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COMMISSION DELEGATED REGULATION (EU) 2026/2034

of 4 September 2026

amending Regulation (EU) 2019/1241 of the European Parliament and of the Council as regards measures to reduce incidental catches of common dolphin (*Delphinus delphis*) and other small cetaceans in the Bay of Biscay

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005 ([1]), and in particular Article 15(2) thereof,

Whereas:

(1) Regulation (EU) 2019/1241 lays down technical measures concerning fishing activities in Union waters. Annex XIII thereto provides for rules at regional level regarding mitigation measures to reduce incidental catches of sensitive species including cetaceans, by detailing restricted areas, periods and gear limitations.

(2) Among others, that Regulation provides for specific measures to reduce incidental catches of the common dolphin and other small cetaceans in the Bay of Biscay (ICES subarea 8). These measures include: (i) the use of acoustic deterrent devices for all mid-water pelagic trawls and demersal twin trawls, (ii) a fishing closure from 22 January to 20 February, and (iii) a set of ancillary measures to collect scientific data on incidental catches of small cetaceans in the logbook, as well as recordings made by covering certain percentages of the fishing effort with observers or electronic monitoring systems incorporating cameras on board.

(3) Those specific measures, introduced in Regulation (EU) 2019/1241 by Commission Delegated Regulation (EU) 2024/3089 ([2]) and extended by Commission Delegated Regulation (EU) 2025/2593 ([3]), expire on 31 December 2026.

(4) On 12 June 2026, the South Western Waters High-Level Group (Belgium, Spain, France, the Netherlands, and Portugal) submitted a joint recommendation to the Commission in accordance with Article 18 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council ([4]). The joint recommendation proposes a fishing closure regime whereby masters of Union vessels can choose an alternative closure period of 30 consecutive days between 15 January and 27 February 2027, provided that they notify it to the competent authorities no later than 8 January 2027. In the absence of such notification, the default closure period from 22 January to 20 February 2027 should apply. The fishing closure regime is intended to increase operational flexibility for the fishing sector, thereby reducing economic impacts while continuing to cover the period when the risk of bycatch is high. In the joint recommendation, the Member States also proposed the extension, until 31 December 2027, of the use of acoustic deterrent devices and of the monitoring measures provided for in Delegated Regulation (EU) 2025/2593.

([1]) OJ L 198, 25.7.2019, p. 105, ELI: http://data.europa.eu/eli/reg/2019/1241/oj.

([2]) Commission Delegated Regulation (EU) 2024/3089 of 30 September 2024 amending Regulation (EU) 2019/1241 as regards measures to reduce incidental catches of common dolphin (Delphinus delphis) and other small cetaceans in the Bay of Biscay (OJ L, 2024/3089, 9.12.2024, ELI: http://data.europa.eu/eli/reg_del/2024/3089/oj).

([3]) Commission Delegated Regulation (EU) 2025/2593 of 11 August 2025 amending Regulation (EU) 2019/1241 of the European Parliament and of the Council as regards the prolongation of the measures to reduce incidental catches of common dolphin (Delphinus delphis) and other small cetaceans in the Bay of Biscay (OJ L, 2025/2593, 23.12.2025, ELI: http://data.europa.eu/eli/reg_del/2025/2593/oj).

([4]) Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22, ELI: http://data.europa.eu/eli/reg/2013/1380/oj).

(5) During the preparation of the joint recommendation, the South Western Waters Advisory Council (the 'SWWAC') provided an opinion on the near-final draft ([5]). In its opinion, the SWWAC recommended, among others, a flexible fishing closure where fishers may choose a 30 consecutive days closure within the high-bycatch risk period.

(6) In its plenary meeting on 6-10 July 2026 ([6]), the Scientific, Technical and Economic Committee for Fisheries (the 'STECF') considered the measures proposed in the joint recommendation and concluded that the assessment of the previous joint recommendation made during PLEN 24-02 still applies, namely that the proposed measures should contribute to reducing incidental catches. However, STECF noted that these measures are less stringent than the measures advised by the International Council for the Exploration of the Sea (the 'ICES') ([7]), and raised concerns regarding the impact on dolphins' mortality originating from the gears and areas exempted from the closure. The STECF also considered that a two-month closure, as recommended by the ICES, would allow a better coverage but is likely to have significant social and economic impacts. The STECF further concluded that it is not possible to predict the effect of the proposed modification in the design of the spatio-temporal closure as the timing of the peak of interaction between fishing fleet and dolphins is too variable across years. The STECF noted that introducing flexibility of the timing of the closure might smooth the economic impacts on the fishing fleet and promote compliance, and that early notification of the chosen fishing periods to the authorities of the Member States is crucial to leave enough time to implement the necessary control measures.

(7) The STECF acknowledged that the extensive research conducted in recent years has significantly improved understanding on the species' ecology and its interaction with fisheries, including through a more precise spatial delineation of high-risk areas. It also noted that the development and testing of electronic monitoring systems appear to offer a cost-effective solution of collecting reliable data with significantly broader coverage. The STECF further noted that available data cover only the period up to 2024 and that definitive conclusions as regards the effect of the closure cannot be drawn. Therefore, Member States concerned should review and assess all available and most recent data and information on incidental catches of common dolphin in order to consider possible adjustments to the fishing closure.

