COMMONWEALTH of VIRGINIA

Marine Resources Commission
2600 Washington Avenue
Third Floor
Newport News, Virginia 23607

Molly Joseph Ward
Secretary of Natural Resources

John M.R. Bull
Commissioner

August 15, 2016

TO: South Atlantic Fishery Management Council

FROM: Robert L. O'Reilly, Chief of Fisheries, Virginia Marine Resources Commission RLOR

SUBJECT: Public comment regarding Coastal Migratory Pelagics Framework Amendment 4 (Atlantic cobia)

The Virginia Marine Resources Commission (VMRC) understands the proposed framework measures are in response to the overage that occurred in 2015 and these framework measures are intended to provide conservation and flexibility, until the cobia stock assessment can be updated. Although the new assessment may establish adjustments in the annual catch limit (ACL) for Atlantic Migratory Group cobia, it will stand at 670,000 pounds (620,000 pounds recreational, 50,000 pounds commercial) until then. Because the states of Georgia through New York exceeded 620,000 pounds of recreational harvest in six of the last ten years (inclusion of East Florida's harvest prior to 2015 meant a different limit, however), these measures are needed to ensure landings in the near future remain under the annual catch limit.

Under Action 1-1 to modify the recreational harvest limits for Atlantic cobia, the VMRC supports Preferred Sub-alternative 2a, which sets a recreational bag limit of one fish per person per day. The VMRC would not support anything more than four fish per vessel per day, and would support Preferred Sub-alternative 3c of three fish per vessel per day. Under Action 1-2, the VMRC supports Preferred Sub-alternative 2c of 36 inches fork length, as this corresponds to Virginia's current minimum size limit of 40 inches total length. Please know that, although a South Atlantic Fishery Management Council presentation listed Virginia's state-waters recreational minimum size limit as 40 inches total length, the VMRC would like to clarify that, in addition, only one fish per vessel shall be allowed to be over 50 inches total length.

The VMRC may provide additional public comment on Action 2 when it is officially put forth as a plan amendment. At this time, the VMRC supports the recently proposed Mid-Atlantic Fishery Management Council request that the South Atlantic Fishery Management Council establish variable fishing seasons by geographical location.

Under Action 3 to modify the recreational accountability measures for Atlantic cobia, the VMRC supports the usage of multiple Sub-alternatives to be used in this specific order:

1) Sub-alternative 5b, which directs the Regional Administrator of NOAA's Southeast Regional Office to reduce the recreational vessel limit in the event of an overage of the stock ACL;

2) Sub-alternative 3b, which directs the Regional Administrator, in the event of an overage of the stock ACL, to reduce the recreational ACL in the following year by the amount of the recreational overage; and
3) Sub-alternative 2b, which directs the Regional Administrator to shorten the recreational season in the event of an overage.

These accountability measures, presented in this order, represent measures of increasing strictness and should provide the most flexibility for states to meet the necessary reductions through regulations that are best for their own respective fisheries.

Virginia Saltwater Sportfishing Association, Inc (VSSA)
PO Box 28898
Henrico, VA 23228
www.ifishva.org

South Atlantic Fishery Management Council
ATTN: Mackerel Committee (Cobia Amendment)
4055 Faber Place drive, Suite 201
North Charleston, SC 29405

Dear Sir, August 1, 2016

The Virginia Saltwater Sportfishing Association (VSSA) requests the following be included as a public comment for the August 9, 2016 public hearing regarding the proposed cobia amendment.

Virginia recreational anglers support a federal limit of 1 cobia per person (reduction from 2 per person). We do not support boat limits until a new stock assessment is completed to justify that such drastic measures are needed. The council and committee have failed to demonstrate that cobia are overfished based on a single year of data from 2015 when previous years have all been steady.

Virginia recreational anglers recommend redoing the automatic triggers to Accountability Measures (AM) that call for closures based on 1 years' worth of data. Automatic triggers to AMs is a poor way to manage stocks when based on a single year of data. And certainly a full closure is unwarranted when other management options are clearly available such reduced limits, sizes, and partial seasonal closures.

Virginia recreational anglers strongly urge SAFMC to return the Atlantic coast to a single zone. The zone split providing the Florida Atlantic coast their own zone and higher ACL is simply unfair. Tagging data from Virginia clearly show our fish migrate fully along the Florida Atlantic coast as well as the Gulf which demonstrate the zone split is not grounded in science.

Virginia recreational anglers do not support closed seasons. SAFMC and the committee have failed to justify the need for closed season (again solely based on 1 year of data).

If you have any questions or comments, the best way to contact us is through our website or email, ifishva@gmail.com, or my phone: 757-329-5137.

Sincerely,

Mike Avery
Mike Avery, President

From: Bill Gorham [mailto:getbowedup40@gmail.com]
Sent: Tuesday, July 19, 2016 5:37 PM
To: Duval, Michelle <michelle.duval@ncdenr.gov>; Gregg Waugh <Gregg.Waugh@safmc.net>; Jonathan French <french60wasp@gmail.com>; Davis, Braxton C <Braxton.Davis@NCDENR.Gov>
Subject: Re: FW: Council Seeks Input on Mutton Snapper, Atlantic Cobia, Dolphin, and Yellowtail Snapper Measures at August Public Hearing & Scoping Meetings

Attached was sent to us from VIMS showing tagging recaptures, note recaptures in the Gulf and Eastern FLA.

The stakeholders of North Carolina and Virginia should not suffer due to another one state's, bad science experiment, investment, lack regulatory action, or whatever fits this situation as it pertains to cobia.

