

M E M O R A N D U M

TO: Council, SSC and AP Members

FROM: Jim H. Branson
Executive Director

DATE: May 18, 1983

SUBJECT: Tanner Crab Fishery Management Plan

ACTION REQUIRED

Review of Tanner crab management decisions made by the Alaska Board of Fisheries, and initial consideration of proposed amendments to the Tanner crab FMP.

BACKGROUND

At the joint meeting held last March, the Council and Board discussed proposed regulatory changes for the 1983-84 Tanner crab fishery. In particular, the Council reviewed proposals to allow the longlining of Tanner crab pots and for lowering of the C. bairdi size limit in the Northern subdistrict of the Bering Sea. Board action on these and all other Tanner crab proposals are summarized as agenda item-D-4(a). It should be noted that of the thirty-two proposals reviewed by the Board, eleven were adopted. Nine of the adopted proposals create new inconsistencies between State regulations and the Tanner crab FMP. The Plan Maintenance Team (PMT) met on April 21, 1983 to discuss these inconsistencies and to begin preparation of amendments that would remove them from the plan.

In December 1982 the Council circulated for public comment Amendment #9 that proposed a framework procedure utilizing pre-season notices for setting Tanner crab fishing seasons. This amendment was prepared in response to the continuing difficulties in coordinating federal season dates with those established by the State of Alaska. In January 1983 the Council was notified by the Central office of NMFS that while such an amendment was being applauded, it was also necessary that we update the numerical MSY, ABC and OY values due to the close interrelationship that exists between setting a fishing season and the resulting attainment of the OY. Enclosed in your notebooks as item D-4(b) is an expanded Amendment #9 which in addition to the frameworked fishing seasons procedure and pre-season notice procedure, includes updated MSY, ABC and OY ranges and a revision to the Regional Director's field order authority.

While Amendment #9 eliminated many of the regulatory inconsistencies created by the recent Board action, other differences remain. To eliminate the remaining inconsistencies the PMT has prepared Amendment #10 which responds to

the "exclusive" designation given to the Southeast and Alaska Peninsula registration areas, and the reduction of the Kodiak pot limit from 250 to 200 Tanner crab pots. This amendment is included as item D-4(c).

The PMT is recommending that you examine these amendments at this meeting and adopt them for public review. Final Council action on the amendments would be scheduled for the July meeting, allowing for possible implementation by the 1983-1984 Tanner crab fishery.

Amendment #8, "the housekeeping amendment," which eliminated many regulatory inconsistencies that existed between the Tanner crab FMP, federal regulations and state regulations, began Secretarial review on May 16, 1983. It should be noted that as a result of the recent MFCMA amendments, this amendment is one of the first plan amendments to be reviewed using the new fast track schedule.

Amendment #7 (remember this one?), which established new C. bairdi OYs and set C. opilio OY equal to DAH (i.e. TALFF = 0), was implemented by the Secretary of Commerce on April 8, 1983.

