

Amendments 3 to the St. Croix Fishery and St. Thomas and St. John Fishery Management Plans: New Management Measures for Dolphin and Wahoo



181st Caribbean Fishery Management Council

Briefing Book Version

April 2023



Abbreviations and Acronyms Used in this Document

ACL	annual catch limit
AM	accountability measure
CEA	cumulative effects analysis
CFMC	(Council); Caribbean Fishery Management Council
DAP	District Advisory Panel
DNER	Department of Natural and Environmental Resources (Puerto Rico)
DPNR	Department of Planning and Natural Resources (United States Virgin Islands)
EA	environmental assessment
EEZ	exclusive economic zone
FMP	fishery management plan
MSA	(Magnuson-Stevens Act); Magnuson-Stevens Fishery Conservation and Management Act
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
SEFSC	Southeast Fisheries Science Center
USVI	United States Virgin Islands

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Fishery Impact Statement (in progress)

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires a Fishery Impact Statement (FIS) be prepared for all Fishery Management Plans (FMP) and amendments. The FIS contains an assessment of the likely biological, social, and economic effects of the conservation and management measures on: (1) fishery participants and their communities; (2) participants in the fisheries conducted in adjacent areas under the authority of another Council; and (3) the safety of human life at sea. Detailed discussion of the expected effects for all proposed alternatives will be provided in Chapter 4. The FIS provides a summary of these effects.

Assessment of Biological Effects

Assessment of Economic Effects

Assessment of Social Effects

Assessment of Effects on Participants in Fisheries Conducted in Adjacent Areas Under the Authority of Another Fishery Management Council

Assessment of Effects on Safety at Sea

Chapter 1. Introduction

1.1 What Actions are Being Proposed?

At their August 2022 meeting, the Caribbean Fishery Management Council (Council) requested staff prepare an amendment to the Comprehensive Fishery Management Plan (FMP) for the Puerto Rico Exclusive Economic Zone (EEZ) (Puerto Rico FMP), the Comprehensive FMP for the St. Croix EEZ (St. Croix FMP), and the Comprehensive FMP for the St. Thomas and St. John EEZ (St. Thomas/St. John FMP) to develop additional management measures for select pelagic stocks and stock complexes. At their December 2022 meeting, the Council revised the request to first develop an amendment to the St. Croix FMP and St. Thomas/St. John FMP, which would include management measures for two pelagic stocks, and then a subsequent amendment to the Puerto Rico FMP, which would include management measures for seven pelagic stocks.

Amendment 3 to the St. Croix FMP and Amendment 3 to the St. Thomas/St. John FMP (collectively Amendments 3) would establish size limits, recreational bag limits, and commercial trip limits for dolphin (*Coryphaena hippurus*) and wahoo (*Acanthocybium solandri*) in federal waters around each island management area.

1.2 Why is the Council Considering Action?

Dolphin and wahoo are new to federal fisheries management under the St. Croix FMP and St. Thomas/St. John FMP. The Council recognized the economic importance of these stocks within the region and included them for management under each FMP, even though, given their migratory nature, they are exposed to harvest pressure across a wide area of the Atlantic Ocean. Each FMP established an annual catch limit (ACL), annual catch target (ACT), and accountability measures (AM) for the two pelagic stocks (Appendix A), but did not establish other management measures such as size limits, recreational bag limits, or commercial trip limits.

The Council is considering bag limits and trip limits to help regulate the harvest of dolphin and wahoo and to size limits to reduce catch of small individuals from federal waters. The Council recommends management measures and sends them to the National Marine Fisheries Service (NMFS)¹ who ultimately approves, disapproves, or partially approves, and implements the actions in the amendment through the development of regulations on behalf of the Secretary of Commerce.

¹ NMFS is a line office in the National Oceanic and Atmospheric Administration within the Department of Commerce.

The U.S. Virgin Islands Department of Planning and Natural Resources (DPNR) recently drafted rules and regulations for recreational fishing that included a combined bag limit for recreational catch of dolphin and wahoo in state waters around St. Croix and St. Thomas/St. John. The regulations, which have not been implemented yet, set a combined recreational catch limit of no more than 10 dolphinfish or wahoo, per person, per day, not to exceed 32 per vessel per day, and not to exceed 4 wahoo per person, per day, or 20 wahoo per vessel, per day. The Council could consider compatible regulations for dolphin and wahoo in federal waters around St. Croix and St. Thomas/St. John.

Versions of the draft amendment will be available during Council meetings. The final amendment will be available during the public comment period on the proposed rule. All versions of the document will be available on the Council and NMFS Southeast Regional Office websites.

1.3 Where Will the Action Have an Effect?

Under the St. Croix and St. Thomas/St. John FMPs, the Council is responsible for managing fishery resources, including dolphin and wahoo, in federal waters (Figure 1.1). Federal waters around St. Croix and St. Thomas/St. John extend 3-200 nautical miles (6-370 kilometers) from the shore of the respective island or island group to the outer boundary of the U.S. Caribbean EEZ.

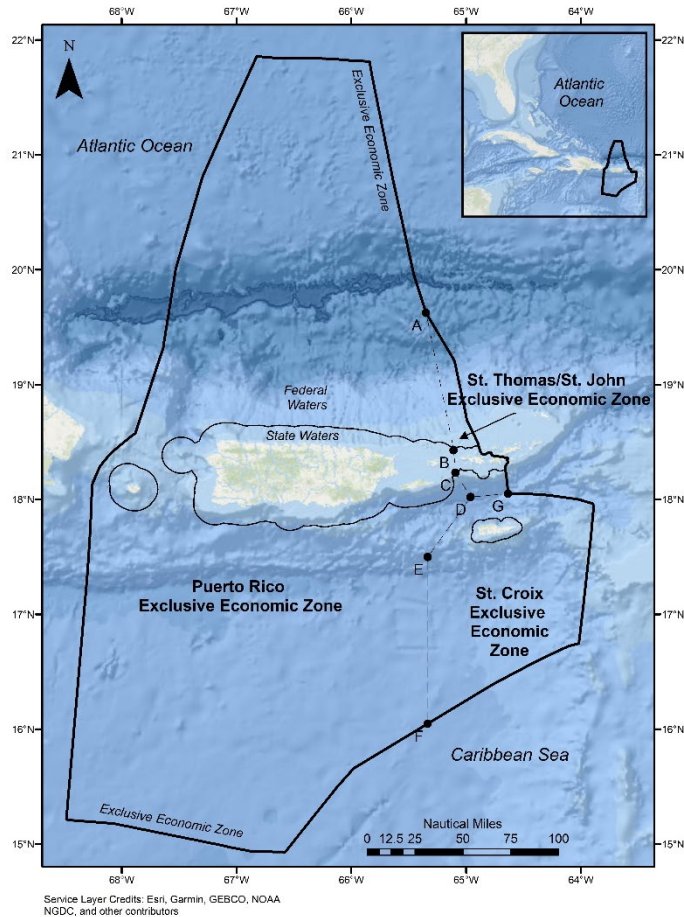


Figure 1.1. U.S. Caribbean region with boundaries between the Puerto Rico, St. Croix, and St. Thomas/St. John management areas.

1.4 Statement of Purpose and Need

The purpose of Amendment 3 is to establish size limits, recreational bag limits, and commercial trip limits for dolphin and wahoo under the St. Croix FMP and the St. Thomas/St. John FMP.

The need for Amendment 3 to develop conservation and management measures for dolphin and wahoo to ensure undersized individuals adequate time to mature and reproduce and, consistent with the Magnuson-Stevens Act and its National Standards, to protect against overfishing or prevent ACLs from being exceeded, while achieving optimum yield.

1.5 History of Federal Fisheries Management

The St. Croix FMP (CFMC 2019a) and the St. Thomas/St. John FMP (CFMC 2019b) established management measures for federal waters around each island or island group. The FMPs identified species to be managed in federal waters and if those species would be managed as a

single stock or in a stock complex; specified management reference points for the stocks and stock complexes; updated accountability measures; described essential fish habitat for managed species; and updated FMP framework procedures. The FMPs included some management measures that were established under the previous U.S. Caribbean-wide FMPs applicable to the respective island management area (e.g., seasonal and area closures). The Secretary of Commerce approved the FMPs in September 2020, and regulations implementing the FMPs were effective on October 13, 2022 ([87 FR 56204](#); September 13, 2022). Management measures applicable to dolphin and wahoo under the St. Croix and St. Thomas/St. John FMPs include:

- Finfish in or from the Caribbean EEZ² must be maintained with head and fins intact ([50 CFR 622.10\(a\)](#));
- From March 1 - June 30, fishing is prohibited in those parts of the mutton snapper spawning aggregation area that are in the EEZ around St. Croix ([50 CFR 622.479\(a\)\(1\)](#));
- From December 1 - the last day of February, fishing is prohibited in the red hind spawning aggregation area east of St. Croix ([50 CFR 622.479\(a\)\(2\)](#));
- From February 1 - April 30, no person may fish for or possess any species of fish, except highly migratory species, in or from the Grammanik Bank ([50 CFR 622.514\(a\)\(1\)](#));
- Fishing for any species and anchoring by fishing vessels is prohibited year-round in those parts of the Hind Bank Marine Conservation District that are in the EEZ around St. Thomas ([50 CFR 622.514\(a\)\(2\)](#));
- ACLs and ACTs were specified for dolphin and wahoo ([50 CFR 622.480\(b\)](#) and [50 CFR 622.515\(b\)](#)); and
- AMs for dolphin and wahoo: At or near the beginning the fishing year, landings will be evaluated relative to the ACT for the stock based on a moving multi-year average of landings. If NMFS estimates that landings have exceeded the ACT, NMFS in consultation with the Council will determine appropriate corrective action ([50 CFR 622.480\(b\)\(3\)](#) and [50 CFR 622.515\(b\)\(3\)](#)).

The Council is drafting Amendment 2 to the St. Croix FMP and Amendment 2 to the St. Thomas/St. John FMP (Trawl and Net Gear and Descending Devices) to prohibit the use of trawl gear (bottom and mid-water trawls), and certain types of drift net gear (gillnets, trammel nets, and purse seines) in U.S. Caribbean federal waters. Amendment 2 could impact fishermen in St. Croix and St. Thomas/St. John who target dolphin and wahoo using those gear types.