It appears an Amendment needs to be made allowing federal waters off South Carolina to match SC 's new state law, and bring EFLA,NC,VA back into the same management group and ACL and the attached tagging SUPPORTS IT and should have been used in 2011-2013.

The above action settle's just about every problem, 36-37 increases the spawning stock biomass from this year FORWARD, in three years when the next stock assessment is started it SHOULD should an upward moving graph moving father away from the law required and human defined over "fishing limit".

The proposed regulations and season lengths are not fair, they are not equatable, and that too is part of the the law. NAT1 is only suppose to trump when "over-fishing" is occurring.

We have agreed to a size increase to 37' FL and bag limit of 1 per person. May 1 to Sept 14th season.

Bill,

Thank you for your comments – I have copied Kim Iverson so that these may be included as part of the public record.

As noted at the beginning of the Council's discussion on cobia in June, the following motion was passed by the Council's SEDAR Committee earlier that week, and approved at full Council:

MOTION #7. Move to request a benchmark of Cobia in 2018, and include Cobia in the SEDAR stock ID workshop in 2017.

As you are aware, the Council does not get to make the decision regarding biological stock boundaries – that is made during the SEDAR stock assessment process, and reviewed/approved by the Council's Scientific and Statistical Committee (SSC). The stock ID workshop in 2017 is the forum for all scientists involved in cobia genetics to review that decision and all relevant new information in advance of a benchmark stock assessment in 2018. Once a decision is reviewed/approved by the SSC, the Council can act on that.

I appreciate your involvement in the process.

Thank you,
Michelle

Dear Bill and Jonathan – thank you for providing your comments. I have taken the opportunity to address your comments about stock ID below (also attached). I will be at the Virginia Beach and Kitty Hawk public hearings and would be more than happy to discuss this and your other cobia concerns face to face. I value your views and input and would appreciate the opportunity to explain the constraints we have to operate under. The Council is doing all it can to address the cobia issue as quickly as we can. All current information on stock ID will be evaluated and we will get a decision on what boundary to use. Then the assessment and then an amendment. There will be a number of opportunities for more public input and we will make sure to include you all in any notices.

See you at the hearings,

Gregg

COBIA ISSUES (Gregg Waugh, SAFMC Staff; 7/21/16)

I. STOCK ID & BOUNDARY

A. Originally Managed as One Stock but then Split at Council Boundary (CMP Am 18; Implemented in January 2012) into Gulf and Atlantic Migratory Groups

The following information is taken directly from Amendment 18 (pages 43-44):

2.3 ACTION 3: Establish Separate Atlantic and Gulf Migratory groups of Cobia

Alternative 1. No action - maintain one migratory group of cobia

Alternative 2. Separate the two migratory groups at the Miami-Dade/Monroe County line

Preferred Alternative 3. Separate the two migratory groups at the SAFMC/GMFMC boundary

Discussion: Currently, the CMP FMP considers that there is only one stock of cobia that includes the Gulf and Atlantic. Although Franks et al. (1991), Franks and McBee (1994), Franks and Moxey (1996), and Burns et al. (1998) observed migrations of cobia from wintering grounds in the Florida Keys up the Atlantic and Gulf coasts, they also noted that some portion of the cobia stock remained in the Atlantic and the Gulf year-round. Burns et al. (1998) and Franks et al. (1999) also found distinct differences in life history parameters such as maximum age and growth rates for fish in the Atlantic and Gulf. Consequently, despite the evidence of mixing and genetic similarity, Thompson (1993) suggested that cobia be managed based on a two-stock hypothesis. Williams (2001) recognized the evidence of mixing; however, came to the same conclusion as Thompson and used the two-stock hypothesis in a 2001 assessment that was done for the Gulf component with a split at the Miami-Dade/Monroe County line. The following is taken directly from the "Assessment of cobia, *Rachycentron canadum*, in the waters of the U.S. Gulf of Mexico by Erik H. Williams (NOAA TECHNICAL MEMORANDUM NMFS-SEFSC-469, November 2001)":

"This assessment applies to cobia (Rachycentron canadum) located in the territorial waters of the U.S. Gulf of Mexico. Separation of the Gulf of Mexico and Atlantic Ocean is defined by the seaward extension of the Dade/Monroe county line in south Florida. Mixing of fish between the Atlantic and Gulf of Mexico occurs in the Florida Keys during winter months. Cobia annually migrate north in early spring in the Gulf to spawning grounds in the northern Gulf of Mexico, returning to the Florida Keys by winter.

Cobia (Rachycentron canadum), the only member of the family Rachycentridae in North America, is a widely distributed species of pelagic fish found worldwide, except the Eastern Pacific; in tropical, subtropical, and warm temperate waters (Shaffer and Nakamura 1989). In the U.S., cobia are found in the Atlantic Ocean from the Florida Keys to Massachusetts and throughout the Gulf of Mexico. Cobia exhibit seasonal migrations in the Atlantic and Gulf of Mexico. In the Atlantic Ocean cobia begin their spring migration north from wintering grounds in the Florida Keys, generally appearing by late spring and early summer in the poly/mesohaline areas of coastal Virginia and the Carolinas (Schwartz et al. 1981, Smith 1995). In the Gulf of Mexico, cobia migrate in early spring from their wintering grounds in the Florida Keys to the northeastern Gulf where they occur in the nearshore and coastal waters off northwestern Florida to Texas from March through October (Biesiot et al. 1994, Franks et al. 1999). In the Atlantic and Gulf of Mexico there is evidence of some cobia overwintering in deeper waters (100-125 m) off the Carolinas and northern Gulf (Franks et al. 1999, Joseph W. Smith personal communication).

