8.2.2 Finding of No Significant Impact (FONSI)

National Oceanic and Atmospheric Administration Order (NAO) 216-6 (revised May 20, 1999) provides nine criteria for determining the significance of the impacts of a final fishery management action. These criteria are discussed below:

(1) *Can the Preferred Alternatives reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action?*

Response: The preferred alternatives cannot reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action. With respect to the target species in the Northeast Multispecies fishery the Preferred Alternatives adopt catch limits that are consistent with target fishing mortality rates that promote rebuilding and/or sustaining stock sizes.

(2) *Can the Preferred Alternatives reasonably be expected to jeopardize the sustainability of any non-target species?*

Response: For fishery resources that are caught incidental to groundfish fishing activity, there is no indication in the analyses that the alternatives will threaten sustainability. The Preferred Alternatives will result in relatively small changes in groundfish fishing effort and since the fishery does not currently jeopardize non-target species it is not likely that these alternatives will change that status.

(3) *Can the Preferred Alternatives reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in FMPs?*

Response: The Preferred Alternatives cannot reasonably be expected to cause substantial damage to the oceans and coastal habitats and/or essential fish habitat. Analyses described in section 7.2 indicate that only minor impacts are expected.

(4) *Can the Preferred Alternatives be reasonably expected to have a substantial adverse impact on public health or safety?*

Response: Nothing in the Proposed Action can be reasonably expected to have a substantial adverse impact on public health or safety. Measures adopted in Amendment 16 were designed to improve safety in spite of low ACLs anticipated by subsequent actions in the near term future. The flexibility inherent in sector management and the ability to use common pool DAS at any time are key elements of the measures that promoted safety. The Preferred Alternatives, in conjunction with Amendment 16 measures, is the best option for achieving the necessary mortality reductions while having the least impact on vessel safety.

(5) *Can the Preferred Alternatives reasonably be expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species?*

Response: The Preferred Alternatives cannot be reasonably expected to adversely affect endangered or threatened species. For the reasons discussed in Sections 6.4, 7.6.5, and 8.3, the continued operation of the NE Multispecies FMP is not likely to jeopardize the continued existence of any Atlantic sturgeon DPS during the reinitiation period. This is due to the short

time period encompassed by the reinitiation period, and consequently, the scale of any interactions with Atlantic sturgeon that may occur during this period. NMFS will implement any appropriate measures outlined in the Biological Opinion to mitigate harm to Atlantic sturgeon. Further, the encounter rates and mortalities for Atlantic sturgeon that have been calculated as part of the preliminary analysis of NEFOP data (as discussed in Sec 6.4.4) include encounters and mortalities by all fisheries utilizing large-mesh sink gillnet and otter trawl gear, including the spiny dogfish, and monkfish fisheries. Thus, it is likely that rates of encounters and mortalities by the groundfish fishery would be lower than those estimates. Therefore, impacts resulting from the approval of FW 47 are not likely to be significant.

(6) *Can the Preferred Alternatives be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?*

Response: The Preferred Alternatives are not expected to have a substantial impact on biodiversity and/or ecosystem function with the affected area. The use of ACLs will tightly control catches of target and incidental regulated groundfish stocks. Catches of target and incidental catch species under this program will be consistent with the mortality targets of Amendment 16, and thus will not have a substantial impact on predator-prey relationships or biodiversity. Particular measures within this action will have no more than minimal adverse impacts to EFH. It is therefore reasonable to expect that there will not be substantial impact on biodiversity or ecosystem function.

(7) *Are significant social or economic impacts interrelated with natural or physical environmental effects*?

Response: The environmental assessment documents that no significant natural or physical effects will result from the implementation of the Preferred Alternatives. The Preferred Alternatives are designed to implement specifications and modifications to continue the groundfish rebuilding programs that were implemented as a result of Amendments 13 and 16 to the Northeast Multispecies FMP. As described in Section 7.1, the action is expected to continue the rebuilding trajectories for most stocks that have been adopted. The action cannot be reasonably expected to have a substantial impact on habitat or protected species (see Sections 7.2 and 7.3), as the impacts are expected to fall within the range of those resulting from Amendment 16. The action's potential economic and social impacts are also addressed in the environmental assessment (see Sections 7.4 and 7.5, respectively) and more specifically in the Executive Order 12866 review (Section 8.11.1) and the Initial Regulatory Impact Review (Section 8.11).

NMFS has determined that despite the potential socio-economic impacts resulting from this action, there is no need to prepare an EIS. The purpose of NEPA is to protect the environment by requiring federal agencies to consider the impacts of their Proposed Action on the human environment, defined as "the natural and physical environment and the relationship of the people with that environment." This EA for Framework 47 describes and analyzes the proposed measures and alternatives and concludes there will be no significant impacts to the natural and physical environment. While some fishermen, shore-side businesses and others may experience impacts to their livelihood, these impacts in and of themselves do not require the preparation of an EIS, as supported by NEPA's implementing regulations at 40 C.F.R. 1508.14. Consequently, because the EA demonstrates that the action's potential natural and physical impacts are not significant, the execution of a FONSI remains appropriate under Criteria 7.

(8) *Are the effects on the quality of the human environment likely to be highly controversial*?

