

SCOMM

#17:20

MEMORANDUM

*Regulations for 1975
December 1974 Regulations*
State of Alaska

TO: The Honorable H. A. "Red" Boucher
Lieutenant Governor
State of Alaska

DATE:

November 18, 1974

FILE NO:

TELEPHONE NO:

FROM:

Michael R. Peterson *MRP*
Deputy Attorney General

SUBJECT:

Limited Entry Regulations

Pursuant to AS 44.62.060, this department has reviewed the attached Limited Entry Regulations and concludes that such regulations comport fully with AS 44.62.060.

MRP:cjs

*Resp. filed and
Signed 11/19/74
Filed with -
affidavit of mailing notice
order adopting oral hearing
order repealing the reg
affidavit of publication 20 AS 05.010-460*

RECEIVED
Department of Law

NOV 20 1974

AM
7,8,9,10,11,12,1,2,3,4,5,6 PM

ORDER ADOPTING REGULATIONS OF THE
COMMERCIAL FISHERIES ENTRY COMMISSION

The attached 35 pages of regulations are hereby certified to be correct copies of the regulations which the Commercial Fisheries Entry Commission adopts under authority vested by AS 16.43.110 and after proceedings had in accordance with the Administrative Procedure Act (AS 44.62).

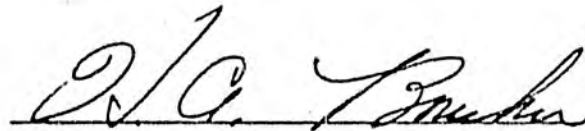
This order takes effect on the 30th day after it has been filed by the lieutenant governor as provided in AS 44.62.180.

DATE

November 19, 1974


Acting Chairman

I, H.A. BOUCHER lieutenant governor for the State of Alaska, certify that on NOVEMBER 19, 1974, at 3:00 p.m., I filed the attached regulations according to the provisions of AS 44.62.040-44.62.120.



Register 52

Effective 12/18/74

CUSTOMER NAME		CUSTOMER NUMBER	
ANCHORAGE COMM. FISHERIES		9544	
DATE	CODE	KEY WORD	INCHES
05-08-74	1	COMM FISHER	42.00

RECEIVED

JUN 10 1974

COMMERCIAL FISHERIES
ENTRY COMMISSION

DISPLAY ADVERTISING
RECORD

**Anchorage
Daily Times**

P. O. Box 40
Anchorage, Alaska 99510

CODES

- 1 - REGULAR
- 2 -
- 3 - SPORTS PAGE

THIS AMOUNT IS IN-
CLUDED ON YOUR
STATEMENT.



REGULAR			SPORTS PAGE			TOTAL	
RATE	INCHES	AMOUNT	INCHES	AMOUNT	INCHES	AMOUNT	AMOUNT
75	4200	147.00			4200	147.00	

being duly sworn, according

DEPT. of The Anchorage

prage, in the Third Judicial Divi-

SHERMEN... PROPOSED

COMMERICAL FISHERIES

MAY 8, 1974

reby given, pursuant to the Commer-
ces Act (AS 44.62), that the Commer-
y Commission proposes to adopt the
ions under the authority vested by

and ending with the issue of MAY 8, 1974

Subscribed and sworn to before me this 5th day of JUNE, 1974

Notary Public for the State of Alaska.

My Commission Expires 12-14, 1977

RIES

D. OTHER DESIGNATED FISHERIES.
inds that the following fisheries have
participation which require the limita-

seine fishery - Southeastern (area A);
er troll fishery;

Anchorage Daily Times

P. O. BOX 40
ANCHORAGE, ALASKA 99510

TOTAL BALANCE DUE

147.00 *

ALLOWABLE DISCOUNT
IF PAYMENT RECEIVED BY 15TH OF MONTH

2.94

Subscribed
6/24/74

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF COMMERCIAL FISHERIES ENTRY COMMISSION

This notice effects all proposed distressed and designated fisheries as set out in the notice of May 1, 1974, copies of which may be obtained from the Commission. All salmon fisheries in Alaska, except those in the Arctic-Yukon-Kuskokwim area and the hand troll fishery, have been proposed as either distressed or designated fisheries by the Commercial Fisheries Entry Commission and therefore will be subject to limited entry in 1975.

Pursuant to the Administrative Procedure Act (Alaska Statute 44.53) notice is hereby given that the Commercial Fisheries Entry Commission, under authority vested by AS 16.43.110, proposes to adopt, amend or repeal regulations which implement, interpret and make specific the provisions of AS 16.43.

The Commercial Fisheries Entry Commission will adopt, amend or repeal, or take no action on the proposed changes in regulations as listed in the following informative summary:

- (1) In provisions concerning interim-use permits, the Commission proposes that:
 - (A) 21 AAC 05.010 (administrative areas) be repealed;
 - (B) 21 AAC 05.020 (fees) be repealed;
 - (C) 20 AAC 04.040 (annual renewal) be repealed;
 - (D) 21 AAC 05.050 be amended to change the types of hardship transfers of interim-use permits.
- (2) In the provisions concerning the general permit requirement:
 - (A) require an interim-use permit or entry permit to operate gear for the commercial taking of fishery resources;
 - (B) require an interim-use permit or entry permit to possess fish or shellfish for a commercial purpose aboard a vessel equipped with commercial fishing gear;
 - (C) provide for application procedures for interim-use permits;
 - (D) establish the conditions for temporary transfers of interim-use permits;
 - (E) require notification of loss or theft.
- (3) In the general area of a fisheries identification system and permit fees:
 - (A) establish a fisheries identification system;
 - (B) establish fishery resource codes;
 - (C) establish gear codes and permit fee schedules;
 - (D) provide for annual renewal of permits;
 - (E) establish administrative areas.
- (4) For the appropriate fisheries, establish the maximum number of entry permits.
- (5) Establish a priority classification system for ranking applicants for entry permits according to hardship:
 - (A) establish a point system for each fishery, with points awarded for economic dependence on a fishery and past participation in a fishery;
 - (B) priority classifications will be established based on the points received;
 - (C) past participation will include years fished in the fishery and consistency of that participation;
 - (D) past participation will include points for years fished as a crewman and as a gear license holder;
 - (E) economic dependence will include percentage of income derived from the fishery, reliance on alternative occupations, availability of alternative occupations and investment in vessels, gear and net sites;
 - (F) designate significant and minor hardship classifications.
- (6) Establish a system for issuing entry permits:
 - (A) establish rules for the completion of applications, the application forms, and the time for filing;
 - (B) the applicant has burden to show qualification for an entry permit;
 - (C) the commission shall base its decision to award or deny an entry permit on its own data and the data it requests from the applicant;
 - (D) those applicants in the priority classifications designated as including those who would suffer significant economic hardship will receive an entry permit; other permits will be awarded in order of descending priority classifications according to the procedures established by the commission;
 - (E) administrative appeals will be allowed within 45 days from notice of classification or denial of a permit;
 - (F) establish procedures for issuing interim-use permits while appeals are pending.
- (7) Establish a system for transferring or renewing entry permits:
 - (A) permits may be transferred only through the commission according to its regulations;
 - (B) the permit holder must file a notice of intent to transfer a permit with the commission at least 60 days before transfer;
 - (C) the notice of intent to transfer may be revoked;
 - (D) the notice may be given when application is made for the permit;
 - (E) an application for transferring a permit will be approved only when there is an effective notice of intent to transfer on file with the commission;
 - (F) the holder or the proposed transferee may appeal the commission's denial of transfer;
 - (G) temporary transfer will be allowed in cases of unavoidable hardship;
 - (H) a permit becomes part of the personal estate upon the death of the holder.
- (8) Establish a system of administrative adjudication involving:
 - (A) when an administrative appeal will be granted;
 - (B) notice of the hearing will be given to the applicant or party;
 - (C) relevant evidence may be introduced at the hearing;
 - (D) applicants have the burden of showing the commission's initial determination is erroneous;
 - (E) the common law rules of evidence;
 - (F) continuances or reconsiderations may be granted on a showing of good cause;
 - (G) decision will be based on the evidence presented at the hearing and will be in writing.
- (9) Miscellaneous provisions covering:
 - (A) procedures for communicating with the commission and the authority for responding on behalf of the commission;
 - (B) procedures for payment of fees to the commission;
 - (C) charge for furnishing materials in the commission's possession, upon request, except no charge for materials needed to prosecute an appeal;
 - (D) no access by the public for records designated as confidential;
 - (E) individual file for each applicant;
 - (F) a party may be represented at proceedings before the commission by an attorney, or some other person at the commission's discretion.

Copies of the proposed regulations may be obtained by writing:
Commercial Fisheries Entry Commission

Pouch K2
Juneau, Alaska 99801

Written comments must be received by the Commission prior to October 1, 1974. Hearings will be held at which oral testimony will be taken prior to October 1, 1974, as the Commission deems necessary. An initial schedule of hearings will be announced in the near future, and may be obtained by writing the Commission at the above address.

