



Alaska Department of Fish and Game

Board of Fisheries

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**ALASKA BOARD OF FISHERIES**  
 Index to Select Findings and Policies Tab  
 Statewide King and Tanner Crab March 2014 Meeting

	<b>Finding / Policy</b>	<b>Reference #</b>
1	Joint Board Petition Policy	5 AAC 96.625
2	Sustainable Salmon Policy	5 AAC 39.222
3	Board Generated Proposal Criteria	2013-270-FB
4	Findings regarding Operating Procedures Policy for Written Public Comment	2012-268-FB
5	Findings regarding Operating Procedures for the Board of Fisheries Motion to Reconsider	2012-267-FB
6	Continuation of the Crab Observer Oversight Task Force	2008-260-FB
7	Resolution Regarding Authority of the Board of Fisheries to Allocate Within Fisheries	2007-252-FB
8	Delegation of Authority to Correct Technical Errors before Filing Regulations	2006-205-FB
9	BS/AI Crab Rationalization Task Force	2003-223A-FB
10	Policy on Emergency Petition Process	2000-203-FB
11	Procedures for Board of Fisheries Meeting Committees	2000-200-FB
12	Alaska Board of Fisheries Committee Policy Statement	2000-199-FB
13	Area O Brown King Crab Season	99-190-FB
14	CDQ Crab	99-189-FB
15	Bering Sea Tanner Crab Management Plan	99-188-FB
16	Bristol Bay Red King Crab Fishery	99-187-FB
17	BS/AI Crab Observer Oversight Task Force	99-186-FB
18	Policy on Written Findings	1999-184-FB
19	Mixed Stock Policy Finding	1993-145-FB



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20	Bering Sea/Aleutian Islands – Crab Fisheries, Pot Limits Finding [Previously FB-5-92]	92-137-FB
21	Allocation Criteria	1991-129-FB
22	Alaska Board of Fisheries Standing Rule	1991-128-FB
23	Policy on King and Tanner Crab Resource Management	1990-04-FB
24	Federal Bering Sea / Aleutian Island Crab Fisheries Management Plan	Sections 7, 8.2, 8.3, appendix 1 and 2.

## 5 AAC 96.625. JOINT BOARD PETITION POLICY

- (a) Under AS 44.62.220, an interested person may petition an agency, including the Boards of Fisheries and Game, for the adoption, amendment, or repeal of a regulation. The petition must clearly and concisely state the substance or nature of the regulation, amendment, or repeal requested, the reason for the request, and must reference the agency's authority to take the requested action. Within 30 days after receiving a petition, a board will deny the petition in writing, or schedule the matter for public hearing under AS 44.62.190--44.62.210, which require that any agency publish legal notice describing the proposed change and solicit comment for 30 days before taking action. AS 44.62.230 also provides that if the petition is for an emergency regulation, and the agency finds that an emergency exists, the agency may submit the regulation to the lieutenant governor immediately after making the finding of emergency and putting the regulation into proper form.
- (b) Fish and game regulations are adopted by the Alaska Board of Fisheries and the Alaska Board of Game. At least twice annually, the boards solicit regulation changes. Several hundred proposed changes are usually submitted to each board annually. The Department of Fish and Game compiles the proposals and mails them to all fish and game advisory committees, regional fish and game councils, and to over 500 other interested individuals.
- (c) Copies of all proposals are available at local Department of Fish and Game offices. When the proposal books are available, the advisory committees and regional councils then hold public meetings in the communities and regions they represent, to gather local comment on the proposed changes. Finally, the boards convene public meetings, which have lasted as long as six weeks, taking department staff reports, public comment, and advisory committee and regional councils reports before voting in public session on the proposed changes.
- (d) The public has come to rely on this regularly scheduled participatory process as the basis for changing fish and game regulations. Commercial fishermen, processors, guides, trappers, hunters, sport fishermen, subsistence fishermen, and others plan business and recreational ventures around the outcome of these public meetings.
- (e) The Boards of Fisheries and Game recognize the importance of public participation in developing management regulations, and recognize that public reliance on the predictability of the normal board process is a critical element in regulatory changes. The boards find that petitions can detrimentally circumvent this process and that an adequate and more reasonable opportunity for public participation is provided by regularly scheduled meetings.
- (f) The Boards of Fisheries and Game recognize that in rare instances circumstances may require regulatory changes outside the process described in (b) - (d) of this section. Except for petitions dealing with subsistence hunting or fishing, which will be evaluated on a case-by-case basis under the criteria in 5 AAC 96.615(a), it is the policy of the boards that a petition will be denied and not schedule for hearing unless the problem outlined in the petition justifies a finding of emergency. In accordance with state policy expressed in AS 44.62.270, emergencies will be held to a minimum and are rarely found to exist. In this section, an emergency is an unforeseen, unexpected event that either threatens a fish or game resource, or an unforeseen, unexpected resource situation where a biologically allowable resource harvest would be precluded by delayed regulatory action and such delay would be significantly burdensome to the petitioners because the resource would be unavailable in the future. (Eff. 9/22/85, Register 95; am 8/17/91, Register 119; readopt 5/15/93, Register 126)

Authority: AS 16.05.251, AS 16.05.255, AS 16.05.258

## **5 AAC 39.222. Policy for the management of sustainable salmon fisheries**

(a) The Board of Fisheries (board) and Department of Fish and Game (department) recognize that

(1) while, in the aggregate, Alaska's salmon fisheries are healthy and sustainable largely because of abundant pristine habitat and the application of sound, precautionary, conservation management practices, there is a need for a comprehensive policy for the regulation and management of sustainable salmon fisheries;

(2) in formulating fishery management plans designed to achieve maximum or optimum salmon production, the board and department must consider factors including environmental change, habitat loss or degradation, data uncertainty, limited funding for research and management programs, existing harvest patterns, and new fisheries or expanding fisheries;

(3) to effectively assure sustained yield and habitat protection for wild salmon stocks, fishery management plans and programs require specific guiding principles and criteria, and the framework for their application contained in this policy.

(b) The goal of the policy under this section is to ensure conservation of salmon and salmon's required marine and aquatic habitats, protection of customary and traditional subsistence uses and other uses, and the sustained economic health of Alaska's fishing communities.

(c) Management of salmon fisheries by the state should be based on the following principles and criteria:

(1) wild salmon stocks and the salmon's habitats should be maintained at levels of resource productivity that assure sustained yields as follows:

(A) salmon spawning, rearing, and migratory habitats should be protected as follows:

(i) salmon habitats should not be perturbed beyond natural boundaries of variation;

(ii) scientific assessments of possible adverse ecological effects of proposed habitat alterations and the impacts of the alterations on salmon populations should be conducted before approval of a proposal;

(iii) adverse environmental impacts on wild salmon stocks and the salmon's habitats should be assessed;

(iv) all essential salmon habitat in marine, estuarine, and freshwater ecosystems and access of salmon to these habitats should be protected; essential habitats include spawning and incubation areas, freshwater rearing areas, estuarine and nearshore rearing areas, offshore rearing areas, and migratory pathways;

(v) salmon habitat in fresh water should be protected on a watershed basis, including appropriate management of riparian zones, water quality, and water quantity;

(B) salmon stocks should be protected within spawning, incubating, rearing, and migratory habitats;

(C) degraded salmon productivity resulting from habitat loss should be assessed, considered, and controlled by affected user groups, regulatory agencies, and boards when making conservation and allocation decisions;

(D) effects and interactions of introduced or enhanced salmon stocks on wild salmon stocks should be assessed; wild salmon stocks and fisheries on those stocks should be protected from adverse impacts from artificial propagation and enhancement efforts;

(E) degraded salmon spawning, incubating, rearing, and migratory habitats should be restored to natural levels of productivity where known and desirable;

(F) ongoing monitoring should be conducted to determine the current status of habitat and the effectiveness of restoration activities;

(G) depleted salmon stocks should be allowed to recover or, where appropriate, should be actively restored; diversity should be maintained to the maximum extent possible, at the genetic, population, species, and ecosystem levels;

(2) salmon fisheries shall be managed to allow escapements within ranges necessary to conserve and sustain potential salmon production and maintain normal ecosystem functioning as follows:

(A) salmon spawning escapements should be assessed both temporally and geographically; escapement monitoring programs should be appropriate to the scale, intensity, and importance of each salmon stock's use;

(B) salmon escapement goals, whether sustainable escapement goals, biological escapement goals, optimal escapement goals, or inriver run goals, should be established in a manner consistent with sustained yield; unless otherwise directed, the department will manage Alaska's salmon fisheries, to the extent possible, for maximum sustained yield;

(C) salmon escapement goal ranges should allow for uncertainty associated with measurement techniques, observed variability in the salmon stock measured, changes in climatic and oceanographic conditions, and varying abundance within related populations of the salmon stock measured;

(D) salmon escapement should be managed in a manner to maintain genetic and phenotypic characteristics of the stock by assuring appropriate geographic and temporal distribution of spawners as well as consideration of size range, sex ratio, and other population attributes;

(E) impacts of fishing, including incidental mortality and other human-induced mortality, should be assessed and considered in harvest management decisions;

(F) salmon escapement and harvest management decisions should be made in a manner that protects non-target salmon stocks or species;

(G) the role of salmon in ecosystem functioning should be evaluated and considered in harvest management decisions and setting of salmon escapement goals;

(H) salmon abundance trends should be monitored and considered in harvest management decisions;

(3) effective management systems should be established and applied to regulate human activities that affect salmon as follows:

(A) salmon management objectives should be appropriate to the scale and intensity of various uses and the biological capacities of target salmon stocks;

(B) management objectives should be established in harvest management plans, strategies, guiding principles, and policies, such as for mixed stock fishery harvests, fish disease, genetics, and hatchery production, that are subject to periodic review;

(C) when wild salmon stocks are fully allocated, new fisheries or expanding fisheries should be restricted, unless provided for by management plans or by application of the board's allocation criteria;

(D) management agencies should have clear authority in statute and regulation to

(i) control all sources of fishing mortality on salmon;

(ii) protect salmon habitats and control non-fishing sources of mortality;

(E) management programs should be effective in

(i) controlling human-induced sources of fishing mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;

(ii) protecting salmon habitats and controlling collateral mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;

(F) fisheries management implementation and outcomes should be consistent with regulations, regulations should be consistent with statutes, and effectively carry out the purpose of this section;

(G) the board will recommend to the commissioner the development of effective joint research, assessment, and management arrangements with appropriate management agencies and bodies for salmon stocks that cross state, federal, or international jurisdictional boundaries; the board will recommend the coordination of appropriate procedures for effective monitoring, compliance, control, and enforcement with those of other agencies, states, or nations;

(H) the board will work, within the limits of its authority, to assure that

(i) management activities are accomplished in a timely and responsive manner to implement objectives, based on the best available scientific information;

(ii) effective mechanisms for the collection and dissemination of information and data necessary to carry out management activities are developed, maintained, and utilized;

(iii) management programs and decision-making procedures are able to clearly distinguish, and effectively deal with, biological and allocation issues;

(I) the board will recommend to the commissioner and legislature that adequate staff and budget for research, management, and enforcement activities be available to fully implement sustainable salmon fisheries principles;

(J) proposals for salmon fisheries development or expansion and artificial propagation and enhancement should include assessments required for sustainable management of existing salmon fisheries and wild salmon stocks;

(K) plans and proposals for development or expansion of salmon fisheries and enhancement programs should effectively document resource assessments, potential impacts, and other information needed to assure sustainable management of wild salmon stocks;

(L) the board will work with the commissioner and other agencies to develop effective processes for controlling excess fishing capacity;

(M) procedures should be implemented to regularly evaluate the effectiveness of fishery management and habitat protection actions in sustaining salmon populations, fisheries, and habitat, and to resolve associated problems or deficiencies;

(N) conservation and management decisions for salmon fisheries should take into account the best available information on biological, environmental, economic, social, and resource use factors;

(O) research and data collection should be undertaken to improve scientific and technical knowledge of salmon fisheries, including ecosystem interactions, status of salmon populations, and the condition of salmon habitats;

(P) the best available scientific information on the status of salmon populations and the condition of the salmon's habitats should be routinely updated and subject to peer review;

(4) public support and involvement for sustained use and protection of salmon resources should be sought and encouraged as follows:

(A) effective mechanisms for dispute resolution should be developed and used;

(B) pertinent information and decisions should be effectively disseminated to all interested parties in a timely manner;

(C) the board's regulatory management and allocation decisions will be made in an open process with public involvement;

(D) an understanding of the proportion of mortality inflicted on each salmon stock by each user group, should be promoted, and the burden of conservation should be allocated across user groups in a manner consistent with applicable state and federal statutes, including [AS 16.05.251](#) (e) and [AS 16.05.258](#) ; in the absence of a regulatory management plan that otherwise allocates or restricts harvests, and when it is necessary to restrict fisheries on salmon stocks where there are known conservation problems, the burden of conservation shall be shared among all fisheries in close proportion to each fisheries' respective use, consistent with state and federal law;

(E) the board will work with the commissioner and other agencies as necessary to assure that adequately funded public information and education programs provide timely materials on salmon conservation, including habitat requirements, threats to

salmon habitat, the value of salmon and habitat to the public and ecosystem (fish and wildlife), natural variability and population dynamics, the status of salmon stocks and fisheries, and the regulatory process;

(5) in the face of uncertainty, salmon stocks, fisheries, artificial propagation, and essential habitats shall be managed conservatively as follows:

(A) a precautionary approach, involving the application of prudent foresight that takes into account the uncertainties in salmon fisheries and habitat management, the biological, social, cultural, and economic risks, and the need to take action with incomplete knowledge, should be applied to the regulation and control of harvest and other human-induced sources of salmon mortality; a precautionary approach requires

(i) consideration of the needs of future generations and avoidance of potentially irreversible changes;

(ii) prior identification of undesirable outcomes and of measures that will avoid undesirable outcomes or correct them promptly;

(iii) initiation of any necessary corrective measure without delay and prompt achievement of the measure's purpose, on a time scale not exceeding five years, which is approximately the generation time of most salmon species;

(iv) that where the impact of resource use is uncertain, but likely presents a measurable risk to sustained yield, priority should be given to conserving the productive capacity of the resource;

(v) appropriate placement of the burden of proof, of adherence to the requirements of this subparagraph, on those plans or ongoing activities that pose a risk or hazard to salmon habitat or production;

(B) a precautionary approach should be applied to the regulation of activities that affect essential salmon habitat.

(d) The principles and criteria for sustainable salmon fisheries shall be applied, by the department and the board using the best available information, as follows:

(1) at regular meetings of the board, the department will, to the extent practicable, provide the board with reports on the status of salmon stocks and salmon fisheries under consideration for regulatory changes, which should include

(A) a stock-by-stock assessment of the extent to which the management of salmon stocks and fisheries is consistent with the principles and criteria contained in the policy under this section;

(B) descriptions of habitat status and any habitat concerns;

(C) identification of healthy salmon stocks and sustainable salmon fisheries;

(D) identification of any existing salmon escapement goals, or management actions needed to achieve these goals, that may have allocative consequences such as the

(i) identification of a new fishery or expanding fishery;

(ii) identification of any salmon stocks, or populations within stocks, that present a concern related to yield, management, or conservation; and

(iii) description of management and research options to address salmon stock or habitat concerns;

(2) in response to the department's salmon stock status reports, reports from other resource agencies, and public input, the board will review the management plan, or consider developing a management plan, for each affected salmon fishery or stock; management plans will be based on the principles and criteria contained in this policy and will

(A) contain goals and measurable and implementable objectives that are reviewed on a regular basis and utilize the best available scientific information;

(B) minimize the adverse effects on salmon habitat caused by fishing;

(C) protect, restore, and promote the long-term health and sustainability of the salmon fishery and habitat;

(D) prevent overfishing; and

(E) provide conservation and management measures that are necessary and appropriate to promote maximum or optimum sustained yield of the fishery resource;

(3) in the course of review of the salmon stock status reports and management plans described in (1) and (2) of this subsection, the board, in consultation with the department, will determine if any new fisheries or expanding fisheries, stock yield concerns, stock management concerns, or stock conservation concerns exist; if so, the board will, as appropriate, amend or develop salmon fishery management plans to

address these concerns; the extent of regulatory action, if any, should be commensurate with the level of concerns and range from milder to stronger as concerns range from new and expanding salmon fisheries through yield concerns, management concerns, and conservation concerns;

(4) in association with the appropriate management plan, the department and the board will, as appropriate, collaborate in the development and periodic review of an action plan for any new or expanding salmon fisheries, or stocks of concern; action plans should contain goals, measurable and implementable objectives, and provisions, including

(A) measures required to restore and protect salmon habitat, including necessary coordination with other agencies and organizations;

(B) identification of salmon stock or population rebuilding goals and objectives;

(C) fishery management actions needed to achieve rebuilding goals and objectives, in proportion to each fishery's use of, and hazards posed to, a salmon stock;

(D) descriptions of new or expanding salmon fisheries, management concern, yield concern, or conservation concern; and

(E) performance measures appropriate for monitoring and gauging the effectiveness of the action plan that are derived from the principles and criteria contained in this policy;

(5) each action plan will include a research plan as necessary to provide information to address concerns; research needs and priorities will be evaluated periodically, based on the effectiveness of the monitoring described in (4) of this subsection;

(6) where actions needed to regulate human activities that affect salmon and salmon's habitat that are outside the authority of the department or the board, the department or board shall correspond with the relevant authority, including the governor, relevant boards and commissions, commissioners, and chairs of appropriate legislative committees, to describe the issue and recommend appropriate action.

(e) Nothing in the policy under this section is intended to expand, reduce, or be inconsistent with, the statutory regulatory authority of the board, the department, or other state agencies with regulatory authority that impacts the fishery resources of the state.

(f) In this section, and in implementing this policy,

(1) "allocation" means the granting of specific harvest privileges, usually by regulation, among or between various user groups; "allocation" includes quotas, time periods, area restrictions, percentage sharing of stocks, and other management measures providing or limiting harvest opportunity;

(2) "allocation criteria" means the factors set out in [AS 16.05.251](#) (e) considered by the board as appropriate to particular allocation decisions under 5 AAC [39.205](#), 5 AAC [75.017](#), and 5 AAC [77.007](#);

(3) "biological escapement goal" or "(BEG)" means the escapement that provides the greatest potential for maximum sustained yield; BEG will be the primary management objective for the escapement unless an optimal escapement or inriver run goal has been adopted; BEG will be developed from the best available biological information, and should be scientifically defensible on the basis of available biological information; BEG will be determined by the department and will be expressed as a range based on factors such as salmon stock productivity and data uncertainty; the department will seek to maintain evenly distributed salmon escapements within the bounds of a BEG;

(4) "burden of conservation" means the restrictions imposed by the board or department upon various users in order to achieve escapement, rebuild, or in some other way conserve a specific salmon stock or group of stocks; this burden, in the absence of a salmon fishery management plan, will be generally applied to users in close proportion to the users' respective harvest of the salmon stock;

(5) "chronic inability" means the continuing or anticipated inability to meet escapement thresholds over a four to five year period, which is approximately the generation time of most salmon species;

(6) "conservation concern" means concern arising from a chronic inability, despite the use of specific management measures, to maintain escapements for a stock above a sustained escapement threshold (SET); a conservation concern is more severe than a management concern;

(7) "depleted salmon stock" means a salmon stock for which there is a conservation concern;

(8) "diversity", in a biological context, means the range of variation exhibited within any level of organization, such as among genotypes within a salmon population, among populations within a salmon stock, among salmon stocks within a species, among salmon species within a community, or among communities within an ecosystem;

(9) "enhanced salmon stock" means a stock of salmon that is undergoing specific manipulation, such as hatchery augmentation or lake fertilization, to enhance its productivity above the level that would naturally occur; "enhanced salmon stock" includes an introduced stock, where no wild salmon stock had occurred before, or a wild salmon stock undergoing manipulation, but does not include a salmon stock undergoing rehabilitation, which is intended to restore a salmon stock's productivity to a higher natural level;

(10) "escapement" means the annual estimated size of the spawning salmon stock; quality of the escapement may be determined not only by numbers of spawners, but also by factors such as sex ratio, age composition, temporal entry into the system, and spatial distribution within the salmon spawning habitat;

(11) "expanding fishery" means a salmon fishery in which effective harvesting effort has recently increased significantly beyond historical levels and where the increase has not resulted from natural fluctuations in salmon abundance;

(12) "expected yields" mean levels at or near the lower range of recent historic harvests if they are deemed sustainable;

(13) "genetic" means those characteristics (genotypic) of an individual or group of salmon that are expressed genetically, such as allele frequencies or other genetic markers;

(14) "habitat concern" means the degradation of salmon habitat that results in, or can be anticipated to result in, impacts leading to yield, management, or conservation concerns;

(15) "harvestable surplus" means the number of salmon from a stock's annual run that is surplus to escapement needs and can reasonably be made available for harvest;

(16) "healthy salmon stock" means a stock of salmon that has annual runs typically of a size to meet escapement goals and a potential harvestable surplus to support optimum or maximum sustained yield;

(17) "incidental harvest" means the harvest of fish, or other species, that is captured in addition to the target species of a fishery;

(18) "incidental mortality" means the mortality imposed on a salmon stock outside of directed fishing, and mortality caused by incidental harvests, interaction with fishing gear, habitat degradation, and other human-related activities;

(19) "inriver run goal" means a specific management objective for salmon stocks that are subject to harvest upstream of the point where escapement is estimated; the inriver run goal will be set in regulation by the board and is comprised of the SEG, BEG, or OEG, plus specific allocations to inriver fisheries;

(20) "introduced stock" means a stock of salmon that has been introduced to an area, or portion of an area, where that stock had not previously occurred; an "introduced salmon stock" includes a salmon stock undergoing continued enhancement, or a salmon stock that is left to sustain itself with no additional manipulation;

(21) "management concern" means a concern arising from a chronic inability, despite use of specific management measures, to maintain escapements for a salmon stock within the bounds of the SEG, BEG, OEG, or other specified management objectives for the fishery; a management concern is not as severe as a conservation concern;

(22) "maximum sustained yield" or "(MSY)" means the greatest average annual yield from a salmon stock; in practice, MSY is achieved when a level of escapement is maintained within a specific range on an annual basis, regardless of annual run strength; the achievement of MSY requires a high degree of management precision and scientific information regarding the relationship between salmon escapement and subsequent return; the concept of MSY should be interpreted in a broad ecosystem context to take into account species interactions, environmental changes, an array of ecosystem goods and services, and scientific uncertainty;

(23) "mixed stock fishery" means a fishery that harvests fish from a mixture of stocks;

(24) "new fishery" means a fishery that new units of effort or expansion of existing effort toward new species, areas, or time periods, results in harvest patterns substantially different from those in previous years, and the difference is not exclusively the result of natural fluctuations in fish abundance;

(25) "optimal escapement goal" or "(OEG)" means a specific management objective for salmon escapement that considers biological and allocative factors and may differ from the SEG or BEG; an OEG will be sustainable and may be expressed as a range with the lower bound above the level of SET, and will be adopted as a regulation by the board; the department will seek to maintain evenly distributed escapements within the bounds of the OEG;

(26) "optimum sustained yield" or "(OSY)" means an average annual yield from a salmon stock considered to be optimal in achieving a specific management objective other than maximum yield, such as achievement of a consistent level of sustained

yield, protection of a less abundant or less productive salmon stock or species, enhancement of catch per unit effort in sport fishery, facilitation of a non-consumptive use, facilitation of a subsistence use, or achievement of a specific allocation;

(27) "overfishing" means a level of fishing on a salmon stock that results in a conservation or management concern;

(28) "phenotypic characteristics" means those characteristics of an individual or group of salmon that are expressed physically, such as body size and length at age;

(29) "rehabilitation" means efforts applied to a salmon stock to restore it to an otherwise natural level of productivity; "rehabilitation" does not include an enhancement, which is intended to augment production above otherwise natural levels;

(30) "return" means the total number of salmon in a stock from a single brood (spawning) year surviving to adulthood; because the ages of adult salmon (except pink salmon) returning to spawn varies, the total return from a brood year will occur over several calendar years; the total return generally includes those mature salmon from a single brood year that are harvested in fisheries plus those that compose the salmon stock's spawning escapement; "return" does not include a run, which is the number of mature salmon in a stock during a single calendar year;

(31) "run" means the total number of salmon in a stock surviving to adulthood and returning to the vicinity of the natal stream in any calendar year, composed of both the harvest of adult salmon plus the escapement; the annual run in any calendar year, except for pink salmon, is composed of several age classes of mature fish from the stock, derived from the spawning of a number of previous brood years;

(32) "salmon" means the five wild anadromous semelparous Pacific salmon species *Oncorhynchus sp.*, except steelhead and cutthroat trout, native to Alaska as follows:

(A) chinook or king salmon (*O. tshawytscha*);

(B) sockeye or red salmon (*O. nerka*);

(C) coho or silver salmon (*O. kisutch*);

(D) pink or humpback salmon (*O. gorbuscha*); and

(E) chum or dog salmon (*O. keta*);

(33) "salmon population" means a locally interbreeding group of salmon that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics, comprised of an entire stock or a component portion of a stock; the smallest uniquely identifiable spawning aggregation of genetically similar salmon used for monitoring purposes;

(34) "salmon stock" means a locally interbreeding group of salmon that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics or an aggregation of two or more interbreeding groups which occur within the same geographic area and is managed as a unit;

(35) "stock of concern" means a stock of salmon for which there is a yield, management, or conservation concern;

(36) "sustainable escapement goal" or "(SEG)" means a level of escapement, indicated by an index or an escapement estimate, that is known to provide for sustained yield over a 5 to 10 year period, used in situations where a BEG cannot be estimated or managed for; the SEG is the primary management objective for the escapement, unless an optimal escapement or inriver run goal has been adopted by the board; the SEG will be developed from the best available biological information; and should be scientifically defensible on the basis of that information; the SEG will be determined by the department and will take into account data uncertainty and be stated as either a "SEG range" or "lower bound SEG"; the department will seek to maintain escapements within the bounds of the SEG range or above the level of a lower bound SEG;

(37) "sustainable salmon fishery" means a salmon fishery that persists and obtains yields on a continuing basis; characterized by fishing activities and habitat alteration, if any, that do not cause or lead to undesirable changes in biological productivity, biological diversity, or ecosystem structure and function, from one human generation to the next;

(38) "sustained yield" means an average annual yield that results from a level of salmon escapement that can be maintained on a continuing basis; a wide range of average annual yield levels is sustainable; a wide range of annual escapement levels can produce sustained yields;

(39) "sustained escapement threshold" or "(SET)" means a threshold level of escapement, below which the ability of the salmon stock to sustain itself is jeopardized; in practice, SET can be estimated based on lower ranges of historical escapement levels, for which the salmon stock has consistently demonstrated the ability to sustain itself; the SET is lower than the lower bound of the BEG and lower

than the lower bound of the SEG; the SET is established by the department in consultation with the board, as needed, for salmon stocks of management or conservation concern;

(40) "target species" or "target salmon stocks" means the main, or several major, salmon species of interest toward which a fishery directs its harvest;

(41) "yield" means the number or weight of salmon harvested in a particular year or season from a stock;

(42) "yield concern" means a concern arising from a chronic inability, despite the use of specific management measures, to maintain expected yields, or harvestable surpluses, above a stock's escapement needs; a yield concern is less severe than a management concern, which is less severe than a conservation concern;

(43) "wild salmon stock" means a stock of salmon that originates in a specific location under natural conditions; "wild salmon stock" may include an enhanced or rehabilitated stock if its productivity is augmented by supplemental means, such as lake fertilization or rehabilitative stocking; "wild salmon stock" does not include an introduced stock, except that some introduced salmon stocks may come to be considered "wild" if the stock is self-sustaining for a long period of time;

(44) "action point" means a threshold value for some quantitative indicator of stock run strength at which an explicit management action will be taken to achieve an optimal escapement goal.

