

SAFMC Options Paper December 2012

**Amendment 5
to the Fishery Management Plan
of the Dolphin Wahoo Fishery for
the Atlantic**



December 2012

Background

The Dolphin-Wahoo Fishery Management Plan needs to be amended to reflect changes to the acceptable biological catch (ABC), annual catch limit (ACL), and allocations to the commercial and recreational sectors. Recreational catch estimates for dolphin and wahoo in the Comprehensive ACL Amendment (SAFMC 2011, Dolphin Wahoo Amendment 3) were computed using data generated by the Marine Recreational Fisheries Statistics Survey (MRFSS). Following an independent review by the National Research Council and a mandate from Congress, the National Marine Fisheries Service (NMFS) has overhauled MRFSS. The Marine Recreational Information Program (MRIP) was developed to provide more accurate recreational catch estimates by accounting for potential biases such as possible differences in catch rates at high-activity and low-activity fishing sites, as well as the amount of fishing occurring at different parts of the day. MRIP methods have been used to recalculate previous MRFSS estimates dating back to 2004, and will be the basis for all new recreational catch estimates moving forward.

The South Atlantic Fishery Management Council's (Council) Dolphin Wahoo Advisory Panel (AP) requested the Council consider two additional actions at their April 2012 meeting. First, the AP wanted the Council to reconsider how it allocated dolphin between the commercial and recreational sectors. The AP had recommended the commercial "soft cap" of 13% quota that had been in place prior to the assignment of ACLs (SAFMC 2003, Dolphin Wahoo FMP) become the commercial portion of the ACL allocation. The recreational sector would get the remaining 87% of the ACL as its allocation. Instead, the Council applied an across the board rule for allocating ACLs to the two sectors in the Comprehensive ACL Amendment (SAFMC 2011). The rule used to determine sector allocations was that 50% of the allocation based on a longer term landings series (1999 – 2008) and 50% of the allocation on a shorter time series (2006-2008) as a way to reflect both recent participation and a longer trend in landings. Secondly, the AP requested that the Council consider allowing sale of dolphin and wahoo caught under the bag limit by the for-hire sector of the recreational fishery.

Additionally, the Council wants to consider revising a framework action that will allow future changes to the ABC and ACL based on the ABC Control Rule approved by the Council's Scientific and Statistical Committee (SSC) which would be a more rapid process compared to an amendment.

This options paper lays out four potential actions with alternatives for the Council to consider at the December 2012 meeting. It is designed to help the Council make decisions about what ought to be taken out for scoping at the Council's January 2013 round of public hearings. As of yet, the public has not commented on what they think ought to be included as actions or alternatives for dolphin and wahoo management in the South Atlantic.

ABC/ACL adjustments based on new MRIP estimations

Action #1: Revise ABC, ACL (including sector ACLs), sector allocations, and recreational ACT for dolphin and wahoo.

Option 1. No action. Do not revise ABC, ACLs, allocations, and ACTs for dolphin and wahoo. Data will not be updated with data from Marine Recreational Information Program (MRIP), commercial, and for-hire landings.

Option 2. Revise the ABC, ACLs (including sector ACLs). Sector allocations, and the recreational ACT for dolphin and wahoo with updated data from MRIP, commercial and for-hire landings.

Other Options?

Table 1. ABC, sector allocations, sector ACLs, and recreational ACT for dolphin and wahoo, as implemented by the Comprehensive ACL Amendment (SAFMC 2011).

Comp ACL Actions	Commercial	Recreational	Total
Dolphin			
Action 22: ACL=OY=ABC (lbs ww)	---	---	14,596,216
Action 21: Allocation %	7.3%	92.7%	100%
Action 22: Sector ACL (lbs ww)	1,065,524	13,530,692	
Actions 23/24: Sector ACT (lbs ww)	None	ACT equals [sector ACL *(1-PSE)] or [ACL*0.5], whichever is greater = 11,595,803	---
Wahoo			
Action 28: ACL=OY=ABC (lbs ww)	---	---	1,491,785
Action 27: Allocation %	4.3%	95.7%	100%
Action 28: Sector ACL (lbs ww)	64,147	1,427,638	---
Actions 29/30: Sector ACT (lbs ww)	None	ACT equals [sector ACL *(1-PSE)] or [ACL*0.5], whichever is greater = 1,164,953	---

Table 2. Revised ABC, sector allocations, sector ACLs and recreational ACT for dolphin and wahoo.