² There are exceptions for “bait” and consumption at sea.

Chapter 2. Proposed Actions

2.1 Action 1: Establish new management measures for dolphin in federal waters around St. Croix

2.1.1 Action 1(a). Establish a minimum size limit for dolphin applicable to all fishing (commercial and recreational)

Alternative 1. No Action. There is no minimum size limit for the commercial or recreational harvest of dolphin in federal waters around St. Croix.

Alternative 2. Establish a 20” fork length minimum size limit for dolphin in federal waters.

Alternative 3. Establish a 24” fork length minimum size limit for dolphin in federal waters.

Discussion

Alternative 1 would not establish a size limit for dolphin in federal waters around St. Croix and fishing methods could continue as they are and all sizes of dolphin could be removed.

Alternative 2 would establish a 20” fork length size limit, which would correspond to size at which approximately 50% of females are mature (i.e., capable of reproducing).³ **Alternative 3** would establish a 24” fork length size limit, which would correspond to size at which approximately all females are mature.³ Compared to **Alternative 1**, **Alternatives 2** and **3** would leave more undersized fish in the water, allowing more time for them to reach maturity and a chance to reproduce. However, **Alternatives 2** and **3** could both have a greater level of regulatory discards associated with them.

2.1.2 Action 1(b). Establish a recreational bag limit for dolphin.

Alternative 1. No Action. There are no bag limits for the recreational harvest of dolphin in federal waters around St. Croix.

Alternative 2. Establish a recreational bag limit of 10 dolphin per person per day, not to exceed 32 dolphin per vessel per day, whichever is less.

Alternative 3. Establish a recreational bag limit of xx dolphin per person per day, not to exceed XX dolphin per vessel per day, whichever is less. (*limits to be determined [TBD]*)

Discussion

Alternative 1 would not establish a recreational bag limit for dolphin in federal waters around St. Croix and all dolphin caught could be removed. **Alternative 2** would establish a daily bag

³ Perez, R.N. and Y. Sadovy. 1991. <http://proceedings.gcfi.org/proceedings/preliminary-data-on-landing-records-and-reproductive-biology-of-coryphaena-hippurus-l-in-puerto-rico/>

limit of 10 per person/32 per vessel, which would be compatible with new regulations established by the U.S. Virgin Islands' (USVI) Department of Planning and Natural Resources (DPNR) that apply to territorial waters off St. Croix. The new DPNR regulations have not been implemented yet. Compared to **Alternative 1**, **Alternative 2** could result in greater biomass of dolphin available (i.e., more dolphin would be left in the water) if recreational fishermen regularly catch and keep more than 10 dolphin per day. However, **Alternative 2** could result in increased discards if recreational fishermen catch and release dolphin during their fishing activities in an effort to catch a desired fish (e.g., a larger sized fish). As the bag limit under **Alternative 2** would be compatible with state regulations, this alternative would have the greatest benefit for enforcement agencies.

If the Council recommends a more restrictive bag limit for **Alternative 3** (e.g., 5 per person/16 per vessel) compared to **Alternative 2**, then the amount of fish left in the water and the potential number of discards would be greater than under **Alternatives 2** and **1**. If the Council recommends a less restrictive bag limit for **Alternative 3** (e.g., 30 per person/60 per vessel) compared to **Alternative 2**, then the amount of fish left in the water and the potential number of discards would be greater than under **Alternative 1** but less than the amounts under **Alternative 2**.

2.1.3 Action 1(c). Establish a commercial trip limit for dolphin.

Alternative 1. No Action. There are no trip limits for the commercial harvest of dolphin in federal waters around St. Croix.

Alternative 2. Establish a commercial trip limit of x,xxx pounds of dolphin per trip. (*limit TBD*)

Alternative 3. Establish a commercial trip limit of x,xxx pounds of dolphin per trip. (*limit TBD*)

Discussion

Alternative 1 would not establish a commercial trip limit for dolphin in federal waters around St. Croix. Management of commercial harvest would continue through annual catch limit (ACL) monitoring and accountability measures (AM) already in place. If the Council recommended commercial trip limits for dolphin (**Alternative 2** and or **Alternative 3**), then fishermen would potentially need to adjust their fishing methods. Under the action alternatives, the annual catch of dolphin would still limited to the ACL, but the rate of harvest could be lower. **Alternatives 2** and **3**, if developed, could impact fishing methods and effort, requiring fishermen to make more trips to catch the same amount of fish per year. Conversely, if fishing effort for dolphin in St. Croix was predicted to increase due to the lifting of the moratorium on commercial fishing licenses in the USVI, then establishing a commercial trip limit under **Alternative(s) 2** or **3** could help reduce an exceedance of the dolphin ACL and could avoid an AM from being triggered and/or applied.

2.2 Action 2: Establish new management measures for wahoo in federal waters around St. Croix

2.2.1 Action 2(a). Establish a minimum size limit for wahoo applicable to all fishing (commercial and recreational)

Alternative 1. No Action. There is no minimum size limit for the commercial or recreational harvest of wahoo in federal waters around St. Croix.

Alternative 2. Establish a 32” fork length minimum size limit for wahoo in federal waters.

Alternative 3. Establish a 40” fork length minimum size limit for wahoo in federal waters.

Discussion

Alternative 1 would not establish a size limit for wahoo in federal waters around St. Croix and fishing methods could continue as they are and all sizes of wahoo could be removed.

Alternative 2 would establish a 32” fork length size limit, which would correspond to size at which approximately 25% of females are mature (i.e., capable of reproducing).⁴ **Alternative 3** would establish a 40” fork length size limit, which would correspond to size at which approximately all females are mature. Compared to **Alternative 1**, **Alternatives 2** and **3** would leave more undersized fish in the water, allowing more time for them to reach maturity and a chance to reproduce. However, **Alternatives 2** and **3** could both have a greater level of regulatory discards associated with them.

2.2.2 Action 2(b). Establish a recreational bag limit for wahoo.

Alternative 1. No Action. There are no bag limits for the recreational harvest of wahoo in federal waters around St. Croix

Alternative 2. Establish a recreational bag limit of 4 wahoo per person per day, not to exceed 20 wahoo per vessel per day, whichever is less.

Alternative 3. Establish a recreational bag limit of xx wahoo per person per day, not to exceed XX wahoo per vessel per day, whichever is less. (*limits TBD*)

Discussion

Alternative 1 would not establish a recreational bag limit for wahoo in federal waters around St. Croix and all wahoo caught could be removed. **Alternative 2** would establish a daily bag limit of 4 per person/20 per vessel, which would be compatible with new regulations established by the USVI’s DPNR. The new DPNR regulations have not been implemented yet. Compared to

⁴ Figuerola-Fernandez et al. 2008. <https://www.drna.pr.gov/historico/oficinas/arn/recursosvivientes/negociado-de-pesca-y-vida-silvestre/laboratorio-de-investigaciones-pesqueras-1/publicaciones/Informe%20Final%20F48%20revisado.pdf>

Alternative 1, Alternative 2 could result in greater biomass of wahoo available (i.e., more wahoo would be left in the water) if recreational fishermen regularly catch and keep more than 4 wahoo per day. However, **Alternative 2** could result in increased discards if recreational fishermen catch and release wahoo during their fishing activities in an effort to catch a desired fish (e.g., a larger sized fish). As the bag limit under **Alternative 2** would be compatible with state regulations, this alternative would have the greatest benefit for enforcement agencies.

If the Council recommends a more restrictive bag limit for **Alternative 3** (e.g., 2 per person/5 per vessel) compared to **Alternative 2**, then the amount of fish left in the water and the potential number of discards would be greater than under **Alternatives 2 and 1**. If the Council recommends a less restrictive bag limit for **Alternative 3** (e.g., 10 per person/30 per vessel) compared to **Alternative 2**, then the amount of fish left in the water and the potential number of discards would be greater than under **Alternative 1** but less than the amounts under **Alternative 2**.

2.2.3 Action 2(c). Establish a commercial trip limit for wahoo.

Alternative 1. No Action. There are no trip limits for the commercial harvest of wahoo in federal waters around St. Croix.

Alternative 2. Establish a commercial trip limit of x,xxx pounds of wahoo per trip. (*limit TBD*)

Alternative 3. Establish a commercial trip limit of x,xxx pounds of wahoo per trip. (*limit TBD*)

Discussion

Alternative 1 would not establish a commercial trip limit for wahoo in federal waters around St. Croix. Management of commercial harvest would continue through ACL monitoring and AMs already in place. If the Council recommended commercial trip limits for wahoo (**Alternative 2** and or **Alternative 3**), then fishermen would potentially need to adjust their fishing methods. Under the action alternatives, the annual catch of wahoo would still limited to the ACL, but the rate of harvest could be lower. **Alternatives 2 and 3**, if developed, could impact fishing methods and effort, requiring fishermen to make more trips to catch the same amount of fish per year. Conversely, if fishing effort for wahoo in St. Croix was predicted to increase due to the lifting of the moratorium on commercial fishing licenses in the USVI, then establishing a commercial trip limit under **Alternative(s) 2 or 3** could help reduce an exceedance of the wahoo ACL and could avoid an AM from being triggered and/or applied.

2.3 Action 3: Establish new management measures for dolphin in federal waters around St. Thomas and St. John

2.3.1 Action 3(a). Establish a minimum size limit for dolphin applicable to all fishing (commercial and recreational)

Alternative 1. No Action. There is no minimum size limit for the commercial or recreational harvest of dolphin in federal waters around St. Thomas/St. John.

Alternative 2. Establish a 20” fork length minimum size limit for dolphin in federal waters.

Alternative 3. Establish a 24” fork length minimum size limit for dolphin in federal waters.

Discussion

Alternative 1 would not establish a size limit for dolphin in federal waters around St. Thomas/St. John and fishing methods could continue as they are and all sizes of dolphin could be removed. **Alternative 2** would establish a 20” fork length size limit, which would correspond to size at which approximately 50% of females are mature (i.e., capable of reproducing).⁵

Alternative 3 would establish a 24” fork length size limit, which would correspond to size at which approximately all females are mature.⁵ Compared to **Alternative 1**, **Alternatives 2** and **3** would leave more undersized fish in the water, allowing more time for them to reach maturity and a chance to reproduce. However, **Alternatives 2** and **3** could both have a greater level of regulatory discards associated with them.