**History: Eff. 9/30/2000, Register 155; am 11/16/2000, Register 156; am 6/22/2001, Register 158; am 6/10/2010, Register 194**

**Authority: [AS 16.05.251](#)**

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**ALASKA BOARD OF FISHERIES**

CRITERIA FOR DEVELOPMENT OF BOARD-GENERATED PROPOSAL

It has been suggested that criteria need to be established to guide Alaska Board of Fisheries (board) members when deliberating on whether or not to develop a board-generated proposal. The board will consider the following criteria when deliberating the proposed development and scheduling of a board-generated proposal:

1. Is it in the public's best interest (e.g., access to resource, allocation concerns, consistent intent, public process)?
2. Is there urgency in considering the issue (e.g., potential for escapement objectives not being met or sustainability in question)?
3. Are current processes insufficient to bring the subject to the board's attention (e.g., reconsideration policy, normal cycle proposal submittal, ACRs, petitions)?
4. Will there be reasonable and adequate opportunity for public comment (e.g., how far do affected users have to travel to participate, amount of time for affected users to respond)?

Approved: January 20, 2013  
Vote: 6-0  
Anchorage, Alaska

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Karl Johnstone, Chairman  
Alaska Board of Fisheries

**ALASKA BOARD OF FISHERIES****OPERATING PROCEDURES  
POLICY FOR WRITTEN PUBLIC COMMENT**

Any person may comment on the regulation changes, including the potential costs to the private persons of complying with the proposed changes, by submitting written public comments limited to no more than 100 single sided or 50 double sided pages to the Alaska Department of Fish and Game, Boards Support Section, P.O. Box 115526, Juneau, AK 99811-5526, or by fax to (907) 465-6094, so that the comments are received as a public comment (PC) no later than two weeks prior to the meeting during which the topic will be considered. Prior to the public comment deadline or unless otherwise specified for a particular meeting in a published notice, written public comments over 100 single sided or 50 double sided pages in length from any one individual or group relating to proposals at any one meeting will not be accepted.

Written public comments limited to 10 single sided or 5 double sided pages in length from any one individual or group will be accepted after the two-week deadline as a record copy (RC), but will not be inserted in board member workbooks until the beginning of the meeting, and will only be accepted until the Board begins deliberation of proposals.

**NEW PUBLIC COMMENT STANDARD:** Once deliberation of proposals begin at a board meeting, the board will **ONLY** accept written public comments that are not more than five single-sided pages, or the equivalent double-sided pages, unless specific information is requested by the Board that requires more pages than allowed under this standard.

During the meeting written public comments from any one individual or group may be submitted by hand delivery at any time if 25 copies are provided; but, as a practical matter comments submitted after the board begins deliberations on relevant proposals are likely to receive less consideration than comments submitted earlier.

Adopted: October 10, 2012  
Vote: 4-3  
Anchorage, Alaska

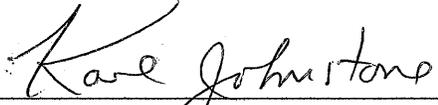
  
Karl Johnstone, Chairman  
Alaska Board of Fisheries

**ALASKA BOARD OF FISHERIES**

OPERATING PROCEDURES  
MOTION TO RECONSIDER

1. Only a board member who voted on the prevailing side of the original issue can move to reconsider a vote.
2. A motion to reconsider must be supported by a presentation of new evidence that was not before the board at the time the original vote was taken.
3. A board member who wishes to reconsider any vote must provide written notice to the chairman or notice on the record of his or her intent to move for reconsideration no later than 24 hours after the vote on the issue that reconsideration is requested. Failure to provide timely notice, either in writing or on the record, will preclude any member from moving to reconsider an earlier vote.
4. After receiving timely notice from a board member of his or her desire to reconsider a previous vote, the chair shall set a time and date to hear the motion to reconsider.

Adopted: October 10, 2012  
Vote: 5-2  
Anchorage, Alaska

  
Karl Johnstone, Chairman  
Alaska Board of Fisheries

**ALASKA BOARD OF FISHERIES**  
Continuation of the Crab Observer Oversight Task Force

**2008-260-FB**

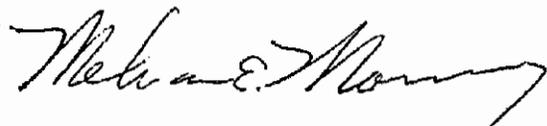
Pursuant to the Board's discussion and the requests of the stakeholders and their representatives, the board has determined that the continuation of the Crab Observer Oversight Task Force for the crab observer program and the program receipts system is useful.

At its March 2008 Statewide King and Tanner Crab meeting, the Board received nominations of intent to be kept as membership of this task force. The board notes that with the Bering Sea Aleutian Islands crab rationalization it is timely to review the membership of this task force. The board makes the following appointments:

Lance Farr – R/V Kevleen K  
Doug Wells – C/P Baranof  
Arni Thomson – Alaska Crab Coalition  
Jerry Bongen – FV Pacific Venture  
Ann Vanderhouvern – Bristol Bay Economic Dev. Corp.  
Jeff Stephan  
Dick Powell  
Linda Kozak

The term of this Oversight Task Force is three years. The board will review the membership and the charge through the Board's next Statewide King and Tanner Crab meeting.

The charge to the Oversight Task Force is outlined in Board Finding 99-186-FB.



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Mel Morris, Chair  
Alaska Board of Fisheries

Vote: 7 in favor, 0 opposed

**ALASKA BOARD OF FISHERIES**  
**A Resolution Regarding Authority of the Board of Fisheries to**  
**Allocate Within Fisheries**  
**2007-252-FB**

WHEREAS, Alaska Statute 16.05.251(e) provides that the Board of Fisheries may allocate fishery resources among personal use, sport, and commercial fisheries;

WHEREAS, Alaska Statute 16.05.251(e) has, prior to the Alaska Supreme Court's ruling in *Grunert v. State*, 109 P.3d 924, 330-32 (Alaska 2005) always been interpreted by the Board and its legal advisors to allow the Board to allocate fishery resources within a fishery;

WHEREAS, the Alaska Supreme Court, in *Grunert v. State*, 109 P.3d 924, 330-32 (Alaska 2005) and *State v. Grunert*, 139 P.3d 1226, 1235 (Alaska 2006), held that despite the provisions of AS 16.05.251(e) the Board does not have the authority to allocate fishery resources within a fishery;

WHEREAS, the Alaska Supreme Court in *State v. Grunert*, 139 P.3d 1226, 1236-37 (Alaska 2006); greatly limited the Board's ability to define what constitutes a fishery;

WHEREAS, there are numerous existing regulations that could be determined to directly or indirectly allocate within a fishery;

WHEREAS, among other regulations at risk are time honored and traditional regulatory tools such as allocating between subdistricts in a larger fishery; establishment of exclusive and superexclusive registration areas, and establishment of restrictive transfer requirements between subdistricts;

WHEREAS, other authorities of the Board, including the ability to establish quotas, trip limits, and daily, weekly or annual individual harvest limits in sport and commercial fisheries could be subject to attack on the basis that they may have the effect of allocating within fisheries;

WHEREAS, the authority to allocate within fisheries has always been bounded by the Board's statutory purposes, by a statutory requirement to consider allocation criteria, and by constitutional equal protection requirements;

WHEREAS, the authority to allocate within fisheries has been used responsibly by the Board for decades;

WHEREAS, reaffirmation of the Board's authority to allocate within fisheries would not authorize the Board of Fisheries to allocate fishery resources to a cooperative fishery without separate express statutory authorization;

WHEREAS, reaffirmation of the Board's authority to allocate within fisheries would not authorize the Board of Fisheries to allocate to individual fishermen based on catch history without separate express statutory authorization;

WHEREAS, the ability to allocate within a fishery is vital to the Board's ability to fairly and effectively manage and allocate fishery resources and to prevention of undue economic hardship among subsections of a fishery;

NOW THEREFORE BE IT RESOLVED, that the Board of Fisheries respectfully requests that the 25<sup>th</sup> Alaska Legislature consider and adopt legislation such as that found in HB 188 reaffirming the ability of the Board of Fisheries to allocate within fisheries; and

BE IT FURTHER RESOLVED, that the Board of Fisheries respectfully requests that the 25<sup>th</sup> Alaska Legislature consider the reaffirmation of the ability of the Board of Fisheries to allocate within fisheries separately from any effort to grant the Board the ability to allocate to commercial fishing cooperatives or to allocate to individual fishermen based on catch history.

Adopted: April 16, 2007

  
\_\_\_\_\_  
Mel Morris, Chairman  
Alaska Board of Fisheries

VOTE: 7/0

**ALASKA BOARD OF FISHERIES  
DELEGATION OF AUTHORITY TO  
CORRECT ERRORS OR OMISSIONS IN REGULATIONS AND TO  
REFORMAT AND RENAME CHAPTERS WITHIN ALASKA ADMINISTRATIVE  
CODE**

**2006-250-FB**  
(Replaces Finding 99-192-FB)

The Board of Fisheries ("board") makes the following findings:

1. The board characteristically adopts numerous regulations during the course of any year.
2. Many of the regulations adopted by the board are highly complex and interrelated with other regulations already in effect.
3. In view of the volume of regulatory proposals considered by the board at each meeting, it is impossible to prevent occasional ambiguities, inconsistencies, errors or omissions, or other technical shortcomings in regulations adopted by the board. Such deficiencies in regulations may preclude successful prosecution of regulatory violations, or prevent the intent of the board from being fully implemented or result in other consequences not desired by the board. Technical deficiencies may include some or all of the following items; formatting problems; typographical errors or inadvertent errors made during publication; conflicting regulations; lack of definition of terms and modification of terminology to reflect changes in technology.
4. As a result of the volume of regulations considered by the Board and the compressed timeline for getting regulations into place, errors or omissions, such as incorrect phrasing of Board conceptual regulatory language and failure to fully capture all amendments to a proposal in final regulatory language, do happen in the course of regulatory writing during a board cycle, and the board recognizes the need to correct such problems to make the regulations consistent with board's original intent.
5. It is impractical, unnecessary, and contrary to the public interest to initiate action by the full board to correct such errors or omissions, or address reformatting and renaming chapters within the Alaska Administrative code.
6. The commissioner and staff of the Department of Fish and Game, and personnel of the Departments of Law and Public Safety are most likely to notice technical deficiencies and errors and omissions in the regulations as a result of daily administration of Title 16 of the Alaska Statutes and Title 5 AAC regulations adopted by the board.

THEREFORE THE BOARD RESOLVES that in hereby makes the following delegation of its rulemaking authority under AS 16.05.251 and AS 16.05.258 to the commissioner of the Department of Fish and Game to be carried out under AS 16.05.270:

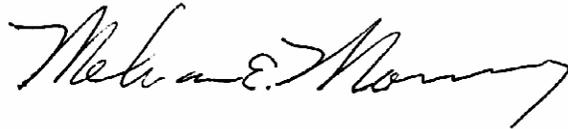
A. The commissioner may adopt, in accordance with the Administrative procedure Act (AS 44.62), permanent or emergency regulations, designated to eliminate inconsistencies, ambiguities, errors or omissions, or other technical deficiencies in existing regulations of the board.

B. The commissioner may reopen board regulatory projects after filing of the original regulations, and may sign a new adoption order reflecting the board's adoption of the regulations, within the current or previous board cycle, when through administrative error, the regulations are not correctly reflected in the administrative code. The commissioner may make such corrections in the regulations so long as they continue to be consistent with the board's original intent, as explained in the record of the board's proceedings.

C. All regulatory changes adopted by the commissioner under this delegation must be consistent with the expressions of the board's intent at the time it adopted the regulation to be corrected. Regulatory amendments that would result in a significant, substantive amendment or addition to existing board regulations that are not clearly manifest in the board's record, may not be adopted by the commissioner under the authority of this delegation and will require a separate delegation or direct board action.

D. This resolution replaces Finding 99-192-FB.

E. This delegation of authority shall remain in effect until revoked by the board.



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Mel Morris, Chairman  
Alaska Board of Fisheries

Adopted: 12/13/2006  
Dillingham, AK

VOTE: 6-0-1 (Andrews absent)

**Alaska Board of Fisheries**  
**Task Force to Implement Bering Sea/Aleutian Island**  
**King and Tanner Crab Rationalization**  
# 2003 - 223A FB

**Background:**

For the past several years, the North Pacific Fishery Management Council had been working towards a plan to "rationalize" many of the Bering Sea and Aleutian Islands crab fisheries. In June of 2002, the council selected their preferred alternative that would, among other things, assign quotas, or shares, for both the harvesting and processing sectors.

While the council is still working on trailing amendments to the plan, it cannot be implemented until the U.S. Congress lifts the moratorium on new IFQ-type fisheries, or specifically passes legislation to allow this rationalization plan to go forward.

Under the council's fishery management plan for BS/AI crab, much of the fishery management is delegated to the State of Alaska. If the council finalizes its actions and Congress provides authorization, the Alaska Board of Fisheries will need to adopt new regulations to allow the fishery to be prosecuted as outlined by the council.

**Charge:**

At its March 2003 meeting in Anchorage, the Board of Fisheries will select stakeholders to examine possible actions the board will need to take concerning state regulatory structure for the Bering Sea/Aleutian Islands king and Tanner crab fisheries once the council finalizes its actions, and make recommendations on new regulations. It is anticipated that this task force will work very closely with staff from the Alaska Department of Fish and Game, the North Pacific Fishery Management Council, the National Marine Fisheries Service, and the Alaska Department of Law.

The task force is to work within the intent and scope of the council's plan, and any additional Congressional direction, to provide the Board of Fisheries with proposals to assist the implementation of the final rationalization plan.

The task force will begin its work when the rationalization plan is finalized and Congressional authorization is provided. At that time, the board will provide an timeline for the task force to complete its work.

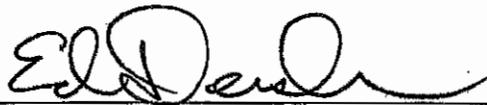
The task force is composed of the following stakeholders:

Steve Minor	Arni Thompson	John Garner
Brent Paine	Jeff Steele	Leonard Herzog
Frank Kely	Linda Kozak	

The Pacific Northwest Crab Industry Advisory Committee is an ad hoc member of the task force. Task force members are responsible for their own expenses to attend meetings.

The task force will maintain contact with the Board of Fisheries by reports to board member Art Nelson. An update will be provided to the board by member Art Nelson at the October 2003 work session.

Adopted: March 25, 2003  
Anchorage, Alaska

  
\_\_\_\_\_  
Ed Dersham, Chair

Vote: 7 - 0

**ALASKA BOARD OF FISHERIES  
POLICY ON EMERGENCY PETITION PROCESS  
#2000-203- BOF**

The Board of Fisheries often receives petitions for emergency changes to its regulations during times of the year when it is not meeting and no meeting is scheduled within the next 30 days. The Alaska Administrative Procedures Act (APA) requires that the Board shall, within 30 days of receipt of a petition, deny the petition in writing or schedule the matter for public hearing. AS 44.62.230. 5 AAC 96.625(f) establishes criteria for acceptance or denial of an emergency petition, but it does not establish the procedure the Board will go through to address the petition. This policy lays out the procedure that the Board will follow upon receipt of a petition for an emergency change to its regulations.

If the Board is in session or scheduled to meet within 30 days of receipt of an emergency petition, the executive director will schedule the petition for consideration by the Board on the agenda of the current or upcoming meeting.

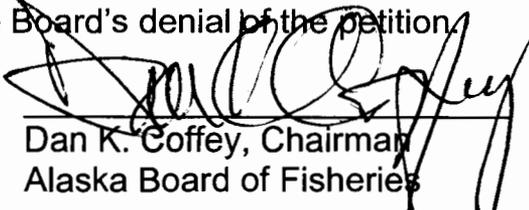
If the Board is not in session and is not scheduled to meet within 30 days of receipt of an emergency petition, the executive director will transmit to each Board member a copy of the petition, a cover memo in the form attached to this policy, and any information furnished by the Alaska Department of Fish and Game in response to the petition. After reviewing this information, each Board member will, on the cover memo, indicate his or her vote to deny the petition or schedule a special meeting for Board consideration and possible adoption of the petition, date and sign the document, and return it to the executive director as soon as practicable.

Pursuant to AS 16.05.310, if two or more Board members vote in favor of a special meeting to consider the emergency petition, then the executive director will, after consultation with the Board chair and members, schedule a public meeting of the Board at which it will consider acceptance or denial of the petition.

If two or more Board members do not vote in favor of a special meeting, the petition will be considered denied, and the executive director will write a letter to the petitioner indicating the Board's denial of the petition.

ADOPTED: November 5, 2000  
Anchorage, Alaska

VOTE: 7 - 0

  
\_\_\_\_\_  
Dan K. Coffey, Chairman  
Alaska Board of Fisheries

## PROCEDURES FOR BOARD OF FISHERIES MEETING COMMITTEES

#2000-200-FB

### INTRODUCTION

The description of the processes in this Memorandum are applicable to Board committees that meet during a regulatory Board meeting. They are not applicable to the Board's standing committees and task forces that conduct business throughout the year on number matters. Examples of standing committees are the Joint Protocol Committee that works with the North Pacific Fishery Management Council and the Legislative Committee that is responsible for all matters before the Alaska State Legislature.

The meeting committees consist of Board members only. Members of the public who participate in the committee process are advisers to the committee, but are not committee members themselves. Advisory committee representatives are ex-officio members of any advisory panel to any committee with which they wish to serve.

### DESCRIPTION OF THE COMMITTEE PROCESS

The committee formation process for each regulatory year will commence shortly after proposals for that regulatory year are received and compiled. Appropriate department staff, working with Board members assigned by the Chair, will group and preliminarily assign proposals, grouped by appropriate topic, to committees for each scheduled regulatory meeting during the year. Proposal roadmaps will likewise be developed that mesh with committee proposal groupings. Preliminary staff assignments for committees will also be considered during the initial proposal review.

At its work session each fall, the Board will evaluate and provide further refinement to the draft roadmaps and preliminary committee organization and assignments. Board member responsibilities for and assignments to committees will be determined at the fall work session. The goal is to have all committee structures, including Board member and staff assignments, completed before the respective regulatory meeting occurs. Committee roadmaps with Board member assignments will be distributed to the public after the fall work session. The roadmaps and the committee assignments are subject to change in the face of unforeseen circumstances or changed conditions.

## COMMITTEE PROCEDURES DURING REGULATORY MEETINGS

The practices and procedures to which committees will attempt to adhere during Board regulatory meetings are as follows:

1. Early during each regulatory meeting the Board Chair will provide a brief description of how the committee system works and will further direct the public's attention to the location of a posted committee roadmap and committee assignments. The Chair will also announce that a copy of the Board's Policy Statement and this procedural description on the role of committees is available from the Board's Executive Director upon request.
2. Board committees consist solely of Board members appointed by the Board Chair. Advisory committee representatives and public panel participants are not committee members, but rather are advisors to the committee. Department staff as well as other state and federal agencies staff will provide technical assistance to committees.
  - A) Public panel participants are generally stakeholders in the fisheries under consideration. They may be CFEC permit holders, crewmen, processors, executive directors of associations, and private citizens.
  - B) A Board member will serve as a chairperson for each committee.
  - C) The Board Chair will announce the location and time of all committee meetings.
  - D) All committee meetings are open to anyone that desires to attend, although participation is limited to the advisory committee representatives, the public panel participants, the technical advisors, the department staff and the committee members.
3. Individuals that desire to serve as public panel participants to any committee should make their availability known to the chair of the respective committee. Willingness to serve can be expressed by personal contact with a committee chair or during presentation of formal oral testimony. Committee chairs are to keep a list of prospective public panel participants

during the course of the meeting.

A) Attendance at the Board meeting during the presentation of staff reports and presentation of oral testimony is generally a prerequisite to serving as a public panel participant to a committee at most meetings. This requirement will be most prevalent at meetings having high levels of attendance.

B) Advisory Committee representatives are ex-officio members of all public panels to all committees and may move between committees as they choose.

4. At the conclusion of public testimony, the chair of the respective committees will develop a preliminary list of public panel participants. The goal of the selection process will be to insure, as far as practicable, that there is appropriate and balanced representation of fishery interests on all committees. Tentative assignments will be reviewed by the Board as a whole and then posted for public review. After public review the Board Chair, in session on the record, will ask the public for concurrence or objections to the panel membership. Reasonable adjustments to membership on public panels will be accommodated.

5. Parliamentary procedures for committee work will follow the "New England Town Meeting" style. Public panel participants, upon being recognized by the committee chair, may provide comments, ask questions of other public panel members, ADF&G staff or the committee members or may otherwise discuss the issues assigned to a committee. Committee chairs will attempt to manage meetings in a manner that encourages exchange of ideas, solutions to complex issues and resolution of misunderstandings. Participants are required to engage in reasonable and courteous dialogue between themselves, Board committee members and with ADF&G staff. Committee meetings are intended to provide opportunities for additional information gathering and sometimes for dispute resolution. Committees are not a forum for emotional debate nor a platform for repeating information already received through public testimony and the written record. Department staff will be assigned to each committee to keep notes of discussions and consensuses reached, if any.

A) Formal votes will not normally be taken by the committees, but proposals or management plans that

receive public panel consensus, either negative or positive, will be noted in the committee report.

B) The committee process, in the absence of consensus will attempt to bring greater clarity to individual proposals and to complex conservation or allocation concerns.

6. Advisory Committee representatives serving on public panels are not constrained to merely presenting the official positions of their Advisory Committee (as is required while providing public testimony). When participating in the committee process, Advisory Committee representatives may express both the official positions of their committee as well as their personal views on issues not acted upon or discussed by their Advisory Committee. They must, however, identify which of the two positions they are stating. The Board recognizes Advisory Committee representatives as knowledgeable fisheries leaders who have a sense of their community's position on issues that come before the Board. Therefore, the Board believes that Advisory Committee representatives must be able to function freely during committee meetings.

7. After a committee has completed its work with its public panel, the committee chair will prepare a report with assistance from other members of the committee and department staff. The format of this report, which becomes part of the public record, is attached to this policy. The primary purpose of a committee report is to inform the full Board of the committee work in synopsis form. The report will additionally serve as a compilation index to Advisory Committee, public and staff written materials (record copies, public comments and staff reports) relative to the proposals assigned to the respective committees. Committee reports will be clear, concise, and in all cases, will attempt to emphasize "new information" that became available during the committee process, i.e., information that had not previously been presented to the full Board in oral or written form.

A) In order to provide focus, committee reports should include recommendations relative to most proposals.

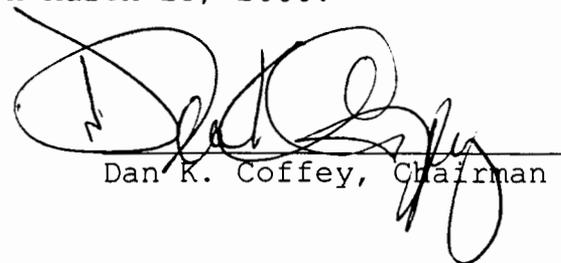
B) If a committee has developed a proposal to replace or modify an existing proposal, the substitute proposal should be prepared and attached the to

committee report.

- C) Committee reports will not include recommendations for proposals when such recommendations will predetermine the ultimate fate of the proposal. For example, when the full Board consists of six or few voting members (because of absence, abstention or conflict of interest) a committee of three should not provide a negative recommendation on a proposal.
8. Committee reports will be made available to the public in attendance at the meeting prior to the Board beginning deliberations on proposals. The Board Chair will publicly announce when reports are expected to be available for review by members of the public. The public will be encouraged to provide written comments to the Board (submittal of record copies) regarding the content of the committee reports and/or to personally contact Board members to discuss the reports.
- A) The Board Chair will provide sufficient time between release of committee reports and deliberations for the preparation of written comments or for verbal communications with individual Board members to occur.
9. Board deliberations will begin after the full Board has had time to review committee reports, after the public in attendance has had an opportunity to respond to the reports, and after the full Board has had an opportunity to review the public's comments made in response to the committee reports. During the course of deliberations, committee chairs will present their committee's report and initially will lead the discussion relative to proposals assigned to their committee.
10. The full Board shall be involved in the debate or discussion of all proposals and will make regulatory decisions based on all information received to the record, including information from committees.

Adopted by the Board in Anchorage on March 23, 2000.

Vote: 6-0-1  
(Miller absent)

  
Dan K. Coffey, Chairman

**ALASKA BOARD OF FISHERIES**  
**POLICY STATEMENT**

**Policy for Formation and Role of Committees at Board Meetings**

#2000-199-FB

**INTRODUCTION**

During the past three (3) years, in response to its workload and in a desire to increase public participation, the Board has employed a committee process during the course of its meetings throughout the state of Alaska. This committee process has changed and developed over these three years in response public and department comments and the experiences of the Board in using the committee process.

It is expected that this process will continue to evolve as the needs of the public, the Board and the Department continue to evolve. As such, the committee process is meant to be dynamic and flexible. However, despite the expected future refinements, now that the committee process has been through a three-year Board cycle, it is appropriate for the Board to consider formal adoption of a Policy Statement on the Board committee process.

