DRAFT FINDING OF NO SIGNIFICANT IMPACT

I. Purpose of Finding of No Significant Impact (FONSI): The National Environmental Policy Act (NEPA) requires the preparation of an Environmental Impact Statement (EIS) for any proposal for a major federal action significantly affecting the quality of the human environment. 42 U.S.C. § 4332(C). The Council on Environmental Quality (CEQ) Regulations direct agencies to prepare a Finding of No Significant Impact (FONSI) when an action not otherwise excluded will not have a significant impact on the human environment. 40 CFR §§ 1500.4(q), 1500.5(l), 1501.4, & 1508.13. To evaluate whether a significant impact on the human environment is likely, the CEQ regulations direct agencies to analyze the potentially affected environment and the degree of the effects of the proposed action. 40 CFR § 1508.27. In doing so, agencies should consider the geographic extent of the affected area (i.e., national, regional or local), the resources located in the affected area (40 CFR § 1508.27), and whether the project is considered minor or small-scale (NAO 216-6A CM, Appendix A-2). In considering the degree of effect on these resources, agencies should examine, as appropriate, short- and long-term effects, beneficial and adverse effects, and effects on public health and safety, as well as effects that would violate laws for the protection of the environment (40 CFR § 1501.27; NAO 216-6A CM Appendix A-2 - A-3), and the magnitude of the effect (e.g., negligible, minor, moderate, major). CEQ identifies specific criteria for consideration. 40 CFR § 1501.27. Each criterion is discussed below with respect to the proposed action and considered individually as well as in combination with the others.

In preparing this FONSI, we reviewed the draft Environmental Assessment (EA) /Regulatory Impact Review (RIR) for Bering Sea Aleutian Islands (BSAI) Amendment 122; Pacific Cod Trawl Cooperative (PCTC) Program which evaluates the affected area, the scale and geographic extent of the proposed action, and the degree of effects on those resources (including the duration of impact, and whether the impacts were adverse and/or beneficial and their magnitude). The EA is hereby incorporated by reference. The EA tiers off of the Final Programmatic Supplemental Environmental Impact Statement on the Alaska Groundfish Fisheries (2004). The Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (NMFS 2007) and the Final Environmental Impact Statement for Essential Fish Habitat Identification and Conservation in Alaska (2005) are additionally incorporated by reference**.** 40 CFR § 1501.6(b).

II. Approach to Analysis:
The EA discusses the impacts that implementation of the PCTC Program would have on the environment as a result of this rule. The North Pacific Fishery Management Council (Council) considered an extensive series of alternatives, options, and suboptions as it designed and evaluated the potential for rationalization of the BSAI Pacific cod trawl fishery, including the "no action" alternative. The analysis relied heavily on existing documentation of the comprehensive BSAI groundfish fisheries and their impacts on the environment. The proposed action is based on the Council's preferred alternative.

A. The proposed action is not considered to meaningfully contribute to a significant impact based on the scale of the action. This proposed action, to implement a catch share program designed to limit access and allocate quota based on historic harvest, is primarily allocative and works within the existing fishery management framework for setting harvest specifications and season dates. Therefore, the narrow scale and the nature of the proposed action would not be expected to meaningfully contribute to any

impacts beyond the status quo. Therefore, the scale of the project is not considered to result in a significant impact.

B. For biological and physical ecosystem components (target species stocks, non-target species, marine mammals), impacts of the alternatives were evaluated in a largely qualitative manner with key data presented to support conclusions regarding effects. The EA evaluated effects on Pacific cod, incidental catch, Prohibited Species Catch (PSC), and marine mammals, because some minimal level of effect on these resources might occur under several of the alternatives. However, the proposed action would not alter the TAC setting process or harvest season dates, fishing gear used. Therefore, no effects are expected on Pacific cod, incidental catch, PSC, or marine mammals from this proposed action. Further, t no potential effects for ecosystem component species, seabirds, habitat, or the ecosystem beyond effects previously analyzed are expected as a result of the proposed action, because harvest limits, habitat protections (such as closed areas), and current fishing regulations for existing fishing operations would not be changed. (EA Section 3.1.2)

C. The proposed action is not connected to other actions that have caused or may cause effects to the resources in the affected area, and there is no potential for the effects of the proposed action to add to the effects of other projects, such that the effects taken together could be significant. This action is proposed within the management context of the BSAI groundfish fisheries, which are implemented under the BSAI FMP. The effects of those fisheries have been previously evaluated in the in the 2004 Programmatic Supplemental Environmental Impact Statement on the Alaska Groundfish Fisheries (PSEIS).