2.3.2 Action 3(b). Establish a recreational bag limit for dolphin.

Alternative 1. No Action. There are no bag limits for the recreational harvest of dolphin in federal waters around St. Thomas/St. John.

Alternative 2. Establish a recreational bag limit of 10 dolphin per person per day, not to exceed 32 dolphin per vessel per day, whichever is less.

Alternative 3. Establish a recreational bag limit of 5 dolphin per person per day, not to exceed 30 dolphin per vessel per day, whichever is less.

Discussion

Alternative 1 would not establish a recreational bag limit for dolphin in federal waters around St. Thomas/St. John and all dolphin caught could be removed. **Alternative 2** would establish a daily bag limit of 10 per person/32 per vessel, which would be compatible with new regulations established by the USVI’s DPNR. The new DPNR regulations have not been implemented yet.

⁵ Perez, R.N. and Y. Sadovy. 1991. <http://proceedings.gcfi.org/proceedings/preliminary-data-on-landing-records-and-reproductive-biology-of-coryphaena-hippurus-l-in-puerto-rico/>

Compared to **Alternative 1**, **Alternative 2** could result in greater biomass of dolphin available (i.e., more dolphin would be left in the water) if recreational fishermen regularly catch and keep more than 10 dolphin per day. However, **Alternative 2** could result in increased discards if recreational fishermen catch and release dolphin during their fishing activities in an effort to catch a desired fish (e.g., a larger sized fish). As the bag limit under **Alternative 2** would be compatible with state regulations, this alternative would have the greatest benefit for enforcement agencies.

The bag limit for **Alternative 3** is more restrictive when compared to the bag limit for **Alternative 2**, thus both the amount of fish left in the water and the potential number of discards could be greater than under **Alternatives 2** and **1**.

2.3.3 Action 3(c). Establish a commercial trip limit for dolphin.

Alternative 1. No Action. There are no trip limits for the commercial harvest of dolphin in federal waters around St. Thomas/St. John.

Alternative 2. Establish a commercial trip limit of x,xxx pounds of dolphin per trip. (*limit TBD*)

Alternative 3. Establish a commercial trip limit of x,xxx pounds of dolphin per trip. (*limit TBD*)

Discussion

Alternative 1 would not establish a commercial trip limit for dolphin in federal waters around St. Thomas/St. John. Management of commercial harvest would continue through ACL monitoring and AMs already in place. If the Council recommended commercial trip limits for dolphin (**Alternative 2** and or **Alternative 3**), then fishermen would potentially need to adjust their fishing methods. Under the action alternatives, the annual catch of dolphin would still limited to the ACL, but the rate of harvest could be lower. **Alternatives 2** and **3**, if developed, could impact fishing methods and effort, requiring fishermen to make more trips to catch the same amount of fish per year. Conversely, if fishing effort for dolphin in St. Thomas/St. John was predicted to increase due to the lifting of the moratorium on commercial fishing licenses in the USVI, then establishing a commercial trip limit under **Alternative(s) 2** or **3** could help reduce an exceedance of the dolphin ACL and could avoid an AM from being triggered and/or applied.

2.4 Action 4: Establish new management measures for wahoo in federal waters around St. Thomas and St. John

2.4.1 Action 4(a). Establish a minimum size limit for wahoo applicable to all fishing (commercial and recreational)

Alternative 1. No Action. There is no minimum size limit for the commercial or recreational harvest of wahoo in federal waters around St. Thomas/St. John.

Alternative 2. Establish a 32” fork length minimum size limit for wahoo in federal waters.

Alternative 3. Establish a 40” fork length minimum size limit for wahoo in federal waters.

Discussion

Alternative 1 would not establish a size limit for wahoo in federal waters around St. Thomas/St. John and fishing methods could continue as they are and all sizes of wahoo could be removed.

Alternative 2 would establish a 32” fork length size limit, which would correspond to size at which approximately 50% of females are mature (i.e., capable of reproducing).⁶ **Alternative 3** would establish a 40” fork length size limit, which would correspond to size at which approximately all females are mature. Compared to **Alternative 1**, **Alternatives 2** and **3** would leave more undersized fish in the water, allowing more time for them to reach maturity and a chance to reproduce. However, **Alternatives 2** and **3** could both have a greater level of regulatory discards associated with them.

2.4.2 Action 4(b). Establish a recreational bag limit for wahoo.

Alternative 1. No Action. There are no bag limits for the recreational harvest of wahoo in federal waters around St. Thomas/St. John.

Alternative 2. Establish a recreational bag limit of 4 wahoo per person per day, not to exceed 20 wahoo per vessel per day, whichever is less.

Alternative 3. Establish a recreational bag limit of 2 wahoo per person per day, not to exceed 6 wahoo per vessel per day, whichever is less.

Discussion

Alternative 1 would not establish a recreational bag limit for wahoo in federal waters around St. Thomas/St. John and all wahoo caught could be removed. **Alternative 2** would establish a daily bag limit of 4 per person/20 per vessel, which would be compatible with new regulations established by the USVI’s DPNR. The new DPNR regulations have not been implemented yet.

⁶ Figuerola-Fernandez et al. 2008. <https://www.drna.pr.gov/historico/oficinas/arn/recursosvivos/negociado-de-pesca-y-vida-silvestre/laboratorio-de-investigaciones-pesqueras-1/publicaciones/Informe%20Final%20F48%20revisado.pdf>

Compared to **Alternative 1**, **Alternative 2** could result in greater biomass of wahoo available (i.e., more wahoo would be left in the water) if recreational fishermen regularly catch and keep more than 4 wahoo per day. However, **Alternative 2** could result in increased discards if recreational fishermen catch and release wahoo during their fishing activities in an effort to catch a desired fish (e.g., a larger sized fish). As the bag limit under **Alternative 2** would be compatible with state regulations, this alternative would have the greatest benefit for enforcement agencies.

The bag limit for **Alternative 3** is more restrictive compared to the bag limit for **Alternative 2**, thus both the amount of fish left in the water and the potential number of discards could be greater than under **Alternatives 2** and **1**.

2.4.3 Action 4(c). Establish a commercial trip limit for wahoo.

Alternative 1. No Action. There are no trip limits for the commercial harvest of wahoo in federal waters around St. Thomas/St. John.

Alternative 2. Establish a commercial trip limit of x,xxx pounds of wahoo per trip. (*limit TBD*)

Alternative 3. Establish a commercial trip limit of x,xxx pounds of wahoo per trip. (*limit TBD*)

Discussion

Alternative 1 would not establish a commercial trip limit for wahoo in federal waters around St. Thomas/St. John. Management of commercial harvest would continue through ACL monitoring and AMs already in place. If the Council recommended commercial trip limits for wahoo (**Alternative 2** and or **Alternative 3**), then fishermen would potentially need to adjust their fishing methods. Under the action alternatives, the annual catch of wahoo would still limited to the ACL, but the rate of harvest could be lower. **Alternatives 2** and **3**, if developed, could impact fishing methods and effort, requiring fishermen to make more trips to catch the same amount of fish per year. Conversely, if fishing effort for wahoo in St. Thomas/St. John was predicted to increase due to the lifting of the moratorium on commercial fishing licenses in the USVI, then establishing a commercial trip limit under **Alternative(s) 2** or **3** could help reduce an exceedance of the wahoo ACL and could avoid an AM from being triggered and/or applied.

Chapter 3. Affected Environment (in progress)

This section describes the environment and resources included within federal waters off St. Croix and St. Thomas/St. John that would be affected by the proposed actions. Additional information on the physical, biological/ecological, economic, social, and administrative environments the U.S. Virgin Islands (USVI) have been described in detail in the St. Croix Fishery Management Plan (FMP) (CFMC 2019a) and the St. Thomas/St. John FMP (CFMC 2019b). These are incorporated herein by reference and summarized below.

3.1 Description of the Physical Environment

3.1.1 St. Croix

Federal waters around St. Croix extend seaward from 3 nautical miles (nm) (5.6 kilometers [km]) from shore to the offshore boundary of the U.S. Caribbean exclusive economic zone (EEZ), which covers approximately 9,216 square miles (mi²) (23,870 km²). St. Croix is located about 46 mi (74 km) south of St. Thomas/St. John and lies on a different geological platform. St. Croix is separated from St. Thomas/St. John by a 2.5 mi (4 km) deep trench. The St. Croix shelf is much narrower and shallower than that of the northern islands, with an approximate area of 99 nm² (343 km²). Most of the shelf area is less than 80 feet (ft) (24.4 meters [m]) deep.

3.1.2 St. Thomas and St. John

Federal waters around St. Thomas/St. John extend seaward from 3 nautical miles (5.6 km) from shore to the offshore boundary of the U.S. Caribbean EEZ, which covers approximately 1,103 mi² (2,856 km²). The islands of St. Thomas/St. John are bordered by the Atlantic Ocean to the north and the Caribbean Sea to the south. The island of St. Thomas is bordered to the west by the Puerto Rico islands of Vieques and Culebra, and to the east by St. John, which is bordered on the east by the British Virgin Islands. The shelf shared by the islands of St. Thomas/St. John is about 8 mi (12.9 km) wide on the south and 20 mi (32.2 km) wide on the north with an approximate area of 510 nm² (1751 km²). Most of the shelf area is greater than 80 ft (24.4 m) deep.

3.1.3 Habitat and Essential Fish Habitat (EFH)

Information on the habitat utilized by dolphin and wahoo in the U.S. Caribbean is included in Appendix I of the St. Croix FMP and the St. Thomas/St. John FMP and incorporated here by reference.

Dolphin and wahoo are migratory pelagic species occurring in tropical and subtropical waters worldwide. They are found near the surface around natural and artificial floating objects,

including sargassum (in the Atlantic and Caribbean). The floating objects and vegetation create an environment where dolphin and wahoo can feed and shelter during various life stages. Dolphin and wahoo also occur near non-moving objects on the ocean surface, such as fish aggregating devices.

Essential Fish Habitat

EFH is defined in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) as “those waters and substrates necessary to fish for spawning, breeding, feeding, or growth to maturity” (16 U.S. C. 1802(10)). EFH for dolphin and wahoo as described in the St. Croix FMP and the St. Thomas/St. John FMP consists of all waters from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by eggs, larvae, juveniles, and adults) and sargassum, coral reef, and hard bottom substrates from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by juveniles, adults, and larvae [for larvae, sargassum substrates only]).

