lobster pots onboard, which is a prohibited gear, the South Atlantic Council is considering modifying the allowable gear types for possessing dolphin or wahoo.

Coinciding with development of Dolphin Wahoo Amendment 10 is a revision to the methodology of the Marine Recreational Information Program (MRIP) survey that is used to estimate recreational catch and effort data. The MRIP survey is being changed from a phone-based method to a mail-based method for contacting anglers. Preliminary results from the MRIP revision indicate notable general increases in estimates of recreational catch. These preliminary results and likely upward revisions for the estimates of recreational landings as they may relate to dolphin create a great deal of uncertainty as to how some actions in Dolphin Wahoo Amendment 10 may affect the recreational sector. At their March 2017 meeting, the South

Atlantic Council discussed this issue as well as concern over limitations on the amount staff time available to put towards the amendment and ultimately approved a motion to suspend further development of this amendment until revised recreational data are available.

## Actions and Alternatives

### Action 1. Revise the optimum yield (OY) definition for dolphin.

**Alternative 1 (No Action).** OY is equal to the total ACL.

**Alternative 2.** OY is equal to the sum of the commercial ACL and the recreational ACT.

**Alternative 3.** OY is equal to 75% MSY.

**Alternative 4.** OY is the long-term average catch, which is not to exceed the total ACL, and will fall between the total ACL and the sum of the commercial and recreational ACTs.

**Table 1.** OY values (lbs ww) in **Action 1** under the different alternatives.

<b>Alternative 1 (No Action)</b> (OY=Total ACL=ABC) (lbs ww)	<b>Alternative 2</b> (OY=Comm. ACL + Rec. ACT) (lbs ww)	<b>Alternative 3</b> (OY=75% MSY) (lbs ww)	<b>Alternative 4</b> (OY=Value between Total ACL and total ACT) (lbs ww)
15,344,846	14,303,546	Value between 14,000,000 – 35,000,000	Value between 12,769,061-15,344,846

**Note:** **Alternatives 2 and 4** assume no action in **Actions 2 and 3**. Actual values will be dependent on how the ACT is specified for the recreational and commercial sectors.

*Discussion:* The Magnuson-Stevens Fishery Conservation and Management Act defines optimum yield (OY) as “the amount of fish that will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities and taking into account the protection of marine ecosystems; that is prescribed on the basis of the maximum sustainable yield (MSY) from the fishery, as reduced by any relevant economic, social, or ecological factor; and, in the case of an overfished fishery, that provides for rebuilding to a level consistent with producing the MSY in such fishery” [600.310 (i)(A)]. Currently, OY for the dolphin fishery is set at the ACL, which is equal to the ABC.

In the Comprehensive Annual Catch Limit (ACL) Amendment, the South Atlantic Fishery Management Council (South Atlantic Council) specified OY for dolphin = Total ACL = acceptable biological catch (ABC) at 14,596,216 pounds whole weight (lbs ww). In the same amendment, MSY for dolphin in the Atlantic, U.S. Caribbean, and Gulf of Mexico was not changed and remained at 18.8 and 46.5 million lbs. The South Atlantic Council’s guidance was that this MSY value would remain until a Southeast Data, Assessment, and Review (SEDAR) stock assessment is conducted for dolphin. The commercial ACL was specified at 1,065,524 lbs

ww and the recreational ACL was specified at 13,530,692 lbs ww. The Comprehensive ACL Amendment became effective April 16, 2012 (52 FR 15916).

Amendment 5 to the Dolphin Wahoo FMP revised the OY (= ABC = total ACL) to 15,344,846 lbs ww, the commercial ACL to 1,157,001 lbs ww, the recreational ACL to 14,187,845 lbs ww, and the recreational annual catch target (ACT) to 12,769,061 lbs ww. Amendment 5 became effective July 9, 2014 (79 FR 32878). Amendment 8 to the Dolphin Wahoo FMP (part of the Generic AM and Dolphin Allocation Amendment) adjusted the sector ACLs based on more recent years and specified the commercial ACL at 1,534,485 lbs ww, and the recreational ACL at 13,810,361 lbs ww. Regulations under Amendment 8 became effective February 22, 2016 (81 FR 3731). The recreational ACT is equal to [sector ACL \*(1-PSE)] or [ACL\*0.5], whichever is greater) 12,769,061 lbs ww and has not been changed since its implementation. There is no commercial ACT for dolphin.

Total landings for dolphin were well under the current total ACL during 2005-2015 (**Table 2**). Commercial landings were higher in 2009, 2014, and 2015 (**Table 2** and **Figure 1**). ACLs were not in place in 2009 and updated commercial landings were not available in a timely manner during 2014, when the commercial sector exceeded its ACL at the time. The commercial ACL was projected to be met in 2015, and hence, the commercial sector was closed. Based on preliminary landings information, in 2016 the commercial sector did not harvest its revised ACL (1,534,485 lbs ww) that went into place as a result of Dolphin Wahoo Amendment 8 (effective 2/22/16). During 2005-2015, recreational landings did not exceed the recreational ACL and the sector harvested an average of 47% of the recreational ACL. With the dolphin fishery substantially under harvesting the total ACL in most years, OY is not being achieved as it is currently defined.