TANNER CRAB PROPOSALS SUMMARY

		<u>Board Action</u>	<u>FMP/Reg Response</u>	<u>Amend- ment</u>
<u>Registration</u>				
(46)	Change the registration status of the Kodiak Dist. from non-exclusive to exclusive	rejected	NC	
(49)	Change the designation of the South Peninsula and Chignik area from a district to an exclusive registration area	adopted	A	TC-10
(164)	Change the Southeast Registration Area from a non-exclusive to an exclusive registration area	adopted	A	TC-10
<u>Seasons</u>				
(47)	Open the Kodiak Dist. earlier, Jan 10 vs. Feb 10	rejected	NC	} TC-9
(48)	Open the Kodiak Dist. earlier, 9:00 am vs. 12:00 noon	rejected	NC	
(51)	Open the S. Penn. Dist. at the same time as the other Westward districts	rejected	NC	
(52)	Open the W. Aleutian Dist. later, Nov 10 vs. Nov 1	adopted	A	
(95 & 97)	Open the Cook Inlet Area earlier, Nov 1 vs. Dec 1	adopted	A	
(96)	Close the Cook Inlet Area later, June 15 vs. May 31	rejected	NC	
(165)	Open the Southeast Area later, Feb 10 vs. Dec 1	adopted	A	
(166)	Open and close the Southeast Area later, Feb 1 - May 15 vs. Dec 1 - May 1	rejected	NC	
(192)	Set a concurrent opening for all Tanner crab fisheries - Statewide	rejected	NC	
(W)	Open the Prince William Sound Area later, Jan. 5 vs. Nov. 15	adopted	A	
<u>Size Limits</u>				
(54)	Lower the <u>C. bairdi</u> size limit in the N. Subdistrict of the Bering Sea; currently 5½ in.	rejected	NC	
<u>Harvest Levels</u>				
(98 & 112)	Repeal the Cook Inlet and Prince William Sound guideline harvest levels	adopted	A	TC-9
(167)	Within the Southeast Area establish individual district/subdistrict harvest guidelines	rejected	NC	

<u>Gear</u>		<u>Board Action</u>	<u>FMP/Reg Response</u>	<u>Amend- ment</u>
(53)	Establish a 100 Tanner crab pot limit in the E. Aleutians Dist.	rejected	NC	
(55)	Reduce the Kodiak Dist. Tanner crab pot limit from 250 to 200	adopted	A	TC-10
*(58 & 59)	Establish a 100 pot limit for the S. Penn. king and Tanner crab fisheries	rejected	NC	
(99)	Establish Tanner crab pot limits in the Cook Inlet area Kamishak and Barren Is. Dist. - 150 pots Southern Dist. - 75 pots	rejected	NC	

(56)	In the Kodiak Dist., extend the inshore storage area seaward from the 25 f contour to 30 f	rejected	NC	
*(60)	Provide king and Tanner crab pot storage areas in designated inshore waters within the Dutch Harbor Area	amended/ adopted	NC	
*(62)	Establish a second king and Tanner pot storage area in Bristol Bay (the old Federal pot storage area)	rejected	NC	

(170)	Require escape rings on Tanner crab pots in the southeast Area	To be reconsidered in one year		
(171)	In the Southeast Area, prohibit vessels from fishing or storing crab gear for one week prior to the season	adopted	A	TC-8
(172)	Allow the use of side-loading pots in some areas of the Yakutat Dist.	rejected	NC	
<u>Miscellaneous</u>				
(50)	Provide a 5-day bait up period prior to the opening of the S. Peninsula Area	rejected	NC	
*(57)	In the Kodiak king and Tanner crab fisheries, prohibit the use of catcher/processor vessels	rejected	NC	
*(196)	Require an enforcement agent on every catcher/processor	Board to draft resolution		
*(63)	Provide extra fishing time to fishermen who assist other fishermen in duties within the BS/AI or Westward Areas	rejected	NC	
*(194)	Eliminate "major damage" as a reason for allowing post-season recovery of gear and sale of crab. (This provision is not in the plan.)	adopted	NC	

Board FMP/Reg Amend-
Action Response ment

Miscellaneous (cont.)

*(195) Allow longlining king and Tanner crab pots
 in waters of 125 f or more, in all areas
 where there are no pot limits

rejected NC

*Proposals for both king and Tanner crab fisheries

A = Amendment

NC = No Change

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
FISHERY MANAGEMENT PLAN FOR THE COMMERCIAL
TANNER CRAB FISHERY OFF ALASKA
PROPOSED AMENDMENT #9

I. INTRODUCTION

As directed by the Magnuson Fishery Conservation and Management Act of 1976 (MFCMA), the North Pacific Fishery Management Council prepared fishery management plans for those fisheries within its jurisdiction requiring conservation and management. The Fishery Management Plan for the Commercial Tanner Crab Fishery Off the Coast of Alaska (FMP) was the second of the plans to be completed by the Council and was approved by the Secretary of Commerce in 1978. Since plan implementation, the FMP has been amended seven times with one amendment pending. Plan amendments are usually prepared in response to changes that occur within a fishery or when an unforeseeable need arises. Amendment #9 has been prepared in response to problems recently encountered in adjusting Tanner crab fishing seasons. The amendment establishes a framework procedure which significantly expands the factors that the Council may consider in setting season dates and provides for a more rapid implementation of new dates by utilizing a pre-season "notice" procedure. Other parts of the amendment include updated optimum yield ranges for all Tanner crab fisheries and revised wording of the National Marine Fisheries Service (NMFS) Regional Director's field order authority.

