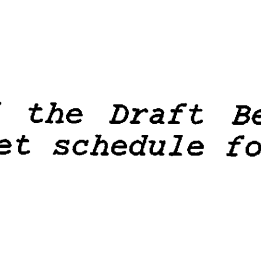


M E M O R A N D U M

TO: Council, SSC, and AP Members

FROM: Jim H. Branson
Executive Director 

DATE: July 14, 1981

SUBJECT: King Crab Fishery Management Plan

ACTION REQUIRED

Consideration of the Draft Bering Sea/Aleutian Island King Crab FMP for 1982. Set schedule for further action.

BACKGROUND

In May the Council directed the PDT to prepare a "framework" FMP that could be in effect by the 1982 fishery. The plan was to be based upon the Alaska Board of Fisheries Bering Sea/Aleutian Island King Crab Fishery Management Framework. The King Crab PDT met in Kodiak on July 7 to review earlier drafts of the FMP and to compose a new draft. The new draft (#10) has been prepared and is attached as Item E-4(a).

In order to make necessary preparations for plan review and implementation, the Council must decide on a time schedule. Two possible schedules are provided (item(s) E-3(b) and (c)). Schedule #1 differs from schedule #2 only that it postpones Council review of the final draft FMP until the September Council meeting, thus delaying final implementation by 60 days.

The Council has received a letter from Senator Bob Packwood (R-Ore). He feels that co-management of the king crab fishery will not be judged by stated goals in a statement of principles, but instead on the actual behavior of the State which is doing the management and enforcement. He views the 1981 king crab season as a test of the State's ability to manage all participants. His complete letter is included as item E-3(d).

SCHEDULE #1

TENTATIVE PLAN REVIEW AND IMPLEMENTATION SCHEDULE
FOR THE WESTERN ALASKA KING CRAB FISHERY MANAGEMENT PLAN

July 23-24	Review draft FMP.
September 24-25	Review final draft FMP.
September 30	Begin public review (45 days).
October 23	NOAA Central office receives DFMP, DEIS, DRIA, DPR. DEIS filed with EPA.
October 30	EPA publishes notice of availability. Begin NEPA 45-day comment period. Fisheries/Alaska Region and Central office conduct official agency review of DFMP and prepare draft decision documents.
November 14	End of 45-day public review.
December 2-4	Joint NPFMC/ABOF Review of draft FMP. NPFMC approves King Crab FMP.
December 14	End of NEPA 45-day comment period.
December 23 - February 21	NOAA Central office receives final FMP. Begin official Secretarial Review (60 days).
February 11	Assistant Administrator for Fisheries approves the amendment and proposed regulations (PR).
February 18	Administrator of NOAA concurs on the approval.

February 19	Regulations sent to Department of Commerce (DOC) Assistant Secretary for regulatory review.
February 21	End of 60-day Secretarial Review.
February 22 - March 3	DOC review of proposed regulations.
March 4	Final EIS filed with EPA.
March 11	EPA publishes notice of FEIS availability. NEPA 30-day comment period begins.
March 17-26	OMB review of proposed regulations (<u>10 days if minor rule</u> ; 60 days if major rule).
April 1	Proposed rules published in the <u>Federal Register</u> . Begin 45-day public comment period on proposed regulations.
April 9	NEPA 30-day comment period ends.
May 15	End of 45-day public comment period on proposed regulations.
May 17-28	Preamble and Final regulations prepared by the Region and submitted to NMFS Washington office.
May 31 - June 25	NMFS Washington office reviews and clears final rules.
June 28 - July 2	NOAA review Action Memorandum and Final Rules.
July 6-19	DOC Assistant Secretary for Regulatory Reform reviews and clears final rules.
July 20 - August 2	OMB review (<u>10 days if minor rule</u> ; 30 days if major rule).

August 3 Final rules filed with the Federal Register.

August 10 Federal Register publishes Final Regulations.

30-day APA delayed-effectiveness period begins.

September 9 Final Regulations become effective.

September 10 Bering Sea area fishing season opens.

SCHEDULE #2

TENTATIVE PLAN REVIEW AND IMPLEMENTATION SCHEDULE
FOR THE WESTERN ALASKA KING CRAB FISHERY MANAGEMENT PLAN

July 23-24	Review final draft FMP. Begin public review (45 days).
September 1	NOAA Central office receives DFMP, DEIS, DRIA, DPR. DEIS filed with EPA.
September 6	End of 45-day public review.
September 8	EPA publishes notice of availability. Begin NEPA 45-day comment period. Fisheries/Alaska Region and Central office conduct official agency review of DFMP and prepare draft decision documents.
September 9-11	Joint NPFMC/ABOF Review of draft FMP.
September 24-25	NPFMC approves King Crab FMP.
October 22	End of NEPA 45-day comment period.
October 29 - December 27	NOAA Central office receives final FMP. Begin official Secretarial Review (60 days).
December 17	Assistant Administrator for Fisheries approves the amendment and proposed regulations (PR).
December 27	End of 60-day Secretarial Review.
December 28	Administrator of NOAA concurs on the approval.

December 29	Regulations sent to Department of Commerce (DOC) Assistant Secretary for regulatory review.
January 4-13	DOC review of proposed regulations.
January 14	Final EIS filed with EPA.
January 21	EPA publishes notice of FEIS availability. NEPA 30-day comment period begins.
January 28 - February 6	OMB review of proposed regulations (<u>10 days if minor rule</u> ; 60 days if major rule).
February 15	Proposed rules published in the <u>Federal Register</u> . Begin 45-day public comment period on proposed regulations.
February 19	NEPA 30-day comment period ends.
March 31	End of 45-day public comment period on proposed regulations.
April 1-12	Preamble and Final regulations prepared by the Region and submitted to NMFS Washington office.
April 16 - May 5	NMFS Washington office reviews and clears final rules.
May 6-11	NOAA review Action Memorandum and Final Rules.
May 14-24	DOC Assistant Secretary for Regulatory Reform reviews and clears final rules.
May 25 - June 4	OMB review (<u>10 days if minor rule</u> ; 30 days if major rule).
June 7	Final rules filed with the <u>Federal Register</u> .

June 14

Federal Register publishes Final Regulations.

30-day APA delayed-effectiveness period begins.

July 13

Final Regulations become effective.

September 10

Bering Sea area fishing season opens.

JUL 10 1981

BOB PACKWOOD, OREG., CHAIRMAN

- | | |
|-------------------------------|------------------------------|
| BARRY GOLDWATER, ARIZ. | HOWARD W. CANNON, NEV. |
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WILLIAM M. DIFENDERFER, CHIEF COUNSEL
AUBREY L. SARVIS, MINORITY CHIEF COUNSEL
EDWIN K. HALL, MINORITY GENERAL COUNSEL

ACTION	ROUTE TO	INITIAL
	Exec. Dir.	
<i>United States Senate</i>		
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION		
WASHINGTON, D.C. 20510		
July 7, 1981		

Mr. Jim H. Branson
Executive Director
North Pacific Fishery
Management Council
P.O. Box 3136DT
Anchorage, AL 99510

Dear Mr. Branson:

Thank you very much for keeping me informed on your planning for the 1981 King Crab season.

In principle, I have no problem with increasing the role that States play in the management and enforcement of various fisheries. My main concern arises when certain participants in those fisheries perceive that they are not getting equal treatment. It is not the stated goals of any statement of principles so much as the actual behavior of the State which is doing the management and enforcing. For this reason, the 1981 King Crab fishery takes on a great deal of importance. If the Oregon and Washington participants feel that they have received fair and equal treatment, then this will go a long way towards reducing Congressional opposition to the delegation of responsibility by the Regional Council to Alaska. I think that the 1981 King Crab season will be a real opportunity for Alaska to display wise and equitable management and enforcement ability.

