

EXECUTIVE DIRECTOR'S REPORT

Council appointments were announced by the Secretary of Commerce on August 28. There is some question as to when the appointments became effective. Council member Harold Lokken was reappointed to his third term and Mr. Keith Specking, special assistant to the Governor, was appointed for a three-year term. That seat was formerly held by Charles Meacham.

A complete listing of current Council members for all eight regional councils is in the next Council mailing, which you should be receiving shortly.

Congressional Oversight Hearings on MFCMA

The House Subcommittee on Fisheries and Wildlife Conservation and the Environment has scheduled oversight hearings on the Act for September 24-25 in Washington. On September 8 I received by phone a list of proposed changes to the Act in areas on which the Subcommittee would like to hear testimony. With that material and the previous discussions by the Council and the Council chairmen at their meeting in June we have enough material to put together our written testimony. I do believe it is important to send a representative to testify and to respond to questions at those oversight hearings. That representative must be chosen at this meeting. I would welcome any recommendations for the written statement which I will prepare and submit to the Subcommittee by the end of next week.

Next Council Meeting

The next Council meeting is September 24-25 at the Sheraton Hotel in Anchorage. The SSC will begin on the 22nd in the Council conference room. The Advisory Panel will begin on the 23rd at the Sheraton, Room 311. In addition, the Plan Maintenance Team for the Gulf of Alaska Groundfish FMP will meet on September 22 at 9 a.m. in the Council conference room with the Council subgroups -- that is, the plan subgroups from the Advisory Panel, SSC, and Council, and other interested parties. The PMT plans to develop a recommendation from that meeting for Council consideration on action on the Gulf FMP for next year.

We will hold an exit interview with the auditors, who completed their audit of the Council books, on the afternoon of September 22. The Audit Committee from the Council are members Campbell, Harville, and Knapp. The meeting is open to other interested members of the Council family and the public.

National Standards Workshop

A team from the Central Office in Washington will be here for the next meeting and will stay through Saturday to conduct a workshop on the proposed changes to the guidelines for the National Standards. That is scheduled for September 26 beginning at 9 a.m. in the Council conference room. Members of the Council, SSC, and AP are encouraged to attend.

There have been similar workshops with the other Councils and Regions. The rest of the West Coast people met on September 10 in Seattle. Jeff Povolny from the Council staff attended that meeting as an observer and to coordinate their perspectives with ours at the September 26 workshop.

Council/Board of Fisheries Luncheon

There will be a luncheon at the Sheffield at noon today for the Board and Council. More information is available in your folder.

North Pacific Fishery Management Council

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M E M O R A N D U M

TO: Council Members

FROM: Jim H. Branson
Executive Director *JMB*

DATE: September 9, 1981

SUBJECT: Proposed MFCMA Amendments

Bill McKenzie, now on the staff of the House Subcommittee for Fisheries, Wildlife Conservation and the Environment, called yesterday with a preview of what the Subcommittee is doing toward amending the MFCMA. These are the areas on which they would like testimony at the oversight hearings in Washington on September 24-25.

The Subcommittee staff is drafting language for amendments that will cover the following points:

1. Remove Council operations from the Federal Advisory Committee Act (FACA) requirements, but lay out guidelines that will insure public participation and timely notice of Council activities.
2. Allow Councils to develop regulations for the collection of data prior to the development and implementation of an FMP. A Council would be able to collect data to decide whether or not an FMP was necessary and for information needed for the development of an FMP if it was decided that it was.
3. Recognize that an FMP is not necessary for every fishery and lay down guidelines so a Council would be able to make a decision on whether or not an FMP was needed.
4. Give the Secretary of Commerce authority to develop an FMP if the concerned Council requests the Secretary to do so.
5. Add the Northern Marianas and certain other U.S. territories and possessions in the western Pacific to the jurisdiction of the Western Pacific Council.
6. Allow Councils to hold public hearings outside their geographical area of authority.

7. Give the Secretary authorization to seize the value of under-reported fish from a violator rather than the fish itself.
8. Allow recreational fisheries by foreign nationals not party to a GIFA under regulations promulgated by the Secretary of Commerce and the Secretary of State in the FCZ and by the individual state in its own waters.
9. Delete the requirement that permit applications from foreign vessels be sent to Congress.
10. Modify National Standard 1 so that conservation and management measures shall prevent overfishing while allowing on a continuing basis the full utilization of optimum yield from each fishery by United States harvesters.
11. Make it clear that guidelines established by the Secretary based on the National Standards to assist in the development of fishery management plans are guidelines and do not have the effect of law.
12. FMP's may include a description and discussion of those factors impeding development of U.S. fisheries and a discussion of how those impediments can be removed (permissive rather than mandatory).
13. Allow the Secretary of Commerce to enter into agreements with states and/or the Coast Guard to administer any permitting requirements established pursuant to the Act for boat or vessel registration. Fees collected for such permits can accrue to the involved states or the U.S. Coast Guard.
14. Allow Councils to develop confidentiality of data safeguards and procedures for data they collect.
15. Provide that FMP's or amendments to FMP's submitted to the Secretary for review and implementation, if not specifically approved or disapproved within a specified time, are automatically approved and moved to the next step, Notice of Proposed Rulemaking.
16. Allow the Secretary of Commerce to establish fees for limited entry programs higher than the administrative costs of such programs.
17. Require draft regulations to be submitted to the Secretary with all FMP's and amendments. If the Secretary changes the regulations, the changes and the reasons for them must be indicated in the Federal Register. It also puts a time limitation between the publication of Notice of Proposed Rulemaking and the publication of Final Rulemaking. This should eliminate the long delays we have encountered between the end of the comment period for Proposed Rulemaking and publication of those regulations as Final Rulemaking.
18. Allow in-season adjustments of management regulations without Secretarial approval -- a move to further regionalize management.

