

M E M O R A N D U M

TO: Council, SSC, and AP members

FROM: Jim H. Branson
Executive Director

DATE: September 13, 1982

SUBJECT: Tanner Crab Fishery Management Plan

ACTION REQUIRED

Review and final approval of the regulatory housekeeping amendment (Amendment #8) to the Tanner Crab FMP.

BACKGROUND

Over the last several years inconsistencies have arisen between State and Federal regulations, generally because of differences in reaction time by both management entities to changes within the Tanner crab fishery. These inconsistencies are causing confusion among fishermen, processors, enforcement agents, and managers alike.

The Tanner crab PMT recommended at the May meeting that we update the plan and regulations to coincide with current State regulations. They suggested a two-phase approach: (1) the preparation of a "housekeeping" amendment to eliminate current regulatory inconsistencies that create problems for the industry; and (2) development of a major amendment to streamline the FMP by improving the Plan's sensitivity and response time and remove all remaining inconsistencies. The Council concurred with their recommendation and directed the Team to prepare a housekeeping amendment. Following a small modification to the amendment at its July meeting, the Council approved the amendment for public review. A copy of the amendment is included as Item D-4(a). The public comment period began on August 2 and it closes at this meeting. A summary of all written comments received to date is provided as Item D-4(b).

The proposed amendment consists of six parts; Pot Limits, Gear Placement, Size Limit, Gear Restrictions, ABC/OY, and Fishing Seasons. Each part contains a list of possible regulatory alternatives from which the Council must adopt one. Following approval of the preferred alternatives, the staff will prepare the necessary supporting documents and submit the amendment for Secretarial review.

Amendment #7, which established new C. bairdi OYs and set C. opilio equal to DAH (i.e. TALFF = 0), was published in the Federal Register on September 3, 1981 as a proposed rule. We are still waiting for its publication as a final rule. No date has been given by NMFS for final publication.

The Northwest and Alaska Fisheries Center Summer Trawl Survey is now complete and currently undergoing analysis. A preliminary report on the status of the Bering Sea Tanner crab stocks will be available.

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1983 MANAGEMENT RECOMMENDATIONS AND CONSIDERATIONS
FOR THE TANNER CRAB FISHERY IN THE FCZ OFF ALASKA
PROPOSED AMENDMENT #8

I. INTRODUCTION

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

Over the last several years, inconsistencies have arisen between State and Federal regulations, caused by differences in reaction time of both management entities in response to changes within the Tanner crab fishery. Some of these regulatory inconsistencies have produced confusion among fishermen, processors, and managers alike. It is the intent of the North Pacific Fishery Management Council (the Council) to eventually streamline the Tanner crab FMP and improve the plan's sensitivity and response time to changes within the fishery, and to eliminate all inconsistencies between Federal and State regulations. This in itself will be a difficult and time consuming process. In the meantime, the Council has requested that an amendment to the FMP be prepared that focuses solely on those inconsistent management measures and regulations that currently create problems to the industry. Following this amendment, a second, more substantive amendment will be prepared as stated, to improve the plan's long term sensitivity and response time.

II. REGULATORY PROPOSALS

Specific regulatory alternatives for the Tanner crab fishery have been submitted by the Tanner crab Plan Maintenance Team (PMT), Council members, the Advisory Panel and individuals and are listed below. Alternatives that will bring the FMP and Federal regulations into exact conformity with State regulations are indicated by an asterisk (*). The Council wishes to put these proposals out for public review and discussion. Based on public testimony and any new information, the Council will approve the final amendment at their September meeting.

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

A. Pot Limits

1. Eliminate all existing Federal pot limits.
2. Maintain Status Quo. In Federal regulations there are no Federal limits except for Cook Inlet (75 pots). In the FMP, limits are specified for both Cook Inlet and the Southeastern area (60-100 pots).

- *3. Bring Federal pot limits into exact conformity with regulations of the State; remove limits for Cook Inlet (75 pots) and add limits to the Southeast (60-100 pots), Prince William Sound (175 pots) and Kodiak (250 pots) areas.

B. Gear Placement

- *1. Eliminate the 72 hour provision for on-the-grounds pot storage prior to the season opening.
- 2. Maintain Status Quo of 72 hour provision prior to the season opening in all districts. The State has no provision for on-the-grounds storage prior to a season opening in any district.

C. Size Limit

- *1. Establish a 3.1 inch (78 mm) minimum size limit for male Chionoecetes opilio.
- 2. Maintain Status Quo of no minimum size limit. The State established a 3.1 inch minimum size in March 1982.

D. Gear Restrictions

- *1. Prohibit the use of side-loading Tanner crab pots in the Yakutat District within the Southeastern Management Area.
- 2. Maintain Status Quo. All side-loading pots with Tanner boards and top-loading pots are legal with restrictions only on tunnel eye opening size.

E. Allowable Biological Catch/Optimum Yield

- 1. Update ABC/OY values.
- 2. Maintain Status Quo. Values differ from State guidelines and actual stock conditions in several areas.

F. Fishing Seasons

- *1. Update all season dates to coincide with those currently employed by the State of Alaska.
- 2. Maintain Status Quo. Considerable variance exists between the FMP, Federal regulations, and State regulations.

III. DISCUSSION OF REGULATORY PROPOSALS

A. Pot Limits

- 1. Eliminate all existing Federal pot limits.

Discussion: Pot limits are often used as a protective measure for small and vulnerable crab stocks, or as a social measure to promote equality among fishermen. Originally, limitations on the units of Tanner crab gear allowed per vessel were applied in areas that possessed limits on king crab gear, and where portions of the king

and Tanner crab seasons would overlap. In the Southeastern Management Area, a pot limit was established to protect small crab populations within state waters.

