

SB

251

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 1/28/08

FURTHER:

Rules

Date of 5-Day Notice: 2/7/08
(In accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2/14/08

Resources Committee considered SENATE BILL NO. 251

SB 251 VESSEL PERMIT SYSTEM

"An Act repealing the termination date of the vessel permit system for the Bering Sea hair crab fishery and the weathervane scallop fishery; and providing for an effective date."

and recommends:

- be replaced with SCS or CS SB 251 (RES)
- adopt previous SCS or CS _____ ()
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:
 Same Title
 New Title

HOUSE BILL:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

ETG	2/4/08				✓

PREVIOUS FISCAL NOTE(S):

APPROPRIATION - no fiscal note

<i>Lisa Green</i>	Green				✓
<i>Ken Maden</i>	McLure				✓
<i>[Signature]</i>	Stevens			✓	✓
<i>[Signature]</i>	Wasson				✓
<i>[Signature]</i>	Wielochowski				✓
<i>[Signature]</i>	Stedman				✓
CHAIR: <i>[Signature]</i>	<i>[Signature]</i>				

ALASKA STATE LEGISLATURE

SENATOR DONALD C. OLSON



ALASKA
STATE CAPITOL
ROOM 514
JUNEAU, ALASKA 99801-1182

(907) 465-3707
FAX (907) 465-4821

MEMO

Jan 30, 2008

MEMORANDUM

To: Senator Huggins, Chair
Senate Resources Committee

From: Senator Olson

A handwritten signature in black ink, appearing to be "D. Olson", written over the printed name "Senator Olson".

Re: Request for a committee hearing for SB 251, Vessel Permit System.

I would appreciate the scheduling of a Senate Resources Committee hearing of SB 251 at your earliest convenience. Attached is a sponsor statement and support documentation. If you need additional information, please contact me or Dave Gray in my office.

Thank you for your attention to this request.

ALASKA STATE LEGISLATURE

Sen. Charlie Huggins, Chair
Sen. Bert Stedman, Vice Chair
Sen. Lyda Green
Sen. Gary Stevens
Sen. Lesil McGuire
Sen. Bill Wielechowski
Sen. Thomas Wagoner



State Capitol, Room 119
Juneau AK 99801-1182
907-465-3878
Fax: 907-465-3265
800-862-3878

Senate Resources Committee
Butrovich Room 205
Wednesday, February 13, 2008
3:30-5:30 p.m.

AGENDA

- **SB 251 Vessel Permit System**

- **SB 246 Susitna Hydro Working Group; Report**

- **SB 248 Salmon Product Development Tax Credit**

- **BPH/s**

Teleconference

25-LS1386E
Kane
2/5/08

CS FOR SENATE BILL NO. 251()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS OLSON, Hoffman, Stedman, Elton

A BILL
FOR AN ACT ENTITLED

1 **"An Act providing for an effective date by delaying the effective date of repeal of the**
2 **authority of the Commercial Fisheries Entry Commission to maintain the vessel-based**
3 **commercial fisheries limited entry systems for the Bering Sea Korean hair crab and**
4 **weathervane scallop fisheries, and the effective date of conforming amendments related**
5 **to the repeal of those systems."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 *** Section 1. Section 28, ch. 137, SLA 2002, is amended to read:**

8 **Sec. 28. Sections 5, 10, 12, 14, 16, 18, 21, 23, and 27 of this Act take effect**
9 **December 30, 2018 [2008].**

CS FOR SENATE BILL NO. 251(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS OLSON, Hoffman, Stedman, Elton

A BILL

FOR AN ACT ENTITLED

1 **"An Act providing for an effective date by delaying the effective date of repeal of the**
2 **authority of the Commercial Fisheries Entry Commission to maintain the vessel-based**
3 **commercial fisheries limited entry systems for the Bering Sea Korean hair crab and**
4 **weathervane scallop fisheries, and the effective date of conforming amendments related**
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7 *** Section 1. Section 28, ch. 137, SLA 2002, is amended to read:**

8 **Sec. 28. Sections 5, 10, 12, 14, 16, 18, 21, 23, and 27 of this Act take effect**
9 **December 30, 2018 [2008].**

SENATE BILL NO. 251

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY SENATORS OLSON, Hoffman, Stedman, Elton

Introduced: 1/28/08

Referred: Resources

A BILL

FOR AN ACT ENTITLED

1 **"An Act repealing the termination date of the vessel permit system for the Bering Sea**
2 **hair crab fishery and the weathervane scallop fishery; and providing for an effective**
3 **date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** Sections 5, 10, 12, 14, 16, 18, 2i, 23, 27, and 28, ch. 137, SLA 2002, are
6 **repealed.**

7 *** Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).

**SB 251 Vessel Permit System for Bering Sea Hair Crab &
Weathervane Scallop Fisheries**

SB 251 vs /A & CS Workdraft vs/E

- 1. Fiscal Note**
- 2. Sponsor Stmt**
- 3. Sectional**
- 4. SLA 2002**
- 5. Support Letters**
 - UFA**
 - Coastal villages**
 - Comm. Fish Entry Commission**

We'll need to
move vs/E
which has a
10 yr. sunset —

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB251
 () Publish Date: _____

Identifier (file name): SB 251 Dept. Affected: DFG
 Title An act repealing the termination date of the vessel permit RDU Commercial Fisheries Entry Comm
system for the Bering Sea hair crab fishery and the weathervane s Component Commercial Fisheries Entry Comm
 Sponsor Senators Olson, Hoffman, Sledman, Elton
 Requester Senator Olson Component Number 471

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

No anticipated fiscal impact

Prepared by: Shirley A. Penrose, Administrative Officer
 Division Commercial Fisheries Entry Commission
 Approved by: Frank M. Homan, Chairman
Commercial Fisheries Entry Commission

Phone 907-794-8960
 Date/Time 2/4/08 7:55 AM
 Date 2/4/2008

ALASKA STATE LEGISLATURE

SENATOR DONALD C. OLSON



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SPONSOR STATEMENT

SB 251, Vessel Permit System

In 2002, the legislature created a vessel based permit system for the emerging hair crab fishery and scallop fishery in state waters. This new system of permitting was enacted to address resource conservation concerns because of unlimited fleet harvesting ability. Secondly, the new system provided the efficiencies of a unified management across state and federal water boundaries.

Unless action is taken this legislative session, the vessel permit system for hair crab and scallops will expire on December 30, 2008. SB 251 accomplishes the reauthorization by repealing the December sunset date established by section 28, ch. 137, SLA 2002 and the other sections cited. Without reauthorization these two fragile fisheries will revert to unlimited open access fisheries and create significant pressures on the resource as well as fishery management.

SB 251 is strongly supported by state and federal fishery managers to sustain the management and conservation values of the current system. It is also strongly supported by fishing organizations in my district and has statewide support by the United Fishermen of Alaska and other statewide fishing organizations.

ALASKA STATE LEGISLATURE

SENATOR DONALD C. OLSON



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SB 251, Vessel Permit System

SECTIONAL

Section 1 of SB 251 eliminates the December 30, 2008 sunset provisions attached to the vessel based limited entry permit system that was enacted for the hair crab and weathervane scallop fisheries in Ch 137, SLA 2002.

