

Regulatory Amendment 2 to the Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic



Options Paper
March 2022

Framework amendment to implement changes to the minimum size limit and recreational retention limits for dolphin

Note: Words that are underlined and in blue font provide a link to other documents.

Background

At the September 2021 meeting, the Dolphin Wahoo Committee (Committee) reviewed an information paper on an amendment that would consider:

- 1) Extending the minimum size limit for dolphin that is currently in place off Florida, Georgia, and South Carolina northward,
- 2) Specifying different retention limits for charter and private vessels for both dolphin and wahoo, and
- 3) Removing or reducing captain and crew bag limits.

Upon reviewing available information, the Committee provided guidance on the initial range of options to consider in a framework amendment to the Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic (Dolphin Wahoo FMP). While potential management changes were initially considered for recreational retention limits of wahoo, the Committee did not want to further consider changes for the species and elected to focus on dolphin.

Specifically, the Committee directed staff to develop options that would:

- 1) Modify the applicable range of the minimum size limit for dolphin.
- 2) Modify recreational retention limits for dolphin, potentially by mode (private, charter, headboat).
- 3) Reduce or remove for-hire captain and crew bag limits.

Of note is the South Atlantic Fishery Management Council’s (Council) recent efforts to develop Amendment 10 to the Dolphin Wahoo FMP (Amendment 10) which is currently in the rulemaking stage and may go into effect later this year (2022). Amendment 10 would implement several changes in the Dolphin Wahoo fishery, including revisions to:

- Acceptable biological catch and sector allocations;
- Total annual catch limits (ACL) and sector ACLs;
- Recreational accountability measures; and

Management measures to:

- Allow possession of dolphin or wahoo when specified unauthorized gear types are onboard a vessel;
- Remove the operator card requirement; and
- Reduce the recreational vessel limit for dolphin from 60 fish per vessel to 54 fish per vessel.

Objectives for this meeting

- Review potential timing of the amendment.
- Provide guidance to staff on range of options to develop.
- Approve the amendment for scoping.

Tentative amendment timing

March 2022	Review options paper and approve amendment for scoping.
Spring 2022	Conduct scoping sessions and Dolphin Wahoo Advisory Panel (AP) provides input.
June 2022	Review scoping comments and preliminary analyses.
September 2022	Review modifications to the amendment, select preferred alternatives, and approve for public hearings.
Fall 2022	Conduct public hearings.
December 2022	Review public hearing comments and approve all actions.
March 2023	Review final draft amendment and consider approval for formal review.
Late 2023/Early 2024	Regulation changes effective.

DRAFT Purpose and Need Statements

Note: The following Purpose and Need statement is an initial draft for the Committee's consideration and may change, pending Council and IPT guidance.

The *purpose* of this amendment is to extend the applicable geographic range of the minimum size limit and modify the recreational retention limits for dolphin.

The *need* for this amendment is to provide increased conservation benefits to the dolphin fishery in the Atlantic region.

Options for Proposed Actions

1. Modify the applicable range of the minimum size limit for dolphin

Background:

- The current minimum size limit for dolphin is 20 inches fork length and applies off Florida, Georgia, and South Carolina.
 - This size limit applies to both the recreational and commercial sectors.
- There is no minimum size limit for dolphin in waters off North Carolina and states further north in the Mid-Atlantic and New England regions.
- The minimum size limit for dolphin was implemented via the original Dolphin Wahoo FMP (effective 2004) and applied off Florida and Georgia only. This measure was extended to include the waters off South Carolina via Amendment 2 to the Dolphin Wahoo FMP (Amendment 2; effective 2012).
 - The Council conclusion in the original Dolphin Wahoo FMP indicated that “establishing a 20 inch size limit off Georgia and the east coast of Florida for dolphin will prevent the targeting of peanut or chicken dolphin, reduce waste, and increase yield in the fishery...In addition, this action will allow harvest only after most female dolphin are sexually mature and have spawned.”
 - In Amendment 2, extending the size limit to cover the waters off South Carolina was considered “to address concerns, primarily from South Carolina anglers, about the large-scale recreational harvest of “peanut” dolphin. At the time size limits were being discussed for this species in the South Atlantic region (2002), they were not considered off South Carolina because the state had its own measure. That measure has since been challenged in court, however, and overturned.”
- Schwenke and Buckel (2008) indicated that size at 50% maturity was 18.1 inches for female dolphin and 18.7 inches for male dolphin.
 - Non-peer reviewed literature states that spawning first occurs from 17-21 inches.
- While not considered in Amendment 10, during [public hearings](#) for that amendment, there were many comments on increasing the minimum size limit and/or extending the minimum