Cordially,



BOB PACKWOOD

BP/pfg

Preliminary Policy Guidelines for FMP's

FMP's:

- o DOC will not delegate rulemaking authority to the regional Administrators or the Regional Councils.
- o Subject to OMB's exempting management action^f from E. O. 12291 approval, DOC will delegate to the regional administrators authority to issue management actions authorized by FMPs. Such delegation will be subject to notification of NOAA and O/S after the fact. Delegation will be revoked for misuse. NMFS, NOAA and O/S will be available for consultation on proposed management actions.

Approval of FMP's and associated regulations:

- o The O/S has a clear preference for the development of multi-year FMP's. If warranted, an FMP may be structured to be updated through an annual amendment. Management and enforcement of multi-year FMP's normally will be through management actions for which the rulemaking authority is provided by the multi-year FMP. Thus, management actions should not involve new regulatory questions.
- o The O/S preference for multi-year plans is such that single year plans submitted for Secretarial approval will enter clearance with a presumption of inadequacy.
- o In the absence of other critical concerns such as a severe threat to the resource, plans and rules which do not provide a reasonable economic return on the Federal investment will not be approved.

- o The new central DOC and OMB regulatory clearance procedures add time to the regulation issuance process. The Councils and regions must provide for this additional time requirement. NMFS/NOAA/DOC will expedite clearance procedures but will not shorten the review and clearance procedures to compensate for untimely submission.

Standards for Approval of Rules:

- o All regulatory actions, including management actions issued by a region under a delegation of authority by the Administrator, will comply with E. O. 12291. Thus, all actions will include a statement of need and a justification for the action. The need and justification statement will follow a "rule of reason" the completeness and detail of the statement will be commensurate with the nature and scope of the action. For actions other than of minor significance the statement will include discussion of rejected alternatives, cost-effectiveness and the balance of benefits over costs. For actions which are significant but minor under E. O. 12291 a separate economic analysis will be prepared to support the rulemaking.
- o Any rulemaking which fails to state clearly the objective or which fails to link the proposed action to the objective will be subject to Department disapproval.

PROCEDURES FOR PLAN IMPLEMENTATION

State and Federal governmental agencies are limited in fiscal resources, and the optimal use of these monies for North Pacific fisheries management, research, and enforcement occurs through a clear definition of agency roles and division of responsibilities, thus avoiding unnecessary duplication.

The North Pacific Fisheries Management Council has the responsibility for preparing fishery management plans (and amendments to such plans) for the conservation and management of the fisheries seaward of Alaska, with particular emphasis on the consistency of these measures with the National Standards of the Magnuson Act.

It is intended that individual management measures for carrying out this particular king crab FMP be supplied by the State of Alaska under terms of a single implementing regulation promulgated by the Secretary of Commerce in the usual manner under Section 305 of the Magnuson Act.

The Federal government (through the NPFMC, the Alaska Regional of NMFS, and the Secretary) and the State (through the ABOF and ADF&G) establish the following protocol which describes roles each will play in order to achieve the most effective and efficient management of domestic king crab fisheries in the BS/AI area:

1. The NPFMC shall develop a FMP (references to the FMP in this section also apply to amendments to the FMP) to govern management of the fishery prescribing objectives, standards, and measures found to be necessary for the fishery's effective management. These objectives, standards, and measures shall be consistent with the Magnuson Act and other applicable law.
2. The NPFMC shall hold public hearing on the FMP. During this period, all such persons shall be afforded the opportunity to submit to the NPFMC written and oral comments on the plan. The NPFMC shall hold public hearings on this issue at places and times that are likely to facilitate attendance by such persons and their representatives.
3. The NPFMC shall submit the FMP to the Secretary for approval. Following approval of the plan by the Secretary, the plan shall be implemented through State rulemaking under the authority of Secretarial delegation to the State. The specific regulations for the management of the BS/AI king crab fishery shall be promulgated by the ABOF in accordance with the laws of the State. These regulation shall be consistent with the Magnuson Act, other applicable law, and the objectives, standards, and measures prescribed in the FMP. Before taking final action on any regulation governing the fishery, the ABOF shall make readily available in written form to all persons interested in the fishery for a period of at least thirty (30) days, the reports and data received by the ABOF upon which the proposed regulation is based; shall afford all such persons the opportunity to submit written and oral comments to the ABOF on the proposed regulation during that period; and shall, upon the request of the NPFMC, meet with the NPFMC or its representatives to discuss the proposed regulation. Before any ABOF regulation governing the fishery goes into effect, the ABOF shall issue a written statement explaining the basis for the regulation. The preceding provisions of this paragraph shall not apply to emergency regulations or to in-season field orders.

4. The ABOF or the Commissioner of ADF&G, after consultation with the Regional Director may adopt an "emergency" regulation after making a written finding, including a statement of the facts which constitute the emergency, that the adoption of the regulation is necessary for the immediate conservation or management of the resource or the fishery. Emergency regulations are not subject to the notice of proposed action, comment period, etc. prescribed for normal rulemaking (see paragraph 3 above). However, upon adoption of an emergency regulation the standard procedure for giving notice of adoption of a regulation shall be followed.
5. The Commissioner of ADF&G, (or his designee), may take immediate action for purposes of conservation and management by issuing "emergency orders" adjusting time and/or area restrictions. These orders are announced in the usual manner utilized by the State.
7. The Regional Director, after consulting the Council, shall be empowered to prevent any State regulation from taking effect in the FCZ in Alaska if he concludes the measure is inconsistent with the FMP, the Magnuson Act or other applicable law.
8. The Secretary shall have the final authority to supercede or supplement any State regulation which he determines to be inconsistent with the FMP, the Magnuson Act, or other applicable law.
9. The NPFMC and ABOF shall meet jointly at least once every calendar year to consider management of the fishery and discuss the need for amendment of the FMP or any regulations governing the fishery. The NPFMC and ABOF or their designated representatives shall also meet jointly to consider management of the fishery at the request of either the NPFMC or ABOF. All persons and agencies interested in the fishery shall have the opportunity to submit written and oral comments and reports on management of the fishery to the NPFMC and ABOF at these meeting. In preparation for the mandatory annual joint meeting provided for in the first sentence of this paragraph, representatives of the NPFMC and ABOF shall hold a public hearing in the State of Washington at which all persons and agencies interested in the fishery shall be afforded the same opportunity to comment on management of the fishery that they would have at the meeting itself.
10. The Alaska Department of Fish and Game (ADF&G) shall have primary responsibility for developing the information upon which regulations governing the fishery are to be based, and for implementing these regulations through monitoring of the fishery and development of in-season management measures. In carrying out this responsibility, ADF&G will consult actively with the National Marine Fisheries Service and the fishery management and research agencies of other states, in order to prevent duplication of research and management effort and to make optimum use of the resources available for management of the fishery.

6 All regulations promulgated for this fishery shall be published in the Federal Register or incorporated by reference with the permission of Director of the Office of the Federal Register.