THE PROPOSED REGULATIONS ARE SUBJECT TO CHANGE PRIOR TO ADOPTION.

The Commercial Fisheries Entry Commission upon its own motion or at the instance of an interested party, may thereafter adopt the proposed regulations substantially as set out in the informative summary without further notice.

DATED: July 15, 1974.

Commercial Fisheries Entry Commission

INVOICE

SOUTHEAST
ALASKA EMPIRE

138 Main Street • Phone 586-3740

Juneau, Alaska 99801

Date July 31, 1974

Commercial Fisheries Entry Commission
Pouch KB
Juneau, Alaska. 99801

Ref: #774

Publication: NOTICE OF PROPOSED CHANGES

Published: July 30, 1974

236 lines	@ \$.50 per line	\$118.00
Affidavit		1.00
		<u>\$119.00</u>

PUBLISHER'S AFFIDAVIT

(F) the holder or the proposed transferee may appeal the commission's denial of transfer;

(G) temporary transfers will be allowed in cases of unavoidable hardship;

(H) a permit becomes part of the personal estate upon the death of the holder.

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DATED: July 16, 1974.

Commercial Fisheries Entry Commission

- Roy A. Rickay
Acting Chairman

- Charles J. Stovall
Commissioner

Publ: July 22, 1974 (700-71)

Unit:

I, John E. Stringer

being first duly sworn, on oath depose and say: that I am
the General Manager of
SOUTHEAST ALASKA EMPIRE, a newspaper of general
circulation, published in the city of Juneau, State of Alaska;
that the publication, of which the annexed is a true copy,
was published in said newspaper on the 30th
day of July, 1974, and once

for

, the last date of publication being

197

John E. Stringer

Subscribed and sworn to before me this 1st

day of August, 1974

Geraldine C. Alpa

Not ry Public in and for the State of Alaska

My Commission Expires Sept. 14, 1977

My commission expires

IN
NI

TAKURE

ANCHORAGE DAILY NEWS

P.O. BOX 1660
ANCHORAGE, ALASKA 99510

TERMS:

All accounts due when billed. Delinquent after 15th of the Month.
2% discount on display advertising allowable if payment received by
15th of the month following publication. A finance
charge of 1 1/2% per month (Annual Percentage
Rate of 18%) will be assessed on the total past due balance
on the next statement.

CUSTOMER STATE OF ALASKA
COMMERCIAL FISHERIES ENTRY
POUCH KB
JUNEAU, AK 99801

ACCOUNT NUMBER	THROUGH THIS DATE ONLY
4057-3	08-31-74

PAYMENTS AND CHARGES AFTER
THIS DATE WILL BE SHOWN ON
YOUR NEXT STATEMENT.

AMOUNT
ENCLOSED

TO INSURE PROPER CREDIT PLEASE RETURN THIS PORTION WITH YOUR REMITTANCE

DATE	CODE	DESCRIPTION	INCHES	RATE	AMOUNT
8-08-74	1	BALANCE FORWARD PUB HEARIN	10.00	2.85	28.50
RECEIVED SEP 12 1974 COMMERCIAL FISHERIES ENTRY COMMISSION					
BALANCE DUE					28.50

FW 185822
10/3/74

DAILY
SUNDAY
STANDING CARD

4. PACKAGE
5. PREPAID
6. WEDNESDAY

7. NATIONAL DAILY
8. NATIONAL SUNDAY

DATE OF LAST PAYMENT	STATUS OF ACCOUNT	AMOUNT
7-10-74		28.50

IF PAID BY 15th	
DISCOUNT	BALANCE DUE
.57	27.93

ANCHORAGE DAILY NEWS

full amount of the fee charged
for the foregoing publication is

JUNEAU

Advertisement

September 30, 1974 — 7:30 p.m. — Subpoena
Bldg.

the sum of \$11.19, which
amount has been paid in full at
the rate of \$1.11 per line. Mini-
mum charge \$1.00.

Subscribed and sworn to before
me this 11 day of September

1974

Prochie
Nettinga

Notary Public in and for
the State of Alaska,
Third Division,
Anchorage, Alaska
MY COMMISSION EXPIRES

Dec. 11, 1975

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA,)
THIRD JUDICIAL DISTRICT,) ss.

Mary L. Shale
being first duly sworn on oath

deposes and says that she.....
is the Legal Clerk of the
Anchorage News, a daily news-
paper. That said newspaper has
been approved as a legal news-
paper by the Third Judicial Court,
Anchorage, Alaska, and it is now
and has been published in the
English language continually as
a daily newspaper in Anchorage,
Alaska, and it is now and during
all of said time was printed in an
office maintained at the aforesaid
place of publication of said news-
paper. That the annexed is a true

copy of a Advertisement
as it was published in regular
issues (and not in supplemental
form) of said newspaper for a

period of one insertions,
commencing on the 7 day
of August, 1974, and
ending on the 8 day of
August, 1974,
both dates inclusive, and that
such newspaper was regularly
distributed to its subscribers dur-
ing all of said period. That the
full amount of the fee charged
for the foregoing publication is

the sum of \$11.00 which
amount has been paid in full at
the rate of 10¢ per line (mini-
mum charge \$10.00).

Mary L. Shale
Subscribed and sworn to before
me this 8 day of August,
1974.

Bessie
Hettinger

Notary Public in and for
the State of Alaska,
Third Division,
Anchorage, Alaska
MY COMMISSION EXPIRES

Dec. 11, 1975

- NOTICE -

TO COMMERCIAL FISHERMEN

SCHEDULE OF PUBLIC HEARINGS ON PROPOSED REGULATIONS OF THE COMMERCIAL FISHERIES ENTRY COMMISSION

DILLINGHAM

September 3, 1974 - 7:30 p.m. - Youth
Center

ANCHORAGE

September 4, 1974 - 7:30 p.m. - Aleutian
Room, Westward Hotel

KENAI

September 10, 1974 - 7:30 p.m. - Kenai
Borough Office

KODIAK

September 12, 1974 - 7:30 p.m. - American
Legion Hall

CORDOVA

September 20, 1974 - 9:00 a.m. - Elks Club

SITKA

September 23, 1974 - 7:30 p.m. - Cen-
tennial Bldg.

KETCHIKAN

September 25, 1974 - 7:30 p.m. - School
Auditorium

JUNEAU

September 30, 1974 - 7:30 p.m. - Subpor-
t Bldg.

FINAL

TITLE 20. MISCELLANEOUS BOARDS AND COMMISSIONS

CHAPTER 05. COMMERCIAL FISHERIES ENTRY COMMISSION

Article

1. Permits Required
2. Fishery Identification System, Administrative Areas and Annual Fees
3. Designated Fisheries
4. Interim-use Permits
5. Issuance of Entry Permits
6. Priority Classification Point System
7. Transfer of Entry Permits
8. Administrative Hearings and Adjudications
9. Miscellaneous Provisions

ARTICLE 1. PERMITS REQUIRED

Section

10. Administrative Areas, (Repealed)
20. Fees, (Repealed)
30. Application Procedures, (Repealed)
40. Annual Renewal, (Repealed)
50. Temporary Transfer, (Repealed)
60. Notification of Loss or Theft, (Repealed)
100. Permit Required to Operate Gear
110. Permit Required to Possess Fish or Shellfish

20 AAC 05.100. PERMIT REQUIRED TO OPERATE GEAR. (a)
It is unlawful for any person to operate gear, within waters subject to the jurisdiction of the state, for the commercial taking of any fishery resource without a valid interim-use permit or entry permit issued by the commission authorizing him to operate that type of gear in that fishery.

(b) An interim-use permit or entry permit is not required for a person assisting in the operation of gear so long as the holder of the interim-use permit or entry permit for that gear is present and actively engaged in the operation of the gear. (Effective / /74, Register)

Authority: AS 16.43.110(a)
AS 16.43.140(a)
AS 16.43.140(b)

20 AAC 05.110. PERMIT REQUIRED TO POSSESS FISH OR SHELLFISH. (a) It is unlawful for any person to possess, within waters subject to the jurisdiction of the state, any fish or shellfish, taken for a commercial purpose, aboard a fishing vessel commonly used for taking that species of fish or shellfish unless such person has in his possession a valid interim-use permit or entry permit allowing him to take the fish or shellfish in his possession with the gear with which the vessel is equipped.

(b) As used in this section, a "commercial purpose" includes any sale, purchase, trade, gift, or any portion of a commercial transaction. (Effective / /74, Register).