Tagging studies have revealed migrations of fish in both directions between the northern Gulf of Mexico and the Carolinas, indicating some level of exchange of fish from the Gulf of Mexico and Atlantic Ocean (Franks et al. 1992, Franks and McBee 1994, Franks and Moxey

1996). A genetics study of mtDNA of cobia samples from the Atlantic and Gulf of Mexico did not reveal differences (Hrincevich 1993). Despite the evidence of mixing and genetic similarity, Thompson (1993) suggested that cobia be managed based on a two stock hypothesis (Thompson 1996). The two stock approach was endorsed by the Mackerel Stock Assessment Panel in 1993 and is used for this analysis."

More recent unpublished data from research conducted by South Carolina DNR (Denson, et al.; Cobia Research in SC and Beyond, PowerPoint presentation at a Cobia meeting on March 15, 2011) examined a suite of microsatellite loci. Atlantic samples were collected during April – July in 2008 and 2009. Results indicate a homogenous offshore migratory group, including the Florida Panhandle area, with distinct inshore aggregations (Figure 2.3.1).

FACT: The NMFS established the boundary at the GMFMC/SAFMC boundary and conducted an assessment on the Gulf group. They acknowledged some level of mixing based on the tagging and genetic data but concluded a two stock approach was appropriate. The two stock boundary was approved by the Mackerel Stock Assessment Panel in 1993 and by our Scientific and Statistical Committee. The amendment was reviewed and approved by the Scientific and Statistical Committee (SSC) and deemed to be Best Scientific Informational Available (BSIA) by the National Marine Fisheries Service, including a review by NOAA General Consul (our lawyers). The Secretary of Commerce conducted a review and determined that the actions and regulations are consistent with the Magnuson-Stevens Act, the National Standards, and other applicable law.

B. **SEDAR 28 (Atlantic Group Cobia; completed in 2013 with data through 2011)**

The following information is taken directly from the SEDAR 28 Stock Assessment Report, Introduction, pages 16-17):

Stock Identification and Management Unit

Microsatellite-based analyses demonstrated that tissue samples collected from NC, SC, east coast Florida (near St. Lucie), MS and TX showed disparate allele frequency distributions and subsequent analysis of molecular variance showed population structuring occurring between the states. Results showed that the Gulf of Mexico stock appeared to be genetically homogeneous and that segment of the population continued around the Florida peninsula to St. Lucie Florida, with a genetic break somewhere between St. Lucie Florida and Port Royal Sound in South Carolina. Tag recapture data suggested two stocks of fish that overlap at Brevard County Florida and corroborated the genetic findings.

The South Atlantic and Gulf stocks were separated at the FL/GA line because genetic data suggested that the split is north of the Brevard/Indian River County line and there was no tagging data to dispute this split. The FL/GA line was selected as the stock boundary based on recommendations from the commercial and recreational work groups and comments that for ease of management the FL/GA line would be the preferable stock boundary and did not conflict with the life history information available. However, there was not enough resolution in the genetic or tagging data to suggest that a biological stock boundary exists specifically at the FL/GA line, only that a mixing zone occurs around Brevard County, FL and potentially to the north. The Atlantic stock extended northward to New York.

FACT: The stock boundary was changed during the SEDAR 28 stock assessment from the Council boundary to the Florida/Georgia line. Workshop participants identified a zone of mixing with a segment of the Gulf of Mexico stock continuing around Florida up to an area between St. Lucie, Florida and Port Royal Sound in South Carolina. The stock assessment was conducted using the Florida/Georgia line as the boundary. The results were reviewed and approved by the Center for Independent Experts (CIE), the Scientific and Statistical Committee (SSC), and deemed to be Best Scientific Informational Available (BSIA) by the National Marine Fisheries Service. This determination binds the Council to use the FL/GA boundary until the scientists modify the boundary at some point in the future. See "How to Modify?" below.

C. **Current Boundary Implemented in Amendment 20B (Implemented on March 1, 2015)**

The following information is taken directly from Amendment 20B, Chapter 1. Introduction, pages 4-5):

Cobia: Separate migratory groups of cobia were established in Amendment 18 (GMFMC and SAFMC 2011). The division between Gulf and Atlantic migratory groups was set at the Councils' jurisdictional boundary, off the Florida Keys. During the Southeast Data, Assessment, and Review (SEDAR) 28, panelists determined the biological boundary between the Gulf and Atlantic migratory groups to be at the Florida/Georgia border. This decision was based on genetic and tagging data, and recommendations from the commercial and recreational statistics working groups. They determined that a mixing zone occurs around Brevard County, Florida, and potentially to the north. Although they did not find enough resolution in the data to specifically identify a biological boundary, the Florida/Georgia line did not conflict with life history information and would be easiest for management (SEDAR 28 2013a, 2013c). The northern boundary of the Atlantic migratory group is at the jurisdictional boundary between the Mid-Atlantic and New England Councils (Figure 1.1.3).

Because the biological boundary from the stock assessment differs from the management boundary, acceptable biological catch (ABC) would need to be allocated for the east coast of Florida. Further, the assessment produced new recommendations for ABC, which should result in new ACLs and annual catch targets (ACTs) for cobia.

Figure 1.1.3. Jurisdictional boundaries of the Gulf (blue), South Atlantic (orange), Mid-Atlantic (green), and New England (peach) Fishery Management Councils. The South Atlantic Council manages cobia for the South Atlantic and Mid-Atlantic regions.

