

Coastal Migratory Pelagics Amendment 31 (Atlantic cobia management)



Decision Document

Background

After the 2015 overage and subsequent shortened 2016 recreational season for Atlantic cobia, the South Atlantic Council started work on an amendment to revise Atlantic cobia management measures to help reduce the rate of harvest (extend the season) and to reduce the likelihood that the ACL would be exceeded in future years. The final rule for CMP Framework Amendment 4 was published on August 4, 2017, with an effective date of September 5, 2017. Additionally, the South Atlantic Council requested that the Atlantic States Marine Fisheries Commission (ASMFC) consider complementary management for cobia, and the Commission began work on an interstate management plan.

The recreational closure in federal waters for 2016 became effective on June 20, 2016, at which time South Carolina also closed their state waters to recreational harvest. Virginia and North Carolina implemented harvest limits but kept state waters open through August and September, respectively. Georgia did not close state waters, but most cobia are caught in federal waters off Georgia.

Following notification that 2016 landings had again exceeded the Atlantic cobia ACL, NMFS closed the recreational season on January 24, 2017. South Carolina closed state waters to track the federal closure. Georgia did not close state waters but requested that NMFS open federal waters to allow Georgia fishermen to have some access to cobia. Virginia implemented harvest limits with a season in state waters of June 1 through September 15, 2017, and North Carolina specified harvest limits with a season in state waters of May 1 through August 31, 2017.

In May 2017, the ASMFC’s South Atlantic State/Federal Fisheries Management Board approved a motion to request that the South Atlantic Council transfer sole management of cobia to the ASMFC, which would require that Atlantic cobia be removed from the federal fishery management plan. In June 2017, the South Atlantic Council directed staff to start work on an amendment with options to remove Atlantic cobia from the federal fishery management plan, or for complementary management of Atlantic cobia with ASMFC.

Landings

In recent years, the proportion of Atlantic cobia caught in state waters has increased (**Table 1**), and landings from state and federal waters count towards the ACL. Since Atlantic cobia are included in a federal fishery management plan, there is a federal mandate to set an annual catch limit (ACL) and associated accountability measures. Recreational landings of Atlantic cobia exceeded the federal ACL in 2015 and 2016, resulting in recreational harvest closures in federal waters (**Table 2**). Commercial landings of Atlantic cobia also exceeded the federal ACL in 2015 and 2016 (**Table 3**).

Table 1. Percentage of Commercial and Recreational Atlantic cobia landings that were harvested Federal and State waters.

Year	Commercial Landings			Recreational Landings		
	Federal	State	Unknown	Federal	State	Unknown
2006	43%	40%	17%	11%	89%	0%
2007	45%	29%	26%	49%	49%	1%
2008	39%	37%	23%	63%	36%	1%
2009	29%	53%	18%	19%	81%	0%
2010	28%	55%	17%	28%	72%	0%
2011	40%	33%	27%	52%	48%	1%
2012	32%	53%	15%	59%	41%	0%
2013	38%	37%	25%	18%	81%	1%
2014	27%	40%	34%	16%	83%	1%
2015	18%	49%	33%	18%	82%	0%
2016 ¹	17%	43%	40%	6%	94%	0%

Source: SEFSC

¹ Recreational harvest in federal waters closed in 2016 on June 20th, which may have resulted in a relatively lower proportion of landings from federal waters for 2016.

Table 2. Recreational landings of Atlantic cobia in state and federal waters from 2015 – 2017.

	Annual Catch Limit	Landings (ww)	Percent of ACL
2015	630,000 lbs.	1,554,395 lbs.	247%
2016	620,000 lbs.	1,336,531 lbs.	216%
2017 ¹	620,000 lbs.	548,917 lbs.	89%

Date source: MRIP dataset (02/10/18)

¹Preliminary recreational landings through Wave 5 (September/October).

Table 3. Commercial landings of Atlantic cobia in state and federal waters from 2015 – 2017.

	Annual Catch Limit	Landings (ww)	Percent of ACL
2015	60,000 lbs.	71,790 lbs.	120%
2016	50,000 lbs.	77,649 lbs.	155%
2017 ¹	50,000 lbs.	27,652 lbs.	55.3%

Date source: SEFSC ACL dataset.

¹Preliminary commercial landings through November 2017, state landings are not available at this time.