II. CHANGES TO THE FMP

1. In the Executive Summary, page viii, Table A, replace the MSY and ABC values with the following:

<u>AREA</u>	<u>MSY</u>		<u>ABC</u>	
	<u>lbs</u>	<u>mt</u>	<u>lbs</u>	<u>mt</u>
SOUTHEASTERN				
Southeast	1.7	771	1.0-3.0	454-1,361
Yakutat	1.4	635	0.5-1.0	226-454
PRINCE WILLIAM SOUND	4.3	1,951	1.5-3.5	680-1,588
COOK INLET	4.9	2,223	1.5-3.0	680-1,361
KODIAK	22	9,980	11-33	4,990-14,969
CHIGNIK	4.2	1,905	2-5	907-2,268
S. PENINSULA	6.7	3,039	3-6	1,361-2,722
E. ALEUTIANS	0.9	408	0.1-2.4	45-1,089
W. ALEUTIANS	0.3	136	0.1-2.0	45-2,268
BERING SEA				
<u>C. bairdi</u>	34	15,423	*5-28.5	2,268-12,928
<u>C. opilio</u>	31	14,062	*15-130	6,805-58,970

lbs = millions

* = lower limit is based on 1983 projected harvests and are subject to minor revision when statistics are finalized.

- In Section 3.0, DESCRIPTION OF FISHERY, Part 3.3.2.1 and 3.3.2.2, page 3-9, add to the end of the paragraph entitled "Fishing Seasons" the following:

To meet the objectives of the FMP, social and economic factors, in addition to biological factors may be considered in setting fishing seasons. A framework procedure has been developed for use in setting season dates (see Section 8.3).

- In Section 8.0, MANAGEMENT REGIME, Part 8.3.1.1, page 8-3, delete the paragraph and add the following:

Open and closed fishing seasons are used to protect Tanner crab during the molting, mating, and growing periods of their life cycle. The season will normally be closed during those periods to protect crab from mortality caused by handling and stress when shells are soft and to maximize meat recovery by delaying harvest until the shells are filled out. Closed seasons will be set to maximize the reproductive potential of the Tanner crab population based on the following considerations:

- Closed seasons should include molting and post-molting periods until the shells have hardened enough to permit handling with minimal mortality and damage.
- Closed seasons should possibly include other sensitive periods of the life cycle of the crab, when they become known.

In some areas, provision for an open season that conflicts with the preceding conditions may be desirable based on one or more of the following considerations:

- Openings will provide for an exploratory fishery to encourage effort on a stock of low productivity which would otherwise not be fished during a normal season because fishermen would concentrate on more productive stocks.
- An opening may also be justified if adverse environmental conditions such as sea ice covering the fishing grounds prevent utilization of harvestable crab during a normal season even though the opening were during a period that was not optimal relative to the above considerations.
- An opening during a sensitive biological period will be designed to ensure that no irreparable damage will be done to any Tanner crab stock.

The biologically sensitive period in the life cycle of Tanner crab in the FCZ area is generally from spring to fall although the timing for

individual stocks may vary somewhat, allowing some adjustments in seasons. Winter through early spring is generally the acceptable period for harvesting crabs from a biological standpoint. However, molting Tanner crab have been found to a certain extent at all times of the year and in every area. Information on the early life history, molting frequency, and mating periods of Tanner crab is scarce and as more becomes known, managers will be able to determine more accurately the biologically sensitive periods for each area.