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.140(a)

ARTICLE 2. FISHERY IDENTIFICATION SYSTEM, ADMINISTRATIVE AREAS, AND ANNUAL FEES

Section

- 200. Fishery Identification System
- 210. Fishery Resource Codes
- 220. Gear Codes and Schedule of Annual Fees
- 230. Administrative Areas

20 AAC 05.200. FISHERY IDENTIFICATION SYSTEM. (a)
For the purpose of issuing interim-use permits and entry permits, administering the collection of annual fees, and other purposes required for the administration of AS 16.43, a fishery identification system is established.

(b) Each fishery is identified using a four place letter and number code with the first place being a single letter indicating the fishery resource, the second and third place being a two-digit number indicating the type of gear, and the fourth place being a single letter indicating the administrative area. (Effective / /74, Register).

Authority: AS 16.43.100(a)(3)
AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.140(c)
AS 16.43.150(a)
AS 16.43.200(a)
AS 16.43.380(3)

20 AAC 05.210. FISHERY RESOURCE CODES. The letter code from the following schedule will be used to indicate the specific fishery resource for which an interim-use permit or entry permit is issued:

<u>Code</u>	<u>Code</u>
C Black Cod	K King Crab
M Bottomfish	R Razor Clam
D Dungeness Crab	S Salmon
F Freshwater Fish	P Shrimp
B Halibut	T Tanner Crab
H Herring	Z Other
L Herring Spawn on Kelp	

(Effective / /74, Register).

Authority: AS 16.43.100(a)(5)
AS 16.43.110(a)
AS 16.43.140(c)

20 AAC 04.220. GEAR CODES AND SCHEDULE OF ANNUAL FEES.

(a) A number code from the following schedule will be used to indicate the specific type of gear for which an interim-use permit or entry permit is issued. The annual fee for the issuance or annual renewal of an interim-use permit or entry permit for a particular type of gear is established as shown in the following schedule:

Gear Codes and Annual Fees

<u>Code</u>	<u>Annual Fee</u>
01 purse seine*	\$ 60
02 beach seine	\$ 20
03 drift gill net	\$ 50
04 set gill net	\$ 20
05 hand troll	\$ 20
15 power troll	\$ 50
06 longline gear (vessel keel length 26' or less)	\$ 20
61 longline gear (vessel keel length over 26')	\$ 60
21 pound	\$ 80
07 otter trawl	\$100
17 beam trawl	\$ 50
09 pot gear** (vessel keel length 50' or less)	\$ 50***
91 pot gear** (vessel keel length over 50')	\$100***
22 dredge	\$100
18 shovel	\$ 10
08 fishwheel	\$ 20
99 other	\$ 10

* Purse Seine includes hand purse seine

** Includes: King Crab, Tanner Crab, Dungeness Crab, Bottomfish, Black Cod and Shrimp

*** Shrimp pot gear fee is \$20 for any length vessel

(b) The annual fee for permits issued pursuant to AS 16.43.160(c) is \$5.00. (Effective / /74, Register).

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.140(c)
AS 16.43.160(a)
AS 16.43.160(c)
AS 16.43.380(3)

20 AAC 05.230. ADMINISTRATIVE AREAS. (a) For the purpose of issuing interim-use permits and entry permits for all waters subject to the jurisdiction of the State of Alaska, the administrative areas described in the schedule

below are established. A letter code from the following schedule will be used to designate the specific administrative area for which an interim-use permit or entry permit is issued.

(1) Administrative Areas:

<u>Code Letter</u>	<u>Name and Description</u>
A	Southeastern Alaska Area - all waters between the longitude of Cape Fairweather and the International Boundary at Dixon Entrance.
D	Yakutat Area - all waters of and adjacent to the Pacific Ocean between the longitude of Cape Suckling and the longitude of Cape Fairweather.
E	Prince William Sound Area - all waters of and adjacent to the Pacific Ocean between the longitude of Cape Fairfield and the longitude of Cape Suckling.
H	Cook Inlet Area - all waters of and adjacent to the Pacific Ocean north of a line extending east from Cape Douglas to the longitude of Cape Fairfield.
K	Kodiak Area - all waters of and adjacent to the Pacific Ocean east of the longitude of Kilokak Rocks at 57° 11' 22" North latitude, 156° 20' 13" West longitude and south of a line extending east from Cape Douglas to the longitude of Cape Fairfield including, Kodiak, Afognak and adjacent islands.
L	Chignik Area - all waters on the south side of the Alaska Peninsula between a line extending southeast from Kupreanof Point and the longitude of Kilokak Rocks.
M	Alaska Peninsula-Aleutian Island Area -1) all waters of and adjacent to the Bering Sea south of the latitude of Cape Menshikof including the Pribilof Islands and

Code LetterName and Description

2) all waters of and adjacent to the Pacific Ocean west of a line extending southeast from Kupreanof Point excluding those waters of the Kodiak (K) and Chignik (L) administrative areas.

T Bristol Bay Area - all waters of and adjacent to Bristol Bay westward to a line between Cape Newenham and Cape Menshikof, and continuing seaward between the latitude of Cape Newenham and the latitude of Cape Menshikof.

U Northern Alaska Area - all waters of and adjacent to the Arctic Ocean and Chukchi Sea between 141° West longitude and the latitude of Point Hope.

V Port Clarence Area - all waters between the latitude of Cape Prince of Wales and the latitude of Cape Douglas.

W Kuskokwim Area - all waters between 62° North latitude and the latitude of Cape Newenham including Nunivak and the St. Mathew Islands.

X Kotzebue Area - all waters between the latitude of Point Hope and the latitude of Cape Prince of Wales.

Y Yukon Area - all waters between the latitude of Canal Point Light at 63° 24' North latitude, 162° 26' West longitude and 62° North latitude.

Z Norton Sound Area - all waters between the latitude of Cape Douglas and the latitude of Canal Point Light including St. Lawrence Island.

B Statewide Area - all waters subject to the jurisdiction of the state.

(2) Special King Crab Administrative Areas:

<u>Code Letter</u>	<u>Name and Description</u>
A	Southeastern Alaska - Yakutat Area -all waters of and adjacent to the Pacific Ocean between the longitude of Cape Suckling and the International Poundary at Dixon Entrance.
E	Prince William Sound Area - all waters of and adjacent to the Pacific Ocean between the longitude of Cape Fairfield and the longitude of Cape Suckling.
H	Cook Inlet Area - all waters of and adjacent to the Pacific Ocean north of a line extending east from Cape Douglas to the longitude of Cape Fairfield.
K	Kodiak Area - all waters of and adjacent to the Pacific Ocean east of the longitude of Cape Kumlik and south of a line extending east from Cape Douglas to the longitude of Cape Fairfield.
M	Alaska Peninsula Area - all waters of and adjacent to the Pacific Ocean between the longitude of Scotch Cap Light and the longitude of Cape Kumlik including all waters of Isanotski Strait and Bechevin Bay south of a line from Chunak Point to Cape Krenitzen.
O	Dutch Harbor Area - all waters south of 54° 36' North latitude between 172° West longitude and the longitude of Scotch Cap Light.
Q	Bering Sea Area - all waters of and adjacent to the Bering Sea, Chukchi Sea and Arctic Ocean, north of 54° 36' North latitude
R	Adak Area - all waters south of 54° 36' North latitude between 179° 15' West longitude and 172° West longitude.
S	Western Aleutians Area - all waters south of 54° 36' North latitude and West of 179° 15' West longitude.

(b) Each administrative area listed in (a)(1) of this section shall include all fresh waters of Alaska draining into the ocean between the points on the coastline which designate the boundaries of the administrative areas.
(Effective / /74, Register ,).

Authority: AS 16.43.100(a)(3)
AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.200(a)
AS 16.43.200(b)

ARTICLE 3. DESIGNATED FISHERIES

Section

- 300. Distressed Fisheries
- 310. Other Designated Fisheries
- 320. Maximum Number of Entry Permits

20 AAC 05.300. DISTRESSED FISHERIES. The commission designates the following as distressed fisheries based upon its estimate that the optimum number of entry permits for these fisheries will be less than the highest number of units of gear fished in these fisheries during any one of the four years immediately preceding January 1, 1973:

Salmon Fisheries

- (1) Southeastern Alaska (A)
drift gillnet fishery
- (2) Prince William Sound (E)
drift gillnet fishery
- (3) Cook Inlet (H)
drift gillnet fishery
set gillnet fishery
- (4) Kodiak (K)
purse seine fishery
- (5) Alaska Peninsula-Aleutian Island (M)
drift gillnet fishery
- (6) Bristol Bay (T)
drift gillnet fishery
set gillnet fishery

(Effective / /74, Register ,).

