

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 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(b), 1500.5(b), & 1501.6. 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 action. 40 CFR § 1501.3(b). 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 § 1501.3(b)(1)), 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 § 1501.3(b)(2)(i)-(iv); 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 § 1501.3(b)(2)(i)-(iv). Each criterion is discussed below with respect to the action and considered individually as well as in combination with the others.

In preparing this FONSI, we reviewed the Environmental Assessment/Regulatory Impact Review for Amendment 124 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and Amendment 112 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) to revise IFQ Program Regulations (EA), which evaluates the affected area, the scale and geographic extent of the 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. 40 CFR § 1501.6(b).

II. Approach to the EA: This document analyzes several management measures that will apply to fishery participants in the halibut and sablefish individual fishing quota (IFQ) and Community Development Quota (CDQ) fisheries off Alaska. First, the management measures include changes to requirements specific to pot gear used to fish IFQ in the Gulf of Alaska (GOA), such as requirements for pot gear configuration, gear retrieval, and pot limits. Other measures include changes to biodegradable panel requirements on pot gear used to fish IFQ and CDQ in the Bering Sea and Aleutian Islands (BSAI) and the GOA. The purpose of these changes to gear specifications is to increase operational efficiency for vessels participating in these fisheries and to reduce administrative burden. The action authorizes jig gear as a legal gear type for harvesting sablefish IFQ in the BSAI and GOA and sablefish CDQ in the BSAI to increase access to entry-level fishing opportunities. Another management measure temporarily removes the Adak community quota entity (CQE) residency requirement for five years to provide more opportunity for the Adak CQE to fully harvest its allocation. The approach for the impact analysis in the EA was to analyze the extent to which the flexibilities from the action encourage further participation using pot or jig gear and the extent to which operators of vessels that already deploy pot gear choose to use the flexibilities provided by each element of the action. However, both halibut and sablefish IFQ fisheries are fully allocated, therefore, participation will not increase but may shift across gear types resulting in a similar effort to status quo. Additionally, any flexibilities will not change effort but may shift the

timing and operation strategies for vessel operators. Overall, the magnitude of impacts is limited because the IFQ Program is designed to limit effort by limiting harvest through allocation of quota share and through catch limits for both halibut and sablefish.

A. The action is not considered to meaningfully contribute to a significant impact based on the scale of the action. This project is considered to be a minor action, because the changes to pot gear configuration, gear retrieval, pot limits, and biodegradable panel requirements are small changes which increase operational flexibility and do not change the nature of the IFQ Program or CDQ Program fisheries. Further, only a few participants are expected to use jig gear or harvest the Adak CQE allocation. Therefore, the scale of the project is not considered to result in a significant impact.

B. The action has a minor effect on halibut, sablefish, and incidental catch species, and therefore, it is not considered to meaningfully contribute to any significant impacts to these or other specific resources. The action continues conservation and management of halibut, sablefish, and incidental catch species under the current harvest specifications process and inseason management authority. The established prohibited species catch limits will not be modified under the action. Because the action is expected to have only minor effects, the effects from this action are not expected to be significantly different from impacts of the groundfish fisheries analyzed in the 2004 Programmatic Supplemental Environmental Impact Statement on the Alaska Groundfish Fisheries (PSEIS). Therefore, there is little potential for the effects of the action to add to the effects of other projects, such that the effects taken together could be significant. More detail on the effects of the action on target, non-target, and PSC species is included in Sections 5.3 and 5.4 of the EA.

C. The 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 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 IFQ and CDQ halibut and sablefish fisheries, which are implemented under the BSAI and GOA FMPs. The effects of those fisheries have been previously evaluated in the in the 2004 PSEIS.

III. Geographic Extent and Scale of the Action: This action implements provisions that affect IFQ halibut and sablefish in the exclusive economic zone (EEZ) of the GOA and IFQ and CDQ halibut and sablefish in the EEZ of the BSAI, 3-200 miles off the coast of Alaska. Sablefish IFQ regulatory areas are defined and shown in Figure 14 to 50 CFR Part 679 and Section 1.3 of the Analysis. The sablefish IFQ areas defined for sablefish in the GOA are the Southeast Outside District of the GOA, West Yakutat District of the GOA, Central GOA, and Western GOA. The halibut IFQ areas are consistent with IPHC regulatory areas and are shown in Section 1.3 of the Analysis and figure 15 to part 679 in Federal regulations. These areas encompass different geographic ranges than the sablefish IFQ regulatory areas, and the boundary lines do not coincide except at the border between the United States and Canada. For halibut, Area 2 is composed of Area 2A (Washington, Oregon, and California); Area 2B (British Columbia); and Area 2C (Southeast Alaska). Area 3 is composed of Area 3A (Central Gulf of Alaska) and Area 3B (Western Gulf of Alaska). Area 4 (BSAI) is composed of Areas 4A, 4B, 4C, 4D and 4E. The IPHC combines Areas 4C, 4D, and 4E into Area 4CDE for purposes of establishing a commercial fishery catch limit. Area 4CDE, Area 4B, and portions of Area 4A roughly correspond to the Bering Sea and Aleutian Islands Area defined in the BSAI FMP. A portion of Area 4A also includes part of the Western Regulatory Area of the GOA, as defined in the GOA FMP. Although the geographic area included in this action is broad, within that broader area the actual fishing areas utilized by participants

affected by this action are localized, and therefore the environmental effects analyzed in the EA occur at a relatively small scale.