Since the implementation of the FMP certain conditions within the fishery have changed requiring a similar change in the pot limits. First State then Federal regulations were revised. It has been several years since the last pot limit amendment and several new inconsistencies now exist as outlined below:

<u>Area</u>	<u>In FMP</u>	<u>In Federal Regulations</u>	<u>In State Regulations</u>
Southeast (Area A)	60-100	0	100
Cook Inlet (Area H)	75	75	0
Kodiak (Area J)	0	0	250
Prince William Sound (Area E)	0	0	100-175

2. Maintain Status Quo.

If the plan is not amended, the pot limit inconsistencies between the FMP, Federal regulations, and State regulations would remain.

3. Bring Federal pot limits into exact conformity with regulations of the State.

Discussion: As shown in the table above, there are Federal pot limit regulations in the Cook Inlet area. The State no longer has a Tanner crab pot limit in this area but do have limits in the Southeast, Prince William Sound and Kodiak management areas. To bring Federal regulations and the FMP into exact conformity with the State, pot limits would have to be designated in these three areas and removed from Cook Inlet.

B. Gear Placement

1. Eliminate the 72 hour provision for on-the-ground pot storage prior to the season opening.

Discussion: For the past two years, there has been confusion among Kodiak fishermen concerning the placement of Tanner crab pots on the grounds prior to the season opening. The regulation was originally designed to provide fishermen the opportunity to transfer their gear to the grounds in areas where considerable time was necessary to get to the grounds, and/or where they lacked sufficient pot unloading/loading facilities. With the use of at sea pot storage areas and the construction of new port facilities, the State dropped the 72 hour provision prior to the season opening, but maintained the 72 hour allowance for gear on the grounds following a season closure. Because of this inconsistency fishermen are concerned about the enforcement of State law versus Federal law. The PMT has reviewed this regulation and determined it unnecessary for management. The team recommends the 72 hour provision be dropped.

2. Maintain Status Quo.

C. Size Limit

1. Establish a minimum size limit for male C. opilio Tanner crab of 3.1 inch (78 mm) carapace width.

Discussion: Crab stocks in the Bering Sea and Aleutian Islands area have declined in recent years, thereby increasing harvesting pressure on newly developed fisheries such as the one for opilio Tanner crab. It is, therefore, considered desirable to establish a minimum biological size limit to protect these stocks from possible overharvest. A size limit was established in 1976 for bairdi Tanner crab at the size at which 50% of the male crab population is sexually mature, plus one year's growth. The bairdi size limit has proven successful in protecting the reproductive character of the stocks. Using the same rationale for opilio fishery results in a minimum size limit of 3.1 inches (78 mm). Adoption of this alternative would parallel recent State action taken at the March 1982 Shellfish meeting.

2. Maintain Status Quo.

No action would leave opilio Tanner crab with no minimum size limit in the FCZ, probably of no immediate consequence since the minimum size now preferred by processors is approximately 4 inches (101.6 mm). Establishing a minimum biological size limit at this time would safeguard against changes in market demand and conform to inshore regulations.

D. Gear Restrictions

1. Prohibit the use of side-loading Tanner crab pots in the Yakutat District within the Southeastern Management Area.

Discussion: Considerable quantities of Pacific halibut are captured in pots used in the king and Tanner crab fisheries in the Gulf of Alaska and Bering Sea. The Yakutat district of the Southeastern Management Area is known to contain large concentrations of small halibut which are frequently captured in crab pots. This regulation would help reduce the incidental catch of this species.

Studies in this district examining the halibut catch rate of both side-loading and top-loading crab pots have been conducted by the North Pacific Fishery Management Council, the International Pacific Halibut Commission, and the Alaska Department of Fish and Game. They showed that side-loading pots catch significantly greater numbers of halibut than top loading pots, with the average catch of Tanner crab being almost the same for both gear types (Figure 1). The studies also show that side-loading crab pots equipped with "Tanner boards" to reduce the size of the tunnel opening, significantly reduced the number of large halibut captured when compared to pots not equipped with "boards." However, these pots still captured small halibut.

Since the incidental catch of halibut (especially juveniles) is extremely high in the Yakutat district, this regulation is considered necessary for the conservation of the halibut resource. The State adopted a similiar regulation at their March 1982 Shellfish meeting. The majority of Tanner crab fishermen in this area use top-loading pots, so requiring their use will involve minimal cost to present participants.

2. Maintain Status Quo.

Discussion: Since the majority of the fishermen in the Yakutat area use top-loading Tanner crab pots, the adoption of this alternative would probably have no effect on the halibut resource in the short term. However, some fishermen do use side-loading pots with "Tanner Boards" which capture significant numbers of juvenile halibut. In addition, there is always the possibility that new fishermen will enter this fishery and utilize the side-loading crab pots commonly used elsewhere in Alaska. An increase in use of this gear type in the Yakutat area could have significant impacts on the halibut population, not just in the Yakutat area, but the Gulf of Alaska as a whole.

E. Allowable Biological Catch/Optimum Yield

1. Update ABC/OY values

Discussion: At the March 1982 Shellfish meeting, the State removed their Tanner crab harvest guidelines for the Westward area. The State will instead announce prior to the start of the Tanner crab season, a harvest forecast based on the most recent summer surveys. This move was taken to eliminate the problem of establishing harvest guidelines (i.e. OYs) based on old survey information far in advance of the fishery that frequently proved incorrect. To develop a similar "framework" OY system under the FMP would require considerable time and is not within the scope of this amendment. Such a revision to the plan will be undertaken in a later amendment.

