

Discussion document on the economic effects of COVID-19 and potential responses including for-hire bag limit sales of dolphin

Introduction

Pandemic-related closures began in the South Atlantic region in mid-March 2020. As a result, fishermen, their communities, and fishing-related businesses have encountered unprecedented challenges. To begin to understand the impacts the pandemic has had on stakeholders in the region, the South Atlantic Fishery Management Council (Council) reached out to advisory panels and other interested parties with a request to provide information via an online form.

In addition, the Council later requested input, also via an online form, on possible short- and long-term changes to current management in the region that would help offset impacts from the pandemic on fishermen, communities, and fishing-related businesses. This document summarizes the input obtained from various stakeholders, including commercial, for-hire, and recreational fishermen, seafood dealers and wholesalers, and other persons involved in fishing-related activities and/or businesses.

Summary of Feedback

The summary presented here is from input obtained from May 15 through June 1. Fifteen individuals provided feedback and suggested the following potential changes to Council-managed fisheries. Suggestions are summarized by sector and include both short- and long-term recommendations.

Commercial Sector

- One stakeholder from North Carolina involved in commercial fishing recommended making no changes to commercial fishing regulations. However, he maintains there has been a delay in confirmation from logbook reporting and, consequently, he recommends an extension for permit renewals. He notes an increase in demand for 1-2 lb Vermilion Snapper. He claims that prices on larger species (e.g., grouper, King Mackerel and Greater Amberjack) are down by around 20% due to lack of demand since they are mostly sold to restaurants.
- One commercial representative from Florida recommended maintaining current commercial regulations.
- A commercial lobster fisher offered that recent declines in that fishery are tied to factors other than the current pandemic (e.g., tariffs, climate change) and offered no suggestions for management changes.

For-Hire Sector

- A charter fisherman from Florida suggested suspending the annual closure for Shallow Water Grouper and allowing fishing in the Warsaw Hole Spawning Special Management Zone.
- A fisherman from Florida who engages in commercial, for-hire, and recreational fishing suggested that the Council consider delaying the requirement for electronic reporting for charter vessels and headboats.

- A charter captain from South Carolina indicated that lengthening the red snapper season would be extremely helpful for his industry.
- A fisherman from Florida who engages in commercial, for-hire, and recreational fishing requested that the Council consider allowing bag-limit sale of dolphin by dual-permitted vessels. Such vessels may hold permits in limited-access commercial fisheries (snapper grouper and mackerel) or dolphin wahoo (open access) in addition to the federal charter/headboat permit.
- A charter captain from the Florida Keys suggested that the Council consider separating the for-hire sector from the recreational sector and allow for-hire operations to sell their catch, perhaps within a time limit.

Private Recreational Sector

- An angler from North Carolina suggested opening harvest of red grouper in the Carolinas in May in 2021. Recent regulatory changes extended the annual closure of red grouper off the Carolinas through May.
- A stakeholder recommended no specific short-term changes as he maintains the main impacts to private recreational anglers have stemmed from limited access to coastal areas, public boat ramps and marinas, etc.
- An angler from Florida recommends allowing fishing in closed areas as long as fishermen abide by current regulations.
- A private recreational angler from Florida offered that fisheries management should not change in response to the pandemic and the priority should always be maintaining sustainable and healthy fisheries based on sound science.
- A private recreational angler from North Carolina suggested extending recreational seasons if the pandemic were to continue to impact fishing into the future.

South Atlantic Council Response

At the June 2020 meeting, the South Atlantic Council requested two emergency actions to help fishermen impacted by the unforeseen global events of 2020. The Council requested that NOAA increase the Atlantic recreational King Mackerel possession limit to 4 per person coastwide and that NOAA increase the commercial trip limit for Vermilion Snapper to 1,500 lb gw for 180 days. These measures were requested in the context of remaining within the guidelines for emergency rule action and maintaining sustainable harvest (**Appendix 1**). Adjustments to management measures implemented via emergency action are intended to address immediate biological, economic, or social challenges affecting a fishery over a short time frame. As previously mentioned, a temporary rule would be effective for 180 days with the option to extend the rule for an additional 180 days. As such, only certain adjustments could be accomplished using this avenue. The formal letters requesting the actions for King Mackerel and Vermilion Snapper were sent to NOAA on July 1, 2020 and the emergency rules went into place September 17, 2020.