The Board recognizes that the public relies on the predictability of the regulatory process. The purpose of adopting this Policy Statement and the attached description of the committee process is to place the committee process in the records of the Board. Thus, the adoption of this Policy Statement will define the purpose, the formation and the role of Board committees. Over time, all participants in the Board process can be knowledgeable and effective participants before the Board of Fisheries.

**DISCUSSION**

A major strength of the Board committee process lies in its broad-based public participation format. To accommodate greater levels of public involvement, to enable the Board to receive and utilize the volume of information presented to it and to effectively handle the increased number of proposals seeking regulatory changes, the Board has found it desirable to create internal Board committees. The Board has found that these committees allow the Board to complete its work timely and effectively, with full consideration of the content and purpose of the many proposals before it each year.

The Board considers the use of committees as an expansion of its traditional processes; not as a replacement for such long-standing information gathering activities as staff and advisory committee reports, public testimony, written comments or informal contacts between Board members and the public. The Board committees are intended to enhance the process, not become a substitute for existing process.

While the committee process, of necessity, involves less than the full Board, nothing about the committee process is intended to, or has the consequence of, replacing the judgment of the full Board on all proposals before it at any regulatory meeting. The Board has taken steps to insure that its committees do not dictate/direct the outcome of any vote on any proposal. These steps include limiting participation by Board members to less than the number of Board members necessary to determine the outcome of the vote on any proposal. In addition, Board committees avoid predetermining the outcome by organizing the written materials presented to the Board so that they are readily available for review by the full Board, by presenting detailed reports on the committee's work and by fostering and encouraging debate during the deliberative process.

The goals and purposes of the Board committee process include but are not limited to the following:

1. Acquisition of additional detailed information from both the public and staff.
2. Providing a consensus-building forum that assists in the understanding and resolution of complex and controversial conservation, allocation, fishery resource, habitat and management issues.
3. Enhancing the interaction among the Board, the public and department staff which results in broader public understanding of the regulatory decisions of the Board and the Department's management of the fisheries.
4. Promoting efficient use of time by organizing and grouping similar proposals, reducing redundancy and organizing the huge volume of written materials provided before and during meetings by the department and the public.
5. Insuring completion of the Board's work within fiscal and temporal constraints.

The Board now finds as follows:

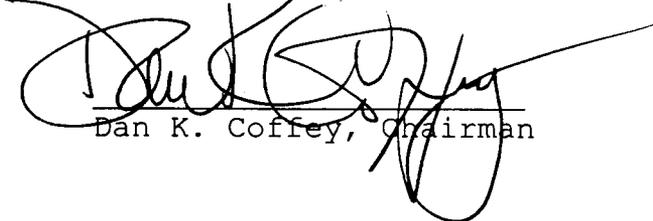
1. The goals and objectives are appropriate;
2. The statements of fact accurately reflect the beliefs and opinions of the Board as to the matters stated;
3. The committee process has, over a full three-year cycle of the Board, resulted in the goals and objectives having consistently been met.

Based on the findings, the Board of Fisheries resolves as follows:

1. The Policy Statement is hereby adopted as the policy of the Board of Fisheries.
2. The description of the committee process attached to this Policy Statement will be followed, in most circumstances, by the Board during the course of its regulatory meetings, subject always to the exceptional circumstance as determined by the Board.
3. The committee process is intended to be dynamic and flexible to meet the needs of the public, the Board and the Department. Thus, this Policy Statement and the attached description of the committee process are subject to ongoing review and amendment by the Board.

DATED at Anchorage, Alaska this 23rd day of March, 2000.

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Vote  
(Miller Absent)

  
\_\_\_\_\_  
Dan K. Coffey, Chairman

ALASKA BOARD OF FISHERIES  
FINDING FOR AREA O BROWN KING CRAB SEASON  
99-190-FB

Introduction

At a meeting on July 29, 1999, the Board of Fisheries (Board) amended 5 AAC 34.610(b) by moving up the date of the opening of the commercial Area O brown king crab season from September 1 to August 15 beginning in the 2000 season. Earlier at the March 1999 meeting the Board had moved the Bristol Bay red king crab season from November 1 to October 15. After the meeting, Area O brown king crabbers petitioned the Board under 5 AAC 39.998 to consider a corresponding change for the Area O brown king crab season to avoid an overlap in the seasons that would prevent participation in both fisheries.

Written and oral staff reports on the brown or golden king crab fishery, stock status, and the effect of a season change were presented by Alaska Department of Fish and Game (ADF&G) biologist Forrest Bowers. Because of past Board action in 1996 dealing with season opening dates for the eastern and western Aleutians, the Board focused their discussion on the last three brown king crab seasons.

FMP Criteria

As required by the Fishery Management Plan for Bering Seas/Aleutian Islands King and Tanner Crabs (FMP) criteria for Category 2 – Seasons measures, the Board discussed deadloss, product quality, biological seasons, weather concerns, costs to industry, and coordination with other fisheries.

**Deadloss:** The Board expressed some concern over deadloss, but acknowledged that there are multiple factors that impact deadloss, and didn't expect a 16-day season change to make a significant difference for the Area O fishery.

**Product Quality:** Since the western Aleutians area is typically open year-round, and no quality issues have been identified in that fishery, the board was satisfied that similar quality standard could be maintained throughout the eastern Aleutians in mid-August.

**Biological Seasons:** Golden king crab mating and molting occurs year-round. Therefore, there is no infringement on a defined mating and molting season. Staff could see no biological impacts from moving the fishing season.

**Weather Concerns:** Severe Weather can be expected year-round in the Aleutians, but the frequency of bad weather was expected to be greater in the fall than in the summer.

**Costs to Industry:** Over the long term, this season change was seen as potentially less costly than a season where vessels had to redeploy gear after the end of the Bristol Bay red king crab season.

Coordination with Other Fisheries: Board members also pointed out that moving the season up would maintain status quo of timing relative to the Bristol Bay red king crab season. The North Pacific Fishery Management Council staff saw no effects on groundfish fisheries and noted that pollock fishing began September 1.

Magnuson-Stevens Act National Standards

The Board reviewed and discussed the National Standards set out in the Magnuson-Stevens Act in the context of moving the brown king crab season to August 15, as follows:

National Standard 1, Preventing Overfishing while Achieving Optimum Yield: The season change would have a positive effect by keeping the existing relationship between the brown king crab and red king crab seasons.

National Standard 2, Best Scientific Information: The Board believed it had the best information available to make a decision.

National Standard 3, Individual Fish Stocks Managed as a Unit, Interrelated Stocks Managed in close coordination: The season change would be consistent with this standard.

National Standard 4, Allocations Fair and Equitable to All Fishermen: There was no indication or information that the season change would have any adverse effects, but, in fact, it would avoid allocative impacts.

National Standard 5, Efficiency in Utilization: Coordination of the fishing would have a positive effect on the efficiency in utilization of the resource.

National Standard 6, Taking into account and Allowing for Variations and Contingencies: Maintaining relationship between the brown and red king crab seasons would have a positive effect.

National Standard 7, Minimization of Costs and Avoiding Unnecessary Duplication: As explained above, a season change would have a positive effect.

National Standard 8, Impact on Fishing Communities: Coordination of the two fisheries would have only positive effects.

National Standard 9, Minimization of Bycatch: No indication of an adverse effect on bycatch.

National Standard 10, Promote Safety of Life at Sea: Earlier season, with slightly better weather, would have a positive effect.

The NPFMC concurred with the Board's application and assessment of the National Standards.

State Law Criteria

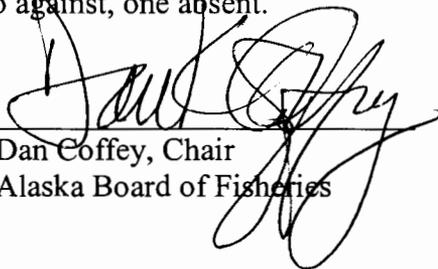
The Board referred to the allocation criteria found in AS 16.05.251(e), but, with Department of Law's confirmation, determined that no allocation was effected by the season change.

Effective Date

The Department of Law indicated that an emergency regulation would be needed to implement the season change for the 1999 season. The Board adopted an amendment to have the season change take effect beginning in 2000; and to keep the status quo for the 1999 season because no emergency was apparent. The Board also expressed concern that some participants had already scheduled vessel maintenance based on the existing season regulation and would be unable to participate in an earlier season this year.

The Board voted for the season change, six in favor, zero against, one absent.

ADOPTED: Oct 29, 1999  
Fairbanks, Alaska

  
Dan Coffey, Chair  
Alaska Board of Fisheries

VOTE: \_\_\_\_\_

**ALASKA BOARD OF FISHERIES  
CDQ CRAB FINDINGS  
99 - 189 - BOF**

The Board of Fisheries (board) met in Anchorage, Alaska from March 18 to March 28, 1999. During this meeting, the board discussed an agenda change request (ACR 27) filed by Alaska Crab Coalition. ACR 27 proposed restricting Community Development Quota (CDQ) groups from fishing a portion of their CDQ crab prior to the main crab fisheries, which was allowed under the existing CDQ crab management plan (5 AAC 39.690)

Background

The board approved a crab CDQ management plan in March 1997 using a commissioner's permit. During a presentation by state staff at the March 1997 board meeting, the board was informed of the possibility that the department might allow preseason CDQ crab fishing if ADF&G (department) staff could be convinced there would not be any major management problems conducting a preseason fishery. The department made it clear during staff testimony that there would not be any preseason CDQ crab fishing during the first year of CDQ fishing (RC 193). This hiatus would allow the department to understand the differences of the CDQ fishing from open access fishing. After the 1998 opilio CDQ fisheries were completed without significant problems, the department staff were willing to allow preseason CDQ fishing for the 1999 opilio season, if all conditions of the commissioner's permit were met.

For comparison, National Marine Fisheries Service (NMFS) allows CDQ groups to conduct preseason CDQ fishing for several groundfish species.

NPFMC

The North Pacific Fishery Management Council (council) discussed preseason CDQ crab fishing during its October 1998 meeting. The council deferred the issue to the State of Alaska to be addressed by the Board of Fisheries in the March 1999 meeting.

CDQ Agenda Change Request 27

The board passed the existing regulation 5 AAC 39.690(e)(7) in March of 1997. During the adoption of the board proposal that led to this regulation, the board thoroughly evaluated the proposal against the FMP, the national standards and other applicable law. Because it was not challenged, this regulation has withstood Secretarial review and the FMP appeals process. Before the regulation was actually implemented, the board agreed, at its October 1998 work session, to reconsider this regulation in respect to industry concerns and approved ACR 27.

The Pacific Northwest Crab Industry Advisory Committee (PNCIAC) endorsed ACR 27 during its January 6, 1999 meeting in Seattle. The vote was 7 for, 2 abstain (RC 37). Their concerns were that opening CDQ fisheries prior to the open access fisheries will have negative market impacts and fair start implications.

### March 1999 Board Meeting

The board met in Anchorage from March 19 - 28, 1999. During that time, the board considered the issue of preseason CDQ crab fisheries.

The department presented reports and material pertinent to ACR 27, along with verbal testimony. The department was neutral on this issue.

There was oral and written public testimony presented on preseason CDQ crab fishing. The majority of the Bering Sea crab fleet did not want the board to allow preseason CDQ fishing and favored ACR 27. CDQ group representatives testified against ACR 27, since preseason fishing would be a way to optimize the value of their quota. The groups noted that prices received for preseason CDQ crab could offset decreased prices for post-season CDQ crab.

The board's in-meeting committee met on March 21, 1999 at the Captain Cook Hotel. Supporters of the proposal raised fair start issues, possible negative economic impacts and product quality concerns. They argued that, if the CDQ vessels fished snow crab prior to the open access red king crab fishery, they would have an advantage with the knowledge of recent crab distribution (exploratory fishing). Most comments centered around the economic impact of the CDQ fishery putting any amount of crab on the market prior to or during price negotiations (export and ex-vessel) and they were concerned that it would most often be a negative impact. They were additionally concerned that a preseason CDQ harvest would place poor quality crab on the market, which would have a negative economic impact the open access fleet. They commented that CDQ groups already have a guaranteed harvest allocation and that if the groups were concerned about post season prices and scratch fishing, they could fish during the open access fishery.

Opponents of ACR 27, argued for status quo within the guidelines of their public testimony. They also stated it was not in the CDQ groups' best interest to market poor quality crab, that they would be harvesting only 50% of their 7.5% CDQ allocation and that any advantage to the groups would even out by harvesting picked over crab after the open access fishery. There was no consensus for a public panel recommendation nor was there a board committee recommendation. There was discussion about a proposal which essentially held the provisions of the industry compromise. The issue needed board debate.

ACR 27 was discussed on March 25 and 26, 1999. The board began by discussing Committee D's summary, and moved to the PNCIAC's recommendation. The board clarified points with department staff and discussed whether there were any enforcement problems. The board discussed an impending agreement between the two interested parties and tabled the issue to the following day in anticipation of receiving an agreed upon compromise. Overnight, a compromise was reached by several of the industry participants and the CDQ groups. The language was presented to the board at 9 a.m. on March 26. After some discussion addressing national

standards, health of stocks, and fair start, the board again tabled the issue and designated a period for reviewing public input on the industry compromise. After reviewing public comments, the board addressed possible conflicts on fair start issues by reconsidering proposal 355 before resolving the CDQ preseason fishing option. In the final debate, the board covered the Magnuson-Stevens Act national standards, the size and health of the resource, the criteria and standards incorporated into the March 1997 CDQ management plan, and the relatively small amount of crab that would be on the market early if preseason fishing were allowed. The board decided to accept the general principles of the compromise item.

#### Board Decision

The board noted that its action was, in some ways more restrictive than the original proposal, acknowledging that the original proposal was only to restrict the timing of CDQ fisheries. The percentage the CDQ groups were allowed to harvest preseason was reduced from the existing 50% to 30%. Another added restriction was the 50 million pound minimum GHL provision, which eliminated the possibility of a preseason CDQ fishery for most of the smaller CDQ fisheries, such as the St. Matthew, Pribilof, and Bristol Bay fisheries, at least in the foreseeable future. The Board confirmed on the record that this action would not except the CDQ fisheries from the restrictions of the preseason 14-day stand down period for opilio and the 30-day stand down period for king and bairdi fisheries adopted earlier by the Board. In other words, any vessel or person that participated in a preseason CDQ fishery during the applicable stand down period would be ineligible to participate in the open access fishery.

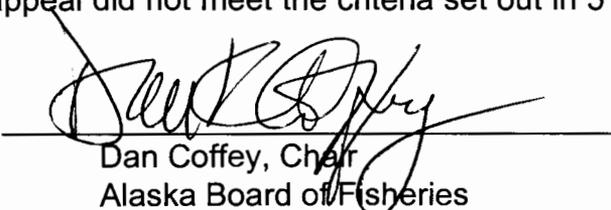
The board's action in March 1999 provided more definition and restrictions to the existing regulation to recognize some of the concerns of industry, yet balance the needs of the CDQ groups.

#### Appeal

The board's decision on preseason CDQ fishing was appealed by Alaska Fisheries Conservation Group. The appeal cited lack of specific Congressional approval and not meeting national standards.

A Board of Fisheries teleconference on the appeal of ACR 27 (among others) was held on May 14, 1999. The board found the appeal did not meet the criteria set out in 5 AAC 39.998 and denied the appeal.

ADOPTED: Oct. 29, 1999  
Fairbanks, Alaska

  
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Dan Coffey, Chair  
Alaska Board of Fisheries

VOTE: \_\_\_\_\_

ALASKA BOARD OF FISHERIES  
Findings for Bering Sea Tanner Crab Management Plan  
Incorporating a New Harvest Strategy  
99 - 188 - FB

The Board of Fisheries considered a new harvest strategy for Bering Sea/Aleutian Islands (BSAI) Tanner crab (*Chionoecetes bairdi*) under Proposal 281. The Board took staff reports, heard public testimony and Fish and Game Advisory Committee reports, and then submitted this proposal to Committee A for discussion and recommendations.

Two written staff reports were submitted as supporting documentation for this proposal: "*Bering Sea Bairdi Tanner Crab Fishery, 1998*" (RC4, Tab 4) by Rance Morrison, and "*Overview of Population Dynamics and Recommended Harvest Strategy for Tanner Crabs in the Eastern Bering Sea*" (RC4, Tab 18) by Jie Zheng and Gordon Kruse.

Two oral staff reports were presented relevant to this proposal: "*Stock and Fishery History and Current Status of Tanner Crabs in the Eastern Bering Sea*" (RC4, Tab 31), by Gordon Kruse, Rance Morrison and Jie Zheng, and "Review of harvest strategies for Tanner crabs" (RC4, Tab 33) by Gordon Kruse, Dan Urban and Jie Zheng. ADF&G Staff Comments were presented in RC 4, Tab 37, and Page 8. The advisory committee comments (RC 110), public comments (RC 69, 85, 102, 111), staff comments (RC 4, Tab 37), and record copies (RC 102) related to the various proposals are identified in attachments to the committee report.

This proposal intended to establish a Tanner crab management plan for the Eastern Bering Sea Subdistrict of Area J. The plan is intended to improve fishery management by linking harvest rates to changes in stock productivity indexed by recruitment strength. Higher harvest rates are applied during an upward recruitment cycle and lower harvest rates are applied during a downward recruitment cycle. Moreover, a threshold is established below which no fishing is allowed to protect the breeding population. These features foster the rebuilding of the Eastern Bering Sea Tanner crab stock that was classified as "overfished" by the Secretary of Commerce in March 1999 under the federal Fishery Management Plan. There are seven key points to the harvest strategy, as described below.

- (1) Establish a threshold level of abundance of 21.0 million pounds of mature (>79 mm carapace width) female Tanner crab biomass. The commercial fishery for Tanner crabs in the Eastern Subdistrict of the Bering Sea District may open only if an analysis of preseason survey data indicates that the population has met or exceeded this index of abundance. The commercial fishery for Tanner crabs in the Eastern Subdistrict of the Bering Sea District will not open if preseason survey data indicates that the population is below this index of abundance. The public asked for clarification of definitions of several terms related to the proposal. They asked the Department to indicate in what years would the Tanner crab season have been closed under this

plan. The department indicated that the fishery would have been closed in 1985, 1986, 1996, 1997 and 1998, if this plan had been in effect.

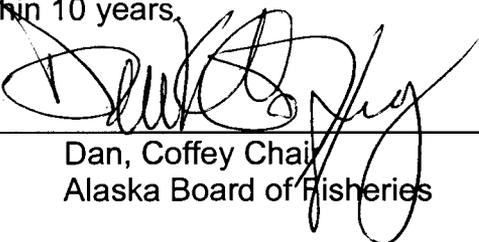
- (2) Establish a 4.0 million pound minimum threshold level for any harvest occurring incidental to the Bristol Bay red king crab fishery and in any directed Tanner crab fishery in the area east of 168° W. The department stated that this level was indicated on the basis of harvest levels that were manageable as bycatch in the Bristol Bay red king crab fishery. The public was concerned about why this harvest strategy utilizes mature female biomass rather than number of animals in calculating threshold levels. The department stated that this was due to the fact that reproductive output and, ultimately, recruitment to the fishery is more closely related to parental biomass rather than number of animals.
- (3) Establish the exploitation rate when the stock is greater than or equal to 21.0 million pounds of mature female biomass but less than 45.0 million pounds of mature female biomass. In this case the harvest rate will be 10% of the molting mature male abundance or 50% of the exploitable legal size male abundance, whichever is less. The public asked the Department to define legal size (5.5" width or greater) and molting, mature males (100% of newshell and 15% of oldshell crabs 113 mm or greater width) as well as exploitable legal size males (100% of newshell and 32% of oldshell crabs 5.5" or greater in width). The department also explained that the National Marine Fisheries Service annual trawl survey is used to collect data for abundance estimation using a length-based analysis (LBA) model. Public suggested that perhaps the 50% cap on legal male harvest mentioned above is too high and that perhaps 20-30% would be more appropriate.
- (4) Establish the exploitation rate when mature female biomass is equal to or greater than 45.0 million pounds. Under this scenario, the harvest rate is set at 20% of the molting mature male abundance or 50% of the exploitable legal size abundance, whichever is less. The public asked why the maximum allowable harvest rate is greater for Tanner crabs than for red king crabs in Bristol Bay. The department stated that this is due to differences in rate of reproduction, mortality, and biology of the two species. The public also asked how this harvest rate compares to those utilized in prior fisheries. The department responded that this is generally a lower harvest rate, except that it is higher when the stock is increasing in abundance. The public indicated its support for this part of the strategy.
- (5) Establish separate guideline harvest levels for both sections of the Eastern Bering Sea Sub-District based on the respective abundance of animals in those areas. The western portion is between 168° W. long. to 173° W. long., and the eastern portion is defined as waters east of 168° W. long. Based on the respective abundances of molting mature male crabs, the guideline harvest level for the Eastern Subdistrict of the Bering Sea District would equal

the sum of the guideline harvest levels for the areas east and west of 168° W. long. if both areas are opened to fishing. This language was supported by industry.

- (6) Add a provision dealing with the situation when any portion of the Eastern Sub-District is reopened to fishing after being closed to all commercial fishing due to low abundance in the preceding season. The reopening will occur when one-half the computed GHL is greater than or equal to four million pounds. If the fishery remains closed because the calculated GHL does not reach 4 million pounds due to a precautionary 50% reduction, then the following season may open if the calculated GHL is at least four million pounds. There was some public confusion as to when a fishery could occur under this scenario, so the Department clarified that the 4.0 million pound threshold need only be reached one year for a fishery to occur the next year.
- (7) The final part of the strategy states that the Department will consider the reliability of the estimates, the manageability of the fishery, and other factors necessary to be consistent with the sustained yield principles, and the best scientific information available. There was support for this section. The public asked how the harvest strategy fit in to the federal Fishery Management Plan's requirements for rebuilding the Eastern Bering Sea Tanner crab stock. The Department stated that the harvest strategy is one of three parts; the other parts are by-catch reduction measures and habitat protection. To describe these requirements, RC 104 was introduced.

In considering staff reports, the status of the resource, and committee and public support for the proposal, the Board of Fisheries adopted the proposed new harvest strategy including all seven points listed above. This adoption was made in the belief that this harvest strategy has a rebuilding capability that complies with federal requirements to rebuild the Eastern Bering Sea Tanner crab stock to levels capable of supporting maximum sustainable yields within 10 years.

ADOPTED: 10/29, 1999  
Fairbanks, Alaska

  
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Dan, Coffey Chair  
Alaska Board of Fisheries

VOTE: 60-1  
*one abstention*

**ALASKA BOARD OF FISHERIES  
FINDINGS ON BRISTOL BAY RED KING CRAB FISHERY  
MARCH 1999 MEETING, ANCHORAGE**

**I. Introduction**

At its March 1999 meeting in Anchorage, the Board of Fisheries (Board) adopted regulations that (1) move the opening of the Bristol Bay red king crab season from November 1 to October 15 (2) and extend the preseason gear operation restriction from 14 to 30 days and include trawl with the types of gears that are prohibited for those who want to participate in the crab fisheries. These written findings explain the board's reasoning for these regulatory actions and satisfy the requirement for written findings found in the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crab (FMP).

**II. Season Change**

The Board moved the Bristol Bay Red King Crab season up by sixteen days to benefit the industry by reducing the time between the Pribilofs and St. Matthews king crab fisheries, saving time and money for the fleet. Information before the Board showed that an extended period between fishing seasons makes it both expensive and difficult for vessels to hold crewmembers, requires vessels to remain proximal to the Bering Sea grounds for long periods that raise costs, and makes vessel yard maintenance difficult to schedule. On the other hand, moving the season up two weeks would help address these concerns and provide a longer maintenance window prior to the C. opilio Tanner crab fishery. The Board recognized that an earlier season would have an impact on those vessels that fished for groundfish in the same area and then participated in the crab fishery because they usually fished through October. But the Board weighed that impact against the benefit to the rest of the fleet and found the benefits to the fleet from an earlier season outweighed the negative impacts.

The Board also noted that the earlier season was likely to result in somewhat better weather and vessel safety conditions. The Board acknowledged that the earlier season might result in some slight increase in dead loss and meat fill, but found those impacts insignificant when weighed against the benefits of an earlier season.

**A. The Board Information-gathering and Meeting Process**

The Board acted on a proposal that had been submitted to it by a crab fisherman before April 10, 1998, almost a year before its March 1999 meeting in Anchorage. This proposal, along with all other proposals submitted the Board for consideration during its 1998-99 meeting cycle, was published in the Board's annual proposal book and was

distributed to the public in July 1998. The proposal was reviewed by user groups and advisory committees, including the Pacific Northwest Crab Industry Advisory Committee (PNIAC), which was established by the FMP to provide nonresidents of Alaska access to the FMP and Board regulatory process. At its meeting in Seattle on January 6, 1999, the PNIAC voted to oppose Proposal 287 and support the status quo. Public Comment 37 at 4, March 1999 Board of Fisheries Record, RC 1.

The Board recognized that Proposal 287, as a request to move the opening season date from November 1, to October 10, was an FMP Category 2 framework issue, requiring consideration of specific FMP criteria and the Magnuson-Stevens Act national standards, as well as consistency with state legal requirements.

The Board took staff reports at the beginning of the meeting, took public testimony, and then broke into committees to address similar proposals. Proposal 287 was assigned to Committee E – Bristol Bay King Crab. See, RC 142, Committee E Report. Other relevant reports or comments to the Board were: Staff Reports, RC4 (Tabs 1, 2, 13, 14, 17, 27, 28, 29); Staff Comments, RC4 (Tab 37, page 11); Advisory Committee Reports, RC110; and Public Comments, PC 37 and RC69, RC85, RC102, RC111.

During committee discussion of this issue, it was noted that this proposal would move the opening closer to the Pribilof and St. Matthew fisheries in the Bering Sea. The stated basis for the proposal was to avoid “higher start-up costs for the entire industry. Weather concerns are also a factor.” The goal was to reduce down time between the early red/blue king crab fishing seasons and the Bristol Bay red crab season. The proposer stated that he believed that moving the November crab fishery closer to the September crab fisheries would provide real benefits by eliminating the cost of mobilizing vessels and processing crews for the Bristol Bay season and allow a time window for vessel maintenance.

