



September 11, 2020

Ms. Stephanie Madsen
At-Sea Processors Association
P.O. Box 32817
Juneau, Alaska 99803

Dear Ms. Madsen:

Thank you for your August 14, 2020, letter on behalf of the At-Sea Processors Association (APA) members and vessels delivering to pollock motherships. Your letter petitioned Secretary Ross for an emergency rule that would suspend the September 1, 2020 pollock directed fishing closure of the Winter Herring Savings Area (see Figure 4 to 50 CFR part 679) until November 1, 2020, the date on which pollock directed fishing closes by regulation for 2020 (see 50 CFR 679.23(e)(2)).

We analyzed your request pursuant to NOAA Fisheries' Policy Guidelines for the Use of Emergency Rules (NMFS Policy Procedure 01-101-07) that define three criteria that must be met to determine that an emergency exists.

The phrase "an emergency exists involving any fishery" is defined as a situation that:

- (1) Results from recent, unforeseen events or recently discovered circumstances; and
- (2) Presents serious conservation or management problems in the fishery; and
- (3) Can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process.

Our analysis concludes that the petition does not meet all of these criteria. We reviewed the information presented in your petition, recent and anticipated harvest patterns in the Bering Sea pollock fishery for the remainder of 2020, and the likelihood that available pollock would remain unharvested during the 2020 fishing season. We have concluded that emergency regulations likely would not address the concerns raised in the petition given the fishing opportunities outside of the Winter Herring Savings Area, the length of the fishing season, and the anticipated rates of pollock harvest. During twelve of the twenty weeks of the 2020 B season, the APA members and vessels delivering to pollock motherships have harvested only 18 percent of their total pollock harvest inside the Winter Herring Savings Area.

Further, the APA participants and vessels delivering to pollock motherships have amounts of herring prohibited species catch that are lower during the 2020 B season than during the 2020 A



season, when high herring bycatch became concerning. The APA participants and vessels delivering to pollock motherships also have a low percentage (11 percent) of the total B season herring prohibited species catch (through August 29, 2020). For these reasons, herring bycatch by the APA participants and vessels delivering to pollock motherships is expected to remain relatively low during the remainder of the 2020 B season, even though herring bycatch rates have been higher outside the Winter Herring Savings Area than inside the Winter Herring Savings Area during the 2020 B season. For salmon, for the 2020 B season, as of August 29, 2020, the salmon prohibited species catch rates inside the Winter Herring Savings Area are lower than outside the Winter Herring Savings Area; however, NMFS believes the APA participants and vessels delivering to motherships have the tools necessary to fully harvest their pollock allocations, avoid salmon, and operate under their Salmon Incentive Plan Agreements. And, each vessel operator must continue to minimize its catch of any prohibited species catch (see 50 CFR 679.21(a)(2)(i)).

I understand the challenges that the North Pacific fishing industry and communities have faced in 2020. If there are concerns about Bering Sea herring bycatch and pollock management measures, I believe working through the North Pacific Fishery Management Council process is the best approach to develop a well-reasoned proposal that can address the concerns of the broad range of stakeholders in the Bering Sea. If you have any questions, please contact James Balsiger at jim.balsiger@noaa.gov or (907) 586-7221.

Sincerely,

A handwritten signature in cursive script that reads "Chris Oliver". The signature is written in black ink and is positioned above the printed name.

Chris Oliver