The PMT recommends updating Federal ABC/OY values based on the latest available data.

During the last two years new data have indicated that ABC/OY values in the FMP for the Kodiak and Bering Sea areas are too high. Based on the most recent survey information, the following ABC/OY values (in millions of pounds) should be used:

	<u>Area</u>	<u>Species</u>	<u>ABC</u>	<u>OY</u>	<u>Actual or current 1982 harvest</u>
(a)	Kodiak	<u>bairdi</u>	9-15	13.4	13.7
(b)	Bering Sea	<u>bairdi</u>	12-16	14	10.7
(c)	Bering Sea	<u>opilio</u>	16-29	DAH*	27.3

*DAH = Domestic Annual Harvest

2. Maintain Status Quo.

Discussion: The ABC/OY values currently in the FMP were best estimates based on then available data. These values are too high and misleading to the industry as harvest projections.

	<u>Area</u>	<u>Species</u>	<u>ABC</u>	<u>OY</u>
(a)	Kodiak	<u>bairdi</u>	35	35
(b)	Bering Sea	<u>bairdi</u>	28-36	22-33
(c)	Bering Sea	<u>opilio</u>	91	39.5-91

F. Fishing Seasons

1. Revise all season openings and closures so they are the same as those currently set by the State of Alaska.

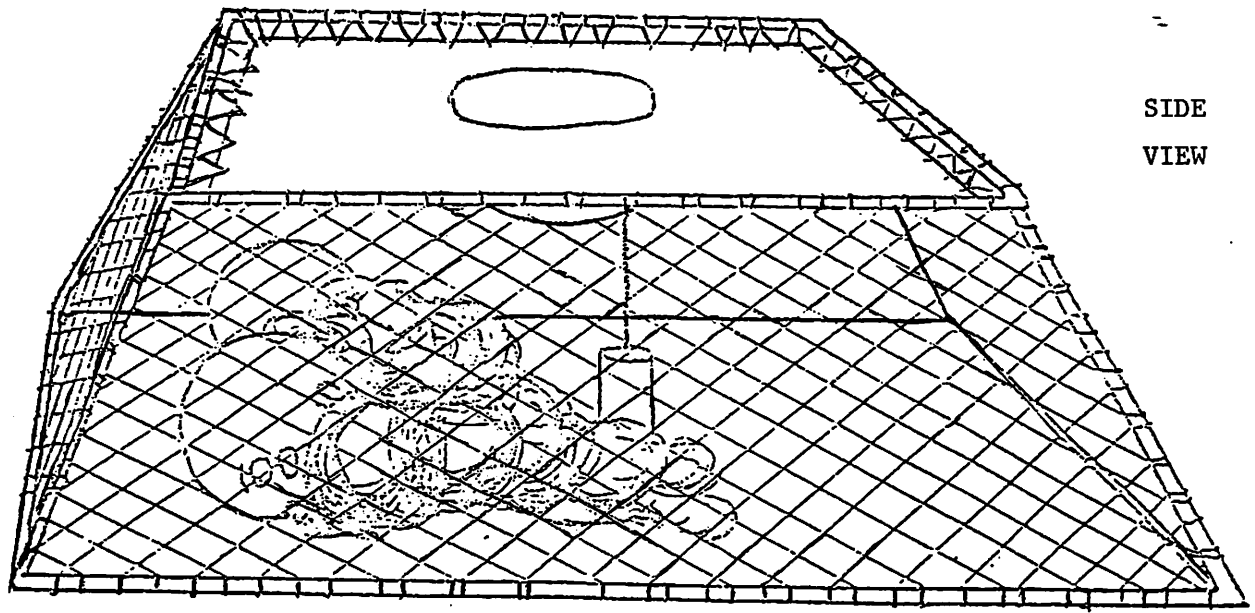
Discussion: Fishing seasons are established during periods when crab are not molting or reproducing, and at times when the meat content is high and handling mortality low. Seasons are then adjusted further based on a variety of social, economic and weather factors. In March 1982 the State of Alaska revised some of its season dates. It is the Council's intent to have the Tanner crab fishery in the FCZ coincide with the fishery in State waters. Therefore, it is desirable to make similiar season adjustments in the FMP and Federal regulations. The following are current season inconsistencies and the proposed changes:

<u>Area</u>	<u>FMP</u>	<u>Federal Regs</u>	<u>State Regs</u>	<u>Proposed Changes</u>
Chignik	12/1 - 5/15	12/15 - 5/15	2/10 - 5/15	2/10 - 5/15
South Pen.	12/1 - 5/15	12/15 - 5/15	2/10 - 5/15	2/10 - 5/15
Kodiak	1/22 - 4/30	2/10 - 4/30	2/10 - 4/30	Update FMP
W. Aleutian	1/15 - 6/15	1/15 - 6/15	11/1 - 6/15	11/1 - 6/15
E. Aleutian	1/15 - 6/15	2/15 - 6/15	2/15 - 6/15	Update FMP
Bering Sea				
bairdi	1/22 - 6/15	2/15 - 6/15	2/15 - 6/15	Update FMP
opilio	1/22 - 8/15	2/15 - F.O.*	2/15 - 8/1	Update FMP
Nome Section & Norton Sound	--	--	--	Closed to Tanner crab fishing

