

**SAFMC  
AP Document  
March 2013**

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



**March 2013**

## What Actions Are Being Proposed?

Revisions to acceptable biological catches (ABCs), annual catch limits (ACLs) (including sector ACLs), accountability measures, and annual catch targets (ACTs) implemented through the Comprehensive ACL Amendment (SAFMC 2011) for dolphin and wahoo, changes in how dolphin are allocated to the commercial and recreational sectors, changes to the management framework in the Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic (Dolphin Wahoo FMP; SAFMC 2003), and commercial trip limits for dolphin.

## Purpose for Action

The purpose of Amendment 5 to the Fishery Management Plan for the Dolphin Wahoo Fishery for the Atlantic (Dolphin Wahoo Amendment 5) is to revise the ABCs, ACLs, recreational ACTs, and sector AMs for dolphin and wahoo. The revisions incorporate updates to the recreational data as per MRIP, as well as revisions to commercial and for-hire landings. The revisions are necessary to avoid triggering AMs for dolphin and wahoo based on ACLs that were established by the Comprehensive ACL Amendment (77 FR 15916) using recreational data under the MRFSS system. MRFSS ceased to exist in January 2013, and was replaced with MRIP. Additionally, this amendment would modify the sector allocations, revise framework procedure for dolphin and wahoo and establish commercial trip limits of dolphin.

## Need

The intent of Dolphin Wahoo Amendment 5 is to base conservation and management measures upon the best scientific information available, and to prevent unnecessary negative socio-economic impacts that may otherwise be realized in the dolphin wahoo fishery and fishing community, in accordance with the provisions set forth in the Magnuson-Stevens Act.

## Why is the South Atlantic Council Considering Action?

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, NMFS has overhauled MRFSS. The Marine Recreational Information Program (MRIP) was developed to provide more accurate recreational catch estimates. The South Atlantic Council stated in the Comprehensive ACL Amendment that they would take action as needed, via plan amendment or framework amendment, to revise the appropriate values as needed, in 2012 and beyond. MRIP methods have been used to recalculate previous MRFSS estimates dating back to 2004, and will be the basis for all new estimates moving forward.

The revisions are necessary because if the ABC, ACL, and ACT values are not updated with the new MRIP estimates, the result would be ACLs set using MRFSS data while the landings being used to track the ACLs will be estimated using MRIP data. This would result in inconsistencies in the how ACLs are calculated versus how they are monitored. In addition to MRIP data, ACLs would be updated to include revisions to commercial and for-hire landings data. The changes in data impact the allocations to the

commercial and recreational sectors because the underlying formula used to establish the allocations remains unchanged from what was implemented previously in the Comprehensive ACL Amendment (SAFMC 2011).

The Council is considering revising the accountability measures (AMs) applied to both dolphin and wahoo as a means to standardize them across species.

The Council is considering revising the framework action established in the original Dolphin Wahoo FMP (SAFMC 2003) to track more recent changes from amendments to the Magnuson-Stevens Act, to make changes more quickly (e.g., implement new ABC/ACL from an assessment), and include updated language to reflect the role of SEDAR and the SSC is setting biological parameters for population estimates.

The Council is considering revising the method for allocating the total ACL for dolphin to the commercial and recreational sectors as requested by the South Atlantic Council's Dolphin Wahoo AP.

The Council is considering commercial trip limits for dolphin as a way to avoid potential localized depletion.

The Dolphin Wahoo AP needs to review and make recommendations to the Council regarding the actions and alternatives in this document.

## *Action 1: Revise acceptable biological catches (ABCs), annual catch limits (ACLs), and annual catch targets (ACTs) for dolphin and wahoo.*

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

**Alternative 2.** Revise the acceptable biological catches (ABCs), annual catch limits (ACLs), and annual catch targets (ACTs) for dolphin and wahoo.