size limit for dolphin to cover the entire Atlantic region. Those in favor tended to be based in Florida and South Carolina while those opposed tended to be based in North Carolina.

- Comments in favor of extending applicable range of the minimum size limit to cover the entire Atlantic region have been received on the Notice of Availability and Proposed Rule for Amendment 10.
- The Dolphin Wahoo AP discussed the minimum size limit for dolphin at their April 2017 meeting when developing their [Fishery Performance Report](#) for dolphin.
 - AP members felt that the 20-inch size limit off of SC, GA, and FL is sufficient and is working. In South Florida, many fish are released and the size limit is very compatible with charter trips.
 - There were differing opinions on whether the size limit should be expanded to the rest of the management zone, given the fast growth of the species and cap on maximum harvest recreationally via the vessel limit of 60 dolphin per trip.

Previous Committee Direction to Staff:

- Include a range of options that would extend the applicable range of the minimum size limit for dolphin to cover:
 - North Carolina only
 - North Carolina through New York
 - North Carolina through Maine

Draft Options:

Option 1 (No Action). The size limit for dolphin is 20 inches fork length and applies to dolphin in federal waters off Florida, Georgia, and South Carolina.

Option 2. The size limit for dolphin is 20 inches fork length and applies to dolphin in federal waters off Florida through North Carolina.

Option 3. The size limit for dolphin is 20 inches fork length and applies to dolphin in federal waters off Florida through New York.

Option 4. The size limit for dolphin is 20 inches fork length and applies to dolphin in federal waters off Florida through Maine.

Other size limit options?

Committee Action:

- PROVIDE GUIDANCE ON RANGE OF OPTIONS TO DEVELOP.

2. Modify the daily recreational bag limit for dolphin

Background:

- Currently the recreational daily bag limit is 10 dolphin per person, not to exceed 60 dolphin per vessel, whichever is less, except on board a headboat where the limit is 10 dolphin per paying passenger.
 - This covers the entire jurisdictional range of the Dolphin Wahoo FMP (i.e., Maine through Key West, Florida).
 - The vessel limit will be reduced to 54 dolphin per vessel once Amendment 10 becomes effective, likely in 2022.
- When discussing a potential reduction in the retention limit for dolphin at their August 2019 and October 2020 meetings, the Dolphin Wahoo AP noted:
 - That reducing retention limits too far could have a notable negative impact on the ability to book charter trips, therefore caution should be exercised if there is a change in the retention limit.
 - If the Council reduces recreational limits for dolphin, consider reducing the vessel limit but do not change the bag limit of 10 fish per person per day.
- While not considered in Amendment 10, during [public hearings](#) for that amendment there were some comments on reducing the bag limit for dolphin. Those in favor tended to be based in Florida and South Carolina while those opposed tended to be based in North Carolina.
 - Some comments were in favor of maintaining the bag limit at 10 fish per person.
 - A bag limit of 5 fish per person was also mentioned multiple times.
- Comments in favor of decreasing the recreational bag limit per person and recreational vessel limits have been received on the Notice of Availability and Proposed Rule for Amendment 10.
- While not separated by trip type (private vs charter vessel), **Figure 1** from Amendment 10 provides a distribution of landings per person for dolphin.