Dolphin Wahoo Amend 5 Actions	Commercial	Recreational	Total
Dolphin			
Action 1: ACL=OY=ABC (lbs ww)	---	---	15,344,846
Action 1: Allocation %	7.54%	92.46%	100%
Action 1: Sector ACL (lbs ww)	1,157,612	14,187,234	
Action 1: Sector ACT (lbs ww)	None	ACT equals [sector ACL *(1-PSE)] or [ACL*0.5], whichever is greater = 12,749,594	---
Wahoo			
Action 1: ACL=OY=ABC (lbs ww)	---	---	1,794,960
Action 1: Allocation %	3.93%	96.07%	100%
Action 1: Sector ACL (lbs ww)	70,550	1,724,409	---
Action 1: Sector ACT (lbs ww)	None	ACT equals [sector ACL *(1-PSE)] or [ACL*0.5], whichever is greater = 1,258,819	---

Potential Items for the Framework

Action #2: Revise the framework procedure in the Dolphin Wahoo FMP

Option 1. No action. Do not modify the framework procedure established in the Dolphin Wahoo FMP (SAFMC 2003). The existing framework (p.160 of the Dolphin Wahoo FMP (2003) includes the following text:

If the RA concurs that the Council's recommendations are consistent with the goals and objectives of the plan, the National Standards, and other applicable law, he/she shall implement the regulations by proposed and final rules in the Federal Register prior to the appropriate fishing year or such dates as may be agreed upon with the Councils. A reasonable period for public comment shall be afforded, consistent with the urgency, if any, of the need to implement the management measure.

Appropriate regulatory changes recommended by the Council that may be implemented by the Regional Administrator by proposed and final rules in the Federal Register are:

- a. Adjustment of the best estimate of maximum sustainable yield (MSY, range and/or best point estimate).
- b. Adjustment of the best estimate of optimum yield (OY, range and/or best point estimate).
- c. Initial specification of ABC and subsequent adjustment of the ABC range and/or best estimate when this information becomes available.
- d. Setting or modifying total allowable catch (TAC).
- e. Reopening of a previously closed area/season, timeframe for recovery of dolphin and wahoo should they become overfished, or fishing year which may not be adjusted by more than two months.
- f. Bag limits.
- g. Size limits.
- h. Tackle configuration (e.g., minimum hook size).
- i. Season/area closures (including spawning area closures).
- j. Gear restrictions and/or prohibitions.
- k. Permitting restrictions.
- l. Trip limits.
- m. Overfishing/overfished definitions and related thresholds (e.g., minimum stock size threshold (MSST) and maximum fishing mortality threshold (MFMT)).
- n. Annual specification/quota setting process.
- o. Assessment Panel composition and process.
- p. Identification, designation, and modification of essential fish habitat (EFH) and EFH-habitat areas of particular concern (HAPCs).
- q. Management measures to reduce or eliminate the impact of fishing gear/activities on EFH or EFH-HAPCs.
- r. Specify quota for scientific research.
- s. Designation of areas for scientific research.
- t. Regulations of longline length if ongoing research with marine mammals documents usefulness.
- u. Any other action to minimize the interaction of fishing gear with endangered species or marine mammals.
- v. Allocations and modifications to allocations.

Option 2. Include the following in the Dolphin Wahoo FMP framework: Update the framework procedure to revise the specification of Total Allowable Catch (TAC) for the Dolphin Wahoo FMP in terms that incorporate ACLs, ACTs, and AMs. Such modifications would be based upon new scientific information indicating such modifications are prudent. Changes to the ACLs, ACTs and AMs will be made through “Notice of Action” documents prepared by SERO once the new ACLs, ACTs and AMs are established by the Council.

Option 3. In addition to revisions in Option 2, also include additional language to reflect SEDAR and SSC roles in setting MSY, OY, and ABC.

Other Options? While the Council is defining framework actions to add to the Dolphin Wahoo FMP, it might want to consider whether there are other framework type actions they wish to include. The first column of **Table 3** below shows the framework currently in the Dolphin Wahoo FMP (SAFMC 2003, Dolphin Wahoo FMP). The second column shows framework items that could be revised. Items shaded in gray are contained in Option 2. All items shown in the second column would be revised under Option 3.

Table 3. Proposed framework modifications for the SAFMC Dolphin Wahoo FMP.