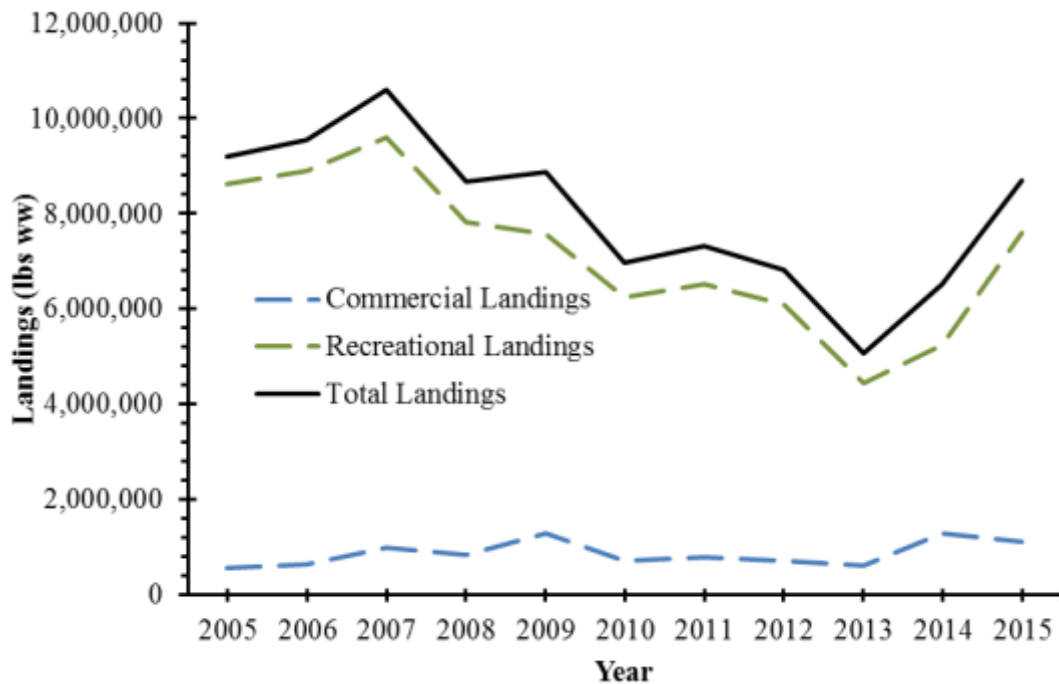
Defining the OY for dolphin could be linked to how the definition affects the access of each user group at the present and in the future. For the commercial sector, an OY that allowed the commercial fleet to access the maximum proportion of the ACL (**Alternative 1 (No Action)**) would likely be the most beneficial by maximizing the commercial landings. The effects of **Alternatives 2-4** would depend on how much of the ACL is available to the commercial fleet. For the recreational fleet, the effects of OY would be associated with the trade-off between allowing access and retention of dolphin to keep trip satisfaction high, but also leaving enough dolphin in the water to allow a high probability of interaction with the species and continued targeted recreational trips. It would be expected that an OY that results in a lower proportion of the total ACL removed each year would be more beneficial for the recreational fleet.

**Table 2.** Landings of dolphin (lbs ww) during 2005-2015. Data includes New England, the Mid- Atlantic Region, and the South Atlantic Region. The current total ACL for dolphin is 15,344,846 lbs ww, commercial ACL is 1,534,485 lbs ww, and the recreational ACL is 13,810,361 lbs ww.

Year	Commercial (lbs ww)	Recreational (lbs ww)	Total (lbs ww)
2005	577,655	8,629,313	9,206,968
2006	650,121	8,898,207	9,548,328
2007	998,023	9,598,943	10,596,966
2008	835,177	7,833,547	8,668,724
2009	1,296,014	7,570,195	8,866,209
2010	715,334	6,243,399	6,958,733
2011	792,293	6,529,705	7,321,998
2012	709,131	6,104,412	6,813,543
2013	616,953	4,029,380	4,646,333
2014	1,301,757	5,249,693	6,551,450
2015	1,109,581	7,556,535	8,666,116
Average	872,913	7,113,030	7,985,942

Note: Commercial data from ACL\_FILES\_12152016.xlsx

Recreational data comes from MRIPACLspec\_rec81\_16wv4\_10Nov16\_14and15LACreel.xlsx



**Figure 1.** Annual landings of dolphin (lbs ww) for the New England, the Mid- Atlantic Region, and the South Atlantic Region during 2005-2015.

Questions for the Dolphin Wahoo Advisory Panel:

- Does the AP support revising the definition of optimum yield for the dolphin fishery?
- If so, does the AP support considering the use of a recreational and commercial Annual Catch Target (ACT) in defining OY?

Dolphin Wahoo Advisory Panel Action:

Provide comment on action and alternatives

**Action 2. Modify the recreational annual catch target (ACT) for dolphin.**

**Alternative 1 (No Action).** The ACT for the recreational sector equals [sector ACL\*(1-PSE)] or [ACL\*0.5], whichever is greater.

**Alternative 2.** The recreational ACT equals 50% of the recreational ACL [recreational ACL\*0.5].

**Alternative 3.** The recreational ACT equals 60% of the recreational ACL [recreational ACL\*0.6].

**Alternative 4.** The recreational ACT equals 70% of the recreational ACL [recreational ACL\*0.7].

**Table 3.** Recreational ACT values (lbs ww) under the alternatives in **Action 2.**

Alternative	Recreational ACT (lbs ww)
Alternative 1 (No Action)	12,769,061
Alternative 2 (Recreational ACL *0.5)	6,906,181
Alternative 3 (Recreational ACL *0.6)	8,286,217
Alternative 4 (Recreational ACL *0.7)	9,667,253

**Table 4.** Combined ACT (lbs ww) for various recreational and commercial ACT options.

Commercial Sector ACT as % of Sector ACL	Recreational ACT as % of Sector ACL					
		40%	50%	60%	70%	80%
60%	6,444,835	7,825,872	9,206,908	10,587,944	11,968,980	
70%	6,598,284	7,979,320	9,360,356	10,741,392	12,122,428	
80%	6,751,732	8,132,769	9,513,805	10,894,841	12,275,877	
90%	6,905,181	8,286,217	9,667,253	11,048,289	12,429,325	
100%	7,058,629	8,439,666	9,820,702	11,201,738	12,582,774	

*Discussion:* **Alternative 1 (No Action)** would retain the recreational ACT of 12,769,061 lbs ww implemented by Dolphin Wahoo Amendment 5. **Alternatives 2, 3, and 4** would reduce the recreational ACT from the ACL by 50%, 40% and 30%, respectively (**Table 3**). The recreational ACT for dolphin functions as a performance standard, and does not trigger an accountability measure (AM). Therefore, assuming no further action is taken to link the ACT to an AM, using the recreational ACT as a “soft target” could help define OY without implementing restrictions on the fishery if the ACT is met or exceeded.