(8) Following the STECF advice, on 5 August 2026, the South Western Waters High-Level Group updated the joint recommendation to allow for a possible review of the measures, based on new data on incidental catches or any new relevant scientific advice.

(9) The Expert Group on Fisheries and Aquaculture was consulted on 26 August 2026.

(10) The Commission considers that, while the measures proposed in the joint recommendation are less stringent than the measures advised by the ICES, they will contribute to reducing incidental catches of common dolphin in the Bay of Biscay in 2027.

(11) Regulation (EU) 2019/1241 should therefore be amended accordingly.

(12) This Regulation is without prejudice to additional measures for the protection of the common dolphin and other small cetaceans that the Commission may adopt under Union law, including in relation to the enforcement of Council Directive 92/43/EEC ([8]) or, in case of duly justified imperative grounds of urgency relating to a serious threat to the conservation of marine biological resources or to the marine ecosystem pursuant to Article 12 of Regulation (EU) No 1380/2013, and to more stringent national measures that Member States may adopt for that purpose in their waters in accordance with Regulation (EU) No 1380/2013 and Regulation (EU) 2019/1241.

([5]) SWWAC(2026). Opinion 187 issued in the context of the development of the joint recommendation on measures to reduce accidental catches of common dolphins in the Bay of Biscay (https://cc-sud.eu/wp-content/uploads/2026/05/Avis187-cetaces-0526-FR.pdf).

([6]) STECF(2026). 82nd Plenary report (STECF-PLEN-26-02), Publications Office of the European Union, Luxembourg, 2026, https://stecf.jrc.ec.europa.eu/documents/d/stecf/stecf_plen_26-02.

([7]) ICES(2023). EU request on mitigation measures to reduce bycatches of common dolphin (Delphinus delphis) in the Bay of Biscay (ICES Subarea 8), https://doi.org/10.17895/ices.advice.23515176.

([8]) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7, ELI: http://data.europa.eu/eli/dir/1992/43/oj).

(13) As the measures provided for in this Regulation have a direct impact on the planning of the fishing season of Union vessels and on related economic activities, this Regulation should enter into force as soon as possible. Since the current measures expire on 31 December 2026, this Regulation should apply from 1 January 2027 in order to ensure legal continuity.

(14) In order to enable operators and fisheries control authorities to plan their activities and make the necessary arrangements, masters of Union fishing vessels should notify the closure period in a timely manner before the beginning of such closure.

(15) Regulation (EU) 2019/1241 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex XIII to Regulation (EU) 2019/1241 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2027 until 31 December 2027.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 4 September 2026.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Part A of Annex XIII to Regulation (EU) 2019/1241 is amended as follows:

(1) in point 1.1(b), the entry for ICES subarea 8 is replaced by the following:

'Area	Gear
ICES Subarea 8	Mid-water pelagic trawls (OTM, PTM, TM) and bottom pair trawls (PTB) (**)
(**) This measure shall apply until 31 December 2027.'	

(2) point 4 is replaced by the following:

'4. **Special measures in the Bay of Biscay (ICES Subarea 8)**

4.1. Fishing closure:

Fishing shall be prohibited in French waters up to the outer limit of the exclusive economic zone of France within ICES Subarea 8 during a period of 30 consecutive days between 15 January and 27 February for vessels above 8 metres carrying on board pelagic trawls (PTM, OTM), bottom pair trawls (PTB), purse seine nets (PS), set (anchored) gillnets (GNS), trammel nets (GTR) or combined gillnets and trammel nets (GTN). The masters of the fishing vessels concerned shall notify to the competent authorities no later than 8 January 2027 the 30 consecutive days during which they will be subject to that closure period. In the absence of that notification, the fishing vessels concerned shall be subject to that closure period from 22 January to 20 February 2027.

4.2. Monitoring measures:

4.2.1. The measures set out in points 4.2.2 to 4.2.5 shall apply until 31 December 2027.

4.2.2. Masters of all Union fishing vessels shall record separately in the fishing logbook incidental catches of common dolphins and other small cetaceans (*), in accordance with Article 14(8) of Regulation (EC) No 1224/2009;

4.2.3. Member States shall collect data on catches of common dolphins and other small cetaceans through on-board observers or electronic monitoring systems incorporating cameras, by covering:

— at least 1 % of the total fishing effort measured in number of days at sea for pelagic trawls (PTM), bottom pair trawls (PTB), midwater otter trawls (OTM), trammel nets (GTR), set (anchored) gillnets (GNS) and purse seine (PS) fishing all year long,

— at least 5 % of the total fishing effort measured in number of days at sea for pelagic pair trawls (PTM), bottom pair trawls (PTB) and midwater otter trawls (OTM) fishing from January to March 2027, and

— at least 7 % of the total fishing effort measured in number of days at sea for trammel nets (GTR) and set (anchored) gillnets (GNS) from January to March 2027.

4.2.4. Masters of Union vessels may equip their vessels with electronic monitoring systems incorporating cameras.

4.2.5. The Member States concerned shall review and assess all available and most recent data and information on incidental catches of common dolphin in waters of the Bay of Biscay of ICES subarea 8 with a view to a possible adjustment of the fishing closure referred to in point 4.1.

(*) Species of the family *Delphinidae* and the family *Phocoenidae* that are present (permanently or temporally) in ICES subarea 8'.