The sunset is achieved in a kind of left handed, reverse English manner. It can be understood in the main by viewing the relationship between sections 27 and 28 of chapter 137. Section 27 repeals the vessel permit statutes enacted in the section 2 provision. The repeal, however, is subject to the December 30, 2008 effective date in section 28.

The other sections of chapter 137 that are listed in the section 28 effective date conform other statutes to the vessel permit repeal of section 27. Accordingly, they are also listed in SB 251 to sustain the vessel permit system.

AN ACT

1 Relating to a vessel-based commercial fisheries limited entry system for the Bering Sea
2 Korean hair crab fishery and for weathervane scallop fisheries, to management of offshore
3 fisheries, and to the definition of "person" for purposes of the commercial fisheries entry
4 program; and providing for an effective date.

5
6 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

- 8 FINDINGS. The legislature finds that
- 9 (1) the conventional commercial fisheries limited entry system, which limits
10 the entry of natural persons into a fishery, may not adequately protect the economic health
11 and stability of certain fisheries in this state;
 - 12 (2) a system that limits the number of vessels that may engage in a fishery
13 may be necessary to regulate certain fisheries in order to promote the conservation and
14 sustained yield management of Alaska's fishery resource and the economic health and

1 stability of commercial fishing in this state;

2 (3) the existing moratorium on entry of new vessels into the Bering Sea
3 Korean hair crab fishery (AS 16.43.901) expires on June 30, 2003, and the existing vessel
4 moratorium for the weathervane scallop fisheries in state waters (AS 16.43.906) expires on
5 June 30, 2004;

6 (4) a vessel-based limited entry system may be necessary to facilitate state
7 management of fisheries that overlap with federally managed fisheries in the United States
8 exclusive economic zone; and

9 (5) a vessel-based limited entry system may be necessary to achieve
10 compatible state and federal management and enforcement of fisheries.

11 * Sec. 2. AS 16.43 is amended by adding new sections to read:

12 **Article 6A. Vessel Permit System for Bering Sea Korean Hair Crab Fishery**
13 **and Weathervane Scallop Fisheries.**

14 **Sec. 16.43.450. Vessel permit system.** (a) The commission may establish a
15 vessel permit system under AS 16.43.450 - 16.43.520 for the Bering Sea Korean hair
16 crab fishery or a weathervane scallop fishery if the commission determines that

17 (1) the regulation of entry into the fishery is necessary to achieve the
18 purposes of this chapter;

19 (2) a vessel permit system would achieve the purposes of this chapter;
20 and

21 (3) either
22 (A) limiting the number of participants in the fishery under
23 AS 16.43.140 - 16.43.330 would not achieve the purposes of this chapter; or

24 (B) regulating the number of vessels in the fishery would
25 enable the state to gain or retain management of the fishery.

26 (b) If the federal government has delegated management authority in the
27 United States exclusive economic zone to the state for the Bering Sea Korean hair crab
28 fishery or a weathervane scallop fishery, the commission may, to the extent consistent
29 with this chapter, adopt regulations to ensure that the vessel permit system is
30 consistent with applicable federal laws.

31 (c) If the commission establishes a vessel permit system for a fishery that

1 involves more than one fishery resource, type of gear, or administrative area, the
2 commission may limit, as the commission determines appropriate, the fishery
3 resources that may be harvested under the vessel permit, the types of gear that may be
4 used under the vessel permit, or the areas where fishing may occur under the vessel
5 permit. The commission shall adopt criteria, as appropriate, for determining

6 (1) how restrictions on fishery resources, types of gear, and areas
7 fished are established for individual vessel interim-use permits and vessel entry
8 permits; and

9 (2) how eligibility to take a particular fishery resource, to use a
10 particular type of gear, or to fish in a particular area is established.

11 (d) The commission may, after consultation with the Department of Fish and
12 Game, regulate the fishing capacity or effort authorized under a vessel interim-use
13 permit or a vessel entry permit if the commission finds that limitations on fishing
14 capacity or effort are necessary to achieve the purposes of this chapter. The
15 commission shall adopt criteria, as appropriate, for measuring the fishing capacity or
16 effort of a vessel and for determining how restrictions on vessel fishing capacity or
17 effort are established for individual vessel interim-use permits and vessel entry
18 permits. The criteria may be based on past participation.

19 (e) The commission shall adopt regulations limiting the number of vessel
20 permits that may be held by a permit holder or group of related permit holders if the
21 commission finds that limiting the number of vessel permits that may be held by a
22 permit holder or group of related permit holders is necessary to prevent the excessive
23 concentration of ownership of vessel permits in the fishery.

24 **Sec. 16.43.460. Initial issuance of vessel permits.** (a) For each fishery in
25 which the commission establishes a vessel permit system under AS 16.43.450, the
26 commission shall establish qualifications for vessel interim-use permits and vessel
27 entry permits. The qualifications may include a qualification date, eligibility period,
28 recent and past participation requirements, minimum requirements for the nature and
29 degree of ownership interest that a permit holder must have in a vessel in order to
30 receive a vessel permit for the vessel, and criteria for receiving transferable and
31 nontransferable vessel entry permits. In adopting qualifications for transferable and

1 nontransferable vessel entry permits, the commission shall consider
 2 (1) information provided by the Department of Fish and Game,
 3 participants in the fishery, owners of vessels and gear used in the fishery, and other
 4 interested parties.
 5 (2) the level of recent and past participation and harvest in the fishery,
 6 the nature of the fishery, and the need to ensure the manageability of the fishery and
 7 conservation of the fishery resource.
 8 (b) If the commission establishes a vessel permit system under AS 16.43.450
 9 for a fishery that is, or recently was, subject to a moratorium on entry of new vessels
 10 under AS 16.43.901 or 16.43.906, the commission shall incorporate some or all of the
 11 vessel eligibility criteria established for the moratorium into the eligibility criteria for
 12 vessel permits issued under the vessel permit system.
 13 (c) Pending the issuance of vessel entry permits for a fishery for which the
 14 commission has established a vessel permit system under AS 16.43.450, the
 15 commission shall issue a vessel interim-use permit to the owner of each vessel that the
 16 commission finds is potentially eligible to receive a vessel entry permit. A vessel
 17 interim-use permit is renewable from year to year; however, a vessel interim-use
 18 permit expires at the end of the period for which the permit was issued and may not be
 19 renewed after a final determination by the commission that the vessel is or is not
 20 eligible for a vessel entry permit.
 21 (d) The commission shall issue vessel entry permits for a fishery, subject to
 22 conditions established by the commission under AS 16.43.450 - 16.43.520, to the
 23 owner of each vessel that the commission finds is eligible to receive a vessel entry
 24 permit for that fishery.
 25 (e) The commission shall adopt regulations regarding
 26 (1) the determination of which person or entity is eligible to receive a
 27 vessel interim-use permit or a vessel entry permit for a vessel in the event of
 28 competing claims to ownership of the vessel;
 29 (2) the substitution of another vessel by the applicant for a vessel
 30 interim-use permit or a vessel entry permit if the vessel or vessels used to establish
 31 eligibility for a vessel entry permit are lost, or are retired from the fishery by the vessel