ASMFC’s Atlantic Cobia Interstate FMP

In November 2018, The ASMFC approved management measures for Atlantic cobia in state waters. Recreational limits follow those set up in CMP Framework Amendment 4 with a 36” FL minimum size (or TL equivalent), 1-fish per person or 6-fish per vessel limit, whichever is more restrictive. Recreational ACL will be allocated to states based on 5-year/10-year average landings (**Table 1**). These allocations are soft harvest targets, with landings monitored every three years. Recreational harvest will be reduced by 1% for de minimis states. De minimis states may match the regulations of the adjacent non-de minimis state OR accept a 1-fish per vessel limit with a minimum size limit of 29” FL. Commercial limits also follow those set up in CMP Framework Amendment 4 with 33” FL minimum size and 2-fish per person or 6-fish per vessel, whichever is more restrictive. State implementations plans were submitted to ASMFC in January 2018 and reviewed by ASMFC’s South Atlantic/Federal Management Board in February 2018. The new regulations go into effect April 2018.

Table 1. State-specific allocations of a coastwide recreational harvest limit that is equivalent to the federal Atlantic cobia ACL of 620,000 pounds.

State	Allocation	Soft Target w. Current ACL
Georgia	9.5%	58,311 lbs.
South Carolina	12.2%	74,885 lbs.
North Carolina	38.5%	236,316 lbs.
Virginia	39.8%	244,292 lbs.
<i>De minimis</i>	<i>1%</i>	<i>6,200 lbs.</i>

If Atlantic cobia is maintained in the federal fishery management plan, a quota allocation to each state by ASMFC would be based on the ACL established by the South Atlantic Council. Alternatively, if Atlantic cobia is removed from the federal fishery management plan, the ASMFC may choose to base quotas on a different overall harvest limit. Any management measures by the ASMFC will still be dependent on the most recent stock assessment and the best available science.

SEDAR 58 Stock ID Workshop and Benchmark Assessment

The SEDAR Steering Committee has recommended a Benchmark Assessment be conducted for Atlantic cobia. This process will include a Stock ID Workshop to develop stock structure recommendations prior to the start of the SEDAR 58 Data Workshop. The Stock ID process is set to begin in Spring 2018 with the following schedule:

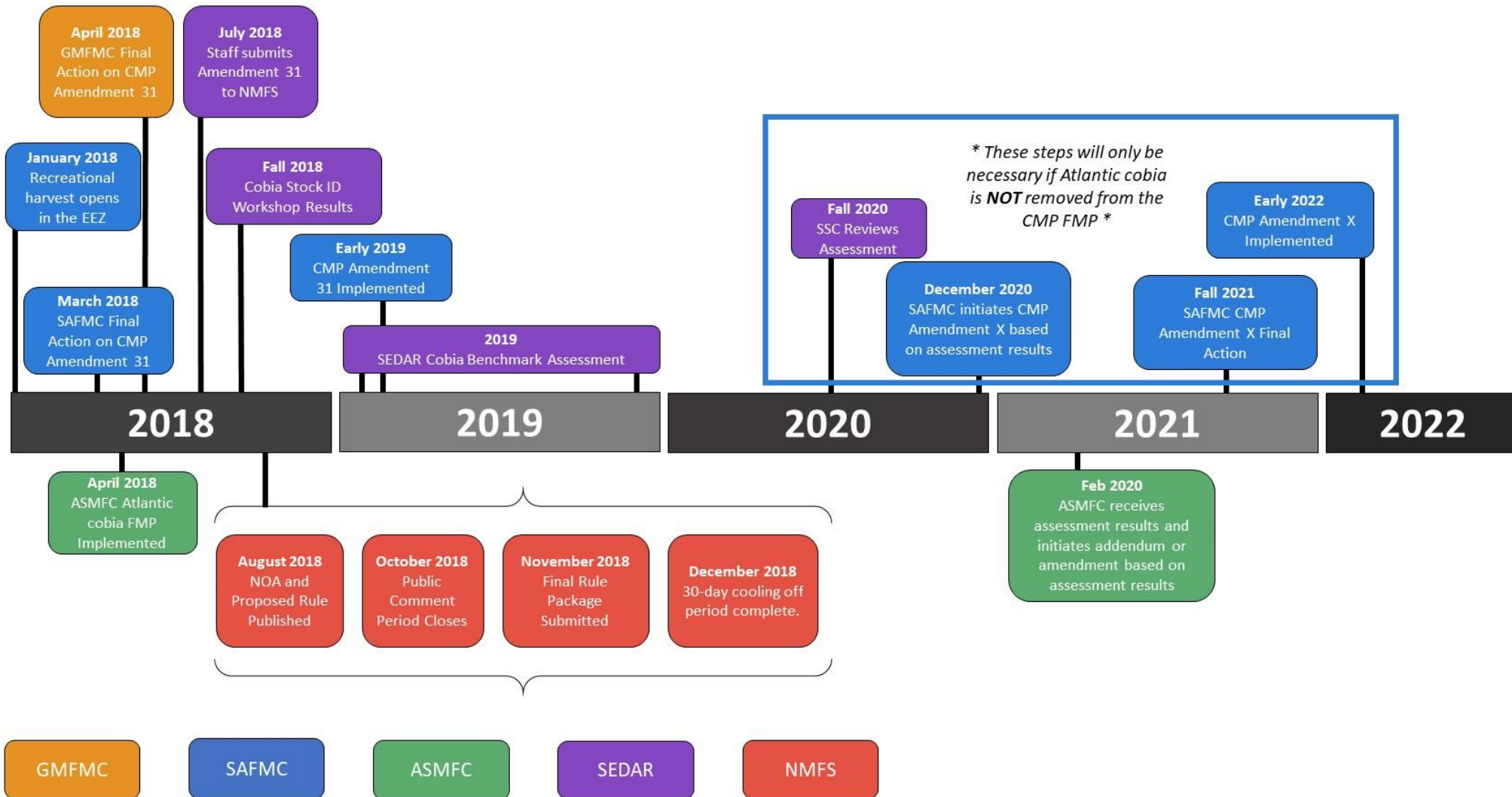
Stock ID Workshop: April 10-12, 2018
Stock ID Review Workshop: June 5-7, 2018
Stock ID Joint Cooperator Technical Review: July/August 2018