III. Geographic Extent and Scale of the Proposed Action:

This proposed action would affect the BSAI Economic Exclusive Zone (EEZ). The groundfish fisheries in the EEZ off Alaska are managed under the FMP for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP). Under the MSA (16 U.S.C. 1801, et seq.), the United States has exclusive fishery management authority over all marine fishery resources found within the EEZ. The EA describes the management areas within the region where specific fisheries are authorized, and the environmental effects analyzed in the EA occur at a relatively small scale. Environmental and economic effects of the alternatives within this area are limited to this area and individuals who participate in the BSAI Pacific cod trawl fishery. (EA Section 3.1.2)

IV. Degree of Effect:

A. The potential for the proposed action to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection.

This proposed action would not threaten a violation of any Federal, state, or local law, or requirement imposed for the protection of the environment. The proposed action is designed to be consistent with Federal law; states adopt conforming regulations to manage groundfish fisheries in the BSAI, as described in section 4.1 of the EA.

B. The degree to which the proposed action is expected to affect public health or safety.

This proposed action would not have a significant impact on public health or safety, because the proposed action is consistent with previously analyzed management measures used since the FMP was adopted, as described in section 2.10.8 of the Analysis. Some beneficial effects on public health and safety would be expected as a result of the proposed action. Implementation of past catch share programs has demonstrated safety improvements as a result of slowing the fishery harvest rate and providing flexibility to participants to select optimal weather windows in which to operate (RIR Sections 2.10.5 and 2.10.8).

C. *The degree to which the proposed actions is expected to affect a sensitive biological resource, including:*

a. *Federal threatened or endangered species and critical habitat;*

This proposed action would not significantly affect any endangered or threatened species or its critical habitat as described in section 3.1.2 of the Analysis. The harvest rate may slow as a result of this proposed action resulting in the potential for a minimal beneficial effect to ESA-listed species by reducing the potential for prey competition, disturbance, or incidental takes. The proposed action would not affect the harvest limits, season dates, areas fished, and fishing gear used. Therefore, this proposed action is not expected to change fishery activities in a way that would negatively affect any ESA-listed species through increased potential for competition for prey, disturbance, or incidental takes. The proposed action would not have any effects on those species beyond those already analyzed for the BSAI groundfish fisheries in previous biological opinions and environmental impact statements. Impacts of the proposed action on endangered or threatened species, marine mammals, or critical habitat of these species, are discussed in section 3.5 of the EA.

b. *stocks of marine mammals as defined in the Marine Mammal Protection Act;*

The proposed action is not likely to change fisheries activities in a way that would affect the potential for competition for prey, disturbance, or incidental takes of marine mammals. The proposed action would not affect the harvest limits, season dates, areas fished, and fishing gear used. Therefore, this proposed action is not expected to change fishery activities in a way that would negatively affect any MMPA-listed species through increased potential for competition for prey, disturbance, or incidental takes. This action would not likely have any effects on marine mammals beyond those already analyzed for the BSAI groundfish fisheries in previous biological opinions and NEPA analyses. Impacts of the proposed action on marine mammals, are discussed in section 3.5 of the EA.

c. *essential fish habitat identified under the Magnuson–Stevens Fishery Conservation and Management Act;*

The proposed action would likely have minimal and temporary effects on EFH because the action would not affect the harvest limits, season dates, areas fished, and fishing gear used. Therefore, this proposed action is not expected to change fishery activities in a way that would negatively affect EFH beyond those already analyzed for the BSAI groundfish fisheries in previous environmental impact statements. Impacts of the proposed action on benthic habitat and essential fish habitat (EFH) are discussed in section 3.1.3 of the EA.

d. bird species protected under the Migratory Bird Treaty Act;

The proposed action would not significantly affect bird species protected under the Migratory Bird Treaty Act, including seabirds, because disturbance or incidental take are expected to be minimal and would not be expected to increase to a level that would result in population level effects on seabirds. This level of effect is expected, because harvest limits, habitat protections (such as closed areas), and gear used would not be changed by the proposed action. Further, previous NEPA analyses, found that direct impacts on birds, notably seabirds, are minimal to non-existent in the groundfish fisheries in the BSAI (Section 3.1.3 of the EA/RIR).

e. national marine sanctuaries or monuments;

There are no national marine sanctuaries or monuments in the BSAI EEZ, and therefore this action would not impact national marine sanctuaries or monuments.

f. vulnerable marine or coastal ecosystems, including, but not limited to, shallow or deep coral ecosystems;

The proposed action would not be expected to adversely affect vulnerable marine, coastal, or coral ecosystems, because the action would not affect the harvest limits, season dates, areas fished, and fishing gear used. There are no effects that have not been previously analyzed under NEPA that would not be changed by the proposed action (EA Section 3.1.2).

g. biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.)