1 owner, before the initial issuance of a vessel entry permit for the vessel.
 2 **Sec. 16.43.470. Optimum number range of vessel permits.** (a) If, after the
 3 initial issuance of vessel entry permits for a fishery, the commission determines that a
 4 long-term biological or economic change has occurred in the fishery, the commission,
 5 in consultation with the Department of Fish and Game, shall establish the optimum
 6 number range of vessel entry permits for the fishery.
 7 (b) In determining the optimum number range of vessel entry permits, the
 8 commission shall seek to
 9 (1) facilitate sound management of the fishery;
 10 (2) promote
 11 (A) the economic health and stability of the fishery;
 12 (B) broad access to the fishery;
 13 (C) conservation of the fish resources taken in the fishery;
 14 (D) quality seafood products; and
 15 (3) discourage waste of harvested fish.
 16 (c) The commission may increase or decrease the optimum number range of
 17 vessel entry permits for a fishery if the commission finds that an established long-term
 18 change in the biological or economic condition of the fishery has occurred and that the
 19 number of vessel entry permits that are necessary to achieve the goals set out in (b) of
 20 this section has substantially changed.
 21 (d) If the optimum number range of vessel entry permits is less than the
 22 number of outstanding vessel permits for the fishery, the commission may adopt
 23 regulations to allow the voluntary consolidation of vessel entry permits by permit
 24 holders, including entities. The commission may investigate procedures to
 25 permanently reduce the number of vessel permits issued for a fishery to within the
 26 optimum number range.
 27 (e) If the optimum number range of vessel entry permits is greater than the
 28 number of permits authorized for the fishery, the commission shall issue additional
 29 vessel entry permits until the number of vessel entry permits is consistent with the
 30 optimum number range for the fishery. The commission shall obtain fair market value
 31 for new vessel entry permits issued under this subsection. The commission shall

1 determine whether the additional vessel entry permits issued under this subsection are
2 transferable or nontransferable.

3 **Sec. 16.43.490. Transfer and expiration of vessel entry permits.** (a) The
4 commission may adopt regulations authorizing the transfer of a transferable vessel
5 entry permit to an eligible transferee and establishing the terms and conditions under
6 which vessel entry permits may be transferred. The commission may require that the
7 transferee of a vessel entry permit must have a legal ownership interest in the vessel
8 identified on the vessel entry permit. The commission may establish by regulation
9 minimum requirements for the nature and degree of ownership interest that the
10 transferee must have in the vessel.

11 (b) The commission may adopt regulations authorizing the simultaneous
12 transfer of a transferable vessel entry permit to an eligible transferee and the
13 substitution of another vessel for the vessel identified on the permit under
14 AS 16.43.490

15 (c) The commission shall adopt regulations relating to the expiration of
16 nontransferable vessel entry permits.

17 **Sec. 16.43.490. Substitution of vessels.** (a) The commission shall adopt
18 regulations providing for the permanent or temporary substitution, after the initial
19 issuance of vessel entry permits, of another vessel for the vessel that is identified on a
20 vessel entry permit. The commission may specify by regulation the nature and degree
21 of legal ownership interest that a permit holder must have in the vessel that is
22 permanently or temporarily substituted for the vessel identified on the permit. Upon
23 the approval of a permanent substitution of a vessel, the commission shall issue a new
24 vessel entry permit for the substituted vessel.

25 (b) A substituted vessel and the operation of the substituted vessel are subject
26 to all terms and conditions attached to the vessel entry permit at the time that the
27 vessel permit is transferred from the original vessel to the substituted vessel.

28 **Sec. 16.43.500. Renewal of vessel permits.** (a) A vessel interim-use permit
29 or vessel entry permit is issued for one year and must be renewed annually.

30 (b) A vessel interim-use permit or vessel entry permit may not be renewed
31 until the fees for each preceding year during which the permit has not been renewed

1 are paid.

2 (c) Failure to renew a vessel entry permit for two consecutive years from the
3 year of last renewal results in a forfeiture of the permit unless the forfeiture is waived
4 by the commission for good cause. If an administrative closure of a fishery occurs for
5 an entire season, the commission may not count the season toward the two-year
6 period.

7 **Sec. 16.43.510. Vessel permit fees.** (a) The commission shall establish fees
8 for the issuance and annual renewal of vessel interim-use permits and vessel entry
9 permits. Annual fees established under this subsection may not exceed \$2,500 and
10 shall reasonably reflect the rate of economic return for the fishery.

11 (b) The commission shall waive the payment of the annual fees for a vessel
12 interim-use permit or a vessel entry permit for a fishery in which there was an
13 administrative closure for the entire season.

14 (c) Subject to AS 37.10.050(a), the commission may establish fees for
15 processing applications for vessel interim-use permits and vessel entry permits, for
16 transfer of vessel entry permits, and for permanent and temporary substitution of
17 vessels.

18 (d) The commission may charge interest at a rate not to exceed the legal rate
19 of interest established in AS 45.45.010 on fees established under the section that are
20 more than 60 days overdue.

21 **Sec. 16.43.520. General vessel permit provisions.** (a) A person or entity
22 may not operate a vessel or use a vessel to take fish in a commercial fishery for which
23 a vessel interim-use permit or vessel entry permit is required unless the appropriate
24 vessel permit has been issued for the vessel and is posted in a prominent location on
25 the vessel.

26 (b) A person or entity may not hold more than one vessel entry permit for a
27 fishery unless

28 (1) the number of vessel entry permits held by the person or entity is
29 consistent with regulations of the commission regarding concentration of ownership of
30 vessel permits in the fishery; and

31 (2) either

1 (A) the person or entity qualified for each vessel entry permit at
 2 the time of the initial issuance of vessel entry permits for the fishery; or
 3 (B) the vessel entry permits are issued for a vessel for which
 4 the person or entity already holds another vessel entry permit for that fishery.
 5 (c) The operator of a vessel for which a vessel interim-use permit or vessel
 6 entry permit has been issued shall comply with the terms of the vessel permit while the
 7 vessel is operated in the fishery for which the permit is issued.
 8 (d) A vessel interim-use permit and a vessel entry permit constitute a use
 9 privilege that may be modified or revoked by order of the commission or by law
 10 without compensation.
 11 (e) A vessel entry permit may not be
 12 (1) pledged, mortgaged, leased, or encumbered in any way;
 13 (2) transferred with any retained right of repossession or foreclosure,
 14 or on any condition requiring a subsequent transfer; or
 15 (3) attached, distrained, or sold on execution of judgment or under any
 16 other process or order of any court.
 17 (f) Unless the person who holds a vessel entry permit has expressed a contrary
 18 intent in a will that is probated, the commission shall, upon the death of the person,
 19 transfer the vessel entry permit by right of survivorship directly to the person's
 20 surviving spouse or, if no spouse survives, to another person designated by the vessel
 21 permit holder on a form provided by the commission. If no spouse survives and if the
 22 person designated on the form, if any, does not survive, the permit passes as part of the
 23 vessel permit holder's estate. A designation under this subsection must be
 24 acknowledged before a person authorized to administer an oath under AS 09.63.010 or
 25 must be witnessed by two persons who are qualified under AS 13.12.505 to witness
 26 the will of the vessel permit holder. A vessel entry permit is exempt from the claims of
 27 creditors of the estate.
 28 (g) AS 16.43.450 - 16.43.520 do not alter the requirement for an interim-use
 29 permit or entry permit under AS 16.43.140 or a vessel license under AS 16.05.450 -
 30 16.05.520.
 31 (h) Nothing in AS 16.43.450 - 16.43.520 limits the powers of the Board of