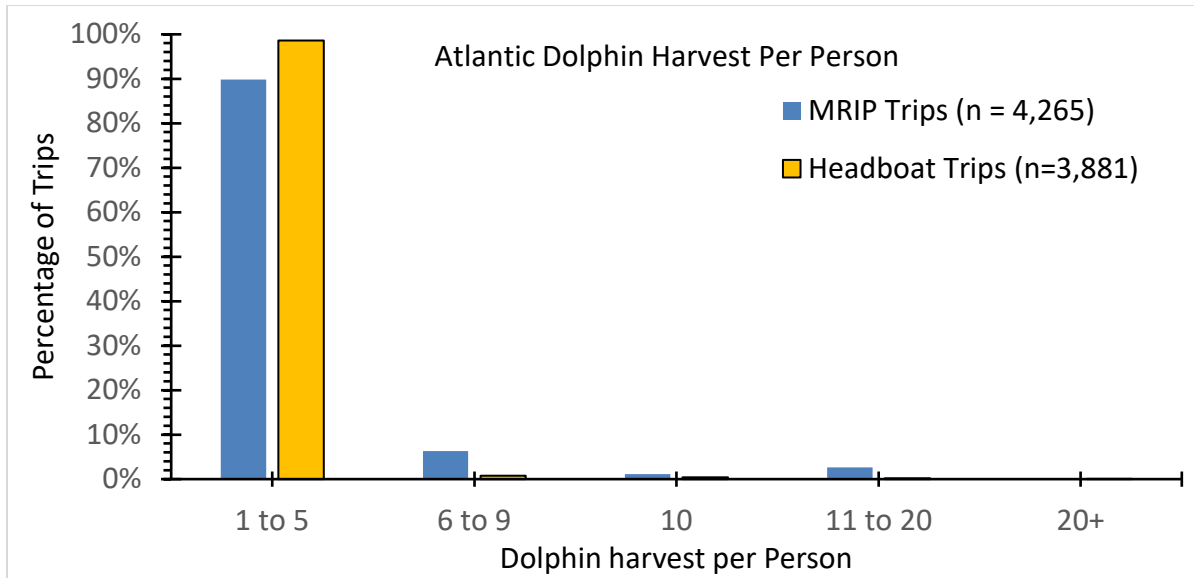


Figure 1. Percentage of trips for dolphin harvested per person. The data are from 2015 through 2019, and data from both MRIP (private rec./charter vessels) and Headboat are provided. The dolphin stock is from Maine to east Florida (including Monroe County, Florida).

Previous Committee Direction to Staff:

- Consider the same limits for headboats that would apply to charter vessels.
- Consider the same retention limits onboard for-hire and private vessels.
- Continue consideration of different retention limits by mode.
- Consider range of:
 - Bag limit: 5 fish to 10 fish per person.

Draft Options:

NOTE: The following assumes that the reduced vessel limit of 54 dolphin in Amendment 10 will go into effect. The current “true” no action is a vessel limit of 60 dolphin per vessel.

Option 1 (No Action). The daily recreational bag limit is 10 dolphin per person, not to exceed 54 dolphin per vessel, whichever is less, except on board a headboat where the limit is 10 dolphin per paying passenger with no vessel limit.

Option 2. Onboard private vessels only, the recreational daily bag limit is (*Sub-option 2a through 2e*), not to exceed the vessel limit, whichever is more restrictive:

- Sub-option 2a.** 9 dolphin per person.
- Sub-option 2b.** 8 dolphin per person.
- Sub-option 2c.** 7 dolphin per person.
- Sub-option 2d.** 6 dolphin per person.
- Sub-option 2e.** 5 dolphin per person.

Option 3. Onboard charter vessels only, the daily recreational bag limit is (*Sub-option 3a through 3e*), not to exceed the vessel limit, whichever is more restrictive:

- Sub-option 3a.** 9 dolphin per person.