Results from the Stock ID Workshop are anticipated fall of 2018. The SEDAR 58 Stock Assessment will take place throughout 2019 with exact dates to be determined. Results from the Benchmark Assessment are tentatively scheduled to be available to South Atlantic SSC in Fall 2019 or Spring 2020 and to the South Atlantic Council in December 2019 or June 2020.

What happens if the Stock ID Workshop indicates a change in the boundary between Atlantic and Gulf cobia?

Once receiving the results, the Gulf and South Atlantic Councils would begin work on an amendment to the CMP FMP based on the additional information provided by the Stock ID Workshop and Benchmark Assessment. If the Councils decides to move the management boundary, ASMFC will add an addendum or an amendment to their Atlantic cobia interstate FMP. ASMFC's addendum and amendment process is similar to the Council's process for a framework or full amendment. There will be several opportunities to comment on any amendment the Councils consider and any addendum or amendment ASMFC might undertake to address a shift in stock boundary.

Tentative Timeline of actions for CMP Amendment 31, ASMFC Interstate FMP, and SEDAR 58



Actions in this amendment

- **Action:** Revise the management system for Atlantic cobia.

Objectives for this meeting

- Review Coastal Migratory Pelagics Amendment 31 to revise the management system for Atlantic cobia.
- Review IPT changes to Purpose and Need, modify as necessary and approve.
- Vote whether to recommend sending Coastal Migratory Pelagics Amendment 31 to the U.S. Secretary of Commerce for approval.

Expected amendment timing

- ✓ June 2017 Council directs staff to start work on amendment.
- ✓ August 2017 Scoping webinar.
- ✓ September 2017 Council reviews scoping comments and approves actions/alternatives to be analyzed.
- ✓ December 2017 Council reviews the draft amendment, selects preferred alternative(s), modifies the document as necessary; and approves for public hearings.
- ✓ January 2018 Public hearings.
- March 2018 Council takes final action on CMP Amendment 31
- April 2018 Gulf Council takes final action on CMP Amendment 31
- June/July 2018 CMP Amendment 31 submitted for Secretarial Review.

Purpose and need statement

Purpose for Actions

The purpose is to reduce complexity of management and facilitate improved coordination of state and federal management of Atlantic cobia.

IPT Recommendation: The purpose is to reduce complexity of management and facilitate improved coordination of ~~state and federal~~ management of Atlantic cobia **in state and federal waters.**

Need for Actions

The need is to provide for effective management of Atlantic cobia and fair and equitable access to harvest opportunities without reducing protection to the stock.

IPT Recommendations

The IPT recommends rewording the purpose statement to address “management of Atlantic cobia in state and federal waters” as opposed to “state and federal management of Atlantic cobia” because **Action 1/Alternative 2** would remove federal management of Atlantic cobia and does not fit with Purpose and Need as written.

Committee Action:

REVIEW AND MODIFY THE SUGGESTED PURPOSE AND NEED STATEMENT
ACCEPT THE IPT’S RECOMMENDED CHANGES TO PURPOSE AND NEED
OTHER?

Draft Motions:

DRAFT MOTION: ACCEPT THE IPT’S RECOMMENDED WORDING CHANGE FOR
PURPOSE AND NEED

Proposed Actions and Alternatives

Action 1. Revise the management system for Atlantic cobia.