1 Fisheries or the Department of Fish and Game.
 2 (i) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may
 3 release to the owner of a vessel information on the vessel's history of harvests in a
 4 fishery that is necessary to apply for a vessel interim-use permit or vessel entry permit
 5 under AS 16.43.450 - 16.43.520.
 6 * Sec. 3. AS 16.05.735 is amended to read:
 7 Sec. 16.05.735. Management of offshore fisheries. The state may assume
 8 management of a fishery [THE SCALLOP FISHERIES] in offshore water adjacent to
 9 the state in the absence of a federal fishery management plan for the fishery
 10 [SCALLOPS] or in the event that a federal fishery management plan for the fishery
 11 [SCALLOPS] delegates authority to the state to manage the fishery [SCALLOP
 12 FISHERIES] in the United States exclusive economic zone.
 13 * Sec. 4. AS 16.43.010(a) is amended to read:
 14 (a) It is the purpose of this chapter to promote the conservation and the
 15 sustained yield management of Alaska's fishery resource and the economic health and
 16 stability of commercial fishing in Alaska by regulating and controlling entry of
 17 participants and vessels into the commercial fisheries in the public interest and
 18 without unjust discrimination.
 19 * Sec. 5. AS 16.43.010(a) is amended to read:
 20 (a) It is the purpose of this chapter to promote the conservation and the
 21 sustained yield management of Alaska's fishery resource and the economic health and
 22 stability of commercial fishing in Alaska by regulating and controlling entry of
 23 participants [AND VESSELS] into the commercial fisheries in the public interest and
 24 without unjust discrimination.
 25 * Sec. 6. AS 16.43.100(a) is amended to read:
 26 (a) To accomplish the purposes set out in AS 16.43.010, the commission shall
 27 (1) regulate entry into the commercial fisheries for all fishery resources
 28 in the state;
 29 (2) establish priorities for the application of the provisions of this
 30 chapter to the various commercial fisheries of the state;
 31 (3) establish administrative areas suitable for regulating and

- 1 controlling entry into the commercial fisheries;
- 2 (4) establish, for all types of gear, the maximum number of entry
- 3 permits for each administrative area;
- 4 (5) designate, when necessary to accomplish the purposes of this
- 5 chapter, particular species for which separate interim-use permits or entry permits will
- 6 be issued;
- 7 (6) establish qualifications for the issuance of entry permits;
- 8 (7) issue entry permits to qualified applicants;
- 9 (8) issue interim-use permits as provided in AS 16.43.210, 16.43.220,
- 10 and 16.43.225;
- 11 (9) establish, for all types of gear, the optimum number of entry
- 12 permits for each administrative area;
- 13 (10) administer the buy-back program provided for in AS 16.43.310
- 14 and 16.43.320 reduce the number of outstanding entry permits to the optimum
- 15 number of entry permits;
- 16 (11) provide for the transfer and reissuance of entry permits to
- 17 qualified transferees;
- 18 (12) provide for the transfer and reissuance of entry permits for
- 19 alternative types of legal gear, in a manner consistent with the purposes of this
- 20 chapter;
- 21 (13) establish and administer the collection of the annual fees provided
- 22 for in AS 16.43.160;
- 23 (14) administer the issuance of commercial fishing vessel licenses
- 24 under AS 16.05.490;
- 25 (15) issue educational entry permits to applicants who qualify under
- 26 the provisions of AS 16.43.340 - 16.43.390;
- 27 (16) establish reasonable user fees for services;
- 28 (17) issue landing permits under AS 16.05.675 and regulations adopted
- 29 under that section;
- 30 (18) establish and collect annual fees for the issuance of landing
- 31 permits that reasonably reflect the costs incurred in the administration and

- 1 enforcement of provisions of law related to landing permits; [AND]
- 2 (19) establish a moratorium on entry into commercial fisheries as
- 3 provided in AS 16.43.225; and
- 4 (20) administer, when necessary to accomplish the purposes of this
- 5 chapter, a vessel permit system under AS 16.43.450 - 16.43.520.
- 6 * Sec. 7. AS 16.43.240(b) is amended to read:
- 7 (b) When the commission finds that a fishery, not designated as a distressed
- 8 fishery under AS 16.43.230 or not subject to a moratorium under AS 16.43.225, has
- 9 reached levels of participation that require the limitation of entry under AS 16.43.140
- 10 - 16.43.330 in order to achieve the purposes of this chapter, the commission shall
- 11 establish the maximum number of entry permits for that fishery.
- 12 * Sec. 8. AS 16.43.240(c) is amended to read:
- 13 (c) When the commission finds that a fishery subject to a moratorium under
- 14 AS 16.43.225 has reached levels of participation that require the limitation of entry
- 15 under AS 16.43.140 - 16.43.330 in order to achieve the purposes of this chapter, the
- 16 commission shall establish the maximum number of entry permits for that fishery.
- 17 * Sec. 9. AS 16.43.960(a) is amended to read:
- 18 (a) The commission may revoke, suspend, or transfer all entry or interim-use
- 19 permits, vessel entry permits, or vessel interim-use permits held by a person or
- 20 entity who knowingly provides or assists in providing false information, or fails to
- 21 correct false information provided to the commission for the purpose of obtaining a
- 22 benefit for self or another, including the issuance, renewal, duplication, or transfer of
- 23 an entry or interim-use permit, [OR] vessel license, vessel entry permit, or vessel
- 24 interim-use permit. The commission may suspend, as appropriate, that person's or
- 25 entity's eligibility to hold an entry or interim-use permit, vessel entry permit, or
- 26 vessel interim-use permit for a period not to exceed three years, and may impose an
- 27 administrative fine of not more than \$5,000 on the person or [THE COMMISSION
- 28 MAY ALSO IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAN
- 29 \$5,000 ON AN] entity whose officers, employees, representatives, or agents
- 30 knowingly provide or assist in providing false information, or fail to correct false
- 31 information provided, to the commission for the purpose of obtaining a benefit.

1 * Sec. 10. AS 16.43.960(a) is amended to read:

2 (a) The commission may revoke, suspend, or transfer all entry or interim-use
3 permits [, VESSEL ENTRY PERMITS, OR VESSEL INTERIM-USE PERMITS]
4 held by a person [OR ENTITY] who knowingly provides or assists in providing false
5 information, or fails to correct false information provided to the commission for the
6 purpose of obtaining a benefit for self or another, including the issuance, renewal,
7 duplication, or transfer of an entry or interim-use permit or [,] vessel license [,
8 VESSEL ENTRY PERMIT, OR VESSEL INTERIM-USE PERMIT]. The
9 commission may suspend, as appropriate, that person's [OR ENTITY'S] eligibility to
10 hold an entry or interim-use permit [, VESSEL ENTRY PERMIT, OR VESSEL
11 INTERIM-USE PERMIT] for a period not to exceed three years, and may impose an
12 administrative fine of not more than \$5,000 on the person. The commission may also
13 impose an administrative fine of not more than \$5,000 on an [OR] entity whose
14 officers, employees, representatives, or agents knowingly provide or assist in
15 providing false information, or fail to correct false information provided, to the
16 commission for the purpose of obtaining a benefit.