19. Delete the requirement for an annual report from the Councils to the Secretary and the semi-annual report on enforcement compliance required from the Coast Guard.
20. Delete the provision for imprisonment for fishery violations. Those provisions will remain for other portions of the Act, particularly assault or resistance of a Federal officer.
21. Allow the Secretary to remove a Council member for good cause and outline what that cause may be.
22. Require the Secretary to announce Council appointments 45 days before the expiration of the current term.

Other issues that the Subcommittee would like to hear testimony on and, undoubtedly will question witnesses about, are as follows:

- The problem of Federal enclaves within state territorial waters
- Can some of the Councils be consolidated?
- Foreign processing in internal waters: should there be any and who should control it?
- Include tuna in the Act (heavy pressure from the Atlantic on this subject)
- Further discussion on the issue of compensation for Council members and whether Council members, staff, AP, SSC, etc., should be reimbursed for actual expenses while traveling or be placed on the standard Federal per diem schedule and system.

In my opinion, the substantive items in this list are the speeding up of the FMP and amendment process, items 15 and 17, by putting a definite time limit on Secretarial review and action and the move toward further regionalization of management and autonomy of the Councils. If Council members are in agreement, I will draft a written statement for the oversight hearing record and work with whomever is designated to testify at that hearing in the development of verbal testimony, concentrating on those areas.

I see nothing in the proposed amendments that they are drafting that gives us any problems, although voting membership on the Pacific Council has been omitted. Most of them are things that we have agreed on between ourselves and with the other Councils at the Chairmen's meeting, or at least have tacitly agreed with them that if they want them, we certainly won't oppose them.

Some of the issues they wish to discuss but are not drafting amendment language for are a good bit more delicate. Certainly I think we should make a statement on enclaves and on processing in internal waters. Consolidating Councils and including tuna in the Act are well outside this Council's area of interest.

Discussion on Council compensation should probably be held to a flat statement that we feel that compensation is necessary and desirable if we are to keep the caliber of Council member that we have had in the past. I would prefer not to get into an argument or even discussion of travel expenses at this time. It seems almost petty when we are trying to restructure the Act to make it functional. It's much more important to improve the process than it is to worry over travel expenses.

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE, WASHINGTON

THE CONFEDERATED TRIBES AND
BANDS OF THE YAKIMA INDIAN NATION,
ET AL,

Plaintiffs,

vs

MALCOLM BALDRIGE,

Defendant.

NO. C80-342T

COURT'S DECISION
(Hearing on Motions)

Before The Honorable WALTER E. CRAIG
Tuesday, August 4, 1981
U.S. District Courthouse
Seattle, Washington

APPEARANCES:

For the Plaintiffs:

TIM WEAVER
316 North Third Street
Yakima, Washington 98907

For the Defendant:

DONALD A. CARR
Land & Natural Resources Division
U.S. Department of Justice
Washington, D. C. 20530

AUG 17 1981

JAMES JOHNSON
Assistant Attorney General
Department of Game
600 No. Capitol Way
Olympia, Washington 98504

ACTION	ROUTING	INITIAL
20	Exec. Sec.	B
21	Dep. Sec.	
22	Asst. Sec.	
23	Sec. 1	
24	Sec. 2	
25	Sec. 3	
	Sec. 4	
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	Sec. 6	
	Sec. 7	
	Sec. 8	
	Sec. 9	
	Sec. 10	

1 THE COURT: Well, I guess the Court is going to try
2 do another Solomon^{esque} type ruling here, and I don't mean
3 ^{Gus} just Solomon.

4 I am going to deny the motion for summary judgment
5 and it may be that we will have to ultimately have a trial,
6 but in the interim I am again going to call on the parties
7 to this litigation with the help of the Court's technical
8 adviser and see if you can come up with a recommendation
9 to the Court on a reasonably satisfactory solution.

10 It is apparent to the Court that, to borrow a phrase
11 from Mr. Justice Douglas, that at least to some degree
12 the Indians have been "done in." Maybe that appearance
13 is because the guesses with respect to run size and catch
14 and escapement were woefully inadequate as history unfolded
15 and maybe you all ought to take a look at that side of it
16 to see if you can't get some more realistic figures
17 because where the Secretary has endeavored to control the
18 ocean and fishery to some degree by reducing the seasons
19 and limiting catches, and to some extent rather substantial
20 reductions, it is apparent to the Court that in view of the
21 hard facts that even though those reductions have been made
22 by the Secretary, if it doesn't result in any more fish
23 going up the river it doesn't do much good.

24 So, you want to get to the third step and talk about
25 the economy. Maybe everybody is going to have to suffer

1 for awhile the same way the Yakima's have suffered over
2 the past few years under the terms of the agreement.
3 That would be non-Indian as well as the Indian commercial
4 fishermen, the sports fishermen and everybody else.

5 I don't think at this juncture it would be helpful
6 or sound to close the ocean fisheries because I don't think
7 right now that would do very much good either. It would
8 make an awful lot of people unhappy, and I'm not afraid of
9 doing that, but I think as a practical matter it wouldn't
10 do too much good. But I would be hopeful that the parties
11 could agree that the Columbia River plan would continue.
12 We have had almost five years of it. You certainly by this
13 time have arrived at some conclusions with respect to its
14 good features and some conclusions with respect to its
15 faulty features, and maybe you can keep the good ones and
16 amend the bad ones until you arrive at a little closer
17 plan that will work over the long haul and in the meantime
18 continue to gather the data which, as I say, is not going
19 to have any immediate effect but down the road it may well,
20 so that there will be a better understanding of the
21 management of the entire industry.