Alaska has developed and is implementing a system for the conservation and management of domestic fisheries in the waters of and adjacent to the State. This system centers around the Board of Fisheries for policy and regulations. The Board's regulatory system provides for extensive public review and input through written and oral comment periods and through a network of sixty-seven local Advisory Committees; is sufficiently structured to insure annual revisions (the process requires less than six-months to effectuate non-emergency regulations); is flexible enough to accommodate resource and fishery emergencies; and is understood and familiar to the users of the fisheries resources. Further through the Alaska Department of Fish and Game, there exists a substantial investment by the State in facilities, communications, and information systems, vessels and other equipment, coupled with a cadre of experienced personnel capable of carrying out extensive management, research, and enforcement programs to monitor the conduct of the fisheries and the status of the resource. It is not necessary to replace or duplicate the State's system and efforts.

During the formative stages of the present proposal for a state-implemented framework FMP, concern was expressed from some quarters that the State of Alaska's regulatory measures would tend to discriminate in favor of local residents at the expense of the nonresident fishing fleet. To assure that implementation of this framework FMP is carried out with fairness and equity to all participants in the fishery no matter where they reside, the procedural safeguards discussed in 1 to 3 above will be incorporated into the State regulatory process. Further, the Alaska Board of Fisheries will modify its own regulatory procedure by providing written explanations of the reasons for its decisions and will hold at least one annual shellfish hearing in Seattle, Washington.

INITIAL DRAFT IMPLEMENTING REGULATIONS
ALASKA KING CRAB FMP

Section _____ .1 General

- (a) Subject to the other provisions of this Part, the authority to implement the Fishery Management Plan for the King Crab Fishery Off Alaska (FMP) is delegated to the State of Alaska.
- (b) Subject to other requirements of law, this Part shall take effect upon receipt by the Assistant Administrator for Fisheries (Assistant Administrator) of the National Oceanic and Atmospheric Administration (NOAA) of a statement signed by the Governor of the State of Alaska accepting the provisions of this Part on behalf of that State identifying the agencies that will exercise the authority to implement the FMP delegated by paragraph (a) of this section.
- (c) No person may fish for king crab in the fishery conservation zone adjacent to the State of Alaska (FCZ) except as permitted by laws and regulations of the State of Alaska having effect in the FCZ under this Part at the time such fishing occurs.
- (d) Terms used in this Part are defined as they are in the Magnuson Fishery Conservation and Management Act (Act) and in the FMP.

Section _____ .2 Initial Implementation of the FMP

- (a) Within sixty (60) days after this Part takes effect, the Director of the Alaska Region, National Marine Fisheries Service, NOAA (Regional Director) shall, after consultation with the North Pacific Fishery Management Council (Council), specify the laws and regulations of the State of Alaska governing fishing for king crab then in effect that he finds to be inconsistent with the FMP, and publish this specification in the FEDERAL REGISTER. On the sixty-first day after this Part takes effect, any State laws and regulations so specified by the Regional Director shall cease to govern fishing for king crab in the FCZ by any vessels, whether or not they are registered under the laws of the State of Alaska. On the same day, any laws and regulations of the State of Alaska governing fishing for king crab on the day this Part took effect that are not so specified by the Regional Director shall take effect under this Part and govern all fishing for king crab in the FCZ.
- (b) The Regional Director may promulgate and amend such other regulations as he may deem necessary to implement the FMP fully, in accordance with other requirements of law.
- (c) Any interested person may appeal the non-specification of a State law or regulation by the Regional Director under paragraph (a) of this section to the Assistant Administrator within ninety (90) days after this Part takes effect. An appeal under this paragraph shall be considered filed upon receipt by the Assistant Administrator of a written statement signed by the appellant, identifying the State laws and regulations in question

and the reasons they should have been specified by the Regional Director under paragraph (a) of this section. The Assistant Administrator shall either reject the appeal or specify other State laws and regulations governing fishing for king crab that he finds to be inconsistent with the FMP within thirty (30) days after the appeal is filed, and any such specification shall be published in the FEDERAL REGISTER.

If the Assistant Administrator specifies under this paragraph a State law or regulation not previously specified by the Regional Director under paragraph (a) of this section, that law or regulation shall cease to govern fishing for king crab by any vessels, whether or not they are registered under the laws of the State of Alaska, upon publication of the Assistant Administrator's specification in the FEDERAL REGISTER.

Section _____ .3. New State Laws and Regulations

- (a) Within sixty (60) days after adoption by the State of Alaska of a law or regulation governing fishing for king crab that was not in effect when this Part took effect, the Regional Director shall, after consultation with the Council, determine whether that law or regulation is consistent with the FMP, and shall publish that determination in the FEDERAL REGISTER.

Unless the Regional Director determines that the new State law or regulation is inconsistent with the FMP, it shall take effect under this Part when it takes effect under the law of the State of Alaska, and shall thereafter govern all fishing for king crab in the FCZ. Upon publication in the FEDERAL REGISTER of a determination by the Regional Director that the new State law or regulation is not consistent with the FMP, that law or regulation shall cease to govern fishing for king crab in the FCZ by any vessels, whether or not they are registered under the laws of the State of Alaska.

- (b) Any interested person may appeal to the Assistant Administrator the determination by the Regional Director under paragraph (a) of this section that a new State law or regulation is consistent with the FMP within thirty (30) days after that determination is published in the FEDERAL REGISTER. An appeal under this paragraph shall be considered filed upon receipt by the Assistant Administrator of a written statement signed by the appellant stating the reasons that the new State law or regulation should have been determined by the Regional Director to be inconsistent with the FMP. The Assistant Administrator shall determine whether the new State law or regulation is consistent with the FMP within thirty (30) days after the appeal is filed, and shall publish his determination in the FEDERAL REGISTER. If the Assistant Administrator determines that the new State law or regulation is inconsistent with the FMP, that law or regulation shall cease to govern fishing for king crab in the FCZ by any vessels, whether or not they are registered under the laws of the State of Alaska, upon publication of the Assistant Administrator's determination in the FEDERAL REGISTER.

Section _____ .4 Amendment of the FMP

The provisions of Section _____ .2 of this Part shall apply in case of amendment of the FMP, except

- (a) time periods calculated from the taking effect of this Part shall instead be calculated from the final approval of the amendment by the Assistant Administrator; and
- (b) all laws and regulations of the State of Alaska having effect in the FCZ under this Part shall retain such effect pending the specification by the Regional Director under Section _____ .2(a).

D R A F T #10

BERING SEA/ALEUTIAN ISLAND
KING CRAB
FISHERY MANAGEMENT PLAN

July 20, 1981

North Pacific Fishery Management Council
P.O. Box 3136 DT
Anchorage, Alaska 99510

1.0 INTRODUCTION

This fishery management plan (FMP) is intended to cover the fishery for king crab in the fishery conservation zone (FCZ) off the coast of western Alaska. Two major decisions of innovative and somewhat controversial aspect are raised in this FMP.

The first issue goes to the essential structure and function of the present document: This is a "framework" FMP. It serves as the basis for continuing long-term management of the fishery, and provides clear guidance to the ongoing regulatory process, without itself having to undergo frequent amendment. Therefore, this plan is necessarily more general than most other FMPs; instead of selecting specific management measures it focuses upon a detailed statement of objectives and sets forth a choice of alternative management measures along with concrete examples illustrating different circumstances in which certain measures may be more appropriate than others.

The second innovative aspect of this FMP is in the manner in which it is intended to be implemented:

Instead of relying upon a fully developed and detailed set of federal regulations to carry out its objectives, it is proposed that the Secretary accept and make use of the ongoing regulatory regime of the State of Alaska as long as it remains consistent with the FMP, the Magnuson Act and other Federal law.