17 * Sec. 11. AS 16.43.970(a) is amended to read:

18 (a) A person who violates a provision of this chapter or a regulation adopted
19 under this chapter or an entity that violates a provision of AS 16.43.450 - 16.43.520
20 or a regulation adopted under AS 16.43.450 - 16.43.520 is, upon conviction, guilty
21 of a class B misdemeanor and is punishable by a fine of not more than \$5,000 for a
22 first conviction, and a fine of not more than \$10,000 for a second or third conviction.
23 Upon a first or second conviction under this subsection, the court may in its discretion
24 also order the commission to suspend the commercial fishing privileges of the person
25 or entity for a period of not more than three years and to revoke one or more or all
26 commercial fishing permits held by the person or entity. Upon a third or subsequent
27 conviction under this subsection, the person or entity is also subject to a loss of
28 commercial fishing privileges as provided under (i) of this section. This subsection
29 does not apply to violations of AS 16.43.140(a).

30 * Sec. 12. AS 16.43.970(a) is amended to read:

31 (a) A person who violates a provision of this chapter or a regulation adopted

1 under this chapter [OR AN ENTITY THAT VIOLATES A PROVISION OF
2 AS 16.43.450 - 16.43.520 OR A REGULATION ADOPTED UNDER AS 16.43.450 -
3 16.43.520] is, upon conviction, guilty of a class B misdemeanor and is punishable by a
4 fine of not more than \$5,000 for a first conviction, and a fine of not more than \$10,000
5 for a second or third conviction. Upon a first or second conviction under this
6 subsection, the court may in its discretion also order the commission to suspend the
7 commercial fishing privileges of the person [OR ENTITY] for a period of not more
8 than three years and to revoke one or more or all commercial fishing permits held by
9 the person [OR ENTITY]. Upon a third or subsequent conviction under this
10 subsection, the person [OR ENTITY] is also subject to a loss of commercial fishing
11 privileges as provided under (i) of this section. This subsection does not apply to
12 violations of AS 16.43.140(a).

13 * Sec. 13. AS 16.43.970(b) is amended to read:

14 (b) A person or entity who knowingly makes a false statement to the
15 commission for the purpose of obtaining a benefit, including the issuance, renewal,
16 duplication, or transfer of an entry or interim-use permit, [OR] vessel license, vessel
17 interim-use permit, or vessel entry permit, or a person who assists another by
18 knowingly making a false statement to the commission for the purpose of obtaining a
19 benefit for another, is guilty of the crime of unsworn falsification as set out in
20 AS 11.56.210. Upon conviction, the person or entity is also subject to suspension of
21 commercial fishing privileges and revocation of commercial fishing permits under (i)
22 of this section.

23 * Sec. 14. AS 16.43.970(b) is amended to read:

24 (i) A person [OR ENTITY] who knowingly makes a false statement to the
25 commission for the purpose of obtaining a benefit, including the issuance, renewal,
26 duplication, or transfer of an entry or interim-use permit or [,] vessel license [,
27 VESSEL INTERIM-USE PERMIT, OR VESSEL ENTRY PERMIT,] or a person who
28 assists another by knowingly making a false statement to the commission for the
29 purpose of obtaining a benefit for another, is guilty of the crime of unsworn
30 falsification as set out in AS 11.56.210. Upon conviction, the person [OR ENTITY] is
31 also subject to suspension of commercial fishing privileges and revocation of

1 commercial fishing permits under (i) of this section.

2 * Sec. 15. AS 16.43.970(d) is amended to read:

3 (d) If a permit holder is charged by the state with violating a provision of this
4 chapter or a regulation adopted under this chapter, the holder may not transfer [,
5 UNDER AS 16.43.170,] any interim-use or entry permit under AS 16.43.170 or any
6 transferable vessel entry permit under AS 16.43.450 - 16.43.520 [.] until after the
7 final adjudication or dismissal of the charges.

8 * Sec. 16. AS 16.43.970(d) is amended to read:

9 (d) If a permit holder is charged by the state with violating a provision of this
10 chapter or a regulation adopted under this chapter, the holder may not transfer any
11 interim-use or entry permit under AS 16.43.170 [OR ANY TRANSFERABLE
12 VESSEL ENTRY PERMIT UNDER AS 16.43.450 - 16.43.520] until after the final
13 adjudication or dismissal of the charges.

14 * Sec. 17. AS 16.43.970(e) is amended to read:

15 (e) Notwithstanding any other provision of this section, an interim-use or entry
16 permit or transferable vessel entry permit may not be transferred while under
17 suspension, without the consent of the commission.

18 * Sec. 18. AS 16.43.970(e) is amended to read:

19 (e) Notwithstanding any other provision of this section, an interim-use or entry
20 permit [OR TRANSFERABLE VESSEL ENTRY PERMIT] may not be transferred
21 while under suspension, without the consent of the commission.

22 * Sec. 19. AS 16.43.970(f) is amended to read:

23 (f) A commercial fishing entry permit revoked under this section that is
24 pledged as security for a loan under AS 16.10.333, or 16.10.338, or AS 44.81.231
25 shall be reassigned as provided in AS 16.10.337 or AS 44.81.250.

26 * Sec. 20. AS 16.43.970(i) is amended to read:

27 (i) Upon the conviction of a person or entity for an offense described under
28 (a), (b), or (g) of this section, the court shall immediately notify the commission of the
29 conviction. The notice provided by the court shall be accompanied by an order
30 suspending commercial fishing privileges and revoking commercial fishing permits
31 under (a) of this section, as appropriate. The commission shall, upon receipt of

1 (1) an order from the court under (a) of this section, suspend the
2 commercial fishing privileges of a person or entity for the period set by the court and
3 revoke commercial fishing permits held by the person or entity as directed by the
4 court,

5 (2) a notice from the court that a person or entity has been convicted
6 of a third or subsequent violation of (a) of this section, suspend all commercial fishing
7 privileges of the person or entity for a period of three years from the date of
8 conviction and revoke all commercial fishing permits held by the person or entity;

9 (3) a notice from the court that a person or entity has been convicted
10 of a violation described under (b) of this section, suspend all commercial fishing
11 privileges of the person or entity for a period of three years from the date of
12 conviction and revoke all commercial fishing permits held by the person or entity;

13 (4) a notice from the court that a person has been convicted of a
14 violation described under (g)(1) of this section, suspend all commercial fishing
15 privileges of the person for a period of one year from the date of conviction;

16 (5) a notice from the court that a person has been convicted of a
17 violation described under (g)(2) of this section, suspend all commercial fishing
18 privileges of the person for a period of two years from the date of conviction;

19 (6) a notice from the court that a person has been convicted of a
20 violation described under (g)(3) of this section, suspend all commercial fishing
21 privileges of the person for a period of five years from the date of conviction.