Response: The effects of the preferred measures on the quality of human environment are not expected to be highly controversial. The need to rebuild groundfish stocks is well-documented. While there has been some debate over how quickly to rebuild those stocks and the desired biomass for each stock, legal requirements established by the M-S Act render these discussions moot. These issues were also resolved with the adoption of Amendment 16, and with the exception of the GB yellowtail flounder rebuilding strategy this action does not modify those rebuilding plans. The effects of modifying the GB yellowtail flounder rebuilding schedule are not expected to be controversial since the proposed action was supported by industry and will allow catch on other stocks to be more fully optimized while staying within the boundaries of the M-S Act requirements.

(9) *Can the Preferred Alternatives reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas?*

Response: No, the Preferred Alternatives cannot be reasonably expected to result in substantial impacts to unique areas or ecological critical areas. The only designated HAPC in the areas affected by this action is protected by an existing closed area that would not be affected by this action. In addition, vessel operations around the unique historical and cultural resources encompassed by the Stellwagen Bank National Marine Sanctuary would not likely be altered by this action. As a result, no substantial impacts are expected from this action.

(10) *Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?*

Response: The Preferred Alternatives are not expected to result in highly uncertain effects on the human environment or involve unique or unknown risks. The effort control measures used in this action are similar to those adopted in past management actions, and these prior actions have reduced fishing mortality on many stocks and initiated stock rebuilding. The administrative measures are relatively minor modifications that were anticipated by Amendment 16. While there is a degree of uncertainty over how fishermen will react to the proposed measures, the analytic tools used to evaluate the measures attempt to take that uncertainty into account and reflect the likely results as a range of possible outcomes. For example, the economic analysis in Section 7.4 illustrates the distribution of results that are expected rather then provide only a point estimate. Since ultimately the availability of a choice of whether to join a sector will serve to mitigate social and economic impacts, uncertainty over sector membership cannot be seen as a significant source of risk. Overall, the impacts of the Preferred Alternatives can be, and are, described with a relative amount of certainty.

(11) *Is the Preferred Alternative related to other actions with individually insignificant, but cumulatively significant impacts?*

Response: The Proposed Action is not related to other actions with individually insignificant but cumulatively significant impacts. Recent management actions in this fishery include FW 42, FW 43, Amendment 16, FW 44, FW 45, and FW 46. FW 42 developed specific measures implementing programs adopted by Amendment 13; each was determined to be insignificant. FW 43 adopted limits on groundfish bycatch by mid-water trawl herring vessels and was not determined to have a significant effect on either the groundfish or herring fisheries. Amendment

16 had significant impacts and thus required the preparation of an EIS, while Frameworks 44 and 46 set specifications as required under Amendment 16 and made relatively minor adjustments to the sector administration program. Framework 46 modified the amount of haddock that may be caught by the midwater herring fishery. The measures in this action were anticipated by Amendment 16 and thus cannot be said to have different cumulative impacts that were not foreseen and addressed in the amendment. Therefore, the Preferred Alternatives, when assessed in conjunction with the actions noted above, would not have significant impacts on the natural or physical environment.

(12) *Are the Preferred Alternatives likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or cause loss or destruction of significant scientific, cultural or historical resources?*

Response: The Preferred Alternatives is not likely to affect objects listed in the National Register of Historic Places or cause significant impact to scientific, cultural, or historical resources. The only objects in the fishery area that are listed in the National Register of Historic Places are several wrecks, including several in the Stellwagen Bank National Marine Sanctuary. The current regulations allow fishing within the Stellwagen Bank National Marine Sanctuary. The Preferred Alternatives would not regulate current fishing practices within the sanctuary. However, vessels typically avoid fishing near wrecks to avoid tangling gear. Therefore, this action would not result in any adverse effects to wrecks.

(13) *Can the Preferred Alternatives reasonably be expected to result in the introduction or spread of a non-indigenous species?*

Response: This action would not result in the introduction or spread of any non-indigenous species, as it would not result in any vessel activity outside of the Northeast region.

(14) *Are the Preferred Alternatives likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?*

Response: No, the Preferred Alternatives are not likely to establish precedent for future actions with significant effects. The Preferred Alternatives adopts measures that are designed to react to the necessity to reduce fishing mortality for several groundfish stocks in order to achieve the fishing mortality targets adopted by Amendment 16 and Frameworks 44 and 45. As such, these measures are designed to address a specific problem and are not intended to represent a decision about future management actions that may adopt different measures.

(15) *Can the Preferred Alternatives reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?*

Response: The Preferred Alternatives are intended to implement measures that would offer further protection of marine resources and would not threaten a violation of Federal, state, or local law or requirements to protect the environment.

(16) *Can the Preferred Alternatives reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?*

Response: As specified in the responses to the first two criteria of this section, the Preferred Alternatives are not expected to result in cumulative adverse effects that would have a substantial

effect on target or non-target species. This action would maintain fishing mortality within M-S Act requirements for several groundfish stocks, with no expected increase in mortality for non-target and non-groundfish stocks.

FONSI STATEMENT: In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for Framework Adjustment 47 to the Northeast Multispecies Fishery Management Plan, it is hereby determined that Framework Adjustment 47 will not significantly impact the quality of the human environment as described above and in the supporting Environmental Assessment. In addition, all beneficial and adverse impacts of the Proposed Action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not required.

9 MAR 2012

ACTING
Northeast Regional Administrator, NOAA Date