3.2 Description of the Biological and Ecological Environments

The St. Croix FMP and St. Thomas/St. John FMP include a description of the biological and ecological environments for the species managed in federal waters around the respective island/island group, including dolphin and wahoo. These are incorporated herein by reference and summarized below.

3.2.1 Description of the Species

The species directly affected by actions proposed in this amendment include dolphin (*Coryphaena hippurus*) and wahoo (*Acanthocybium solandri*). Both are highly migratory pelagic species occurring in tropical and subtropical waters worldwide.

3.2.1.1 Dolphin

In the western Atlantic, dolphin are distributed from Nova Scotia to Brazil, including Bermuda, the Gulf of Mexico, and the greater Caribbean region. Adult dolphin are usually found in open water, while juveniles are found with floating seagrass and marine debris and occasionally in estuaries and harbors. Dolphin eat a wide variety of species, including small pelagic fish, juvenile tuna, billfish, jacks, and pompano, and pelagic larvae of nearshore, bottom-living species. They also eat invertebrates such as cephalopods, mysids, and jellyfish. Large tuna, rough-toothed dolphin, marlin, sailfish, swordfish, and sharks feed on dolphin, particularly juveniles.

3.2.1.2 Wahoo

In the western Atlantic, wahoo are distributed from New York to Colombia, including Bermuda, the Bahamas, the Gulf of Mexico, and the Caribbean. Wahoo typically occur far offshore, inhabit waters around reef edges and walls, and may be attracted to oceanic frontal zones and temperature discontinuities. Wahoo mainly feed on squid and fish, including frigate mackerel, butterfish, porcupine fish, and round herring. They generally compete with tuna for the same kind of food, but can feed on larger prey. A number of predators such as sharks and large tuna that share their habitat feed on young wahoo.

3.2.1.3 Stock Status of Dolphin and Wahoo

3.2.2 Bycatch

The St. Croix and St. Thomas/St. John FMPs each include a bycatch practicability analysis for the species managed under each FMP. Fisheries that are noted for producing large amounts of bycatch (e.g., trawling) are essentially absent from the U.S. Caribbean. Thus, bycatch is not as significant an issue in St. Croix and St. Thomas/St. John compared to other regions. What little bycatch that does occur from hook-and-line fishing is generally confined to regulatory discards (e.g., undersized yellowtail snapper), species known for ciguatera (e.g., barracuda), or species managed under Atlantic Highly Migratory Species regulations (e.g., sharks).

The actions in this amendment are not expected to significantly increase or decrease the magnitude of bycatch or bycatch mortality of dolphin and wahoo in the St. Croix and St. Thomas/St. John fisheries. Additionally, since fishermen in the U.S. Caribbean region traditionally utilize most resources harvested, and the amount of bycatch from the fisheries targeting dolphin and wahoo are minimal and not expected to change under this amendment, little to no affect to mammals or birds would be expected from the proposed actions.

3.2.3 Protected Species

Within the U.S. Caribbean, some species and their habitats are protected under the Marine Mammal Protection Act (MMPA), the Endangered Species Act (ESA), or both. At least 17 species of whales and dolphins have been reported in or near U.S. waters in the northeastern Caribbean and all 17 species are protected under the MMPA. Three of the species (i.e., sperm, sei, and fin whales) are also listed as endangered under the ESA.⁷ In addition to these three marine mammals, five species or distinct population segments (DPS) of sea turtles (green - North

⁷ Five DPSs of humpback whales are listed under the ESA; however, the West Indies DPS, which is the only DPS present in the U.S. Caribbean, is not listed as endangered or threatened ([81 FR 62259](#)).

Atlantic DPS and the South Atlantic DPS; hawksbill; leatherback; loggerhead - Northwest Atlantic DPS); four species or DPSs of fish (Nassau grouper; scalloped hammerhead shark - Central and Southwest Atlantic DPS; oceanic whitetip shark; giant manta ray); and seven species of coral (elkhorn coral, staghorn coral, rough cactus coral, pillar coral, lobed star coral, mountainous star coral, and boulder coral) occur in the U.S. Caribbean and are protected under the ESA. ESA designated critical habitat for the green sea turtle, hawksbill sea turtle, leatherback sea turtle, and *Acropora* corals also occur within the Caribbean Fishery Management Council's (Council) jurisdiction. Critical habitat for green and hawksbill sea turtles occurs entirely within Puerto Rico state waters, and over 99% of the critical habitat for leatherback sea turtles around St. Croix occurs within USVI state waters. Designated critical habitat of *Acropora* corals in Puerto Rico and the USVI extended from the mean low water line seaward to the 98 foot (30 meter) depth contour ([73 FR 72209](#)), the majority of which occur in state waters.

The National Marine Fisheries Service (NMFS) completed a biological opinion on September 21, 2020, evaluating the impacts of the Puerto Rico, St. Croix, and St. Thomas/St. John fisheries on ESA-listed species that occur in the U.S. Caribbean region (NMFS 2020). In the biological opinion, NMFS determined that the authorization of the fisheries conducted under each of the island-based FMPs is not likely to adversely affect sperm, sei, and fin whales; the Northwest Atlantic DPS of loggerhead sea turtle; giant manta rays; or critical habitat of green, hawksbill, or leatherback sea turtles. The biological opinion also determined that the authorization of the island-based fisheries is not likely to jeopardize the continued existence of the North Atlantic DPS of green sea turtle, South Atlantic DPS of green sea turtle, hawksbill sea turtle, Nassau grouper, oceanic whitetip shark, Central and Southwest Atlantic DPS of scalloped hammerhead shark, elkhorn coral, staghorn coral, rough cactus coral, pillar coral, lobed star coral, mountainous star coral, or boulder star coral, or result in the destruction or adverse modification of designated *Acropora* critical habitat.

An incidental take statement for select ESA species was included in the biological opinion, and reasonable and prudent measures to minimize the impact of the incidental takes were specified, along with terms and conditions to implement them.

The actions contained in this amendment are not anticipated to modify the operation of the St. Croix or St. Thomas/St. John fisheries in a manner that would cause effects to ESA-listed species or critical habitat that were not considered in the 2020 biological opinion.

3.3 Description of the Fisheries

Fisheries of the U.S. Caribbean region provide food, livelihood, and income. The region's fisheries (federal and state) can be divided into commercial, recreational, and subsistence sectors. Commercial fishermen pursue multiple species using multiple gear types and are characterized as "artisanal" because their fishing vessels tend to be less than 45 feet (13.7 meters) long, have

small crews, yield small revenues (when compared to revenues from commercial fishing in the continental U.S.), and the marine resources they harvest have a small seafood supply chain. The St. Croix FMP and St. Thomas/St. John FMP contain a comprehensive description of the respective fisheries occurring in federal waters, which are incorporated in here by reference.

3.3.1 St. Croix

The 2016 census of licensed commercial fishermen in the USVI reported 141 commercial fishermen on St. Croix (Kojis et al. 2017). Kojis et al. (2017) reported that dolphinfish (*Coryphaena hippurus* and *C. equiselius*) and wahoo are harvested by more than half of the commercial fishermen on St. Croix and were ranked third in importance of generating revenue. Annual commercial landings of dolphin and wahoo represent 4-19% and 1-8%, respectively, of the total commercial landings reported each year (Table 3.1).

Table 3.1. Number of commercial fishermen and reported landings each year from 2000-2021 for all species combined (total), dolphin, and wahoo in St. Croix, USVI.

Year	Total Fishers Reporting	Total Landings	Fishers Reporting Dolphin	Dolphin Landings	Fishers Reporting Wahoo	Wahoo Landings
2000	154	806,265	30	43,853	22	10,815
2001	176	1,005,260	46	57,639	39	20,419
2002	175	1,114,532	55	75,020	37	13,584
2003	170	994,843	40	70,058	31	22,326
2004	155	1,035,333	36	52,346	21	19,614
2005	145	1,150,490	37	42,820	27	21,213
2006	139	1,339,263	31	79,573	22	17,219
2007	145	1,227,034	30	65,902	22	17,711
2008	132	1,038,850	38	63,079	22	12,371
2009	131	941,382	35	66,699	20	11,206
2010	126	720,893	30	52,894	23	13,762
2011	158	645,020	28	45,600	23	5,997
2012	86	511,745	22	35,036	12	8,765
2013	78	469,896	14	35,776	17	24,515
2014	62	398,856	12	63,994	6	29,105
2015	59	379,839	15	52,813	8	27,144
2016	74	433,874	28	56,033	14	35,523
2017	65	389,504	17	73,362	13	28,439
2018	44	107,333	14	11,766	8	5,515
2019	49	114,983	13	6,075	12	4,290
2020	52	258,747	12	20,693	8	15,103
2021	59	302,173	21	29,352	16	25,023

Of the 141 commercial fishermen in 2016, 14.6% said they fished primarily in federal waters and 26.4% said they fished equally in federal and territorial waters (Kojis et al. 2017). In St. Croix, commercial landings of dolphin (Figure 3.1) and wahoo (Figure 3.2) are primarily reported in federal waters.

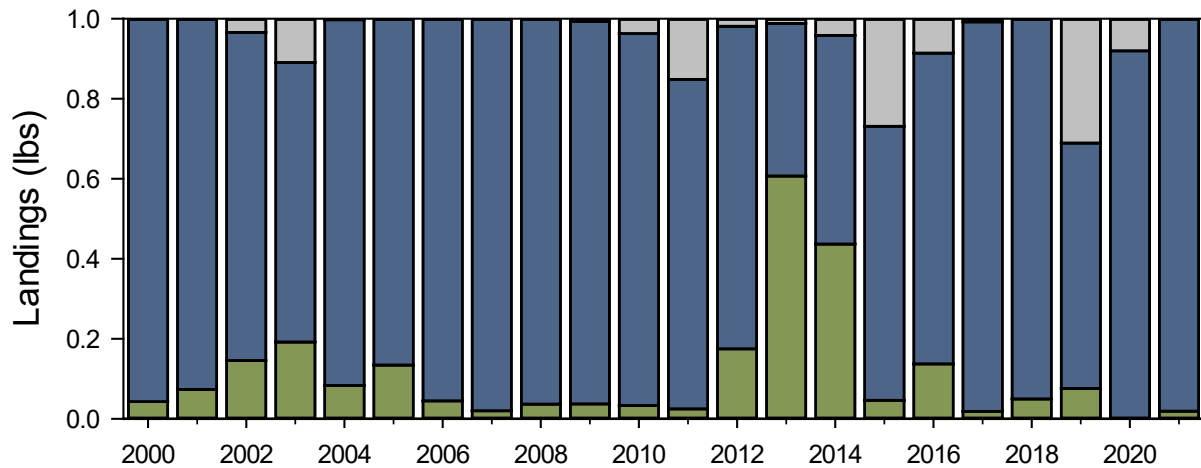


Figure 3.1. Proportion of commercial landings reported from federal (blue bars), state (green bars) and unknown (gray bars) waters each year for dolphin in St. Croix.