The committee discussed the pros and cons of moving the start date from November 1 to October 10. Though many agreed there were benefits, many of the participants were uncomfortable with a starting date as early as October 10. The proposer suggested moving the opening date to October 15. There was lengthy discussion on whether to move the start to the 10th or the 15th of October. There was consensus from all but one member of the public to move the date to October 15.

The Committee report and public testimony indicated that the following industry points for and against this proposal were raised in the committee discussion:

Points against:

- (1) crabs may have less meat fill than if the season starts on November 1;
- (2) possible dead loss if surface and bottom temperatures are greatly different;
- (3) fishermen participating in the Bering Sea Korean hair crab fishery would be unable to participate in the Bristol Bay red king crab fishery;

(4) trawl vessels which have fished in this area would be excluded regardless if the date were the 10<sup>th</sup> or 15<sup>th</sup> of October, because the trawl fleet normally fishes through the end of October.

Points for:

- (1) moving the red crab season just a few weeks earlier allows better market timing to distribute crab into the Japanese holiday season markets;
- (2) better weather in October for small boat safety concerns;
- (3) extra time for vessel maintenance after red crab fisheries and before the start of Bering Sea *C. opilio* fishery;
- (4) less down time between the Pribilof/St. Matthew and Bristol Bay king crab fisheries, which would save the fleet and processors money;
- (5) eliminating trawl vessels from 'crossing over' to the Bristol Bay red king crab fishery from the pollock fishery.

Discussion covered all of the above points and concerns. The Department indicated that it would work with the Bering Sea Korean hair crab fishers to eliminate their fishery's conflict with the Bristol Bay red king crab fishery if this proposal were adopted.

One member of the committee representing trawl catcher vessels expressed concern that this proposal will exclude some crab vessels that have historically also fished in the Bristol Bay red king crab fishery after the trawl season. He stated that this would be the case regardless if date was set for the 10th or the 15th of October because the trawl fleet fishes through the end of October.

From the committee, the public panel recommendation was to move the opening date to October 15. This recommendation was a consensus from all but one member, representing trawl fishers. The recommendation from the Board committee members was also to move the opening date to October 15 and provide the full Board with regulatory substitute language for Proposal 287.

## **B. Board Deliberations of Proposal for Season Change**

The full Board received the committee minutes and a review by Committee Chair who described issues brought forward in the Committee. Transcript of Board Deliberations on Proposal 287 (Tr.) at 1-4. Substitute language from RC 142, p. 17, amending 5 AAC 34.810(b)(1) to provide a starting season date of October 15, was placed before the Board for its consideration and vote. Tr. 1. The Board went through the FMP framework for fishing seasons and discussed the various National Standards pertinent to this decision. As explained below, the Board attempted to meet the economic, safety and social concerns without significantly reducing quality or increasing deadloss.

### **1. The Board Properly considered the FMP Category II criteria for fishing seasons.**

Regulations opening commercial crab fishing seasons are FMP Category II measures. The FMP contains specific criteria to be considered by the Board in adopting such measures. FMP at 35-36. The Board's consideration of the criteria is outlined below.

**Minimization of deadloss:** The FMP lists minimization of deadloss as one goal of the FMP: "Deadloss has been found to increase if crabs are in soft-shell condition, if they are held for long time periods, if holding tanks are contaminated with fresh or warm water, or if crabs are handled too often." FMP at 36.

The Board recognized that the pre-1990 September seasons saw more dead loss than the current season. Tr. 8-11. ADF&G presented information on the historical rates of deadloss in the fishery. RC 4, Tab 2 at 7-8. The data indicated that during the years when the season opened on September 25 (1985-1989), the average rate of deadloss was .0094. RC 4, Tab 2 at 7. Although, if one extremely high year, 1986 with a rate of .0249, was removed from the equation, then the average rate for the remaining years dropped to .0058. *Id.* The average deadloss rate for the years that the season opened on November 1 (1990-93, 1996-98) was .0044. *Id. at 8.* Four of the later years (1990, 1991, 1993 & 1998) had higher deadloss rates than two of the earlier years (1985 & 1988). *Id. at 7-8.*

There was some speculation that increases in deadloss were caused by the temperature differential between the surface and the bottom. In the summer months, the temperature is more stratified, but by November the stratification has broken down. Tr. 9. But in the Board discussion, they recognized that surface water temperatures change from year to year. Tr. 9. The Board asked staff whether a two-week change was significant. Tr. 10. Staff reported to the Board that changes in dead loss were more associated with fresh water than ocean temperature, and that any "difference in dead loss due to temperature over a two-week period would be quite insignificant." Tr. 11. The Board agreed with that conclusion. Tr. 12, 16-17.

Although not expressly expanded upon during the March Board meeting discussion, the Board is aware that past Board records indicate that dead loss was a function of crab caught in pre-season bait-up periods and then held in holding tanks when fresh water was prevalent and adequate processing not available. See, Tr. 11. When processing capacity would catch up with production, dead loss would decline. In early years, large GHs and long seasons exacerbated this problem and increased dead loss. Fishermen tended to overload their tanks with crab and hold them too long before off-load.

**Product quality:** Another goal under the FMP for opening seasons is achieving the best possible product quality. FMP at 36. The Board discussed the potential for crab having more or less meat fill depending on the starting date. Tr. 7-8. Some of the information indicated that crab caught in September were smaller and weighed less than those caught in November. Dr. Otto indicated that the difference may have been partially due to differences in recruitment and thus the size of crabs available to the fishery. Crabs gained about a pound between the old and new seasons. The impact of a two-week

period on weight gain, as opposed to five weeks, was less certain. Tr. 8. The Board concluded that the closer the start date was to September 25, the previous start date, the less meat fill expected, and the closer to November 1, the more the fill. So somewhere in between may produce some amount of quality consideration. The Board felt that any loss in meat fill would be offset by the advantages of an earlier season.

**Minimization of fishing during severe weather conditions:** Another FMP goal is to minimize fishing during severe weather conditions. FMP at 36. In regards to this issues, some small vessel owners testified that an earlier season would have better weather for small boat safety. RC 142 at 6. But here again, the Board noted that though the old September season was best and November period is more of a concern, moving it only two weeks is not a huge safety gain. Tr. 12, 17.

**Minimization of the cost of industry operations:** Another FMP goal for opening seasons is to minimize the cost of industry operations. FMP at 36. The Board noted that hiring and keeping crews was clearly problematic throughout these fisheries because of the shortening of seasons and because declining fishing productivity influences prices and, therefore, crew shares. Tr. 12. Extended periods between fishing seasons makes it both expensive and difficult to hold crewmembers. Tr. 12. Additionally, it requires vessels to remain proximal to the Bering Sea grounds for long periods that raise costs and make vessel yard maintenance difficult to schedule. Tr. 3, 12. Moving the season up two weeks would help address these concerns and provide a longer maintenance window prior to the opilio fishery. Tr. 3, RC 142 at 6.

**Coordination of fisheries:** The FMP also requires the Board to consider methods that coordinate the fisheries that have the same demands on harvesting, processing and transportation systems. FMP at 36. Additionally, it states that seasons can be timed relative to one another to spread fishing effort, prevent gear saturation, and allow maximum participation in the fisheries by all elements of the crab fleets. *Id.* Overlapping or reducing the space between various crab fisheries achieves this goal for the crab industry.

The demands on harvesting, processing and transportation systems in the crab fishery did not appear to conflict with those other fisheries that are ongoing at the same time. The Board was given no information to that effect. There appeared to be no specific concerns of gear saturation or spreading of fishing effort presented by a sixteen-day advance in the opening of the season.

Concern over participation of the Korean Hair crab fleet was dealt with, and the Board recently took steps to address participation by the Area O Brown king crab fleet. Tr. 16.

The Board was quite aware that an earlier season would have an impact on the participation in the crab fishery of those trawl vessels that fish in the same area for pollock during a season that would overlap with tan earlier season. RC 132, Tr. 18. The record indicated that crabber/traulners that fish in the Bering Sea B-season pollock fishery

would often be forced to decide between fishing throughout the entire B-season pollock fishery or stopping early to participate in the Bristol Bay king crab fishery. Tr. 6-7. This would have the tendency to reduce the number of trawl participants in the crab fishery.

One industry committee member indicated that moving the season would benefit dedicated crab operators since it could reduce opportunity to trawl cross-over vessels who wanted to fish Bristol Bay red crab. But the Board felt that this was an inappropriate basis for them to make a decision, as expressed by Vice-chair Dan Coffey:

[A]s I said in our earlier presentation, I don't think we should, by indirection, do that which we are not allowed to do directly, which is limit entry into a fishery. If the effect of our action is justified by other things, such as the pluses that Mr. Engel identified and things in the – in the management plan, which we've been discussing, and it has a consequence of excluding folks from the fishery, but we're doing it for legitimate reasons within the management plan and within our authority, well, so be it, that happens a lot, the unintended allocative consequence, because we're facing that all the time. And – I'm perfectly willing to accept those consequences. What I'm not prepared to do is to take action that is not otherwise justified simply for the purpose of excluding people from the fishery, particularly in light of the instructions for maximum participation in the fishery....

Tr. 18-19.

The earlier season adopted by the Board does not “limit access” to the fishery as contemplated by FMP Category I provisions. The circumstances described there involve limitations on admission to a user group and restrict who can participate in the fishery at all.

In this case, the start date does not exclude any fishers from participating in the Bristol Bay red king crab fishery unless by their own choice to participate in another fishery. Every regulation that limits a fishing season has the potential to require some who might otherwise be able to participate, but want to participate in another ongoing fishery, to make tough decisions.

In this fishery, as in any other fishery such as salmon or groundfish, there are usually other fisheries that overlap or occur at the same time, preventing fishers from participating fully in both. Considering the actual level of annual participation by vessels that fish crab; it is obvious that each participant must annually evaluate whether to participate in a particular crab fishery or use their vessel to some higher economic benefit. The election to participate in a particular fishery is a universal quandary that fishermen face annually. The Board made changes for legitimate reasons within the FMP and within its authority, and unintended consequences occur frequently in fishery management. If the Board could not allow any overlap in such fisheries, consideration of all other criteria and public policy concerns would be lost to the Board.

Because the Board recognized that a decision might have allocative effects, even though not intentional, the Board reviewed and discussed the allocation criteria found in AS 16.05.251(e).

**Reduction of costs of enforcement and management:** The department did not believe the reduction of enforcement and management costs before, during and after the season would be significantly impacted by the change in start date.

## **2. The Board properly considered the Magnuson-Stevens Act National Standards**

Since this was a Category II measure with specific criteria laid out for the Board's consideration in the FMP, the Board did not spend a lot of time discussing the Magnuson-Stevens Act National Standards, presuming that the specific FMP criteria were designed to produce regulations consistent with the National Standards. The Board, in reviewing each of the National Standards as they relate to this proposal, found that many of the standards were not applicable, and that those that were applicable were largely irrelevant due to the small shift in season timing.

**National Standard 1:** The Board did not believe the prevention of overfishing was an issue in its decision. Tr. 13-14.

**National Standard 2:** The Board believed it had "some pretty good data on the criteria" to consider and did not think it was "relying on anything other than the best scientific information." Tr. 14.

**National Standard 3:** It didn't believe management of the crab stock as a unit throughout its range was at issue. Id.

**National Standard 4:** As to discrimination between residents of different states, the Board felt there was no discrimination involved in its decision because there were both state residents and nonresidents involved in the fisheries, and that season changes did not discriminate relative to residency. Tr. 14.

**National Standard 5:** Even though not expressly addressed to the National Standard 5, the Board decision was based largely on its desire to promote efficiency in the utilization of the the Bristol Bay king crab stocks. Tr. 3, 12, 16.

**National Standard 6:** The Board found little guidance in this standard. Tr. 14.

**National Standard 7:** Even though not expressly addressed to the National Standard 7, the Board decision was based largely on its desire to minimize costs in the utilization of the the Bristol Bay king crab stocks. Tr. 3, 12, 16.

**National Standard 8:** The Board felt that determining the effect on communities was very, very difficult to determine, and could not see how the season change made a difference. Tr. 15.

**National Standard 9:** The minimization of mortality of bycatch was discussed but not felt to be significantly affected by the season change.

**National Standard 10:** While the Board felt like an earlier season meant it would be a little safer for human life at sea, it also believed the magnitude of the change contemplated by the regulation would outweigh all other considerations. Tr. 15.

Generally, the Board noted that the primary focus would be on deadloss, quality and safety – but only in respect to small incremental changes. What seemed to be industry’s real benefit, and the purpose behind the proposal, was to minimize the cost of industry operation. All of the other items were a balance, one against the other, but only to small amounts of gain or loss. Tr. 15.

### **III. Preseason Gear Exclusion**

At its March 1999 meeting, the Board amended its regulations that already required participants in king and Tanner crab fisheries to refrain from operating any pot gear during the 14 days immediately prior to the seasons to include trawl gear in the restriction and in the king and *C. bairdi* Tanner crab fisheries, to extend the preseason exclusion period from 14 to 30 days. The Board took this action to close any loopholes to the “fair start” of the seasons, and to maintain a slower pace in fisheries like the Bristol Bay red king crab fishery, which are otherwise subject to overfishing. The Board’s intent was to remove all opportunity for prospecting, and not to just react to accusations of past prospecting.

#### **A. Historical Background**

Since 1987, the Board has had regulations that required participants in king crab fisheries to refrain from operating gear in the area in the 14 day period before the season opens. The purpose of this restriction was to prevent the opportunity for prospecting or early fishing by crab fishermen, to slow down the pace of the fisheries and to put all participants on a level playing field at the opening of the season. Originally, the only gear restricted was king and Tanner crab pots. Former 5 AAC 34.050(j). But in the fall of 1989, both NMFS and ADF&G noticed a large increase in the registration for the cod pot fishery in the Bristol Bay area prior to the red king crab fishery. With NMFS’ cooperation, an emergency regulation was adopted to exclude pots of any kind during the days leading up to the king crab season. Emergency Regulation 5 AAC 34.050(k) (Eff. 9/15/89 to 1/12/90, Reg. 112). By the following season, the amendment had been made permanent, excluding the operation of any kind of pots to prevent the opportunity for prospecting for crab under the guise of cod fishing with pots. 5 AAC 34.050(j) (Eff. 9/19/90, Reg. 115)

From a historical statewide perspective, the Board has needed to address the reoccurring concern with vessels prospecting for high valued species prior to that species' season opening. The original regulation allowed a preseason bait-up period which is clearly within Category 3, gear placement and removal. Because of dead loss concerns, the BOF stopped allowing preseason bait-up periods.

To assure that no vessels were on the grounds early with baited gear, they implemented tank checks and preseason gear exclusion periods in 1987 to preclude prospecting with commercial, subsistence or personal use crab pots. This was a case where one regulation (pre-season bait up) rolled into the other (gear exclusion /tank checks). It was modified two years later to include all pot gear after a large portion of the crab fleet started fishing P. cod with pots on the red king crab grounds just prior to a crab opener. A further illustration of statewide prospecting concerns was addressed this year (1999) by the Board when it adopted a 30-day preseason restriction period for the red and Tanner crab fisheries in Southeast Alaska. Since groundfish trawling is not allowed in Southeast, trawls were not included in the regulation.

## **B. Public Testimony and Committee Process**

The Board had before it several proposals dealing with the preseason gear exclusion period for the BSAI crab fisheries. Proposal 291 was submitted by the department and would have increased the preseason gear exclusion from 14 days to 30 days for only the Bristol Bay red king crab fishery. Proposal 354 would have included all types of gear, including trawl gear, in the current 14-day exclusion period for all king and Tanner crab fisheries. Proposal 355 sought to include trawl gear in the exclusion, as well as to extend the existing 14-day preseason gear exclusion period to 30 days in all king and Tanner crab fisheries. Proposals 354 and 355 were submitted by Arni Thompson, executive director of Alaska Crab Coalition. According to comments accompanying these two proposals, they were intended to provide a "fair start" to all crab fishermen by requiring a preseason gear exclusion period of 30 days between using sport, subsistence or commercial pot or trawl gear on the commercial crab grounds prior to the commercial crab fishery. RC 1.

These proposals had been submitted to the Board before April 10, 1998, almost a year before its March 1999 meeting in Anchorage. These proposals, along with all other proposals submitted the Board for consideration during its 1998-99 meeting cycle, were published in the Board's annual proposal book and were distributed to the public in July 1998. The proposals were reviewed by user groups and advisory committees, including the Pacific Northwest Crab Industry Advisory Committee (PNIAC), which was established by the FMP to provide nonresidents of Alaska access to the FMP and Board regulatory process. At its meeting in Seattle on January 6, 1999, the PNIAC voted to endorse Proposals 291 and 354, and to postpone comments on Proposal 355 until ADF&G completed its analysis. RC 1, Public Comment 37, page 5.

The Board took staff reports at the beginning of the meeting, took public testimony and then broke into committees to address similar proposals.

Proposal 291 was assigned to Committee E – Bristol Bay King Crab issues. RC 142 is the committee report. Board Committee Members were Don Coffey (Chair), Virgil Umphenour, and Russell Nelson. Staff and industry committee members are listed in RC 142. Other relevant reports or comments to the Board were: Staff Reports, RC 4, Tabs 1, 2, 13, 14, 17, 27, 28, 29; Staff Comments, RC 4, Tab 37, page 19; Advisory Committee Reports, RC 110; Public Comments, RC's 69, 85, 102, 111, and 132.

Proposals 354 and 355 were assigned to Committee D – Bering Sea/Aleutian Islands King Crab issues. RC 135 is the committee report. Board Committee Members were Ed Dersham (Chair) and Dan Coffey. Staff and industry committee members are listed in RC 135. Other relevant reports or comments to the Board were: Staff Reports, RC 4, Tabs 1, 3, 4, 19 (Federal Requirements), 20 (FMP), 27, 30, & 34; Staff Comments, RC 4, Tab 37, page 33; Advisory Committee Reports, RC 110; and Public Comments, RC's 69, 85, 102, 111 and 132.

In committee it was noted that Proposal 355 would include any and all fishing gear in a 30-day pot gear exclusion period prior to any king or Tanner crab fishery. RC 135 at 15. The proposal to extend the preseason restriction period and include trawl gear arose from the concern that trawl equipped crab vessels have an unfair advantage over other crab fishers. *Id.* Public testimony expressed concern that trawls vessels can use pelagic gear in the pollock fishery or bottom gear for cod or flatfish, right up to the registration deadline period for the king crab fishery. *Id.*

Trawl gear is clearly an efficient crab survey method. RC 135 at 15. However, fish ticket data does not show an increase in “average” catch of king crab by trawl vessels compared to similar length non-trawl crab vessels. *Id.* One person testified that pollock trawlers had done about as well as the “crab fleet average”. P291 Tr. 7; P355 Tr. 2. He found this surprising since the vessels are mostly operated by trawl fishermen, rather than crab fisherman, stating that this must prove that they were getting an advantage. *Id.*

In committee, the Public Panel Recommendation was a consensus in support of including pot and trawl gear. A consensus was not achieved on the length of the preseason restriction period. Some industry representatives wanted 30 days, some wanted 14 days. RC 135 at 15. Others felt that 30 days was too restrictive and that the change of the red king crab season to October 15 would solve the problem. The Board Committee members supported a 30-day restriction period and inclusion of both pot and trawl gear. Substitute regulatory language was drafted and proposed to the Board. RC 135 at 23. P355 Tr. 7.

### **C. The Board Properly Considered Applicable Standards of Law During Its Deliberations of the Proposals for Preseason Gear Exclusion**

The Board first deliberated on Proposal 291, and using substitute language provided by the committee, amended the department's proposal to include trawl gear in the 30-day preseason gear operation restriction for the Bristol Bay red king crab fishery. The regulation was adopted on a vote of six in favor, zero against, and one absent. The Board later considered Proposal 355 in the context of Tanner crab only, since king crab had been addressed by the adoption of Proposal 291.

#### **1. The Board's Consideration of the Magnuson-Stevens Act National Standards**

**National Standard 1:** The Board addressed the problems of overfishing to achieve optimum yield of the crab stocks. Board member Larry Engel talked about the conservation problems posed by a very short fishing season and people with prior knowledge of the location of crabs, stating that "you could have severe conservation problems" and "very adverse consequences." P355 Tr. 8-9. The gear exclusion period is designed to prevent even the opportunity to prospect. The Board knew that "a trawl is a very effective survey device," noting that the Bering Sea crab survey was performed with a trawl. P291 Tr. 7. Without prior knowledge by fishermen of crab location or abundance, the pace of the fishery can reasonably be expected to be slower than otherwise. The Board's record is clear that a manageable fishery is important to ensure compliance with National Standard 1 to prevent overfishing and achieve optimum yield.

The Board noted that "fair start" purpose of the regulation was an important equity issue, but that there were also important conservation concerns with prospecting. The utilization of pots, trawls or any other gear to determine the location of crab concentrations in the preseason will only shorten the length of the season for a depressed stock fishery that the Board has been trying to lengthen to ensure conservation management. In fact, it would provide opportunities that are certainly contrary to the Board's attempt to rebuild these stocks and inconsistent with National Standard 1

**National Standard 2:** The Board's record makes it clear that the Board examined all the data that it had before making this decision. The Board's regulations were aimed at "potential" prospecting. The question was not whether prospecting had occurred, but whether the opportunity is there. Given the limitations of observer coverage in the trawl fishery and the capability of trawlers to catch crab with pelagic gear, there is no support for assertions that trawling does not present an opportunity for prospecting

**National Standard 3:** There is no question but that the Board manages the king and Tanner crab stocks as a unit throughout their ranges.

**National Standard 4:** The Board's actions were certainly consistent with National Standard 4. There is absolutely no evidence that the regulations discriminate

between residents of different states. Furthermore, a major purpose of the preseason gear exclusion was to provide a fair start to all participating fishermen. The preseason gear exclusion closes the area for 30 days prior to the fishery start date to pot and trawl operation by those fishermen who wish to fish in the directed crab fishery. The goal was to level the playing field. As Board member Dan Coffey reiterated:

Looking first to the national standards, I think the – one of the primary considerations here should be in 4 – or section 4, which deals with fair and equitable to all fishermen. I – I think we all know that the – survey that's conducted on Bering Sea king crab is done with a trawl, a trawl is a very effective survey device, mechanism, method and – and therefore we have that and – and so if someone is permitted to trawl in the area, then what I would be concerned about is going fishing the next day, or the next few days or however long it takes for the data, which they were able to trawl up to become outmoded and they would have an unfair and inequitable advantage over those fishermen who are not permitted to trawl in the period prior to the fishery. If you did that, you would allow an individual, corporation or other entity to – to potentially acquire an excessive share of that fishery which is another thing we're supposed to avoid.

P291 Tr. 7-8.

Under the federal groundfish observer program, vessels less than 125 feet only have 30% groundfish observer coverage, and vessels without observers are known to sometimes behave differently than when observers are on board. P355 Tr. 4. Thus, the Board was concerned that 70% of the time, pollock or flatfish trawl vessels less than 125 feet in length are fishing without observers, which provides an opportunity for undetected prospecting. P355 Tr. 4. Data indicated that October observer coverage is low. The opportunity to prospect for crab with trawl gear by a significant portion of the crossover vessels is very real.

The Board's regulations were intended to remove a potentially unfair and inequitable advantage that trawlers have over other crab vessels that do not have gear on the grounds prior to an opening.

**National Standard 5:** National Standard 5 addresses conservation and management measures promoting efficiency in the utilization of fishery resources without economic allocation as a sole purpose. There was no evidence that the preseason gear exclusion promotes inefficiency in the utilization of the king crab stocks. There was no evidence that allowing trawlers to fish with the opportunity to prospect would promote efficiency in the utilization of crab stocks except as to their efficiency. The Board does not believe that promoting efficiency among a select portion of a user group could have been Congress' goal. As noted above, the Board had very valid concerns for the fairness and equity in the fair start of the fisheries, and was especially concerned about the potential for overfishing in very short seasons. Moreover, there is no indication in the record that the Board's purpose was economic allocation, at all, much less its sole purpose.

**National Standard 6:** The Board's actions were consistent with National Standard 6, which deals with taking into account and allowing for variations among, and contingencies in, fisheries, fishery resources, and catches.

**National Standard 7:** National Standard 7 deals with the minimization of costs and avoiding unnecessary duplication. The Board fully understood the costs and benefits of its regulations

**National Standard 8:** Further review of National Standards by the Board indicated how a fair start does not provide advantage (prospecting) to one area or community over another, and how this is then fair and equitable to all fishermen.

The Board considered whether or not to include the CDQ vessels in the restriction, noting that the Council had many regulations that exempted CDQ vessels. The Board rejected any exemption for the CDQ fleet, stating that a fair start had to be fair to all.

The Board did, however, on reconsideration of Proposal 355, vote to reduce the preseason gear exclusion period for *C. opilio* Tanner crab from 30 back down to 14 days, based largely on its concern for full participation in this fishery by CDQ groups. Proposal 355 Reconsideration Transcript at 6-7.

**National Standard 9:** Board member Dan Coffey commented on the bycatch implications presented by the proposals:

I think that by allowing a fisherman – or the opportunity for this prospecting occurs, we can have a negative effect on the fishery and a negative effect on the resource as well. I think if prospecting occurs, we're going to have a lot of bycatch going on, and I think we're going to have a lot of mortality associated with such bycatch.

P291 Tr. 5; see, also, Board member Umphenour's comments at P291 Tr. At 20. Staff indicated that NMFS observer data of pollock trawl vessels showed a spike of increased king crab bycatch in early October. P291 Tr. 6. In fact, at least since 1993, in years when the red king crab fishery has been open in Area T, the observed bycatch of red king crab has peaked from 4,000 to 7,000 RKC during the October period; an occurrence that doesn't appear in years that the Bristol Bay red crab fishery is closed. *Id.*

**National Standard 10:** The Board regulations were not inconsistent with the goal of promoting the safety of human life at sea.

## 2. Consideration of State allocation criteria under AS 16.05.251(e).

Because this proposal has unintended allocation implications, the Board went through its state allocation criteria. Of these state criteria, the Board noted that the availability of alternative fishing opportunities inherently forces fishers to make a fishery participation choice. In fact, in the 1999 opilio fishery, a number of these same vessels chose to forego their A-season Pollock harvest to fish opilio –something they had not done in the past.