IV. Degree of Effect: The potential effects of the action are expected to be insignificant on fishing mortality, stock biomass, or the spatial and temporal distribution of the target stocks. Both potential beneficial and adverse effects as described in the EA (Section 5) are considered minimal, and the beneficial effects are considered to overall outweigh the adverse effects. The adverse effects are considered to be short term, while the beneficial effects may be considered long-term or permanent. Overall, the magnitude of the effects are considered minimal. As described in Section 1.2 of the Analysis, the Council continues to approach recommended regulatory changes with caution to mitigate the likelihood of gear conflicts and grounds preemptions issues.

Criteria:

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

This action does not create any known violation of a Federal, State, or local laws or requirements imposed for the protection of the environment because the EA was prepared using the CEQ NEPA regulations (Section 5 of the EA) and the Analysis is consistent with applicable law and policy (Section 6 of the Analysis).

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

Public health and safety are not expected to be significantly affected by the proposed changes to IFQ/CDQ Program regulations. The use of jig gear or pot gear has not been shown to have any effects on public health in general. Section 4.7.5 of the Analysis explains the tradeoffs between flexibility for vessels to use the number of pots most efficient for their operation, the amount of time gear can be left on the grounds without being tended, and potential for gear conflicts and grounds preemption. Modifying gear retrieval and tending requirements will allow vessels more flexibility to avoid situations like having to transport gear during poor weather, which directly improves the safety of commercial fishermen. Removing gear marking requirements eliminates the requirement for vessels in the GOA using pot gear to fish IFQ to carry additional gear (Section 4.7.2 of the Analysis). This lightens the vessel load, which may improve vessel safety. While some of this gear was originally intended to improve visibility of gear on the fishing grounds, regulations will continue to require both ends of a pot string to be marked which allows vessel operators to visually identify where gear is located and minimizes the likelihood of vessels or other gear entangling. These safety improvements are expected to be long-term beneficial effects of the action. Section 4.7.7 of the Analysis details potential impacts on vessel safety.

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

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

No effects on any ESA-listed species or designated habitat are expected as a result of this action. This is because the action will not change existing protections nor designated critical habitat for ESA-listed marine mammals beyond what has already been considered for this

fishery or similar fisheries. The action is not expected to result in additional individual or population-level impacts to any of the stocks included in the action area. No ESA section 7 consultations were conducted on this action. This is further discussed in the EA in Section 5.5.2.

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

Expected impacts of the action on marine mammals are considered to be not significant. NMFS has determined that fishing activities conducted under this rule will have negligible beneficial or adverse impacts on marine mammals. The harvest of IFQ/CDQ sablefish and halibut will continue to occur within the limits established in the annual groundfish harvest specifications and annual halibut management measures by vessels the same as or similar to those currently fishing for sablefish and halibut IFQ in the GOA or BSAI. A potential impact could be changes in the likelihood of whale entanglement, which could increase or decrease dependent upon fishing behavior. However, NMFS expects any potential beneficial or adverse changes to be minimal with respect to status quo (see Section 5.5.2 of the EA).

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

As described in Section 5.1.2 of the EA, this action will not significantly change when or where the fishery operates. Additionally, impacts of existing gear types on habitat were previously analyzed in the 2004 PSEIS. That document contains a discussion of the effects of fishing, including pot and jig gear on habitat. The effects of current fishing regulations on habitat were described in previous documents (see Section 5.1.1 of the EA). The 2005 EFH FEIS, 2010 EFH Review, and 2015 EFH Review concluded that current fishery regulations do not have long-term effects on habitat, and any expected impacts are determined to be minimal and not detrimental to fish populations or their habitats (NMFS 2017). If new information emerges to indicate that pot gear or jig gear used in the IFQ/CDQ fisheries have more than a minimal impact on EFH, the Council may consider additional habitat conservation measures.

d. bird species protected under the Migratory Bird Treaty Act

Overall, beneficial, but *de minimus* impacts are expected on seabirds under the action. Any shift in effort from hook and line gear to pot gear that occurs from this action will potentially have beneficial but *de minimus* impacts on seabirds compared to the status quo. This is due to the differences in seabird bycatch occurrences by the gear types. Further, the action will not significantly change when or where the fishery operates, and current seabird avoidance measures and seabird breeding areas will not be changed by the action. (Section 5.1.2 of the EA)

e. national marine sanctuaries or monuments;

There are no national marine sanctuaries or monuments in the BSAI or GOA EEZ; therefore this action will not impact national marine sanctuaries or monuments.