Both of these innovations -- the framework concept and the proposal for provisional acceptance of Alaska regulations to carry out the FMP -- are designed to achieve economies in management and to reduce the delay which is normally attendant upon the regulatory process. Each proposal serves to eliminate duplication of bureaucratic functions which themselves are unnecessary to effective resource management where the fishery is entirely limited to the waters off the coast of a single state, there is a long-standing and successful history of regulation by that state, and there is no directed foreign participation in the fishery.

* * *

References to the concept of the framework FMP can be found at pp. 40-41 of the Operational Guidelines for the Fishery Management Plan Process (NMFS 1979):¹

"A 'framework' FMP would contain management measures that are far more general than those in existing FMP's. It would delineate the management objectives for the fishery in some detail, and 'frame out' broadly drafted measures or an array of alternative measures, which the Secretary may use to achieve the objectives of the FMP. Such an FMP could remain in effect almost indefinitely; it would need to be revised only when the objectives change..." [Empahsis added].

This framework FMP is intended to guide future management decisions along specific channels defined and limited by the terms of the Magnuson Act and other applicable law. Following the suggestions in the Operational Guidelines, the framework presents its objectives in detail. After the objectives the framework offers a series of possible management measures. The issue then becomes selecting the appropriate management measure or measures for a given

year, and for a given geographical area within the fishery, in order to further the accomplishment of one or more objectives.

Ideally, selection of appropriate management measures for the achievement of any objective would be done almost mathematically through the use of standard techniques of population dynamics. While it is one of the Council's goals to raise management of the king crab resource to this level of precision, our knowledge of the resource and the socioeconomic structure is less than complete. At this point we must rely on less exact means to describe how, and under what circumstances, a given set of measures will be employed to achieve a given set of objectives.

The process by which management measures will be adopted itself provides assurance that the objectives of the FMP will receive appropriate consideration, and that the result will be consistent with the Magnuson Act and other applicable law. It is intended that individual management measures for carrying out this framework FMP be supplied by the Alaska Board of Fisheries under the terms of a single implementing regulation promulgated by the Secretary in the usual manner under Section 305 of the Magnuson Act. The Secretary's enabling or implementing regulation will do the following:

1. reserve to the Secretary final authority to supercede or supplement any state regulation which he determines to be inconsistent with the FMP, the Magnuson Act, or other applicable law;
2. provide that the Regional Director, after consulting the Council, be empowered to prevent any state regulation from taking effect in the

FCZ if he concludes the measure is inconsistent with the FMP, the Magnuson Act or other applicable law; and

3. provide for joint meetings of the North Pacific Fishery Management Council and the Alaska Board of Fisheries during the comment period before the State shellfish regulatory meeting.

Description of States Regulatory Process (to be re-written by G. Thornburgh)

For more than twenty years Alaska has successfully managed the king crab resources off its coast. [At this point facts will be inserted illustrating how Alaska has managed the resource. These will include stock abundance, profitability, the growth of communities, etc.]

During the formative stages of the present proposal for a state-implemented framework FMP concern was expressed from some quarters that the State of Alaska's regulatory measures would tend to discriminate in favor of local residents at the expense of the non-resident fishing fleet.

To assure that implementation of this framework FMP is carried out with fairness and equity to all participants in the fishery no matter where they reside, the procedural safeguards discussed in 1-3 above will be incorporated into the State regulatory process. In addition, the Alaska Board of Fisheries has agreed to modify its own regulatory procedure by providing written explanation of the reasons for its decisions and to also hold at least one annual shellfish regulatory hearing in Seattle, Washington.²

¹ On July 10, 1979, Mr. William Gordon, was Director of Fisheries Conservation and Management, NOAA, testified in part as follows before the House Subcommittee on Fisheries and Wildlife Conservation and the Environmental, speaking about framework FMP's:

...A framework fishery management plan would contain all the basic ingredients of the management concept for the particular fishery... .

* * *

...It would provide, in short, the criteria and procedures for the annual changes that might be necessary to keep that plan active and alive... .

² Although previously the Board of Fisheries has not published written explanation, it does conduct extensive regulatory hearings at which it receives oral and written testimony from interested parties, including representatives of out-of-state fleets. It has been the custom of the Board to respond verbally to comments and testimony.

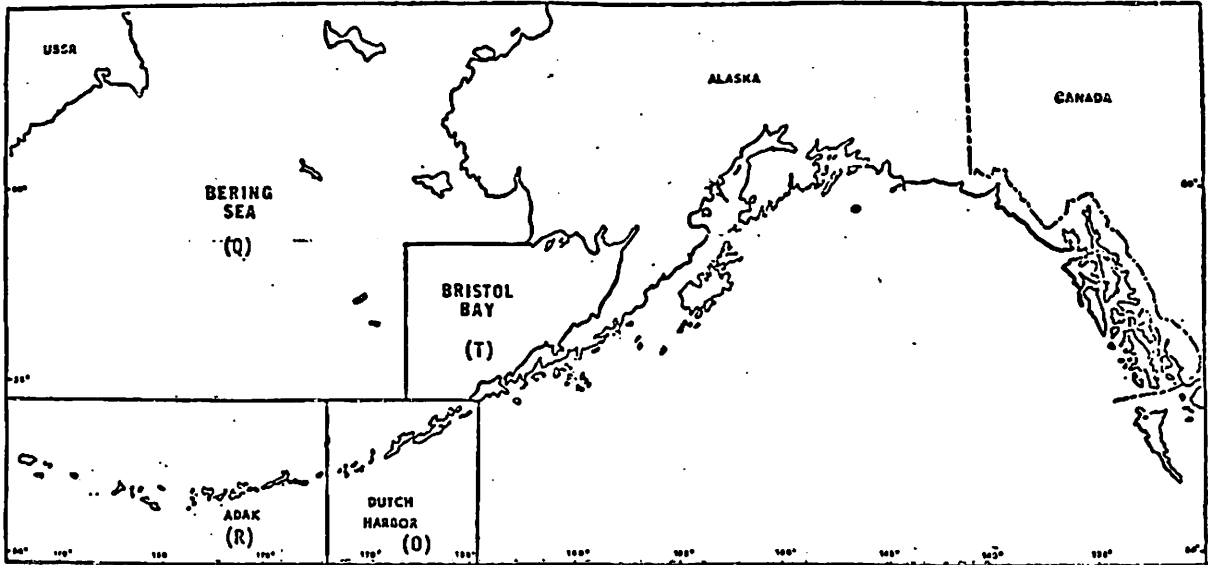


Figure 1. Alaska King Crab Statistical Areas in the BS/AI area.

2.0 DESCRIPTION OF THE FISHERY MANAGEMENT UNIT

This management plan applies only to the king crab (family Lithodidae) fisheries in the Bering Sea and Aleutian Islands (BS/AI). These fisheries are described in the Alaska Shellfish Regulations as the Bering Sea, Bristol Bay, Adak, and Dutch Harbor "statistical areas" (Areas Q, T, R, and O; See Figure 1).

These statistical areas describe geographically segregated stocks. Within each statistical area manageable portions of the stocks are further divided into fishing districts and sections. For a complete description of the statistical areas, fishing districts, and sections, refer to the commercial section of the Alaska Shellfish Regulations.

The BS/AI area is the center of operations for a large boat fleet, of which the majority of vessels are based outside Alaska. The geographical segregated stocks of this area are most easily managed in aggregate because the same industrial complex harvests and processes the crab from these areas. As king crab resources are located in the Fishery Conservation Zone of the Gulf of Alaska, it may be desirable to include these stocks at a later time.