### **3. The Board considered the impact of the regulations on trawl vessels.**

Because of the concerns expressed in RC 132, the Board specifically discussed and evaluated each of the concerns laid out by the trawl vessel representative. RC 132 stated that trawlers would lose a portion of their fall groundfish fishery if they chose to go crab fishing. The Board notes that it was only after the 1990 Board action to move the season start date to November 1 that these vessels were able to participate. The pollock fishery consists of an A1, A2, B and C season. These vessels are therefore not excluded from pollock fishing, but must choose whether to participate in the entire pollock B/C season or participate in the Bristol Bay crab fishery. Such choices are common. For example, 16 pollock vessels fished the January 1999 C. opilio season. Five of the vessels first fished pollock and then switched to opilio. But 11 of these vessels forewent their option to fish A-season pollock and chose to fish crab. Further, as the Board understands the discussions under the Council's AFA options, these vessels may form co-ops which could accommodate some seasonal adjustment within co-op fleets (some fish early-some fish late). None of these actions were intended or considered to include or exclude these vessels from participation, only to exclude the opportunity to prospect.

The actions of the Board require that registrants in crab fisheries conform to conservation and management measures necessary to conserve and manage crab stocks. No vessel is excluded, only under certain conditions in a vessel's groundfish endeavors must they elect one fishing opportunity over another. If vessel owners wish to register for BSAI crab fisheries they must prosecute groundfish fisheries in a manner so as to preclude their ability to prospect for crab during the specified fair-start interval. If groundfish fishing occurs outside the crab registration areas, a vessel may still participate in the crab fishery.

There was the statement in RC 132 that prospecting would not occur, mostly because it would use up the prohibited species cap (PSC) limit. However, as the Board understands PSC restrictions, 70% of the fishing time of vessels less than 125 ft. is unobserved for bycatch. Additionally, prospecting for red crab would most likely occur only toward the end of the fall groundfish fishery, and would not tend to shut down the pollock fishery. Data indicated that most of the Bristol Bay red king crab bycatch occurs in the Federal reporting area 509, one of the main commercial crab grounds.

Finally, RC 132 states that the Board does not have legal authority to create a federal fair start that affects the Bering Sea groundfish fisheries. The Board acknowledges that it does not have authority to manage groundfish in federal waters, nor,

by imposing this restriction on the crab fishery, does it intend to. But the Board does have authority to regulate vessels, be they herring vessels, salmon vessels, Dungeness, king, or Tanner crab vessels from anywhere in the state, or groundfish vessels that wish to fish BSAI crab.

The Board's authority to manage crab fisheries in the EEZ arises under the FMP and the Magnuson-Stevens Act and must be consistent and comply with their associated statutory and regulatory requirements to conserve the resource. Compliance with these statutory and regulatory conservation standards does not become unnecessary simply because a conservation measure may have effects on other fisheries, including the groundfish fishery. The groundfish fisheries do not take precedence over the crab fisheries. The Board properly considers such effects on other fisheries, particularly in the context of the National Standards, but concerns about those effects do not trump conservation concerns or other standards the Board must consider. This regulation affects crab fishing vessels and is an extension of other regulations across the state that the Board has adopted or modified to curtail prospecting in state managed crab fisheries. The Board discussed the substantial impacts of their regulations to various users across the state in bringing statewide consistency to regulations.

The following information also supports the Board's decision on this issue. Regarding the imposition of trawl gear restrictions on crab vessels with trawl capacity, Board authority stems from one of the oldest anti-crab prospecting restrictions in our regulations. Regulations 5 AAC 34.625 (c), 5 AAC 34.825(g) and 5AAC 34.925 (j)<sup>1</sup> all restrict vessels engaged in the taking or transporting of king crab from having on board an otter trawl with a head rope or foot rope longer than 60 feet. This regulation was put in place to stop prospecting with trawls during the boom years of king crab fishing. In the boom years, fishermen did not prospect pre-season; instead, under the guise of bait fishing during the season, they used large trawls to prospect for high concentrations of crab to set their pots on. The Board restricted these vessels to a small otter trawl suitable for the harvest of bait, but of minimal value for prospecting. This regulation was in place prior to the imposition of the BSAI king and Tanner Crab FMP, was not challenged as provided for under the original FMP, and thus provided notice of the Board's authority to restrict groundfish gear from prospecting under the FMP.

## 5. Other Considerations

The Board questioned the department as to whether there was good justification to extend the pre-season restriction from a 14-day to a 30-day period. Crab managers indicated that there was sufficient information to show that red king crab do not move all that much over a two week period. Industry representatives assured the Board that some of the vessels were in fact exploratory crab fishing under the auspices of cod fishing.

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<sup>1</sup> 5 AAC 34.925 has been in place since at least October 1974, Register 51. 5 AAC 34.625 has been in effect since July 1979, Register 70. 5 AAC 34.825 took effect in July 1980, Register 74.

The Department of Law indicated that prospecting was a real enforcement problem. Law noted that prospecting is quite common, and that every year they seem to "find" several vessels, which are prospecting. Obviously, there is great advantage to being able to prospect, otherwise fishermen would not risk prosecution year after year.

#### **D. Reconsideration by the Board**

Because of industry concerns, the Board reconsidered Proposal 355 later during the meeting. The Board was asked to consider whether the 30-day preseason gear exclusion period should be the same for all fisheries. After much debate, the Board adopted the 30-day period for BSAI crab fisheries with small GHLS, and left the opilio fishery with its 14-day period. The opilio fishery has a large GHLS, the season lasts for two to three months and thus does not elicit the same degree of fair start concern as fisheries that last a matter of days. But mostly, it was industry's operational concerns, and the CDQ groups who may want an early pre-season opilio harvest (but without exemptions from preseason gear restrictions and wanted uniform application) that felt the opilio preseason gear exclusion could be of shorter duration. The motion on reconsideration passed six in favor, zero against, one absent.

#### **2. The Board complied with applicable FMP requirements and criteria.**

The Board has treated the measure it took to restrict participation by those who operate gear in the preseason as an FMP Category 3-Other measure. With Category 3-Other measures, the Board is not limited to only the management measures expressly identified in the FMP, though the board must maintain consistency with the FMP goals and guidelines, National Standards and other applicable Federal law, and the Board must consult with the Council on such measure before implementation. To comply with the requirements of the FMP, the Board consulted with the North Pacific Fisheries Management Council at a joint meeting on July 27, 1999. The meeting took place before the regulation was filed or implemented. The regulation had been held in abeyance by the Department of Law at the Board's direction.

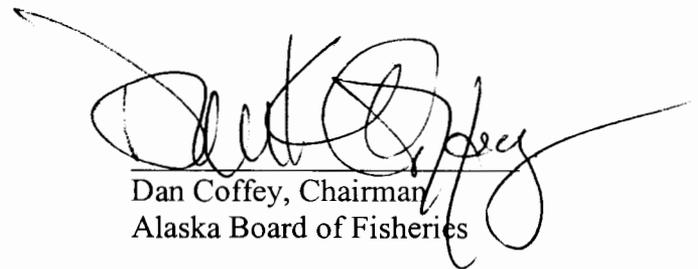
At the joint meeting, the Board listened carefully to comments for the Council and NMFS, explained the reasoning for its action. The Board heard information concerning Council action imposing sideboards on the activities of trawl vessels that cross over and fish the Bristol Bay red king crab fishery, but the Board also heard that those sideboards would not take effect until the 2000 season, at the earliest.

After the joint meeting, the Board scheduled another meeting at which it could vote to continue to keep the regulation on hold or to have it filed and implemented by Law. That meeting took place on August 6, 1999, where the Board voted to lift the hold on the regulation's implementation, but also committed to lift the restriction on trawl gear for the coming season if a federal regulation requires 100% observer coverage during the preseason gear exclusion period, at the suggestion of United Catcher Boats, an

organization largely made up of owners of vessels that participate in the trawl and crab fisheries. The Board also indicated its commitment to review this issue further during its 1999-2000 meeting cycle in coordination and consultation with the NPFMC.

On August 30, 1999, the Board met again and adopted an emergency regulation for the 1999 season to the effect that trawl vessels that had 100% federal observer coverage during the 30-day period prior to the Bristol Bay red king crab season would be allowed to participate in the king crab fishery.

ADOPTED: Oct. 29, 1999  
Fairbanks, Alaska



Dan Coffey, Chairman  
Alaska Board of Fisheries

VOTE: 6-0-1  
one abstention

Alaska Board of Fisheries  
Bering Sea/Aleutian Islands Crab Observer Oversight Task Force  
99 - 186 - FB

**APPOINTMENT**

The Alaska Board of Fisheries made initial appointment of the Bering Sea/Aleutian Islands Crab Observer Oversight Task Force at the October 1999 work session. After initial appointment, task force members shall be appointed by the board at the king and Tanner crab meetings currently scheduled for 2002, 2005, 2008, 2011 and beyond.

**TERM**

Initial term for task force members shall be until 2002. Beginning in 2002, appointments shall be for a term of three years, corresponding to the board crab proposal cycle. Any vacancies will be appointed annually at the March meeting and the term will be for the remainder of the three-year cycle.

**NUMBER OF TASK FORCE MEMBERS AND QUORUM**

The task force will comprise 15 industry members. A quorum will be eight. The Board of Fisheries will attempt to achieve a broad representation, but specific appointments recognizing residency or size and class of vessels will not be required. If a vacancy occurs, a nomination shall be referred to the BOF for approval.

Understanding that the crab fisheries are conducted in a manner different than many other state managed fisheries, the board shall not consider representatives of stakeholders to be technical advisors, but shall recognize representatives as members of industry.

**MEETING STRUCTURE**

The task force will operate with a chair and vice-chair to be elected for a three-year term by the committee. Issues will be determined on a voting basis, with vote tallies to be reported to the board.

**MEETING FREQUENCY**

To be determined by the task force. The task force will coordinate meetings with the Alaska Department of Fish and Game. Attempts will be made to schedule meetings in conjunction with appropriate meetings of the Board of Fisheries and North Pacific Fishery Management Council.

**FUNDING FOR TRAVEL**

Task force members will be responsible for their own expenses to attend task force meetings.

**TASK FORCE AUTHORITY**

The task force shall exercise the following duties, authorities and responsibilities placed on it by the Board of Fisheries in regard to all aspects of the development, implementation, and continued operation of the BS/AI crab observer program.

- Report to and be advisory to the board
- Interact with and be advisory to the department

- Review and recommend specific action for all aspects of the BS/AI crab observer program, including:
  - a) Funding mechanisms for observer.
  - b) Budget and research priorities.
  - c) Types of observers to be used in the crab fisheries.
  - d) Issues of observer coverage, as well as duties and responsibilities of observers in the various fisheries.
  - e) ADF&G suggested program receipt requests.
  - f) Other issues that may arise.
- Review and provide recommendations to all appropriate entities regarding the amount and collection of cost recovery fisheries for the observer program in the BS/AI.

**ANNUAL REPORTING AND RECOMMENDATION FORMAT**

Prior to each March Board of Fisheries meeting, the task force shall receive a complete report from the Department of Fish and Game for the preceding year to include:

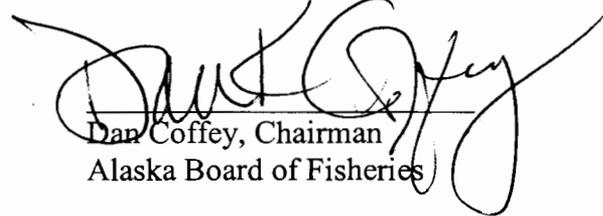
- Amount of funds collected in BS/AI crab cost recovery fisheries, along with an itemizing listing of fisheries from which funds were collected. Information shall include the names of vessels involved, pounds harvested, ex-vessel price, and other relevant information.
- A complete and detailed accounting on the use of funds collected in BS/AI recovery fisheries, including amounts utilized for observers, overhead and management, transportation, research, and all other associated costs.
- Complete observer data report for all fisheries with summaries and conclusions included.

Prior to each March Board of Fisheries meeting, the task force shall receive proposals from the Department of Fish and Game for the coming year to include:

- Proposed amount of funds for collection in BS/AI crab cost recovery programs
- Proposed budget for use of funds collected in BS/AI crab cost recovery programs.
- Anticipated levels of observer coverage in each specific fishery, as well as data specific goals for each fishery to be observed in the upcoming season.

Prior to the March Board of Fisheries meeting, the task force will review reports and proposals from the Department of Fish and Game and prepare written recommendations for the Board.

ADOPTED: 10/27, 1999  
Fairbanks, Alaska

  
Dan Coffey, Chairman  
Alaska Board of Fisheries

VOTE: 7/0

**ALASKA BOARD OF FISHERIES  
POLICY ON WRITTEN FINDINGS FOR ADOPTION OF REGULATIONS  
99 - 184 - BOF**

Generally, written findings explaining the reasons for the Board of Fisheries' regulatory actions governing Alaska's fisheries are not required by law. The Alaska Supreme Court has specifically held that decisional documents are not required where an agency exercises its rulemaking authority. *Tongass Sport Fishing Association v. State*, 866 P.2d 1314, 1319 (Alaska 1994). "Adoption of a decisional document requirement is unnecessary and would impose significant burdens upon the Board." *Id.* The Board recognizes, however, its responsibility to "clearly voice the grounds" upon which its regulations are based in discussions on the record during meetings so that its regulatory decisions reflect reasoned decision-making. *Id.* The Board also recognizes that there may be times when findings are appropriate to explain regulatory actions that do not result in adoption of a regulation.

Even though written findings are generally not a legal requirement, the Board recognizes that there are certain situations where findings are, in fact, legally required or advisable or where findings would be useful to the public, the Department of Fish and Game, or even the Board itself. The Board will, therefore, issue written findings explaining its reasons for regulatory actions in the following circumstances:

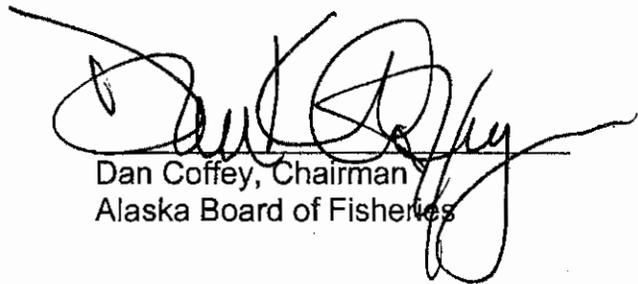
1. The Board will provide written explanations of the reasons for its decisions concerning management of crab fisheries that are governed by the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs as required by that plan.
2. The Board will, in its discretion and in consultation with the Department of Law, provide written findings for regulatory decisions regarding issues that are either already the subject of litigation or are controversial enough that litigation is likely.
3. The Board will, in its discretion, provide written findings for regulatory actions where the issues are complex enough that findings may be useful to the public in understanding the regulation, to the department in interpreting and implementing the regulation, or to the Board in reviewing the regulation in the future.
4. The Board will, in its discretion, provide written findings for regulatory actions where its reasons for acting are otherwise likely to be misconstrued by the public, the legislature, or other state or federal agencies.

The chair will assign responsibility for drafting written findings to board committees, individual board members, department staff (with division director approval), or others, as appropriate for the circumstances.

Written findings must be approved by a majority of the full Board membership. Approval may be by a vote on the record at a Board meeting or by individual signatures of Board members upon circulation of a written finding. Only those Board members that participated in the regulatory decision will be eligible to vote on the findings for that regulatory decision. Board members are not required to vote for or against adoption of findings based on their individual vote on the underlying regulatory decision. A Board member who votes in favor of the regulatory decision may vote against adoption of the findings; a Board member who votes in opposition to a regulatory action may, nevertheless, vote for adoption of the written findings.

Written findings adopted by the Board will be numbered according to year and sequence of adoption. The executive director will maintain copies of all Board findings and make them available for review by the Board, department, and the public.

ADOPTED: 10/27, 1999  
Fairbanks, Alaska



Dan Coffey, Chairman  
Alaska Board of Fisheries

VOTE: 7/0

(Previously: Finding #: 93-07-FB)  
Mixed Stock Policy Finding

ALASKA BOARD OF FISHERIES  
FINDINGS ON POLICY FOR MIXED STOCK SALMON FISHERIES

The Board of Fisheries, at a meeting from March 16 through 20, 1993, adopted 5 AAC 39.220, POLICY FOR THE MANAGEMENT OF MIXED STOCK SALMON FISHERIES.

The Alaska Board of Fisheries originally adopted an informal policy for mixed stock salmon fisheries in 1976 and revised it in 1980. It was applied only occasionally by the Board or by litigants challenging Board actions. In 1990, the Alaska Supreme Court held that the policy could not be used in Board decisions because it had not been adopted as a regulation under the Administrative Procedure Act (AS 44.62). The court, however, held that several Board allocation decisions on mixed stock fisheries were valid under other authorities. In 1992, the Alaska Legislature enacted AS 16.05.251(h) requiring the Board to adopt by regulation a policy for the management of mixed stock salmon fisheries consistent with sustained yield of wild fish stocks.

At the March 1993 meeting the Board considered information contained in Alaska Department of Fish and Game oral and written staff reports, oral public testimony from 91 individuals and 11 advisory committees, as well as a multitude of written public comments submitted prior to and during deliberations. Additionally, during deliberations, the Board established a committee made up of various interests in order to focus discussion on key issues.

The Alaska Board of Fisheries finds that:

Alaska's salmon industry and communities dependent upon that industry have developed and rely upon stable fisheries, many of which harvest a variety of mixed stocks. This development represents the successful application of principles of management to achieve sustained yield which have produced increasing harvestable surpluses of salmon statewide. Creation of the Limited Entry System stabilized participation in the fisheries and managers developed successful rebuilding programs which suited the unique characteristics of the fish stocks, geography and gear types of the regions.

For example, in the Bristol Bay region harvest effort was confined to the terminal areas of the five major sockeye producing systems. Escapement goals which suited the carrying capacity of the lake systems were established and managed for. Consistent harvests of tens of millions of sockeye have been achieved.

Conversely, in Southeast Alaska where pink salmon runs were depressed, a different management style arose. Rather than a few huge systems, a myriad of medium to tiny streams produce the Southeast stocks. Commercial fisheries effort occurs away from the terminal areas and through the application of time, area and gear

Finding #: 93-07-FB  
Mixed Stock Policy Finding

restrictions, a style of management developed on these mixed stocks which permitted harvest of a high quality product, distributed harvest pressure over larger areas, distributed harvest temporally throughout the run, and diluted impacts on weaker stocks.

As another example, the fisheries of the Yukon River encompass the entire spectrum of fisheries management from the mixed stock fishing of the lower main stem to the terminal fisheries near the contributing systems.

The Board finds that most of Alaska's fisheries harvest stocks which are mixed.

Mixed stock salmon fisheries are often the focus of intense political controversy. Fishermen need to know what standards will be used by the Board in making decisions affecting those fisheries. Equally important, fishermen need to be assured that those standards will be applied uniformly to all mixed stock salmon fisheries, not just those that engender controversy and notoriety.

In this policy, stocks are considered to be species, subspecies, geographic groupings or other categories of fish manageable as a unit. Many stocks of Alaska salmon are not manageable throughout their range. Salmon management is an art, not an exact science. Decisions should be based upon the best information available but with no expectation that such information will be always accurate or precise.

The Board framed, by unanimous consensus, the principles upon which its policy would be developed. These tenets included reasserting the statutory preference for wild stock conservation as well as the subsistence preference. Consensus principles were:

(1) The policy should provide that all users of salmon resources should share in actions taken to conserve the resource in a manner which is, ideally, fair and proportional to respective harvest of the stock in question.

(2) The policy should state that the Board prefers to develop management plans as the mechanism to express how the burden of conservation is to be distributed among users and that these management plans also state allocation objectives as determined by application of the allocation criteria. Most mixed stock fisheries are long standing and have been scrutinized many times by past Boards. Consequently, existing regulatory management plans are understood to incorporate conservation burden and allocation, although such burdens can be readjusted.

(3) The policy should recognize that salmon resources are generally fully utilized and that stability is an important aspect of the fisheries.

(4) New or expanding fisheries on mixed stocks may potentially change management schemes for conservation or may change existing allocations. Therefore new or expanding mixed

Finding #: 93-07-FB  
Mixed Stock Policy Finding

stock fisheries will be discouraged unless a management plan or application of the Board's allocation criteria warrant otherwise.

(5) The policy should not be a tool to be used for allocating outside of the Board's allocation criteria.

(6) The policy should not pass the burden of allocating mixed fish stocks to the department in-season, but rather allocation decisions should be made only by Board regulation; consequently, mixed stock issues requiring redress between Board meetings should be undertaken only pursuant to existing procedure (Petition Policy, Agenda Change Policy and Subsistence Petition or Proposal Policy).

(7) The policy should reflect that new or expanding fisheries will not be gauged against single year anomalies in distribution or effort, or against natural fluctuations in the abundance of fish.

(8) This is a salmon policy and applies to all users.

Section by Section Findings:

The Board determined in section (a) of the policy that mixed stock salmon fisheries management should be fully consistent with the statutory preference for wild stock conservation, and accorded it the highest priority consistent with sustained yield. Achievement of sustained yield cannot be tied to annual attainment of each and every escapement goal each and every year. Such a standard is too limiting and not practical. The Board recognized that sustained yield was not a precisely measurable standard to be applied in a strict sense, but rather connoted a system of management intended to sustain the yield of the particular salmon resource being managed. The Board's management system, therefore, seeks the goal of sustained yield over time. The Board also determined that nothing in this policy development was intended to diminish in any way the subsistence preference.

In subsection (b) the Board addresses the burden of conservation. Burden is a subjective term but the Board wishes to state that under ideal circumstances, management actions to achieve conservation objectives will be shared fairly among users. This sharing depends on information, and the Board recognizes stock specific information will not always be available. It is expected that, over time, more and more stock specific data will evolve from scale analysis, tagging, and genetic research.

Intrinsic within the management of mixed stocks is the question of how conservation and allocation of the weaker stocks which may be present shall be achieved. In each regulatory decision, the Board must weigh how harvests of healthy stocks will be managed in order to protect the less robust components of fisheries. Where stock information is not precise or unavailable, the sharing of the conservation burden may be unavoidably disproportional.

Consistent with AS 16.05.251(e), the Board has adopted criteria for the allocation of fishery resources among competing users, and the Board uses these criteria when adopting management

Finding #: 93-07-FB  
Mixed Stock Policy Finding

plans. In subsection (c), the Board determined that such regulatory management plans are the preferred mechanism to address complex fishery issues. Regulatory management plans are presumed to assign proportional burdens of conservation and to allocate harvest opportunity.

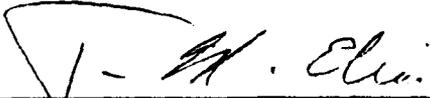
It is the intent of subsection (d) of this policy to restrict new or expanding fisheries that rely heavily upon harvests of mixed stocks of fish, particularly if those stocks are fully utilized and allocated elsewhere, unless otherwise warranted by application of the Board's allocation criteria.

Definition of new or expanding fisheries will not be based on natural fluctuations in abundances of fish. Rather, expansion of fisheries must be gauged against the behavior of fishermen, such as increases in effort, movement to new areas, or targeting on different species. It is seldom practical to declare a fishery as "new" or "expanding" based on a single year's events.

This policy is intended to guide future action by the Board of Fisheries in establishing regulatory restrictions on fisheries; this policy is not to be used directly by the department to make in-season adjustments not otherwise specified or called for in regulatory management plans. Nothing in this policy affects the Department's emergency order authority to make in-season adjustments for conservation purposes. Action by the Board to implement this policy will occur under its normal schedule of deliberations, except for those issues that warrant consideration under the various regulatory petition and agenda change policies.

The intent of subsection (e) of this policy is to embody the current practices of salmon management employed by the Board and the department. It is not the intent of this policy to create a terminal fisheries preference, nor a mixed stock preference. It is not the intent of this policy to require readjustment of existing regulatory management plans, either for conservation or for allocative purposes. Future shifts in allocation, even under this policy, must comply with the Board's allocation criteria.

Approved: October 26, 1993  
Location: Alyeska Resort; Girdwood, AK  
Vote: 7/0 (Yes/No)

  
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Tom Elias, Chair  
Alaska Board of Fisheries

Bering Sea - Aleutian Islands  
Crab Fisheries  
Pot Limits

(Previously) Finding # : FB - 5 - 92)  
Page #: 1 of 10

Alaska Board of Fisheries  
Bering Sea/Aleutian Islands  
Crab Fisheries Pot Limits Finding

The Alaska Board of Fisheries (Board) met March 3-5, 1992 in Anchorage at the Anchorage Hilton Hotel to discuss gear limitations for Bering Sea/Aleutian Islands (BS/AI) king and Tanner crab fisheries. The Board had generated an agenda change request on March 20, 1991 to hear this issue out of cycle, in response to a request submitted by the industry. This request was supported with preliminary Alaska Department of Fish and Game (ADF&G) data which indicated that the levels of gear deployed in these fisheries were creating conservation and management difficulties.

The March 1992 public meeting was publicly noticed consistent with Alaska Administrative Procedures Act and well attended by members of the industry and other concerned parties (Fishery Management Plan for the king and Tanner crab fisheries in the Bering/Aleutian Islands (FMP) Sec. 7.2.6., 9.2). In addition, representatives from the National Marine Fisheries Service (NMFS), the North Pacific Fishery Management Council (NPFMC), State of Alaska Attorney General's Office (AG), the ADF&G and Fish and Wildlife Protection were in attendance. The AG representative maintained communications with NOAA General Counsel during the proceedings.

The Board considered the following reports and presentations prior to their deliberations.

1. Bering Sea/Aleutian Islands (BS/AI) Shellfish Fisheries and Gear Utilization (Ken Griffin, ADF&G).
2. Norton Sound Harvest Evaluation (Charles Lean and Fred Bue, ADF&G).
3. Review of Existing Regulations, Gear Loss and Pot Usage in BS/AI (William Nippes, ADF&G).
4. Economic Impacts of Alternative Pot Limits to Bristol Bay Red King Crab and Bering Sea C. opilio Fishermen, Executive Summary (27 pp) and draft document (115 pp.) (Dr. Joshua Greenberg, University of Alaska-Fairbanks  
Dr. Mark Herrmann, University of Alaska-Fairbanks  
Dr. Paul J. Hooker, ADF&G/NOAA).
5. Report illustrating the State/Federal responsibilities frameworked in the FMP, and evaluation of the Crab Fisheries by Type-Indicating Options for Management Within the FMP process (Dr. Ray Baglin, NMFS and Earl Krygier, ADF&G).