Question for the Dolphin Wahoo Advisory Panel:

- The reasoning behind considering a decreased recreational ACT is the trade-off between allowing access and retention of dolphin to keep trip satisfaction high, but also leaving enough dolphin in the water to allow a high probability of interaction with the species and continued targeted recreational trips. Does the AP support a recreational dolphin ACT that is below what is currently specified (12,769,061 lbs ww)?

Dolphin Wahoo Advisory Panel Action:

Provide comment on action and alternatives

**Action 3. Establish a commercial annual catch target (ACT) for dolphin.**

**Alternative 1 (No Action).** There is no ACT for the commercial sector.

**Alternative 2.** The commercial ACT equals 80% of the commercial ACL [commercial ACL\*0.8].

**Alternative 3.** The commercial ACT equals 90% of the commercial ACL [commercial ACL\*0.9].

**Alternative 4.** The commercial ACT equals the commercial ACL.

**Table 5.** Commercial ACT values (lbs ww) under the alternatives in **Action 3**.

<b>Alternative</b>	<b>Commercial ACT (lbs ww)</b>
Alternative 1 (No Action)	n/a
Alternative 2 (Commercial ACL *0.8)	1,227,588
Alternative 3 (Commercial ACL *0.9)	1,381,037
Alternative 4 (Commercial ACL)	1,534,485

**Table 6.** Combined ACT (lbs ww) for various recreational and commercial ACT options.

Commercial ACT as % of Sector ACL	Recreational ACT as % of Sector ACL					
		40%	50%	60%	70%	80%
60%	6,444,835	7,825,872	9,206,908	10,587,944	11,968,980	
70%	6,598,284	7,979,320	9,360,356	10,741,392	12,122,428	
80%	6,751,732	8,132,769	9,513,805	10,894,841	12,275,877	
90%	6,905,181	8,286,217	9,667,253	11,048,289	12,429,325	
100%	7,058,629	8,439,666	9,820,702	11,201,738	12,582,774	

*Discussion:* Currently there is not a commercial ACT for dolphin. **Alternative 1 (No Action)** would not establish a commercial ACT. **Alternatives 2 and 3** would establish a commercial ACT at 20% and 10% less than the commercial ACL, respectively. **Alternative 4** would establish a commercial ACT equal to the commercial ACL of 1,534,485 lbs ww (**Table 5**). As with the recreational ACT, a commercial ACT for dolphin may function as a performance standard and does not need to be linked to an AM. Therefore, assuming no further action is taken to link the ACT to an AM, using a commercial ACT as a “soft target” could help define OY without implementing restrictions in the fishery if the ACT is met or exceeded.

*Question for the Dolphin Wahoo Advisory Panel:*

- Does the AP support establishing a commercial dolphin ACT?
- If so, should it be below the ACL?

*Dolphin Wahoo Advisory Panel Action:*

Provide comment on action and alternatives



**Action 4. Allow adaptive management of sector annual catch limits (ACLs) for dolphin.**

Note: Due to the relatively complex nature of this action, each alternative is discussed individually.

**Alternative 1 (No Action).** The current allocation for the recreational sector for dolphin is 90% of the total ACL. The current allocation for the commercial sector for dolphin is 10% of the total ACL.

*Discussion: Alternative 1 (No Action)* would retain the commercial ACL at 1,534,485 lbs ww (10% of the total ACL) and the recreational ACL at 13, 810,361 lbs ww (90% of the total ACL). Under these ACLs that went into place in 2016, neither sector would be expected to exceed their respective current ACLs assuming future landings are reflective of recent landings (**Table 7**). This table is a retrospective analysis, and does not pair landings with their respective sector ACLs at the time. Instead **Table 7** shows how previous landings relate to the current sector and total ACLs.

**Table 7.** Dolphin landings (lbs ww) by sector and percentage (%) of current (2017) sector ACL harvested each year from 2005-2015. The current commercial ACL is 1,534,485 lbs ww, and the recreational ACL is 13,810,361 lbs ww (as per Amendment 8; February 22, 2016).

Year	Commercial landings (lbs ww)	% of Current (2017) Commercial ACL Harvested	Recreational Landings (lbs ww)	% of Current (2017) Recreational ACL Harvested	Total Landings	% of Current (2017) Total ACL Harvested
2005	577,655	38%	8,629,313	62%	9,206,968	60%
2006	650,121	42%	8,898,207	64%	9,548,328	62%
2007	998,023	65%	9,598,943	70%	10,596,966	69%
2008	835,177	54%	7,833,547	57%	8,668,724	56%
2009	1,296,014	84%	7,570,195	55%	8,866,209	58%
2010	715,334	47%	6,243,399	45%	6,958,733	45%
2011	792,293	52%	6,529,705	47%	7,321,998	48%
2012	709,131	46%	6,104,412	44%	6,813,543	44%
2013	616,953	40%	4,029,380	29%	4,646,333	30%
2014	1,301,757	85%	5,249,693	38%	6,551,450	43%
2015	1,109,581	72%	7,556,535	55%	8,666,116	56%
Average	883,672	58%	7,113,030	47%	7,985,943	48%

Commercial data is from ACL\_FILES\_12152016.xlsx

Recreational data is from MRIPACLspec\_rec81\_16ww4\_10Nov16\_14and15LACreel.xlsx. Landings include north, mid, and south Atlantic regions.