3.0 MANAGEMENT OBJECTIVES

The management regime set forth in this plan has been developed in accordance with the Magnuson Act (Appendix 9.1) and other applicable law. It is designed to achieve the following objectives. These objectives are not mutually exclusive and management measures are designed to balance the various components within those objectives.

Primary Objective

Maintain Resource Base:

By optimizing the reproductive potential of individual king crab stocks. When population levels are low or when not enough is known about a stock to identify spawner-recruit relationships and thence define spawning requirements, it is necessary to ensure that a sufficient number of adult males be left in the population to maximize reproductive potential. When stock levels are high full egg clutch development in all female crab is not necessary. Under those conditions male crab can be exploited at a much higher rate and at very high stock levels a harvest of female crab may be consistent with the goal of achieving optimum reproduction potential of that stock.

Management measures which can be expected to be used in attaining this objective:

- * Optimum Yield
- * Fishing Seasons
- * Catch Restrictions based on sex and size

Secondary Objectives

Optimize the Net Value of the Fishery. The optimum yield for the BS/AI king crab fishery is not necessarily the same as the maximum annual physical yield. Social, economic, or ecological factors may favor a reduction of the maximum annual yield in order to stabilize annual harvest. Maximum physical yield is attained through heavy harvesting and an almost complete dependence on a single age class entering the fishery between fishing seasons. Because individual age classes vary wildly, that dependence leads to heavy annual fluctuations in the catch and the attendant adverse social and economic conditions associated with "boom and bust" fisheries. Management strategies are designed to moderate the peaks and troughs (which are a function of year class strength). While there will still be fluctuations in the catch from year to year they will be less severe, allowing better opportunities for orderly planning and marketing.

Management measures should not impose restrictive or additional burdens on industry or on efficient harvesting and processing techniques. They should be designed to complement production and marketing standards and requirements. Management measures and regulations will be imposed only to attain specific conservation or social and economic objectives.

Management measures which can be expected to work toward this objective are:

- * Optimum Yield
- * Fishing Seasons
- * Gear Storage and Placement

Minimize the Socioeconomic Impacts of Conservation and Management

Measures. The king crab fishery in the Bering Sea and Aleutian Islands is an established fishery which has gone through rapid development in the last 20 years. After a short-lived small scale American fishery in the late 1940's and 1950's, Japan and the Soviet Union began heavy exploitation of the resource in the late 1950's and early 1960's. Those activities have been supplanted by a purely American fishery which has had more than enough capacity to harvest and process the total resource since the late 1960's. Harvesting and processing systems and community infrastructures are well established and management measures may be necessary to protect these existing structures, investments, and systems. Unless dictated by resource emergencies, management measures should not make abrupt changes causing losses or creating requirements for heavy new investments by the U.S. fishing industry or by the communities involved in the harvest and processing of this resource. Considerations of impacts of management measures should not be based solely on economics, but should include the social impact on all segments of this complex.

There are some areas of this fishery management unit where king crab have been utilized as a traditional food source for many years. The fishery

will be managed to assure a continued source of crab to those areas at a level compatible with past food requirements.

Management measures which may be used to achieve this objective include:

- * Optimum Yield
- * Fishing Seasons
- * Exclusive Registration Areas
- * Gear Placement
- * Gear Storage
- * Vessel Tank Inspections
- * Closed Areas

Minimize Adverse Interactions Among Fisheries. Management measures developed for the king crab fishery must take into account the interaction of that fishery and the people engaged in it with other fisheries. Three areas of concern can be identified:

- (1) Scheduling king crab fisheries so that they will mesh compatibly with other commercial fisheries, taking into account ship and worker availability as well as processing capacity;
- (2) The compatibility of different types of fishing gear and activity on the same grounds. The king crab fishery is conducted with stationary gear, pots. Many of the other fisheries in the fishery management unit, both American and foreign, are conducted with mobile gear. Seasons and fishing areas must be arranged for both

types of gear to, insofar as possible, eliminate conflicts between gear types and preemption of grounds by one form of gear over another; and

- (3) Management measures must take into account the incidental catch of species other than king crab taken in this fishery. Gear, seasons, and fishing areas may have to be adjusted to minimize catches of species such as halibut during the course of the regular king crab fishery.

Management measures which may be used to achieve this objective include:

- * Fishing Seasons
- * Gear Storage Areas and Methods
- * Restrictions on the type of gear that can be used
- * Closed areas may be for either fixed or mobile gear.

Optimize the Cost Effectiveness of Management and Enforcement. Fishery management should seek to bring costs of management and enforcement to within reasonable limits relative to the value of the fishery. Also, the administrative system which implements this plan should strive to be efficient, non-duplicative, and timely.

Management measures which may be used to achieve this objective include:

- * Fishing Seasons
- * Gear Storage
- * Gear Placement
- * Vessel Tank Inspection

4.0 MANAGEMENT MEASURES

This section describes a variety of management measures which can be used to achieve the aforementioned management objectives. While some of them can be used to realize either one or several objectives, it is essential that only those mechanisms deemed necessary be adopted. Most of these management measures are currently employed by the State to manage the king crab fishery. For a description of the management history of this fishery refer to Appendix ____.

The management measures are intended to establish a management regime, consistent with the National Standards of the Magnuson Act and other applicable law and at the same time provide for administrative flexibility to implement those measures. Public comments on the plan and the implementing regulations will be requested on an annual (or more frequent) basis.

Based on the regulatory experience of the State, two categories of management measures are apparent: (1) those measures which are likely to be revised periodically; and (2) those measures which are likely to be unchanged through numerous fishing seasons. This plan proposes to deal with these two categories in different ways. For those measures which are likely to be amended frequently (e.g., OY determination), a procedure is established which specifies guidelines and criteria to be considered prior to amending the measure. This frequent amending process is to be carried out through amending the specific regulation and not amending the management measure in this plan (see Section 6.0 Monitoring Management Effectiveness). In the second instance, for those measures which are amended infrequently, a plan amendment will be required.

4.1 Frequently Amended Management Measures

Two managements measures are likely to require frequent changes: 1) the determination of the Optimum Yield, and 2) the establishment of fishing seasons. Regulations are not presented for these management measures rather each measure will specify criteria and establish limits for the promulgation of regulation which will carry for the intent of the management measure.

4.1.1 Determination of Optimum Yield

Two numerical values are addressed in this section. One is the Acceptable Biological Catch (ABC), which is based on the biological status of the stocks. The other is Optimum Yield (OY), which represents a modification of the ABC for social, economic, or ecological factors. The OY is attained through the use of two specific regulations: (1) establishment of a minimum size limit for crabs which can be taken for commercial harvest; and (2) establishment of guideline harvest levels which is a function of an exploitation rate applied to the biomass above the minimum size.

ABC

The ABC is to be determined using primarily estimates of stock abundance, distribution of crabs by sex and size, and recruitment into the fishery. These estimates are revised annually from population surveys, commercial catch statistics, and research. In addition, secondary considerations, though less frequently updated due to lack of information, are used in the determination of ABC. These are:

- a. natural mortality rates by sex and size class;
- b. fishing mortality rates from previous years by size class;
- c. growth rates by sex and size class;
- d. critical size necessary for reproductive needs;
- e. reproductive success given a specific population size, sex ratio, and distribution of spawning stocks; and
- f. environmental and ecological effects.

The ABC should maintain recruitment to the fishable stock at the highest possible level. Maintenance for this level of recruitment for king crab is achieved by perpetuating an optimum required spawning stock of fertilized females. When the stock is below the determined optimum, the fishery would be restricted to maintain full female fertilization. When the stock is above this optimum, higher exploitation or lower size limits on males may be permitted.