Tanner crab fishing seasons are established during periods when crab are not molting or reproducing, and when handling mortality should be low and meat content high. These periods may last up to nine months, far exceeding the time required to harvest the available catch. To meet the objectives of FMP, modification of seasons may be made considering socioeconomic as well as biological factors.

Some of the factors the Council may consider in recommending fishing seasons are:

- ° Deadloss. Rationale -- All Tanner crab must be alive when processing begins. Those dying prior to processing are classed as "deadloss" and discarded. Deadloss increases if crabs are: (1) softshell, (2) not completely filled out, (3) held for long periods in boat tanks or processor holding tanks, (4) holding tanks are contaminated by fresh water, and (5) handled too many times. Seasons should be set when crab are hard and well filled out, and scheduled in relation to other fishing seasons and activities so deliveries and processing are orderly, thereby reducing to a minimum the time a catch is kept in vessel or processor holding tanks. Warm water temperatures and periods when fresh water may be a problem on the surface of bays and harbors should be avoided if possible since both factors increase mortality in holding tanks.

- ° Recovery rate. Rationale -- Seasons should be scheduled to produce the best possible recovery rate, which is the ratio of meat recovered in proportion to live weight. Since different segments of

a stock within a fishing area may fill out at different times during the acceptable biological season, it is not always possible to harvest all crabs in an area during the best meat recovery period.

- Weather. Rationale -- Insofar as possible seasons should be scheduled to minimize the period of severe weather conditions during the fishery to avoid loss of fishing time and losses of men and ships because of adverse conditions.
 - Cost. Rationale -- Costs of industry operations are affected by the timing of seasons. Seasons should be scheduled to minimize these costs.
 - Other fisheries. Rationale -- Seasons should be scheduled in consideration of other fisheries that will be making demands on the same harvesting, processing, and transportation systems needed in the Tanner crab fishery.
 - Coordinated season timing. Rationale -- Seasons should be scheduled in consideration of the need to time Tanner crab seasons relative to one another to spread fishing effort, prevent gear saturation in a particular area, and allow maximum participation in the fishery by all elements of the Tanner crab fleet.
 - Enforcement and management costs. Rationale -- Seasons should be scheduled in consideration of the costs of enforcement and management before, during, and after an open season as affected by the timing and area of different Tanner crab seasons and as affected by seasons for king crab and other resources.
4. In Section 8.0, MANAGEMENT REGIME, Part 8.3.1.2, page 8-3, change the heading In-season Adjustment of Time and Area to read Adjustment of Fishing Areas and Seasons of the Tanner Crab Fishery.

5. In Section 8.0, MANAGEMENT REGIME, Part 8.3.1.2, page 8-4, delete the section entitled "NPFMC FINDING ON THE SPECIFICATION OF THE OPTIMUM YIELD AND THE ISSUANCE OF FIELD ORDERS" and replace it with the following paragraph:

In the course of a fishing season, the harvest levels and season opening and closing dates specified under the other provisions of this Plan may be found to require modification in light of newly obtained information. Under such circumstances, it is necessary that the Director, Alaska Region, National Marine Fisheries Service (Regional Director) take prompt action to modify those harvest levels and season opening and closing dates in order to meet the biological, social, and economic criteria of this Plan, or to protect Tanner crab resources from biological harm. The Regional Director is hereby authorized to take such action, using the most expeditious procedures that are permissible under federal law. Before taking such action, the Regional Director must consult with the Alaska Department of Fish and Game and, if possible, with the Council. The Regional Director shall have broad discretion to so design such action as to minimize its effect on portions of the fishery to which the newly acquired information is not relevant, disregarding otherwise applicable management area, district, and section boundaries where he finds this to be appropriate.