**Alternative 2.** Set aside a portion of the total ACL that can be used by either sector as a common pool allocation.

**Sub-alternative 2a:** 1% of the total ACL becomes a common pool allocation. The remaining total ACL is split between the recreational sector and the commercial sector according to the current allocation.

**Sub-alternative 2b:** 2.5% of the total ACL becomes a common pool allocation. The remaining total ACL is split between the recreational sector and the commercial sector according to the current allocation.

**Sub-alternative 2c:** 5% of the total ACL becomes a common pool allocation. The remaining total ACL is split between the recreational sector and the commercial sector according to the current allocation.

**Sub-alternative 2d:** 10% of the total ACL becomes a common pool allocation. The remaining total ACL is split between the recreational sector and the commercial sector according to the current allocation.

*Discussion:* This alternative would set aside a portion of the total ACL that can be used by either sector if needed to prevent a closure of harvest in the fishery. Under this scenario, a certain percentage of the total ACL is set aside into a “common pool” allocation for use by either sector. The ACLs for both sectors are then re-set based on the remaining total ACL. The outcome will be reduced ACLs for both the recreational and commercial sectors, but either sector may use the common pool ACL if they exceed their respective sector ACLs and the common pool category ACL has not been exhausted (**Table 8**). Should this alternative be pursued by the Council, a revision of the accountability measures (**Action 5**) will be necessary.

**Table 8.** Commercial and Recreational ACLs (lbs ww) under Sub-alternatives 2a-2d.

Sub-alternative	Common pool ACL (lbs ww) / Percentage (%) of Total ACL	Remaining Total ACL (lbs ww)	Commercial ACL (lbs ww)	Recreational ACL (lbs ww)	*Commercial ACL (lbs ww) + common pool ACL	*Recreational ACL (lbs ww) + common pool ACL
Sub-alternative 2a	153,448/ 1%	15,191,398	1,518,140	13,672,258	1,671,588	13,825,706
Sub-alternative 2b	383,621/ 2.5%	14,961,225	1,496,123	13,465,103	1,879,744	13,848,724
Sub-alternative 2c	767,242/ 5%	14,577,604	1,457,760	13,119,844	2,225,002	13,887,086
Sub-alternative 2d	1,534,485/ 10%	13,810,361	1,381,036	12,429,325	2,915,521	13,963,810

\* Assumes that only one sector would utilize the common pool at a given time.

**Alternative 3.** If the commercial ACL is not met in a given fishing year, the unused ACL may be carried forward to the next fishing year only. The carried-forward balance shall not exceed a given percentage (Sub-alternatives 3a-3c) of the commercial sector ACL.

**Sub-alternative 3a:** The carried forward balance shall not exceed 5% of the total commercial sector ACL.

**Sub-alternative 3b:** The carried forward balance shall not exceed 10% of the total commercial sector ACL.

**Sub-alternative 3c:** The carried forward balance shall not exceed 20% of the total commercial sector ACL.

*Discussion:* This alternative would allow unharvested ACL (i.e. the difference between observed landings and the sector ACL) in the commercial sector in a given fishing year to be used in the following fishing year if needed to help avoid a harvest closure for the sector (**Table 9**).

**Alternative 3** was added during the December 2016 Council meeting as replacement language for the “roll over credit” alternative. Should this alternative be pursued by the Council, a revision of the accountability measures (**Action 5**) and of the ABC Control Rule will be necessary (**Action 6**).

**Table 9.** Unused commercial sector ACL that can be carried over (lbs ww) under Sub-alternatives 3a-3c.

<b>Alternative</b>	<b>Potential Commercial Sector ACL Carried Over (lbs ww)</b>	<b>Commercial Sector ACL + Carry Over ACL (lbs ww)</b>
Sub-alternative 3a	76,724	1,611,209
Sub-alternative 3b	153,449	1,687,934
Sub-alternative 3c	306,897	1,841,382

**Alternative 4.** If the recreational ACL is not met in a given fishing year, the unused ACL may be carried forward to the next fishing year only. The carried-forward balance shall not exceed a given percentage (Sub-alternatives 4a-4c) of the recreational sector ACL.

**Sub-alternative 4a:** The carried forward balance shall not exceed 1% of the total recreational sector ACL.

**Sub-alternative 4b:** The carried forward balance shall not exceed 2.5% of the total recreational sector ACL.

**Sub-alternative 4c:** The carried forward balance shall not exceed 5% of the total recreational sector ACL.

*Discussion:* This alternative would allow unharvested ACL (i.e. the difference between observed landings and the sector ACL) in the recreational sector in a given fishing year to be used in the following fishing year if needed to help avoid a harvest closure for the sector (**Table 10**).

**Alternative 4** was suggested by the IPT for discussion by the Committee and Council for NEPA purposes as it relates to the addition of **Alternative 3** that was added for the commercial sector. Should this alternative be pursued by the Council, a revision of the accountability measures (**Action 5**) and of the ABC Control Rule will be necessary (**Action 6**).

**Table 10.** Unused recreational sector ACL that can be carried over (lbs ww) under Sub-alternatives 4a-4c.

<b>Alternative</b>	<b>Potential Recreational Sector ACL Carried Over (lbs ww)</b>	<b>Recreational Sector ACL+ Carry Over ACL (lbs ww)</b>
Sub-alternative 4a	138,104	13,948,465
Sub-alternative 4b	345,259	14,155,620
Sub-alternative 4c	690,518	14,500,879

**Alternative 5:** Conditionally transfer for the next fishing year a certain percentage (Sub-alternatives 5a-5d) of the ACL from a sector that is not landing its ACL to the other sector that is landing at least 90% of its ACL, if the landings of the donating sector are below the minimum landings threshold (Sub-alternatives 5e-5g). The highest landings from the donating sector, based on available finalized data from the five years prior, will be used as criteria to determine if landings are below the minimum landings threshold for a conditional transfer to occur.