22 I hesitate to set a time limit but I am going to anyway
23 and ask you gentlemen to confer and report back to the Court
24 in 90 days on this issue.

25 Does anybody have any questions?

1 MR. WEAVER: Yes, your Honor, I do. You are leaving
2 the fishery open, then, to take whatever fish remain out
3 there, is that correct?

4 THE COURT: I am allowing the Secretary to continue
5 with his efforts in the ocean fishery and I am suggesting
6 to the Secretary that he take another immediate look at it
7 with respect to the results, with the suggestion that he
8 might want to curb it further. I am also suggesting to
9 the Secretary that he take a real hard look at the
10 Alaska fishery because, as I understand it, and I'm not a
11 fish biologist either, my understanding is that bright
12 stock goes up there and comes back from there and it stays
13 there for a considerable amount of time and that's when
14 they take it. And, therefore, I am suggesting to the
15 Secretary that he take a hard look at that so he may want
16 to, in the effort which I think is paramount, allow enough
17 fish to get back down and up the Columbia to satisfy to
18 some degree the rights of the Indians under their Treaty
19 to take fish.

20 Now, that may take some comparatively strong measures
21 on the Alaska fisheries. One of the difficulties I think
22 we all have is that we are inclined to compare numbers,
23 and this is all right for an exercise, but, for example,
24 when you say, Well, there is expected to be 300,000 fish --
25 and that's a pretty good number -- and that's the goal to
be reached, or a guess on what is coming, and you wind up
with 200,000 fish, it doesn't do much good to say, Well,

1 we have reduced our estimates to 250,000 fish next year,
2 because you are still 50,000 off in your own historical
3 analysis.

4 I think so far the Court has been acquainted in these
5 matters, and it doesn't make any difference which case it
6 is, as I said yesterday I have never seen -- except one
7 year, I believe -- where any of the estimates were any
8 good at all. The prospective fish run was overstated in
9 every instance and the escapement goals were never met.

10 Now, maybe one follows the other. If your escapement
11 goal is based on your anticipated run and your run is that
12 far off you are not possibly going to make the escapement
13 goal. So the escapement goal is too high.

14 As I've said before, this Court is concerned with the
15 fundamental law of the land that is the Indian fishing rights
16 under the Treaties of Governor Stevens; and secondly, the
17 conservation of the salmon fishery, whatever may be the
18 species.

19 Whatever happens economically is down the ladder as
20 far as the Court is concerned and I have the firm belief,
21 at least at this stage, that if the parties work together
22 to adequately conserve the fish, fulfil the terms of the
23 Stevens Treaty, the economics will take care of themselves
24 because under an adequate conservation program you are
25 going to increase the number of fish instead of decrease

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them.

As far as the Chinook is concerned, which was a meritorious effort and I think should continue, the number of fish has been dropping every year, the number of take has been dropping, the number of escapement has been dropping. It could go the way of the ~~Monoray~~ Monterey Sardine if you are not going to put a check on that trend somewhere along the line.

So I am asking you again to see what you can do and the parties can make recommendations to the Secretary, and I hope the Secretary will take them in good faith and analyze them and if it is appropriate adopt them.

And you report back to me in 90 days.

(Court in recess)

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WASHINGTON
3 SEATTLE, WASHINGTON

4 HOH INDIAN TRIBE, et al,)
5 Plaintiffs,)
6 vs.) No. C81-742
7 MALCOLM BALDRIDGE,)
8 Defendant.)

9 COURT'S DECISION
10 (Motion For Intervention)

11 Monday, August 3, 1981

12 Heard Before the Honorable WALTER E. CRAIG
13 United States District Court House
14 Seattle, Washington

15 APPEARANCES:

16 For the Plaintiffs: CARL V. ULLMAN
SUSAN KAY HVALSOE
17 For the Defendant: GEORGE DYSART
18 DONALD CARR
19 JAMES JOHNSON
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1 THE COURT: To keep the record straight both
2 motions for summary judgment will be denied.

3 Mr. Dysart, I think, has heard this record once
4 before but it appears to me that this litigation, as
5 well as others the Court has been unfortunate enough
6 to be involved in, stems to a great part from lack of
7 communication. To this Court's knowledge in all of
8 these cases where there has been effort to forecast
9 the size of any given run of any given species the
10 forecast has been short of expectations in every
11 instance that this Court is familiar with. In the
12 final analysis and the practical operation of the
13 fishing industry the escapement goals have fallen
14 short of anticipation. I think the attitude of the
15 State of Washington and according to their conclusions
16 with respect to perpetuation of the respective species,
17 whatever that means, is salutary. I think also the
18 Secretary of Commerce on the record that is before the
19 Court presently since the Secretary has been in charge
20 of the ocean fisheries has from year to year reduced
21 the catch in the ocean fisheries in order to more
22 equitably distribute the fish in the ocean. I don't
23 know how you do that. I don't know how the Secretary
24 expects to do it but somewhere along the line hopefully
25 we'll reach a reasonably compatible solution.

1 I don't know really what the terms conservation
2 and perpetuation mean. They are not particularly
3 subject to a legal definition, but as I analyze
4 the problem perpetuation alone effects to say that
5 next year we are going to have the same number of
6 fish as we did this year, and the year after and
7 the year after. That would be in my book perpetuation.

8 Conservation, on the other hand, to me is
9 really what all of these cases are about. To me
10 conservation means the protection of each individual
11 species to the extent that the operation of the
12 respective fisheries will be in such a manner as to
13 increase over the long term the number of fish in
14 every one of the streams in this case and from
15 whatever the point south is to the end of the map
16 in Canadian waters, which necessarily would include
17 in escapement goals the percentage for enhancement of
18 the total number of fish of any given species in any
19 given stream.

