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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 101206604-1758-02]

RIN 0648-XE445

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
2016 Recreational Accountability Measure and Closure for
Atlantic Migratory Group Cobia**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for Atlantic migratory group cobia that are not sold (recreational) in the exclusive economic zone (EEZ) of the South Atlantic. NMFS projects that recreational landings of Atlantic migratory group cobia will reach the recreational annual catch target (ACT) by June 20, 2016. Therefore, NMFS closes the recreational sector for Atlantic migratory group cobia on June 20, 2016, and it will remain closed for the remainder of the fishing year through December 31, 2016. This closure is necessary to protect the resource of Atlantic migratory group cobia.

DATES: This rule is effective from 12:01 a.m., local time, June 20, 2016, until 12:01 a.m., local time, January 1, 2017.

FOR FURTHER INFORMATION CONTACT: Karla Gore, NMFS Southeast Regional Office, telephone: 727-824-5305, e-mail: *karla.gore@noaa.gov*.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, and cobia) is managed under the Fishery Management Plan for Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Separate migratory groups of cobia were established in Amendment 18 to the FMP (76 FR 82058, December 29, 2011) and revised in Amendment 20B to the FMP (80 FR 4216, January 27, 2015). The southern boundary for Atlantic migratory group cobia occurs at a line that extends due east of the Florida/Georgia border at 30°42'45.6" N. latitude. The northern boundary for Atlantic migratory group cobia is at the jurisdictional boundary between the Mid-Atlantic and New England Fishery

Management Councils. As specified in 50 CFR 600.105(a), the northern boundary begins at the intersection point of Connecticut, Rhode Island, and New York at 41°18'16.249" N. latitude and 71°54'28.477" W. longitude and proceeds south along 37°22'32.75" E. longitude to the point of intersection with the outward boundary of the EEZ as specified in the Magnuson-Stevens Act.

Atlantic migratory group cobia are unique among federally managed species in the southeast region, because no Federal commercial permit is required to harvest and sell them. The distinction between commercial and recreational sectors is not as clear as other federally managed species in the southeast region. For example, regulations at 50 CFR part 622 specify ACLs and AMs for cobia that are sold and cobia that are not sold. However, for purposes of this temporary rule, Atlantic migratory group cobia that are sold are considered commercially-caught, and those that are not sold are considered recreationally-caught.

The AMs specified at 50 CFR 622.388(f)(2)(i) require that for the recreational sector of Atlantic migratory group cobia, if the sum of the commercial and recreational landings exceed the stock ACL (commercial ACL plus recreational ACL), NMFS must

file a notice with the Office of the Federal Register at or near the beginning of the following fishing year to reduce the length of the fishing season by the amount necessary to ensure landings may achieve the applicable recreational ACT, but do not exceed the applicable recreational ACL.

The recreational AM is triggered for 2016, because although commercial landings did not exceed the commercial ACL (commercial quota) in 2015, the recreational landings exceeded both the recreational ACL and the stock ACL. Because Amendment 20B to the FMP changed the ACLs beginning in 2015, only 1 year of recreational landings is available to compare to the recreational ACL. NMFS has determined that the recreational ACT for Atlantic migratory group cobia will be reached by June 20, 2016. Accordingly, the recreational harvest of Atlantic migratory group cobia will be closed at 12:01 a.m., local time, on June 20, 2016, and remain closed until 12:01 a.m., local time, January 1, 2017.

During the recreational closure, the possession limit of two cobia per day remains in effect (50 CFR 622.383(b)) for Atlantic migratory group cobia that are sold. The possession limit applies to cobia harvested in or from the EEZ in the Mid-Atlantic or South Atlantic, regardless of the number of

trips or duration of a trip. In addition, a person who fishes in the EEZ may not combine this harvest limitation with a harvest limitation applicable to state waters. Atlantic migratory group cobia taken in the EEZ may not be transferred at sea, regardless of where such transfer takes place, and may not be transferred in the EEZ.

Because the commercial AM has not been triggered in 2016, this is only for the recreational sector. The commercial quota for Atlantic migratory group cobia is 50,000 lb (22,680 kg), round weight, for the current fishing year, January 1 through December 31, 2016, as specified in 50 CFR 622.384(d)(2). The sale or purchase of Atlantic migratory group cobia taken under the possession limit is allowed until the commercial quota is reached or is projected to be reached. If cobia landings that are sold reach or are projected to reach the commercial quota specified in § 622.384(d)(2), the Assistant Administrator for Fisheries, NOAA (AA), will file a notification with the Office of the Federal Register to prohibit the sale and purchase of cobia for the remainder of the fishing year through December 31, 2016.

Classification

The Regional Administrator, Southeast Region, NMFS, has

determined this temporary rule is necessary for the conservation and management of Atlantic migratory group cobia and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.388(f)(2) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action is based on the best scientific information available. The AA finds good cause to waive the requirements to provide prior notice and opportunity for public comment, pursuant to the authority set forth at 5 U.S.C. 553(b)(B), as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures are unnecessary and contrary to the public interest because the AMs for Atlantic migratory group cobia established by Amendment 18 to the FMP, and located at 50 CFR 622.388(f)(1)(i), have already been subject to notice and comment, and all that remains is to notify the public of the recreational closure in the 2016 fishing year. Prior notice and opportunity for public comment on this action would be contrary

to the public interest, because many of those affected by the length of the recreational fishing season, particularly charter vessel and headboat operations that book trips for clients in advance, need as much advance notice as NMFS is able to provide to adjust their business plans to account for the reduced recreational fishing season.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 7, 2016

Emily H. Menashes,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.