Discussion on For-Hire Bag Limit Sales of Dolphin

Background

The prohibition on bag limits sales of dolphin from for-hire trips was implemented as part of the Comprehensive Annual Catch Limit Amendment (Dolphin Wahoo Amendment 2) that became effective April 12, 2012. The Council’s conclusions for this action at the time were as follows:

“The South Atlantic Council decided to consider implementation of management measures for dolphin in order to ensure that the landings do not exceed the proposed ACL... **Alternative 2 (Preferred)** would ensure regulations are fair and equitable and fish harvested by the recreational sector are not counted toward commercial quotas. This would also improve the accuracy of total landings. With implementation of ACLs that would restrict catches for dolphin on recreational and commercial fishermen, the South Atlantic Council is concerned that when for-hire fishermen sell their catch to dealers, that poundage will be counted toward the commercial quota resulting in early filling of the commercial ACL. In addition, sales of bag limit fish may result in double counting if catches are reported through the MRFSS/MRIP and through commercial dealers. Therefore, the Council selected **Alternative 2 (Preferred)** to prohibit the sale of bag limit caught dolphin in the for-hire sector. In the past concern has been expressed that the fish sold makes up an important part of the mate’s income and if this was prohibited, the cost of a charter trip would have to be increased to cover the lost income. This could, in turn, result in a reduced number of trips as the price increases.”

To estimate the potential forgone income from prohibiting bag limit sales, the analysis for the action was as follows:

Table 1. Estimated foregone revenue due to prohibiting bag limit sales of dolphin from for-hire vessels. Note: This analysis was part of the Comprehensive Annual Catch Limit Amendment (Dolphin Wahoo Amendment 2).

Year	Trips				Revenue									
	EFL	GA	FL	Keys	NC	SC	Total	EFL	GA	FL	Keys	NC	SC	Total
2005	165		132		85		382	\$12,786		\$17,724		\$7,002		\$37,512
2006	117		178		126		421	\$8,584		\$32,127		\$16,034		\$56,745
2007	138		187		213		538	\$17,082		\$38,253		\$28,327		\$83,661
2008	184		214		180		578	\$20,555		\$32,867		\$20,581		\$74,003
2009	275		271		288		834	\$21,947		\$39,749		\$40,887		\$102,583
Avg.	176		196		178		551	\$16,191		\$32,144		\$22,566		\$70,901

Based on trips with a for-hire dolphin/wahoo (CDW) permit that caught at least one pound of dolphin, but less than the 60 fish boat limit in lbs (495lbs in GA-EFL and 533lbs in NC-SC). The trips and landings information are from the SE Logbook data and the prices are from the ALS data.

The Council has had similar concerns for the other managed finfish species such as those found within the Snapper Grouper and Coastal Migratory Pelagics FMPs. The Council has disallowed bag limit sales for those species as well to address their stated concerns and maintain regulatory consistency across the region and FMPs.

Previous Advisory Panel and Socio-Economic Panel Recommendations

Socio-Economic Panel

The Socio-Economic Panel (SEP) of the South Atlantic Council's Scientific and Statistical Committee has not directly provided recommendations on for-hire bag limit sales of dolphin. The SEP did note the following when updated on the actions being considered for Dolphin Wahoo Amendment 10 at their April 2019 meeting:

The SEP had no comments on most of the developing Council Actions. Regarding Dolphin Wahoo Amendment 10, the SEP recommended against the ban of bag limit sales in Coastal Migratory Pelagics Amendment 19, noting in its October 2012 report that:

“bag limit sales allow additional economic value since the commercial value is added to the recreational value. An elimination of the bag limit sales might lead to illicit sale of landed fish as well as the loss of important data on these landings. There is little justification for prohibiting the sale of landed fish. The panel recognizes that there may be cause for compensation to the commercial sector if there is damage caused by these bag limit sales in the form of reduced available catches or downward price pressure. There are many potential remedies to this damage involving transfers in sector apportionment of allowable catches or monetary transfers.”