Authority: AS 16.43.110(a)
AS 16.43.230

20 AAC 05.310. OTHER DESIGNATED FISHERIES. (a) The commission designates the following fisheries as those which have reached levels of participation which require the limitation of entry:

Salmon Fisheries

- (1) Southeastern Alaska (A)
purse seine
- (2) Yakutat (D)
set gillnet fishery
- (3) Prince William Sound (E)
purse seine fishery
set gillnet fishery
- (4) Cook Inlet (H)
purse seine fishery*
- (5) Kodiak (K)
beach seine fishery
set gillnet fishery
- (6) Chignik (L)
purse seine fishery
- (7) Alaska Peninsula-Aleutian Island (M)
purse seine fishery*
set gillnet fishery
- (8) Statewide (B)
power troll fishery

* In area H and area M, the purse seine fishery includes the beach seine fishery

(b) As used in this Article, "power troll" means the taking of a salmon fishery resource with troll lines operated by non-manual gurdys. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.240(b)

20 AAC 05.320. MAXIMUM NUMBER OF ENTRY PERMITS. The maximum number of entry permits for each of the fisheries designated under sec. 300 - 310 of this chapter is established as follows:

<u>Salmon Fisheries</u>	<u>Maximum Number of Entry Permits</u>
(1) Southeastern Alaska (A)	
purse seine fishery	395
drift gillnet fishery	446
(2) Yakutat (D)	
set gillnet fishery	150
(3) Prince William Sound (E)	
purse seine fishery	238
drift gillnet fishery	511
set gillnet fishery	32
(4) Cook Inlet (H)	
purse seine fishery	68
drift gillnet fishery	545
set gillnet fishery	686
(5) Kodiak (K)	
purse seine fishery	355
beach seine fishery	31
set gillnet fishery	183
(6) Chignik (L)	
purse seine fishery	80
(7) Alaska Peninsula-Aleutian Island (M)	
purse seine fishery	111
drift gillnet fishery	155
set gillnet fishery	77
(8) Bristol Bay (T)	
drift gillnet fishery	1669
set gillnet fishery	803
(9) Statewide (B)	
power troll fishery	800

(Effective / /74, Register ,).

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Authority: AS 16.43.110(a)
AS 16.43.240(a)
AS 16.43.240(b)

ARTICLE 4. INTERIM-USE PERMITS

Section

- 400. Interim-Use Permit Required
- 410. Application and Annual Renewal
- 420. Temporary Transfer
- 430. Notification of Loss or Theft

20 AAC 05.400. INTERIM-USE PERMIT REQUIRED. An interim-

use permit is required under secs. 100-110 of this chapter for any commercial fishery not designated in secs. 300 - 310 of this chapter. (Effective / /74, Register ,).

Authority: AS 16.43.100(a) (8)
AS 16.43.110(a)
AS 16.43.210(a)

20 AAC 05.410. APPLICATION AND ANNUAL RENEWAL. Application for the issuance or renewal of an interim-use permit must be made to the commission on a form provided by the commission. The application must be signed by the applicant and accompanied by the total annual fee for the permit or permits being applied for. The commission may require an applicant to submit an affidavit or other evidence supporting his application. (Effective / /74, Register ,).

Authority: AS 16.43.100(a) (8)
AS 16.43.110(a)
AS 16.43.210(a)
AS 16.43.220(a)

20 AAC 05.420. TEMPORARY TRANSFER. Application for the temporary transfer of an interim-use permit to alleviate hardship may be made to the commission at any time on a form provided by the commission and must be accompanied by an affidavit establishing the facts justifying the temporary transfer and any other evidence the commission deems necessary. (Effective / /74, Register ,).

Authority: AS 16.43.110(a)
AS 16.43.220(b)

20 AAC 05.430. NOTIFICATION OF LOSS OR THEFT. The holder of an interim-use permit must promptly notify the commission of the loss or theft of his interim-use permit, and a request for a duplicate permit must be accompanied by an affidavit establishing the facts surrounding the loss or theft. (Effective / /74, Register ,).

Authority: AS 16.43.110(a)
AS 16.43.220(a)

ARTICLE 5. ISSUANCE OF ENTRY PERMITS

Section

- 500. Form of Application
- 510. Time of Application
- 520. Evidence of Qualification
- 530. Application by Decedent's Estate
- 540. Classification of Applicants
- 550. Issuance of Entry Permits
- 560. Annual Renewal
- 570. Notification of Loss or Theft

20 AAC 05.500. FORM OF APPLICATION. Application for the issuance of an entry permit must be made to the commission on a form provided by the commission. The application must be signed by the applicant and accompanied by the total annual fee for the permit being applied for. (Effective / /74, Register ,).

Authority: AS 16.43.100(a)(13)
AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.260(b)

20 AAC 05.510. TIME OF APPLICATION. (a) The application period for entry permits for those fisheries designated in secs. 300 - 310 of this chapter will be from December 19, 1974 through 12 midnight March 18, 1975.

(b) The commission will consider only those entry permit applications that are received on or before the closing date for application for that fishery.

(c) If an application contains errors, omissions, or insufficient supporting evidence, the commission will indicate this to the applicant and will give the applicant a reasonable amount of time to correct any defects or insufficiencies in his application.

(d) The commission may extend the time for receipt of an application for a period not to exceed 60 days for good cause shown. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.110(b)
AS 16.43.260(b)
AS 16.43.260(c)

20 AAC 05.520. EVIDENCE OF QUALIFICATION. (a) Every applicant shall have the burden of establishing his qualifications for an entry permit. Specific evidence will be requested on the application form for that purpose. The commission may at any time require an applicant to submit additional evidence in affidavit or other form relating to his qualifications.

(b) To the extent practicable, the commission will provide each applicant with a summary compiled from state records and other reliable sources which will indicate, for the years from 1969 to the qualification date, those years that the applicant participated in each fishery as a gear license holder, the consistency of participation each year, the annual catch value of the fishery resource, and vessel ownership, if any. If the applicant verifies the information

on this summary as correct, the commission will, subject to the provision of section 805(d) of this chapter, accept the information on this summary as sufficient evidence of the facts stated. An applicant may contest the accuracy of any information included in this summary and may supplement this information by establishing additional facts regarding his qualifications with other evidence.

(c) An applicant may be required to submit copies of, or authorize access to, his state and federal income tax returns for the appropriate years, or evidence establishing that he was not required to file, or his Fisherman's Annual Information Report, as a primary source of evidence in support of his application. Tax returns and related information submitted by an applicant are confidential and will not be disclosed in any manner without the express consent of the applicant. When a copy of a tax return is no longer needed by the commission for the purposes for which it was requested, the copy will be destroyed. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.260(c)

20 AAC 05.530. APPLICATION BY DECEDENT'S ESTATE. If an individual eligible to apply for an entry permit should die on or after the qualification date established for the fishery for which he is eligible, the authorized representative of his estate may apply for an entry permit for that fishery in the name of the decedent. An entry permit so acquired becomes part of the decedent's estate and may be transferred in accordance with the provisions of sec. 750 of this chapter. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.150(f)
AS 16.43.260(d)
AS 16.43.260(e)

20 AAC 05.540. PRIORITY CLASSIFICATION OF APPLICANTS.

(a) The commission will assign each applicant to a priority classification according to the point system established in secs. 600 - 660 of this chapter.

(b) If the applicant is assigned to a priority classification designated in 640(a) of this chapter as involving significant economic hardship, the commission will either issue the entry permit or send a notice to the applicant indicating that he will receive an entry permit.

(c) If the applicant is assigned to a priority classification not designated in sec. 640(a) of this chapter as

involving significant economic hardship, the commission will send a notice of classification to the applicant setting forth the commission's findings of fact with respect to the applicant and the date on or before which a request for a hearing must be received if the applicant disagrees with the commission's determination of his priority classification. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.260(d)
AS 16.43.270(a)

20 AAC 05.550. ISSUANCE OF ENTRY PERMITS. (a) The commission will issue entry permits to all applicants assigned to priority classifications designated in sec. 640(a) of this chapter.

(b) If the number of permits issued to applicants assigned to priority classifications designated as involving significant economic hardship equals or exceeds the maximum number of permits established for the fishery, the commission will immediately send a notice of classification to all remaining applicants and indicate that their applications are denied and will refund all fees submitted by those applicants who do not file a request for a hearing pursuant to sec. 805 of this chapter.

(c) If the number of permits issued to applicants assigned to priority classifications designated as involving significant economic hardship is less than the maximum number of permits established for the fishery, the commission will issue the remaining permits to applicants in the order of descending priority classifications up to the maximum number less the number required to be reserved to protect the rights of applicants who are still contesting the commission's initial determination or appealing the findings of an administrative adjudication. All other applicants not issued an interim-use permit under subsection (e) or (f) of this section will be issued a notice of denial.

(d) If, at the end of all administrative hearings and judicial appeals, the number of permits remaining to be issued is less than the number of applicants in the highest priority classification to which permits have not been issued, the commission will allocate the permits to the applicants within that classification by lottery.