20 As has been suggested, ideally we ultimately,
21 maybe in a hundred years, will get back to where we
22 were in 1855 but I rather doubt that will transpire
23 because greed has a way of diminishing everything,
24 and too many people want too much fish. So ultimately
25 we will have no fish. Where are we then? In that

1 event the Court's problem is solved. You people
2 wouldn't come running in all the time. That is a
3 pretty disastrous result and I hope it can be avoided.

4 With respect to the Pacific Fishery Management
5 Council's input it seems to the Court that the salmon
6 plan development team is operating in something of
7 a vacuum without adequate consideration of the input
8 from the technical advisors to the Tribes.

9 I am making a suggestion which is not in the
10 form of an order but might well in the future reach
11 that point. What I am suggesting is that the salmon
12 plan development team invite the tribal input with
13 respect to their technical advice. Now, I don't mean
14 by that, that each Tribe should have somebody present
15 at those meetings. I think the Tribes can agree on
16 representation possibly through one person. Maybe
17 it will take more than one but I certainly wouldn't
18 suggest over three because when you get too many you
19 can't do anything.

20 I'm making that suggestion and you can do with it
21 what you want to do but if there isn't some progress
22 in that respect you can expect me to be back again.

23 What we have underlying all of this litigation
24 are the Stevens Treaties and whether we like them
25 or not they are there and they are the law of the land

1 and they have been recognized by the Supreme Court
2 of the United States and the Congress. And whether
3 we like it or not those treaties have been interpreted
4 to mean that the signatory Indian Tribes are entitled
5 to a river by river, run by run, basis to fifty percent
6 of the catch.

7 Now as I recall it, on the first go around it
8 so happened that Judge ^{Belloni} Beloney attempted to avoid
9 that specific enumeration of percentages by saying
10 "a just share." And I think he was probably right
11 because the fish are never consulted in these matters
12 and consequently no one knows what the fish are about
13 to do so the result is in one year there may be
14 fewer fish than there are in the next year, and a
15 just share in one year may not be the same as a just
16 share in the next year. But we aren't living under
17 that philosophy. We are living under a flat out ~~six~~ ^{fifty}
18 percent take.

19 Now, on 1981 Coho run which we are now consider-
20 ing I don't know whether the forecast of the Secretary
21 or the forecast of the State of Washington or the
22 forecast of the Indians are going to be right or not.
23 My guess is that they won't be on any one of them.
24 And my guess is that they all fall short. I do not
25 believe in the management of the ocean fisheries that

1 the aggregate principle should apply in this case.
2 And what I am going to do is to remand the matter
3 to the Secretary of Commerce and I am going to order
4 that a conference be convened -- tonight if you want
5 to -- but with inordinate dispatch and that conference
6 shall include the State of Washington and the Indian
7 Tribes represented. And whether it will be necessary
8 to further limit the ocean catch or to reduce the
9 escapement goals to achieve a reasonable run up the
10 Hoh River, and the other rivers involved, will depend
11 on the good wisdom of those attending the conference.
12 It's the Court's personal opinion that no matter how
13 salutary the State of Washington was in attempting
14 to provide escapement goals that it's impractical to
15 attempt to do it too fast.

16 In addition to that order the Court is also
17 ordering the parties to this litigation and the
18 representatives of all the Tribes involved to confer
19 and come up with a reasonable plan that you all think
20 you can live with on a long term basis, and I would
21 hope that it would be on an initial term of ten years
22 but I don't think that is going to work. I think
23 maybe it would be more practical to go on a five year
24 basis. It should be long enough so that you can look
25 at the hard numbers when you get through each year

1 to tell where you are going. I think there again
2 that the plan that I have in mind would contemplate
3 escapement goals for each run on each river for each
4 Tribe, which would provide a percentage each year of
5 enhancement over the previous year. You can see that
6 if you are successful in providing a ten percent
7 enhancement a year in ten years you would double
8 the quantity of fish. Of course, that is truly
9 theoretical because it doesn't take into account the
10 ordinary mortality rate regardless of people who pull
11 them out of the water. But in any event that's the
12 philosophy and, as I said, I think such a plan should
13 be flexible enough so that it might be subject to
14 adjustment on a year by year basis.

15 I'm going to suggest a deadline for submission
16 of that plan to the Court on or before February 1 of
17 1982.

18 I want to have on the first conference that I
19 referred to on this specific issue an answer by
20 Friday. That is the 7th of August. And as you can
21 see, what I have in mind is a long term role of
22 producing the optimum number of fish in every stream
23 on the west coast of Washington. I can already hear
24 the hues and cries, but let's try it and see what
25 we come up with.

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Is there anybody that doesn't understand what I have said?

MR. CARR: Just one point, your Honor. You spoke of a remand to the Secretary of Commerce to consider what steps should be taken for this season. Do I correctly understand you on that?

THE COURT: That's right. You've got it. I want him to reconsider the ocean catch figure that he used. As I see it, in order to supply the Hoh River with an adequate number of Coho for the Indians to fish in it, one of two things has to happen. You either reduce the ocean catch to let them go in or you reduce the escapement goal, or some of both.

MR. CARR: Indeed that is true, your Honor, and I am merely asking for a little elaboration as to your thoughts on the scope of the remand that you are ordering as to whether you were specifically considering alternative choices or combinations of alternatives by the Secretary of Commerce. Should he be looking at the harvest level? Should he be looking at spawning escapement levels?

THE COURT: All he can do really is to look at the ocean harvest and the escapement goals. His. The reason I am ordering the rest of the parties to that conference and reconsideration is so that you

1 will have some flexibility in reaching the goal that
2 the Court has indicated so that maybe you will come
3 up with a reduction in ocean harvest and a reduction
4 in the escapement goals as established by the Washington
5 Department of Fisheries which was adopted by the
6 Secretary.

