



Fishing Company of Alaska v. Gutierrez **(D.C. Cir. Dec. 18, 2007)**

- Challenge to BSAI groundfish retention standard**
- NMFS added monitoring and enforcement requirements**



District Court Upholds Regulations *(under name Legacy Fishing Co. v. Gutierrez)*

Issue: Whether NMFS' addition of monitoring and enforcement requirements violate procedure for "submittal" of regulations implementing amendments"

District Court Held: Letter from ED submitting regs was sufficient



Court of Appeals Reverses

Issue: Whether NMFS' addition of monitoring and enforcement requirements violate procedure for "submittal" of regulations implementing amendments."

D.C. Circuit: No evidence Council "deemed" the additional requirements necessary or appropriate.



MSA Regulatory Authority

- **Section 303(c):**

“Proposed regulations which the Council *deems* necessary or appropriate for the purposes of –

(1) implementing a fishery management plan or plan amendment shall be *submitted* to the Secretary simultaneously with the plan or amendment under Section 304.”