Items retained from the current framework	Items added to current framework
Adjustment of the best estimate of MSY, range and/or best point estimate.	Use of SEDAR reports or other documentation the Council deems appropriate to provide biological analyses.
Adjustment of the best estimate of OY, range and/or best point estimate.	The SSC prepares a written report to the Council specifying OFL and a range of ABCs for species in need of catch reductions to achieve OY.
Setting or modifying TAC.	
Initial specification of ABC and subsequent adjustment of the ABC range and/or best estimate when this information becomes available.	The SEDAR report or SSC will recommend rebuilding periods.
Adjustments to or implementation of trip limits.	Adjustment to ACLs and/or sector ACLs.
Adjustments to or implementation of bag limits.	Adjustment to or implementation of ACTs and/or sector ACTs.
Adjustments to or implementation of size limits.	Adjustments to or implementation of AMs.
Tackle configuration (e.g., minimum hook size).	
Season/area closures (including spawning area closures).	
Reopening of a previously closed area/season, timeframe for recovery of dolphin and wahoo should they become overfished, or fishing year which may not be adjusted by more than two months.	

Items retained from the current framework	Items added to current framework
Gear restrictions and/or prohibitions.	
Permitting restrictions.	
Overfishing/overfished definitions and related thresholds (e.g. MSST and MFMT).	
Annual specification/quota setting process.	
Assessment Panel composition and process.	
Identification, designation, and modification of EFH and EFH- HAPCs.	
Management measures to reduce or eliminate the impact of fishing gear/activities on EFH or EFH-HAPCs.	
Specify quota for scientific research.	
Designation of areas for scientific research.	
Regulations of longline length if ongoing research with marine mammals documents usefulness.	
Any other action to minimize the interaction of fishing gear with endangered species or marine mammals.	
Allocations and modifications to allocations.	

The following language affecting the framework mirrors procedures being considered in Amendment 27 the Snapper Grouper FMP for modification of the Snapper Grouper FMP and may be applicable to the Dolphin Wahoo FMP framework. NOAA General Council will determine the extent to which additional actions such as revising ACLs may be revised by the NMFS Regional Administrator through notice action.

Dolphin Wahoo FMP Framework Procedure for Specification of Annual Catch Limits, Annual Catch Targets, Overfishing Limits, Acceptable Biological Catch, and annual adjustments:

Procedure for Specifications:

1. At times determined by the SEDAR Steering Committee, and in consultation with the Council and NMFS Southeast Regional Office (SERO), stock assessments (or future assessment updates) will be conducted under the SEDAR process for stocks managed under the Dolphin Wahoo FMP. Each SEDAR stock assessment or assessment update will: a) assess to the extent possible the current biomass, biomass proxy, or SPR levels for each stock; b) estimate fishing mortality (F) in relation to F_{MSY} (MFMT) and F_{OY} ; c) determine the overfishing limit (OFL); d) estimate other population parameters deemed appropriate; e) summarize statistics on the fishery for each stock or stock complex; f) specify the geographical variations in stock abundance, mortality recruitment, and age of entry into the fishery for each stock or stock complex; and g) develop estimates of B_{MSY} .

2. The Council will consider SEDAR stock assessments or other documentation the Council deems appropriate to provide the biological analysis and data listed above in paragraph 1. Either the SEFSC or the stock assessment branch of a state agency may serve as the lead in conducting the analysis, as determined by the SEDAR Steering Committee. After reviewing the SEDAR stock assessments, the Scientific and Statistical Committee (SSC) will prepare a written report to the Council specifying an OFL and may recommend a range of ABCs for each stock complex that is in need of catch reductions for attaining or maintaining OY. The OFL is the annual harvest level corresponding to fishing at MFMT (F_{MSY}). The ABC range is intended to provide guidance to the SSC and is the OFL as reduced due to scientific uncertainty in order to reduce the probability that overfishing will occur in a year. To the extent practicable, the probability that overfishing will occur at various levels of ABC and the annual transitional yields (i.e., catch streams) calculated for each level of fishing mortality within the ABC range should be included with the recommended range.

For overfished stocks, the recommended range of ABCs shall be calculated so as to end overfishing and achieve stock population levels at or above B_{MSY} within the rebuilding periods specified by the Council and approved by NMFS. The SEDAR report or SSC will recommend rebuilding periods based on the provisions of the National Standard Guidelines, including generation times for the affected stocks. Generation times are to be specified by the stock assessment panel based on the biological characteristics of the individual stocks. The report will recommend to the Council a B_{MSY} level and a MSST from B_{MSY} . The report may also recommend more appropriate estimates of F_{MSY} for any stock. The report may also recommend more appropriate levels for the MSY proxy, OY, the overfishing threshold (MFMT), and overfished threshold (MSST). For stock or stock complexes where data are inadequate to compute an OFL and recommended ABC range, the SSC will use other available information as a guide in providing their best estimate of an OFL corresponding to MFMT and ABC range that should result in not exceeding the MFMT.