7 MR. CARR: That was sufficient to explain to
8 me, I believe, what I need to tell my client, yes,
9 your Honor. I think at this time it is appropriate
10 and obligatory on me to ask your Honor to stay the
11 order he has just entered.

12 THE COURT: Pardon?

13 MR. CARR: I think it is obligatory on me at this
14 time to ask your Honor to stay that order that you
15 will have just entered because, first, the balance of
16 the irreparability of the harm and the considerations
17 of the public interest and the likelihood of success
18 on appeal argue for the entry of such a stay. At least
19 to permit the consideration by the United States of
20 the possible courses of an emergency appeal. I guess
21 what I am saying, your Honor, is don't enter an order
22 that gives us only until August 7 or we will have to--

23 THE COURT: Well, when is the run going to start?

24 MR. ULLMAN: They have, your Honor, caught about
25 three hundred thousand fish out there already.

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THE COURT: Let's see what you can do by Friday.
If you need help you can holler.

MR. CARR: I take it that your Honor is denying
my motion for a stay?

THE COURT: That's right.

MS. HVALSOE: If your Honor might answer one
question for clarification. Are you asking that the
parties come up with a proposed order to the Court
by the 7th or a plan by the Secretary?

THE COURT: I have made my order. If you want
a copy of it you can get it from the reporter.

MS. HVALSOE: You are just asking that we report
back to the court then?

THE COURT: That's right.

MS. HVALSOE: Thank you.

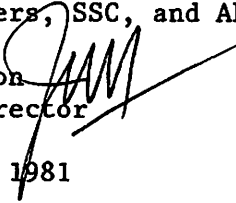
THE COURT: Now I would suggest not only at your
conference that you have the Indian representatives
from the state and feds but also the Court's technical
advisor, Mr. Olney who, I am sure, can give you some
input as to the attitude of the Court. And whatever
you come up with don't try to lock it in granite because
it won't work. We have to have flexibility not only
in this one but in the one I am asking for as of
February 1. And while it may be a difficult task
for you to do it, whatever you do is going to be

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much better than what I would do because you have the
input. What I might do nobody will like.

(Court recessed)

M E M O R A N D U M

TO: Council Members, SSC, and AP
FROM: Jim H. Branson 
Executive Director
DATE: September 2, 1981
SUBJECT: Draft #11 of Bering Sea/Aleutian Islands King Crab FMP

ACTION REQUIRED

Receive public testimony on Draft #11 of the Bering Sea/Aleutian Islands King Crab FMP. Review proposed management regime with the Alaska Board of Fisheries and arrive at mutually acceptable plan and course of action.

BACKGROUND

Because the draft FMP was incomplete at the July meeting, the Council directed it be completed and circulated to both the Council and public for review. That draft (#11), which incorporated the changes recommended by the SSC, was mailed on August 15, 1981.

The draft appendices to the FMP, which include much of the earlier draft dated September 15, 1980, have been updated and should be available at this meeting.

The required draft Environmental Impact Statement and Regulatory Impact Review are currently being written and should be completed by the end of September. It is the staff's intention to have a complete package of BS/AI king crab documents (DFMP, Draft Regulations, DEIS, DRIR) available for Secretarial review by mid-October.

Public hearings on the BS/AI King Crab FMP have been scheduled as follows:

Anchorage	September 24, 1981	Sheraton Hotel
Seattle	October 24, 1981	University Tower Hotel

The October hearing will be on the DEIS as well as the FMP. These dates coincide with a previously scheduled Council meeting and the Fish Expo.

The Northwest and Alaska Fisheries Center Bering Sea Survey is now complete and is currently undergoing analysis. Preliminary results will be available.

D R A F T #11

BERING SEA/ALEUTIAN ISLAND
KING CRAB
FISHERY MANAGEMENT PLAN

August 15, 1981

North Pacific Fishery Management Council
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1.0 INTRODUCTION

This Fishery Management Plan (FMP) has been developed by the North Pacific Fisheries Management Council (NPFMC) to manage the king crab fishery in the Fisheries Conservation Zone (FCZ) of the Bering Sea and Aleutian Islands. It replaces that portion of the Preliminary Fisheries Management Plan for the King and Tanner Crab Fishery of the Eastern Bering Sea which applies to this fishery. Two new approaches to the development of a fishery management regime are presented in this FMP.

The first is 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 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 which can be used either singly or in combination in order to meet the objectives established in this plan.

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 of Commerce 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 Fishery Conservation and Management Act (MFCMA) 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 economics 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.

This framework FMP is intended to guide future management decisions along specific channels defined and limited by the terms of the MFCMA 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 MFCMA 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 MFCMA. 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 MFCMA, 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 MFCMA or other applicable law; and
3. the North Pacific Fishery Management Council and Alaska Board of Fisheries 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.

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.^{1/}

^{1/} 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.

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.