Bering Sea - Aleutian Islands  
Crab Fisheries  
Pot Limits

(Finding # : FB - 5 - 92)  
Page #: 2 of 10

- 6. Overview of FMP Criteria and Magnuson Act  
(Bonnie Harris, Alaska Attorney General Office).
- 7. Enforcement Considerations and Options for Crab Pot Sticker Identification (Captain Phil Gilson, Division of Fish and Wildlife Protection).

The Board considered public testimony from over 30 individuals, industry representatives and organizations, plus Advisory Committees, representatives from the Pacific Northwest crab industry, Dutch Harbor, and Kodiak.

Public input was also incorporated into the Board's decision by the formation of a ten member committee whose composition represented large and small vessel owners and operators, processors and catcher processors. Members were: Kevin Koldestad, Phil Chitwood, Dick Powell, Chris Fanning, Louie Lowenberg, Earling Skar, Jerry Nelson, Bart Eaton, Larry Hendricks, Peter Liske, and Jack Hill. As the Board weighed alternatives for management, this industry group was able to comment and respond. It is noteworthy that the Board took no action on issues/fisheries that were substantially advised against by this group.

During public testimony, many people expressed concern that the imposition of pot limits in these fisheries, in the absence of a vessel limitation, would be an exercise of questionable value. The Board acknowledged their concern. However, they clarified to the public that under the FMP (8.1), a moratorium decision is solely the authority of the NPFMC. The State can not limit entry into the fisheries of the EEZ. The BOF informed the public that, considering the magnitude of the problem at hand, and the fact that the NPFMC's moratorium may not provide a solution, the BOF would address this conservation issue within the regulatory avenues available to them.

Board scheduling was also an issue which emerged during public testimony. It is understood that BS/AI crab fisheries will be before the Board in their entirety February of 1993 (FMP 7.2.6). With this in mind, the Board had the option to defer any action until that time, or could choose to implement some program of gear restrictions for the 1992/1993 season and look to refining or redesigning it, if necessary, in 1993.

Under status quo, goals and objectives of the FMP are not being met or are in jeopardy, therefore the current conduct of the fishery is inconsistent with these goals and the National Standards of the Magnuson Act (FMP Chapter 7 and Appendix B). The Board found the following facts identified in staff reports and through public

Bering Sea - Aleutian Islands  
Crab Fisheries  
Pot Limits

(Finding # : FB - 5 - 92)  
Page #: 3 of 10

testimony to be specific issues of concern:

1. The Bristol Bay king crab fishery was identified as a high value, high effort fishery in which increases in the number of vessels and pots, combined with moderate Guideline Harvest Levels (GHLs), have led to derby-style fishing with increasingly shorter seasons which are increasingly more difficult to manage in-season.

This fishery is being conducted on a rebuilding stock which dictates conservative management. Since the 1983 closure of the Bristol Bay red king crab fishery due to depressed stocks, the fishery has started a slow recovery and is the only Bering Sea red king crab fishery to re-open after a closure.

In the Bristol Bay red king crab fishery, the following historic performance data indicate the trend of the fishery to increased effort since reopening in 1984:

	1984	1991
Season Length	15 days	7 days
Number of Vessels	89 vessels	302 vessels
Harvest in millions/lbs	4.1 mil/lbs	17.1 mil/lbs
Number of Pots	21,762 pots	89,068 pots
Number of Pot Lifts	112,556	227,555

Although the presence of observers on catcher-processor vessels has allowed better estimates of in-season harvest, effort relative to GHL continues to increase at a rate which jeopardizes the ability of management to prevent overfishing. In 1991, the catching ability of the fleet was estimated at over 2 million lbs/day. Actual harvest indicated a rate in excess of 2.4 million lbs/day.

Extending season lengths in the future was identified to the Board as an important management objective with respect to this fishery. The ADF&G staff indicated to the Board that an optimal season length would be at least two weeks in length. This would allow for in-season adjustments to GHL to reflect CPUE information which can validate or invalidate preseason stock estimates. Seasons shorter than two weeks increase the probability of over or under harvesting the resource.

2. The Norton Sound red king crab, Pribilof Islands red and blue king crab, and St. Matthew blue king crab were all identified to the Board as fisheries that would not likely occur, despite the presence of a harvestable surplus, due to the currently

Bering Sea - Aleutian Islands  
Crab Fisheries  
Pot Limits

(Finding # : FB - 5 - 92)  
Page #: 4 of 10

uncontrolled fishing capacity. The potential level of effort was so high in relation to GHL, that the ability to manage these fisheries and prevent overfishing had been lost.

- 3. Fast moving ice conditions in C. opilio fisheries have been causing excessive pot loss which results in intolerable levels of increased crab mortality and habitat degradation.

The Board heard repeated public testimony that the department estimate of 100,000 pots on the Bering Sea grounds in 1991 was low and that actual pots on the grounds likely numbered in excess of 120,000.

Industry non-compliance with minimum cotton twine size in the biodegradable escape panel was reported to be widespread by both Fish and Wildlife Protection and industry; this exacerbates mortality associated with lost pots.

Testimony from fisherman, confirmed with survey information, indicated crab are not evenly distributed over the fishing grounds; rather they are found in concentrated amounts in discrete areas. Thus, once crab locations are determined, intensive gear deployment occurs in those areas. Sheer numbers of pots on the grounds have exacerbated gear conflicts, increasing gear loss and creating conflicts over grounds pre-emption. Density of buoys and floating lines creates a hazard to navigation to the conscientious vessel operator. The Board heard repeated testimony that gear is so dense that it is difficult to operate vessels in a manner that will not run over gear and cause increased pot losses. Lost pots continue to capture and kill crabs. Such fisheries can no longer be identified as orderly.

Additionally, lost pots conflict with activities of bottom trawl fishermen, thereby increasing the trawlers costs of operation and decreasing their fishing efficiency.

Public testimony indicated that historically, fishery execution relied on a combination of luck, skill, and experience in finding crab and keeping gear on them. This style of fishing has been replaced by a new style of fishing in which large areas are saturated with gear. The Board heard testimony to the effect that large numbers of pots are being abandoned or not maintained by vessel operators, a condition not previously seen in the fishery.

Only three individuals testified during public testimony against adopting gear restrictions in the form of pot limits. Every other vessel owner, operator, processor and catcher processor present and testifying, supported some concept of pot limits. Support for pot limits was qualified by whether or not an enforceable program could

Bering Sea - Aleutian Islands  
Crab Fisheries  
Pot Limits

(Finding # : FB - 5 - 92 )  
Page #: 5 of 10

be implemented, and most fishermen wanted an avenue whereby lost pots could be replaced.

The Board began deliberations with these identified concerns in mind. The industry committee was appointed and the Board reviewed the following management options with their input. In part, the board considered the following:

1. Close fisheries where status quo did not allow prevention of over fishing. This option was rejected. Industry and Board would rather see change to allow utilization of harvestable surplus.
2. Change dates of fisheries to force redistribution of effort. Rejected as a management option available at this meeting since public notice spoke specifically to pot limitations. Identified as a management option to be considered in February 1993.
3. Imposition of trip limits. This option was rejected. Opposed by segments of industry as counter-productive to free market and competition in fisheries. Identified as an option for future consideration, especially if tied to vessel length.
4. Exclusive or super-exclusive registration areas. Identified as an option for action at this meeting, but did not receive much industry support. Board expressed concern that the written findings, including an economic analysis, required in FMP 8.2.8 would be difficult to generate within time constraints of the meeting. Rejected as option for this meeting.
5. Determine GHL for fishery, require vessels to pre-register; divide GHL among participants evenly or use a sliding scale. A variation of #3 above, this was also rejected for lack of industry support.
6. Proportional pot limits based on vessel length. The Board engaged in an extensive discussion of this topic. The impacts of a fixed versus a proportional limit were weighed in terms of enforceability, discrimination between vessel classes, and achievement of FMP objectives. The Board rejected this option and specifically discussed:
  - A. The Board found that the pot limits which require buoy stickers and affidavits signed by the crew and skipper for replacement of lost pots (stickers), were enforceable. They noted that a fixed limit would be more easily enforced, since all participants would have the same

Bering Sea - Aleutian Islands  
Crab Fisheries  
Pot Limits

92-137-FB  
(Finding # : FB - 5 - 92)  
Page #: 6 of 10

number. Beyond that, the Board found that proportional limits presented no distinct enforcement difficulties different from those which might be encountered in a straight fixed pot limit program.

- B. Proportional limits might achieve FMP objectives as well as fixed limits, but several Board members felt the 4th standard of the Magnuson Act could be violated by imposition of proportional limits. They felt that proportional limits could be discriminatory in assigning varying levels of fishing capacity to individual vessels. On the other hand, fixed pot limits provided equal opportunity for all fishermen; treating the crab fleet as a whole and providing equal access to the fishery, and the harvest, for all vessels equally.
- C. The Board found that a pot limit based on vessel size would not be less discriminatory than a fixed pot limit for all participants for the following reasons:
  - i. Larger vessels will still maintain a competitive advantage under a fixed pot limit; since they carry more pots. For example, some vessels can carry a full compliment of 250 pots safely in all weather conditions. They are advantaged over a smaller vessel which must make multiple trips to move the same number of pots. This, combined with their greater speed and larger crews, allows them to deploy their gear over productive fishing grounds more effectively.
  - ii. ADF&G information indicated that the numbers of pots fished by vessels greater than 90 ft., which most full-time crabbers have, do not track robustly with vessel length. (see attached Fig. 4)
  - iii. Presently, small and medium size vessels utilize wet storage areas to allow them to deploy a large number of pots if they choose to fish in this manner.
  - iv. Presently, vessels are provided very liberal hours to deliver their catch to port after a season closure. This allows small and mid-sized vessels to remain competitive by fishing large numbers of pots despite weather variables.
  - v. Some large vessels are able to fish smaller numbers of pots competitively due to skill and experience of operators.

Bering Sea - Aleutian Islands  
Crab Fisheries  
Pot Limits

92-137-FB  
(Finding # : FB - 5 - 92)  
Page #: 7 of 10

- vi. Data presented in the Economic Impacts Study Draft document, for years 1986-1990, forecast that fixed pot limits may pose some disproportional impacts to the largest vessels, but that vessels in every size category are impacted. But in contrast to the forecast model, experience with the Kodiak Tanner crab pot limit indicates that under a fixed pot limit larger vessels maintain their competitive advantage over smaller vessels.
  - vii. Public testimony indicated that a minimum pot soak time of 18 - 24 hours was required to reach acceptable harvest levels. Since even the largest vessels do not normally turn over 250 pots within a 24 hour period, no vessel would be restricted to unacceptable soak times while constantly working their gear. Since this is not optimal soak time, two outcomes occur: 1) in the red king crab fishery it is anticipated that vessels would move to optimize their soaks and thus extend the fishery; 2) in the C. opilio fishery, turning gear at a normal rate, CPUE would drop to a level which would facilitate sorting and releasing live sublegal C. bairdi crab.
7. At this point, the Board determined fixed pot limits would be the preferred management alternative to discuss with industry. The Board then focused its discussion on determining the appropriate number of pots to apply to the Bristol Bay red king crab fishery.

For discussion purposes, after input from the industry committee, the Board adopted 250 pots per vessel as a reasonable number to focus on.

The Board engaged in a lengthy discussion of enforcement issues and found the following:

- A. An important benefit of imposing any fixed pot limit would be to generate accurate numbers of how many pots are actually being fished and how many pots are actually being lost. Industry saw that attainment of real numbers would greatly improve ADF&G's ability to determine the catch per unit effort.
- B. A sticker program enforceable from the surface of the water could be implemented consistent with existing state regulations.

- C. Replacement of lost pots could be provided for in the 1992/1993 fishery.
- D. Division of Fish and Wildlife Protection may experience difficulty proving cases if replacement pots are allowed. The Board considered non-replacement of lost pots and double sticker requirements. However, the Board found that hardship to industry by not providing some replacement program would be unnecessarily burdensome, especially in light of a first year program of gear limitation. Special conditions regarding replacement were included to accommodate the concerns of Fish and Wildlife Protection. The Board, at the recommendation of Fish and Wildlife Protection, rejected the double sticker standard.
- E. Board discussed the manner in which it could provide for pots fishing cod for bait. There may be future need for coordinated regulation or cod pot definition between NPFMC and the Board.

In their final summations, Board members found that establishment of 250 fixed pot limit for the Bristol Bay red king crab fishery would be desirable for several reasons. In addition, this management option would be consistent with Magnuson Act standards and would achieve objective of FMP in the following ways:

1. Pot limits would likely lengthen season and would provide for greater management precision and prevent over harvest of stocks.
2. Pot limits would decrease crab mortality by increasing incentive to retrieve lost gear.
3. Pot limits would allow for greater level of maintenance of gear in terms of better quality lines and buoys, thereby decreasing pot loss.
4. Pot limits will result in greater ability to maintain biodegradable twine, thereby decreasing crab mortality due to ghost fishing of lost pots.
5. Pot limits encourage vessel operators to fish more efficiently thus decreasing capitalization costs relative to value of harvested species.
6. Pot limits will minimize gear conflict within and between fisheries.

Bering Sea - Aleutian Islands  
Crab Fisheries  
Pot Limits

92-137-FB  
(Finding # : FB - 5 - 92)  
Page #: 9 of 10

7. Pot limit of 250 is an appropriate level which will not result in a significant increase in mortality due to handling relative to increased pot limits, when weighed against the savings in crab mortality presently incurred by the lost pot problem.
8. Pot limit of 250 is the mid-point of the range of values considered in the economic study, and is close to the 275 pots per vessel average currently being fished.
9. With the exception of a representative of the catcher processor fleet, the industry committee indicated they could "live with" a 250 pot limit.
10. Pot limits with the pot sticker requirements and with the special replacement conditions can be enforceable, but it may take time to work out ideal implementation.
11. Pot limit of 250 would not unduly discriminate against any component of the fleet and should not result in a reallocation of harvest between historic components of fishery to a significant degree.
12. Pot limit of 250 for Bristol Bay red king crab will result in a more orderly fishery.

With respect to C. bairdi, the Board discussed whether similar concerns existed in that fishery which were identified in the red king crab fishery. Hearing that this was indeed the case, and with concurrence of the industry committee, the Board extended the 250 pot limit to the Bering Sea C. bairdi Tanner crab fishery as well. Similar administrative procedures for the stickers and replacement were also approved.

Moving to the Bering Sea C. opilio fishery, the Board found the following identified concerns.

1. The fishery is distinguished by fast moving ice conditions which are causing, in some years, intolerably high levels of pot loss which degrade habitat and increase crab mortality and gear conflicts (pot and trawl fisheries).
2. If pot limits are implemented, they would cause greater vigilance in gear placement and would decrease the number of pots being lost.

Bering Sea - Aleutian Islands  
Crab Fisheries  
Pot Limits

(Finding # : FB - 5 - 92)  
Page #: 10 of 10

3. Pot replacement should be provided for under special conditions to accommodate Fish and Wildlife Protection's concerns.

The Board found that benefits of this limit are similar to those of the Bristol Bay red king crab fishery but recognized increasing season length as not the compelling reason necessary in this fishery at this time. The Board also found that benefits outweigh projected hardship to industry. However, if during their review at the 1993 Board meeting they find Board objectives are not met under this regime, the Board can take corrective measures based on information available and industry recommendations.

After lengthy discussion with the industry committee and among itself, the Board chose to apply the 250 pot limit to the Bering Sea C. opilio fishery, for the 1992-1993 season.

The Board considered the Norton Sound red king crab, Pribilof blue king crab, and St. Matthew blue king crab fisheries and established a 100 pot limit for each, based upon the following reasons:

1. Industry support for fixed limit, over any other option reviewed during the red king crab fishery discussion.
2. Department recommended a 50 pot limit, but the Board liberalized this to decrease possible handling mortality which would occur through increased pot lifts.
3. Those fisheries would have remained closed, or have been closed, if a pot limit was not instituted.

In 1993, the Board may revise this level downward or consider other options if overfishing occurs in 1992/1993.

Regulations for the remaining Bering Sea/Aleutian Island crab fisheries (Dutch Harbor and Adak) remained status quo, as the Board found no pressing concerns requiring regulatory change for those fisheries at this time.

*Michael R. Martin*  
Mike Martin, Chair  
Alaska Board of Fisheries

Vote: 7 yes

Adopted: October 25, 1992 at Soldotna, AK

Attachments:

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## ALASKA BOARD OF FISHERIES

## ALLOCATION CRITERIA

The Alaska Supreme Court recently issued a decision, Peninsula Marketing Association vs. State (Opinion No. 3754; dated September 20, 1991), regarding the application of the allocation criteria found in AS 16.05.251(e). The Court interpreted the statute to require the criteria to be considered when allocating between commercial fisheries as well as among the three user groups, commercial, personal use, and sport.

Consistent with the decision of the Court, the board finds that it will utilize the following specific allocation criteria when allocating between fisheries. Note that these criteria are essentially the same as the allocative criteria specified in AS 16.05.251(e), which the board has historically used as set out in 5AAC 39.205, 5AAC 77.007, and 5AAC 75.017.

- 1) the history of each personal use, sport, and commercial fishery;
- 2) the characteristics and number of participants in the fisheries;
- 3) the importance of each fishery for providing residents the opportunity to obtain fish for personal and family consumption;
- 4) the availability of alternative fisheries resources;
- 5) the importance of each fishery to the economy of the state;
- 6) the importance of each fishery to the economy of the region and local area in which the fishery is located;
- 7) the importance of each fishery in providing recreational opportunities for residents and nonresidents.

Note that all seven (7) criteria do not necessarily apply in all allocation situations, and any particular criterion will be applied only where the board determines it is applicable.

Adopted: November 23, 1991

Vote: (Yes/No/Abstain/Absent) ( 5 / 0 / 0 / 2 ) [Absent: Robin Samuelson, Tom Elias]

Location: Anchorage International Airport Inn

*Michael B. Martin*  
Mike Martin  
Chair  
Alaska Board of Fisheries

## ALASKA BOARD OF FISHERIES

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- 3) the importance of each fishery for providing residents the opportunity to obtain fish for personal and family consumption;
- 4) the availability of alternative fisheries resources;
- 5) the importance of each fishery to the economy of the state;
- 6) the importance of each fishery to the economy of the region and local area in which the fishery is located;
- 7) the importance of each fishery in providing recreational opportunities for residents and nonresidents.

Note that all seven (7) criteria do not necessarily apply in all allocation situations, and any particular criterion will be applied only where the board determines it is applicable.

Adopted: November 23, 1991

Vote: (Yes/No/Abstain/Absent) (5/0/0/2) [Absent: Robin Samuelson, Tom Elias]

Location: Anchorage International Airport Inn



Mike Martin, Chairman  
Alaska Board of Fisheries

## ALASKA BOARD OF FISHERIES STANDING RULES

As a guide, the Alaska Board of Fisheries follows the most current version of Robert's Rules of Order in the conduct of the meetings [Note that the Alaska Statutes do not require the board to use any specific parliamentary procedure]. The board has by traditional agreement varied from the written Robert's Rules of Order. Below is a partial list of these variations (known as "Standing Rules") that the board follows:

- Take No Action. Has the effect of killing a proposal or issue upon adjournment. There are two reasons for taking no action: 1) It is found that the proposal is beyond the board's authority; or 2) due to board action on a previous proposal(s).
- Tabling has the effect of postponing indefinitely (Robert's Rules of Order). One of the primary reasons the board tables a proposal/issue is to gather more information during that meeting since a tabled proposal/issue dies when that meeting session adjourns.
- One amendment at a time. As a practice, the board discourages an amendment to an amendment. This is a proper motion by Robert's Rules of Order, however the board tries to avoid the practice because of the complexities of issues.
- Do not change or reverse the intent of a proposal/issue. For example, if a proposal's intent is to restrict a particular fishery and the board wishes to close or expand the fishery, the board will not amend the original proposal. The board will defeat, table or take no action on that proposal and then develop a board generated proposal to accomplish the action they feel is needed.
- "Ruling of the Chair" or "Chair's Ruling". When the chair makes a ruling, the board members have two options; 1) accept the ruling and move on; or 2) appeal/challenge the chair's ruling. By Robert's Rules of Order, the process is as follows (When a chair's decision is appealed/challenged):

By Robert's Rules of Order, the process is as follows (when a chair's decision is appeal/challenged):

- 1) The chair makes a ruling;
- 2) A member appeals (challenges) the chair's ruling (i.e. "I appeal the decision of the chair") and it is seconded (Note: All board members present can or could appeal/challenge the ruling);
- 3) Any board member can debate the ruling and appeal/challenge (Note: By Robert's Rules the chair and the person appealing/challenging the ruling are the only two who are to debate the issue);
- 4) The question before the board is: "Shall the decision of the chair be sustained?"
- 5) After the result of the vote is announced, business resumes.

- The public depends on or expects the board members to keep an open mind on the issues before the board. To accomplish this the board will listen to and ask questions: 1) staff reports, advisory committee and regional council reports, and 2) during deliberations on the issues, listen to fellow board members points and issues. It is not conducive to soliciting public involvement if the board members express that they already have an opinion and it is up to the public or staff to "change their mind."
  
- Note another "Standing Rule" contained in Board of Fisheries Finding Number: 80-78-FB. This finding is regarding the Reconsideration Policy of the board.

Adopted: November 23, 1991

Vote: (Yes/No/Absent/Abstain) 5/0/2/0/ [Absent: Robin Samuelson, Tom Elias]

Location: Anchorage International Airport Inn

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Mike Martin, Chairman  
Alaska Board of Fisheries

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## POLICY ON KING AND TANNER CRAB RESOURCE MANAGEMENT

### GOAL AND BENEFITS

It is the goal of the Alaska Board of Fisheries and the Alaska Department of Fish and Game to manage king and Tanner crab stocks in a manner that will protect, maintain, improve, and extend these resources for the greatest overall benefit to Alaska and the nation. Achievement of this goal is necessarily constrained by the requirement to minimize: (1) risks of irreversible adverse effects on reproductive potential; (2) harvest during biologically sensitive periods of the life cycle; (3) adverse fishery impacts on non-targeted portions of stocks; and (4) adverse interactions with other fish and shellfish stocks and fisheries.

Management of these fisheries for the purpose of achieving this goal will result in a variety of benefits which include, but are not limited to, the following:

- (1) maintaining healthy stocks of king and Tanner crabs of sufficient abundance to insure their continued reproductive viability and the maintenance of their role in the ecosystem;
- (2) providing a sustained and reliable supply of high quality product to the industry and consumers which will provide substantial and stable employment in all sectors of the economy relating to these fisheries; and
- (3) providing opportunities for subsistence and personal use fisheries on these stocks.

The Alaska Board of Fisheries also recognizes the benefits of managing for the highest socio-economic benefit when such action does not conflict with the previously mentioned biological constraints.

### POLICIES

To achieve the management goal and provide the benefits available from these resources, it is necessary to set policies which will protect stocks and provide for optimum utilization of these resources. It is the policy of the Alaska Board of Fisheries to:

1. Maintain crab stocks comprised of various size and age classes of mature animals in order to maintain the longterm reproductive viability of the stock and reduce industrial dependency on annual recruitment, which is extremely variable. Benefits of this policy are most apparent when weak recruitment occurs. As population abundance and structure change with declining recruitment, harvests should be reduced.
2. Routinely monitor crab resources to provide information on abundance of females as well as prerecruit, recruit, and postrecruit males. This is necessary to detect changes in the population which may require adjustments in management to prevent irreversible damage to the reproductive potential of each stock and to better achieve the benefits listed above. Harvests must be conducted in a conservative manner in the absence of adequate information on stocks.
3. Protect king and Tanner crab stocks during biologically sensitive periods of their life cycle.

Closure of the fishing season is necessary at times surrounding the annual mating, molting, and egg hatching periods in order to reduce unnecessary mortality of soft animals, disturbance during mating, and damage to egg clutches.

4. Minimize handling and unnecessary mortality of non-legal crabs and other non-target animals. Capture and handling of females, sublegal males, and animals of other species results in a loss of reproductive ability and biomass that may be detrimental to a stock.

5. Maintain an adequate brood stock to rebuild king or Tanner crab populations when they are depressed. Maintenance of an adequate brood stock takes precedence over short term economic considerations. When populations are at or below threshold, the minimum stock size that allows sufficient recruitment so that the stock can rebuild itself, fisheries must be closed and must remain closed until there is adequate brood stock.

6. Establish management measures in each fishing area based on the best available information. Stock and fishery characteristics, as well as available data, vary from area to area within Alaska. Actual management practices in each area will vary accordingly.

7. Establish regulations which will help improve the socio-economic aspects of management by: harvesting crab when their meat yield is highest; providing for fair starts and closures to seasons; insuring enforceability of regulations; and other measures providing for an orderly fishery.

The Board recognizes these policies may not result in maximization of physical or economic yield. They will, however, provide better biological protection and help preserve the reproductive viability of king and Tanner crab stocks which inherently vary in abundance due to environmental conditions. It will also increase the stability and longevity of the king and Tanner crab fisheries beyond that provided by a recruits-only fishery.

## MANAGEMENT MEASURES

The following management measures are available as tools to be used in order to carry out the policies on king and Tanner crab management. Individual measures should be applied as necessary in areas and fisheries depending on available information and fishery characteristics.

1. **Harvest Rates.** Harvestable surpluses available from king and Tanner crab stocks depend on the size and condition of the individual stock. Harvest rates represent the percentage of the legal stock that may be harvested during the biological season in accordance with the goal and policies of the Board.

Exact harvest rates in each situation are chosen based on abundance of prerecruit males and females as well as legal males, the established minimum size or the actual size of crab landed, percentage of females bearing eggs, and the ratio of recruit to postrecruit males. When the acceptable annual harvest rate has been reached in an area, that area must be closed to fishing. Changes in harvest rates should appear in fishery management plans to be reviewed by the public and the Board.

When stock abundance and condition in a management area are such that there is no harvestable surplus, the area or a portion of the area must be closed to fishing. Such areas must remain closed to fishing until the stock recovers to a level WHICH IS EXPECTED TO PRODUCE A SUSTAINED HARVESTABLE SURPLUS.

2. **Size Limits.** Size limits have a dual role in management. They provide some protection against over harvest and also provide for improved product quality. To provide for protection

against over harvest on stocks where harvest rates are unknown or difficult to regulate, size limits are set to increase the probability of mating prior to harvest. For example, in some cases king crab size limits have been set at two average molt increments above the estimated average size at maturity and Tanner crab size limits have been set at one average molt increment above estimated average size at maturity because Tanner crab are known to produce multiple egg clutches from a single mating.