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

An evaluation of the effects of the GOA and BSAI groundfish fisheries on the ecosystem is discussed annually in the Ecosystem Considerations sections of each chapter of the SAFE report. These considerations are summarized according to the ecosystem effects on the

groundfish fisheries, as well as the potential fishery effects on the ecosystem. Additionally, there are no expected effects from this action to vulnerable marine or coastal ecosystems expected beyond what has previously been considered in the Groundfish PSEIS (NMFS 2004). The likely effects of the action on coral from hook and line and longline pot gear are reported to be similar, although no side-by-side comparisons have been done. Most sablefish and halibut IFQ fishermen are knowledgeable of the location of coral areas and strive to minimize gear damage/loss and increase their catch. The action will not change total allowable catch (TAC) amounts, methods, seasons, or areas closed to trawling (Section 5.1.2 of the EA)

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

No significant effects are presumed for other ecosystem components because current or proposed fishing regulations, harvest limits, and habitat protections as described in previous NEPA documents (in Section 5.1.1) will not be changed. The action will not change the scope of existing fishing effort, TAC, or PSC limits for target species or incidental catch beyond the status quo. Therefore, the action is not expected to have any impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships) beyond effects evaluated in previous analyses for the IFQ and CDQ fisheries.

D. The degree to which the 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.

The action is not expected to affect properties listed or eligible for listing on the National Register of Historic Places or archeological resources (including underwater resources) because this action affects commercial fishing in the offshore waters of the GOA and BSAI (Section 1.3 of the Analysis). Halibut are identified as a resource important to traditional cultural and religious tribal practice. Halibut have significant social, cultural, and economic importance to fishery participants and fishing communities throughout the action area as described in the introduction to the EA in Section 5. However, as noted previously in (b) and (g) of this subsection, this action will not modify the harvest of halibut or affect halibut as a cultural resource.

E. The degree to which the 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 action does not have the potential to have an adverse effect on the health or the environment of minority or low-income communities, compared to the impacts on other communities. It is expected to have a beneficial effect on Adak, a community that has a high proportion (81.9 percent) of minority residents. The action may increase benefits derived by the community as a whole and better ensure that leased quota does not go unharvested. The action may attract resident fishermen back to their communities and stabilize the fishing economy, though a five-year exemption of the residency requirement alone is not likely to attract a large number of residents back to Adak. However, it is a crucial component of a

larger effort to assist the community in establishing a sustainable civilian economy. Additional employment and revenue in the community could have a beneficial impact on the health of the community (Section 4.6 of the Analysis).

- F. *The degree to which the 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 action is not expected to result in effects that contribute to the introduction continued existence, or spread of noxious weeds or nonnative invasive known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species. The rationale for this conclusion is that the action does not change fishing practices that could cause any of those concerns (Section 5.2 of the EA Section).

- G. *The potential for the 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.*

No effects are expected for 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. This is because current or proposed fishing regulations, harvest limits, and habitat protections as described in previous NEPA documents will not be changed. The action will not change the area or scope of existing fishing effort, TAC, or PSC limits for target species or incidental catch beyond the status quo. Therefore, the action is not expected to have any impact beyond effects evaluated in previous analyses for the IFQ and CDQ fisheries. (Section 5.1.1 of the EA)

V. Other Actions Including Connected Actions: As demonstrated through the EA, no past, present, or reasonably foreseeable future actions were identified that would combine with the effects of this action to result in aggregate significant impacts.

VI. Mitigation and Monitoring: The Council recommended a precautionary approach when recommending this action to continue to mitigate the likelihood of gear conflicts and grounds preemption issues for vessel operators. The agency is proposing regulatory changes aligned with the Council's approach. As noted in the analysis in Section 2.4, the Council recommended minimally modifying pot limits, gear tending, and gear retrieval requirements. An incremental increase to pot limits was recommended because some areas in the GOA have smaller fishing grounds than others. Modifications to gear retrieval and tending requirements were recommended because allowing vessel operators to leave gear on fishing grounds could reduce safety risk and compliance issues. The minimal changes recommended will not leave gear on the grounds for an extended period of time because vessel operators have a private incentive to retrieve their harvest as a longer soak time can affect quality and marketability. Vessel operators will find an optimal rotation within regulations that yields a profitable product.

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 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 proposed rule to implement, it is hereby determined that implementation of Amendment 124 to the BSAI FMP and Amendment 112 to the GOA FMP will not significantly impact the quality of the human environment. The Environmental Assessment/Regulatory Impact Review for Proposed Amendment 124 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and Amendment 112 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) is hereby incorporated by reference. In addition, all beneficial and adverse impacts of the 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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