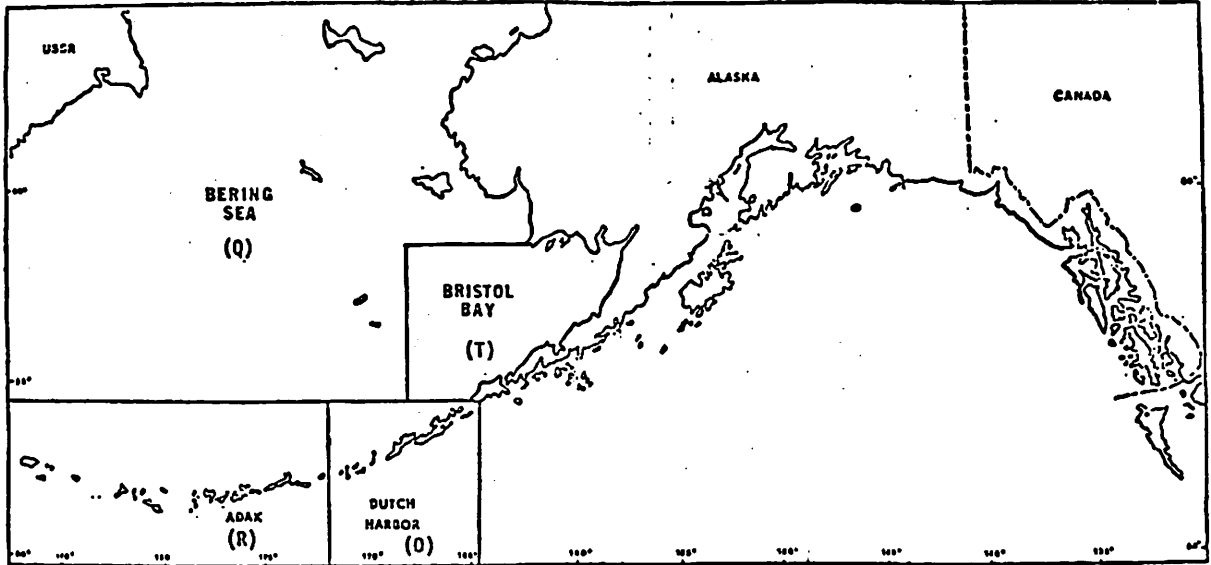


Figure 1. Alaska King Crab Statistical Areas in the BS/AI area.

3.0 MANAGEMENT OBJECTIVES

The management regime set forth in this plan has been developed in accordance with the MFCMA (Appendix 8 (b)) 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 are:

- * 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 could be 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 minimize 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 Placement
- * Gear Storage
- * Catch Restrictions based on Sex and Size

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 subsistence 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 trawl 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 8.5.

The management measures are intended to establish a management regime, consistent with the National Standards of the MFCMA 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, it is apparent that management measures are frequently revised in order to meet changes in the fishery. This plan allows for periodic revisions in management measures by providing a procedure which specifies guidelines to be considered prior to amending the measure. This amending process is to be carried out through amending the specific regulation and not amending the management measure in this plan (see Sections 6.0 Management Procedure and 7.0 Procedures for Plan Implementation). Regulations are not presented for these management measures; rather each measure will specify criteria and establish limits for the promulgation of regulation which will achieve the intent of the management measure.

4.1 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:

1. natural mortality rates by sex and size class;
2. fishing mortality rates from previous years by size class;
3. growth rates by sex and size class;
4. critical size necessary for reproductive needs;
5. reproductive success given a specific population size, sex ratio, and distribution of spawning stocks; and
6. 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 sustainable yield (MSY) is the average of annual ABC's over a reasonable number of years and is the maximum 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 8.4.

3.

Bristol Bay

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

1. Establish the minimum female spawning stock required to maximize recruitment. This is done by an analysis of the stock-recruitment relationship, based on abundance estimates from resource assessment

surveys (Reeves, 1981). A spawner-recruitment relationship can take many forms, but from a management standpoint, two basic terms can be distinguished: (1) where recruitment (i.e. the supply of fish that becomes available to the fishery) drops off at high spawning stock densities; or (2) becomes independent of spawning stock density above a certain level. The spawner-recruitment relationship data from Bristol Bay suggests that we are dealing with the first form, although at this early stage of knowledge other forms cannot be discounted. The development of spawner-recruitment relationships is a product of an ongoing analysis which builds on the use of additional data as each resource assessment 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 using various size limits and exploitation rates. These catches will not reduce the spawning population of females below the required optimum. An example based on 1980 data is given in Table

(1.)
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 (1.) 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 of male crab which

does not result in a decline of 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 fixed number, but rather a pre-season indication of the harvest that can be expected. It will usually be given as a range within which the season 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 and assessment surges just prior to the season. (See Section 4.9, In-season Adjustment of Time and Area).

4.2 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 late 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 the biological sensitive period to encourage effort on to a stock of low productivity 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, allows greater participation by local fleets, and it results in lesser utilization of the capacity of large vessels that could otherwise fish a number of areas in succession. The timing of the

season opening is also important in determining the price paid to fishermen, the distribution of floating processors, and ability to meet processor's marketing commitments.

4.3 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. Since crab pots are lost during normal fishing operations, 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.

In determining the need for gear restrictions, consideration will be given to:

1. the biological impacts on target and non-target species;
2. harvesting efficiency; and
3. previously made investments in gear and vessels.

4.4 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 and seven days following a season.

4.5 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.

Regulations which describe the means by which king crab fishing gear may be stored during the closed season will continue to be developed. These regulations will be based on analyses of the following information:

1. the biological impacts of storing gear at sea;
2. the enforcement costs of determining whether fishing gear stored at sea is in a non-fishing condition;
3. the costs borne by the fleet to store gear;
4. availability of on land or at sea storage areas; and
5. possible gear conflicts.

4.6 Vessel Tank Inspection

Vessel tank (live-hold) 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 1-5 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, 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 a tank inspection requirement is limited to a period not to exceed five days prior to the commercial fishing season opening.

4.7 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 authorizes experimental harvest and processing of females by permit, based on the following:

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

4.8 Registration Areas

The BS/AI king crab fishery is currently 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 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.

In determining the need for designating a registration area as exclusive or non-exclusive, consideration will be given to:

1. the need to protect industrial and community investments;
2. the ability to properly manage the fishery;
3. providing fleets a reasonable opportunity to participate in the fishery;
4. promoting the most efficient utilization of vessels and gear; and
5. availability of similar management measures which would limit overall fishing effort.