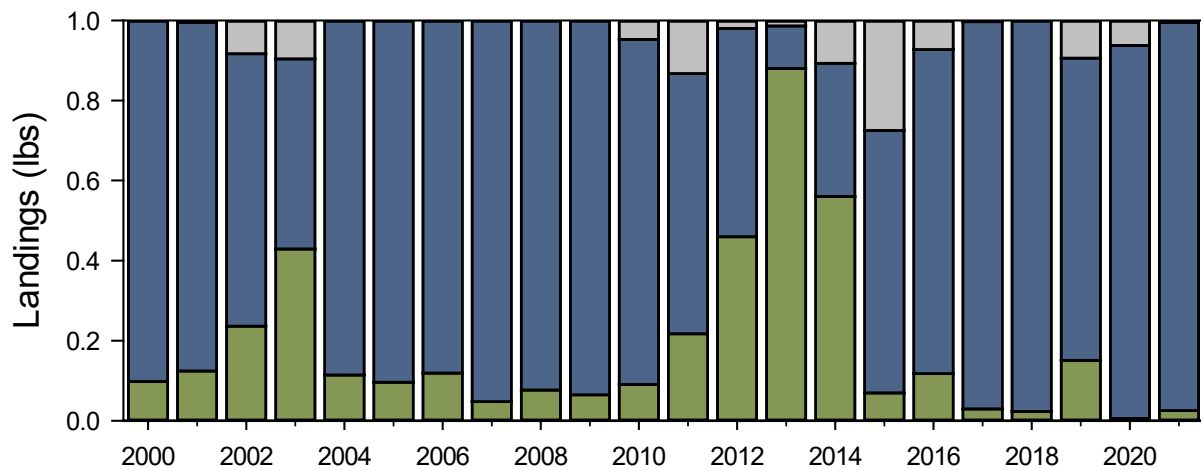


Figure 3.2. Proportion of commercial landings reported from federal (blue bars), state (green bars) and unknown (gray bars) waters each year for wahoo in St. Croix.

Most fishermen reported that they fish year-round (96.3%), but a small percentage reported that they fish seasonally (November to May) for dolphin and wahoo. Dolphin and wahoo are landed

by commercial fishermen in St. Croix year-round, with peak landings for dolphin occurring in January through May (Figure 3.3), and for wahoo in October and November (Figure 3.4).

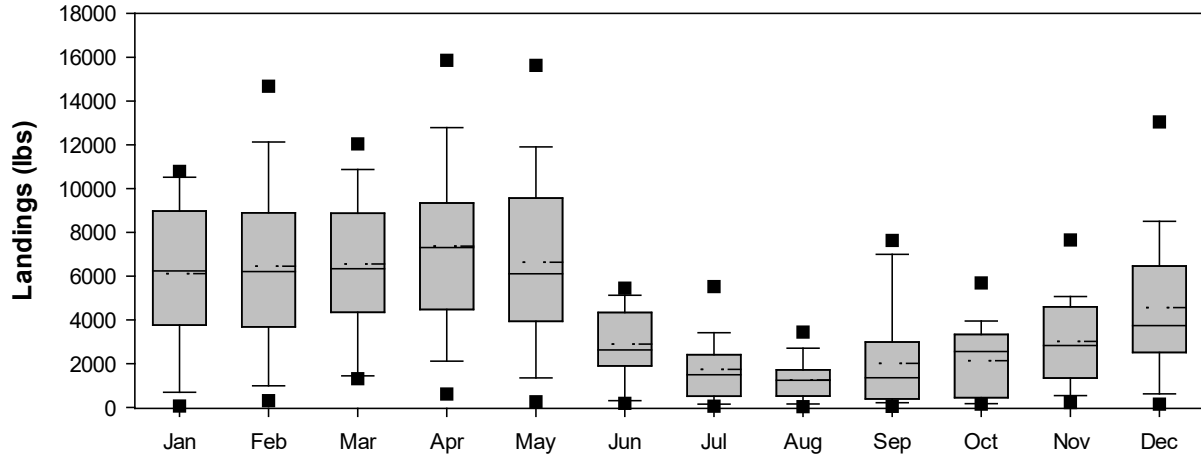


Figure 3.3. Range of commercial landings of dolphin each month in St. Croix from 2000-2021. The solid line in each box represents the median landings and the dashed line represents the average for each month. The black squares represent the 5th (bottom) and 95th (top) percentiles.

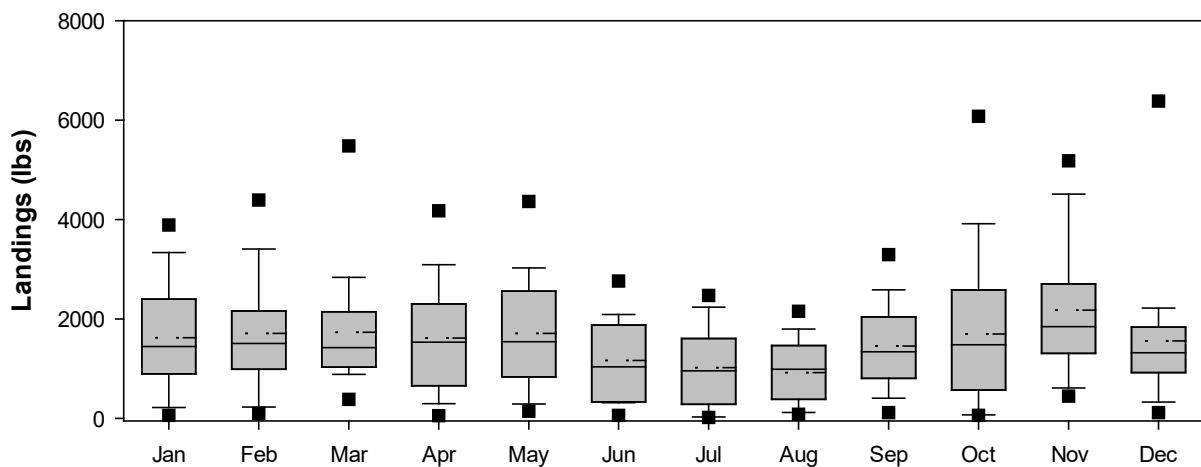


Figure 3.4. Range of commercial landings of wahoo each month in St. Croix from 2000-2021. The solid line in each box represents the median landings and the dashed line represents the average for each month. The black squares represent the 5th (bottom) and 95th (top) percentiles.

In St. Croix, the majority of the commercial landings (lbs) reported for dolphin and wahoo from years 2012-2021⁸ were for handline gear (95.9% and 93.1%, respectively).

3.3.2 St. Thomas and St. John

The most recent census of licensed commercial fishermen in the USVI reported 113 commercial fishermen on St. Thomas and 6 on St. John in 2016 (Kojis et al. 2017); however, 65 (57.5%) were active. Dolphinfish (*Coryphaena hippurus* and *C. equiselius*) and wahoo are harvested by about a quarter of the commercial fishermen on St. Thomas/St. John and were ranked fourth in importance of generating revenue. Annual commercial landings of dolphin and wahoo represent 0 – 4% and 0 – 2%, respectively, of the total commercial landings reported each year (Table 3.2).

Table 3.2. Number of commercial fishermen and reported landings each year from 2000-2021 for all species combined (total), dolphin, and wahoo in St. Thomas and St. John, USVI.

Year	Total Fishers Reporting	Total Landings	Fishers Reporting Dolphin	Dolphin Landings	Fishers Reporting Wahoo	Wahoo Landings
2000	121	617,874	15	4,639	9	3,125
2001	139	755,248	19	10,360	13	5,671
2002	122	819,132	21	14,405	16	4,759
2003	121	812,436	17	7,777	9	3,355
2004	116	801,710	17	6,929	11	6,671
2005	105	743,436	10	1,824	7	6,515
2006	106	789,822	8	4,340	6	3,623
2007	105	708,638	13	7,647	8	1,517
2008	102	690,480	15	6,904	10	1,631
2009	107	709,118	17	7,915	9	3,716
2010	91	641,748	13	4,711	8	5,472
2011	143	468,755	8	2,569	5	5,931
2012	75	392,581	12	1,833	6	3,372
2013	67	348,272	15	8,590	6	3,953
2014	72	414,511	9	5,748	7	4,424
2015	65	394,075	15	8,272	8	3,964
2016	65	433,055	17	12,911	12	5,429
2017	65	346,010	14	5,831	7	2,561
2018	67	346,801	13	8,189	8	3,715
2019	71	342,224	13	12,696	4	785
2020	71	325,421	8	990	4	650
2021	64	307,383	12	4,211	5	763

⁸ USVI commercial catch forms were modified in mid-2011 to report landings by species instead of species group and by more specific gear type.

Of the 119 commercial fishermen in 2016, 4.6% said they fished primarily in federal waters and 42.5% said they fished equally in federal and territorial waters (Kojis et al. 2017). In St. Thomas/St. John, commercial landings of dolphin (Figure 3.5) and wahoo (Figure 3.6) are primarily reported in federal waters.