- Sub-option 3b.** 8 dolphin per person.
- Sub-option 3c.** 7 dolphin per person.
- Sub-option 3d.** 6 dolphin per person.
- Sub-option 3e.** 5 dolphin per person.

Option 4. Onboard headboat vessels only, the daily recreational bag limit is (*Sub-option 4a through 4e*), not to exceed the vessel limit if applicable, whichever is more restrictive:

- Sub-option 4a.** 9 dolphin per person.
- Sub-option 4b.** 8 dolphin per person.
- Sub-option 4c.** 7 dolphin per person.
- Sub-option 4d.** 6 dolphin per person.
- Sub-option 4e.** 5 dolphin per person.

Other bag limit options?

Committee Action:

- PROVIDE GUIDANCE ON RANGE OF OPTIONS TO DEVELOP.

3. Modify the recreational vessel limit for dolphin

Background:

- Currently the recreational daily bag limit is 10 dolphin per person, not to exceed 60 dolphin per vessel, whichever is less, except on board a headboat where the limit is 10 dolphin per paying passenger.
 - This covers the entire jurisdictional range of the Dolphin Wahoo FMP (i.e., Maine through Key West, Florida).
 - The vessel limit will be reduced to 54 dolphin per vessel once Amendment 10 becomes effective likely in 2022.
- When considering vessel limit reductions in Amendment 10, the Committee reviewed alternatives that would set the vessel limit at 30, 40, 42, 48, and 54 dolphin.
- Comments collected during [public hearings](#) for Amendment 10 had a notable regional theme, with many of those in favor of reducing retention limits largely based in Florida or South Carolina while those in favor of maintaining the current retention limits based in North Carolina.
 - There were limited and varying opinions on different retention limits between private and charter vessels. Most commenters were in favor of a higher limit onboard charter vessels.
 - Of the comments in support of a reduced vessel limit for dolphin, many expressed support for a 30 fish vessel limit and, to a lesser extent, a 40 fish limit.
 - There were varying opinions on whether reduced vessel limits should cover the entire Atlantic or only apply to certain states.
- Comments in favor of decreasing the recreational vessel limit from 60 per vessel to 30 per vessel have been received on the Notice of Availability and Proposed Rule for Amendment 10.
- When discussing a potential reduction in the vessel limit for dolphin at their August 2019 and October 2020 meetings, the Dolphin Wahoo AP noted:
 - That reducing retention limits too far could have a notable negative impact on the ability to book charter trips, therefore caution should be exercised if there is a change in the retention limit.
 - If the Council reduces recreational limits for dolphin, consider reducing the vessel limit but do not change the bag limit of 10 fish per person per day.
 - There was support for taking no action on reducing vessel limits, particularly in North Carolina, or to take action just in Florida. It was noted that the 60 fish limit is very important to the for-hire fishery in North Carolina, particularly when small dolphin are abundant.
 - If limits are reduced, maintaining limits divisible by 6 is preferred.
- While not separated by trip type (private vs charter vessel), **Figure 2** provides a distribution of landings per vessel for dolphin.