6. In Section 8.0, MANAGEMENT REGIME, Part 8.3.1.2, page 8-4, following the new paragraph described in part 5 of this amendment, add the following section:

SPECIFICATION OF OPENING AND CLOSING DATES OF THE FISHING SEASONS BY THE
ISSUANCE OF NOTICES

The Council may find it necessary to adjust the season opening and closing dates prior to a Tanner crab fishing season on the basis of biological and socioeconomic considerations discussed in Section 8.3.1.1. These considerations are designed to protect the crab resource during sensitive periods in its lifecycle while optimizing the economic efficiency of the industry. As some of these pre-season adjustments may

be necessary, and implementing a plan or regulatory amendment in a timely manner may not be possible, the use of a notice procedure is authorized.

Following a Council review of proposed season dates and their accompanying rationale, the Council will consider such proposals based on biological and socioeconomic factors. Following this review, any approved changes to existing seasons will be submitted to the Regional Director, NMFS-AK for review and approval. Upon receipt of the new seasons, the Regional Director will publish in the Federal Register a notice to establish new Tanner crab seasons and invite public comment for 30 days on his initial determinations. After considering any comments received, the Regional Director shall publish in the Federal Register a notice of his final determination.

The socioeconomic factors that the Regional Director must consider in addition to biological factors in making his final determination are listed below. It is, however, recognized that the Council and Regional Director may have to consider other factors which are relevant to the conservation and management of Tanner crab and cannot be forecast at this time. Rationale for these factors are found in Section 8.3.1.1.

1. Deadloss
2. Recovery rate
3. Weather
4. Cost
5. Other fisheries
6. Coordinated season timing
7. Enforcement and management costs
8. Development of exploratory fisheries

7. The following sections are modified as indicated.

In Section A.3.0, DESCRIPTION OF FISHERY, Part A.3.3.2.1 and A.3.3.2.2, page A-4, under Fishing Seasons, add to paragraph 3: In late-1983 a flexible procedure for determining fishing season dates was established for this management area and is described in detail in Section 8.3.

In Section B.3.0, DESCRIPTION OF FISHERY, Part B.3.3.2.1 and B.3.3.2.2, page B-3, add to paragraph 1: In late-1983 a flexible procedure for determining fishing season dates was established for this management area and is described in detail in Section 8.3.

In Section C.3.0, DESCRIPTION OF FISHERY, Part C.3.3.2.1 and C.3.3.2.2, Regulatory Measures and Purposes of Measures, add to paragraph 3: In late-1983 a flexible procedure for determining fishing season dates was established for this management area and is described in detail in Section 8.3.

In Section D.3.0, DESCRIPTION OF FISHERY, Part D.3.3.2.1 and D.3.3.2.2, page D-5, add to the paragraph entitled Fishing Season the following: In late-1983 a flexible procedure for determining fishing season dates was established for this management area and is described in detail in Section 8.3.

In Section E.3.0, DESCRIPTION OF FISHERY, Part E.3.3.2.1 and E.3.3.2.2, page E-4, add to the paragraph entitled Fishing Seasons the following: In late-1983 a flexible procedure for determining fishing season dates was established for this management area and is described in detail in Section 8.3.

In Section F.3.0, DESCRIPTION OF FISHERY, Part F.3.3.2.1 and F.3.3.2.2, add to the paragraph entitled Fishing Season the following: In late-1983 a flexible procedure for determining fishing season dates was established for this management area and is described in detail in Section 8.3.

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
MANAGEMENT RECOMMENDATIONS AND CONSIDERATIONS
FOR THE TANNER CRAB FISHERY IN THE FCZ OFF ALASKA
PROPOSED AMENDMENT #10

I. INTRODUCTION

The Magnuson Fishery Conservation and Management Act of 1976 (MFCMA) requires that stocks of Tanner crab be managed as a unit throughout their range. The Tanner crab fishery off Alaska extends into the waters of both state and federal jurisdictions, and the management objectives and measures of both zones should, therefore, be compatible. The intent of the Fishery Management Plan (FMP) is to manage the Tanner crab resources off Alaska in a manner that is consistent with the State of Alaska's management regime and MFCMA National Standards while promoting conservation and allowing full utilization of the resource for food production.