22 * Sec. 21. AS 16.43.970(i) is amended to read:

23 (i) Upon the conviction of a person [OR ENTITY] for an offense described
24 under (a), (b), or (g) of this section, the court shall immediately notify the commission
25 of the conviction. The notice provided by the court shall be accompanied by an order
26 suspending commercial fishing privileges and revoking commercial fishing permits
27 under (a) of this section, as appropriate. The commission shall, upon receipt of

28 (1) an order from the court under (a) of this section, suspend the
29 commercial fishing privileges of a person [OR ENTITY] for the period set by the
30 court and revoke commercial fishing permits held by the person [OR ENTITY] as
31 directed by the court;

1 (2) a notice from the court that a person [OR ENTITY] has been
2 convicted of a third or subsequent violation of (a) of this section, suspend all
3 commercial fishing privileges of the person [OR ENTITY] for a period of three years
4 from the date of conviction and revoke all commercial fishing permits held by the
5 person [OR ENTITY];

6 (3) a notice from the court that a person [OR ENTITY] has been
7 convicted of a violation described under (b) of this section, suspend all commercial
8 fishing privileges of the person [OR ENTITY] for a period of three years from the date
9 of conviction and revoke all commercial fishing permits held by the person [OR
10 ENTITY];

11 (4) a notice from the court that a person has been convicted of a
12 violation described under (g)(1) of this section, suspend all commercial fishing
13 privileges of the person for a period of one year from the date of conviction;

14 (5) a notice from the court that a person has been convicted of a
15 violation described under (g)(2) of this section, suspend all commercial fishing
16 privileges of the person for a period of two years from the date of conviction;

17 (6) a notice from the court that a person has been convicted of a
18 violation described under (g)(3) of this section, suspend all commercial fishing
19 privileges of the person for a period of five years from the date of conviction.

20 * Sec. 22. AS 16.43.970(j)(1) is amended to read:

21 (1) "commercial fishing permit" means an entry permit, [OR] an
22 interim-use permit, a vessel entry permit, or a vessel interim-use permit issued
23 under this chapter;

24 * Sec. 23. AS 16.43.970(j)(1) is amended to read:

25 (1) "commercial fishing permit" means an entry permit or [,] an
26 interim-use permit [, A VESSEL ENTRY PERMIT, OR A VESSEL INTERIM-USE
27 PERMIT] issued under this chapter;

28 * Sec. 24. AS 16.43.980(a) is amended to read:

29 (a) The commission shall prepare an annual report and notify the legislature
30 that it is available. The report must [SHALL] include but not be limited to the
31 following:

1 (1) a progress report on the reduction of entry permits to optimum
2 levels;

3 (2) recommendations for additional legislation relating to the
4 regulation of entry of participants and vessels into Alaska commercial fisheries.

5 * Sec. 25. AS 16.43.990(5) is amended to read:

6 (5) "person" means a natural person; "person" [AND] does not
7 include a corporation, company, partnership, firm, association, organization, joint
8 venture, [BUSINESS] trust, [OR] society, or other legal entity other than a natural
9 person;

10 * Sec. 26. AS 16.43.990 is amended by adding a new paragraph to read:

11 (10) "entity" means a corporation, company, partnership, firm,
12 association, organization, joint venture, trust, society, or other legal entity other than a
13 natural person.

14 * Sec. 27. REPEAL OF VESSEL PERMIT SYSTEM. AS 16.43.100(a)(20), 16.43.450,
15 16.43.460, 16.43.470, 16.43.480, 16.43.490, 16.43.500, 16.43.510, and 16.43.520 are
16 repealed.

17 * Sec. 28. Sections 5, 10, 12, 14, 16, 18, 21, 23, and 27 of this Act take effect December 30,
18 2008.

19 * Sec. 29. Except as provided in sec. 28 of this Act, this Act takes effect immediately under
20 AS 01.10.070(c).



UNITED FISHERMEN OF ALASKA

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Juneau, Alaska 99801-1172
(907) 586-2620
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E-Mail: ufa@u.a-fish.org
www.ufa-fish.org

January 31, 2008

Senator Charlie Huggins, Chairman
Senate Resources Committee
Alaska State Legislature
State Capitol, Mail Stop 3100
Juneau AK 99801

RE: Support for SB 251 regarding Korean hair crab and weathervane scallop fisheries.

Dear Senator Huggins and Committee members,


The United Fishermen of Alaska (UFA) Board of Directors recently met and discussed House Bill 16, which would delay the effective date of repeal of the vessel-based commercial fisheries limited entry systems for the Bering Sea Korean hair crab and weathervane scallop fisheries.

UFA supports SB 251. The first extinguishment of a limited access fishery in the State's history will occur if the scallop fishery is not continued. We are concerned that elimination of the vessel-based system would lead to an open access fishery, which would not be able to be managed to within the allowable biological harvest. We do not want to see a repeat of the past history such as the fiasco caused in 1995 by the vessel "Mr. Big" that caused the economic loss of an eighteen month closure after overharvesting the fishery.

We do not support vessel-based commercial fishery limited entry systems for any other fisheries. The history of the weathervane scallop fishery indicates the appropriateness of vessel based permitting in this fishery for the sustainability and economic vitality of the fishery, and for this reason we support SB 251.

Thank you for your consideration,

Sincerely,


Mark Vinsel
Executive Director



Coastal Villages Region Fund

711 H Street, Suite 200 • Anchorage, Alaska 99501 • Phone 907.278.5151 • Fax 907.278.5150

January 22, 2008

The Honorable Senator Donald Olson
Alaska Senate
State Capitol, Room 514
Juneau, Alaska 99801-1182

Dear Senator Olson:

Coastal Villages Region Fund (CVRF) strongly supports the elimination of the sunset of the vessel-based commercial fisheries limited entry systems for the Bering Sea Korean hair crab fishery and weathervane scallop fishery.

We greatly appreciated your support during the 2007 legislative session for HB 16 – which would have extended the hair crab vessel limitation system through the year 2013. As you know, CVRF represents 20 villages and approximately 9,000 residents in the Kuskokwim area along the Bering Sea Coast. CVRF has significant investments in the Bering Sea crab fisheries – and holds two of the vessel permits in the Korean hair crab fishery (for the *F/V Arctic Sea* and the *F/V North Sea*). CVRF uses the revenue from Bering Sea investments to provide economic opportunities for residents of our region. Among other in-region programs, we continue to operate the Quinhagak salmon/halibut plant which provides hundreds of jobs to our residents, and we are in the process of building a new salmon plant in Platinum which will be the largest capital project in the history of the CDQ program.

If the Legislature does not take action during the 2008 session, existing State law will effectively terminate the vessel limitation system in both the hair crab fishery and scallop fishery on December 30, 2008. We believe that the vessel limitation program is working as intended and should be extended. The hair crab program complements similar management programs in the other Bering Sea crab fisheries, and the State law affords the Commercial Fisheries Entry Commission with the ability to fine-tune the program as needed.

We therefore strongly support the January 15, 2008 proposal to the Senate Resources Committee from the Commercial Fisheries Entry Commission to completely repeal the December 30, 2008 sunset for the vessel limitation programs in both the hair crab fishery and scallop fishery. As an alternative, we would support an extension of the sunset through December 30, 2013 as proposed by HB 16, but our strong preference would be to eliminate the sunset altogether.

Thank you again for your attention to this matter during the 2007 session, and for remembering our interest in the hair crab fishery as you take this up again in 2008. If there is anything CVRF can do to help please let us know.