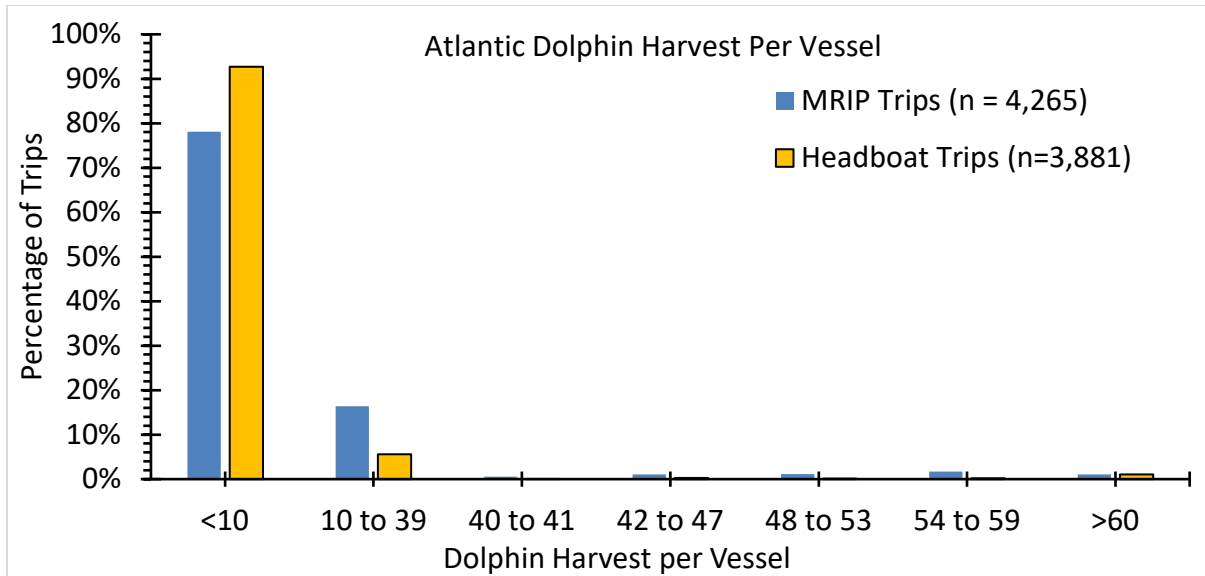


Figure 2. Percentage of trips for a range of dolphin harvested per vessel. The data are from 2015 through 2019, and data from both MRIP (private rec./charter vessels) and the Headboat survey are provided. The dolphin stock is from Maine to east Florida (including Monroe County, Florida).

Previous Committee Direction to Staff:

- Consider the same limits for headboats that would apply to charter vessels.
- Consider the same retention limits onboard for-hire and private vessels.
- Include increments divisible by 6.
- Continue consideration of different retention limits by mode.
- Consider range of:
 - Vessel limit: 30 fish to 60 fish per vessel.

Draft Options:

NOTE: The following assumes that the reduced vessel limit of 54 dolphin in Amendment 10 will go into effect. The current “true” no action is a vessel limit of 60 dolphin per vessel.

Option 1 (No Action). The recreational bag limit is 10 dolphin per person, not to exceed 54 dolphin per vessel, whichever is less, except on board a headboat where the limit is 10 dolphin per paying passenger with no vessel limit.

Option 2. Onboard private vessels only, the recreational vessel limit is (*Sub-option 2a through 2e*), not to exceed the recreational bag limit per person, whichever is more restrictive:

- Sub-option 2a.** 30 dolphin per vessel.
- Sub-option 2b.** 36 dolphin per vessel.
- Sub-option 2c.** 42 dolphin per vessel.
- Sub-option 2d.** 48 dolphin per vessel.
- Sub-option 2e.** 60 dolphin per vessel.

Option 3. Onboard charter vessels only, the recreational vessel limit is (*Sub-option 3a through 3e*), not to exceed the recreational bag limit per person, whichever is more restrictive:

Sub-option 3a. 30 dolphin per vessel.

Sub-option 3b. 36 dolphin per vessel.

Sub-option 3c. 42 dolphin per vessel.

Sub-option 3d. 48 dolphin per vessel.

Sub-option 3e. 60 dolphin per vessel.

Option 4. Onboard headboat vessels only, the recreational vessel limit is (*Sub-option 4a through 4e*), not to exceed the recreational bag limit per person, whichever is more restrictive:

Sub-option 4a. 30 dolphin per vessel.

Sub-option 4b. 36 dolphin per vessel.

Sub-option 4c. 42 dolphin per vessel.

Sub-option 4d. 48 dolphin per vessel.

Sub-option 4e. 60 dolphin per vessel.

Other vessel limit options?