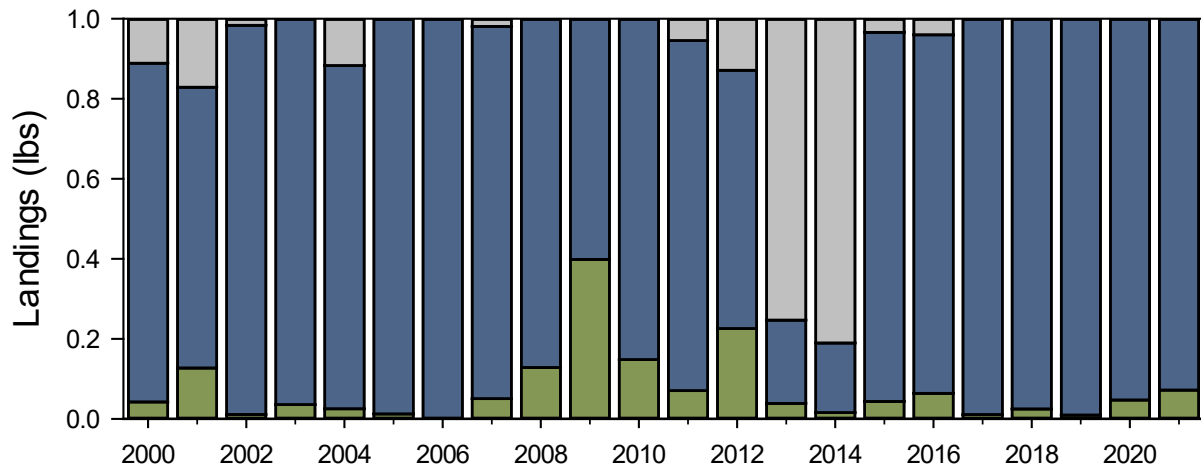


Figure 3.5. Proportion of commercial landings reported from federal (blue bars), state (green bars) and unknown (gray bars) waters each year for dolphin in St. Thomas and St. John.

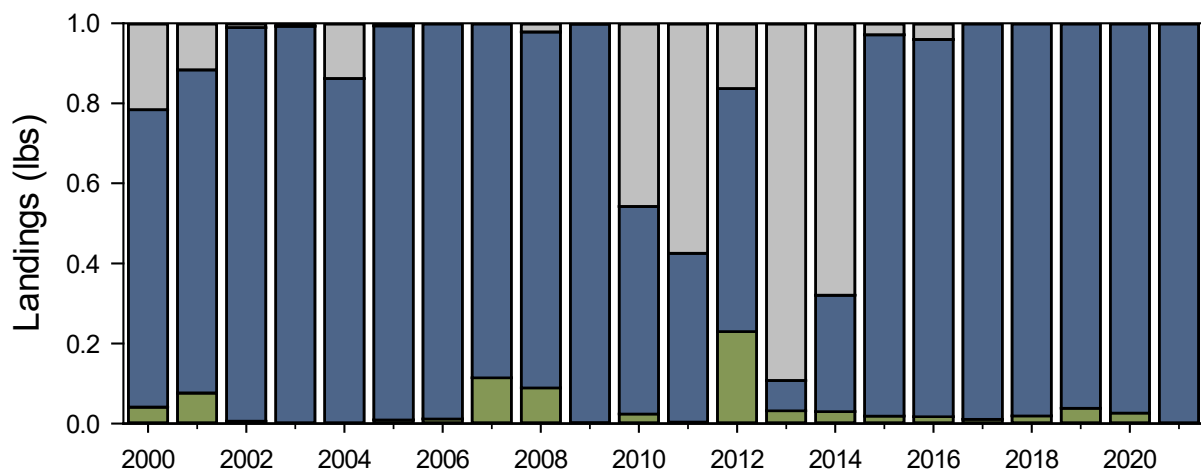


Figure 3.6. Proportion of commercial landings reported from federal (blue bars), state (green bars) and unknown (gray bars) waters each year for wahoo in St. Thomas and St. John.

Most commercial fishermen reported that they fish year-round (89.4%), but a small percentage reported that they fish seasonally (in October and November) for dolphin and wahoo (Kojis et al. 2017). Dolphin and wahoo are landed by commercial fishermen in St. Thomas and St. John

year-round, with peak landings for dolphin occurring in March through May (Figure 3.7) and for wahoo in November through January (Figure 3.8).

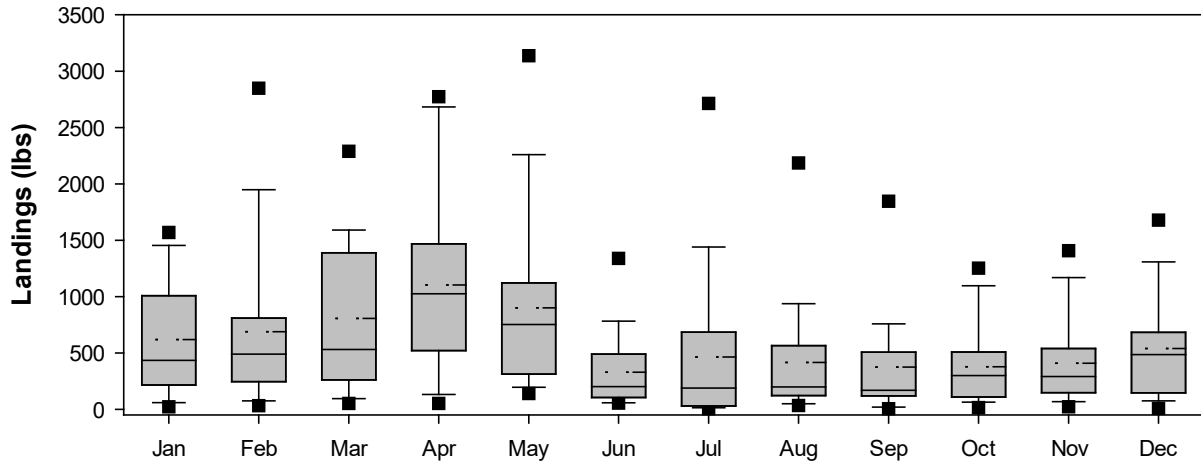


Figure 3.7. Range of commercial landings of dolphin each month in St. Thomas and St. John from 2000-2021. The solid line in each box represents the median landings and the dashed line represents the average for each month. The black squares represent the 5th (bottom) and 95th (top) percentiles.

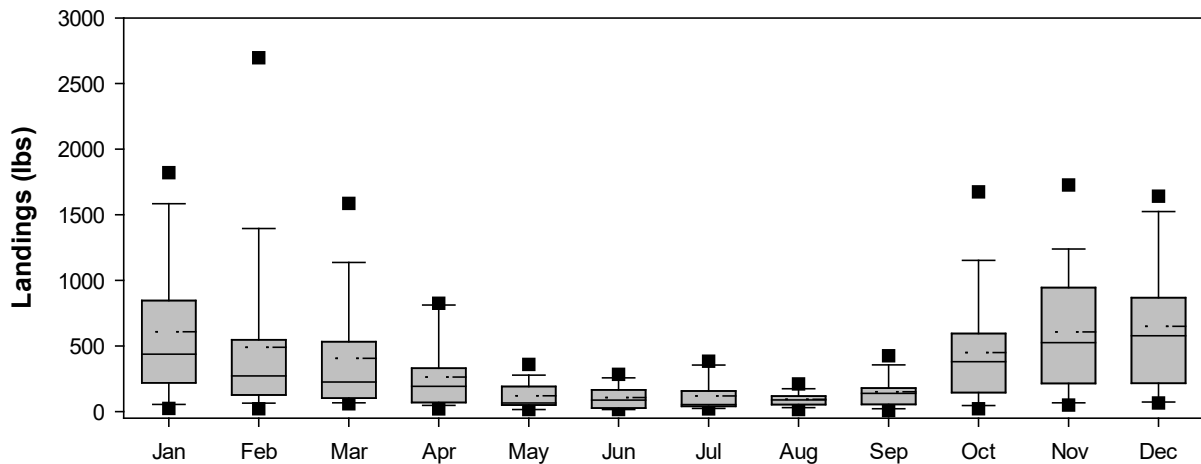


Figure 3.8. Range of commercial landings of wahoo each month in St. Thomas and St. John from 2000-2021. The solid line in each box represents the median landings and the dashed line represents the average for each month. The black squares represent the 5th (bottom) and 95th (top) percentiles.

In St. Thomas/St. John, the majority of the commercial landings (lbs) reported for dolphin from years 2012-2021⁹ were for rod and reel (63.8%), unknown hook-and-line (16.1%), and handline (15.8%) gear. For wahoo, the majority of landings during the same period were reported for rod and reel (65.2%), unknown hook-and-line (16.5%), and hook-and-line with power winch (9.4%) gear.

3.4 Description of the Economic Environment

3.4.1 St. Croix

3.4.2 St. Thomas and St. John

3.5 Description of the Social Environment

3.5.1 St. Croix

3.5.2 St. Thomas and St. John

3.5.3 Environmental Justice (EJ) Considerations

3.6 Description of the Administrative Environment

The administrative environment was discussed in detail in the St. Croix and St. Thomas/St. John FMPs, which is incorporated herein by reference and summarized below.

3.6.1 Federal Fishery Management

Federal fishery management is conducted under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 et seq.), originally enacted in 1976 as the Fishery Conservation and Management Act. The Magnuson-Stevens Act claims sovereign rights and exclusive fishery management authority over most fishery resources within the U.S. EEZ, an area extending from the seaward boundary of each coastal state to 200 nm from shore, as well as authority over U.S. anadromous species and continental shelf resources that occur beyond the EEZ.

Responsibility for federal fishery management decision-making is divided between the U.S. Secretary of Commerce (Secretary) and eight regional Fishery Management Councils that represent the expertise and interests of constituent states. Regional Fishery Management

⁹ USVI commercial catch forms were modified in mid-2011 to report landings by species instead of species group and by more specific gear type.

Councils are responsible for preparing, monitoring, and revising management plans for fisheries needing management within their jurisdiction. The Secretary is responsible for promulgating regulations to implement proposed plans and amendments after ensuring that management measures are consistent with the Magnuson-Stevens Act, and with other applicable laws summarized in Appendix A. In most cases, the Secretary has delegated this authority to NMFS.

The Caribbean Fishery Management Council is responsible for the conservation and management of fishery stocks within federal waters surrounding Puerto Rico, St. Croix (USVI), and St. Thomas/St. John (USVI). The Council consists of seven voting members: four members appointed by the Secretary, at least one of whom is appointed from each of the Commonwealth of Puerto Rico and the USVI; the principal officials with marine fishery management responsibility and expertise for the Commonwealth of Puerto Rico and the USVI designated by their Governors; and NMFS' Southeast Region Regional Administrator.