In March 1983 the Alaska Board of Fisheries (Board) reviewed proposed fishery regulations for the 1983-84 Tanner crab fishery. These proposals were submitted by the Alaska Department of Fish and Game and the fishing industry. Following review of the proposals and public testimony, the Board took regulatory action which has created inconsistencies between state and federal fishery regulations. While some inconsistencies can be eliminated in proposed FMP Amendment #9, others remain. To remove these differences the Council is considering adopting similar proposals concerning changes to Registration Areas and Pot Limits. Amendment #10 to the FMP represents the changes necessary to bring state and federal regulations into conformity.

II. REGULATORY PROPOSALS

Specific regulatory alternatives for the Tanner crab fishery have been submitted by the Tanner crab Plan Maintenance Team and individuals and are listed below. Alternatives that will bring the FMP and federal regulations into exact conformity with state regulations are indicated by an asterisk (*). The Council wishes to put these proposals out for public review and discussion.

Based on public testimony and any new information, the Council will approve the final amendment at their July meeting.

A brief discussion of each proposal and its alternative is included where necessary to provide background information.

A. Registration Areas

*1a. Create a new exclusive registration area to be named Alaska Peninsula (Area M).

Discussion: This proposal combines the non-exclusive Chignik and South Peninsula districts of Registration Area J (Westward) and establishes a new exclusive registration area (Figure 1). The new area will be named Area M - Alaska Peninsula and will consist of the two districts, Chignik and South Peninsula. Area M will have as its eastern boundary the longitude of Cape Kumlik (157°27'W. long.) and as a western boundary, a line extending south from Scotch Cap Light. The new registration area mirrors in both size and location the Alaska Peninsula area currently in use by the state for managing king crab.

If the Council adopts this proposal, they would also be designating this new area as an exclusive registration area. As with the other federal and state exclusive registration areas (Cook Inlet and Prince William Sound), vessels registering to fish Tanner crab in an exclusive area will only be allowed to fish that area and no other area. This differs from the exclusive registration areas defined in the king crab fishery where vessels are allowed to fish in one exclusive area and in any other non-exclusive registration area. The current federal and state definition of exclusive registration areas in the Tanner crab fishery are identical to the definition of super-exclusive registration areas adopted by the state for some of the Gulf of Alaska king crab fisheries. Prior to the Board's action in March 1983, the Chignik and South Peninsula districts were designated non-exclusive, meaning that vessels registered to fish these area districts could move to any other non-exclusive area following a change in vessel registration. Adoption of the exclusive status would essentially eliminate the increasing number of large, mobile