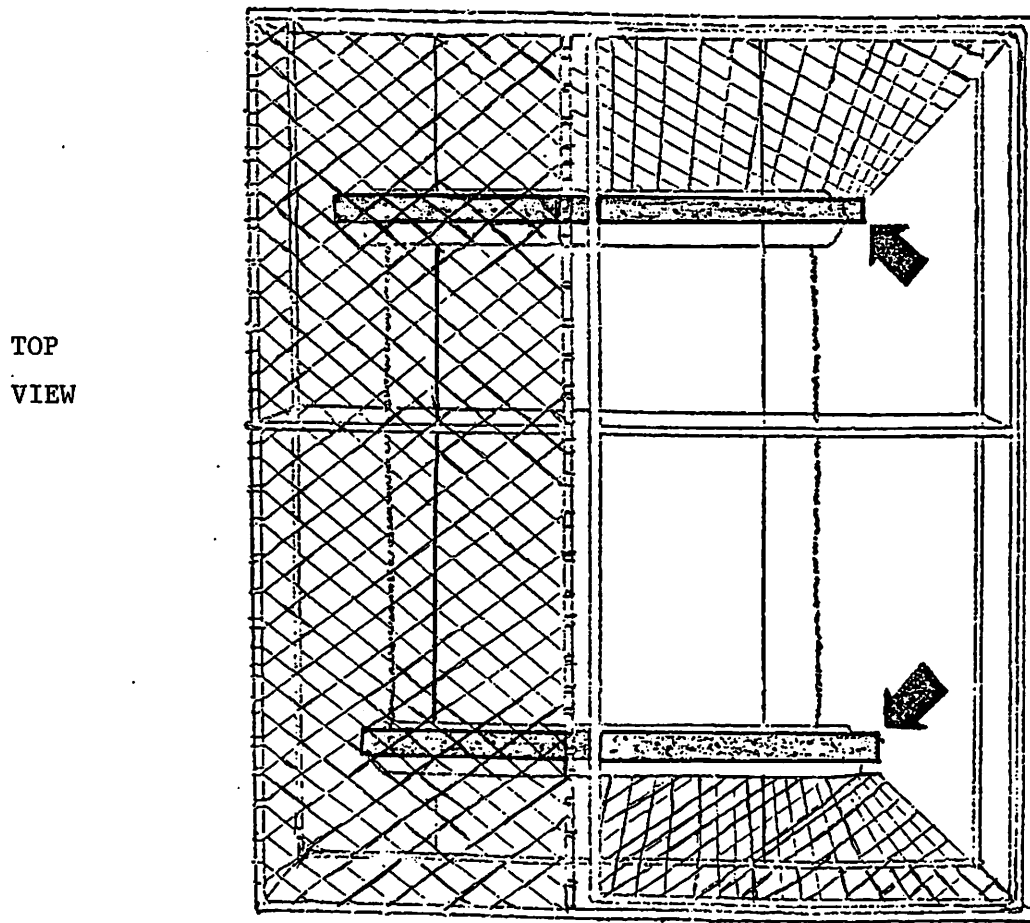
*Field Order

2. Maintain Status Quo.

Discussion: If nothing is done, the differences between the FMP, Federal regulations and State regulations will remain.



SIDE
VIEW



TOP
VIEW

Figure 1. Top entry Tanner crab pot with hinged base(above). King crab pot converted for Tanner crab fishing(below, arrows indicate tunnel reduction slats,i.e. Tanner boards).

TANNER CRAB AMENDMENT #8

Public Comments Received by September 15, 1982

Capt. James R. Nutgrass, Region II Commander, Alaska Department of Public Safety, Fish and Wildlife Protection Division, said that the Division supports all regulatory alternatives within the amendment which will bring the FMP and federal regulations into exact conformity with state regulations. Such alternatives would eliminate confusion and aid the Division in their enforcement responsibility of Tanner crab regulations.

C.C. Eickhoff, Oregon-based fisherman, supports consistency between federal and state pot limits in all areas, the 3.1 inch minimum biological size limit for C. opilio, and the prohibition of side-loading pots in the Yakutat area as long as a fair amount of time is given to fishermen to switch to top-loading pots. He also recommends either adjusting ABC/OY values using recent data or drop them entirely from the regulations. Mr. Eickhoff is opposed to the removal of a 72-hour period prior to season openings, stating that this time is needed especially for pot-loading in the Kodiak area.



**North Pacific
Fishing Vessel
Owners' Association**

	ROUTE TO	INITIAL
	Exec. Dir.	AGENDA D-4(B)
	Deputy Dir.	Supplemental
	Asst. Dir.	September 1982
	Asst. Dir.	
	Asst. Dir.	
	Asst. Dir.	
	Asst. Dir.	
	Asst. Dir.	
	Asst. Dir.	
	Asst. Dir.	
	Asst. Dir.	
<i>Late Comment</i>		<i>File</i>

September 9, 1982

SEP 16 1982

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

Dear Mr. Branson:

This letter contains the comments of the North Pacific Fishing Vessel Owners' Association on proposed Amendment #8 to the Tanner Crab Fishery Management Plan (FMP).

The Association positions on the amendment proposals are as follows:

Pot Limits

Eliminate all existing federal pot limits.

Gear Placement

Maintain 72-hour provision for on-the-grounds storage prior to season opening in the Bering Sea management area.

Gear Restrictions

Continue to allow the use of side-entry pots in the Yakutat district.

Fishing Seasons

See "Specific Comments" section below.

GENERAL COMMENTS

The Association is deeply troubled by the Council's professed intent "to manage the Tanner crab resources off Alaska in a manner that is consistent with the State of Alaska's management regime." This statement seems to ignore the mandate of Congress in the Magnuson Fishery Conservation and Management Act (MFCMA) that it is the Council which develops the management system for

fishery resources in the Fishery Conservation Zone and it is the State which must make its shoreward management regime compatible with that of the Council's. In this instance, why is the Council allowing "the tail to wag the dog?"