This proposed action would not be expected to adversely affect biodiversity or ecosystem functioning, because harvest limits, habitat protections (such as closed areas), and allowable gear would remain unchanged from status quo, and current or proposed fishing regulations previously analyzed under NEPA would not be changed by the proposed action (EA Section 3.1.2).

C. *The degree to which the proposed action is reasonably expected to affect a cultural resource: properties listed or eligible for listing on the National Register of Historic Places; archeological resources (including underwater resources); and resources important to traditional cultural and religious tribal practice.*

No significant impacts are expected to occur in any of the above areas due to the location of the action in the BSAI EEZ. Since this action affects commercial fishing in the offshore waters of the BSAI, it will not impact any districts, sites, highways, structures, or objects listed or eligible for listing in the National Register of Historic Places. In addition, the EA did not identify any potential for the proposed action to cause loss or destruction of significant scientific, cultural, or historical resources. The EA did not identify any potential for the proposed action to cause loss or destruction of resources important to traditional cultural or religious tribal practice (Section 2.8.9 of the EA).

D. *The degree to which the proposed action has the potential to have a disproportionately high and adverse effect on the health or the environment of minority or low-income communities, compared to the impacts on other communities (EO 12898).*

The proposed action is focused on changes internal to an existing commercial fishery sector allocation within the BSAI Pacific cod trawl fishery. Therefore, no direct or indirect impacts on the subsistence harvest, sharing, and use of BSAI Pacific cod fishery are anticipated, as discussed in Section 2.8.9 of the EA. The proposed action would not have any effects on the health or the environment of minority or low-income communities, compared to the impacts on other communities beyond those already analyzed for the BSAI groundfish fisheries in previous environmental impact statements prepared for these fisheries (RIR Sections 2.10.5 and 2.10.8).

E. The degree to which the proposed action is likely to result in effects that contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species.

This proposed action would not affect the introduction or spread of non-indigenous species, because it does not change fishing practices that may introduce such organisms into the marine environment (Section 3.1.2 of the EA).

F. The potential for the proposed action to cause an effect to any other physical or biological resources where the impact is considered substantial in magnitude (e.g., irreversible loss of coastal resource such as marshland or seagrass) or over which there is substantial uncertainty or scientific disagreement.

The proposed action is focused on changes internal to an existing commercial fishery sector allocation within the BSAI Pacific cod trawl fishery, the impacts of which were previously analyzed in the PSEIS (see section 3.1.1 of the EA). Therefore, the proposed action is not expected to cause a substantial effect to any other physical or biological resource, nor is there substantial uncertainty or scientific disagreement on the impacts of the proposed action.

V. Other Actions Including Connected Actions:
This proposed action does not automatically trigger other actions that could trigger an EIS. This action cannot or will not rely on other actions that are taken previously or simultaneously. This action is not an interdependent part of a larger action. This action is being implemented within the context of the BSAI Groundfish FMP for which an EIS was prepared. The EA for this action tiers off of that EIS, and this action is an adjustment to existing management actions.

VI. Mitigation and Monitoring:
As part of this proposed action, the Agency is incorporating recordkeeping, reporting, and monitoring components to avoid potentially significant impacts, including reductions in bycatch. This catch share program requires 100 percent observer coverage for all participants.

DETERMINATION
The CEQ NEPA regulations, 40 CFR § 1501.6, direct an agency to prepare a FONSI when the agency, based on the EA for the proposed action, determines not to prepare an EIS because the action will not have significant effects. In view of the information presented in this document and the analysis contained in the supporting EA prepared for implementing BSAI Amendment 122; Pacific Cod Trawl Cooperative Program, it is hereby determined that the proposed action would not significantly impact the quality of the human environment. The EA is hereby incorporated by reference. In addition, all beneficial and adverse impacts of the proposed action as well as

mitigation measures have been evaluated to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.

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Jonathan M. Kurland Date
Regional Administrator