### **Two Alternatives Considered**

The National Marine Fisheries Service (NMFS) acknowledges there are two alternatives for this action. Section 1502.14(a) of the National Environmental Policy Act (NEPA) states that “agencies shall: rigorously explore and objectively evaluate all reasonable alternatives...” Only two reasonable alternatives for this action, including the no action alternative, have been identified by NMFS and the South Atlantic Council. **Alternative 2** (ACL=ABC=OY) represents the accepted formula used for specifying ACLs for the majority of assessed species that are not overfished nor undergoing overfishing.

The Comprehensive ACL Amendment (SAFMC 2011) established ACL=ABC=OY for dolphin and wahoo. This formula was also used for vermilion snapper (Regulatory Amendment 18 to the Snapper Grouper FMP) and red grouper in Amendment 24 to the Snapper Grouper FMP. These amendments considered alternatives that set ACL below the ABC; however, the South Atlantic Council chose as their preferred alternative ACL=ABC=OY. The South Atlantic Council and NMFS are not considering options beyond the two alternatives listed because: (1) setting ACL=ABC=OY was the preferred alternative in the Comprehensive ACL Amendment; (2) the South Atlantic Council has approved an amendment that, if implemented, would require dealers to report landings electronically once a week; and (3) recreational landings have remained well below the recreational dolphin ACL since it was implemented through the Comprehensive ACL Amendment. Therefore, the South Atlantic Council and NMFS determined it is not reasonable to include additional alternatives that incorporate a buffer between the ABC and ACL.

**Table 1.** ABCs, ACLs, and ACTs for dolphin and wahoo, as implemented by the Comprehensive ACL Amendment (SAFMC 2011).

Comp ACL Actions	Commercial	Recreational	Total
<b>Dolphin</b>			
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	---
<b>Wahoo</b>			
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 ABCs, ACLs, and ACTs for dolphin and wahoo as proposed by **Alternative 2.**

Dolphin Wahoo Amend 5 Actions	Commercial	Recreational	Total
<b>Dolphin</b>			
Action 1: ACL=OY=ABC (lbs ww)	---	---	15,344,846
Action 1: Allocation %	7.54398%	92.45602%	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	---
<b>Wahoo</b>			
Action 1: ACL=OY=ABC (lbs ww)	---	---	1,794,960
Action 1: Allocation %	3.93047%	96.06953%	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	---

**Table 3.** Commercial and recreational landings of dolphin and wahoo for 2007 – 2011, along with percent of total landings of dolphin for the commercial sector.

	2008	2009	2010	2011	2012*	Average
<b>Dolphin</b>						
Commercial	780,818	1,221,914	704,922	912,172	408,654	805,696
Recreational	8,224,344	7,516,851	6,187,899	6,528,256	5,595,613	6,810,593
% Comm.	9%	14%	10%	12%	7%	10%
<b>Wahoo</b>						
Commercial	40,525	45,056	43,275	63,428	64,117	51,280
Recreational	666,375	796,050	596,970	700,120	1,427,462	837,395

Data Source: NMFS SERO

\* Data for 2012 are preliminary and were downloaded from [sero.nmfs.noaa.gov/sustainable\\_fisheries/acl\\_monitoring/commercial\\_sa/historical/index.html](http://sero.nmfs.noaa.gov/sustainable_fisheries/acl_monitoring/commercial_sa/historical/index.html), and [sero.nmfs.noaa.gov/sustainable\\_fisheries/acl\\_monitoring/recreational\\_sa/index.html](http://sero.nmfs.noaa.gov/sustainable_fisheries/acl_monitoring/recreational_sa/index.html) (Accessed on March 15, 2013). They will be updated with the verified numbers after June 2013.

## *Action 2: Revise the accountability measures (AMs) for dolphin and wahoo*

Note: Alternatives 2 through 9 consider adding a pay-back provision to the existing AMs for dolphin and wahoo. They are not intended to replace what is currently in Alternative 1, just add to what is currently in place. In Alternative 1, round weight is the same as whole weight.

**Alternative 1.** No action. § 622.49 (e) Atlantic dolphin--(1) Commercial sector. If commercial landings for Atlantic dolphin, as estimated by the SRD, reach or are projected to reach the commercial ACL of 1,065,524 lb (483,314 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of Atlantic dolphin is prohibited and harvest or possession of this species in or from the South Atlantic EEZ is limited to the bag and possession limit. This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal charter vessel/headboat permit for South Atlantic **snapper-grouper**<sup>1</sup> has been issued, without regard to where such species were harvested, *i.e.*, in state or Federal waters.

