

## 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(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 proposed 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 proposed action and considered individually as well as in combination with the others.

In preparing this FONSI, we reviewed the Environmental Assessment (EA) for a Proposed Regulatory Amendment to allow longline pot gear in the Bering Sea (BS) Greenland turbot (*Reinhardtius hippoglossoides*) fishery 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. 40 CFR § 1501.6(b).

### **II. Approach to Analysis:**

The EA discusses the impacts that implementation of the Regulatory Amendment to allow longline pot gear in the directed fishery for Greenland turbot in the BS subarea would have on the environment as a result of this rule. The North Pacific Fishery Management Council (Council) considered an extensive series of alternatives (including the “no action” alternative), options, and sub-options as it designed and evaluated the potential to allow the use of longline pot gear in the directed fishery for Greenland turbot in the BS subarea to mitigate the impacts of whale depredation on hook-and-line gear, which has precluded fishery participation. The Greenland turbot fishery allows the use of single pot gear; however, it is an inefficient gear type due to the depth and location where the fishery occurs. The analysis relied heavily on existing documentation of the comprehensive BS 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 cause or contribute to a significant impact based on the scale of the action. This proposed action, to allow the use of longline pots in the directed fishery for Greenland turbot in the BS subarea, is strictly an addition of a different gear type within one subsector of the fishery and works within the existing fishery management framework for setting harvest specifications and season dates. Therefore, the small scale and narrow nature of the proposed action would not be expected to meaningfully contribute to any impacts beyond the status quo. Thus, 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 Greenland turbot, incidental catch, Prohibited Species Catch (PSC), seabirds, 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 total allowable catch (TAC) setting process, harvest season dates, areas fished, PSC and bycatch limits, or any other accountability measure currently in place. Thus, it is not expected to jeopardize the sustainability of any non-target species that may be affected by this action (EA Section 5.3). The proposed action is expected to benefit species such as whales and seabirds, which interact with commercial hook-and-line gear, due to fewer expected interactions with longline pot gear (EA Section 5.3 and 5.5). Further, no potential effects on ecosystem component species, habitat, or the ecosystem are expected as a result of the proposed action, because there is no expected increase from historical fishing effort or increased impacts from fishing gear, and harvest limits (EA Section 5.7).
- 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 BS groundfish fisheries, which are implemented under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands (BSAI FMP).

### **III. Geographic Extent and Scale of the Proposed Action:**

This proposed action would affect the BS Economic Exclusive Zone (EEZ). The groundfish fisheries in the EEZ off Alaska are managed under the BSAI FMP. Under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1811), 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 while area covers a wide geographic area, existing regulations concerning the location and timing of the fishery, PSC and bycatch limits, and all other accountability measures currently in place remain constrained by existing regulations. An increase in vessel participation and fishing area above historical levels is expected to be de minimis. Therefore, the environmental effects analyzed in the EA are considered to 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 Greenland turbot longline pot fishery (EA Section 5.1.1).

### **IV. Degree of Effect:**

#### *Criteria:*

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

The proposed action to allow the use of longline pot gear in the directed fishery for Greenland turbot in the BS subarea will not result in a violation of a Federal, state, or local law for environmental protection. The use of longline pot gear supports Federal, state, and local laws for environmental protection because the gear is expected to help achieve agency conservation objectives (EA Section 2).

*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 (EA Section 1.5).

*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 (EA Section 5). Directed fishing of Greenland turbot in longline pot gear as a result of this proposed action could affect any Endangered Species Act (ESA) species by reducing the potential for prey competition, by disturbance, or due to incidental takes. However, those effects are expected to be negligible because the authorization of longline pot gear will have de minimis effect on the harvest limits, season dates, areas fished, PSC and bycatch limits, and all other accountability measure currently in place. Further, this proposed action reduces the potential for whale depredation and risk of entanglement in fishing gear. In the case of the endangered short-tailed albatross (*Phoebastria albatrus*), this action may be beneficial as hook-and-line (HAL) gear results in a higher rate of seabird takes than longline pot gear. Therefore, overall, 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, and critical habitat of these species are discussed in (EA Section 5).