Committee Action:

- PROVIDE GUIDANCE ON RANGE OF OPTIONS TO DEVELOP.

4. Modify captain and crew recreational daily bag limits for dolphin onboard charter vessels

- Currently captain and crew on for-hire vessels may retain a recreational bag limit of dolphin from a federal regulatory perspective.
 - Provided the recreational vessel limit is not exceeded.
 - There is an exception onboard headboats where the recreational bag limit is 10 dolphin per paying passenger (50 C.F.R. §622.277). In such a case captain and crew of vessels are not able to retain a recreational bag limit of dolphin.
- For-hire captain and crew recreational bag limits are also allowed in the Snapper Grouper and Coastal Migratory Pelagics fisheries.
 - Previously prohibited for some Snapper Grouper species but this prohibition was removed via Amendment 27 to the Snapper Grouper Fishery of the South Atlantic Region (effective January 2014).
 - Provides consistency of regulations across South Atlantic FMPs that require a for-hire permit.
- While the number of anglers on a recreational trip is recorded in Marine Recreational Information Program (MRIP) intercepts, captain and crew are not included in those angler counts.
 - In limited circumstances, this can lead to some level of uncertainty in displaying the distribution of the number of fish harvested per angler on a trip and determining the potential effects of changes to bag limits.
 - As exhibited in the Committee’s previous discussion of bag limit actions during development of Amendment 10.
 - Can be overcome by examining intercept-level data but assumptions still need to be made whether captain and crew bag limits were kept.

Previous Committee Direction to Staff:

- Continue consideration of removing or reducing captain and crew bag limits for dolphin only.
- Consider regional approach (Florida only).

Draft Options:

Option 1 (No Action). Captain and crew onboard charter vessels may retain a daily recreational bag limit of dolphin as long as the vessel limit is not exceeded.

Option 2. Onboard charter vessels only, captain and crew may retain a daily recreational bag limit of (*Sub-option 3a through 3e*), not to exceed the recreational vessel limit, whichever is more restrictive:

Sub-option 2a. 9 dolphin per person.

Sub-option 2b. 8 dolphin per person.

Sub-option 2c. 7 dolphin per person.

Sub-option 2d. 6 dolphin per person.

Sub-option 2e. 5 dolphin per person.

Option 3. Captain and crew onboard charter vessels may not retain a daily recreational bag limit.

Other captain and crew bag limit options?

Committee Action:

- PROVIDE GUIDANCE ON RANGE OF OPTIONS TO DEVELOP.

DRAFT MOTION: APPROVE REGULATORY AMENDMENT 2 (MINIMUM SIZE LIMIT AND RECREATIONAL RETENTION LIMITS FOR DOLPHIN) FOR SCOPING.

References:

Schwenke, K. L. and J.A. Buckel. 2008. Age, growth, and reproduction of dolphinfish (*Coryphaena hippurus*) caught off the coast of North Carolina. Fishery Bulletin 106: 82–92.

APPENDIX. Full text of 50 C.F.R. §622.281

§622.281 Adjustment of management measures.

In accordance with the framework procedures of the FMP for the Dolphin and Wahoo Fishery of the Atlantic, the RA may establish or modify the following items specified in paragraph (a) of this section for Atlantic dolphin and wahoo.

(a) Atlantic dolphin and wahoo. Biomass levels, age-structured analyses, MSY, OY, OFL, TAC, ABC, ABC Control Rule, ACLs, ACTs, AMs, trip limits, minimum sizes, gear regulations and restrictions, permit requirements, seasonal or area closures, sub-zones and their management measures, overfishing definitions and other status determination criteria, time frame for recovery of Atlantic dolphin or wahoo if overfished, fishing year (adjustment not to exceed 2 months), authority for the RA to close a fishery when a quota is reached or is projected to be reached or reopen a fishery when additional quota becomes available, definitions of essential fish habitat, and essential fish habitat HAPCs or Coral HAPCs.