Dolphin Wahoo AP

The Dolphin Wahoo AP discussed allowing for-hire bag limit sales of dolphin during their April 21, 2017 meeting. The AP made the following comments and recommendations:

- A previous meeting was held with Southeastern Fisheries Association where both recreational and commercial interests agreed on endorsing bag limit sales from for-hire trips as long as the landings went against the recreational quota and not the commercial quota. Also, vessels should be dually permitted (commercial and recreational) and all sales should be through a licensed dealer.
- Bag limit sales will not likely affect the fishery or stock.
- Often end up with multiple trips where customers do not want to take home all of the fish landed and it becomes difficult to deal with the extra fish that is left behind from multiple trips.
- Provides extra income for fishermen and good local product for local restaurants and seafood markets.
- Allowing sales to offset charter fees is bad for the charter business as it undercuts fair market rates.
- Customers are charged full rate regardless of whether sales are allowed.
- At times could be used as an incentive for crew to work harder and helps supplement income, especially for the crew.
- Consider a geographic component since it seems to be a popular idea in the Keys and South Florida but may not be well received in the Carolinas.
- Potentially allow Florida to be a pilot project before opening it up to the entire Atlantic region.
- Consider giving more ACL to the commercial sector if bag limit sales are allowed or make sure it comes directly out of the recreational ACL, since the commercial sector is already coming close to their allocation in recent years.

- Allowing bag limit sales does add incentive to keep more fish on a trip which may increase effort and landings.
- Allowing for-hire bag limit sales will decrease black market sales of dolphin and allow for the catch to be logged.

MOTION: IN FLORIDA ONLY, REINSTATE CHARTERBOAT FISH SALES FOR PROPERLY PERMITTED VESSELS TO BE ABLE TO SELL BAG LIMIT ONLY QUANTITIES OF DOLPHIN AND WAHOO TO A LICENSED DEALER. SOLD LANDINGS WOULD COME FROM THE RECREATIONAL ACL. 8 IN FAVOR; 2 ABSTAIN

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Mackerel Cobia AP

The Mackerel Cobia AP discussed allowing for-hire bag limit sales during their April 18, 2019 meeting. The AP made the following comments and recommendations:

- The Council should not allow bag limit sales of dolphin (or any South Atlantic Council managed species) by dually permitted for-hire and commercial permit holders.
- However, if bag limit sales of dolphin are allowed, for-hire sales should be allowed for all Council managed species, including king and Spanish mackerel.
- It is unfair to allow some vessels access to an additional revenue stream that other vessels in the area will not have access to creating an unfair advantage.
- When bag limit sales were allowed in the past, fishermen along the east coast of Florida sold more king mackerel than dolphin.
- Concerns about HAACP regulations being met.

MOTION: RECOMMEND THE COUNCIL NOT CONSIDER FOR-HIRE SALES FOR ANY SAFMC MANAGED SPECIES. IF FOR-HIRE SALES ARE ALLOWED FOR ONE SPECIES IT SHOULD BE ALLOWED FOR ALL SPECIES.

MOTION APPROVED (10 IN FAVOR – 1 ABSTENTION)

Where the topic currently stands

After suspending the development of Amendment 10 to the Dolphin Wahoo FMP pending availability of revised recreational data from the Marine Recreational Information Program, the Council directed staff at the December 2018 meeting to start work again on Amendment 10 with the inclusion of an action that would allow bag limit sales of dolphin for dually permitted for-hire and commercial permit holders. The Council continued to develop this action until the June 2019 meeting, where the Council voted to remove the action from the amendment to help streamline the amendment. In doing so, the Council noted that there were considerable potential benefits to allowing bag limit sales of dolphin, but also noted that there were likely several additional decision points associated with the action that would need to be made and expressed concerns over potential double counting of landings, additional pressure on the commercial

ACL, and inequities, both regulatory and competitive, that could be created by only allowing for-hire bag limit sales of dolphin.