The new ABC and ACL values were developed as Action 6 (Amendment 20B pages 37-44): The ACLs and ACTs would be as follows:

Gulf Migratory Group	Atlantic Migratory Group

(see Table 2.6.3 for values for each Option)		
Gulf Zone	**FL East Coast Zone**	
ACL = x% ABC	ACL = x% ABC Commercial ACL = 8% ACL Recreational ACL = 92% ACL	ACL = ABC = OY Commercial ACL = 8% ACL Recreational ACL = 92% ACL
Stock ACT = 90%ACL	Recreational ACT = ACL [(1-PSE) or 0.5, whichever is greater]	Recreational ACT = ACL [(1-PSE) or 0.5, whichever is greater]

Table 2.6.1. ABCs for Atlantic and Gulf migratory group cobia (as recommended by the Council SSCs, based on results from SEDAR 28), and ACLs and ACTs for each option in **Alternative 2**. All values are in millions of pounds.

Year	**Atlantic Migratory Group**		**Atlantic Zone ACL**		**Atlantic Zone ACT**	**Gulf Migratory Group**		**Gulf Zone ACL**	**Gulf Zone ACT**
	OFL	**ABC**	Commercial	Recreational	Recreational	**OFL**	**ABC**	Stock	Stock
2014	0.81	0.73	0.06	0.67	0.55	2.56	2.46	2.46	2.21
2015	0.76	0.69	0.06	0.63	0.52	2.59	2.52	2.52	2.27
2016	0.73	0.67	0.05	0.62	0.50	2.66	2.60	2.60	2.34

FACT: The stock boundary was changed during the SEDAR 28 stock assessment from the Councils' boundary to the Florida/Georgia line. The Councils implemented this change to the boundary through Amendment 20B. The amendment was reviewed and approved by the Scientific and Statistical Committee (SSC) and deemed to be Best Scientific Informational Available (BSIA) by the National Marine Fisheries Service, including a review by NOAA General Consul (our lawyers). The Secretary of Commerce conducted a review and determined that the actions and regulations are consistent with the Magnuson-Stevens Act, the National Standards, and other applicable law. This determination binds the Council to use the FL/GA boundary until the scientists modify the boundary at some point in the future. See "How to Modify?" below.

OPINION: Individuals have offered their opinions that tagging results from VIMS and/or results from NOAA/Miami show recaptures on the Florida East Coast and in the Gulf of Mexico, and these results void the decision to manage as two separate stocks at the Florida/Georgia line. This is simply incorrect because some level of mixing has been acknowledged from the time of the first cobia stock assessment in the Gulf of Mexico (2001).

OPINION: Individuals have offered their opinions that "the decision to divide the cobia management area at the Georgia-Florida line is a poison fruit that should negate every management decision based on data collected since that decision was made" and that the genetics show that cobia are genetically the same in the Gulf and the Atlantic. These opinions are simply incorrect and merely reiterate what was stated when NMFS did the Gulf of Mexico cobia assessment in 2001:

1996). A genetics study of mtDNA of cobia samples from the Atlantic and Gulf of Mexico did not reveal differences (Hrincevich 1993). Despite the evidence of mixing and genetic similarity, Thompson (1993) suggested that cobia be managed based on a two stock hypothesis (Thompson 1996). The two stock approach was endorsed by the Mackerel Stock Assessment Panel in 1993 and is used for this analysis."

OPINION: Individuals have offered their opinions that "The assertion that 'best science' was used to divide the SAFMC management zone has been PROVEN to be false and not grounded in evidence-driven science, a clear violation of National Standard 2." This is simply incorrect. Each time that the two stock boundary was established and/or modified, NOAA General Consul (our lawyers) have reviewed and provide guidance that no national standards were violated, the NMFS Southeast Fisheries Science Center has certified that the actions are based on the Best Scientific Information Available, and the Secretary of Commerce has conducted a review and determined that the actions and regulations are consistent with the Magnuson-Stevens Act, the National Standards, and other applicable law.

II. **How to modify?**

The Council cannot unilaterally change the stock boundary; this is a scientific decision. At the June 2016 meeting, the Council approved the following motion:

> **MOTION #7**. Move to request a benchmark of Cobia in 2018, and include Cobia in the SEDAR stock ID workshop in 2017.

This request goes to the SEDAR Steering Committee that meets September 20-21, 2016 in Charleston, SC. We will know the actual timing after that meeting but a very rough expected schedule is as follows:

(i) SEDAR Stock ID Workshop – late 2017
(ii) SEDAR Cobia Assessment – 2018
(iii) Assessment results to SSC – April 2019
(iv) Assessment results and SSC recommendation to Council – June 2019
(v) Framework or Amendment to implement changes – complete September 2019
(vi) New ABC/ACL, new boundary (if changed), etc. – effective early 2010

The stock ID workshop will determine the stock boundary. Based on information available, options could include:

(i) One stock Gulf and Atlantic
(ii) Two stocks with the boundary somewhere on the Florida East Coast
(iii) Two stocks with the boundary at the Florida/Georgia line
(iv) More than two stocks (inshore and offshore) with various boundaries
(v) Others??

We will not know the boundary and no one should expect a specific answer.

FACT: The Council cannot change the stock boundary. The stock boundary will be reexamined in a Stock ID Workshop to be held in late 2017.