(e) Permits will be reserved to protect the rights of applicants who are still contesting the commission's initial determination or appealing the findings of an administrative adjudication. When such reservations are made, the commission

will determine, on the basis of its original classifications and subsequent adjudications, which applicants would be eligible for entry permits but for the administrative process. The commission may issue interim-use permits to those applicants if it finds that the administrative delay would otherwise preclude participation in the fishery. If the group of potentially eligible applicants includes any who fall within a classification that would require a lottery for their selection, interim-use permits will be issued to all applicants within that classification.

(f) The commission may issue an interim-use permit to an applicant for an entry permit if it finds that administrative delay would otherwise preclude participation in the fishery.

(g) Applicants issued interim-use permits under (e) or (f) of this section or under any other process of law, are subject to all buy-back assessments required under AS 16.43.310(a) and (b) if they are ultimately successful in receiving an entry permit.

(h) Interim-use permits issued under (e) or (f) of this section shall expire upon the commission's final determination of the holder's eligibility for an entry permit.

(i) When the maximum number of entry permits has been issued for a fishery, the commission will immediately notify all remaining applicants that their applications are denied and will refund all fees submitted with those applications. (Effective / /74, Register ,).

Authority: AS 16.43.100(a) (7)
AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.270
AS 16.43.310(a)
AS 16.43.310(b)

20 AAC 05.560. ANNUAL RENEWAL. Application for the annual renewal of an entry permit must be made to the commission on a form provided by the commission. The application must be signed by the applicant and accompanied by the total annual fee for the permit or permits being renewed. Failure to renew an entry permit for a period of two years from the date of last renewal will result in the forfeiture of the entry permit to the commission, except as waived by the commission for good cause. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.150(c)
AS 16.43.150(d)

20 AAC 05.570. NOTIFICATION OF LOSS OR THEFT. The holder of an entry permit must promptly notify the commission

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of the loss or theft of his entry permit card or certificate and a request for a duplicate permits must be accompanied by an affidavit establishing the facts surrounding the loss or theft. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)

ARTICLE 6. PRIORITY CLASSIFICATION POINT SYSTEM

Section

- 600. Priority Classification System
- 610. Past Participation
- 620. Economic Dependence
- 630. Point System for Designated Fisheries
- 640. Designation of Significant and Minor Hardship
Classifications
- 650. Special Rules for Use of the Point System
- 660. Definitions

20 AAC 05.600. PRIORITY CLASSIFICATION SYSTEM. (a)
For each fishery for which a maximum number of entry permits has been established under sec. 320 of this chapter the commission will adopt regulations defining priority classifications in terms of a point system for ranking applicants for entry permits. These priority classifications will be based upon a reasonable balance of the hardship standards of degree of economic dependence upon the fishery and extent of past participation in the fishery. The commission will use the following classification system except for those fisheries where special circumstances are found to require modification of the classification system considering the number of applicants, the variance in their qualifications, the history of the fishery, and the purposes of AS 16.43.

(b) A point scale from 0 - 40 will be established, with 20 points assigned for each of the two hardship standards: (1) economic dependence and (2) past participation.

(c) The commission will assign an applicant to one of the 41 priority classifications designated by the numbers 0 -40, based on the total points to which his qualifications as of the qualification date entitle him under sec. 630 of this chapter. The higher the total number of points, the greater the degree of hardship the applicant would suffer by exclusion from the fishery.

(d) The commission will designate:

(1) an upper range of priority classifications of those applicants who would suffer significant economic hardship by exclusion from the fishery, and therefore will receive entry permits as required by AS 16.43.270(a), and

(2) a lower range of priority classifications of those applicants who would suffer only minor economic hardship by exclusion from the fishery, and an entry permit originally issued to them by the commission pursuant to AS 16.43.250(c), may therefore have certain restrictions placed upon its transfer as required by AS 16.43.170(c).

(f) The designations made in (e) of this section may leave a middle range of priority classifications that are not subject to either the significant or minor economic hardship provisions of AS 16.43. (Effective / /74, Register ,).

Authority: AS 16.43.100(a)(1)
AS 16.43.100(a)(2)
AS 16.43.100(a)(6)
AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.250(a)
AS 16.43.250(b)

20 AAC 05.610. PAST PARTICIPATION. The standard of past participation in the fishery includes the number of years participation in the fishery and the consistency of participation. The commission will determine an applicant's extent of past participation as of the qualification date established under AS 16.43.260(d) or (e), and will apply the above two factors as follows:

(1) The commission will rank an applicant based on the number of years participation by considering the number of years the applicant has harvested the fishery resource commercially while participating as a gear license holder and his number of years participation as a crewman, with greater weight being given to participation in recent years as a gear license holder.

(2) The commission will rank an applicant based on consistency of participation by considering the number of weeks of the season in which the applicant harvested the fishery resource commercially while participating as a gear license holder. This factor will be given less weight than the number of years of participation. (Effective / /74, Register ,).

Authority: AS 16.43.100(a)(6)
AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.250(a)(2)

20 AAC 05.620. ECONOMIC DEPENDENCE. The standard of economic dependence upon the fishery includes a consideration of percentage of income derived from the fishery, reliance on alternative occupations, availability of alternative occupations, and investment in vessels, gear and set net

sites. The commission will determine an applicant's economic dependence as of the qualification date established under AS 16.43.260(d) or (e) and will therefore give primary weight to evidence from the years immediately preceding the qualification date and will consider the above four factors as follows:

(1) The commission will rank an applicant based on the two factors of percentage of income derived from the fishery and reliance on alternative occupations by considering the relation between "annual catch value" and "non-fishing occupational income", expressed as an "income dependence percentage" as these terms are defined in sec. 660 of this chapter. Points for income dependence will be awarded only to applicants who harvested the fishery resource commercially while participating as a gear license holder during a year in which income dependence is claimed. A higher income dependence percentage indicates a higher degree of economic dependence upon the fishery.

(2) The commission will rank an applicant based on the factor of investment in vessels, gear and set net sites if the applicant, on the qualification date, was the owner of a vessel, gear or set net site used or to be used in the fishery for which he is applying; or, if the applicant at any time between his last landing in the fishery and the qualification date was the owner of a vessel, gear or set net site used in the fishery, so long as the applicant had fished consistently in the year prior to the qualification date. In the case of a set net site the commission will consider the owner to be the person or persons who could rightfully exercise the power to sell or transfer the set net site according to the accepted customs and usages of the area. In cases where a vessel, gear or set net site was owned jointly or in a corporate capacity, an applicant's points will be determined by multiplying his percentage of ownership interest times the total number of points possible. Fractional points will round off to the nearest whole number, with .5 rounding off to the lower whole number.

(3) The commission will rank an applicant based on the factor of availability of alternative occupations according to his place of domicile. (Effective / /74, Register ,).

Authority: AS 16.43.100(a)(6)
AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.250(a)(10)

20 AAC 05.630. POINT SYSTEM FOR DESIGNATED FISHERIES.

(a) Past Participation. Up to a maximum of 20 points will be awarded an applicant for past participation in the fishery applied for based on the following schedule:

- (1) Year Fished as a Gear License Holder Consistency of Participation as a gear license holder (required minimum number of weeks fished is shown in (c)(1) of this section)

<u>Year</u>	<u>Points</u>	<u>Points</u>
1972	3	2
1971	3	2
1970	2	1
1969	2	1

(2) One point for each additional year of actual participation as a gear license holder in the fishery applied for from 1965 through 1968.

(3) One point for each year of actual participation as a crewman from 1965 through 1972 in the fishery applied for. Points for crewmen participation and points for participation as a gear license holder may not be claimed in the same year.

(4) If special circumstances exist such that an applicant's past participation in the fishery is not realistically reflected by points awarded for past participation for the years 1969 through 1972, the commission may award an applicant up to a maximum of 16 points upon a special showing of past participation during the years 1960 through 1972.

(5) To receive credit for past participation as a gear license holder, an applicant must have harvested the resource commercially while participating as a gear license holder in a given year.

(b) Economic Dependence. Up to a maximum of 20 points will be awarded an applicant for economic dependence on a fishery based on the following schedule:

(1) Income dependence percentage based on harvesting the fishery resource while participating as a gear license holder in the fishery applied for as shown for each fishery in (c)(2) of this section: (Maximum of 10 points possible.)

<u>Year</u>	<u>Minimum Percentage</u>	<u>Points</u>
1971	Percentage A from schedule in (c)(2) of this sec.	4
1971	Percentage B from schedule in (c)(2) of this sec. (In the Prince William Sound Purse Seine and Set Net Fishery percentages A and B use the year 1970.)	2
1972	Percentage C from schedule in (c)(2) of this sec.	6
1972	Percentage D from schedule in (c)(2) of this sec. (In the Prince William Sound Purse Seine Fishery, percentages C and D use the year 1971.)	3

(2) If special circumstances exist such that an applicant's income dependence is not realistically reflected by his income dependence percentage for the years 1971 and 1972, the commission may award an applicant up to a maximum of 10 points based on a special showing of income dependence.