The topic is not currently being actively considered by the Council in an amendment to the Dolphin Wahoo FMP. As stated earlier, removing the prohibition on for-hire bag limit sales has been mentioned as a way to mitigate some of the economic harm that has occurred due to COVID-19. In this context, the Dolphin Wahoo AP is asked to address the following questions to help advise the Council should consideration of for-hire bag limit sales of dolphin occur in the future and to help identify whether there are other economic relief measures that the Council should be considering.

Discussion questions:

1. Are there benefits not previously outline by the AP that may occur from allowing bag limit sales of dolphin? (I.e. additional income for for-hire business and crew, helps retain crew and incentive to work harder, fresh local product for restaurants, and decrease black market sales/better accounting of all fish harvested)
2. If the Council were to pursue allowing bag limit sales of dolphin, are there suggestions for addressing or overcoming some of the identified challenges? (I.e. potential double counting of landings, additional pressure on commercial ACL, inequities over level regulatory playing field and for-hire businesses that do not have access to dolphin but may be within the same market as vessels that do readily have access to dolphin, potential downward pressure on charter fees)
3. Are there other measures that the Council should consider pursuing to help alleviate some of the economic hardship that has occurred from the effects of COVID-19 on the fishing industry (recreational and commercial)? If so, should these be temporary or permanent?

Appendix 1. Guidelines for Emergency Action

In 1997, the National Marine Fisheries Service issued guidelines to assist Councils in determining whether use of emergency action is justified under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Emergency authority is intended to address conservation, biological, economic, social, and health emergencies. In addition, according to the guidelines: “emergency regulations may make direct allocations among user groups, if strong justification and administrative record demonstrates that, absent emergency regulation, substantial harm will occur to one or more segments of the fishing industry.” Below is the rationale, criteria and justification included in the guidelines.

Rationale

1. The Secretary may promulgate emergency regulations to address an emergency if the Secretary finds that an emergency or overfishing exists, without regard to whether a fishery management plan exists for that fishery;
2. The Secretary shall promulgate emergency regulations to address the emergency or overfishing if the Council, by a unanimous vote of the voting members, requests the Secretary to take such action;
3. The Secretary may promulgate emergency regulations to address the emergency or overfishing if the Council, by less than a unanimous vote of its voting members, requests the Secretary to take such action; and
4. The Secretary may promulgate emergency regulations that respond to a public health emergency or an oil spill. Such emergency regulations may remain in effect until the circumstance that created the emergency no longer exist, provided that the public has had an opportunity to comment on the regulation after it has been published, and in the case of a public health emergency, the Secretary of Health and Human Services concurs with the Secretary’s action.

Criteria

The phrase “an emergency exists involving any fishery” is defined as a situation that:

1. Results from recent, unforeseen events or recently discovered circumstances; and
2. Presents serious conservation or management problems in the fishery; and
3. Can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process.

Justification

If the time it would take to complete notice-and-comment rulemaking or complete a fishery management plan or amendment would result in substantial damage or loss to a living marine resource, habitat, fishery, industry participants or communities, or substantial adverse impacts to the public health, emergency action might be justified under one or more of the following situations:

1. Ecological: to prevent overfishing as defined in a Fishery Management Plan (FMP), or as defined by the Secretary in the absence of an FMP, or to prevent other serious damage to the fishery resource or habitat; or

2. Economic: to prevent significant direct economic loss or preserve a significant economic opportunity that otherwise might be foregone; or
3. Social: to prevent significant community impacts or conflict between user groups; or
4. Public Health: to prevent significant adverse effects to health of participants in a fishery or to the consumers of seafood products.