No doubt, the litany of objections that the Association made about the Board's procedures during the debate over the King Crab Fishery Management Plan are fresh in the Council's mind. Rather than repeat all those comments, suffice it to say that the Board has been known to adopt regulations in response to the desires of local fishermen while lacking data to support these decisions. ~~Wholesale adoption of the Board of Fisheries' tanner crab regulations~~ without critical, independent review by the Council could be construed by some as tacit approval of the manner in which the Board operates.

The Association does not think that the State's tanner crab regulations under discussion in the proposed amendment have undergone a thorough examination by the Council. This is apparent in the way in which the proposed amendment was written and presented to the public for comment. At best, explanations of each amendment proposal are perfunctory. For example, the public is generally informed that pot limits are often used to protect crab stocks or as a social measure to promote equality among fishermen. Yet when a pot limit is proposed for a specific area, no explanation is given of why the limit is needed or how the number of pots was established. In addition, many of the proposals seem to be based on data which is neither presented nor specifically cited in the proposed amendment. (The Association suspects many of the proposed amendment's shortcomings are the result of the Board's inability to explain and substantiate its decisions.)

Whatever the cause of the proposed amendment's deficiencies, the public is deprived of an opportunity to critically review and meaningfully comment on the Council's proposed action. The amount of data that is required to be in a fishery management plan was articulated by the U.S. Court of Appeals, Ninth Circuit, in Washington Trollers Association v. Kreps, 645 F.2d 684, 686(1981):

"The 'summary of information utilized' in the Plan's specifications...must...provide information sufficient to enable an interested or affected party to comment intelligently on those specifications"

The Ninth Circuit also cited with approval the Second Circuit's comments in United States v. Nova Scotia Food Products Corp., 568 F.2d 240, 252(1977):

"To suppress meaningful comment by failure to disclose the basic data relied upon is akin to rejecting comment altogether."

Certainly, proposed Amendment #8 does not meet the standard which the Court set forth in the Washington Trollers Association case.

SPECIFIC COMMENTS

A. Pot Limits

The Association believes that all existing federal pot limits should be abolished. The real intention of imposing these pot limits is to protect local small boat fleets from competition with highly mobile large vessels, primarily owned by non-Alaskan residents. Consequently, the pot limits constitute an allocation. For an allocation to be consistent with National Standard 4 of the MFCMA, it must be (a) "fair and equitable" and (b) "reasonably calculated to promote conservation." We see no evidence that the pot limits set out in the proposed amendment meet these criteria. Furthermore, the Association thinks these pot limits violate National Standard 5 since they appear to promote inefficiency in the use of fishery resources and have economic allocations as their sole purpose.

The imposition of pot limits may also violate National Standard 7 of the MFCMA:

"Conservation and management measures shall, where practicable, minimize costs...."

Can these proposed pots limits be enforced? Do the costs of enforcement outweigh the benefits? It is interesting to note that the September 15, 1980 version of the Council's King Crab Plan states that "Enforcement of pot limits has generally been difficult and impractical." Has the situation changed since then?

How do pot limits protect small and vulnerable crab stocks? Where are these stocks?

Nowhere in the FMP is it stated that "promoting equality among fishermen" is an objective of the Tanner Crab Plan. Therefore, how can the Council justify the imposition of pot limits to achieve this goal?

The proposed amendment notes that a pot limit was established in the Southeast area "to protect small populations within state waters." (emphasis added.) Where are the data to indicate there are small populations in the FCZ waters of the management area that need protection and that pot limits will provide this protection?

Why did the State establish pot limits for the Kodiak and Prince William Sound areas? How did the Board of Fisheries settle on the number of pots which would be allowed in those areas which have pot limits?

The "Discussion" section supposedly justifying the elimination of pot limits is really a rationale for bringing federal regulations into exact conformity with those of the State. What are the arguments for eliminating pot limits?

B. Gear Placement

While the 72-hour provision for on-the-grounds pot storage prior to the season opening may not be needed for Kodiak, it is needed for the Bering Sea management area. Although there is an at-sea storage area in the Bering Sea, fishermen generally would not store their pots there between the end of king crab season and the beginning of the tanner crab fishery; because of ice, gear would be stored ashore. The loading and unloading facilities used by the Bering Sea fishermen are not adequate to quickly and efficiently handle the pots. Thus, the 72-hour provision should be retained for the ~~Bering Sea~~ tanner crab fisheries.

C. Gear Restrictions

Attached to this letter are the comments of the Association on the side-entry prohibition when this proposal was being discussed at the March 1982 Board of Fisheries meeting. To the Association's knowledge, the issues raised in these comments were never addressed by the Board.

Where are the data that show that "considerable quantities of Pacific halibut are captured in pots used in the king and Tanner crab fisheries in the Gulf of Alaska and Bering Sea." What is meant by "considerable quantities"?

What are the quantities of small halibut that are "frequently captured" in tanner pots in the Yakutat district? How frequently are they caught in tanner pots?

Where are the data which show that the incidental catches are jeopardizing the halibut stocks in Yakutat?

What catch rate studies is the amendment referring to?

The Association assumes that in adopting the ban on side-entry pots, the Board of Fisheries relied on the November 1981 Alaska Department of Fish and Game document, "Special Report to the Board of Fisheries: Yakutat Tanner Crab Fishery Onboard Observer Program, January-March 1981." This report is subject to question for a number of reasons. Apparently some of the observations took place during a period in which the tanner crab fishery no longer operates in the Yakutat area (January 9 - January 31). The report was only based on one year's fishery. The report does not explain what caused the significant difference in catch rates for side-entry pots used in Yakutat and those used in Seal Rocks and Blying Sound. There is also no explanation for the report's statement that "'tanner boards' themselves may not be a solution to the problem." Furthermore, the report fails to

define the magnitude of the "problem."