(3) Investment as of the qualification date in vessel, gear or set net site used or to be used in the fishery for which application is being made. (Maximum of 6 points possible.)

- (A) owns vessel (Does not include set net skiffs) 6 points
- (B) owns set net site 6 points
- (C) owns gear 3 points
(Gear must include the net in salmon net fisheries. In the troll fisheries, gear includes the lines, leaders and lures.)

(4) Availability of alternative occupations in applicant's place of domicile as of the qualification date. (Maximum of 4 points possible.)

(A) Domicile in a census district or county with a population that is more than 80% rural or has a total population of under 10,000 as of the 1970 census 4 points

(B) Domicile in a census district or county with a population that is more than 40% rural or has a total population of under 25,000 as of the 1970 census 2 points

(C) Domicile in a census district or county with a population that is 40% or less rural or has a total population of 25,000 or more as of the 1970 census 0 points

(D) An applicant from a zero or two point area may receive up to the maximum of four points through a special showing that there is neither a road nor adequate daily transportation service from the applicant's domicile to other potential areas of employment in his census district.

(c) The commission will use the following schedules in determining an applicant's points for consistent participation and income dependence:

(1) consistent participation:

<u>Salmon Fisheries</u>	Minimum Number of Weeks Fished To Show Consistent Participation			
	<u>1969</u>	<u>1970</u>	<u>1971</u>	<u>1972</u>
Southeastern Alaska (A)				
purse seine fishery	4	7	6	8
drift gillnet fishery	7	7	6	7
Yakutat (D)				
set gillnet fishery	6	7	7	7
Prince William Sound (E)				
purse seine fishery	3	3	5	-
drift gillnet fishery	4	4	4	4
set net fishery	4	4	-	4
Cook Inlet (H)				
purse seine fishery	2	2	2	2
drift gillnet fishery	3	3	2	3
set gillnet	3	3	2	3
Kodiak (K)				
purse seine fishery	4	4	4	4
beach seine fishery	2	2	2	2
set gillnet fishery	3	3	3	2
Chignik (L)				
purse seine fishery	4	4	4	4
Alaska Peninsula-Aleutian Is. (M)				
purse seine fishery	3	3	3	3
drift gillnet fishery	3	3	3	3
set gillnet fishery	3	3	3	3
Bristol Bay (T)				
drift gillnet fishery	3	3	3	3
set gillnet fishery	3	3	3	3
Statewide (B)				
power troll	6	8	8	8

(2) income dependence:

<u>Salmon Fisheries</u>	Minimum Percentages For Income Dependence			
	<u>1971</u>		<u>1972</u>	
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Southeastern Alaska (A)				
purse seine fishery	90	70	90	70
drift gillnet fishery	90	70	90	50

Salmon FisheriesMinimum Percentages For
Income Dependence

	<u>1971</u>		<u>1972</u>	
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Yakutat (D)				
set gillnet fishery	90	60	70	40
Prince William Sound (E)				
purse seine fishery *	90	60	90	60
drift gillnet fishery	90	50	90	50
set net fishery **	80	40	80	40
Cook Inlet (H)				
purse seine fishery	80	40	60	30
drift gillnet fishery	80	40	80	50
set gillnet	90	40	90	40
Kodiak (K)				
purse seine fishery	90	50	80	50
beach seine fishery	90	50	80	50
set gillnet fishery	70	30	70	30
Chignik (L)				
purse seine fishery	90	70	90	70
Alaska Peninsula-Aleutian Is. (M)				
purse seine fishery	90	50	90	50
drift gillnet fishery	90	60	90	60
set gillnet fishery	90	50	90	50
Bristol Bay (T)				
drift gillnet fishery	80	40	60	20
set gillnet fishery	90	40	70	20
Statewide (B)				
power troll fishery	90	40	90	30

* Prince William Sound purse seine fishery uses income percentages for the years 1970 and 1971 respectively.

** Prince William Sound set net fishery uses income percentages for the years 1970 and 1972 respectively.
(Effective / /74, Register ,).

Authority: AS 16.43.100(a)(1)
AS 16.43.100(a)(2)
AS 16.43.100(a)(6)
AS 16.43.100(b)
AS 16.43.110(c)
AS 16.43.250(a)(1)
AS 16.43.250(a)(2)

20 AAC 05.640. DESIGNATION OF SIGNIFICANT AND MINOR HARDSHIP CLASSIFICATIONS. (a) The commission designates the priority classifications 20 - 40 as classifications of applicants who would suffer significant economic hardship by exclusion from the fishery, and therefore will receive entry permits as required by AS 16.43.270(a).

(b) The commission designates the priority classifications 0 - 5 as classifications of applicants who would suffer only minor economic hardship by exclusion from the fishery, and an entry permit originally issued to them by the commission pursuant to AS 16.43.250(c) may therefore have certain restrictions placed upon its transfer as required by AS 16.43.170(c). (Effective / /74, Register ,).

Authority: AS 16.43.100(a)(2)
AS 16.43.110(a)
AS 16.43.250(b)
AS 16.43.250(c)

20 AAC 05.650. SPECIAL RULES FOR USE OF THE POINT SYSTEM. (a) All eligible applicants for any designated fishery will receive 0 points for any year in which there was an administrative closure for the entire season.

(b) An applicant who is eligible to apply for an entry permit under the terms of AS 16.43.260(a) and whose participation in a fishery was interrupted by his first enlistment or draft period of military service will be awarded the maximum number of points for past participation for the fishing seasons missed due to that military service as follows: If the applicant did not harvest the fishery resource commercially while participating as a gear license holder prior to the commencement of the military service, then the applicant will receive crewmen participation points for the fishing seasons missed; if the applicant harvested the fishery resource commercially while participating as a gear license holder prior to the commencement of the military service, then the applicant will receive the maximum number of points for past participation for the fishing seasons missed.

(c) To use the special showing provisions in sec. 630(a)(4) (for past participation), (b)(1) (for income dependence) and (b)(4)(D) (for availability of alternative occupations) of this chapter, an applicant must claim a specific number of points and must submit documentation of the facts and circumstances surrounding the claim along with his application for an entry permit. Where necessary, the commission will request additional explanation or documentation of the facts and circumstances surrounding the claim before

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making its determination. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.250(a)(1)
AS 16.43.250(a)(2)

20 AAC 05.660. DEFINITIONS. In secs 600- 660 of this chapter:

(1) "annual catch value" means the number of pounds of any species of fish caught by an applicant in the fishery for which he is applying, as derived from fish tickets, during a given year, multiplied by the average price per pound paid for the species in that fishery during the year, or the gross amount actually received for the calendar year from harvesting the fishery resource commercially while participating as a gear license holder in the fishery for which he is applying;

(2) "income dependence percentage" means the annual catch value divided by the sum of the annual catch value and the non-fishing occupational income, with the result multiplied by 100;

(3) "non-fishing occupational income" means that portion of earned income that comes from sources other than commercial fishing. It includes gross wages, salaries, professional fees and other amounts received as compensation for personal services actually rendered including cost of living allowances. In the case of an applicant engaged in a trade or business other than commercial fishing, the net profits of such trade or business shall be included as non-fishing occupational income. Pensions, interest, dividends, other investment income, and income received directly from participating in any fishery as a gear license holder or crewman will not be included;

(4) "qualification date" means January 1, 1973, except that in the case of fisheries for which the commission establishes the maximum number of entry permits after January 1, 1975, the qualification date is January 1 of the year during which the commission establishes the maximum number of entry permits for a fishery;

(5) "gear" means the fishing apparatus necessary to harvest the fishery resource commercially. (Effective / /74, Register).

Authority: AS 16.43.100(b)
AS 16.43.110(a)

ARTICLE 7. TRANSFER OF ENTRY PERMITS

Section

- 700. Requirements for Transfer
- 710. Notice of Intent to Transfer
- 720. Application for Transfer
- 730. Transfer and Reissuance of Entry Permits
- 740. Emergency Transfers
- 750. Transfers on Death of the Holder
- 760. Administrative Hearings
- 770. Definitions

20 AAC 05.700. REQUIREMENTS FOR TRANSFER. A holder of an entry permit may transfer his permit only through the commission and in accordance with secs. 700 - 770 of this chapter. (Effective / /74, Register ,).

Authority: AS 16.43.100(a)(11)
AS 16.43.110(a)
AS 16.43.170(a)

20 AAC 05.710. NOTICE OF INTENT TO TRANSFER. (a) The holder of an entry permit not subject to the restrictions of AS 16.43.170(c) or (d) may establish a filing date, effective date, and expiration date for the transfer of his entry permit by filing a notice of intent to transfer with the commission on a form supplied by the commission. The holder need not name a proposed transferee when filing a notice of intent to transfer. The commission will return a copy of the notice of intent to transfer together with a statement of the filing date, effective date, and expiration date for transfer of an entry permit.