*Conditional Quota Transfer (MUST CHOOSE ONE):*

**Sub-alternative 5a:** Conditionally transfer 1% of the unadjusted ACL of one sector to the other sector.

**Sub-alternative 5b:** Conditionally transfer 2.5% of the unadjusted ACL of one sector to the other sector.

**Sub-alternative 5c:** Conditionally transfer 5% of the unadjusted ACL of one sector to the other sector.

**Sub-alternative 5d:** Conditionally transfer 10% of the unadjusted ACL of one sector to the other sector.

*Donating sector's ACL Minimum Threshold (MUST CHOOSE ONE), if the donating sector's landings are:*

**Sub-alternative 5e:** less than 50% of its unadjusted ACL.

**Sub-alternative 5f:** less than 65% of its unadjusted ACL.

**Sub-alternative 5g:** less than 75% of its unadjusted ACL.

*Discussion:* This alternative allows the conditional transfer of ACL from one sector to the other with limitations on the amount of ACL that can be transferred from the donating sector (**Sub-alternatives 5a-5d**). Additionally, stipulations are in place that do not allow the transfer to take place unless the donating sector is under-harvesting its ACL by at least a given amount (**Sub-alternatives 5e-5g**) every year over the previous five years of available data. Also, the receiving sector must be harvesting at least 90% of its unadjusted ACL.

*Questions for the Dolphin Wahoo Advisory Panel:*

- From a conceptual standpoint, does the AP support allowing adaptive management of sector ACLs or quota sharing between the recreational and commercial sectors?
- Are there any actions that you do not think would work for the dolphin fishery considering the “pulse nature” of landings?

*Dolphin Wahoo Advisory Panel Action:*

Provide comment on action and alternatives

## **Action 5. Revise the accountability measures for dolphin.**

**Alternative 1 (No action).** The current commercial AM includes an in-season closure to take place if the commercial ACL is met or projected to be met. If the commercial ACL is exceeded, it will be reduced by the amount of the commercial overage in the following fishing year only if the species is overfished and the total ACL is exceeded.

The current recreational AM includes a shortening of the recreational season that may be triggered if the recreational ACL is exceeded, but only after recreational landings have been monitored for persistence in increased landings. The length of the recreational season will not be reduced if the RA determines the best available science shows that it is not necessary. If a reduction is necessary, the recreational season may be reduced and the ACL in the following fishing year will be reduced by the amount of the recreational overage only if the species is overfished and the total ACL is exceeded.

**Alternative 2.** The commercial AM will include an in-season closure to take place if the commercial ACL and the available common pool ACL is met or projected to be met. If the commercial ACL and the available common pool ACL is exceeded, it will be reduced by the amount of the commercial overage in the following fishing year only if the species is overfished and the total ACL is exceeded.

The recreational AM will include a shortening of the recreational season that may be triggered if the recreational ACL and the available common pool ACL is exceeded, but only after recreational landings have been monitored for persistence in increased landings. The length of the recreational season will not be reduced if the RA determines the best available science shows that it is not necessary. If a reduction is necessary, the recreational season may be reduced and the ACL in the following fishing year will be reduced by the amount of the recreational overage only if the species is overfished and the total ACL is exceeded.

*Discussion:* This alternative is being included to accompany **Alternative 2** in **Action 4** (common pool allocation).

**Alternative 3.** The commercial AM will include an in-season closure to take place if the commercial ACL and the available uncaught sector ACL from the previous fishing year is met or projected to be met. If the commercial ACL and the available uncaught sector ACL from the previous fishing year is exceeded, it will be reduced by the amount of the commercial overage in the following fishing year only if the species is overfished and the total ACL is exceeded.

*Discussion:* This alternative is being included to accompany **Alternative 3** in **Action 4** (uncaught commercial ACL carried forward to the next fishing year).

**Alternative 4.** The recreational AM will include a shortening of the recreational season that may be triggered if the recreational ACL and the available uncaught sector ACL from the previous fishing year is exceeded, but only after recreational landings have been monitored for persistence in increased landings. The length of the recreational season will not be reduced if the RA determines the best available science shows that it is not necessary. If a reduction is necessary, the recreational season may be reduced and the ACL in the following fishing year will be reduced by the amount of the recreational overage only if the species is overfished and the total ACL is exceeded.

*Discussion:* This alternative is being included to accompany **Alternative 4** in **Action 4** (uncaught recreational ACL carried forward to the next fishing year).

*Dolphin Wahoo Advisory Panel Action:*

Considering that this action is accommodating a previous action (**Action 4**), in the interest of time there will be no request for comment from the AP unless the AP expresses desires to do so.

**Action 6. Revise the acceptable biological catch (ABC) control rule for dolphin and wahoo.**

**Alternative 1 (No Action).** Retain the ABC Control Rule for dolphin and wahoo. ABC is equal to the third highest point in landings in the 1999-2008 time series.