Discussion:

- **Alternative 1 (No Action)** would not change the current management structure for Atlantic cobia. ASMFC would manage Atlantic cobia in state waters and the South Atlantic Council would manage Atlantic cobia in federal waters.
- **Preferred Alternative 2** would remove Atlantic cobia from the Fishery Management Plan for Coastal Migratory Pelagic Resources (CMP FMP) as well as the regulatory measures associated with it. ASMFC would have the option of extending state management measures into federal waters.
 - Scientific support (collection and analysis of data, biological and socioeconomic research, management planning) would be available to ASMFC through NMFS.
 - In the absence of a federal FMP, the Secretary may extend state regulations into federal waters.
 - Atlantic Coastal Fisheries Cooperative Management Act of 1993
- **Alternative 3** would update the CMP FMP to acknowledge ASMFC's role in management of Atlantic cobia and how the South Atlantic Council would go about considering changes made in state waters for implementation in federal waters.
 - South Atlantic Council would decide whether to adopt ASMFC regulations in federal waters on a case by case basis consistent with the ASFMC Interstate FMP.
 - This alternative gives the South Atlantic Council the flexibility to continue to manage Atlantic cobia, but most of the management responsibility would be by the states through the ASFMC Interstate FMP.
- **Alternative 4** would set up a procedure in which ASMFC can propose rules directly to the National Marine Fisheries Service (NMFS), without formal action from the South Atlantic Council.
 - Rules would still need to meet Magnuson-Stevens Fishery Conservation and Management Act standards and CMP FMP objectives.
 - The South Atlantic Council would be informed of ASMFC rules and provide comment on whether the rules meet standards and requirements of the CMP FMP, Magnuson-Stevens Act, and other applicable law.
 - The South Atlantic Council could still adjust Atlantic cobia management through the normal amendment and rulemaking process.

MSA Considerations

Removal of Atlantic cobia from the CMP FMP under would require consideration of NMFS guidelines at 50 CFR §600.305(c). The Magnuson-Stevens Act section 302(h)(1) requires a council to prepare an FMP for each fishery under its authority that is in need of conservation and management. Not every fishery requires federal management. A council should consider the following list of factors when deciding whether additional stocks require conservation and management:

- i. The stock is an important component of the marine environment.
- ii. The stock is caught by the fishery.
- iii. Whether an FMP can improve or maintain the condition of the stock.
- iv. The stock is a target of a fishery.
- v. The stock is important to commercial, recreational, or subsistence users.
- vi. The fishery is important to the Nation or to the regional economy.
- vii. The need to resolve competing interests and conflicts among user groups and whether an FMP can further that resolution.
- viii. The economic condition of a fishery and whether an FMP can produce more efficient utilization.
- ix. The needs of a developing fishery, and whether an FMP can foster orderly growth.
- x. The extent to which the fishery is already adequately managed by states, by state/federal programs, or by federal regulations pursuant to other FMPs or international commissions, or by industry self-regulation, consistent with the requirements of the Magnuson-Stevens Act and other applicable law.

Other Species Removed from Federal Management

Atlantic Red Drum:

- *Reasoning:* ASMFC and EEZ regulations were substantively identical. Most of the day-to-day management and all harvest of red drum takes place in state waters. The Council had done all they could to protect juvenile spawning stock in state waters. Managing Atlantic red drum under a single FMP would minimize management costs and eliminate unnecessary duplication of management efforts.
- *ASMFC actions:* ASMFC began managing red drum through the Fishery Management Plan for Red Drum in 1984. Addendum 1 worked to identify spawning grounds and habitat for key life stages as well as the distribution of key habitats and habitats of concern, including threats, habitat bottlenecks, and ecosystem considerations. Amendment 2 (2002) implemented recreational creel and size limits to achieve the fishing mortality target, including a maximum size limit of 27 inches, and maintained existing commercial regulations. A 2017 stock assessment indicated overfishing is not occurring for red drum for either the northern (NJ-NC) or southern stocks (SC-FL).

Blue runner –**Snapper Grouper Amendment 27** (January 27, 2014)

- *Reasoning:* Blue runner is primarily a bycatch fishery and fishermen sell incidentally caught blue runner to supplement their income. Blue runner are primarily landed in state waters of Florida, where there are currently management measures in place. FWC indicated their desire to assume management of blue runner in federal waters off Florida.
- *Florida actions:* In January 2014, Florida Fish and Wildlife Conservation Commission (FWC) revised their management measures for blue runner and established a 100-fish recreational bag limit that applies in state and federal waters. Additionally, FWC requires a State of Florida Saltwater Products License (SPL) when commercially harvesting blue runner from federal waters. To extend state regulations into federal waters, the blue runner regulations contain the phrase “within or without Florida Waters” which indicates that the regulations apply in both state and federal waters (FAC 68B-61.004).

