

calendar year. The 2018 fishing year is scheduled to open on January 1, 2018; the bigeye tuna catch limit for longline vessels over 24 meters in overall length has yet to be established through domestic rulemaking, though, the IATTC agreed to a U.S. limit of 750 mt in a new resolution (C-17-02) at the 92nd Meeting in July 2017.

During the closure, a U.S. fishing vessel over 24 meters in overall length may not be used to retain on board, transship, or land bigeye tuna captured by longline gear in the IATTC Convention Area, except as follows:

- Any bigeye tuna already on board a fishing vessel on September 8, 2017, may be retained on board, transshipped, and/or landed, to the extent authorized by applicable laws and regulations, provided all bigeye tuna are landed within 14 days after the effective date of this rule, that is, no later than September 22, 2017.

- The 14-day limit is waived in the case of a U.S. fishing vessel that has already declared to NMFS, pursuant to 50 CFR 665.803(a), that the current trip type is shallow-setting. However, the number of bigeye tuna retained on board, transshipped, or landed must not exceed the number on board the vessel on September 22, 2017, as recorded by the NMFS observer on board the vessel.

Other prohibitions during the closure include the following:

- Bigeye tuna caught by a United States vessel over 24 meters in overall length with longline gear in the IATTC Convention Area may not be transshipped to a fishing vessel unless that fishing vessel is operated in compliance with a valid permit issued under 50 CFR 660.707 or 665.801.

- A fishing vessel of the United States over 24 meters in overall length may not be used to fish in the Pacific Ocean using longline gear both inside and outside the Convention Area during the same fishing trip. The only exceptions are: a fishing trip during which the closure date was announced, and a trip for which a declaration has been made to NMFS, pursuant to 50 CFR 665.803(a), that the current trip is shallow-setting.

- If a fishing vessel of the United States over 24 meters in overall length is used to fish in the Pacific Ocean using longline gear outside the Convention Area and the vessel enters the Convention Area at any time after September 8, 2017, on the same fishing trip, the longline gear on the fishing vessel must be stowed in a manner so as not to be readily available for fishing. Specifically, the hooks, branch or dropper lines, and floats used to buoy the mainline must be stowed and not

available for immediate use, and any power-operated mainline hauler on deck must be covered in such a manner that it is not readily available for use. This provision does not apply to trips in which vessels have made a declaration to NMFS, pursuant to 50 CFR 665.803(a), that the trip type is shallow-setting.

#### Classification

NMFS has determined there is good cause to waive prior notice and opportunity for public comment pursuant to 5 U.S.C. 553(b)(B). This action is based on the best available information and is necessary for the conservation and management of bigeye tuna. Compliance with the notice and comment requirement would be impracticable and contrary to the public interest because NMFS would be unable to ensure that the 2017 bigeye tuna catch limit applicable to longline vessels over 24 meters is not exceeded. The annual catch limit is an important mechanism to ensure that the United States complies with its international obligations in preventing overfishing and managing the fishery at optimum yield. For the same reasons, NMFS has also determined there is good cause to waive the requirement for a 30-day delay in effectiveness under 5 U.S.C. 553(d)(3).

This action is required by § 300.25(a) and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 951 *et seq.*

Dated: August 29, 2017.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 101206604-1758-02]

RIN 0648-XF652

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2017 Commercial Accountability Measures 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 sold (commercial) and harvested from the exclusive economic zone (EEZ) of the Atlantic. NMFS projects that commercial landings of Atlantic migratory group cobia have reached the commercial quota. Therefore, NMFS closes the commercial sector for Atlantic migratory group cobia in the EEZ on September 5, 2017, and it will remain closed until the next fishing year that begins on January 1, 2018. 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, September 5, 2017, until 12:01 a.m., local time, January 1, 2018.