<b>Level 1 – Assessed Stocks</b>	
<b>Tier</b>	<b>Tier Classification and Methodology to Compute ABC</b>
<b>1. Assessment Information (10%)</b>	<ol style="list-style-type: none"> <li>1. Quantitative assessment provides estimates of exploitation and biomass; includes MSY-derived benchmarks. (0%)</li> <li>2. Reliable measures of exploitation or biomass; no MSY benchmarks, proxy reference points. (2.5%)</li> <li>3. Relative measures of exploitation or biomass, absolute measures of status unavailable. Proxy reference points. (5%)</li> <li>4. Reliable catch history. (7.5%)</li> <li>5. Scarce or unreliable catch records. (10%)</li> </ol>
<b>2. Uncertainty Characterization (10%)</b>	<ol style="list-style-type: none"> <li>1. Complete. Key Determinant – uncertainty in both assessment inputs and environmental conditions are included. (0%)</li> <li>2. High. Key Determinant – reflects more than just uncertainty in future recruitment. (2.5%)</li> <li>3. Medium. Uncertainties are addressed via statistical techniques and sensitivities, but full uncertainty is not carried forward in projections. (5%)</li> <li>4. Low. Distributions of <math>F_{MSY}</math> and MSY are lacking. (7.5%)</li> <li>5. None. Only single point estimates; no sensitivities or uncertainty evaluations. (10%)</li> </ol>
<b>3. Stock Status (10%)</b>	<ol style="list-style-type: none"> <li>1. Neither overfished nor overfishing. Stock is at high biomass and low exploitation relative to benchmark values. (0%)</li> <li>2. Neither overfished nor overfishing. Stock may be in close proximity to benchmark values. (2.5%)</li> <li>3. Stock is either overfished or overfishing. (5%)</li> <li>4. Stock is both overfished and overfishing. (7.5%)</li> <li>5. Either status criterion is unknown. (10%)</li> </ol>
<b>4. Productivity and Susceptibility – Risk Analysis (10%)</b>	<ol style="list-style-type: none"> <li>1. Low risk. High productivity, low vulnerability, low susceptibility. (0%)</li> <li>2. Medium risk. Moderate productivity, moderate vulnerability, moderate susceptibility. (5%)</li> <li>3. High risk. Low productivity, high vulnerability, high susceptibility. (10%)</li> </ol>
<b>Level 2 - Unassessed Stocks. Reliable landings and life history information available</b>	
OFL derived from "Depletion-Based Stock Reduction Analysis" (DBSRA). ABC derived from applying the assessed stocks rule to determine adjustment factor if possible, or from expert judgment if not possible.	
<b>Level 3 - Unassessed Stocks. Inadequate data to support DBSRA</b>	
ABC derived directly, from "Depletion-Corrected Average Catch" (DCAC). Done when only a limited number of years of catch data for a fishery are available. Requires a higher level of "informed expert judgment" than Level 2.	
<b>Level 4 - Unassessed Stocks. Inadequate data to support DCAC or DBSRA</b>	
OFL and ABC derived on a case-by-case basis. ORCS ad hoc group is currently working on what to do when not enough data exist to perform DCAC.	



**Alternative 2.** Revise the Acceptable Biological Catch (ABC) Control Rule for dolphin and wahoo by adding a carry-over provision. If the Overfishing Limit (OFL) is known, then the Acceptable Biological Catch (ABC) for dolphin and wahoo can be increased by carrying over unused ABC from the previous year. The revised ABC will remain in place for no more than one year and may not exceed a certain percentage of the OFL (Sub-alternatives 2a through 2c).

**Sub-alternative 2a:** Revised ABC may not exceed 95% of the OFL.

**Sub-alternative 2b:** Revised ABC may not exceed 90% of the OFL.

**Sub-alternative 2c:** Revised ABC may not exceed 85% of the OFL.

**Alternative 3.** Revise the Acceptable Biological Catch (ABC) Control Rule for dolphin and wahoo by adding a carry-over provision. If the Overfishing Limit (OFL) is unknown, then the Acceptable Biological Catch (ABC) for dolphin and wahoo can be increased by carrying over unused ABC from the previous year. The revised ABC will remain in place for no more than one year and may not exceed a certain percentage of the original ABC (Sub-alternatives 3a and 2b).

**Sub-alternative 3a:** Revised ABC may not exceed 101.4% of the original ABC.

**Sub-alternative 3b:** Revised ABC may not exceed 106.5% of the original ABC.

*Discussion:* At their April 2011 meeting, the SSC discussed ABC levels for unassessed species in the Comprehensive ACL Amendment and recommended setting the ABC at the third highest landings value (1999-2008). Amendment 5 to the Fishery Management Plan for the Dolphin Wahoo Fishery of the Atlantic revised the OY (= ABC = total ACL) to 15,344,846 lbs ww.

Currently, the OFL is unknown for dolphin. If the OFL becomes known, **Alternative 2** and its sub-alternatives would allow the ABC to be increased by carrying over unused ABC from the previous year. The revised ABC will remain in place for no more than one year and may not exceed 95% (**Sub-alternative 2a**), 90% (**Sub-alternative 2b**), or 85% (**Sub-alternative 2c**) of the OFL.

**Alternative 3** and its sub-alternatives would allow the ABC to be increased by carrying over unused ABC from the previous year. The revised ABC will remain in place for no more than one year and may not exceed 101.4% (**Sub-alternative 3a**) or 106.5% (**Sub-alternative 3b**) of the ABC. These two sub-alternatives are designed to cover the potential lower and upper limits of carried over un-caught ACL for the commercial and recreational sectors combined from **Alternative 3** and **Alternative 4** in **Action 4**.

**Table 11.** Revised ABC (lbs ww) for dolphin under Sub-alternatives 3a and 3b.

Alternative	Increase in ABC (lbs ww)	Potential Revised ABC (lbs ww)
Sub-alternative 3a	214,828	15,559,674
Sub-alternative 3b	997,415	16,342,261

In order to accommodate roll over of ACL (from **Action 4, Alternatives 3** and **4**) when the ABC=ACL, it is necessary to revise the ABC control rule. Per guidance from the IPT, both dolphin and wahoo have been included as reflected in the draft action title and thus in the wording of the alternatives.

Dolphin Wahoo Advisory Panel Action:

Considering that this action is simply accommodating a previous action (**Action 4**), in the interest of time there will be no request for comment from the AP unless the AP expresses desires to do so.

**Action 7. Allow properly permitted vessels with gear onboard that are not authorized for use in the dolphin wahoo fishery to possess dolphin or wahoo.**

**Alternative 1 (No Action).** The following are the only authorized gear types in the fisheries for dolphin and wahoo in the Atlantic EEZ: Automatic reel, bandit gear, handline, pelagic longline, rod and reel, and spearfishing gear (including powerheads). A person aboard a vessel in the Atlantic EEZ that has on board gear types other than authorized gear types may not possess a dolphin or wahoo.