Sincerely,



C. Morgen Crow, Executive Director
Coastal Villages Region Fund

State of Alaska

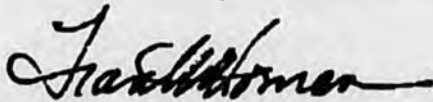
Sarah Palin, Governor

Commercial Fisheries Entry Commission

8800 Glacier Hwy, #100

P.O. Box 116302

Juneau, AK 99811-0302

MEMORANDUM**To:** Senator Donny Olson
Alaska State Senate**Date:** January 28, 2008**Phone:** (907) 789-6933 VOICE
(907) 790-6933 FAX**From:** Commercial Fisheries Entry Commission
Frank Homan, Chairman
Peter Froehlich, Commissioner
Bruce Twomley, Commissioner**Subject:** SB 251
Background - Weathervane
Scallop and Bering Sea Hair Crab
Fisheries**INTRODUCTION**

As an alternative to its traditional license limitation program designed in 1973 for Alaska salmon fisheries, in 2002, the Alaska Legislature provided the Commercial Fisheries Entry Commission (the commission or CFEC) with an alternative vessel permit system which could be applied to only two fisheries: the Bering Sea hair crab fishery and the weathervane scallop fishery. AS 16.43.450(a) authorized the commission to employ the vessel permit system, if (among other things) "limiting the number of participants under [the traditional license limitation program designed for salmon] would not achieve the purposes of [the Limited Entry Act]".

A primary purpose of the Limited Entry Act is to serve conservation of the fisheries. *Simpson v. State, CFEC*, 101 P.3d 605 (Alaska 2004). Consequently, in 2004, for compelling conservation reasons, the Alaska Commercial Fisheries Entry Commission employed a vessel limitation system to limit entry into the Bering Sea hair crab fishery and the weathervane scallop fishery. Conservation needs in both fisheries weighed heavily against employing a limitation system that created a risk of increasing the number of participating vessels even for a limited time. However, the only alternative available to the commission was the traditional license limitation program designed in 1973 for Alaska salmon fisheries. Over time, the number of licensed vessel operators in each fishery was much greater than the number of

vessels. Under the traditional license limitation system, each licensed vessel operator would have been eligible to apply for a permanent entry permit and could have continued to operate a vessel in the fishery until their applications were finally adjudicated. In fact, as explained in more detail below, a traditional license limitation program created the risk of more than doubling the number of vessels in each fishery for some time following limitation.

BERING SEA HAIR CRAB FISHERY

The conservation crisis faced by the Bering Sea hair crab fishery (closed by managers since 2000) made it critical for CFEC to restrict the number of vessels as low as possible.

CFEC employed the Vessel Limited Entry Program authorized by the Alaska Legislature, and the owners of only 20 vessels applied for permanent entry permits.¹ Today, two applications have been finally denied, two remain pending before the commission, and 16 permanent vessel entry permits have been issued.²

If CFEC had employed traditional license limitation, each of the estimated 47 licensed vessel operators who had participated in the fishery³ would have been eligible to apply for permanent entry permits and to operate a vessel in the fishery until a final determination of their claims. Therefore, traditional license limitation created the risk of allowing 47 vessels into the fishery (more than twice the number of vessels that had ever participated in the fishery).⁴

Furthermore, considerable time would have been required to adjudicate the claims of 47 eligible applicants to reach the maximum number of 21. Under the most favorable assumptions, claims by applicants would have required at least one year for commission staff and hearing officers to adjudicate; at least an additional year for the commissioners; at least an additional year and one-half before the Alaska Superior Court; and, finally, at least an additional year and one-half before the Alaska Supreme

¹ *A Brief Overview of the Bering Sea Hair Crab Fishery and the Vessel Limited Entry Program* (February 2007 CFEC Report No. 07-1N at 5).

² *Id.*

³ *Rationale for Limiting Entry in the Bering Sea Hair Crab Fishery* (CFEC, March 25, 2004 at 6).

⁴ For a historic example of this unfortunate effect of the traditional License Limitation Program, in the Northern Southeast Inside sablefish fishery, CFEC established a maximum number of 73 (representing the highest number of vessels to have ever participated in the fishery), but 167 individuals applied for entry permits in the fishery. Consequently, soon after limiting entry, 161 vessels participated in the fishery representing well over twice the number of vessels the fishery had ever supported.

Court. In other words, under the most optimistic estimates, at least five years would have been required to reduce the number of eligible participants to the maximum number of 21. The commission was not willing to assume this risk.

To conserve the fishery, CFEC could not have employed the traditional limited entry program without assuming the risk of violating its constitutional and statutory duty to conserve the fishery. Instead, after research and public hearings, CFEC found that it had a duty to employ the vessel limitation alternative in order to limit promptly the number of participating vessels. As noted, the owners of 20 vessels applied for permanent entry permits.

WEATHERVANE SCALLOP FISHERY

Similar conservation concerns weighed heavily on the weathervane scallop fishery, where managers of the fishery did not want to risk authorizing the operation of additional scallop dredges. By employing the vessel license limitation system over the qualifying years (1991-2003),⁵ the commission was promptly able to limit the number of participating vessels to a representative historic level of 9 vessels.⁶

In the alternative, over the shortest possible qualifying period,⁷ at least 27 vessel operators would have been eligible to apply for permanent entry permits under the traditional license limitation system. If, instead of this limited four-year period, CFEC had employed the same qualifying years it did for vessels, some 43 vessel operators would have been eligible to apply for permanent entry permits.

As with the hair crab fishery, CFEC again considered the time required to adjudicate these potential claims to reduce them to a maximum number representing the historic level of participation.⁸ The adjudication process would have taken at least five years under the most favorable of assumptions. Consequently, the commission chose the vessel limitation alternative. The commission did not want to assume the risk of visiting on a fishery with critical conservation needs as many as three times the number of vessels that the fishery had ever supported in a particular year.

⁵ 20 AAC 05.1430.

⁶ *A Brief Overview of the Alaska Weathervane Scallop Fishery and the Vessel Permit Limited Entry Program* (February 2007 CFEC Report 07-2N at 7).

⁷ The four years immediately preceding the 1997 moratorium. CFEC February 4, 2004 memo to Commissioner of ADF&G at 2 n2.

⁸ The maximum number based on vessels would likely have been 12.

CONCLUSION

As we have attempted to explain, the legislature helped the commission meet the conservation needs of the two fisheries at issue by providing the commission with a vessel license limitation alternative to the traditional license limitation program designed in 1973 for salmon. The vessel license limitation alternative helped the commission to meet its duty to conserve these fisheries. *Simpson v. State, CFEC, 101 P.3d 605 (Alaska 2004)*.

State of Alaska

SARAH PALIN, Governor

Commercial Fisheries Entry Commission

8800 Glacier Hwy, #109

P.O. Box 110302

Juneau, AK 99811-0302

MEMORANDUM


To: Senator Huggins, Chair
Senate Resources Committee

Date: January 15, 2008

Phone: (907) 789-6160 VOICE
(907) 790-6170 FAX

From: Frank Homan, Chair
Commercial Fisheries Entry Commission

Subject: Introduction of Scallop and Hair
Crab Legislation



We would like to request that you consider introducing legislation to protect the Alaska scallop and hair crab fisheries from reverting to unlimited open access fisheries subject to an influx of additional harvesters.

Attached is a one page draft bill for your consideration. This bill would repeal the sunset and make the vessel limitation permanent for these two fisheries only.