**FOR FURTHER INFORMATION CONTACT:** Frank Helies, NMFS Southeast Regional Office, telephone: 727-824-5305, email: [frank.helies@noaa.gov](mailto:frank.helies@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish includes king mackerel, Spanish mackerel, and cobia, and 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 then 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 and Georgia state border at 30°42'45.6" N. lat. The northern boundary for Atlantic migratory group cobia is the jurisdictional boundary between the Mid-Atlantic and New England Fishery Management Councils, as specified in 50 CFR 600.105(a).

Atlantic migratory group cobia are unique among federally managed species in the southeast region, because no 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 quotas, annual catch limits, 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 commercial quota for Atlantic migratory group cobia is 50,000 lb (22,680 kg), round or gutted weight, for the 2017 fishing year, from January 1 through December 31, as specified in 50 CFR 622.384(d)(2).

The AMs for the commercial sector of Atlantic migratory group cobia, specified at 50 CFR 622.388(f)(1)(i), require that NMFS 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 if commercial landings reach or are projected to reach the commercial quota specified in § 622.384(d)(2). The commercial AM is triggered for 2017, because NMFS projects that commercial landings of Atlantic migratory group cobia will reach the commercial quota on August 30, 2017. Accordingly, the commercial sector for Atlantic migratory group cobia is closed in the EEZ at 12:01 a.m., local time, on September 5, 2017, and remains closed until it reopens at 12:01 a.m., local time, January 1, 2018.

During the commercial closure, the sale and purchase of Atlantic migratory group cobia is prohibited. Additionally, on January 24, 2017, NMFS closed the recreational sector for Atlantic migratory group cobia in the EEZ for the remainder of the 2017 fishing year (82 FR 8363, January 25, 2017). Therefore, the possession limit for recreational Atlantic migratory group cobia in the EEZ is zero for the remainder of the 2017 fishing year. The prohibition on sale and purchase does not apply to Atlantic migratory group cobia that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, September 5, 2017, and were held in cold storage by a dealer or processor.

#### Classification

The Regional Administrator for the NMFS Southeast Region 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)(1)(i) 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 Assistant Administrator for NOAA Fisheries 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 because the AMs for Atlantic migratory group cobia have already been subject to notice and comment, and all that remains is to notify the public of the commercial closure for the remainder of the 2017 fishing year. Prior notice and opportunity for public comment on this action would be contrary to the public interest, because of the need to immediately implement the commercial closure to protect Atlantic migratory group cobia, since the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest that exceeds the commercial quota.

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: August 29, 2017.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 170808738-7777-01]

RIN 0648-BH11

#### Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Groundfish Fishery; Fishing Year 2017; Emergency Removal of Southern Windowpane Accountability Measures

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

**ACTION:** Temporary rule; emergency action; request for comments.

**SUMMARY:** This emergency rule removes the 2017 southern windowpane flounder accountability measures for non-groundfish trawl vessels that were triggered as a result of a 2015 quota

overage. The rule is necessary because new information indicates 2016 catch did not exceed the quota. This rule is intended to mitigate negative economic impacts to non-groundfish vessels, while maintaining conservation benefits for the southern windowpane flounder stock.

**DATES:** Effective September 1, 2017, through February 28, 2018. Comments must be submitted by October 2, 2017.

**ADDRESSES:** You may submit comments, identified by NOAA-NMFS-2017-0105 by any of the following methods:

- **Electronic submissions:** Submit all electronic public comments via the Federal eRulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0105](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0105), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on the Windowpane Emergency Action."

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:** Aja Szumylo, Fishery Policy Analyst, phone: 978-281-9195.

**SUPPLEMENTARY INFORMATION:** On August 1, 2017, we implemented accountability measures (AMs) in response to an overage of the 2015 southern windowpane flounder annual catch limit (ACL) (82 FR 35660). Due to data availability, AMs for windowpane flounder are typically implemented at the start of the second fishing year after an overage. The AMs require trawl vessels fishing in certain areas in southern New England to use selective trawl gear that limit flatfish catch. The southern windowpane AM areas apply to all groundfish trawl vessels. The AM areas also apply to non-groundfish trawl vessels fishing with a codend mesh size of 5 inches (12.7 cm) or greater, which includes vessels that target summer