(b) A holder may revoke a notice of intent to transfer any time prior to the filing of an application to transfer by filing his written notice of revocation of intent to transfer with the commission.

(c) A holder may file a renewed notice of intent to transfer at any time after the effective date of a notice of intent to transfer. A renewed notice shall simply extend the expiration date if filed over 60 days prior to the expiration date of the previous notice of intent to transfer.

(d) Any person who has applied for an entry permit under section 500 of this chapter may file with his application, or later, a notice of intent to transfer an entry permit. The effective date for purposes of transfer shall be the date of the original issuance of the entry permit, or the date 60 days after the filing of the notice, whichever is later. (Effective / /74, Register ,).

Authority: AS 16.43.100(a)(11)
AS 16.43.110(a)
AS 16.43.170(b)
AS 16.43.170(c)
AS 16.43.170(d)

20 AAC 05.720. APPLICATION FOR TRANSFER. (a) An application for the transfer of an entry permit may be filed with the commission on or after the effective date and must be filed with the commission on or before the expiration date of the notice of intent to transfer.

(b) Application for the transfer of an entry permit must be made to the commission on a form provided by the commission. The application must be signed by the applicant and the proposed transferee. The applicant and the proposed transferee must certify to facts establishing the present ability of the proposed transferee to participate actively in the fishery, and will be required upon request to produce documentation of those facts, and such other information as the commission finds necessary.

(c) An application for the transfer of an entry permit may be withdrawn only upon the written request of both the applicant and the proposed transferee. (Effective / /74, Register ,).

Authority: AS 16.43.100(a) (11)
AS 16.43.110(a)
AS 16.43.170(b)

20 AAC 05.730. TRANSFER AND REISSUANCE OF ENTRY PERMITS.

(a) The commission will approve the application to transfer an entry permit and reissue an entry permit to the proposed transferee if the applicant and the proposed transferee (other than the commission) comply with sec. 720(a) and (b) of this chapter.

(b) If the commission determines that the proposed transferee's present ability to participate actively in the fishery has not been established, it will so notify the applicant and the proposed transferee, giving its findings of fact and conclusions. (Effective / /74, Register ,).

Authority: AS 16.43.100(a) (11)
AS 16.43.110(a)
AS 16.43.110(b)
AS 16.43.170(b)

20 AAC 05.740. EMERGENCY TRANSFERS. (a) A holder or his transferee under this section or sec. 750(b) of this chapter may apply for an emergency transfer of his entry permit to another person by making application to the commission on a form provided by the commission.

(b) The commission will grant an emergency transfer if the proposed transferee is presently able to participate actively in the fishery and if the transferor establishes that sickness, injury, or other unavoidable hardship prevents him from participating in the fishery.

(c) Where sickness or injury precludes communication by the transferor, the commission may authorize the emergency transfer of an entry permit upon application by a person other than the transferor. Such a transfer is subject to revocation at any time upon application by the transferor.

(d) Unless further restricted by the transferor, an emergency transfer will be effective for the remainder of the calendar year. (Effective / /74, Register ,).

Authority: AS 16.43.110(a)
AS 16.43.180(a)

20 AAC 05.750. TRANSFER ON DEATH OF THE HOLDER. (a)
An entry permit shall survive the death of the holder and pass into the holder's estate.

(b) The authorized representative of the deceased holder's estate may apply for an emergency transfer of an entry permit pending final disposition of the permit as a part of the holder's estate by making application to the commission on a form provided by the commission. The emergency transfer must be to a person who can establish his present ability to participate actively in the fishery. The commission will approve an application for such an emergency transfer if the representative establishes that the holder is deceased and that the representative is authorized to request the transfer. Unless further restricted by the authorized representative, an emergency transfer after the death of the holder is effective for the remainder of the year. The authorized representative may annually renew an entry permit and apply for subsequent emergency transfers if he can establish that the permit has not been finally disposed of as part of the deceased holder's estate.

(c) The authorized representative may make final disposition of the entry permit pursuant to secs. 700 - 730 of this chapter upon demonstrating authorization for such action from the appropriate judicial authorities.
(Effective / /74, Register ,).

Authority: AS 16.43.100(a) (11)
AS 16.43.110(a)
AS 16.43.150(f)
AS 16.43.170(b)
AS 16.43.180(b)

20 AAC 05.760. ADMINISTRATIVE HEARINGS. Either the holder of an entry permit or the proposed transferee may request an administrative hearing and adjudication under the

provisions of secs. 800 - 880 of this chapter to contest a determination by the commission under secs. 730 - 750 of this chapter. (Effective / /74, Register ,).

Authority: AS 16.43.110(a)
AS 16.43.110(b)

20 AAC 05.770. DEFINITIONS. In secs. 700-770 of this chapter:

(1) "transfer" means any conveyance or attempted conveyance of the permit by the holder or any attempt by the holder to authorize another to use the entry permit for the operation of gear in the fishery. It does not include a contract or agreement to convey a permit in the future;

(2) "filing date" means the date upon which the commission receives a notice of intent to transfer from the holder;

(3) "effective date" means the date 60 days after the filing date;

(4) "expiration date" means the date 12 months after the filing date;

(5) "present ability to participate actively" means the person is physically able to harvest fish in the fishery and has reasonable access to commercial fishing gear of the type utilized in that fishery;

(6) "holder" means the person to whom the entry permit is issued;

(7) "authorized representative" means the personal representative duly appointed to administer the estate of a deceased entry permit holder pursuant to the provisions of AS 13.16.245 et seq. or pursuant to comparable provisions of the laws of the jurisdiction of the deceased holder's estate. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.170

ARTICLE 8. ADMINISTRATIVE HEARINGS AND ADJUDICATIONS .

Section

- 800. Matters Covered
- 805. Request for an Administrative Hearing
- 810. Notice of Hearing
- 815. Scope of Hearing
- 820. Rules of Evidence
- 825. Subpoenas, Depositions, Affidavits and Documents
- 830. Continuances
- 835. Default
- 840. Hearing Officer's Written Recommendations
- 845. Administrative Adjudication
- 850. Reconsideration
- 855. Appearances

20 AAC 05.800. MATTERS COVERED. The provisions of secs. 800890 of this chapter apply to all matters presented to the commission for administrative hearing and adjudication. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.110(b)
AS 16.43.120(a)

20 AAC 05.805. REQUEST FOR AN ADMINISTRATIVE HEARING.
(a) An applicant or other party may request an oral or written administrative hearing by filing a request for a hearing with the commission. The request for a hearing must contain a statement of why the commission's determination should be changed, and indicate which findings of fact, interpretation of regulation, or interpretation of statute the party believes to be in error. An administrative hearing will be granted upon the determination that the written request for a hearing demonstrates a genuine issue in contention.

(b) The following schedule governs requests for a hearing.

(1) Application classification or denial. The request for a hearing must be received on or before the 45th day following the mailing date of the notice of classification or notice of denial, whichever was earlier.

(2) Ineligibility for the reduced annual fee under sec. 220(b) of this chapter. The request for a hearing must be received on or before the 45th day following the date that the notice of ineligibility for the reduced annual fee was mailed to the applicant.

(3) Transfer of an entry permit under secs. 700-770 of this chapter, or of an interim-use permit under sec. 420 of this chapter. The request for a hearing must be received on or before the 45th day following the date that the notice of denial was mailed to the holder and the proposed transferee.

(4) All other commission determinations. The request for a hearing must be received on or before the 45th day following the mailing of the written notice of the commission's determination.

(c) Failure to request a hearing following a determination by the commission, as set out in subsection (b) of this section, precludes further administrative consideration except as provided in subsection (d) of this section.

(d) The commission may adjust administrative errors affecting a commission determination, during or after the period for requesting a hearing, upon written notice to the applicant or other party. Such adjustment is subject to an administrative hearing for an additional period specified in subsection (b) of this section. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.110(b)

20 AAC 05.810. NOTICE OF HEARING. In all cases where an administrative hearing is granted, the commission will determine the time and place of hearing and deliver or mail a notice of hearing to the applicant or other party at least 30 days before the hearing. The applicant or other party may waive the 30 day notice requirement. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.110(b)
AS 16.43.120(a)

20 AAC 05.815. SCOPE OF HEARING. The applicant or other party may present relevant evidence at the hearing, including testimony, affidavits, and documents, in support of the contentions for which the hearing was granted. Depositions, affidavits, and documents that have been stipulated to by the applicant or other party and the commission prior to the hearing will also be entered into the record. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.110(b)
AS 16.43.120(a)

20 AAC 05.820. RULES OF EVIDENCE. (a) Oral evidence may be taken only upon oath or affirmation.

(b) Common law rules of evidence apply except when the hearing officer determines that their application is not required in order to assure fair treatment of the applicant or other party and that the evidence offered is relevant and of the sort on which responsible persons are accustomed to rely in the conduct of serious matters.