OPINION: Individuals have offered their opinions that the SAFMC and the staff use the regulatory discretion granted by Congress to withdraw the current boundaries and return to the 2014 management zone and ACL. The assertion that the Council has such flexibility is simply incorrect. The Councils established a framework procedure through which they can make changes but the stock boundary is a scientific determination and the Council cannot change the boundary until the scientists hold the stock ID workshop in late 2017 and provide a new recommended boundary. Then the assessment would need to provide new ABC values so that the Council could specify new ACLs. Until then, the Council is required to use the current boundary.

On Tue, Jul 19, 2016 at 5:37 PM, Bill Gorham <getbowedup40@gmail.com> wrote:
Attached was sent to us from VIMS showing tagging recaptures, note recaptures in the Gulf and Eastern FLA.

The stakeholders of North Carolina and Virginia should not suffer due to another one state's, bad science experiment, investment, lack regulatory action, or whatever fits this situation as it pertains to cobia.

It appears an Amendment needs to be made allowing federal waters off South Carolina to match SC 's new state law, and bring EFLA,NC,VA back into the same management group and ACL and the attached tagging SUPPORTS IT and should have been used in 2011-2013.

The above action settle's just about every problem, 36-37 increases the spawning stock biomass from this year FORWARD, in three years when the next stock assessment is started it SHOULD should an upward moving graph moving father away from the law required and human defined over "fishing limit".

The proposed regulations and season lengths are not fair, they are not equatable, and that too is part of the the law. NAT1 is only suppose to trump when "over-fishing" is occurring.

We have agreed to a size increase to 37' FL and bag limit of 1 per person. May 1 to Sept 14th season.

Dr. Duvall, Mr. Waugh, and Mr. Davis,

Mr. Gorham is on point. The decision to divide the cobia management area at the Georgia-Florida line is a poison fruit that should negate every management decision based on data collected since that decision was made.

Please note, Amendment 20B says SPECIFICALLY that the "decision (to split at the Florida/Georgia line was based on **GENETIC and TAGGING DATA**, and recommendations from the commercial and recreational statistics working groups."

1) Regardless of the original purpose of the study, the Texas A&M study (a peer reviewed, publicly available scientific assertion) says CLEARLY that "Cobias that were sampled from the coastal waters of Virginia, Mississippi, and Louisiana were genetically homogeneous based on assays of microsatellite genotypes and mtDNA haplotypes." GENETICS SHOW THAT COBIA ARE GENETICALLY THE SAME IN THE GULF AND THE ATLANTIC. STRIKE ONE.

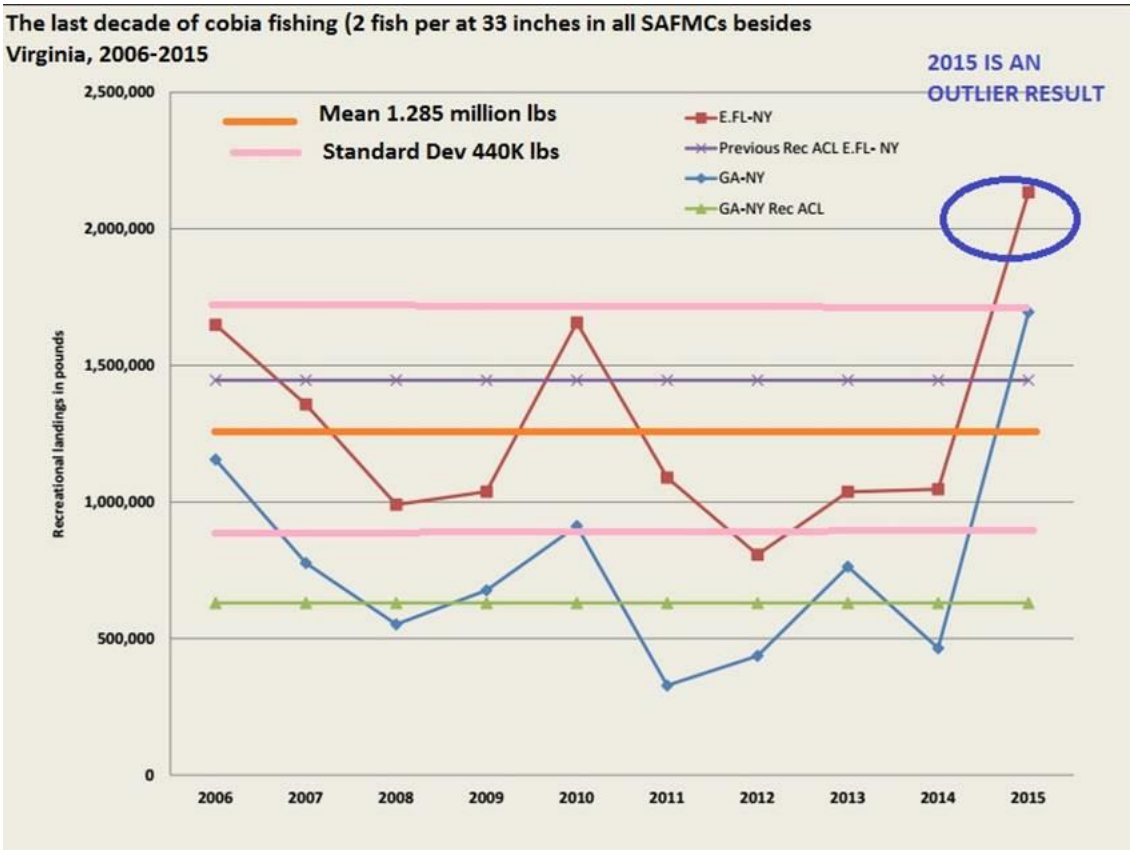
2) VIMS tagging data (shown above in Mr. Gorham's post) , which was provided to SAFMC (cited as "personal communication" in Amendment 20b but not referenced otherwise) shows fish tagged throughout the SAFMC zone AND in the Gulf of Mexico.