Additional Examples:

- Comprehensive Ecosystem-Based Amendment 2 removed octocorals off Florida from the FMU because FWC is responsible for most of the management, implementation and enforcement of regulations because the majority of harvest occurs in state waters.
- The Comprehensive ACL Amendment removed black margate, bluestriped grunt, crevalle jack, French grunt, grass porgy, porkfish, puddingwife, queen triggerfish, sheepshead, smallmouth grunt, Spanish grunt, tiger grouper, and yellow jack from federal management because more than 95% of the landings of the species occur in state waters or were already subject to management by the Florida Marine Life Rule. Thus, these species could be or already are adequately managed by the states.
- Snapper Grouper Amendment 35 removed black snapper, mahogany snapper, dog snapper, and schoolmaster from federal management because these species see relatively low landings in federal waters and could be adequately managed by Florida if regulations are established and extended into federal waters.

Summary of Effects:

Biological:

Regardless of which alternative is selected, the ASFMC has approved and will implement the Interstate FMP in April 2018. This plan is expected to constrain harvest in state waters and provide positive biological benefits to the Atlantic cobia stock.

- As the Interstate FMP would be in place under all alternatives and is expected to control harvest in state waters, the biological effects of **Alternative 1 (No Action)**, **Preferred Alternative 2**, **Alternative 3**, and **Alternative 4** would be expected to be very similar because most of the Atlantic cobia harvest (> 80%) occurs in state waters.
- If Atlantic cobia is removed from the CMP FMP under **Preferred Alternative 2**, regulations could be extended into federal waters to constrain harvest in both state and federal waters.

- The difference between **Preferred Alternative 2** and **Alternatives 1 (No Action), 3, and 4** would be that **Preferred Alternative 2** would allow for a more efficient use of resources since Atlantic cobia would already be managed by the ASMFC.

Economic and Social:

The long-term economic effects of the alternatives would be dependent upon future management decisions and may be positive or negative, depending on the outcomes of management for the Atlantic cobia stock in state and federal waters. There is no clear ranking of alternatives with regard to social effects, as many cause positive and negative social effects to different coastal communities.

- **Alternative 1 (No Action)** could generate negative social effects for South Carolina and Georgia if recreational harvest of Atlantic cobia continues to exceed the ACL, resulting in harvest closures in federal waters.
- **Preferred Alternative 2** would be expected to decrease management complexity, but long-term social effects would be largely dependent on the future management choices made by ASMFC.
- **Alternatives 3 and 4** would help ensure regulatory consistency between state and federal waters but could still result in negative social effects if harvest of Atlantic cobia continues to exceed the recreational and total ACL.
 - **Alternative 3** would allow for more public participation than **Alternative 4**, but is time consuming. **Alternative 4** would allow managers to react to changes quickly but may result in less time for public participation.
- From a perspective of minimizing potential regulatory complexity resulting from inconsistent regulations between state and federal waters and resulting administrative costs, **Preferred Alternative 2** would be most beneficial, followed by **Alternative 4**, **Alternative 3**, and **Alternative 1 (No Action)**.

Action Alternatives:

Alternative 1 (No Action): Continue the current management of Atlantic cobia via the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region.

Preferred Alternative 2: Remove Atlantic cobia from the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region.

Alternative 3: Establish a policy in the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region for complementary management of Atlantic cobia with the Atlantic States Marine Fisheries Commission.

Alternative 4: Establish a framework procedure in the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region for an enhanced cooperative management system with the Atlantic States Marine Fisheries Commission that allows changes to Atlantic cobia management through National Marine Fisheries Service rulemaking.

Committee Action:

CHANGE PREFERRED ALTERNATIVE?
APPROVE DOCUMENT FOR FORMAL REVIEW
OTHER?

Draft Motions:

DRAFT MOTION: APPROVE COASTAL MIGRATORY PELAGICS AMENDMENT 31 FOR FORMAL SECRETARIAL REVIEW AND DEEM THE CODIFIED TEXT AS NECESSARY AND APPROPRIATE. GIVE STAFF EDITORIAL LICENSE TO MAKE ANY NECESSARY EDITORIAL CHANGES TO THE DOCUMENT/CODIFIED TEXT AND GIVE THE COUNCIL CHAIR AUTHORITY TO APPROVE THE REVISIONS AND RE-DEEM THE CODIFIED TEXT.