**Alternative 2.** The following are the only authorized gear types in the fisheries for dolphin and wahoo in the Atlantic EEZ: Automatic reel, bandit gear, handline, pelagic longline, rod and reel, and spearfishing gear (including powerheads). A vessel in the Atlantic EEZ that possesses both an Atlantic Dolphin/Wahoo Commercial Permit and valid Federal commercial American lobster permit endorsed for trap fishing only is authorized to target dolphin/wahoo with rod and reel while fishing for lobsters. A person aboard a vessel in the Atlantic EEZ that has on board gear types other than authorized gear types may not possess a dolphin or wahoo.

**Alternative 3.** Allow the possession of dolphin or wahoo on properly permitted vessels with gear types onboard that are not authorized in the dolphin wahoo fishery. The amount of dolphin or wahoo allowed onboard cannot exceed a certain percentage of the total commercially harvested species onboard by weight.

**Alternative 4.** Allow the possession of dolphin or wahoo on properly permitted vessels with gear types onboard that are not authorized in the dolphin wahoo fishery. The amount of dolphin or wahoo allowed onboard cannot exceed the incidental limit (*note: need sub-alts for incidental limit*).

Discussion: A representative of the Atlantic Offshore Lobstermen's Association requested that the Council modify regulations to allow the historical practice of harvesting dolphin and wahoo while in the possession of lobster pots to continue:

“Recently, one Association member was notified by NOAA law enforcement, during a dockside inspection, that it is illegal to possess dolphin and lobster during a single trip. No citations were issued in this case. This member holds both a valid dolphin and American offshore lobster permit, but was notified that he violated the above quoted regulation because lobster pot gear is not an authorized or exempted gear type for the dolphin and wahoo fishery. It has been a long standing practice for permitted offshore lobstermen to fish a few lures behind their vessel, between lobster trawls, especially when they encounter the Gulf

Stream, and have long transit times between lobster trawls. The targets being a range of pelagic species, mahi are frequently caught during the summer months. During this activity they are usually in possession of Jonah crab, lobster, and lobster traps. Given the distinct nature of the gear and fisheries, i.e., you can't catch dolphin with lobster pots, and you can't catch lobsters with lures, both gear types should be allowed in possession on the same trip. Obviously any such practice should be subject and consistent with the licensing and reporting provisions of each FMP. Therefore we are requesting that the SAFMC work with NOAA Fisheries to modify the current regulations to provide an exemption for lobster vessels or list lobster gear as an authorized gear type under 622.272.”

The current list of allowable gears in the dolphin wahoo fishery does not include lobster pots, therefore dolphin or wahoo may not be harvested when lobster pots are onboard a vessel (**Alternative 1**). In the regulations, “gear” applies to the dolphin wahoo fishery itself. The intent behind **Alternatives 2, 3, and 4** is to allow the possession of dolphin and wahoo on vessels with a commercial dolphin and wahoo permit when gear such as lobster pots are also onboard.

In the regulations, “gear” applies to the dolphin wahoo fishery itself. The intent behind **Alternative 2** is to allow fishery participants to stow lobster pots onboard the vessel while possessing dolphin or wahoo. It is believed that this alternative would address the stated concerns of the Atlantic Offshore Lobstermen’s Association, but it would not accommodate commercial trips using other pot or trap type gear such as sea bass pots or golden crab traps. There have been no specific requests to accommodate these other gears, but it is unknown if participants in these fisheries desire to possess dolphin or wahoo on trips fishing other pot or trap type gear. Some South Atlantic Council members have expressed a desire to look at a more comprehensive approach than what is being requested by the Atlantic Offshore Lobstermen’s Association as a proactive measure to accommodate vessels with other commercial trap or pot gears onboard.

**Alternative 3** specifies that when prohibited gears are onboard, the amount of dolphin or wahoo allowed to be kept cannot exceed a certain percentage of the total weight of all legally commercially harvested species onboard. **Alternative 3**, in essence, would allow dolphin or wahoo caught as bycatch or as an ancillary catch on trips where other species are targeted. The percentage of the total commercially harvested species onboard by weight or number that could be dolphin or wahoo would need to be specified.

Some examples of such limits in the king and Spanish mackerel fisheries include:

- 1) *As specified in § 622.377 Gillnet Restrictions:* A vessel having fished on a trip with a mesh size less than 4.75 (12.1 cm) inches, stretched mesh, may not possess on that trip an incidental catch of king mackerel that exceeds 10 percent, by number, of the total lawfully possessed Spanish mackerel on board.
- 2) *From the proposed rule for CMP 26 which is currently out for public comment:* A vessel in the EEZ, or having fished in the EEZ, with a purse seine on board will not be considered as fishing, or having fished, for king or Spanish mackerel in violation of a prohibition of purse seines under § 622.375(b) (*the section for authorized and unauthorized gear*), in violation of the possession limits under § 622.375(b)(3), or, in the

case of king mackerel from the Atlantic migratory group, in violation of a closure effected in accordance with § 622.8(b)(*general quota closure provisions*), provided the king mackerel on board does not exceed 1 percent, or the Spanish mackerel on board does not exceed 10 percent, of all fish on board the vessel. Incidental catch will be calculated by number and/or weight of fish. Neither calculation may exceed the allowable percentage.