The proposed amendment contradicts itself. In discussing the need for the ban, it states the incidental catch of halibut in the Yakutat district is high and this regulation is necessary for conservation. Then in discussing the effect of maintaining the status quo, the amendment notes that since most fishermen in the area use top-entry pots, "it [the side-entry pot ban] would probably have no effect on the halibut resource in the short term." If most fishermen don't use side-entry pots, why have a restriction?

The amendment fails to suggest another alternative to a ban on side-entry pots: requiring the use of tanner boards. Why isn't this option considered?

Where are the data that show that those fishermen who use tanner boards "capture significant numbers of juvenile halibut"? How many fishermen is the amendment talking about? How many are these "significant numbers of juvenile halibut"?

Is the "possibility that new fishermen will enter this fishery and utilize the side-loading crab pots" a justification for the ban? (emphasis added)

How could an increase in the use of side-entry pots with tanner boards in the Yakutat district "have significant impacts on the halibut population, not just in the Yakutat area, but the Gulf of Alaska as a whole"? Where are the statistics to support such a claim?

What are the costs to the fishermen of changing from side-entry to top-entry pots? What is the difference in catch ability of tanner crab between side-entry (with tanner boards) and top-entry pots? Are the overall costs to the crab fishermen outweighed by the benefits to the halibut fishermen?

D. Allowable Biological Catch/Optimum Yield

Where are the data (or at least a reference to the data) that substantiate the ABC and OY figures?

What happens if subsequent surveys indicate that ABC and OY should be increased? Will the Regional Director shut down the fisheries based on the FMP figures or will the latest surveys be followed? Why can't the FMP be written now in such a manner as to assure that the ABC and OY will reflect the latest surveys without necessitating constant amendment of the FMP?

E. Fishing Seasons

It is virtually impossible for the Association to comment on the season dates because there is no information in the proposed amendment that explains how the season for each area was determined. Nor is there any explanation why the State seasons are better than the federal seasons.

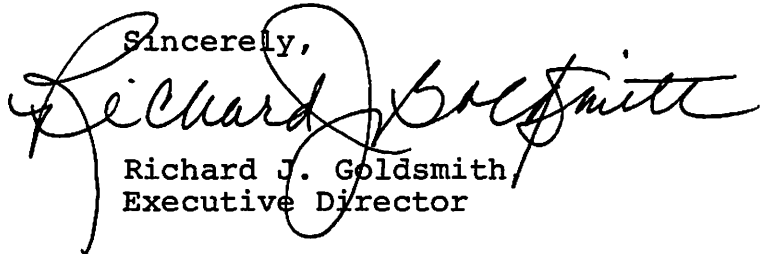
Where in the Tanner Crab FMP does it state that seasons are adjusted on the basis of a variety of social, economic and weather factors? What are these factors?

For each area, what were the factors that the Board of Fisheries used to justify its selection of opening and closing dates? Where are the data to substantiate these decisions?

Why should the Nome section and Norton Sound be closed to tanner crab fishing?

The Association appreciates this opportunity to comment on the proposed amendment.

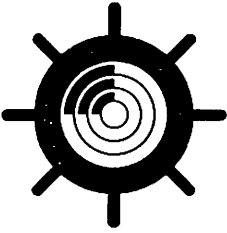
Sincerely,

A handwritten signature in cursive script that reads "Richard J. Goldsmith". The signature is written in black ink and is positioned above the typed name and title.

Richard J. Goldsmith
Executive Director

Attachment

ATTACHMENT



**North Pacific
Fishing Vessel
Owners' Association**

Proposal #18

"Prohibit the use of sideloading king and tanner crab pots in the Yakutat area."

The Association opposes this proposal. It believes the real purpose of this proposal is to keep non-Yakutat fishermen out of the area.

Note: { There has been no data to show that there is a high incidental catch of halibut in the Yakutat area that is jeopardizing the stocks. Nor is there data which demonstrate high incidental catches are attributable to the side-entry pots used by the crab fishermen. Even if such data were available, NPFVOA believes there is an obligation to consider less drastic and economically disruptive means of reducing incidental catches, such as the installation of tanner boards, than imposing an outright ban on side-entry pots.

Before the Board of Fisheries adopts this proposal, it must answer the following questions:

- (1) Is there a high incidental catch of halibut in the Yakutat area?
- (2) Is this catch jeopardizing the halibut stocks?
- (3) Is this catch attributable to side-entry crab pots?
- (4) What is an acceptable level of incidental catch by side-entry pots?
- (5) Can this level be achieved by modification of the side-entry gear?
- (6) What would be the financial cost to fishermen (individually and as a group) to modify the side-entry pots?
- (7) Are there other methods of reducing incidental catches by side-entry pots?
- (8) What are the costs (financial and economic) of these methods?
- (9) If side-entry pots are to be prohibited, will this ban affect the productivity

of the tanner crab and king crab fisheries?

- (10) Does this loss in productivity and its socioeconomic effects on the local community and fishing industry outweigh the value of preserving the halibut stocks?

To be responsive and responsible to the fishing industry and society, NPFVOA believes that it is necessary for the Board to answer these and other questions posed by a prohibition on side-entry pots in the Yakutat area.