The assertion that "best science" was used to divide the SAFMC management zone has been PROVEN to be false and not grounded in evidence-driven science, a clear violation of National Standard 2. If decisions are made with an arbitrary framework that can PICK AND CHOOSE which data to consider, then those decisions VIOLATE NATIONAL STANDARD 1 because those decisions DO NOT PRODUCE THE MAXIMUM SUSTAINABLE YIELD.

Virginia and North Carolina's fisheries management commissions have repudiated your science through non-compliance. Three members of the Virginia congressional delegation have declared

that these decisions "disregard for federal law." (Letter to VMRC from Rep. Rob Wittman, Rep. Randy Forbes, and Rep. Scott Rigell.)

If we return to the appropriate ACL and boundary, the need for the proposals highlighted in Amendment 4 besides a needed change in the accountability measure are unnecessary. We have calculated the annual catch for the last decade. Only three years have exceeded the ACL. Two of those years are the result of abnormally high Florida catches, and all come from a world where six pack boats could keep 16 cobia per day at 33 inches (with the exception of Florida. Looking at these numbers and using the STATE-PASSED creel reductions (1 fish per person at 37 FL/40TL for Virginia), there is no credible way to twist and manipulate the data to argue that we won't stay under the appropriate ACL. I will also note that 2015 IS A STATISTICAL OUTLIER, as the total of 2+ million pounds is well outside of the standard deviation for the last decade of catches.



I again plead with the SAFMC and the staff to use the regulatory discretion granted to you by Congress to withdraw the current boundaries and return to the 2014 management zone and ACL. Then, we can have a reasonable discussion about the appropriate accountability measures.

Thank You,
Jonathan E. French
Falls Church VA

Mr. French,

Thank you very much for your comments – as with Mr. Gorham, I have copied Kim Iverson so that these may become part of the public record.

As I noted in my response to Bill, the Council passed the following motion requesting review of the biological stock boundary for cobia via a stock ID workshop:

MOTION #7. Move to request a benchmark of Cobia in 2018, and include Cobia in the SEDAR stock ID workshop in 2017.

Again, as I noted to Bill and as I know you are aware, the Council does not get to make the decision regarding biological stock boundaries; that decision occurs during the stock assessment process and is reviewed and approved by the Council's SSC. The concerns and information that you and others have brought forward have directly resulted in the Council's request to review that decision as soon as possible. The stock ID workshop is the opportunity for scientists throughout the Atlantic and Gulf with expertise in cobia genetics and research to come together, debate any new and previously available science and provide an answer.

I will note that the biological boundaries and mixing zone for Atlantic and Gulf groups of king mackerel have changed more than once; the current mixing zone is a seasonally shifting zone, which encompasses most of the east coast of Florida around to the west coast of Florida. Based on new and additional information, the 2014 stock assessment (SEDAR 38) determined that the mixing zone was much smaller, and only encompassed the area off the Florida Keys. Consequently, the Council has an amendment that is currently in the NMFS rulemaking process to change that stock boundary, based on the peer-reviewed assessment that was approved by the SSC.

Thank you again for your comments and participation in the process.

Michelle

Dear Bill and Jonathan – thank you for providing your comments. I have taken the opportunity to address your comments about stock ID below (also attached). I will be at the Virginia Beach and Kitty Hawk public hearings and would be more than happy to discuss this and your other cobia concerns face to face. I value your views and input and would appreciate the opportunity to explain the constraints we have to operate under. The Council is doing all it can to address the cobia issue as quickly as we can. All current information on stock ID will be evaluated and we will get a decision on what boundary to use. Then the assessment and then an amendment. There will be a number of opportunities for more public input and we will make sure to include you all in any notices.

See you at the hearings,

Gregg

COBIA ISSUES (Gregg Waugh, SAFMC Staff; 7/21/16)

I. **STOCK ID & BOUNDARY**

A. **Originally Managed as One Stock but then Split at Council Boundary (CMP Am 18; Implemented in January 2012) into Gulf and Atlantic Migratory Groups**

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>
> *Cobia (Rachycentron canadum), the only member of the family Rachycentridae in North America, is a widely distributed species of pelagic fish found worldwide, except the Eastern Pacific; in tropical, subtropical, and warm temperate waters (Shaffer and Nakamura 1989). In the U.S., cobia are found in the Atlantic Ocean from the Florida Keys to Massachusetts and throughout the Gulf of Mexico. Cobia exhibit seasonal migrations in the Atlantic and Gulf of Mexico. In the Atlantic Ocean cobia begin their spring migration north from wintering grounds in the Florida Keys, generally appearing by late spring and early summer in the poly/mesohaline areas of coastal Virginia and the Carolinas (Schwartz et al. 1981, Smith 1995). In the Gulf of Mexico, cobia migrate in early spring from their wintering grounds in the Florida Keys to the northeastern Gulf where they occur in the nearshore and coastal waters off northwestern Florida to Texas from March through October (Biesiot et al. 1994, Franks et al. 1999). In the Atlantic and Gulf of Mexico there is evidence of some cobia overwintering in deeper waters (100-125 m) off the Carolinas and northern Gulf (Franks et al. 1999, Joseph W. Smith personal communication).*

Tagging studies have revealed migrations of fish in both directions between the northern Gulf of Mexico and the Carolinas, indicating some level of exchange of fish from the Gulf of Mexico and Atlantic Ocean (Franks et al. 1992, Franks and McBee 1994, Franks and Moxey 1996). A genetics study of mtDNA of cobia samples from the Atlantic and Gulf of Mexico did not reveal differences (Hrincevich 1993). Despite the evidence of mixing and genetic similarity, Thompson (1993) suggested that cobia be managed based on a two stock hypothesis (Thompson 1996). The two stock approach was endorsed by the Mackerel Stock Assessment Panel in 1993 and is used for this analysis."