3. The SSC will examine SEDAR reports or other new information, the OFL determination, and the recommended range of ABC. In addition, the SSC will examine information provided by the social scientists and economists from the Council staff and from the SERO Fisheries Social Science Branch analyzing social and economic impacts of any specification demanding adjustments of allocations, ACLs, ACTs, AMs, quotas, bag limits, or other fishing restrictions. The SSC will use the ABC control rule to set their ABC recommendation at or below the OFL, taking in account scientific uncertainty. If the SSC sets their ABC recommendations equal to OFL, the SSC will provide its rationale why it believes that level of fishing will not exceed MFMT.

4. The Council may conduct a public hearing on the reports and the SSC's ABC recommendation at, or prior, to the time it is considered by the Council for action. Other public hearings may be held also. The Council may request a review of the report by its Dolphin Wahoo Advisory Panel and optionally by its socioeconomic experts and convene these groups before taking action.

5. The Council, in selecting an ACL, ACT, AM, and a stock restoration time period, if necessary, for each stock or stock complex for which an ABC has been identified, will, in

addition to taking into consideration the recommendations and information provided for in paragraphs 1, 2, 3, and 4, utilize the following criteria:

- a.** Set ACL at or below the ABC specified by the SSC or set a series of annual ACLs at or below the projected ABCs in order to account for management uncertainty. If the Council sets ACL equal to ABC, and ABC has been set equal to OFL, the Council will provide its rationale as to why it believes that level of fishing will not exceed MFMT.
 - b.** May subdivide the ACLs into commercial, for-hire, and private recreational sector ACLs that maximize the net benefits of the fishery to the nation. The Sector ACLs will be based on allocations determined by criteria established by the Council and specified by the Council through a plan amendment. If, for an overfished stock, harvest in any year exceeds the ACL or sector ACL, management measure and catch levels for that sector will be adjusted in accordance with the AMs established for that stock.
 - c.** Set ACTs or sector ACTs at or below ACLs and in accordance with the provision of the AM for that stock. The ACT is the management target that accounts for management uncertainty in controlling the actual catch at or below the ACL. If an ACL is exceeded repeatedly, the Council has the option to establish an ACT if one does not already exist for a particular stock and adjust or establish AMs for that stock as well.
- 6.** The Council will provide the SSC specification of OFL; SSC recommendation of ABC; and its recommendations to the NMFS RA for ACLs, sector ACLs, ACTs, sector ACTs, AMs, sector AMs, and stock restoration target dates for each stock or stock complex, estimates of B_{MSY} and MSST, estimates of MFMT, and the quotas, bag limits, trip limits, size limits, closed seasons, and gear restrictions necessary to avoid exceeding the ACL or sector ACLS, along with the reports, a regulatory impact review and proper National Environmental Policy Act (NEPA) documentation, and the proposed regulations within a predetermined time as agreed upon by the Council and RA. The Council may also recommend new levels or statements for MSY (or proxy) and OY.
- 7.** The RA will review the Council's recommendations and supporting information, and, if he concurs that the recommendations are consistent with the objectives of the FMP, the National Standards, and other applicable law, he shall forward for publication notice of proposed rules to the Assistant Administrator (providing appropriate time for additional public comment). The RA will take into consideration all public comment and information received and will forward for publication in the *Federal Register* of a final rule within 30 days of the close of the public comment, or such other time as agreed upon by the Council and RA.
- 8.** Appropriate regulatory changes that may be implemented by final rule in the *Federal Register* include:
 - a.** ACLs or sector ACLs, or a series of annual ACLs or sector ACLs.
 - b.** ACTs or sector ACTs, or a series of annual ACTs or sector ACTs and establish ACTs for stocks which do not have an ACT.
 - c.** AMs or sector AMs.

- d.** Bag limits, size limits, vessel trip limits, closed seasons or area, gear restrictions, and quotas designed to achieve OY and keep harvest levels from exceeding the ACL or sector ACL.
 - e.** The time period specified for rebuilding an overfished stock, estimated MSY and MSST for overfished stocks, and MFMT.
 - f.** New levels or statements of MSY (or proxy) and OY for any stock.
 - g.** New levels of total allowable catch (TAC).
 - h.** Adjust fishing seasons/years.

- 9.** The NMFS RA is authorized, through notice action, to conduct the following activities.
 - a.** Close the commercial fishery for the dolphin or wahoo fishery at such time as projected to be necessary to prevent the commercial sector from exceeding its sector ACL or ACT for the remainder of the fishing year or sub-quota season.
 - b.** Close the recreational fishery for the dolphin or wahoo fishery at such time as projected to be necessary to prevent recreational sector ACLs or ACTs from being exceeded.
 - c.** Reopen a commercial or recreational season that had been prematurely closed if needed to assure that a sector ACL or ACT can be reached.