The amount of information available to determine the ABC varies according to statistical areas. In particular, the Adak, Dutch Harbor, and Bering Sea areas have less information than Bristol Bay. As a result the procedure for ABC in Bristol Bay is different than the other areas and will be addressed separately.

Maximum sustained yield (MSY) is the average of annual ABC's over a reasonable number of years and is the average annual catch which can be taken from a stock under environmental conditions prevailing during these years. Determination of MSY for the BS/AI area is described in detail in the Appendix 7.4.

Bristol Bay

The procedure for determining ABC for king crab in Bristol Bay is as follows:

1. Establish the minimum required female spawning stock. This is done by an analysis of the stock-recruitment relationship, based on abundance estimates from resource assessment surveys (Reeves, 1981). This is an ongoing analysis which builds on the use of additional data as each survey is completed.

The Bristol Bay area presently has the best data base and is experiencing high stock levels. A study by Reeves and Marasco (1980) which developed the spawner-recruitment relationship for that area, indicates that at high stock levels there are more males than are needed to achieve full reproductive potential. Reeves (1981) has indicated that 20-40 million fertilized females is a reasonable estimate of the optimum number necessary to maximize recruitment. Therefore, at the high population levels prevailing in 1980 when 60 million mature females were present in this stock, a large portion of male stock is unnecessary for reproduction and is available to ABC. The ABC is estimated using spawner-recruitment information combined with current survey estimates of abundance. A detailed example is produced by Reeves (1981).

2. ABC is set equal to the maximum catch (i.e., a given minimum size limit/exploitation rate combination applied to survey estimates of abundance) which still maintains the minimum required spawning stock.

Allowable catches are calculated from a series of survey abundance estimates and based on a minimum size limit and some specific exploitation rate. Acceptable catches will maintain the spawning population of females at the required optimum. A reduction in the spawning population of females is usually a reduction in the number of fertilized females rather than a drop in the total number of mature females present in the stock in any given year. Using various exploitation rates and minimum size limits, a number of acceptable catches can be calculated that will not reduce reproductive capacity. An example based on 1980 data is given in Table A. Numbers above the line represent projected possible yields which should not impair future recruitment. The highest of these catches is selected as the ABC.

Table A -- Estimated yields (millions of pounds) for red king crab in Bristol Bay for 1981, by minimum size limit and exploitation rate (from Reeves, 1981).

Size Limit	Exploitation Rate					
	.3	.4	.5	.6	.7	.8
6.50"	37	50	62	75	87	100
6.25"	43	57	71	85	100	114
6.00"	48	63	79	95	111	127
5.75"	52	70	87	104	122	139
5.50"	55	73	91	109	128	146
5.25"	57	76	95	114	133	152

Adak, Dutch Harbor, and Bering Sea

In the Adak, Dutch Harbor, and Bering Sea areas data are insufficient to determine a spawner-recruitment relationship. Therefore, until such data becomes available ABC will be set at the maximum catch which maintains full female fertilization. This level will be set by applying an exploitation rate to male crab above a minimum biological size. That size limit will be determined for each area using the size when 50% of the male population is sexually mature and adding three years, thus ensuring each male the opportunity to reproduce at least once before becoming vulnerable to the fishery. A 40 percent exploitation rate on the male population over that size is currently used for that calculation in all three areas.

Fisheries where size limits and exploitation rates set on that basis are in effect have not shown any decline in female fertilization. Therefore, until additional information indicates otherwise, for stocks that are at a low level or whose spawner-recruitment relationship is unknown, the size limit and exploitation rate will be used to calculate ABC.

OY

The OY will generally equal the ABC unless there is some social, economic, or ecological reason for harvesting more or less than the ABC in order to achieve the management objectives of this plan. Derivations of OY from ABC will be based on agency reports, public comments, analysis of markets, variables in the harvesting and processing sectors and in communities and social groups associated with the industry and the resource. All appropriate information will be used as the basis for modifying ABC into OY.

Optimum yield for the BS/AI king crab fishery is not a positive figure, but rather a pre-season indication of the harvest that can be expected. It will usually be given as a range within which the harvest is expected to fall and will be specified for each of the management areas in this fishery management unit. The actual harvest may differ from earlier estimates of OY because of information gained during the season. (See Section 4.3, In-season Adjustment of Time and Area).

4.1.2 Fishing Seasons

The opening and closing of fishing seasons have historically been used in the king crab fishery to protect crab during the mating, molting, and growing periods of their life cycle. It is during this period each year that crab exhibit a soft shell and low meat condition. Any fishing during this time would lead to higher mortality due to handling and stress, and could possibly interfere with reproduction.

The biologically sensitive time period in the life cycle of king crab of the BS/AI generally encompass a period from winter through early summer. However, these periods can differ between crab stocks and areas so seasons are adjusted accordingly. This leaves a period from late summer through early winter when king crab are in a valuable condition to the fishery. Two notable exceptions to this general guideline can occur. First, it may be desirable to provide for an exploratory fishery during this biological sensitive period to encourage effort on to a stock at low levels which would otherwise not be fished because the fleet effort would concentrate on more highly productive fisheries. Second, it may not be possible to fish a stock of king crab during this period due to adverse environmental conditions such as sea ice.

Because harvest levels are usually taken in two months or less there is opportunity to look beyond strictly biological considerations in setting the date of the season opening. Therefore, several additional factors must be weighed in determining an appropriate season. One factor to be considered is the recovery rate (the ratio of recoverable meat to total body weight). Because the recovery rate increases dramatically during the period of rapid growth following molting, a delayed opening will generally act to increase both the volume and value of the catch and final product.

A second factor to be weighed is weather conditions. These generally worsen as the year progresses; consequently a late season opening is likely to translate into more difficult fishing conditions. This will particularly disadvantage operators of smaller vessels.

A third factor is the timing of the king crab fishery relative to other fisheries, particularly the salmon fisheries. If the season opening for king crab occurs before the salmon fisheries are over, this will create difficulties for vessels and processors that normally participate in both fisheries. Conversely, a lengthy period of time between the two fisheries will force vessels and processors to lie idle and may create additional start up costs.

A fourth factor is the timing of the season openings for individual areas relative to one another. Most of the major king crab fisheries now open simultaneously. This distributes fishing effort at the start of the season, helps prevent gear saturation problems, and allows greater participation by local fleets. The timing of the season opening is also important in deter-

mining the price paid to fishermen, the distribution of floating processors, and ability to meet processor's marketing commitments.

The fishing season should reflect a balance of attitudes within the industry with respect to the several factors described above.

4.2 Specified Management Measure

The following management measures are not anticipated to be amended frequently. This group of measures include: (1) gear restrictions; (2) gear placement; (3) gear storage; (4) vessel tank inspection; (5) catch restrictions based on sex; and (6) registration areas. These measures will be specified in this section. To change a measure in this section requires both a plan amendment and a regulation amendment.

4.2.1 Gear Restrictions

Legal gear for the commercial king crab fishery is limited to pots (traps) and ring nets in all areas. These gear are selective in the sense that nonlegal crab (i.e., female and undersized male crab) may be returned to the water unharmed. Trawls and tangle nets are prohibited because of the high mortality rates which they inflict on nonlegal crab. Each king crab pot must contain a mechanism which will terminate its catching and holding ability within six months if the pot is not removed from the water.