Apparently, the information being used to justify this proposal is a report which compares halibut and crab catches in side-entry and top-entry crab pots, and in side-entry pots with and without tanner boards. The report was prepared by the International Pacific Halibut Commission (IPHC) and the Alaska Department of Fish and Game for the North Pacific Fishery Management Council.¹ As will be pointed out, the Council Report does not back up the claims of the proposal makers. Nor does it respond to most of those questions which NPFVOA posed above.

note: { The Council Study states that the International Pacific Halibut Commission estimates that "1.6 and 2.0 million pounds of halibut were caught in the king and tanner crab fisheries, respectively, in the Gulf of Alaska during the 1979/1980 season."² However, the study also notes that "Information on the incidental catch of halibut in the crab fishery is lacking...." (emphasis added).³

Although the study was conducted in the Yakutat area (see Table 6 of the Appendix for fishing locations), nowhere does it state the extent of the incidental catch of halibut in this area. The Board should also be aware that the Council Study was not conducted to explore the incidental catch of halibut in the Yakutat area by crab gear but was carried out for the following objectives:

- (1) Test the hypothesis that top-entry crab pots catch fewer halibut (per unit soak time) than side-entry (rectangular) pots.
- (2) Test the effectiveness of the two pot types in catching crab.
- (3) Test the hypothesis that "tanner boards" reduce the catch of halibut in side-entry pots.⁴

Furthermore, one of the three tasks of the Council Study was to "[a]nalyze data from the experiment and report their interpretation relative to objectives."⁵

The preparers of the study also recognized that data on incidental catches of halibut were necessary. Recommendation 2 of the study partially declares that "An observer program should be conducted to... establish rates of incidence in the commercial fishery." (emphasis added)⁶

NPFVOA did an analysis of the data gathered during the course of Experiment I of the Council Study, which compared the catch of halibut and crab in side-entry and top-entry pots. The Association came up with the following statistics. (Note: Due to the poor quality of reproduction of NPFVOA's copy of the Council Study, the figures and percentages are based on 195 pots fished, rather than the 198 pots used in the study.)

Pots with no halibut or crab	66 (33.8%)
Pots with no halibut or one or more crab	48 (24.6%)
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Total pots catching no halibut	114 (58.4%)
Pots with one or more halibut and no crab	58 (29.7%)
Pots with halibut and crab	23 (11.9%)
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Total pots catching halibut	81 (41.6%)

Table 1 of the Appendix also shows that when 15 or more crabs were caught in a pot, either no halibut or at the most two halibut were also caught. Of the 18 pots where there were 15 or more crabs caught, 13 pots (72.2%) had no halibut, 3 pots (16.6%) had only one halibut, and 2 pots (11.2%) had two halibut.

These figures might indicate that where there are large quantities of crab, there are few halibut to be caught. It has been the experience of the Association's members that there is no extensive intermixing between halibut and crab except during migratory periods. We suggest that the Board might wish to conduct further inquiries into the distribution of crab relative to halibut during tanner crab and king crab seasons.

One finding of the study was that tanner boards reduced the catch of halibut in side-entry pots by 63%.⁷ "Perhaps more importantly," the study noted, "the use of 'tanner boards' almost eliminated the catch of halibut over 90 cm in length."⁸

Communication between NPFVOA and White Metal Fabricating Inc. of Seattle, Washington has resulted in the following price quotations for tanner boards and 300-500 pound top-entry crab pots (pyramid pots):

\$1.70	Wooden Tanner Boards
\$9.60	Plastic Tanner Boards
\$210.00	Pyramid Pot

If a fisherman who fished 200 side-entry pots were to install tanner boards, his costs would be \$340 (wood) or \$1920 (plastic). To change to a top-entry pyramid pot would be a \$42,000 investment.

Note:

The Council Report recognizes the high financial costs that gear changes would entail. One of its recommendations was that "[f]urther gear research should be conducted to determine if side-entry pots can be modified to significantly reduce halibut loss with little cost."⁹

It has been the experience of NPFVOA's members that fishing pyramid pots for king crab has not been very successful. Thus, the Board should consider the socioeconomic impact on the fishing industry if side-entry pots are banned. In prohibiting side-entry pots to reduce or eliminate the incidental catch of halibut, the Board may be adversely affecting those dependent on king crab, a sphere of people much larger than those whose livelihood is tied to the halibut fishery.

¹ "A comparison of halibut and crab catches in: (1) side-entry and top-entry crab pots; and (2) side-entry crab pots with and without tanner boards," Draft Final Report on North Pacific Fishery Management Council Contract No. 81-3, November 20, 1980. Hereinafter called "Council Report" or "Council Study."

² Council Report page 7

³ Council Report page 7

⁴ Council Report page 8

⁵ Council Report page 8

⁶ Council Report page 2

⁷ Council Report page 2

⁸ Council Report page 2

⁹ Council Report page 2

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

P.O. BOX 3-2000
JUNEAU, ALASKA 99802
PHONE:

September 15, 1982

Mr. Clem Tillion, Chairman
North Pacific Fishery Management
Council
P.O. Box 3136 DT
Anchorage, Alaska 99510

Dear Clem:

The following are the Alaska Department of Fish and Game comments on the amendments to the Tanner crab fishery management plan (FMP).

I recommend the Council continue to follow the State's lead in Tanner crab regulation and management planning; at least until an evaluation of the efficacy of the current FMP can be made. I understand, however, the Council may be reluctant to delve into this FMP until such time as the king crab FMP is operational. In the interim, I encourage to Council to strive for consistency with State regulations by solving several administrative problems addressed in the proposed amendment. Specifically, I recommend the Council support the following amendment options:

A. Pot Limits

3. Bring the FCZ Federal pot limits into exact conformity with the regulations of the State; remove pot limits for Cook Inlet (75 pots) [and add limits to the Southeast (60-100 pots)] and pot limits for Prince William Sound (175 pots) and Kodiak (250 pots).