- 10.** If NMFS decides not to publish the proposed rule for the recommended management measures, or to otherwise hold the measures in abeyance, then the RA must notify the Council of its intended action and the reasons for NMFS concern along with suggested changes to the proposed management measures that would alleviate the concerns. Such notice shall specify: 1) The applicable law with which the amendment is inconsistent; 2) the nature of such inconsistencies; and 3) recommendation concerning the action that could be taken by the Council to conform the amendment to the requirements of applicable law.

Adjustments to the dolphin sector allocations

Action #3: Modify the dolphin sector allocations

Option 1. No action. Do not modify the current sector allocations for dolphin. The recreational sector allocation for dolphin is 92.7% (current recreational ACL = 13,530,692 lbs ww, **Table 1**). The commercial sector allocation for dolphin is 7.3% (current commercial ACL = 1,065,524 lbs ww, **Table 1**). The sector allocations for dolphin were set in the Comprehensive ACL Amendment (SAFMC 2011) using the sector allocation rule where 50% of sector allocations are based on a longer term landings series (1999 – 2008) and 50% of the sector allocation are based on a shorter time series (2006-2008).

Note: The allocations cited above are what are currently in place. Depending on whether the Council selects **Action 1, Alternative 2** could change the sector allocations further.

Option 2. Establish the sector allocations for dolphin that were in place prior to the Comprehensive ACL Amendment making the “soft cap” allocations the sector allocations. The recreational sector allocation for dolphin would be 87%. Should the Council select **Alternative 2** of **Action 1**, the new recreational ACL would be 13,350,016 lbs ww (**Table 2**). The commercial sector allocation would be 13%. Should the Council select **Alternative 2** of **Action 1**, the new commercial ACL would be 1,994,830 lbs ww (**Table 2**).

Other Options?

Option 2 was the preferred option selected by the SAFMC Dolphin/Wahoo AP. At their April 2012 meeting the AP reiterated their preferred sector allocation follow their original recommendation and requested the Council reconsider the sector allocation.

Bag limit sales of dolphin and wahoo for for-hire vessels

Action #4: Allow bag limit sales of dolphin and wahoo from for hire-vessels.

Option 1. No Action. Do not modify the prohibition on bag limit sales of dolphin and wahoo for the for-hire sector. The Comprehensive ACL Amendment (SAFMC 2011) prohibited bag limit sales of dolphin. Bag limit sales of wahoo were prohibited in the original Dolphin Wahoo FMP (SAFMC 2003).

Option 2. Allow the properly licensed for-hire sector to sell its dolphin catch to a licensed Federal dealer.

Option 3. Allow the properly licensed for-hire sector to sell its wahoo catch to a licensed Federal dealer.

Other Options?

The Council's Dolphin Wahoo AP at their April 2012 meeting asked the Council to reconsider allowing bag limit sales of these two species. **Options 2** and **3** are taken directly from the motions made by the Dolphin Wahoo AP at that time. The topic was also discussed at the April 2011 Dolphin Wahoo AP meeting. Reasons given by various AP members for allowing the sale of these two species include: there is no overfishing and they are not overfished; historically, this has always been the practice in this fishery; and "backdoor" sales will occur, in spite of the ban because it is not enforceable. One reason was mentioned by an AP member for not allowing bag limit sales; the comment focused largely on HACCP issues, particularly related to histamines developing in improperly refrigerated dolphin.

The Council may vote to take Dolphin Wahoo Amendment 5 out for Scoping at the January 2013 round of scoping/public hearings. The meetings are scheduled as follows:

<p><u>January 22, 2013</u> Mighty Eighth Air Force Museum 175 Bourne Avenue Pooler, GA 31322 Phone: 912-748-8888</p>	<p><u>January 23, 2013</u> Hilton Garden Inn Airport 5265 International Blvd. North Charleston, SC 29418 Phone: 843-308-9330</p>
<p><u>January 24, 2013</u> New Bern Riverfront Convention Center 203 South Front Street New Bern, NC 28563 Phone: 252-637-1551</p>	<p><u>January 28, 2013</u> Jacksonville Marriott 4670 Salisbury Road Jacksonville, FL 32256 Phone: 904-296-2222</p>
<p><u>January 29, 2013</u> Doubletree by Hilton Oceanfront 2080 North Atlantic Ave. Cocoa Beach, FL 32931 321-783-9222</p>	<p><u>January 30, 2013</u> Holiday Inn Key Largo 97701 Overseas Highway Key Largo, FL 33037 Phone: 305-451-2121</p>