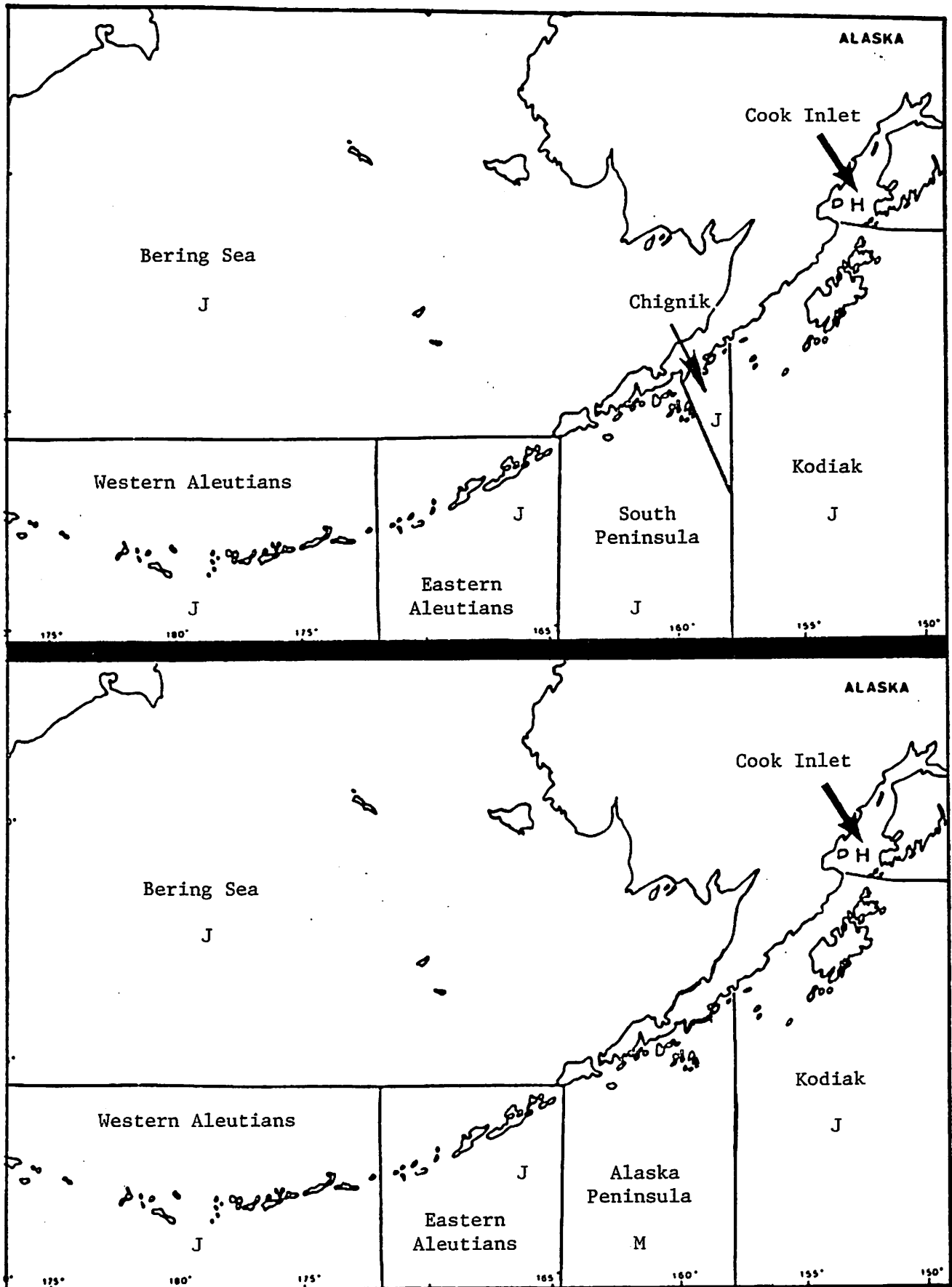


Figure. 1. Current(top) and New(below) Registration Areas being proposed in this amendment. The Alaska Peninsula Area would be designated as exclusive while the other areas would keep their non-exclusive status.

vessels from fishing off the Alaska Peninsula when traveling from the Kodiak to the Bering Sea Tanner crab fisheries.

The rationale behind the recent Board action was to prevent overharvest of the relatively small Tanner crab stocks along the Alaska Peninsula. By designating this area as an exclusive registration area, it is likely that some of the large vessels that have participated in this fishery will by-pass this area for the more productive Bering Sea fisheries. This reduction in large vessels, with its accompanying harvest capability, will allow for a longer season and reduce the threat of the optimum yield being exceeded during the early stages of the fishery. A slower harvest and longer season would also allow for better in-season management, thus reducing the possibility of a fishery being closed too early or too late.

1b. Maintain status quo.

Discussion: No action would allow vessels to fish in the Chignik, South Peninsula and any other non-exclusive registration area outside state waters. In 1982 approximately 50% of the Chignik Tanner crab harvest and approximately 30% of the South Peninsula harvest came from federal waters. Monitoring this fishery and providing needed protection to the resource would be difficult if this inconsistency between state and federal regulations were to exist.

*2a. Change the Southeastern Registration Area (Area A) from non-exclusive to exclusive.