4.2.2 Gear Placement

Regulations which effect gear placement on the grounds prior to and immediately following some highly competitive king crab fisheries, grew out of the need to provide additional time to haul gear to and from the fishing grounds. This time was needed because of limited storage and loading and unloading facilities available to the entire fleet.

Determination of the need for regulations affecting gear placement or staging, (i.e., allowing fishing gear to be placed on the grounds prior to fishing and/or remain on the grounds after the season closure) will result from examining:

1. the biological impacts on target and non-target species;
2. enforcement problems and costs borne by the public versus by the industry;
3. possible gear conflicts; and
4. the availability of loading/unloading facilities and at sea storage areas.

The scope of regulations which effect gear placement prior to and after a fishing season is limited to a time period of not more than seven days prior to seven days following a season.

4.2.3 Gear Storage

King crab pots should be removed from the fishing grounds between seasons to reduce problems with other types of fishing gear that may be in use in the same area and eliminate, insofar as possible, illegal fishing prior to or after the close of the regular king crab fishing season. Traditionally pots have been stored both on land and in the water. When in the water, it has been required by state regulations that they be in shallow waters, less than 25 fathoms, or in specially designated areas adjacent to, but not on, the normal crab fishing grounds.

Land storage is to be preferred because of the elimination of gear loss and the greatly reduced deterioration of fishing gear in open air storage. There is not, nor is there likely to be in the immediate future, enough land storage area available in the BS/AI region to store all of the pots that are currently used in this fishery. In addition, land storage is expensive because gear must be moved on land and generally some lease fee is necessary for the use of the land. Most of the storage areas are a fair distance from the fishing grounds and additional costs are incurred in vessel running time for moving the gear.

Storage in the water, while generally closer to the fishing grounds and therefore less costly for moving gear to a storage area, has disadvantages. There are virtually no areas available in shallow water or in bays or in designated high seas areas where some interference with other vessel or fishing traffic will not occur. Any area chosen must be ice-free through the winter to avoid

loss of gear from pack ice. It should be well away from concentrations of Stellar sea lions or else each pot must be equipped with a hard plastic "sea lion" buoy so the buoys will not be punctured by sea lions and the pot lost.

Pot storage areas in the water will be chosen from areas of low crab, groundfish and other fishery resource abundance, and in areas known to be ice-free throughout the winter. All gear must be stored in a non-fishing condition, that is with bait and bait containers removed and the doors either removed or locked open.

4.2.4 Vessel Tank Inspection

Vessel tank inspections are used to enforce the opening of a king crab season and to prevent vessels from covertly fishing in adjacent statistical areas and misreporting a landing. In order to pass inspection, the vessel must have no crab aboard. Generally, the tank inspection is performed by Department personnel during a 15 day period preceding the season opening depending on the statistical area. Due to the great number of vessels and amount of gear involved, and considering the limited high seas enforcement capabilities of the State, the tank inspection requirement generally represents the opening of the commercial season.

In determining the need for vessel tank inspection regulations, consideration will be given to:

1. enforcement requirements;
2. documentation of commercial harvest location;

3. the fleet's ability to move freely from the fishing grounds to processing locations;
4. the time necessary to transport gear from the storage areas to the fishing grounds;
5. the increase fuel useage required by the fleet to effect this regulation; and
6. the desire by the fleet to insure a fair and equitable season start among the various participants.

The application of tank inspections requirement is limited to a period not to exceed five days prior to the commercial fishing season opening.

4.2.5 Restrictions on taking females

Most west coast crab fisheries take only male crab, a restriction that is assumed to contribute to maximum reproductive potential. The data base to support or reject an extensive harvest of female king crab is poor. There have been some recent studies indicating that there are probably surplus female crab which can be taken when stock levels are high (Reeves and Marasco, 1980; Reeves, 1981). However, the accumulative effects of a female harvest and the subsequent environmental impacts are not demonstrable at this time and may never be without actually harvesting females.

Harvesting female king crab has not been an issue. While management philosophy endorses a limited fishery for females in years of high abundance industry has shown little interest. Not only are females considerably smaller than males of the same age, but the proportion of recoverable meat is much less than that of males of the same size.

The plan permits experimental harvest and processing of females by permit, based on the following:

- a. a determination is made that surplus female crab are available for commercial harvest;
- b. appropriate documentation of harvest rates and location be provided by the fishermen; and
- c. processing and marketing results will be made available to the management agency.

4.2.6 Registration Areas

The BS/AI king crab fishery is divided into four statistical areas which are also used as registration. Fishermen intending to fish king crab must register in advance of king crab seasons for those areas in which they intend to operate. The purpose is twofold: first it provides valuable statistical information prior to the fishing season. For example, it is useful to know the number of vessels planning to fish a given area. Second, it tends to distribute the fishing effort evenly throughout the entire region by establishing both "exclusive" and "non-exclusive" registration areas.

Historically, exclusive registration areas have been relatively small, contain known concentrations of king crab, are close to shore, and are fished by well developed fisheries. Non-exclusive registration areas are quite large, have developing fisheries, and contain some sections that are both underutilized and unexplored.

This management measure has played an important role in State regulation. They currently designate Dutch Harbor and Bristol Bay as exclusive registration areas while Adak and the Bering Sea are non-exclusive. Boats may register for only one exclusive registration area during any one fishing season. All vessels may freely register for any non-exclusive registration area. This management measure prevents vessels from concentrating their effort on just high concentrations of king crab, which could have a large socioeconomic impact upon previously made investments in those areas. This management measure is designed to direct the expansion of the king crab fishery, through the non-exclusive provision, to areas that can generally sustain further production.

4.3 In-season Adjustment of Time and Area (to be re-written by G. Thornburgh)

Optimum yields are based upon projections of the status of the stocks, economic, and other conditions several months in advance of the actual conduct of the fishery and may be found to be in error in light of unanticipated adverse or favorable stock conditions which are revealed in-season. Under such circumstances it is appropriate, for conservation and management purposes, that the Commissioner of ADF&G take immediate action by issuing emergency orders adjusting time and/or area restrictions. Therefore, this framework provides that seasons and area shall be subject to in-season adjustment based upon one or more of the following factors:

1. distribution of fishing effort by time and area;
2. catch per unit of effort and rate of harvest;

3. relative abundance of age classes of king crab within the area in comparison with preseason prediction;
4. the proportion of immature or soft shell king crab being handled;
and
5. any other factors relevant to the conservation and management of king crab.

It is expected that the actual opening and/or closing dates for the seasons prescribed in this plan will be adjusted by the Commissioner pursuant to the authority described in this section. Such action is not considered emergency action that would require amendment of the plan or regulations implementing the plan; adjusting the season opening and closing dates is meant to be an inherent part of the seasons themselves. For this reason, any adjustments made by the Commissioner or his designee will be effected by the issuance of a emergency order and announcement in the manner currently utilized by the State.

4.4 Permit Requirements

All U.S. fishing vessels operating in the FCZ must have a current permit issued annually by the Secretary of Commerce or, a State of Alaska vessel license.

4.5 Reporting Requirements

Catch Reporting: Catch reporting by the fishermen, processors, and the buyers is necessary for proper management. When a king crab fisherman lands his

catch, a report in the form of a "fish ticket" must be completed by the buyer. The information required provides a statistical data base on the fishery. Any fishing vessel which processes its own catch or the catch of other vessels must comply with both the catch reporting requirement and the processors' reporting requirement.