Smaller size limits may be established where stock size is accurately known and harvest rates are precisely controlled since harvest rates will have to be lowered to prevent over fishing.

Larger size limits may be established to insure better marketability of the crab or provide increased long term yield by limiting harvest of animals below a suboptimal size.

**3. Sex Restrictions.** Harvest of king and Tanner crabs is limited to males only in an attempt to provide full fertilization of females and increase the chances of reproductive success. This is particularly important at low stock levels. During periods of average or high abundance, in areas where stock size is accurately known and harvest rates are precisely controlled, this restriction may be eliminated if it is demonstrated that the abundance of females results in no increase in recruitment to the fishery.

**4. Fishing Seasons.** Biological seasons should be set to minimize the harvest of king and Tanner crabs during times surrounding the annual mating, molting, and egg hatching periods and for a sufficient time after molting to allow safe handling and acceptable product quality. Within the acceptable biological fishing season, actual fishing times may be further modified for economic reasons, such as to ensure high meat content of legal males and to reduce dead loss in the landings.

**5. Guideline Harvest Levels (GHL).** A preseason estimate of the level of allowable king and Tanner crab harvest is established for each fishery. In those fisheries with accurate population estimates the appropriate harvest rate is applied to the best point estimate to determine the GHL. For those fisheries without surveys or historical catch information adequate for estimating the population size, the GHL will be set based on historical fishery performance, catch, and population trend.

**6. Closed Areas.** To minimize the handling and unnecessary mortality of non-legal and/or molting crabs, or to prevent conflicts with other fisheries or stocks, it may be necessary to close portions of management areas.

**7. Gear Types.** Fishing for king and Tanner crabs is limited to pots, ring nets, or diving gear depending on area. This type of gear provides the most manageable type of fishery while minimizing potential damage to target and non-target portions of the stock or other species. Biodegradable panels are required in pots to minimize adverse effects of lost gear. Escape rings, large mesh panels, or other measures may be required in gear to meet the policies of the Board.

**8. Inseason Adjustments.** Inseason adjustments may be made to the guideline harvest level and length of the fishing season. Information upon which such adjustments are based may include: (1) overall fishing effort; (2) catch per unit of effort and rate of harvest; (3) relative abundance of king or Tanner crabs; (4) achievement of guideline harvest level (GHL); (5) proportion of soft-shelled crabs and rate of dead loss; (6) general information on stock condition including adequacy of reproductive stock; (7) timeliness and accuracy of catch reporting; (8) adequacy of subsistence harvests, (9) THE IMPACT OF SEVERE OR UNEXPECTED ENVIRONMENTAL CONDITIONS ON THE HANDLING AND TRAPPING MORTALITY OF CRAB, AND (10) other factors that affect ability to meet objectives of the policy. When this information shows that continued fishing effort would jeopardize the reproductive viability of king or Tanner crab stocks within a registration area, or continued fishing would be counter to the goal and policies established by the Board, the registration area or a portion of the registration area will be closed by Emergency Order.

9. **Other Measures.** To meet the goal and policies for management of these fisheries, it may be necessary for the Board to adopt additional regulations OR MANAGEMENT MEASURES. CONTROLLING DISEASE, REDUCING HANDLING AND TRAPPING MORTALITY DURING SEVERE OR UNEXPECTED ENVIRONMENTAL CONDITIONS, SPECIFYING registration requirements, tank inspections, gear storage, gear limitations, and other measures including regulation of other shellfish and finfish fisheries may be necessary in order to promote the protection and best overall usage of the king and Tanner crab resource toward the stated goal.

(#90-04-FB, March 23, 1990)

Adopted: March 23, 1990  
Anchorage, Alaska

Vote: 7/0

  
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Bud Hodson, Chairman  
Alaska Board of Fisheries

## 7 Goal and Objectives

The Council, in cooperation with the State, is committed to developing a long-range plan for managing BS/AI crab fisheries that will promote a stable regulatory environment for the seafood industry and maintain the health of the resources and environment. The management system conforms to the Magnuson-Stevens Act's national standards as listed in Appendix B and the comprehensive Statement of Goals adopted by the Council on December 7, 1984.

### 7.1 Management Goal

The management goal is to maximize the overall long-term benefit to the nation of BS/AI stocks of king and Tanner crabs by coordinated Federal and State management, consistent with responsible stewardship for conservation of the crab resources and their habitats.

### 7.2 Management Objectives

Within the scope of the management goal, seven specific objectives have been identified. These relate to stock condition, economic and social objectives of the fishery, gear conflicts, habitat, weather and ocean conditions affecting safe access to the fishery, access of all interested parties to the process of revising this FMP and any implementing regulations, and necessary research and management. Each of these objectives requires relevant management measures (see Chapter 8). Several management measures may contribute to more than one objective, and several objectives may mesh in any given management decision on a case-by-case basis.

#### 7.2.1 Biological Conservation Objective: Ensure the long-term reproductive viability of king and Tanner crab populations.

To ensure the continued reproductive viability of each king and Tanner crab population through protection of reproductive potential, management must prevent overfishing (see definition in Chapter 4). Management measures may also be adopted to address other biological concerns such as: restricting harvest of crabs during soft shell periods and maintaining low incidental catch of nonlegal crab. Other factors, including those currently under investigation, such as the effects of cold air temperatures on incidentally-caught egg bearing females and their resultant larvae (Carls 1987), could also be considered. The maintenance of adequate reproductive potential in each crab stock will take precedence over economic and social considerations.

#### 7.2.2 Economic and Social Objective: Maximize economic and social benefits to the nation over time.

Economic benefits are broadly defined to include, but are not limited to: profits, income, employment, benefits to consumers, and less tangible or less quantifiable social benefits such as the economic stability of coastal communities. To ensure that economic and social benefits derived for fisheries covered by this FMP are maximized over time, the following will be examined in the selection of management measures:

1. The value of crab harvested (adjusted for the amount of crab dying prior to processing and discarded, which is known as deadloss) during the season for which management measures are considered,
2. The future value of crab, based on the value of a crab as a member of both the parent and harvestable stock,
3. Subsistence harvests within the registration area, and
4. Economic impacts on coastal communities.

This examination will be accomplished by considering, to the extent that data allow, the impact of management alternatives on the size of the catch during the current and future seasons and their associated prices, harvesting costs, processing costs, employment, the distribution of benefits among members of the harvesting, processing and consumer communities, management costs, and other factors affecting the ability to maximize the economic and social benefits as defined in this section.

Social benefits are tied to economic stability and impacts of commercial fishing associated with coastal communities. While social benefits can be difficult to quantify, economic indices may serve as proxy measures of the social benefits which accrue from commercial fishing. In 1984, 7 percent of total personal income or 27 percent of total personal income in the private sector in Alaska was derived from commercial fishing industries. However, in coastal communities most impacted by commercial fishing in the BS/AI area, the impacts were much greater. In 1984, 47 percent of the total personal income earned in the Southwest Region of Alaska (Aleutian Islands, Bethel, Bristol Bay Borough, Dillingham, and Wade Hampton Census Areas) or 98 percent of the total personal income in the private sector for this region was derived from commercial fishing activities (Berman and Hull 1987). Some coastal communities in this region are even more heavily dependent on commercial fish harvesting and/or processing than this. On a statewide basis, shellfish accounted for 21 percent of the total exvessel value of commercial fish harvested in Alaska in 1984. Therefore, social and economic impacts of BS/AI crab fisheries on coastal communities can be quite significant and must be considered in attempts to attain the economic and social objective.

Subsistence harvests must also be considered to ensure that subsistence requirements are met as required by law. Basically, State law requires that a reasonable opportunity be provided for subsistence use before other consumptive use is allowed. It is very difficult to evaluate the economic impact of subsistence fishing. Yet, fish, shellfish, and game harvested by subsistence users to provide food for the family or social group can greatly exceed the economic value of the product itself (R. Wolfe, ADF&G, Division of Subsistence, personal communication). Data on subsistence red king crab fishing have been obtained in the Norton Sound-Bering Strait area of the BS/AI management unit (Thomas 1981; Magdanz 1982, 1983; and Magdanz and Olanna 1984, 1985), and declines in subsistence harvests have been associated with changes in crab distributions, poor ice conditions, and reductions in crab stocks due to commercial harvest and poor recruitment (ADF&G 1986).

### **7.2.3 Gear Conflict Objective: Minimize gear conflict among fisheries.**

Management measures developed for the king and Tanner crab fisheries will take into account the interaction of those fisheries, and the people engaged in them, with other fisheries. To minimize gear conflict among fisheries, the compatibility of different types of fishing gear and activities on the same fishing grounds should be considered. King and Tanner crab fisheries are conducted with pots, which are stationary gear. Many other fisheries in the fishery management unit, both domestic and foreign, are conducted with mobile trawl or seine gear. Seasons, gear storage, and fishing areas may be arranged to eliminate, insofar as possible, conflicts between gear types and preemption of fishing grounds by one form of gear over another.

**7.2.4 Habitat Objective: To protect, conserve, and enhance adequate quantities of essential fish habitat (EFH) to support king and Tanner crab populations and maintain a healthy ecosystem.**

Habitat is defined as the physical, chemical, geological, and biological surroundings that support healthy, self-sustaining populations of living marine resources. Habitat includes both the physical component of the environment which attracts living marine resources (e.g. salt marshes, sea grass beds, coral reefs, intertidal lagoons, and near shore characteristics) and the chemical (e.g. salinity, benthic community) and biological characteristics (e.g. scallop life stage histories, oceanography) that are necessary to support living marine resources. The quality and availability of habitat supporting the king and Tanner crab populations are important. Fishery managers should strive to ensure that those waters and substrate necessary to king and Tanner crabs for spawning, breeding, feeding, or growth to maturity are available. It is also important to consider the potential impact of king and Tanner crab fisheries on other fish and shellfish populations. King and Tanner crab EFH is described in Appendix F of this FMP.

Those involved in both management and exploitation of king and Tanner crab resources will actively review actions by other human users of the management area to ensure that their actions do not cause deterioration of habitat. Any action by a State or Federal agency potentially affecting king and Tanner crab habitat in an adverse manner may be reviewed by the Council for possible action under the Magnuson-Stevens Act. The Council will also consider the effect on king and Tanner crab habitat of its own management decisions in other fisheries.

**7.2.5 Vessel Safety Objective: Provide public access to the regulatory process for vessel safety considerations.**

Upon request, and when appropriate, the Council and the State shall consider, and may provide for, temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safety of vessels.

**7.2.6 Due Process Objective: Ensure that access to the regulatory process and opportunity for redress are available to all interested parties.**

In order to attain the maximum benefit to the nation, the interrelated biological, economic and social, habitat, and vessel safety objectives outlined above must be balanced against one another. A continuing dialogue between fishery managers, fishery scientists, fishermen, processors, consumers, and other interested parties is necessary to keep this balance. Insofar as is practical, management meetings will be scheduled around fishing seasons and in places where they can be attended by fishermen, processors, or other interested parties.

Access to the FMP development and regulatory process is available through membership in a Council work group, testimony on the record before the Council's Advisory Panel or SSC, or before the Council itself, testimony before the Board, conversations with members of the plan team or officials of regulatory agencies, and by commenting on the FMP, any subsequent amendments and any regulations proposed for their implementation.

This FMP defers much of day-to-day crab management to the State. Means of access to the regulatory process at the State level and of redress of perceived wrongs by the State are necessary. Appendix C describes the State management system and mechanisms for public input. Chapters 9 and 10 of this FMP contain procedures for challenge of State laws or regulations regarding management of these fisheries alleged to be inconsistent with the Magnuson-Stevens Act, the FMP, or any other applicable Federal law.

**7.2.7 Research and Management Objective: Provide fisheries research, data collection, and analysis to ensure a sound information base for management decisions.**

Necessary data must be collected and analyzed in order to measure progress relative to other objectives and to ensure that management actions are adjusted to reflect new knowledge. Achieving the objective will require new and ongoing research and analysis relative to stock conditions, dynamic feedback to market conditions, and adaptive management strategies. For example, some possible research topics could include (1) the basis for exclusive registration areas, (2) the basis for sex restrictions in retained catch, (3) the basis for size limits, (4) the process for determining GHLS, (5) bioeconomic analyses of specific regulatory proposals, and (6) defining oceanographic conditions important to maximizing productivity of crab stocks.

An annual area management report to the Board discussing current biological and economic status of the fisheries, GHL ranges, and support for different management decisions or changes in harvest strategies will be prepared by the State (ADF&G lead agency), with NMFS and crab plan team input when appropriate. This will be available for public comment, and presented to the Council on an annual basis. GHLS will be revised when new information is available. Such information will be made available to the public.

### 8.1.8 American Fisheries Act (AFA) sideboard restrictions

On October 21, 1998, the President signed into law the American Fisheries Act (AFA) which mandated sweeping changes to the conservation and management program for the pollock fishery of the BSAI and to a lesser extent, affected the management programs for the other groundfish fisheries of the BSAI the groundfish fisheries of the GOA, the king and Tanner crab fisheries of the BSAI, and the scallop fishery off Alaska. With respect to the fisheries off Alaska, the AFA requires a suite of new management measures that fall into four general categories: (1) regulations that limit access into the fishing and processing sectors of the BSAI pollock fishery and that allocate pollock to such sectors, (2) regulations governing the formation and operation of fishery cooperatives in the BSAI pollock fishery, (3) sideboard regulations to protect other fisheries from spillover effects from the AFA, and (4) regulations governing catch measurement and monitoring in the BSAI pollock fishery.

While the AFA primarily affects the management of the BSAI pollock fishery, the Council is also directed to develop and recommend harvesting and processing sideboard restrictions for AFA catcher vessels, AFA catcher/processors, AFA motherships, and AFA inshore processors that are fishing for or processing king and Tanner crab harvested in the BSAI. Section 211 of the AFA addresses crab harvesting and processing sideboards and this entire section of the AFA is incorporated into the AFA by reference. Crab harvesting and processing sideboard restrictions that are consistent with section 211 of the AFA will be implemented through regulation or provided to the Board of Fish as recommendations. Any measure recommended by the Council that supersedes section 211 of the AFA must be implemented by FMP amendment in accordance with the provisions of section 213 of the AFA and the Magnuson-Stevens Act.

*Limits on participation by AFA vessels.* NMFS may issue regulations, as approved by the Council, which define the participation criteria for AFA vessels that wish to participate in the king and/or Tanner crab fisheries of the BSAI.

## 8.2 Category 2—Framework Management Measures

### 8.2.1 Minimum Size Limits

The FMP authorizes the State to adjust size limits under State regulations. In establishing minimum size limits, the State can consider, within constraints of available information, the following: (1) size at maturity (physiological, functional, or morphometric), (2) protection of reproductive capability, (3) market and other economic considerations, (4) natural and discard mortality rates, (5) growth rates, and (6) yield per recruit.

Typically, biological considerations such as (1), (2), and (4)-(6) are used to establish minimum legal size limits to ensure that conservation needs are served. Generally, preference for larger crabs based upon market and other economic considerations is achieved through processor/harvester agreements. If minimum size limits are proposed to be changed, an analysis with appropriate documentation will be presented.

Minimum size limits are commonly used in managing crab fisheries, and are important in meeting both the biological conservation and economic and social objectives of this FMP. The use of the estimated average size of maturity is intended to allow crabs to mate at least once before being subjected to harvest. Evidence available for red king crab suggests that recently matured males may not enter into mating activity until one or two years after attaining maturity, while studies on Tanner crab suggest that this period of delay does not exist. Thus, minimum size limits may be set at various intervals above the

average size of maturity depending on a species life history pattern. In addition, the rate of growth after maturity enters into the estimation of minimum size limits. This has resulted in variable minimum size limits depending on the species and area inhabited (Table 8.2) In developing fisheries with insufficient information, there may be no size limit set.

Prior to the use of legal minimum size limits, minimum size of crabs landed was probably dictated by industry economic conditions, and to a large extent economics continues to play an important role. The legal minimum size limit for the Tanner crab species *C. opilio* has been 3.1", based on information on size of maturity and reproductive behavior. However, the average minimum size of crab landed since the inception of the domestic fishery has been in the range of 4.0" to 4.5". This reflects the desire for larger crabs by the processing sector. Past requests for lowering the minimum size limit for the Tanner crab species *C. bairdi* from 5.5" to 5.0" have met with resistance, also because of market preferences for a larger crab. Thus, the processing sector's preference for larger crab is accommodated by the industry, rather than through regulation.

Minimum size limit regulations interact closely with GHL regulations (see Section **Error! Reference source not found.**). The minimum commercial size limit has been determined for each area by using the size when 50 percent of the male population is sexually mature and adding the estimated dimensional growth of males up to a two-year period. This normally would give each male the opportunity to reproduce at least once before becoming vulnerable to the fishery. The minimum size limit serves to determine the portion of the total male stock that is subjected to exploitation. The GHL for a given season and area is established by applying an exploitation rate to the commercial fraction of the males defined as legal by the minimum size limit in effect.

## 8.2.2 Total Allowable Catch and Guideline Harvest Level

The FMP authorizes the State to set preseason TACs and GHLs under State regulations. Seasons or areas are closed when the TAC or GHL is reached. TACs are set for the crab fisheries under the Crab Rationalization Program: snow crab; Tanner crab; Bristol Bay red king crab; St. Matthews blue king crab; Pribilof Islands red and blue king crab; Aleutian Islands golden king crab; and Adak red king crab. GHLs are set for the remaining crab fisheries: Pribilof Islands golden king crab and Norton Sound red king crab. ADF&G may close a fishery with a GHL before or after the GHL is achieved based on current in-season information (see section 8.2.3). TACs and GHLs for each fishery will be reported in the Council's annual Stock Assessment and Fishery Evaluation Report, along with the OFLs and ABC/ACLs.

The State will take into account the following factors, to the extent information is available, in developing harvest strategies or setting TACs and GHLs: (1) whether the ACL for that stock was exceeded in the previous year; (2) stock status relative to the OFL and ACL; (3) estimates of exploitable biomass; (4) estimates of recruitment; (5) estimates of thresholds; (6) market and other economic considerations; (7) additional uncertainty; and (8) any additional factors pertaining to the health and status of the stock or the marine ecosystem. Additional uncertainty includes (1) management uncertainty (i.e., uncertainty in the ability of managers to constrain catch so the ACL is not exceeded, and uncertainty in quantifying the true catch amount) and (2) scientific uncertainty identified and not already accounted for in the ABC (i.e., uncertainty in bycatch mortality, estimates of trends and absolute estimates of size composition, shell-condition, molt status, reproductive condition, spatial distribution, bycatch of non-target crab stocks, environmental conditions, fishery performance, fleet behavior, and the quality and amount of data available for these variables).

The State will establish the annual TAC for each crab stock at a level sufficiently below the ACL so that the sum of the catch<sup>2</sup> and the State's assessment of additional uncertainty do not exceed the ACL. The State may establish the annual TACs below such a level to account for the other factors identified above. If an ACL is exceeded, the State will implement accountability measures in the fishing season following the overage to account for the overage through a downward adjustment to the TAC for that species by an amount sufficient to remedy the biological consequences of the overage.

### 8.2.3 In-season Adjustments

The FMP authorizes the State to make in-season adjustments to GHLS and to fishing period lengths and to close areas under State regulations. In making such in-season adjustments, the State shall consider appropriate factors to the extent in-season data is available on: (1) overall fishing effort, (2) catch per unit of effort and rate of harvest, (3) relative abundance of king or Tanner crab, (4) achievement of GHLS, (5) proportion of soft-shelled crabs and rate of deadloss, (6) general information on stock condition, (7) timeliness and accuracy of catch reporting, (8) adequacy of subsistence harvests, and (9) other factors that affect ability to meet objectives of the FMP.

After registration areas are opened, seasons set, minimum sizes, and GHLS established preseason, events can occur in-season which would disrupt the management scheme and resultant economic benefits to the nation. When a preseason prediction proves to be incorrect or when an unanticipated event occurs which affects preseason predictions, compensatory in-season adjustments must be made to keep the management system on track toward the biological and economic objectives of this FMP. In-season adjustments and analysis will be conducted within the constraints of this FMP.

All in-season adjustments must be recorded and justified in writing. These justifications are attached to the emergency order and will be made available for review to the public, the State, the NMFS, and other regulatory agencies.

The State monitors the condition of king and Tanner crab stocks through such data and information as are practically available, both preseason and in-season. When the State, in close communication with the NMFS, finds that continued fishing effort would jeopardize the viability of king or Tanner crab stocks within a registration area, or continued fishing would be counter to the goal and objectives established by this FMP, the registration area or a portion of the registration area is closed by emergency order. In determining whether to close a registration area, the State shall consider all appropriate factors to the extent there is information available on such factors. Factors to be considered for king and Tanner crabs include:

1. The effect of overall fishing effort within the registration area.

Large amounts of effort, vessels, and pots are often concentrated on crab aggregations. In extreme cases, high amounts of gear loss because of entanglement, and propeller contact result in wastage and unknown levels of harvest. In these limited areas, high levels of sorting of females and resultant mortality, and high levels of handling and sorting of nonmarketable crab because of soft-shell conditions result in wasted product and nonquantified harvests to the crab stocks. In-season data concerning these practices can result in emergency closures of limited areas where these conditions occur, resulting in a more orderly fishery, reduced gear loss, less wastage, and the ability to meet the biological conservation objective, as well as other objectives identified in

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<sup>2</sup> As used here, the term "catch" refers to all sources of fishing mortality included in the ACL for a given stock. Thus, for a stock with a total catch ACL, "catch" includes each of the three catch components identified in section 6.0.1.1 (non-directed fishery discard losses, directed fishery removals, and directed fishery discard losses). For a stock with a retained catch ACL, "catch" includes only the directed fishery removals.

this FMP. This provision also addresses the ability of the ADF&G to close a registration area when the projected harvest equals or exceeds the GHL established for the registration area.

2. Catch per unit of effort and rate of harvest.

In addition to using CPUE to provide estimates when preseason GHGs are to be attained, these data are also analyzed in-season to check survey accuracy used to establish stock abundance levels and GHGs. Often the effort expended in surveys is limited, particularly when compared to the sampling power of the commercial fleet. However, standardization of effort of the commercial fleet is always a limiting factor in interpreting in-season data. If in-season data analysis suggests stocks are significantly higher or lower than indicated by survey, GHGs may be adjusted in-season using the new in-season estimates. Exploitation rates are generally not changed in-season, unless the estimates of stock levels using in-season data are so different from preseason estimates that different exploitation rates are necessary.

In cases where annual survey data are either unavailable, or unreliable, in-season data are relied on heavily. Such provisions are essential for prevention of overfishing and adherence to the biological conservation objective of this FMP. To the degree exploitation rates are established to meet economic and social objectives, this provision could be used to maximize economic benefits as well.

3. Relative abundance of king or Tanner crab within the area in comparison with preseason expectations.

Relative abundance is usually established by comparison of current in-season data with trends established over time within the current season or comparison with previous year's CPUE data. In certain cases, survey data may be obtained during an open fishery. These relative abundance data of king and Tanner crab stocks would be applied immediately to adjustment of GHGs as stated previously under item 2. This factor is usually considered as additional analysis of the data obtained or established under factors 1 and 2 previously discussed.

4. Such GHGs as may be promulgated by State regulations.

The primary use of in-season emergency order authority is when an established GHG is reached and the fishery is to be closed within current State regulations established within the framework procedures listed in this FMP. The midpoint of the GHG is usually targeted except in cases where in-season data and analysis, or other provisions discussed in this section, require closure either before or after obtaining the established GHG, or below or above the range associated with the GHG.

5. The proportion of soft shell king or Tanner crab being handled and proportion of deadloss.

This factor is paramount to ensure product quality and prevention of unnecessary wastage. When deliveries of crab require significant levels of discard because of deadloss or unmarketable crab, a portion or all of a registration area may be closed to further harvest. Such closures are issued when sorting is of sufficient magnitude, at sea or at the unloading site, to have significant impacts on product quality or significant wastage. Rates of discard will vary; fixed rates are generally not established because factors modifying such decisions include the availability of nonmolting crab within the registration area and the degree of alternative areas available to fish that have low rates of soft shell crab or molting crab. Even though local areas of high molting may occur, often other areas are available for harvest, and economic forces cause the fleet to move to those areas with acceptable handling mortality and deadloss associated with the harvest. The ability of managers to consider these factors without rigidly establishing formulas for issuing closures provides for continued fishing when the biological or economic consequences will be minimal, even though short periods of high sorting in local areas may occur. Such flexibility allows the State to meet the

biological conservation objective, as well as the economic and social objective established in this FMP.

6. General information on the condition of the king or Tanner crab stocks within the area.

This factor, in addition to including the soft-shell or molting conditions discussed previously, includes the salability of the product. Discard of large amounts of old shell crab that have no market value but are capable of mating and assisting in reproduction is one of the factors considered. In cases where diseases or parasites affect product quality, emergency order closures of portions of a stock could benefit the industry significantly, while allowing continued harvest of portions of the stock that have high quality crab. Low yields from newly molted crab are also a factor which may be considered when wastage levels are high in comparison to the economic value of the harvest. Use of this factor primarily addresses the economic and social objective established by this FMP.

7. Timeliness and accuracy of catch reporting by buyers, fishermen, or vessel operators within the registration area to the extent that such timeliness or accuracy may reasonably be expected to affect proper management.

Management of a commercial fishery depends upon appropriate and timely data. In that in-season closure decisions almost always result in short-term loss of income for the participating commercial fleet and the processing industry, even though these closures will in the long run ensure long-term economic viability of these same participants, the temptation to underreport or misreport is obvious. Without accurate data, the management process breaks down. Therefore, the State may close a fishery if the timeliness and accuracy of catch reporting is inadequate. Only with this provision does the State have the ability to ensure compliance with reporting requirements and retain the ability to accurately regulate the fishery within the objectives established by this FMP. This factor is used in justifying emergency action only when misreporting is of such magnitude as to jeopardize the management process.

8. Adequacy of subsistence harvests within the registration area.

If a crab stock has been customarily or traditionally used for subsistence diminishes so that all consumptive uses of that stock cannot be accommodated, State law requires that in most areas of Alaska, subsistence uses have a priority over other uses. Emergency order authority would be used if subsistence fisheries requirements are not being met by established regulations by the State. Emergency order authority would close commercial fisheries to ensure that subsistence harvests would be achieved without jeopardizing conservation concerns established in the biological conservation objective of this FMP.