More recent unpublished data from research conducted by South Carolina DNR (Denson, et al.; Cobia Research in SC and Beyond, PowerPoint presentation at a Cobia meeting on March 15, 2011) examined a suite of microsatellite loci. Atlantic samples were collected during April – July in 2008 and 2009. Results indicate a homogenous offshore migratory group, including the Florida Panhandle area, with distinct inshore aggregations (Figure 2.3.1).

FACT: The NMFS established the boundary at the GMFMC/SAFMC boundary and conducted an assessment on the Gulf group. They acknowledged some level of mixing based on the tagging and genetic data but concluded a two stock approach was appropriate. The two stock boundary was approved by the Mackerel Stock Assessment Panel in 1993 and by our Scientific and Statistical Committee. The amendment was reviewed and approved by the Scientific and Statistical Committee (SSC) and deemed to be Best Scientific Informational Available (BSIA) by the National Marine Fisheries Service, including a review by NOAA General Consul (our lawyers). The Secretary of Commerce conducted a review and determined that the actions and regulations are consistent with the Magnuson-Stevens Act, the National Standards, and other applicable law.

B. **SEDAR 28 (Atlantic Group Cobia; completed in 2013 with data through 2011)**

The following information is taken directly from the SEDAR 28 Stock Assessment Report, Introduction, pages 16-17):

Stock Identification and Management Unit

Microsatellite-based analyses demonstrated that tissue samples collected from NC, SC, east coast Florida (near St. Lucie), MS and TX showed disparate allele frequency distributions and subsequent analysis of molecular variance showed population structuring occurring between the states. Results showed that the Gulf of Mexico stock appeared to be genetically homogeneous and that segment of the population continued around the Florida peninsula to St. Lucie Florida, with a genetic break somewhere between St. Lucie Florida and Port Royal Sound in South Carolina. Tag recapture data suggested two stocks of fish that overlap at Brevard County Florida and corroborated the genetic findings.

The South Atlantic and Gulf stocks were separated at the FL/GA line because genetic data suggested that the split is north of the Brevard/Indian River County line and there was no tagging data to dispute this split. The FL/GA line was selected as the stock boundary based on recommendations from the commercial and recreational work groups and comments that for ease of management the FL/GA line would be the preferable stock boundary and did not conflict with the life history information available. However, there was not enough resolution in the genetic or tagging data to suggest that a biological stock boundary exists specifically at the FL/GA line, only that a mixing zone occurs around Brevard County, FL and potentially to the north. The Atlantic stock extended northward to New York.

FACT: The stock boundary was changed during the SEDAR 28 stock assessment from the Council boundary to the Florida/Georgia line. Workshop participants identified a zone of mixing

with a segment of the Gulf of Mexico stock continuing around Florida up to an area between St. Lucie, Florida and Port Royal Sound in South Carolina. The stock assessment was conducted using the Florida/Georgia line as the boundary. The results were reviewed and approved by the Center for Independent Experts (CIE), the Scientific and Statistical Committee (SSC), and deemed to be Best Scientific Informational Available (BSIA) by the National Marine Fisheries Service. This determination binds the Council to use the FL/GA boundary until the scientists modify the boundary at some point in the future. See "How to Modify?" below.

C. **Current Boundary Implemented in Amendment 20B (Implemented on March 1, 2015)**

The following information is taken directly from Amendment 20B, Chapter 1. Introduction, pages 4-5):

Cobia: Separate migratory groups of cobia were established in Amendment 18 (GMFMC and SAFMC 2011). The division between Gulf and Atlantic migratory groups was set at the Councils' jurisdictional boundary, off the Florida Keys. During the Southeast Data, Assessment, and Review (SEDAR) 28, panelists determined the biological boundary between the Gulf and Atlantic migratory groups to be at the Florida/Georgia border. This decision was based on genetic and tagging data, and recommendations from the commercial and recreational statistics working groups. They determined that a mixing zone occurs around Brevard County, Florida, and potentially to the north. Although they did not find enough resolution in the data to specifically identify a biological boundary, the Florida/Georgia line did not conflict with life history information and would be easiest for management (SEDAR 28 2013a, 2013c). The northern boundary of the Atlantic migratory group is at the jurisdictional boundary between the Mid-Atlantic and New England Councils (Figure 1.1.3).

Because the biological boundary from the stock assessment differs from the management boundary, acceptable biological catch (ABC) would need to be allocated for the east coast of Florida. Further, the assessment produced new recommendations for ABC, which should result in new ACLs and annual catch targets (ACTs) for cobia.

Figure 1.1.3. Jurisdictional boundaries of the Gulf (blue), South Atlantic (orange), Mid-Atlantic (green), and New England (peach) Fishery Management Councils. The South Atlantic Council manages cobia for the South Atlantic and Mid-Atlantic regions.