- 3) *Also from the proposed rule for CMP 26 which is currently out for public comment: A vessel in the Atlantic EEZ with a valid Federal Atlantic commercial shark directed permit and a valid Federal king mackerel commercial permit (i.e. dual commercially permitted) that is engaged in directed shark fishing with gillnets that are not an authorized gear for Atlantic migratory group king mackerel (See § 622.375(a)(1)(i)), may retain and sell a limited number of king mackerel. Any king mackerel retained must be sold to a dealer with a valid Federal Gulf and South Atlantic dealer permit. (substitute “shark directed” or “shark” with “lobster”, “gillnets” with “lobster pots”, and “king mackerel” with “dolphin or wahoo”)*
- (i) Northern zone. No more than three king mackerel per crew member may be retained or sold per trip (See § 622.385(a)(1)(i) for the commercial trip limit for directed king mackerel trips using authorized gillnets (in the Atlantic EEZ north of 34°37.3' N. lat, the latitude of Cape Lookout, NC)).
- (ii) Southern zone. No more than two king mackerel per crew member may be retained or sold per trip.

**Alternative 4** is similar to **Alternative 3** in that it would allow dolphin or wahoo to be kept on commercial trips with prohibited gear onboard, but would cap the level of harvest at an “incidental limit” and would not be dependent upon other species onboard. The number of dolphin or wahoo that could be kept would need to be specified.

Questions for the Dolphin Wahoo Advisory Panel:

- For **Alternative 3**, does the AP have guidance on what would be an adequate bycatch allowance that would be based on a percentage of the total commercially harvested species onboard by weight or number?
- For **Alternative 4**, what do you think would be an acceptable incidental limit for a commercial trip with prohibited gears onboard that is landing dolphin or wahoo?
- Some South Atlantic Council members have expressed trying to comprehensively accommodate commercial trips that have any trap- or pot-type gears onboard (ex: sea bass pots, golden crab traps, octopus pots). Are there other commercial trap- or pot-type fisheries that you can think of that may occur in areas where dolphin are found at certain times of the year?

Dolphin Wahoo Advisory Panel Action:

Provide comment on action and alternatives

## **Action 8. Remove the requirement of vessel operators or crew to hold an Operator Card in the Dolphin Wahoo Fishery.**

**Alternative 1 (No Action).** An Atlantic Charter/Headboat for Dolphin/Wahoo Permit or an Atlantic Dolphin/Wahoo Commercial Permit is not valid unless the vessel operator or a crewmember holds a valid Operator Card issued by either the Southeast Regional Office or by the Greater Atlantic Regional Fisheries Office.

**Alternative 2.** Neither a vessel operator nor any crewmember is required to have an Operator Card for an Atlantic Charter/Headboat for Dolphin/Wahoo Permit to be valid.

**Alternative 3.** Neither a vessel operator nor any crewmember is required to have an Operator Card for an Atlantic Dolphin/Wahoo Commercial Permit to be valid.

*Discussion:* Operator cards were required by the original Dolphin Wahoo FMP and are also required for operators and/or crew in the rock shrimp fishery. For dolphin wahoo, current regulations under 50 C.F.R. Part 622.270 would be retained under **Alternative 1 (No Action)** are:

(c) *Operator permits.* (1) An operator of a vessel that has or is required to have a charter vessel/headboat or commercial permit for Atlantic dolphin and wahoo issued under this section is required to have an operator permit.

(2) A person required to have an operator permit under paragraph (c)(1) of this section must carry on board such permit and one other form of personal identification that includes a picture (driver's license, passport, etc.).

(3) An owner of a vessel that is required to have a permitted operator under paragraph (c)(1) of this section must ensure that at least one person with a valid operator permit is aboard while the vessel is at sea or offloading.

(4) An owner of a vessel that is required to have a permitted operator under paragraph (c)(1) of this section and the operator of such vessel are responsible for ensuring that a person whose operator permit is suspended, revoked, or modified pursuant to subpart D of 15 CFR part 904 is not aboard that vessel.

The intent of including operator cards in the Dolphin Wahoo FMP was to improve enforcement and aid in data collection. It was also believed to decrease costs to vessel owners from fisheries violations, and make vessel captains more accountable for damaging habitat or violating regulations intended to protect the long-term viability of the stock. At the March 2016 Council meeting, NMFS OLE gave a presentation on operator cards ([http://blog.safmc.net/download/BriefingBook\\_12\\_2016/TAB%202002%20Law%20Enforcement%20Committee/A4\\_LE\\_OperatorCardPresentation\\_08\\_2016\\_Pres.pdf](http://blog.safmc.net/download/BriefingBook_12_2016/TAB%202002%20Law%20Enforcement%20Committee/A4_LE_OperatorCardPresentation_08_2016_Pres.pdf)), and one of the slides mentioned that currently, operator cards are not used for gathering data, distributing information, or enforcement to a large extent. The Law Enforcement AP is expected to discuss the utility of the operator card requirement at their upcoming May 2017 meeting.

**Alternative 2** would remove the requirement for the vessel operator or crew member to hold an operator card for an Atlantic Charter/Headboat for Dolphin/Wahoo Permit to be valid. It would still require Atlantic Dolphin/Wahoo Commercial Permit holders to have an operator card. **Alternative 3** would be the converse of **Alternative 2**.

Questions for the Dolphin Wahoo Advisory Panel:

- Does the AP support removing the Operator Card requirement in the for-hire component of the Dolphin Wahoo fishery (**Alternative 2**)?
- Does the AP support removing the Operator Card requirement in the commercial component of the Dolphin Wahoo fishery (**Alternative 3**)?

Dolphin Wahoo Advisory Panel Action:

Provide comment on action and alternatives

## **Purpose and Need**

### **Purpose for Action**

The *purpose* of this amendment is to allow greater flexibility in the management of sector annual catch limits in the dolphin fishery and to update the definition of optimum yield to better address the needs of the commercial and recreational sectors.

### **Need for Action**

The *need* for the amendment is to increase the likelihood of achieving optimum yield for dolphin while minimizing, to the extent possible, adverse social and economic effects due to in-season closures.

Dolphin Wahoo Advisory Panel Action:

Provide comment on Purpose and Need statements