*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, PSC and bycatch limits, and all other accountability measure currently in place. The proposed action would reduce opportunities for whales to depredate fishing gear and likely reduce risk of entanglement through the allowance of longline pot gear. Therefore, this proposed action is not expected to change fishery activities in a way that would negatively affect any Marine Mammal Protection Act species through increased potential for competition for prey, disturbance, or incidental takes. Impacts of the proposed action on marine mammals are discussed in Section 5.4 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 essential fish habitat (EFH) because the action would not affect the harvest limits, season dates, areas fished, PSC and bycatch limits, and all other accountability measure currently in place. Minimal effects are expected on habitat and the ecosystem because the potential allowance of longline pot gear to fish for Greenland turbot would not result in changes in the harvest season or location of fishing, and does not authorize a gear a type that is not already allowed for other fisheries managed by the NPFMC in the same area. 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 EFH are discussed in Section 5.6 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 is 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 longline pot gear have been shown to have fewer interactions with seabirds compared to hook-and-line gear (EA Section 5.5.1).

*e. national marine sanctuaries or monuments;*

There are no national marine sanctuaries or monuments in the BS 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, PSC and bycatch limits, and all other accountability measure currently in place. Impacts to benthic habitat by allowing the use of longline pot gear were determined to be minimal and not significant because fishing activities at the current rate and intensity would not alter the capacity of EFH to support healthy populations of managed species over the long term. The effects of the relevant fisheries that have been previously analyzed under NEPA would not be changed by the proposed action (EA Section 5.7.1).

*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 BSAI fisheries are monitored by both NMFS and the Council in order to recognize and account for changes in fishery-ecosystem interactions, harvest limits, habitat protections (such as closed areas), PSC and bycatch limits, location and timing of the fishery and current fishing regulations previously analyzed under NEPA would not be changed by the proposed action (EA Section 5.7.1).

*D. 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 since this action affects commercial fishing in the offshore waters of the BS and will not impact districts, sites, highways, structures, or objects listed or eligible 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 (EA Section 4).

*E. 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 gear changes internal to an existing commercial fishery sector within the directed fishery for Greenland turbot in the BS subarea for hook-and-line catcher/processor (C/P) vessels. The proposed action will likely provide benefits to the fishery participants who have historically fished for Greenland turbot with hook-and-line gear but ceased due to operational challenges posed by whale depredation that made fishing uneconomical. Therefore, no direct or indirect impacts on the subsistence harvest, sharing, and use of the directed fishery for Greenland turbot in the BS subarea are anticipated that disproportionately affect minority or low-income communities (EA Section 4.3).

*F. 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 which were previously analyzed in the 2004 Programmatic Supplemental Environmental Impact Statement on Alaska Groundfish Fisheries (PSEIS) (EA Section 1.5).

*G. 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 gear changes internal to an existing commercial fishery sector allocation within the directed fishery for Greenland turbot in the BS subarea for hook-and-line C/P vessels, the impacts of which were caused by the implementation of a previous federal action and previously analyzed in the PSEIS (EA Section 1.5). This action would not affect the harvest limits, season dates, areas fished, PSC and bycatch limits, and all other accountability measures currently in place. 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:**

No past, present, or reasonably foreseeable future actions were identified that would combine with the effects of this action to result in cumulatively significant impacts (EA Section 5).

#### **VI. Mitigation and Monitoring:**

As part of this proposed action, the agency is incorporating recordkeeping, reporting, and monitoring components to avoid potentially significant impacts. The agency is proposing regulatory changes aligned with the Council's approach. As noted in the in Section 4.3 of the EA, the Council

recommended removing the 9 inch pot tunnel opening restriction which ensures that the pots are not size selecting small fish. Requiring longline pot sets to be marked with a buoy labeled “LP” will allow enforcement agents a method of identifying the type of gear deployed, and ensure requirements are consistent across fisheries and regions.

## **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 the Proposed Regulatory Amendment to allow longline pot gear in the Bering Sea Greenland turbot fishery, the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (NMFS 2007), the Stock Assessment and Fishery Evaluation (SAFE) Reports for the Groundfish Resources of the BSAI (NPFMC 2021a), and the Final Programmatic Supplemental Environmental Impact Statement (PSEIS) on the Alaska Groundfish Fisheries (NMFS 2004), it is hereby determined that the Proposed Regulatory Amendment to allow longline pot gear in the Bering Sea Greenland turbot directed fishery will not significantly impact the quality of the human environment. The EA prepared for the Proposed Regulatory Amendment to allow longline pot gear in the Bering Sea Greenland turbot directed fishery 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  
Regional Administrator

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Date