

the combined dolphin and wahoo commercial and recreational landings are from the west coast of Florida. Of the two species, dolphin dominate the landings, and Florida has regulations in place that restrict the commercial harvest of dolphin to hook-and-line fishing in state waters (where most of the harvest occurs), thus limiting the potential for user group conflicts. Similarly, catches and landings for both dolphin and wahoo in the Caribbean are minimal compared to the catches in the other areas, and in many instances, the catches are incidental to the catch of targeted species such as billfishes.

Therefore, NMFS sought comment on the SAFMC proposal from the affected Councils and the general public. In letters to the GMFMC, CFMC, MAFMC, and NEFMC, dated October 22, 2002, NMFS presented the SAFMC proposal and NMFS' reasons, outlined above, for supporting the proposal. Three of the four Councils responded in support of the SAFMC proposal; the fourth Council did not respond. Additionally, NMFS published a **Federal Register** notice (67 FR 70214, November 21, 2002) seeking public comment on the SAFMC proposal. Eleven letters of comment were received from the public (see Comments and Responses below).

Based on responses from the other affected Councils and public comment, NMFS, on behalf of the Secretary, under the procedures of the Magnuson-Stevens Act, has designated the SAFMC as the lead Council to develop an FMP for the fisheries for dolphin and wahoo in the U.S. Atlantic EEZ. Under this designation the MAFMC and NEFMC would continue to serve in an advisory capacity to the SAFMC. Once completed, the dolphin/wahoo FMP or subsequent amendments would be submitted for Secretarial review, approval, and implementation.

Additionally, it will be necessary to remove the U.S. Atlantic Ocean component of the dolphin stock from management in the Coastal Migratory Pelagics (CMP) FMP. The CMP FMP is implemented under authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622. The CMP FMP is a joint plan involving both the GMFMC and SAFMC, and species in the fishery include king mackerel, Spanish mackerel, cero, cobia, dolphin, little tunny, and bluefish in the Gulf of Mexico. Presently, the only regulations in the CMP FMP that pertain to dolphin are those that specify authorized fishing gears in the Atlantic and Gulf of Mexico EEZ. Removal of the U.S. Atlantic component of the dolphin stock from the CMP FMP would require a plan amendment and would have to be

approved by a majority of the voting members, present and voting, of both the SAFMC and GMFMC.

Comments and Responses

In addition to three letters in support of the SAFMC proposal from Councils, eleven letters of comment were received from the public. Four letters commented only on specific management actions that have been proposed by SAFMC and three letters based their comments on the proposed re-designation by questioning the appropriateness of the SAFMC's proposed management actions. NMFS appreciates the input of these informed fishery participants regarding proposed management actions for the dolphin and wahoo fisheries. Nevertheless, comments on the proposed management measures are beyond the scope of this request for comments, and are not addressed here. When the SAFMC submits the FMP for the dolphin and wahoo fisheries for review by the Secretary, NMFS will provide the public with the opportunity to comment on the proposed management actions.

Comment 1: One comment supported the designation of the U.S. Atlantic coast as a justified alternate management unit. Given that the proposed FMP for the dolphin and wahoo fisheries is not designed to control fishing mortality but to maintain status quo in a healthy fishery, fishing on the unmanaged portion of the stock in the Gulf of Mexico and Caribbean regions will not materially effect the SAFMC goals.

Response: NMFS still believes that a jointly developed FMP would best meet Magnuson-Stevens Act requirements to manage stocks throughout their ranges. Nevertheless, NMFS recognizes that the NSGs allow for alternative management units, encompassing a portion of the range of the stocks, if complementary management is planned for other geographic areas or if the unmanaged portions of the stocks are immaterial to proper management within the area under consideration for the alternate management unit, especially if designated alternate management units are specifically relevant to the FMP's objectives. In the case of the dolphin and wahoo FMP, social and economic issues are identified as the SAFMC's primary objectives in the FMP. No similar economic and social issues requiring management have been identified by the GMFMC or CFMC for their respective areas of jurisdiction. Therefore, NMFS, on behalf of the Secretary, is approving the SAFMC request.

Comment 2: One commenter opposed the SAFMC request to manage beyond their specific area of jurisdiction (North Carolina to the Florida Keys) to include the entire U.S. Atlantic coast.

Response: Under the existing designation by the Secretary (64 FR 33468, June 23, 1999) to develop a joint FMP, the SAFMC already has the authority to manage these stocks in the U.S. Atlantic region. The MAFMC and NEFMC agreed not to manage the stocks directly, but to serve in an advisory capacity to the SAFMC. Thus, designating the SAFMC to develop an FMP for dolphin and wahoo fisheries along the U.S. Atlantic coast does not alter the existing range of the SAFMC jurisdiction for these fisheries, nor the ability to establish management measures for that specific region.

Comment 3: Six comments were received suggesting that the SAFMC's membership gives preference to the recreational sector, and without representation of the commercial pelagic longline fishery, the SAFMC would not manage the dolphin and wahoo stocks fairly and equitably among all fishing sectors. To best address management of these species that have distributions extending beyond any one Council's geographical area of authority, dolphin and wahoo should be managed as highly migratory species (HMS) by NMFS in conjunction with the International Commission for the Conservation of Atlantic Tunas and all the affected Councils. If NMFS does not assume authority to manage these species as HMS, the current five-council process should be maintained to ensure fair and equitable management throughout the range of the stocks.

Response: NMFS disagrees with the comments alleging bias in the composition and position of the South Atlantic Council membership. In approving candidates for Council membership, the Secretary and his designees endeavor to balance equitably the representation of diverse user groups and resource managers.

As for ensuring fair and equitable management, it is NMFS' responsibility to ensure that any management measures developed under an FMP and its amendments comply fully with the national standards, other provisions of the Magnuson-Stevens Act, and other applicable law before these measures would be approved and implemented.

Additionally, some of these commenters appeared to misunderstand the existing June 23, 1999, designation by the Secretary (64 FR 33468) to develop a joint FMP. It is true that the FMP would have needed approval by a majority of the voting members, present