Discussion: I recommend deleting consideration of Federal pot limits for Southeast Alaska. Current State regulations specify that the pot limits apply to only a portion of the interal waters of the State. There is no demonstrated need for Tanner crab pot limits for FCZ waters off Southeastern.

Tanner crab gear limitations have been utilized by the State as a management tool since prior to enactment of the MFCMA. Although pot limits present additional enforcement burdens, their use has had a beneficial effect for management of heavily capitalized fisheries. In selected fisheries, the State has enacted, modified, and repealed pot limits as a result of extensive public debate on the merits of each proposal. The administrative record on this topic is voluminous. As presently configured, pot limits have been set as an average of the number of units of gear a typical vessel may fish profitably. Pot limits act to prevent gear saturation

problems by allowing more vessels to fish in areas of high crab density. Since the amount of gear is limited in a particular fishery, the fishery proceeds at a slower pace. Management is able to more closely monitor the effects of a slower harvest rate and thereby permit the harvest of the OY with less concern of overharvest.

B. Gear Placement

1. Eliminate the 72 hour provision for on the grounds pot storage prior to the season opening.

Discussion: This regulation was eliminated by the State in 1980 and has since presented enforcement problems because of conflicting State and Federal regulations. The 72 hour provision for on the grounds pot storage prior to the season openings, was originally intended to provide a "fair start" of the actual fishing operations. The State eliminated this regulation because enforcement to prevent fishing prior to the season opening could not be guaranteed.

C. Size Limit

1. Establish a 3.1 inch (78 mm) minimum size limit for male C. opilio.

Discussion: The Board of Fisheries adopted a 3.1 inch (carapace width) minimum size limit for male opilio Tanner crab during their March 1982 meeting. This minimum size was based upon the same rationale used for setting the bairdi Tanner crab size limit; the minimum is that size at which 50% of the male population is sexually mature plus one year's growth. Although the industry now has a self imposed size limit greater than 3.1 inches, there was concern that the industry might lower it's acceptable size limit to something below the 3.1 inches due to substantially diminished availability. This minimum size limit is necessary to protect the reproductive potential of the stocks.

D. Gear Restrictions

1. Prohibit the use of side-loading Tanner crab pots in the Yakutat District within the Southeastern Management Area.

Discussion: Effective January 1, 1983, State regulations prohibit the use of side-loading Tanner crab pots in the Yakutat District. This regulation was the result of two years of scientific data collection and public comment. Results of a special study (Council Contract 81-3) and an observer program (1981 Region I staff report to the Board), demonstrate the negative impacts upon halibut stocks through the use of side-loading Tanner crab pots. Alternatively, top loading crab pots (the only gear permitted after January 1, 1983) captured significantly fewer halibut but approximated the Tanner crab catching power of side loading pots. Since most of the fishermen in this fishery now utilize top loading pots, the economic impacts of such a requirement is minimal.

E. Allowable Biological Catch/Optimum Yield

1. Update ABC/OY Values

Discussion: During the March 1982 Board of Fisheries meeting, guideline harvest limits were repealed for individual Tanner crab fisheries in the Westward region (Area J). This action was taken to eliminate the confusion caused by out-of-date guideline harvest levels in the regulations vis a vis new survey information prior to a fishery. The guideline harvest levels will now be announced immediately prior to the season and be based upon the latest stock status information.

Many of the ABC/OY values specified in the FMP are badly out-of-date. Values for all area fisheries except Southeastern should be modified to reflect the latest stock status information. However, experience with the slow Federal amendment process raises questions whether the proposed changes will be enacted in time for the 1982/83 season.

F. Fishing Seasons

1. Revise all season openings and closures so they are the same as those currently set by the State.

Discussion: State fishing seasons are based upon an amalgamation of several biological and industry economic goals. Industry's interests are far from homogeneous, providing the Board of Fisheries much lively discussion and debate prior to adopting the fishing seasons. In setting seasons, the Board considers such factors as: biologically sensitive time periods (mating, molting, and soft shell); fishing efficiency; product quality and meat recovery rates; weather and ice which affects vessels and crew safety; scheduling of other fisheries such as king crab and salmon; and the costs of enforcement and management.

The proposed amendment generally reduces the fishing season for most Tanner crab fisheries. The Board determined that with increased effort and declining stock abundance, guideline harvest's levels could be taken in a shorter season. Most seasons now begin later in the winter as weather and product quality improve.

Recently, the Board adopted a regulation to close Tanner crab fishing year-round in the Norton Sound area. The basis of their decision was:

- 1) evidence that commercial quantities of Tanner crab are not found in Norton Sound and 2) concern for enforcement of the Norton Sound king crab fishing seasons (Tanner crab gear could covertly target on the smaller Norton Sound king crab during the closed king crab season).

The opilio Tanner crab fishery in the Bering Sea has stabilized at reduced levels. Markets and stock levels are such that this fishery should be closed by August 1 rather than through a Federal field order. This past season the RD closed the season on August 1 due to increased levels of dead loss and declining fishing effort. During the past two seasons most

of the Tanner crab harvesting and processing effort shifted into other fisheries. However, several vessels and processors continued to work on Tanner crab until mid-summer when they shifted to king crab fisheries. No industry interest in Tanner crab has been demonstrated after August 1. To leave this fishery open past this date presents significant enforcement problems to assure the opening of various Bering Sea king crab fisheries.

Thank you for this opportunity to comment. I encourage the Council to fully endorse the current State Tanner crab management as a matter of policy, unless specific management measures can be demonstrated to be in violation of the National Standards or in conflict with the FMP's objectives.

Sincerely,

Ronald O. Skoog

for Ronald O. Skoog
Commissioner
(907) 465-4100

cc: Robert McVey-NMFS
Mil Zahn - Boards