(2) Recreational sector. If recreational landings for Atlantic dolphin, as estimated by the SRD, exceed the recreational ACL of 13,530,692 lb (6,137,419 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. However, the length of the recreational season will also not be reduced during the following fishing year if the RA determines, using the best scientific information available, that a reduction in the length of the following fishing season is unnecessary.

(f) Atlantic wahoo--(1) Commercial sector. If commercial landings for Atlantic wahoo, as estimated by the SRD, reach or are projected to reach the commercial ACL of 64,147 lb (29,097 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of Atlantic wahoo is prohibited and harvest or possession of this species in or from the South Atlantic EEZ is limited to the bag and possession limit. This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal charter vessel/headboat permit for South Atlantic **snapper-grouper** has been issued, without regard to where such species were harvested, *i.e.*, in state or Federal waters.

(2) Recreational sector. If recreational landings for Atlantic wahoo, as estimated by the SRD, exceed the recreational ACL of 1,427,638 lb (647,566 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. However, the length of the recreational season will also not be reduced during the following fishing year if the RA determines, using the best scientific information available, that a reduction in the length of the following fishing season is

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<sup>1</sup> This language is a correct representation of what is in the Code of Federal Regulations. It is incorrect. When this amendment is completed, errors that reference the incorrect permit will be resolved.

unnecessary.

Current AM's from the Comprehensive ACL Amendment for dolphin and wahoo:

Commercial sector:

After the commercial ACL is met or projected to be met, all purchase and sale of dolphin and wahoo is prohibited and harvest and/or possession is limited to the bag limit.

Recreational sector:

There are no in-season AMs for dolphin or wahoo. If the ACL is exceeded, the following year's landings would be monitored in-season for persistence in increased landings. The Regional Administrator will publish a notice to reduce the length of the fishing season as necessary.

**Alternative 2.** If the commercial ACL is exceeded, the Regional Administrator (RA) shall publish a notice to reduce the ACL in the following season by the amount of the overage, only if the species is overfished.

**Alternative 3.** If the commercial ACL is exceeded, the RA shall publish a notice to reduce the ACL in the following season by the amount of the overage, only if the total ACL (commercial ACL plus recreational ACL) is exceeded.

**Alternative 4.** If the commercial ACL is exceeded, the RA shall publish a notice to reduce the ACL in the following season by the amount of the overage, only if overfished and the total ACL (commercial ACL plus recreational ACL) is exceeded.

**Alternative 5.** If the recreational ACL is exceeded, the RA shall publish a notice to reduce the ACL in the following season by the amount of the overage, only if the species is overfished.

**Alternative 6.** If the recreational ACL is exceeded, the RA shall publish a notice to reduce the ACL in the following season by the amount of the overage, only if the total ACL (commercial ACL plus recreational ACL) is exceeded.

**Alternative 7.** If the recreational ACL is exceeded, the RA shall publish a notice to reduce the ACL in the following season by the amount of the overage, only if overfished and the total ACL (commercial ACL plus recreational ACL) is exceeded.



### *Action 3: Modify the sector allocations for dolphin*

**Alternative 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. Should the Council select **Action 1, Alternative 2** as their preferred, could change the sector allocations further. The recreational sector allocation for dolphin would be 92.5% (recreational ACL = 14,187,234 lbs ww, **Table 2**). The commercial sector allocation for dolphin would be 7.5% (commercial ACL = 1,157,612 lbs ww, **Table 2**).

**Alternative 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**).

**Alternative 3.** Set the commercial allocation at its highest percentage of the total catch over the past 5 years (2008-2012). **Table 3** shows that in 2009, the commercial sector had its highest percent of the overall landings at 14% of the total (commercial landings plus recreational landings). Under this alternative, the recreational sector allocation would be 86%. Should the Council select **Alternative 2 of Action 1**, the new recreational ACL would be 13,196,568 lbs ww (**Table 2**). Should the Council select **Alternative 2 of Action 1**, the new commercial ACL would be 2,148,278 lbs ww (**Table 2**).