The new ABC and ACL values were developed as Action 6 (Amendment 20B pages 37-44): The ACLs and ACTs would be as follows:

Gulf Migratory Group		**Atlantic Migratory Group**
(see Table 2.6.3 for values for each Option)		
Gulf Zone	**FL East Coast Zone**	

ACL = x% ABC	ACL = x% ABC Commercial ACL = 8% ACL Recreational ACL = 92% ACL	ACL = ABC = OY Commercial ACL = 8% ACL Recreational ACL = 92% ACL
Stock ACT = 90%ACL	Recreational ACT = ACL [(1-PSE) or 0.5, whichever is greater]	Recreational ACT = ACL [(1-PSE) or 0.5, whichever is greater]

Table 2.6.1. ABCs for Atlantic and Gulf migratory group cobia (as recommended by the Council SSCs, based on results from SEDAR 28), and ACLs and ACTs for each option in **Alternative 2**. All values are in millions of pounds.

Year	Atlantic Migratory Group		Atlantic Zone ACL		Atlantic Zone ACT	Gulf Migratory Group		Gulf Zone ACL	Gulf Zone ACT
	OFL	ABC	Commercial	Recreational	Recreational	OFL	ABC	Stock	Stock
2014	0.81	0.73	0.06	0.67	0.55	2.56	2.46	2.46	2.21
2015	0.76	0.69	0.06	0.63	0.52	2.59	2.52	2.52	2.27
2016	0.73	0.67	0.05	0.62	0.50	2.66	2.60	2.60	2.34

FACT: The stock boundary was changed during the SEDAR 28 stock assessment from the Councils' boundary to the Florida/Georgia line. The Councils implemented this change to the boundary through Amendment 20B. The amendment was reviewed and approved by the Scientific and Statistical Committee (SSC) and deemed to be Best Scientific Informational Available (BSIA) by the National Marine Fisheries Service, including a review by NOAA General Consul (our lawyers). The Secretary of Commerce conducted a review and determined that the actions and regulations are consistent with the Magnuson-Stevens Act, the National Standards, and other applicable law. This determination binds the Council to use the FL/GA boundary until the scientists modify the boundary at some point in the future. See "How to Modify?" below.

OPINION: Individuals have offered their opinions that tagging results from VIMS and/or results from NOAA/Miami show recaptures on the Florida East Coast and in the Gulf of Mexico, and these results void the decision to manage as two separate stocks at the Florida/Georgia line. This is simply incorrect because some level of mixing has been acknowledged from the time of the first cobia stock assessment in the Gulf of Mexico (2001).

OPINION: Individuals have offered their opinions that "the decision to divide the cobia management area at the Georgia-Florida line is a poison fruit that should negate every management decision based on data collected since that decision was made" and that the genetics show that cobia are genetically the same in the Gulf and the Atlantic. These opinions are simply incorrect and merely reiterate what was stated when NMFS did the Gulf of Mexico cobia assessment in 2001:

1996). A genetics study of mtDNA of cobia samples from the Atlantic and Gulf of Mexico did not reveal differences (Hrincevich 1993). Despite the evidence of mixing and genetic similarity, Thompson (1993) suggested that cobia be managed based on a two stock hypothesis (Thompson 1996). The two stock approach was endorsed by the Mackerel Stock Assessment Panel in 1993 and is used for this analysis."

OPINION: Individuals have offered their opinions that "The assertion that 'best science' was used to divide the SAFMC management zone has been PROVEN to be false and not grounded in

evidence-driven science, a clear violation of National Standard 2." This is simply incorrect. Each time that the two stock boundary was established and/or modified, NOAA General Consul (our lawyers) have reviewed and provide guidance that no national standards were violated, the NMFS Southeast Fisheries Science Center has certified that the actions are based on the Best Scientific Information Available, and the Secretary of Commerce has conducted a review and determined that the actions and regulations are consistent with the Magnuson-Stevens Act, the National Standards, and other applicable law.

II. **How to modify?**

The Council cannot unilaterally change the stock boundary; this is a scientific decision. At the June 2016 meeting, the Council approved the following motion:

> **MOTION #7**. Move to request a benchmark of Cobia in 2018, and include Cobia in the SEDAR stock ID workshop in 2017.

This request goes to the SEDAR Steering Committee that meets September 20-21, 2016 in Charleston, SC. We will know the actual timing after that meeting but a very rough expected schedule is as follows:

(i) SEDAR Stock ID Workshop – late 2017
(ii) SEDAR Cobia Assessment – 2018
(iii) Assessment results to SSC – April 2019
(iv) Assessment results and SSC recommendation to Council – June 2019
(v) Framework or Amendment to implement changes – complete September 2019
(vi) New ABC/ACL, new boundary (if changed), etc. – effective early 2010

The stock ID workshop will determine the stock boundary. Based on information available, options could include:

(i) One stock Gulf and Atlantic
(ii) Two stocks with the boundary somewhere on the Florida East Coast
(iii) Two stocks with the boundary at the Florida/Georgia line
(iv) More than two stocks (inshore and offshore) with various boundaries
(v) Others??

We will not know the boundary and no one should expect a specific answer.

FACT: The Council cannot change the stock boundary. The stock boundary will be reexamined in a Stock ID Workshop to be held in late 2017.

OPINION: Individuals have offered their opinions that the SAFMC and the staff use the regulatory discretion granted by Congress to withdraw the current boundaries and return to the 2014 management zone and ACL. The assertion that the Council has such flexibility is simply incorrect. The Councils established a framework procedure through which they can make changes but the stock boundary is a scientific determination and the Council cannot change the boundary until the scientists hold the stock ID workshop in late 2017 and provide a new recommended boundary. Then the assessment would need to provide new ABC values so that the Council could specify new ACLs. Until then, the Council is required to use the current boundary.