The Council's Scientific and Statistical Committee reviews the data and science used in assessments, FMPs, and amendments. Regulations implementing the FMPs are enforced through actions of the NOAA's Office for Law Enforcement, the U.S. Coast Guard, and various state authorities.

The public is involved in the fishery management process through participation at public meetings, on advisory panels and through council meetings that, with few exceptions for discussing personnel matters, are open to the public. The regulatory process is in accordance with the Administrative Procedure Act, in the form of "notice and comment" rulemaking, which provides extensive opportunity for public scrutiny and comment, and requires consideration of and response to those comments.

3.6.2 U.S. Virgin Islands Fisheries Management

The purpose of state representation at the Council level is to ensure state participation in federal fishery management decision-making and to promote the development of compatible regulations in state and federal waters. State governments have the authority to manage their respective fisheries including enforcement of fishing regulations, and exercises legislative and regulatory authority over their states' natural resources through discrete administrative units. Although each state agency is the primary administrative body with respect to the state's natural resources, all states cooperate with numerous state and federal regulatory agencies when managing marine resources.

The USVI's Department of Planning and Natural Resources (DPNR) is responsible for the conservation and management of USVI fisheries and enforcement of boating and fishing regulations in state waters (0-3 nm from shore). The DPNR's Division of Fish and Wildlife (DFW) is responsible for data collection pertaining to the fisheries of the USVI. The DFW

monitors commercial and recreational fisheries and provides recommendations to the DPNR Commissioner on matters relating to fisheries management. Rules and regulations for the USVI fisheries are codified in the Virgin Islands Code, primarily within Title 48 Chapter 12.

More information on the USVI DPNR can be found on their web page:

<https://dpp.vi.gov/agency/department-planning-and-natural-resources>

DRAFT

Chapter 4. Environmental Consequences (in progress)

4.1 Action 1: Establish new management measures for dolphin in federal waters around St. Croix

Summary of Management Alternatives

Action 1(a). Establish a minimum size limit

Alternative 1. No Action.

Alternative 2.

Action 1(b). Establish a recreational bag limit

Alternative 1. No Action.

Alternative 2.

Action 1(c). Establish a commercial trip limit

Alternative 1. No Action.

Alternative 2.

- 4.1.1 Effects on the Physical Environment
- 4.1.2 Effects on the Biological/Ecological Environment
- 4.1.3 Effects on the Economic Environment
- 4.1.4 Effects on the Social Environment
- 4.1.5 Effects on the Administrative Environment

4.2 Action 2: Establish new management measures for wahoo in federal waters around St. Croix

Summary of Management Alternatives

Action 2(a). Establish a minimum size limit

Alternative 1. No Action.

Alternative 2.

Action 2(b). Establish a recreational bag limit

Alternative 1. No Action.

Alternative 2.

Action 2(c). Establish a commercial trip limit

Alternative 1. No Action.

Alternative 2.

- 4.2.1 Effects on the Physical Environment
- 4.2.2 Effects on the Biological/Ecological Environment
- 4.2.3 Effects on the Economic Environment
- 4.2.4 Effects on the Social Environment
- 4.2.5 Effects on the Administrative Environment

4.3 Action 3: Establish new management measures for dolphin in federal waters around St. Thomas and St. John

Summary of Management Alternatives

Action 3(a). Establish a minimum size limit

Alternative 1. No Action.

Alternative 2.

Action 3(b). Establish a recreational bag limit

Alternative 1. No Action.

Alternative 2.

Action 3(c). Establish a commercial trip limit

Alternative 1. No Action.

Alternative 2.

- 4.3.1 Effects on the Physical Environment
- 4.3.2 Effects on the Biological/Ecological Environment
- 4.3.3 Effects on the Economic Environment
- 4.3.4 Effects on the Social Environment
- 4.3.5 Effects on the Administrative Environment

4.4 Action 4: Establish new management measures for wahoo in federal waters around St. Thomas and St. John

Summary of Management Alternatives

Action 4(a). Establish a minimum size limit

Alternative 1. No Action.

Alternative 2.

Action 4(b). Establish a recreational bag limit

Alternative 1. No Action.

Alternative 2.

Action 4(c). Establish a commercial trip limit

Alternative 1. No Action.

Alternative 2.

- 4.4.1 Effects on the Physical Environment
- 4.4.2 Effects on the Biological/Ecological Environment
- 4.4.3 Effects on the Economic Environment
- 4.4.4 Effects on the Social Environment
- 4.4.5 Effects on the Administrative Environment

4.5 Cumulative Effects Analysis

- 4.5.1 The area in which the effects of the proposed action will occur
- 4.5.2 The impacts that are expected in that area from the proposed action
- 4.5.3 Other past, present and reasonably foreseeable future actions that have or are expected to have impacts in the area
 - 4.5.3.1 Other fishery related actions –
 - 4.5.3.2 Non-fishery related actions –
- 4.5.4 The impacts or expected impacts from these other actions –
- 4.5.5 The overall impact that can be expected if the individual impacts are allowed to accumulate
- 4.5.6 Summary

Chapter 5. Regulatory Impact Review (in progress)

DRAFT

Chapter 6. Regulatory Flexibility Act Analysis (in progress)

DRAFT

Chapter 7. List of Preparers

List of personnel that assisted with development of the Amendment.

Table 7.1. List of interdisciplinary plan team members and other contributors.

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Matthew Walia	NOAA/OLE	Enforcement Officer

CFMC = Caribbean Fishery Management Council, NMFS = National Marine Fisheries Service, SFD = Sustainable Fisheries Division, PRD = Protected Resources Division, SEFSC = Southeast Fisheries Science Center, SERO = Southeast Regional Office, GC = General Counsel, OLE= Office of Law Enforcement

Chapter 8. List of Agencies, Organizations, and Persons Consulted (in progress)

Department of Commerce Office of General Counsel
National Marine Fisheries Service Office of General Counsel
National Marine Fisheries Service Office of General Counsel Southeast Region
National Marine Fisheries Service Southeast Regional Office
National Marine Fisheries Service Southeast Fisheries Science Center
National Marine Fisheries Service Silver Spring Office
National Marine Fisheries Service Office of Law Enforcement Southeast Division
United States Coast Guard
United States Department of the Interior
U.S. Virgin Islands Department of Planning and Natural Resources
Puerto Rico Department of Natural and Environmental Resources
Puerto Rico Junta de Calidad Ambiental (Puerto Rico Environmental Quality Board)

Chapter 9. References (in progress)

CFMC (Caribbean Fishery Management Council). 2019a. Comprehensive Fishery Management Plan for the St. Croix Exclusive Economic Zone, environmental assessment, regulatory impact review, and fishery impact statement. Caribbean Fishery Management Council, San Juan, Puerto Rico. 509 pp.

CFMC (Caribbean Fishery Management Council). 2019b. Comprehensive Fishery Management Plan for the St. Thomas/St. John Exclusive Economic Zone, environmental assessment, regulatory impact review, and fishery impact statement. Caribbean Fishery Management Council, San Juan, Puerto Rico. 507 pp.

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Appendix A. Other Applicable Law (in progress)

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 et seq.) provides the authority for fishery management in federal waters of the exclusive economic zone. However, fishery management decision-making is also affected by a number of other federal statutes designed to protect the biological and human components of U.S. fisheries, as well as the ecosystems that support those fisheries. Major laws affecting federal fishery management decision-making are summarized below.

Administrative Procedure Act (APA)

All federal rulemaking is governed under the provisions of the APA (5 U.S.C. Subchapter II), which establishes a “notice and comment” procedure to enable public participation in the rulemaking process. Under the APA, the National Marine Fisheries Service (NMFS) is required to publish notification of proposed rules in the Federal Register and to solicit, consider and respond to public comment on those rules before they are finalized. The APA also establishes a 30-day wait period from the time a final rule is published until it takes effect, which can be waived in certain instances.

The proposed rule associated with this amendment will include a request for public comment, and if approved, upon publication of the final rule, there will most likely be a 30-day wait period before the regulations are effective in compliance with the APA.

Coastal Zone Management Act (CZMA)

The CZMA of 1972 (16 U.S.C. 1451 et seq.) encourages state and federal cooperation in the development of plans that manage the use of natural coastal habitats, as well as the fish and wildlife those habitats support. When proposing an action determined to directly affect coastal resources managed under an approved coastal zone management program, NMFS is required to provide the relevant State agency with a determination that the proposed action is consistent with the enforceable policies of the approved program to the maximum extent practicable at least 90 days before taking final action. NMFS may presume State agency concurrence if the State agency’s response is not received within 60 days from receipt of the agency’s consistency determination and supporting information as required by 15 C.F.R. §930.41(a).

Upon submission to the Secretary of Commerce, NMFS will determine if this amendment is consistent with the Coastal Zone Management program of the U.S. Virgin Islands (USVI), to the maximum extent possible. Their determination will then be submitted to the responsible agencies under Section 307 of the CZMA administering approved Coastal Zone Management programs.

Information Quality Act (IQA)

The IQA (Public Law 106-443) effective October 1, 2002, requires the government to set standards for the quality of scientific information and statistics used and disseminated by federal agencies. Information includes any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, cartographic, narrative, or audiovisual forms (includes web dissemination, but not hyperlinks to information that others disseminate; does not include clearly stated opinions).

Specifically, the IQA directs the Office of Management and Budget (OMB) to issue government wide guidelines that “provide policy and procedural guidance to federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by federal agencies.” Such guidelines have been issued, directing all federal agencies to create and disseminate agency-specific standards to: (1) ensure information quality and develop a pre-dissemination review process; (2) establish administrative mechanisms allowing affected persons to seek and obtain correction of information; and (3) report periodically to OMB on the number and nature of complaints received.

Scientific information and data are key components of fishery management plans (FMP) and amendments and the use of best available information is the second national standard under the Magnuson-Stevens Act. To be consistent with the IQA, FMPs and amendments must be based on the best information available. They should also properly reference all supporting materials and data, and be reviewed by technically competent individuals. With respect to original data generated for FMPs and amendments, it is important to ensure that the data are collected according to documented procedures or in a manner that reflects standard practices accepted by the relevant scientific and technical communities. Data will also undergo quality control prior to being used by the agency and a pre-dissemination review.