(c) The applicant or other party and the hearing officer may:

(1) call and examine witnesses;

(2) introduce exhibits;

(3) cross-examine opposing witnesses on matters relevant to the issues even though the matter was not covered in the direct examination. If the applicant or other party does not testify, he may be called and examined by the hearing officer.

(d) The applicant or other party shall bear the burden of proving by a preponderance of the evidence that a determination of the commission is erroneous. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.110(c)
AS 16.43.110(d)
AS 16.43.120(a)

20 AAC 05.825. SUBPOENAS, DEPOSITIONS, AFFIDAVITS AND DOCUMENTS. (a) At the request of an applicant or other party for good cause shown or upon its own motion, the hearing officer may issue subpoena and subpoena duces tecum to compel production of testimony or other evidence at a hearing. The issuance of subpoenas will be governed by the provisions of AS 44.62.430.

(b) In accordance with the provisions of AS 44.12.440 the hearing officer may order that the testimony of a material witness be taken by deposition.

(c) Documents or affidavits intended to be used at a hearing should be submitted to the commission by mail or at a pre-hearing conference so that they may be stipulated to whenever possible. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.110(c)
AS 16.43.110(d)
AS 16.43.120(a)

20 AAC 05.830. CONTINUANCES. For good cause shown and at his discretion, the hearing officer may order the continuance of a hearing. (Effective / /74, Register ,)

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.110(b)
AS 16.43.120(a)

20 AAC 05.835. DEFAULT. If an applicant or other party does not appear at an oral hearing that has been granted, the hearing officer, unless good cause is shown, may act upon the evidence presently at his disposal without notice to the applicant or other party. (Effective / /74, Register ,)

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.110(b)
AS 16.43.120(a)

20 AAC 05.840. HEARING OFFICER'S WRITTEN RECOMMENDATIONS. The hearing officer shall prepare a written recommendation in a form which may be adopted as the decision in the case. A copy will be served on the applicant or other party. (Effective , Register ,).

Authority: AS 16.43.100(b)
AS 16.43.100(a)
AS 16.43.110(b)
AS 16.43.120(a)

20 AAC 05.845. ADMINISTRATIVE ADJUDICATION. (a) The commissioners will adjudicate the matter before them on the basis of the material previously filed with the commission by the applicant or other party, evidence presented at the hearing or introduced into the hearing record, matters officially noticed by the hearing officer under the procedures of AS 44.62. 480 and the written recommendation of the hearing officer.

(b) The applicant or other party will be given two weeks from the date of mailing of the hearing officer's written recommendations to submit written comments on that recommendation. If the applicant or other party desires an opportunity to make an oral presentation to the commissioners, he must make that fact known to the commission within the two week period. Any presentation to the commissioners shall be limited to the record before them and no commissioner may vote unless he has heard any additional oral presentation.

(c) If an applicant or other party fails to act within the two week period, or fails to appear at the time and place scheduled for oral presentation, the commissioners will grant a second opportunity only upon good cause shown.

(d) The commissioners may adopt the hearing officer's written recommendation in its entirety, or in part. If the recommendation is not adopted in its entirety, the commissioners may decide the case upon the record or request additional evidence.

(e) A case requiring additional evidence will be referred to a hearing officer to take that evidence. The hearing officer shall prepare a second written recommendation based upon additional evidence and the original record of the earlier hearing. A copy of the second recommendation will be given to the applicant or other party and the commissioners will resume the adjudication.

(f) The commissioners' decision will be written and contain findings of fact and determinations of the issues presented.

(g) A decision is effective and final 30 days after it is hand delivered or mailed to the applicant or other party unless a reconsideration is ordered within that time. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.110(b)
AS 16.43.120(a)

20 AAC 05.850. RECONSIDERATION. (a) The commissioners may order a reconsideration of their decision on their own motion or on petition of the applicant or other party. A petition for reconsideration by the applicant or other party shall set forth specifically the grounds upon which the petitioner believes the decision to be erroneous or specify new evidence he believes will have a substantial bearing on the decision.

(b) The power to order a reconsideration expires 30 days after the hand delivery or mailing of a decision to the applicant or other party. If no action is taken on a petition for reconsideration within the time allowed for ordering reconsideration, the petition is considered denied.

(c) The commissioners may reconsider a matter in the original record or order a supplementary hearing in accordance with sec. 845(e) of this chapter. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.110(b)
AS 16.43.120(a)

20 AAC 05.855. APPEARANCES. (a) In any quasi-judicial matter or proceeding before the commission, an applicant or other party may appear in his own behalf or may be represented by any person who can satisfy the commission that he possesses the qualifications necessary to enable him to render valuable service before the commission and that he is otherwise competent to advise and assist in the presentation of matters before the commission.

(b) If an attorney represents an applicant or other party, he may be permitted to withdraw from a proceeding before the commission under the conditions and in the manner prescribed in Rule 81 of the Alaska Rules of Civil Procedure.

(c) The commission may deny, temporarily or permanently, the privilege of appearing before it in any way, to any individual who is found by the commission to be lacking in the requisite qualifications to appear on the behalf of others or to have engaged in any conduct disruptive of the orderly and lawful processes of the commission. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.110(b)

ARTICLE 9. MISCELLANEOUS PROVISIONS

Section

- 900. Communications
- 910. Remittances and Charges
- 920. Permit Files
- 930. Confidential Records and Information

20 AAC 05.900. COMMUNICATIONS. (a) All correspondence with the commission should be addressed to the commission at its principal office.

(b) Written communications shall be deemed to be officially received and filed when delivered to the commission's office unless otherwise specified.

(c) No correspondence signed by an individual staff member or commissioner shall be deemed to state an official determination or decision by the commission unless the signature is preceded by the recital "By Direction of the Commercial Fisheries Entry Commission." The presence of this recital constitutes presumptive evidence that the signatory has been delegated authority to state the commission's action in the particular matter. (Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)

20 AAC 05.910. REMITTANCES AND CHARGES. (a) Every remittance shall be by money order, bank draft or check payable to the Commercial Fisheries Entry Commission. Remittances in coin or currency will be sent at the risk of the loss of money sent in that manner.

(b) Postage stamps shall not be sent as a remittance unless the sender is so directed.

(c) The commission may charge for costs it incurs in furnishing copies of notices, reports, orders or any printed or typed material in its possession. (Effective / /74, Register ,).

Authority: AS 09.25.110
AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.110(b)

20 AAC 05.920. PERMIT FILES. The commission will maintain a file of interim-use permit and entry permit information. The file will contain information pertaining to, but not limited to, the following:

- (1) issuance of the permit to the named applicant;
- (2) annual renewal of the permit;
- (3) any assessment;
- (4) payment of any assessment;
- (5) forfeiture of the permit;
- (6) application for temporary transfer of the permit;
- (7) temporary or emergency transfer of the permit to the named person;
- (8) notice of intent to transfer the permit;
- (9) revocation of notice of intent to transfer the permit;
- (10) application for transfer of the permit;
- (11) withdrawal of application for transfer of the permit;
- (12) reissuance of the permit to named person.
(Effective / /74, Register ,).

Authority: AS 16.43.100(b)
AS 16.43.110(a)

20 AAC 05.930. CONFIDENTIAL RECORDS AND INFORMATION.

(a) Except as provided in (b), the books, records, papers, files, and writings of the commission are public records and are open to inspection by the public during regular office hours.

(b) The following information is confidential and shall not be open to inspection by the public unless waived by the appropriate party:

(1) communications relating to personnel matters and medical or other personal information, which under governing personnel practices of the State of Alaska, are not public information;

(2) information and data relating to the commission's budget and legislative proposals prior to the time they are acted upon by the governor and the legislature;

(3) communications between legal counsel and the commission or its staff, regarding matters requiring confidential legal advice or assistance;

(4) reports concerning the landings of fish, shellfish or fishery products and annual statistical reports of buyers and processors required by regulation of the Department of Fish and Game, and information derived from such reports except information presented in a manner that prevents the identification of particular reports or persons.

(5) copies of state and federal income tax returns provided by an applicant for an interim-use permit or entry permit, other statements relating to personal income by such an applicant, information relating to specific monetary transactions between an applicant or permit holder and the commission, and information derived from such reports and statements except information presented in a manner that prevents the identification of particular reports or persons;

(6) notices of intent to transfer an entry permit or requests to transfer along with any documents submitted to the commission in support of or related to a request presented in such a manner as to allow identification of the individual parties to the transaction. (Effective / /74, Register ,).

Authority: AS 09.25.100
AS 16.43.110(a)
AS 44.17.030(4)