4.9 In-season Adjustment of Time and Area

It is expected that the actual opening and/or closing dates of the seasons for specific fishing areas covered in this plan may necessitate, for conservation and management purposes, rapid adjustments immediately prior to or during the seasons. Such action is not considered an emergency action that would require amendment of the plan; adjusting the time and area of fishing is meant to be an inherent part of the seasons.

These adjustments in time and area are necessary to achieve the OY in all segments of the fishery without the risk of overfishing individual segments. Four circumstances relative to the attainment of the OY are illustrative of the general need for these time and area adjustments:

1. When the OY has been achieved for a geographically manageable area then the fishing season will terminate.
2. OY's are based upon projections several months in advance of the actual conduct of the fishery. Because variations in these projections may arise through evaluation of new information or re-evaluation of previous information, adjustments of time and area restrictions may be necessary during the fishing season. These evaluations may increase or decrease the projections of the OY's and may necessitate a corresponding adjustment of the season.
3. Time and area adjustments may be necessary in-season to minimize the wastage of the resource from sources such as deadloss.

4. Even when the optimum yield projections remain unchanged through the season, adjustment of time and area restrictions may be necessary to assure achievement of the OY in mixed stock fisheries. For example, the Southeast Alaska troll salmon fishery has been temporarily closed (10 days) during the middle of the season because the harvest rate of chinook salmon was so great that the OY for chinook would have been achieved in the troll fishery before the OY of coho salmon could be reached (coho runs begin later than chinook). Closure of the season due to achievement of the OY for one species requires closure of the entire fishing season since the fishery harvests the two species simultaneously.

Although a substantial data base exists for the Alaska king crab fishery, it is not yet possible to provide narrowly defined numerical criteria (or check lists) for making in-season management decisions, each case must be considered individually through analyses of current season data coupled with historical trends of resource status and fishery performance.

This framework plan for king crab does provide that seasons and areas shall be subject to in-season adjustment of fishing times and area 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.

4.10 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.

4.11 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.

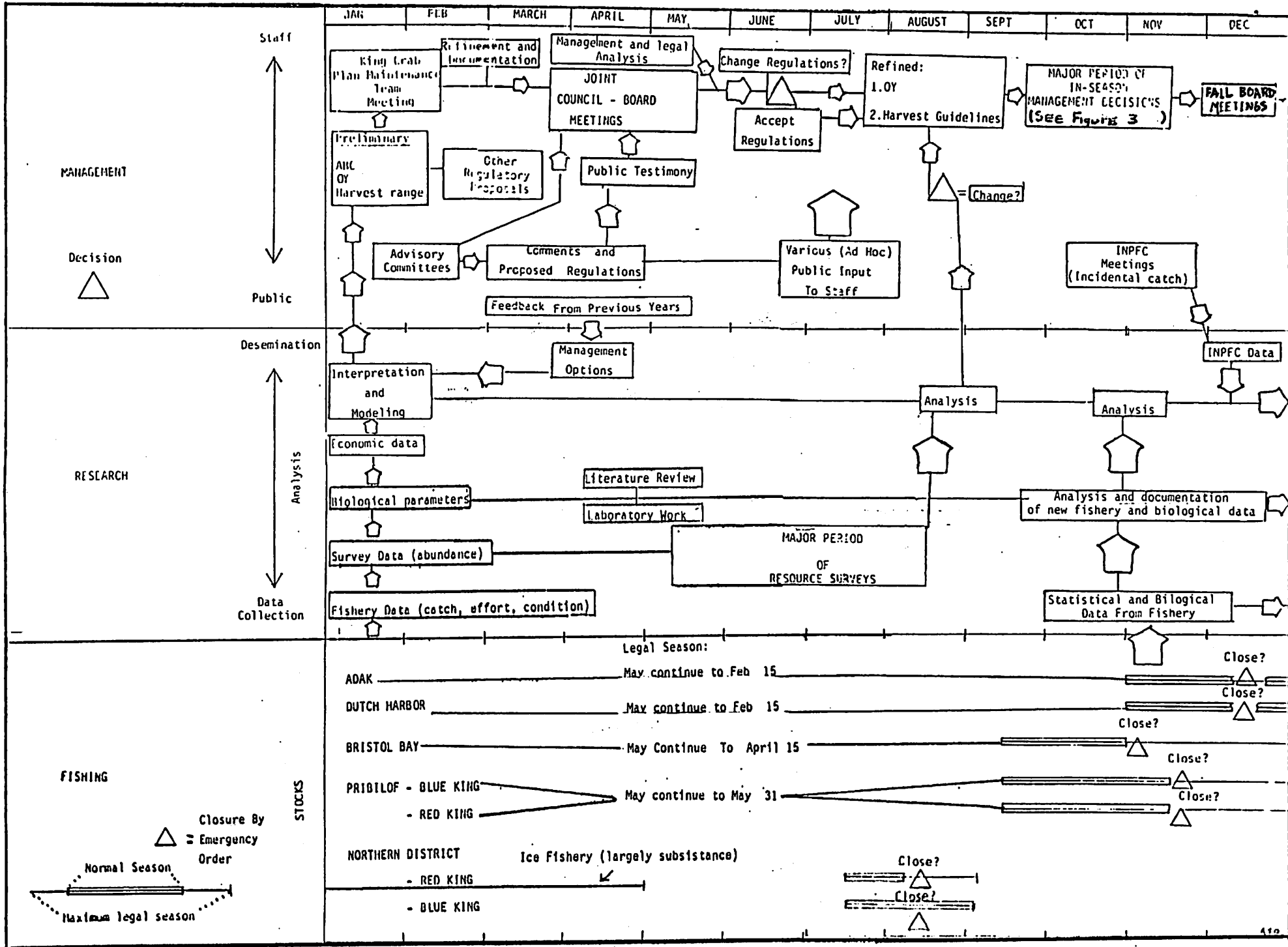
5.0 TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING

The domestic fishing and processing capacity greatly exceeds the OY for the Alaska king crab resource covered by this plan (see section on Description of Domestic Fishery in Appendix 8.5). 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 8.5).