Processors' Reporting: Fish buyers, processors, etc., who purchase, transport, and/or process king crab shall provide the following data:

1. The amount of tonnage of crab purchased, transported, and/or processed, by species.
2. Locations at which crab are received and/or processed, by species.
3. Limitations as to seasons, quantities, or quality standards of crab which apply to crab received and/or processed, by species.
4. Disposition of the crab received or processed, by species.
5. Prices paid for crab received, by species.
6. The amount or tonnage which the processor expects to purchase, transport, and/or process, by species, by year.
7. The reporting of all deadloss.

5.0 TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING

The domestic fishing and processing capacity greatly exceeds the OY for the Alaska king crab resource covered by this plan (see section on Catch and Capacity in Appendix). The domestic industry will totally utilize the available harvestable resource. There will be no portion of the resource which will be available for harvest by foreign fishermen (see also, Section on Foreign Fishery in Appendix).

6.0 MANAGEMENT PROCEDURE

(Flow Diagram from R. Otto and M. Eaton to go in here.)

This section has not been completed. It is intended to provide the reviewer with an understanding of how management decisions have been made by the ABOF.

7.0 MONITORING MANAGEMENT EFFECTIVENESS

(to be re-written by G. Thornburgh and P. Travers)

The North Pacific Fisheries Management Council (NPFMC) has a legal responsibility for reviewing and recommending to the Secretary of Commerce (SOC) measures for the conservation and management of the fisheries of the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska, with particular emphasis on the consistency of those measures with the National Standards of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

It is intended that individual management measures for carrying out this king crab FMP be supplied by the State under terms of a single implementing regulations promulgated by the SOC in the usual manner under Section 305 of the Magnuson Act.

State and Federal governmental agencies are limited in fiscal resources, and that the optimal use of these monies for North Pacific fisheries management, research, and enforcement occurs through a clear definition of agency roles and division of responsibilities, thus avoiding unnecessary duplication.

The State of Alaska has for more than two decades exercised effective control over domestic king crab fisheries both within and without its territorial waters. The State system centers around the Alaska Board of Fisheries (ABOF) for policy and regulations. ABOF's regulatory system provides for extensive public input; is sufficiently structured to insure annual revisions; is flexible enough to accommodate resource and resource utilization "emergencies;" and is understood and familiar to the users of North Pacific fisheries

resources. Further, there exists a substantial investment by the State in facilities, communications and information systems, vessels and other equipment, coupled with a cadre of experienced personnel capable of carrying out extensive management, research, and enforcement programs to monitor the conduct of the fisheries and the status of the resources.

Therefore, the SOC (through the NPFMC) and the State (through the ABOF) establish the following protocol which describes roles both entities will play in order to achieve the most effective and efficient management of domestic king crab fisheries in the BS/AI area.

The NPFMC and ABOF shall undertake the following activities;

1. The NPFMC shall develop a FMP to govern management of the fishery prescribing objectives, standards, and measures found to be necessary for the fishery's effective management. These objectives, standards, and measures shall be consistent with the national standards of the Magnuson Act and with the laws of the State of Alaska; and shall not discriminate between residents and non-residents of the State of Alaska.
2. The NPFMC shall hold public hearing on the FMP. During this period, all such persons shall be afforded the opportunity to submit to the NPFMC written and oral comments on the plan. The NPFMC shall hold public hearings on this issue at places and times that are likely to facilitate attendance by such persons and their representatives.

3. The NPFMC shall submit the FMP to the SOC for approval. Following approval of the plan by the SOC, the plan shall be implemented through State rulemaking under the authority of Secretarial delegation to the State. The specific regulation for the management of the BS/AI king crab fishery shall be promulgated by the ABOF in accordance with the laws of the State. These regulation shall be consistent with the laws of the State. These regulation shall be consistent with the objectives, standards, and measures prescribed in the FMP. Before taking final action on any regulation governing the fishery, the ABOF shall make readily available in written form to all persons interested in the fishery for a period of at least thrity (30) days, the reports and data received by the ABOF upon which the proposed regulation is based; shall afford all such persons the opportunity to submit written and oral comments to the ABOF on the proposed regulation during that period; and shall, upon the request of the NPFMC, meet with the NPFMC or its representatives to discuss the proposed regulation. Before any ABOF regulation governing the fishery goes into effect, the BOF shall issue a written statement explaining the basis for the regulation. The preceding provisions of this paragraph shall not apply to emergency regulations.

4. The NPFMC and ABOF shall meet jointly at least once every calendar year to consider management of the fishery and discuss the need for amendment of the FMP or any regulations governing the fishery. The NPFMC and ABOF or their designated representatives shall also meet jointly to consider management of the fishery at the request of

either the NPFMC or ABOF. All persons and agencies interested in the fishery shall have the opportunity to submit written and oral comments and reports on management of the fishery to the NPFMC and ABOF at these meeting. In Preparation for the mandatory annual joint meeting provided for in the first sentence of this paragraph, representatives of the NPFMC and ABOF shall hold a public hearing in the State of Washington at which all persons and agencies interested in the fishery shall be afforded the same opportunity to comment on management of the fishery that they would have at the meeting itself.

5. The Alaska Department of Fish and Game (ADF&G) shall have primary responsibility for developing the information upon which regulations governing the fishery are to be based, and for implementing these regulations through monitoring of the fishery and development of in-season management measures. NPFMC and ABOF shall encourage ADF&G, in carrying out this responsibility, to consult actively with the National Marine Fisheries Service and the fishery management agencies of other states, in order to prevent duplication of research and management effort and to make optimum use of the resources available for management of the fishery.
6. The NPFMC and ABOF shall resolve conflicts on the FMP and implementing regulations through all appropriate means.

Preliminary Policy Guidelines for FMP's

FMP's:

- o DOC will not delegate rulemaking authority to the regional Administrators or the Regional Councils.
- o Subject to OMB's exempting management action^f from E. O. 12291 approval, DOC will delegate to the regional administrators authority to issue management actions authorized by FMPs. Such delegation will be subject to notification of NOAA and O/S after the fact. Delegation will be revoked for misuse. NMFS, NOAA and O/S will be available for consultation on proposed management actions.

Approval of FMP's and associated regulations:

- o The O/S has a clear preference for the development of multi-year FMP's. If warranted, an FMP may be structured to be updated through an annual amendment. Management and enforcement of multi-year FMP's normally will be through management actions for which the rulemaking authority is provided by the multi-year FMP. Thus, management actions should not involve new regulatory questions.
- o The O/S preference for multi-year plans is such that single year plans submitted for Secretarial approval will enter clearance with a presumption of inadequacy.
- o In the absence of other critical concerns such as a severe threat to the resource, plans and rules which do not provide a reasonable economic return on the Federal investment will not be approved.

- o The new central DOC and OMB regulatory clearance procedures add time to the regulation issuance process. The Councils and regions must provide for this additional time requirement. NMFS/NOAA/DOC will expedite clearance procedures but will not shorten the review and clearance procedures to compensate for untimely submission.

Standards for Approval of Rules:

- o All regulatory actions, including management actions issued by a region under a delegation of authority by the Administrator, will comply with E. O. 12291. Thus, all actions will include a statement of need and a justification for the action. The need and justification statement will follow a "rule of reason" the completeness and detail of the statement will be commensurate with the nature and scope of the action. For actions other than of minor significance the statement will include discussion of rejected alternatives, cost-effectiveness and the balance of benefits over costs. For actions which are significant but minor under E. O. 12291 a separate economic analysis will be prepared to support the rulemaking.
- o Any rulemaking which fails to state clearly the objective or which fails to link the proposed action to the objective will be subject to Department disapproval.