Discussion: At the March 1983 meeting the Board of Fisheries changed the designation of the Southeastern Area from non-exclusive to an exclusive registration area. This action was in response to concerns over the current condition of the Tanner crab stocks in this area and was selected as a method to stop unpredictable amounts of crab gear from entering the fishery. In 1982, there were 85 vessels in the Southeast Tanner crab fishery, an increase of 55 vessels over the previous season. Of the 55 new vessels, 20 large vessels were considered transient and following the closure of this area, they moved elsewhere. With a significant increase in fishing effort and an expected harvest of 750,000 - 2 million pounds, managers were concerned that the optimum yield would be exceeded by such a large fleet. This concern was

compounded by the lack of information on harvest rates and vessel location which led to a season closure on the fifteenth day of the fishery. A review of this fishery showed that the final harvest of 1.1 million pounds could have been larger if the season had remained open longer and if the fleet had distributed itself more evenly throughout the area. Changing this area to exclusive registration would likely discourage transient vessels from participating in this fishery by prohibiting any vessels fishing this area from fishing Tanner crab in any other area. A reduction in fleet size would reduce the intensity of this fishery, thereby allowing for a longer and more orderly season.

2b. Maintain status quo.

Discussion: Currently the Southeastern Management Area is divided into two districts, Yakutat and Southeast. The average harvest from this area has been less than three million pounds. Only a small portion of that harvest (averaging less than 100,000 pounds) can be expected from federal waters in the Yakutat district. If the Council chose to maintain the status quo, only a small area off Yakutat would be impacted by the conflicting Council and Board action.

2c. Close federal waters in the Southeastern Management Area to Tanner crab fishing.

Discussion: With only a small portion of the Tanner crab harvest coming from federal waters and the continuing problems maintaining consistency between state and federal fishing regulations, this alternative may be desirable.

B. Pot Limits

*1a. Lower the pot limit in the Kodiak district from 250 to 200 pots per vessel.

Discussion: Limitations on units of gear per vessel are applied in some areas as a measure to protect small concentrated crab stocks and as a management tool to slow their harvest, thereby allowing closer monitoring of the exploitation rate.

With the recent influx of vessels into the Kodiak Tanner crab fishery and the apparent desire by the local fishing community for a lower pot limit, the Board of Fisheries approved a lowering of the Kodiak pot limit from 250 to 200 pots. The action was taken as an effort to slow the rate of harvest, thereby protecting the resource from overfishing.

1b. Maintain status quo.

Discussion: With this alternative, a regulatory inconsistency between the state pot limit (200 pots) and the federal pot limit (250; assuming Amendment #8 is implemented in its entirety) will exist. This inconsistency would present difficulties to state enforcement programs.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of General Counsel
P.O. Box 1668
Juneau, Alaska 99802
Telephone (907) 586-7414
May 23, 1983

Dear Dick: (GOLDSMITH)

Thank you for your letter of May 11, requesting a legal opinion on the respective responsibilities of the North Pacific Fishery Management Council and the Alaska Board of Fisheries for Tanner crab management off Alaska.

The applicable legal principles, embodied in Magnuson Act §§302-306, seem so plain as hardly to merit a formal opinion. The Council and NOAA have authority to promulgate regulations for the fishery in the FCZ under a fishery management plan. The Board may promulgate regulations for the fishery within the territorial sea, and State regulations may also govern fishing in the FCZ by vessels "registered under the laws" of the State, except to the extent those State regulations conflict with those of the Council and NOAA. The Council and NOAA may adopt regulations identical to those of the State, provided that they independently find those regulations to be sound and consistent with the requirements of the Magnuson Act and other Federal law. In evaluating State regulations for this purpose, the Council and NOAA may take into account the advantages of having uniform regulations in the FCZ and the territorial sea, but this consideration cannot alone support the adoption of identical Federal regulations. Persons who desire the adoption of particular regulations for the fishery in the FCZ may make their proposals directly to the Council, and do not have to proceed through the Board.

I have discussed your letter with John Gissberg, and expect that his reply will be consistent with mine, though perhaps with a somewhat different emphasis.

Sincerely,

Patrick J. Travers
Alaska Regional Counsel