6.0 MANAGEMENT PROCEDURE

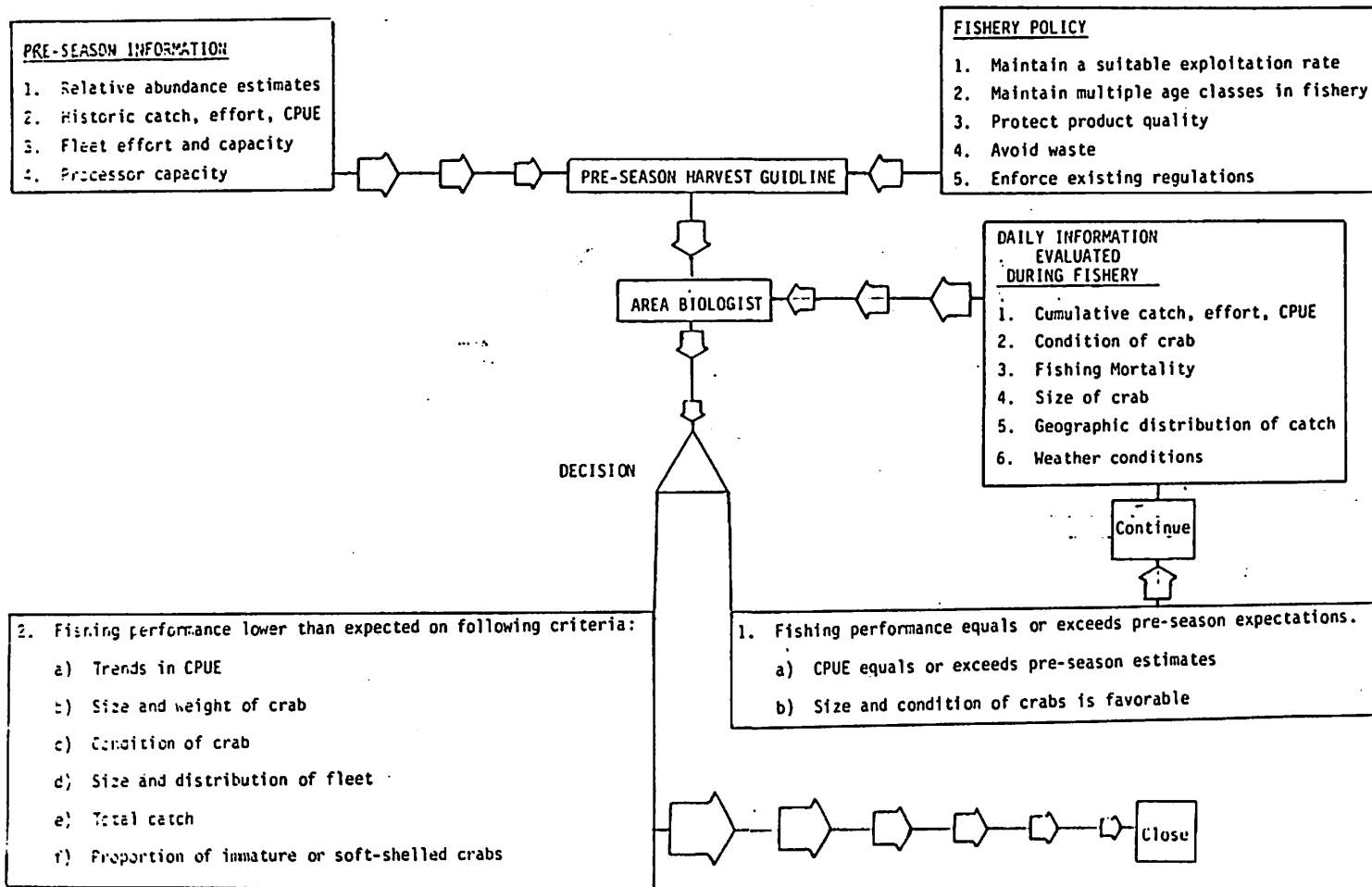
This management plan requires an annual review of king crab management measures and regulations by the Alaska Board of Fisheries and the North Pacific Fishery Management Council. In order to conduct this review, the Board and Council rely on proposals and advice received during the year from fishery biologists, economists, industry representatives, advisory committee's and the public. The review process is ongoing with reports, meetings and decisions conducted at a specific time in relation to the upcoming fishery. The proposed procedure for managing the fishery and how it encompasses research and fishing input are illustrated in Figures 2 and 3.

Figure 2 -- Yearly cycle of King crab management.



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Figure 3 -- Information used to manage fisheries.



7.0 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 (NPFMC) 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 MFCMA.

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 MFCMA.

The Federal government (through the NPFMC, the Alaska Regional ^{Office} of National Marine Fisheries Service (NMFS) and the Secretary) and the State (through the Alaska Board of Fisheries (ABOF) and Alaska Department of Fish and Game (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 MFCMA 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 regulations shall be consistent with the MFCMA, 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.
6. 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 MFCMA or other applicable law.
7. The Secretary shall have the final authority to supercede or supplement any State regulation which he determines to be inconsistent with the FMP, the MFCMA, or other applicable law.
8. 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 meetings. 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.

9. 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 NMFS 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.