Endangered Species Act (ESA)

The ESA of 1973 (16 U.S.C. Section 1531 et seq.) requires that federal agencies must ensure actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of threatened or endangered species or destroy or adversely modify the habitat designated as critical habitat (habitat essential to the species’ conservation). The ESA requires NMFS to consult with the appropriate administrative agency (itself for most marine species, and the U.S. Fish and Wildlife Service for all remaining species) when proposing an action that may affect threatened or endangered species or critical habitat. Consultations are necessary to determine the potential impacts of the proposed action. They conclude informally when proposed actions may affect but are “not likely to adversely affect” threatened or endangered species or designated critical habitat. Formal consultations, resulting in a biological opinion, are required when proposed actions may affect and are “likely to adversely affect” threatened or endangered species or designated critical habitat.

NMFS completed a biological opinion on September 21, 2020, evaluating the impacts of the St. Croix and St. Thomas/St. John fisheries on ESA-listed species. Refer to Section 3.2.3 for additional information.

Marine Mammal Protection Act (MMPA)

The MMPA established a moratorium, with certain exceptions, on the taking of marine mammals in U.S. waters and by U.S. citizens on the high seas. It also prohibits the importing of marine mammals and marine mammal products into the United States. Under the MMPA, the Secretary of Commerce (authority delegated to NMFS) is responsible for the conservation and management of cetaceans and pinnipeds (other than walrus). The Secretary of the Interior is responsible for walrus, sea otters, polar bears, manatees, and dugongs.

In 1994, Congress amended the MMPA, to govern the taking of marine mammals incidental to commercial fishing operations. The MMPA requires a commercial fishery to be placed in one of three categories, based on the relative frequency of incidental serious injuries and mortalities of marine mammals. Category I designates fisheries with frequent serious injuries and mortalities incidental to commercial fishing; Category II designates fisheries with occasional serious injuries and mortalities; Category III designates fisheries with a remote likelihood or no known serious injuries or mortalities. To legally fish in a Category I and/or II fishery, a fisherman must obtain a marine mammal authorization certificate by registering with the Marine Mammal Authorization Program (50 CFR 229.4) and accommodate an observer if requested (50 CFR 229.7(c)) and they must comply with any applicable take reduction plans.

NMFS has determined that fishing activities conducted under the St. Croix and St. Thomas/St. John FMPs will have no adverse impact on marine mammals. In the 2023 List of Fisheries published by NMFS, all gear types used to harvest dolphin and wahoo (e.g., longline/hook-and-line) in the St. Croix and St. Thomas/St. John fisheries are considered Category III ([88 FR 16899](#)). This classification indicates the annual mortality and serious injury of a marine mammal stock resulting from any fishery is less than or equal to one percent of the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock, while allowing that stock to reach or maintain its optimum sustainable population. This Amendment does not change the list of authorized gear types in these fisheries and as such would not alter this determination.

Paperwork Reduction Act (PRA)

The PRA of 1995 (44 U.S.C. 3501 et seq.) regulates the collection of public information by federal agencies to ensure that the public is not overburdened with information requests, that the federal government's information collection procedures are efficient, and that federal agencies adhere to appropriate rules governing the confidentiality of such information. The PRA requires

NMFS to obtain approval from the Office of Management and Budget before requesting most types of fishery information from the public. This action does not contain a collection-of-information requirement for purposes of the PRA.

Small Business Act

The Small Business Act of 1953, as amended, Section 8(a), 15 U.S.C. 634(b)(6), 636(j), 637(a) and (d); Public Laws 95-507 and 99-661, Section 1207; and Public Laws 100-656 and 101-37 are administered by the Small Business Administration. The objectives of the act are to foster business ownership by individuals who are both socially and economically disadvantaged; and to promote the competitive viability of such firms by providing business development assistance including, but not limited to, management and technical assistance, access to capital and other forms of financial assistance, business training and counseling, and access to sole source and limited competition federal contract opportunities, to help the firms to achieve competitive viability. Because most businesses associated with fishing are considered small businesses, NMFS, in implementing regulations, must assess how those regulations will affect small businesses.

Essential Fish Habitat (EFH)

The Magnuson-Stevens Act includes EFH requirements, and as such, each existing and new FMPs must describe and identify EFH for the fishery, minimize to the extent practicable adverse effects on that EFH caused by fishing, and identify other actions to encourage the conservation and enhancement of that EFH.

The areas affected by the proposed action have been identified as EFH for managed species, as described under the St. Croix and St. Thomas/St. John FMPs. As specified in the Magnuson-Stevens Act, EFH consultation is required for federal actions, which may adversely affect EFH. Any required consultation requirements will be completed prior to implementation of any new management measures.

National Environmental Policy Act (NEPA)

The NEPA of 1969 (42 U.S.C. 4321 et seq.) requires federal agencies to consider the environmental and social consequences of proposed major actions, as well as alternatives to those actions, and to provide this information for public consideration and comment before selecting a final course of action.

Executive Orders

E.O. 12630: Takings

The Executive Order on Government Actions and Interference with Constitutionally Protected Property Rights, which became effective March 18, 1988, requires that each federal agency prepare a Takings Implication Assessment for any of its administrative, regulatory, and legislative policies and actions that affect, or may affect, the use of any real or personal property. Clearance of a regulatory action must include a takings statement and, if appropriate, a Takings Implication Assessment. The NOAA Office of General Counsel will determine whether a Takings Implication Assessment is necessary for this amendment.

E.O. 12866: Regulatory Planning and Review

Executive Order 12866, signed in 1993, requires federal agencies to assess the costs and benefits of their proposed regulations, including distributional impacts, and to select alternatives that maximize net benefits to society. To comply with E.O. 12866, NMFS prepares a Regulatory Impact Review (RIR) for all fishery regulatory actions that either implement a new fishery management plan or significantly amend an existing plan. RIRs provide a comprehensive analysis of the costs and benefits to society associated with proposed regulatory actions, the problems and policy objectives prompting the regulatory proposals, and the major alternatives that could be used to solve the problems. The reviews also serve as the basis for the agency's determinations as to whether proposed regulations are a "significant regulatory action" under the criteria provided in E.O. 12866 and whether proposed regulations will have a significant economic impact on a substantial number of small entities in compliance with the Regulatory Flexibility Act.

E.O. 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations

This Executive Order mandates that each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions. Federal agency responsibilities under this Executive Order include conducting their programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons from participation in, denying persons the benefit of, or subjecting persons to discrimination under, such, programs policies, and activities, because of their race, color, or national origin. Furthermore, each federal agency responsibility set forth under this Executive Order shall apply equally to Native American programs. Environmental justice considerations will be discussed in Chapter 3.

E.O. 12962: Recreational Fisheries

This Executive Order requires federal agencies, in cooperation with states and tribes, to improve the quantity, function, sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities through a variety of methods including, but not limited to, developing joint partnerships; promoting the restoration of recreational fishing areas that are limited by water quality and habitat degradation; fostering sound aquatic conservation and restoration endeavors; and evaluating the effects of federally-funded, permitted, or authorized actions on aquatic systems and recreational fisheries, and documenting those effects. Additionally, it establishes a seven-member National Recreational Fisheries Coordination Council responsible for, among other things, ensuring that social and economic values of healthy aquatic systems that support recreational fisheries are considered by federal agencies in the course of their actions, sharing the latest resource information and management technologies, and reducing duplicative and cost-inefficient programs among federal agencies involved in conserving or managing recreational fisheries. The Council also is responsible for developing, in cooperation with federal agencies, states and tribes, a Recreational Fishery Resource Conservation Plan, to include a five-year agenda. Finally, the Order requires NMFS and the U.S. Fish and Wildlife Service to develop a joint agency policy for administering the ESA.

E.O. 13089: Coral Reef Protection

The Executive Order on Coral Reef Protection (June 11, 1998) requires federal agencies whose actions may affect U.S. coral reef ecosystems to identify those actions, utilize their programs and authorities to protect and enhance the conditions of such ecosystems; and, to the extent permitted by law, ensure that actions they authorize, fund or carry out not degrade the condition of that ecosystem. By definition, a U.S. coral reef ecosystem means those species, habitats, and other national resources associated with coral reefs in all maritime areas and zones subject to the jurisdiction or control of the United States (e.g., federal, state, territorial, or commonwealth waters).

The Comprehensive Amendment to the Fishery Management Plans (FMP) of the U.S. Caribbean (CFMC 2005) designated habitats of particular concern in Puerto Rico and St. Croix for managed corals and established management measures to minimize, to the extent practicable, adverse effects caused by fishing on those habitats. There are no implications to coral reefs by the actions proposed in this amendment.

E.O. 13132: Federalism

The Executive Order on Federalism requires agencies, when formulating and implementing policies, to be guided by the fundamental Federalism principles. The Order serves to guarantee the division of governmental responsibilities between the national government and the states that was intended by the framers of the Constitution. Federalism is rooted in the belief that issues not national in scope or significance are most appropriately addressed by the level of government closest to the people. This Order is relevant to FMPs and amendments given the overlapping authorities of NMFS, the states, and local authorities in managing coastal resources, including fisheries, and the need for a clear definition of responsibilities. It is important to recognize those components of the ecosystem over which fishery managers have no direct control and to develop strategies to address them in conjunction with appropriate international, state, tribal, and local entities.

No federalism issues have been identified relative to the actions proposed in this amendment.

E.O. 13112: Invasive Species

This Executive Order requires agencies to use their authority to prevent introduction of invasive species, respond to and control invasions in a cost effective and environmentally sound manner, and to provide for restoration of native species and habitat conditions in ecosystems that have been invaded. Further, agencies shall not authorize, fund, or carry out actions that are likely to cause or promote the introduction or spread of invasive species in the U.S. or elsewhere unless a determination is made that the benefits of such actions clearly outweigh the potential harm; and that all feasible and prudent measures to minimize the risk of harm will be taken in conjunction with the actions.

This action will not introduce, authorize, fund, or carry out actions that are likely to cause or promote the introduction or spread of invasive species in the U.S. or elsewhere.

E.O. 13158: Marine Protected Areas (MPA)

Executive Order 13158 (May 26, 2000) requires federal agencies to consider whether their proposed action(s) will affect any area of the marine environment that has been reserved by federal, state, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural or cultural resource within the protected area.

This action will not affect any MPAs in federal waters around St. Croix or St. Thomas/St. John.