**Alternative 4.** Set the commercial allocation at the average of the percentages of the total catch over the past 5 years (2008-2012). **Table 3** shows that from 2008 through 2012, the commercial sector averaged 10% of the total dolphin landings (commercial landings plus recreational landings). Under this alternative, the recreational sector allocation would be 90%. Should the Council select **Alternative 2 of Action 1**, the new recreational ACL would be 13,810,361 lbs ww (**Table 2**). Should the Council select **Alternative 2 of Action 1**, the new commercial ACL would be 1,534,485 lbs ww (**Table 2**).

Alternative 2 was the preferred option selected by the South Atlantic Council’s Dolphin/Wahoo AP. At their April 2012 meeting the Dolphin Wahoo AP reiterated their preferred sector allocation follow their original recommendation and requested the South Atlantic Council reconsider the sector allocation.

## *Action 4: Revise the framework procedure in the Dolphin Wahoo FMP*

**Alternative 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.

**Alternative 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 using the following procedure once the new ACLs, ACTs and AMs are established by the Council.

**Acceptable Biological Catch (ABC), Annual Catch Limits (ACLs) and Annual Catch Targets (ACTs) Adjustment Procedure**

1. Stock assessments will continue to be conducted for dolphin and wahoo in the management area through the SEDAR process.
2. Following the Scientific and Statistical Committee (SSC)’s review of the stock assessment and a public hearing, the Council will determine if changes are needed in the OFL, ABC, ACLs, and ACTs and so advise the RA.
3. Following a review for consistency with the FMP and applicable law, the RA may reject or may implement changes by notice in the *Federal Register* to be effective for the next fishing season.

Modifications to the ACLs, ACTs, and AMs via *Federal Register* notice would be based on new scientific information. This would eliminate the lengthy regulatory amendment process, since a regulatory amendment would not be required to make such changes. This process would entail a review of new scientific information by the South Atlantic Council, and a recommendation from the South Atlantic Council to the RA for any changes to harvest levels they determine need to be made. If the RA agrees to the South Atlantic Council’s recommendations, a *Federal Register* notice would be prepared outlining the modifications and the notice would be published by the office of the *Federal Register*, after which, the changes would be effective. At this point outreach materials such as fishery bulletins, and frequently asked questions would be developed and disseminated to fishery participants to notify them of the change.

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

**Table 4.** Proposed framework modifications for the South Atlantic Council’s 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 South Atlantic 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 South Atlantic 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.

<b>Items retained from the current framework</b>	<b>Items added to current framework</b>
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.	
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 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 RA 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 South Atlantic 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 South Atlantic Council will consider SEDAR stock assessments or other documentation the South Atlantic 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 SSC will prepare a written report to the South Atlantic 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 South Atlantic 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 South Atlantic 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 South Atlantic 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 South Atlantic 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 South Atlantic Council sets ACL equal to ABC, and ABC has been set equal to OFL, the South Atlantic 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 South Atlantic Council and specified by the South Atlantic 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 South Atlantic 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 South Atlantic 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 South Atlantic Council and RA. The South Atlantic Council may also recommend new levels or statements for MSY (or proxy) and OY.

7. The RA will review the South Atlantic 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 South Atlantic 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. Adjustments to ABCs, ACLs, and ACTs according to the existing ABC Control Rule(s) and formulas for specifying ACLs and ACTs that have been approved by the Council and that were implemented in a fishery management plan amendment to the FMP. This abbreviated process is authorized as follows:

- a. Following the Scientific and Statistical Committee's (SSC's) review of the stock assessment, the Council will determine if changes are needed to ABC, ACL, and/or ACT and will so advise the RA.
- b. The Council will first hold a public hearing during the Council meeting during which they will review the stock assessment and the SSC's recommendations. In addition, the public will be advised prior to the meeting that the Council is considering potential changes to the ABC, ACL, and/or ACT and the Council will provide the public the opportunity to comment on the potential changes prior to and during the Council meeting.
- c. If the Council then determines that modifications to the ABC, ACL, and/or ACT are necessary and appropriate, they will notify the RA of their recommendations in a letter with the Council's analysis of the relevant biological, economic, and social information necessary to support the Council's action.
- d. The RA will review the Council's recommendations and supporting information. If the RA concurs that the Council's recommendations are consistent with the

objectives of the FMP, the Magnuson-Stevens Fishery Conservation and Management Act, and all other applicable law, the RA is authorized to implement the Council's proposed action through publication of appropriate notification in the Federal Register, providing appropriate time for additional public comment as necessary.

- e. If the Council chooses to deviate from the ABC control rule(s) and formulas for specifying ACLs and ACTs that the Council previously approved and that were implemented in a fishery management plan amendment to the FMP, this abbreviated process would not apply, and either the framework procedure would apply with the preparation of a regulatory amendment or a fishery management plan amendment would be prepared. Additionally, the Council may choose to prepare a regulatory amendment or a fishery management plan amendment even if they do not deviate from the previously approved ABC control rule(s) and formulas for specifying ACLs and ACTs.

**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 South Atlantic 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 South Atlantic Council to conform the amendment to the requirements of applicable law.



## *Action 5: Establish a commercial trip limit for dolphin in the EEZ throughout the SAFMC's area of jurisdiction*

**Alternative 1.** No action. Do not establish a trip limit for dolphin in the EEZ throughout the SAFMC's area of jurisdiction. There is no commercial trip limit for dolphin for those who have a South Atlantic Commercial Dolphin Wahoo Permit. However, non-permitted commercial fishermen north of 39° N. Latitude (just north of Cape May, NJ) are allowed a trip limit of 200 lbs of dolphin and wahoo combined.

**Alternative 2:** 1,000 lb trip limit  
Sub-Alternative 2a: south of 31° N. Latitude  
Sub-Alternative 2b: north of 31° N. Latitude

**Alternative 3:** 2,000 lb trip limit  
Sub-Alternative 3a: south of 31° N. Latitude  
Sub-Alternative 3b: north of 31° N. Latitude

**Alternative 4:** 3,000 lb trip limit  
Sub-Alternative 4a: south of 31° N. Latitude  
Sub-Alternative 4b: north of 31° N. Latitude

**Alternative 5:** 4,000 lb trip limit  
Sub-Alternative 5a: south of 31° N. Latitude  
Sub-Alternative 5b: north of 31° N. Latitude

**Alternative 6:** 5,000 lb trip limit  
Sub-Alternative 6a: south of 31° N. Latitude  
Sub-Alternative 6b: north of 31° N. Latitude

**Alternative 7:** 10,000 lb trip limit  
Sub-Alternative 7a: south of 31° N. Latitude  
Sub-Alternative 7b: north of 31° N. Latitude

**Alternative 8:** 15,000 lb trip limit  
Sub-Alternative 8a: south of 31° N. Latitude  
Sub-Alternative 8b: north of 31° N. Latitude

**Alternative 9:** 20,000 lb trip limit  
Sub-Alternative 9a: south of 31° N. Latitude  
Sub-Alternative 9b: north of 31° N. Latitude

## References

SAFMC (South Atlantic Fishery Management Council). 2003. Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic. South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407.

SAFMC (South Atlantic Fishery Management Council). 2011. Comprehensive Annual Catch Limit (ACL) Amendment of the South Atlantic Region including Snapper Grouper Amendment 25. South Atlantic Fishery Management Council, 4055 Faber Place, Ste 201, North Charleston, S.C. 29405.

## Timing

1. June 10-14, 2013 (Stuart, FL) – Committee/Council reviews AP input, selects preferred alternatives, and approves for public hearings.
2. August 6-16, 2013 (NC → FL) – Public Hearings
3. September 16-20, 2013 (Charleston, SC) – Committee/Council reviews public comments, revise as necessary, and approves for formal review.
4. October 2013 – Send amendment to NMFS for formal review.
5. Mid 2014 – Regulations go into effect.