#### **8.2.4 District, Subdistrict, and Section Boundaries**

The FMP authorizes the State to adjust district, subdistrict, and section boundaries on the basis of any of the following criteria: (1) if the area contains a reasonably distinct stock of crab that requires a separate GHL estimate to avoid possible overharvest, (2) if the stock requires a different size limit from other stocks in the registration area, (3) if different timing of molting and breeding requires a different fishing season, (4) if estimates of fishing effort are needed pre-season so that overharvest can be prevented, or (5) if part of an area is relatively unutilized and unexplored, and if creation of a new district, subdistrict, or section will encourage exploration and utilization.

#### **8.2.5 Fishing Seasons**

Fishing seasons are used to protect king and Tanner crabs during the molting and mating portions of their life cycle. Normally the fisheries have been closed during these sensitive periods to protect crab from mortality caused by handling and stress when shells are soft, and to maximize meat recovery by delaying

harvest until the shells have filled out. Fisheries conducted during sensitive biological periods have been, and should be in the future, carefully designed to prevent any irreparable damage to the stocks.

Closed seasons have been set to maximize the reproductive potential of the king and Tanner crab populations based on one or more of the following conditions:

1. Protection of any breeding population of male crab that may form dense schools prior to and during annual migrations into shallow water breeding grounds. Such migrations have been described for red king crab and could possibly occur with other crabs.
2. Consideration of molting periods so that the shells have hardened enough to permit handling with minimal damage or mortality.
3. Protection of the population during sensitive soft-shell periods.
4. Consideration of increasing product quality.
5. Minimization of bycatch.

At times, seasons have been set that conflict with some of the preceding conditions. Such openings historically have been based on one or more of the following considerations:

1. Provision for an exploratory fishery.
2. Compensation for particularly adverse environmental conditions, such as sea ice covering the fishing grounds.

The biologically sensitive period in the life cycle of both king and Tanner crabs within the management unit is generally from late winter to early summer. Part of the Tanner crab fishery has occurred during the mating period, although the timing of seasons for individual stocks may vary. Very little information is available on the sensitive period for golden king crab. The information that is available for golden king crab indicates that mating, molting, and hatching occur throughout the year and a sensitive period cannot be defined. Crab harvests frequently occur over a short period of time. Therefore, there is an opportunity to look beyond strictly biological conditions when setting season openings.

Within biological constraints, the open fishing season has been set:

1. To minimize the amount of deadloss. Deadloss has been found to increase if crabs are in soft-shell condition, if they are held for long time periods, if holding tanks are contaminated with fresh or warm water, or if crabs are handled too often.
2. To produce the best possible product quality.
3. To minimize fishing during severe weather conditions.
4. To minimize the cost of industry operations.
5. To coordinate the king and Tanner crab fisheries with other fisheries that are making demands on the same harvesting, processing, and transportation systems. Seasons can be timed relative to one another to spread fishing effort, prevent gear saturation, and allow maximum participation in the fisheries by all elements of the crab fleets, and
6. To reduce the cost of enforcement and management before, during, and after an open season, as affected by the timing and area of different king and Tanner crab seasons, and as affected by seasons for other resources.

King and Tanner crab seasons may be combined to minimize handling mortality, to maximize efficiency, and to reduce unnecessary administrative and enforcement burdens. Seasons may also be combined when

a given species is taken primarily as an incidental catch; for example, *C. bairdi* are taken incidental to the red king crab fishery in Adak. Such considerations are secondary, however, to optimal utilization of each species. Specification of fishing seasons is important in achieving biological conservation, economic and social, vessel safety, and gear conflict objectives of this FMP.

#### 8.2.6 Sex Restrictions

Unless a surplus is determined to be available, female crabs cannot be taken. The surplus would be dependent on the number of crabs above the threshold amount used in the spawning stock calculation of OY. 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 or Tanner 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 will not be understood until additional research and analysis has been completed pursuant to the research and management objective of this FMP.

Harvesting female king crab has not been an issue in past management of the king and Tanner crab fisheries. 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. When a surplus of crabs is determined, this plan authorizes experimental harvest and processing of females by a State permit if fishermen provide accurate documentation of harvest rates and location, and processing and marketing results are made available to the management agency.

#### 8.2.7 Pot Limits

This FMP authorizes the State to use pot limits to attain the biological conservation objective and the economic and social objective of this FMP. In establishing pot limits, the State shall consider, within constraints of available information, the following: (1) total vessel effort relative to GHL, (2) probable concentrations of pots by area, (3) potential for conflict with other fisheries, (4) potential for handling mortality of target or nontarget species, (5) adverse effects on vessel safety including hazards to navigation, (6) enforceability of pot limits, and (7) analysis of effects on industry.

Pot limits must be designed in a nondiscriminatory manner. For example, pot limits that are a function of vessel size can be developed which affect large and small vessels equally. Historic data on pot registration and length overall (LOA) could be used for developing pot limit regulations.

Only special types of situations warrant the use of pot limits. There are at least two such cases. First, because the deployment of excessive amounts of gear may result in high amounts of wastage due to pots lost to advancing ice cover, pot limits may be a useful measure to attain the biological conservation objective. Second, it may not be possible to satisfy conservation concerns in a fishery using excessive amounts of gear to catch a relatively small guideline harvest from a depressed stock. Lacking ability to regulate the total number of pots placed on the grounds, it would otherwise be necessary to prohibit the fishery from ever opening. A limited but highly valuable fishery would be foregone. In this instance, prohibition of the fishery would satisfy biological conservation concerns, but the economic and social objective would not be satisfied. Rather, a pot limit would provide a mechanism to attain the economic and social objective within biological conservation constraints.

### 8.2.8 Registration Areas

This FMP adopts existing State registration areas within the BS/AI fishery management unit. The management unit historically has been divided by the State into four king crab registration areas—Bering Sea, Bristol Bay, Adak, and Dutch Harbor and one Tanner crab registration area—Westward (Figure 8.1). Kodiak, South Peninsula and Chignik are also part of the State's Westward registration area but not part of the management unit in this FMP.

Registration areas may be further divided into fishing districts, subdistricts, and sections for purposes of management and reporting, although Tanner crab districts and subdistricts correspond most closely to king crab registration areas in regards to size (see Appendix G and Figure 8.1). Registration areas are characterized by relatively homogeneous established fisheries on stocks of crab that have insignificant transfer of adults between areas. These stocks tend to be fished by the same general class of boats from year to year, with seasons varying somewhat from area to area because of natural causes such as differences in timing of molting and breeding. Geographic remoteness from processing plants and support facilities may further characterize some areas. State regulations require vessels to register for fishing in these areas, and may require vessels to register for specific fishing districts within a registration area. Registration requirements allow estimation of fishing effort and the rate at which the resource will be harvested.

King crab registration areas within the management unit are designated as either exclusive or nonexclusive. Vessels can register for any one exclusive area and are not restricted in their choice, but cannot fish in any other exclusive area during the registration year. They can, however, fish any or all other nonexclusive areas. Fishermen often consider potential harvest, proposed prices, and distances between the fishing grounds and processing facilities when making their selection of an exclusive area. Historically, on a statewide basis exclusive registration areas are relatively small with the exception of Bristol Bay, contain known concentrations of crab, are adjacent to shore, and have well developed fisheries. Nonexclusive registration areas are usually quite large, have developing fisheries, and may contain some sections that are both underutilized and unexplored. The Norton Sound registration area has been designated as a superexclusive area by Federal law.

The use of exclusive area designations can aid in dispersing fishing effort while still allowing the majority of the fleet the opportunity to harvest the majority of the crab. Exclusive registration areas can help provide economic stability to coastal communities (see objective 7.2.2) or to segments of the industry dependent on an individual registration area's crab stocks, particularly if the character of the fishing fleet and the related industry participants depending upon the registration area's potential production would not allow movement to another registration area. This is particularly advantageous to the less mobile vessels if the area in which they fish is not the most profitable area for the more mobile vessels. This will not necessarily provide greater stability for the less mobile vessels because as fishery conditions change from year to year, the mobile vessels can change the area(s) in which they fish. However, on the average, fewer mobile vessels will fish in the less profitable areas if fishing in multiple areas is restricted. The removal of exclusive area regulations could place extreme economic pressure on smaller or older vessels unable to respond with fishing mobility (Katz and Bledsoe 1977).

Although exclusive registration areas can reallocate catch among different size vessels, it is not always clear which way the allocation effects will go and, therefore, each situation must be studied carefully (Larson, ed. 1984). The specification of registration area, both exclusive and nonexclusive, may be important to attainment of the economic and social objectives of this FMP.

Any designation of an area or district as exclusive must be supported by a written finding by the State that considers all of the following factors to the extent information is available:

1. The extent to which the designation will facilitate proper management of the fishery,
2. The extent to which such designation will help provide vessels with a reasonable opportunity to participate in the fishery,
3. The extent to which such designation will help to avoid sudden economic dislocation. Established processing facilities and fishing fleets within a registration area may provide economic stability for the labor force and affected communities and may be destroyed or adversely affected by an in-season influx of mobile processing plants and additional fishing power,
4. The extent to which the designation will encourage efficient use of vessels and gear,
5. The extent to which the economic benefits conferred by the designation will be offset by economic costs and inefficiencies, and
6. The extent to which other management measures could yield the results desired from the designation.

The following are examples of situations in which the designation or maintenance of the exclusive registration area might be appropriate:

1. The existence of differences in seasons between registration areas that could promote peak harvest rates only at the beginning of each season. Vessels capable of moving rapidly between areas could fish the season opening of more than one area, thereby creating an adverse impact on the vessels that planned on or were capable of fishing just one area for the entire season.
2. The occurrence of exvessel price settlements at different times in different registration areas, causing concentration of fishing and processing effort in registration areas that have completed price settlements.
3. Historic profitable utilization of the crab resource of an area by a fleet that could not be used to fish in more distant areas, and by processors heavily dependent for their supplies of crab upon the activities of that fleet.
4. Crab populations that vary in availability or on a seasonal basis may trigger effort shifts between registration areas to maximize the economic returns for a single segment of the overall fishing and processing effort. This provides a significant advantage for mobile processing units and larger vessels capable of operating in a wide range of sea conditions, but which may not in any particular area be as efficient as the less mobile harvesting and processing units that they displace.
5. The crab fishing fleet has experienced rapid growth and advanced in fishing efficiency. There is, therefore, an increasing potential for overharvest of a particular stock, especially during normal fluctuations in crab populations. Situations may exist where, in the absence of limitations, the number of vessels registering for an area or district may possess a one-trip cargo capacity that exceeds the amount of crab that can be safely taken from that area. The absence of flexibility to modify registration areas in this instance could result in either no fishing or in an overharvest.
6. Registration areas historically fished by small vessels require a longer period of fishing time to harvest crab resources because they cannot fish in bad weather and have limited carrying capacity. Relatively low production levels of inshore fishing grounds combined with inshore migration of king crab stocks over a very long season provide the smaller vessels opportunity to maximize their production capabilities. Larger vessels designed primarily for areas of greater fishing power can adversely affect the economics of established fleets, processing facilities, labor forces, and community dependence on production from the local resource, while failing to maximize utilization of smaller crab stocks.

7. Since fleet capabilities have developed in response to demands within registration areas, they may vary significantly with regard to the volume of fishing gear (pot units) used, the ability to transport quantities of pot gear, and the severity of the weather in which they can fish. These factors and others can place a fleet comprised of mostly small vessels at a distinct disadvantage.
8. Some registration areas contain several discrete harvestable stocks of crab, which become available to the fishery at different periods during the season. These registration areas tend to develop fleets with less fishing power and also less overhead costs. The best yield from this type of fishery is usually attained by avoiding “pulse” fisheries, which harvest high volume from the immediately available stocks and tend to overharvest some stocks and underharvest others.

### 8.2.9 Closed Waters

Subsistence fisheries in the BS/AI area have been protected by closing to commercial fishing those waters fished in the subsistence fishery. The FMP recognizes State regulations that prohibit commercial fishing for king crab in waters within 10 miles of mean lower low water around St. Lawrence, King and Little Diomed Islands. The FMP also recognizes the following State closure to protect the Norton Sound subsistence king crab fishery:

All waters of the Norton Sound Section enclosed by a line from 65°23' N. lat., 167° W. long. to 64°15' N. lat., 167° W. long. to 64°15' N. lat., 162° W. long. to 63°27' N. lat., 162° W. long. are closed to the taking of king crab for commercial purposes during the summer season, currently August 1 to September 3. According to current State regulations, the State may reduce, by small increments, the closed waters to no less than 3 miles from mean lower low tide to allow the commercial king crab fishery to efficiently obtain the allowable harvest of red king crab.

The State may designate new closed waters areas or expand or reduce existing State closed waters areas. In making such changes, the State shall consider appropriate factors to the extent data are available on: (1) the need to protect subsistence fisheries, (2) the need to protect critical habitat for target or non-target species, (3) the prevention of conflict between harvesting of species, and (4) the creation of navigational hazard.

### 8.2.10 Harvest Limitations for AFA vessels

The Council may provide crab harvesting sideboard recommendations to the Board of Fisheries for each king and Tanner crab species. The State of Alaska, through the Board of Fisheries, may issue regulations, as described within Category 2 and 3 of this FMP, to establish an allowable harvest percentage of the GHF by AFA eligible vessels in any BSAI crab fishery, and to govern the in-season management of any sideboard harvest levels established for AFA eligible vessels.

## 8.3 Category 3—Management Measures Deferred to State

### 8.3.1 Reporting Requirements

Assuming that all vessels participating in the fishery are licensed and registered with the State, only State reporting requirements are required by this FMP. Therefore, reporting requirements shall be deferred to the State.

Reporting of crab catches by individual vessel operators was required as early as 1941. Current State requirements (5 AAC 39.130) include: reporting the company or individual that purchased the catch; the full name and signature of the permit holder; the vessel that landed it with its license plate number; the type of gear used; the amount of gear (number of pots, pot lifts); the weight and number of crab landed

including deadloss; the dates of landing and capture; and the location of capture. Processing companies are required to report this information for each landing purchased, and vessel operators are required to provide information to the processor at the time of sale. All reports (“fish tickets”) are confidential. Reporting requirements ensure adequate information and efficient management and enforcement. The State of Alaska obtains timely information through its current reporting requirements for all vessels participating in the fishery. Additional information is currently available from the State of Alaska shellfish observer program. The price paid for crab is also important information for managing the fisheries and is included on fish tickets but is currently not required information by the State because it is not always available at the time the fish tickets are prepared.

As the commercial Alaskan king and Tanner crab fisheries have grown over recent years, so has our knowledge of these species. Information gained through scientific surveys, research, and fishermen's observations have all led to a better understanding of the biology, environmental requirements, and behavior of the crab stocks. Since fishery managers monitor harvest rates in-season to determine areas of greatest fishing effort, thereby preventing overharvest of individual crab stocks, the current State catch and processing report requirements are an important component in achieving the biological conservation, economic and social, and research and management objectives of this FMP.

### **8.3.2 Gear Placement and Removal**

The FMP defers gear placement and removal requirements to the State. Placement of unbaited gear, with doors secured open, on the fishing grounds before and after a season has been allowed within certain limits. Such early placement or late removal has been justified in light of (1) its lack of biological impacts, (2) enforcement problems and costs borne by the public and the industry, (3) lack of potential gear conflict, (4) the unavailability of loading or unloading facilities and gear storage areas, (5) vessel safety, (6) increasing the competitiveness of smaller vessels, and (7) decreasing fishing costs.

Because of regulations which allow gear placement on the grounds prior to, and immediately following a season, some highly competitive crab fisheries grew out of the need to provide additional time to haul gear to and from the fishing grounds because of limited storage and loading and unloading facilities available to the entire fleet.

### **8.3.3 Gear Storage**

The FMP defers gear storage requirements to the State. Crab pots are generally stored on land or in designated storage areas at sea. Storage in a nonfishing condition in ice-free water areas of low crab abundance also has been justified in light of: (1) expected biological impacts; (2) the potential enforcement costs to the public; (3) the costs to vessel owners of storage on land; (4) the availability of other land and sea storage areas; and (5) the possibility that it would lead to gear conflict.

### **8.3.4 Vessel Tank Inspections**

The FMP defers tank inspection requirements to the State. Vessel tank, or live-hold and freezer, inspections usually are required before the opening of a king or Tanner crab fishing season to meet the legal requirements for the State's landing laws, provide effort information, and provide for a fair start to the fishery. The State normally considers the following factors when determining whether inspections should be required: (1) enforcement requirements, (2) the ability of the vessels to move easily between the fishing grounds and the location of inspection centers, (3) the time necessary for the vessels to transport their gear from storage areas to fishing grounds, (4) the fuel consumption that the inspection requirement will cause, and (5) the equity of allowing all participants to start the fishery at substantially the same time.

### 8.3.5 Gear Modifications

The FMP defers design specifications required for commercial crab pots and ring nets to the State. Pots and ring nets are the specified legal commercial gear for capturing crab in the BS/AI area (see Section 8.1.1). Multiple pots attached to a ground line are currently allowed by the State in the brown (golden) king crab fisheries. Various devices may be added to pots to prevent capture of other species; to minimize king crab bycatch, the State currently requires tunnel-eye heights to not exceed 3 inches in pots fishing for C. bairdi or C. opilio in the Bering Sea. Escape mechanisms may be incorporated or mesh size adjusted to allow female and sublegal male crab to escape; the State currently specifies escape rings or mesh panels in regulation for pots used in the BS/AI C. bairdi, C. opilio, and brown (golden) king crab fisheries, in the Bristol Bay king crab fishery, and in the Pribilof District king crab fishery. State regulations also currently require incorporation of biodegradable twine as an escape mechanism on all pots which will terminate a pot's catching and holding ability in case the pot is lost.

### 8.3.6 Bycatch Limits

The FMP defers the right to implement bycatch limits of other species of crab in the crab fisheries managed under this FMP to the State. Often, regulation of bycatch in the directed fishery involves no, or limited, allocation because the same fishermen participate in both fisheries.

### 8.3.7 State Observer Requirements

The FMP defers the State Observer requirements to the State. The State may place observers aboard crab fishing and/or processing vessels when the State finds that observers provide the only practical mechanism to obtain essential biological and management data or when observers provide the only effective means to enforce regulations. Data collected by onboard observers in crab fisheries include effort data and data on the species, sex, size, and shell-age/shell-hardness composition of the catch. The State currently requires onboard observers on all catcher/processor or floating-processor vessels processing king or Tanner crab and on all vessels participating in the Aleutian Islands red or brown (golden) king crab fisheries. The State currently may require observers on selected catcher vessels taking red or blue king crab in the Norton Sound section, if ADF&G provides funding for the observer presence. The State may also require onboard observers in other crab fisheries (e.g., the Pribilof Islands Korean hair crab Erimacrus isenbeckii fishery) to, in part, monitor bycatch of king or Tanner crab. Observers provide data on the amount and type of bycatch occurring in each observed fishery and estimates of bycatch by species, sex, size, and shell-age/shell-hardness for each observed fishery are currently provided in annual reports by ADF&G.

### 8.3.8 Other

As previously noted, the State government is not limited to only the management measures described in this FMP. However, implementation of other management measures not described in the FMP must be consistent with the FMP, the Magnuson-Stevens Act, and other applicable Federal law, and may occur only after consultation with the Council. This management measure provides for an expanded scope of Federal review. Other management measures that the State may wish to implement are subject to the review and appeals procedures described in Chapters 9 and 10 of this FMP.

# Appendix A State/Federal Action Plan

The following document is the State/Federal Action Plan for the commercial king and Tanner crab fisheries. This Action Plan details the cooperative management system for BSAI crab fisheries between the North Pacific Fishery Management Council and the State of Alaska.

ALASKA DEPARTMENT OF  
FISH & GAME  
DIVISION OF COMMERCIAL FISHERIES  
JUNEAU, ALASKA

NATIONAL MARINE FISHERIES  
SERVICE  
ALASKA REGION  
JUNEAU, ALASKA

## STATE/FEDERAL ACTION PLAN FOR MANAGEMENT OF COMMERCIAL KING AND TANNER CRAB FISHERIES OCTOBER, 1993

**PURPOSE:** To foster improved coordination and communication between National Marine Fisheries Service (NMFS) and Alaska Department of Fish & Game (ADF&G) with respect to crab management under the Fishery Management Plan for the Commercial King and Tanner Crab Fisheries in the Bering Sea and Aleutian Islands Area (FMP). Interagency action groups will implement this coordination.

**BACKGROUND:** The FMP approved in 1989 establishes a State/Federal cooperative management regime that defers crab management to the State of Alaska with Federal oversight. The Secretary of Commerce defers to the State's regulatory regime providing it is consistent with the FMP, the Magnuson Fishery Conservation and Management Act (Magnuson Act) and other Federal law.

A management goal and specific objectives are identified in the FMP. ADF&G, in consultation with NMFS, recommends to the Alaska Board of Fisheries (Board) appropriate management measure(s) for a given year and geographical area to accomplish the objectives. Three categories of management measures are available for consideration: (1) those that are specifically fixed and require an FMP amendment to change, (2) those that are framework-type measures which the State can change without an FMP amendment but following specified criteria, and (3) measures that are neither rigidly specified nor frameworked in the FMP. The measures in categories (2) and (3) may be adopted as State laws subject to the appeals process outlined in the FMP.

The State is not limited to the measures outlined above. Any other management measures must be justified based upon consistency with the FMP objectives, the Magnuson Act, and other applicable Federal law.

Overall, the FMP has efficiently managed the crab fisheries. The framework approach has worked well for the majority of crab management issues. However, Category 2 management measures have been appealed to the Secretary (specifically, pot limits and registration areas). Members of the industry also have criticized Board actions with respect to Category 2 measures

(setting of guideline harvest levels). In order to avoid future contentious problems, NMFS and ADF&G will adopt this action plan to more formally implement State/Federal cooperation in crab management.

ACTION: Three action groups, described below, will facilitate this joint coordination.

- a) Research Planning Group
- b) Crab Plan Team
- c) State/Federal Policy Group

Research Planning Group

The purpose of this group will be to consider long-term crab research priorities, current research activities, and each agency's particular research interests. The group will include NMFS, ADF&G and university crab biologists as well as other representatives from NMFS/Fisheries Management Division; Alaska Fisheries Science Center and ADF&G/Division of Commercial Fisheries. Some of these individuals also may be members of the Crab Plan Team.

This group will work on the development of a long-term plan for applied crab research which will help foster a healthy exchange of ideas among fishery biologists and managers on particular needs. The plan will focus on development of optimal long-term harvest policies. The plan will be updated annually and will function as a vehicle to coordinate the expenditure of crab funds between ADF&G and NMFS and to seek additional funding for critical research.

The group will meet annually for a one- or two-day period at a time and place convenient for the majority of group members.

Crab Plan Team

The annual development of the preseason guideline harvest levels (GHLs) is a dynamic process dependent on using the most current information available and applying this information via analysis and statistical modeling. Scientists from NMFS and ADF&G are currently involved in this process.

Though individual members of the Plan Team have always participated in the development of GHLs, public perception is that this is an ad hoc process. Due to the timing of the Bering Sea surveys and the openings of the early fall fisheries, only a limited amount of time exists to analyze, discuss, amend and release the GHLs to the public in a timely fashion. To release preseason GHLs that have been reviewed using a Council process, such as that used to establish annual groundfish harvest specifications under the groundfish FMPs, would require that

current season opening dates for the fall fisheries be delayed and/or rescheduled, or the previous year's survey information would have to be used to set GHGs in the current year. The latter option could interfere with the FMP management objective of biological conservation. In addition, the Council would have to schedule a special meeting or allow time during the September meeting to address crab management after the survey information became available.

The purpose of a Plan Team review will be to formally incorporate its input in the GHG process. The FMP calls for Plan Team input in the preparation of an annual area management report to the Board. This report includes a discussion of the current status of GHGs and support for different management decisions. This report is reviewed by the State, NMFS, and the Council, and available for public comment on an annual basis.

The Plan Team will meet annually to review GHGs in a session that is open to the public.

#### State/Federal Policy Group

The purpose of the State/Federal Policy Group will be to review and discuss crab management issues prior to Board and/or Council review. This group will include senior staff and legal counsel and will meet annually, or more often if necessary. Many issues may be resolved through interagency agreement. For instance, prior to final Board action, this Policy Group could review whether crab management proposals and petitions are consistent with the FMP and reflect an appropriate and desired management strategy. Also, this group will review FMP amendment proposals. Their recommendations will be forwarded to the Board and the Council, providing guidance as the Board establishes management regulations.

#### OTHER ACTION:

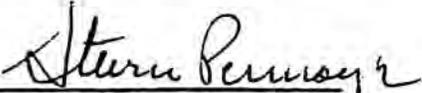
In addition to the above action groups, NMFS and ADF&G will meet annually with crab industry representatives to discuss crab management issues such as, but not limited to, setting of GHGs, stock analysis, current research, and harvest strategies. The location of meetings will alternate between Washington and Alaska. These meetings will provide an opportunity for review of crab management issues and industry input to management agencies.

Council and Board members have agreed to form a Consultation Group composed of a subcommittee of Council and Board members that will meet publicly on an annual basis to focus on crab issues. (These meetings could occur at one of the regularly scheduled Council or Board meetings.) This joint subcommittee could review staff data on the status of crab stocks and fisheries and both public and staff information regarding crab

management and then provide guidance to the respective Council and Board on pertinent crab issues. Council and Board representatives would benefit by meeting for the sole purpose of discussing crab-related issues.

Both NMFS and ADF&G agree to jointly request Council and Board concurrence on these action groups and their role in the cooperative management of the king and Tanner crab fisheries in the Bering Sea and Aleutian Islands.

This State/Federal Action Plan for Management of Commercial King and Tanner Crab Fisheries has been approved by:

  
Steven Pennoyer  
Director, Alaska Region  
National Marine Fisheries  
Service

10/12/93  
Date

  
Carl L. Rosier  
Commissioner  
Alaska Department of  
Fish & Game

10/15/93  
Date

# Appendix B National Standards of the Magnuson-Stevens Fishery Conservation and Management Act

1. Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.
2. Conservation and management measures shall be based upon the best scientific information available.
3. To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.
4. Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (a) fair and equitable to all such fishermen, (b) reasonably calculated to promote conservation, and (c) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.
5. Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.
6. Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.
7. Conservation and management shall, where practicable, minimize costs and avoid unnecessary duplication.
8. Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.
9. Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.
10. Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.