



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, AK 99802-1668

January 5, 2023

Mr. David Witherell
Executive Director
North Pacific Fishery Management Council
1007 West 3rd Ave., Suite 400, L92 Building, 4th floor
Anchorage, Alaska 99501

Dear Mr. Witherell:

On December 15, 2022, we provided a draft proposed rule to reduce data loss in the Bering Sea/Aleutian Islands pot gear catcher/processor fleet to you and Chairman Kinneen for review. This action would require participants to carry a Level 2 observer and comply with pre-cruise meeting notifications. Additionally, this action would require certification and testing standards for participants choosing any of the following voluntary monitoring options: observer sampling stations, motion-compensating platform and flow scales, or additional observers on the vessel. On December 19, 2022, you concurred in a letter to NMFS to proceed with Secretarial review of this regulatory amendment under section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

At the national level, NMFS recently clarified a policy preference for fishery management regulations to be recommended, in certain circumstances, explicitly by Fishery Management Councils versus having NMFS undertake rulemaking using our general authority under section 305(d). Accordingly, we suggest that the Council consider moving this action forward under the Council authority to recommend regulatory changes necessary or appropriate to implement the Council's Fishery Management Plans under section 303(c)(2) of the MSA. We are therefore requesting the Council schedule this action for review and a vote at an upcoming meeting. The Council considered this matter at its June 2022 meeting, affording an opportunity for public comment, and we have analyzed this action and prepared draft proposed regulatory text. Thus, the Council could review this action as an Initial/Final Action in one meeting. We are prepared to present this action to the Council at its February 2023 meeting.

I realize that asking the Council to vote on this action would take time on the Council's agenda, but having the Council vote on regulatory actions necessary for fishery conservation and management is in keeping with the framework of the MSA and would promote consistency and best practices in the use of rulemaking authorities. Accordingly, please let me know the Council's preferred path forward for this action.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan M. Kurland".

Jonathan M. Kurland
Regional Administrator