The attached memo explains the history of these two fisheries. Simply stated, however, conservation was the deciding factor in the original legislation passed in 2003 to protect these fisheries from over exploitation. The original legislation had a five-year sunset provision.

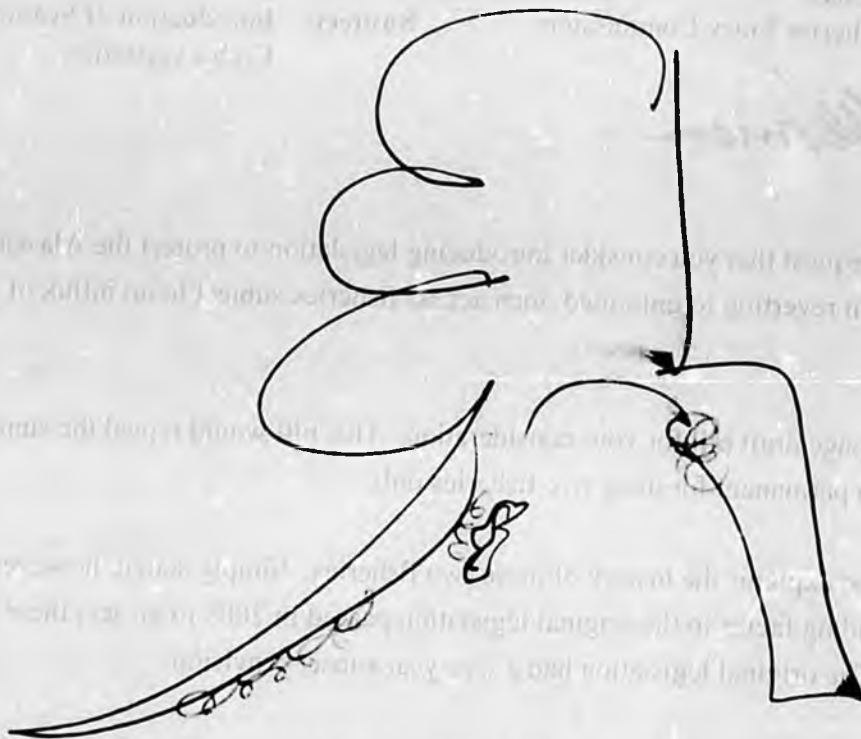
A related bill (HB 16) was introduced on the House side by Fisheries Committee Chair Representative Seaton who has declined to move the bill from the House Fisheries Committee.

This legislation is supported by:

- * The Alaska Scallop Association
- * The United Fishermen of Alaska
- * The North Pacific Fisheries Management Council
- * The Alaska Commercial Fisheries Entry Commission
- * The Alaska Department of Fish and Game and the Administration

Commercial Fisheries Entry Commission
8800 Glacier Hwy., #103
P.O. Box 14902
Juneau, AK 99811-0902

MEMORANDUM



open water

big boats

Straddles 3 mile line

0 - 3 miles = state jurisdiction

3 - 200 " = fed jurisdiction

Support - N Pac Fisheries Mngmt Cncl

- F&G

- UFA

- Bering Sea

against = a few-guypin Kodiak who don't like Corp Ownership

State of Alaska

Sarah Palin, Governor

Commercial Fisheries Entry Commission

8800 Glacier Hwy, #109

P.O. Box 110302

Juneau, AK 99811-0302

MEMORANDUM

To: SENATE RESOURCES COMMITTEE

Senator Charlie Huggins, Chair
Senator Bert Stedman, Vice-Chair
Senator Lyda Green
Senator Gary Stevens
Senator Lesil McGuire
Senator Bill Wielechowski
Senator Thomas Wagoner

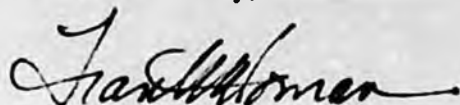
Date: January 15, 2008

Phone: (907) 789-6933 VOICE
(907) 790-6933 FAX

From: Commercial Fisheries Entry Commission

Frank Homan, Chairman
Peter Froehlich, Commissioner
Bruce Twomley, Commissioner

Subject: Background - Weathervane
Scallop and Bering Sea Hair Crab
Fisheries



INTRODUCTION

As an alternative to its traditional license limitation program designed in 1973 for Alaska salmon fisheries, in 2002, the Alaska Legislature provided the Commercial Fisheries Entry Commission (the commission or CFEC) with an alternative vessel permit system which could be applied to only two fisheries: the Bering Sea hair crab fishery and the weathervane scallop fishery. AS 16.43.450(a) authorized the commission to employ the vessel permit system, if (among other things) "limiting the number of participants under [the traditional license limitation program designed for salmon] would not achieve the purposes of [the Limited Entry Act]".

A primary purpose of the Limited Entry Act is to serve conservation of the fisheries. *Simpson v. State, CFEC*, 101 P.3d 605 (Alaska 2004). Consequently, in 2004, for compelling conservation reasons, the Alaska Commercial Fisheries Entry Commission employed a vessel limitation system to limit entry into the Bering Sea hair crab fishery and the weathervane scallop fishery. Conservation needs in both fisheries weighed heavily against employing a limitation system that created a risk of increasing the

number of participating vessels even for a limited time. However, the only alternative available to the commission was the traditional license limitation program designed in 1973 for Alaska salmon fisheries. Over time, the number of licensed vessel operators in each fishery was much greater than the number of vessels. Under the traditional license limitation system, each licensed vessel operator would have been eligible to apply for a permanent entry permit and could have continued to operate a vessel in the fishery until their applications were finally adjudicated. In fact, as explained in more detail below, a traditional license limitation program created the risk of more than doubling the number of vessels in each fishery for some time following limitation.

BERING SEA HAIR CRAB FISHERY

The conservation crisis faced by the Bering Sea hair crab fishery (closed by managers since 2000) made it critical for CFEC to restrict the number of vessels as low as possible.

CFEC employed the Vessel Limited Entry Program authorized by the Alaska Legislature, and the owners of only 20 vessels applied for permanent entry permits.¹ Today, two applications have been finally denied, two remain pending before the commission, and 16 permanent vessel entry permits have been issued.²

If CFEC had employed traditional license limitation, each of the estimated 47 licensed vessel operators who had participated in the fishery³ would have been eligible to apply for permanent entry permits and to operate a vessel in the fishery until a final determination of their claims. Therefore, traditional license limitation created the risk of allowing 47 vessels into the fishery (more than twice the number of vessels that had ever participated in the fishery).⁴

Furthermore, considerable time would have been required to adjudicate the claims of 47 eligible applicants to reach the maximum number of 21. Under the most favorable assumptions, claims by

¹ *A Brief Overview of the Bering Sea Hair Crab Fishery and the Vessel Limited Entry Program* (February 2007 CFEC Report No. 07-1N at 5).

² *Id.*

³ *Rationale for Limiting Entry in the Bering Sea Hair Crab Fishery* (CFEC, March 25, 2004 at 6).

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applicants would have required at least one year for commission staff and hearing officers to adjudicate; at least an additional year for the commissioners; at least an additional year and one-half before the Alaska Superior Court; and, finally, at least an additional year and one-half before the Alaska Supreme Court. In other words, under the most optimistic estimates, at least five years would have been required to reduce the number of eligible participants to the maximum number of 21. The commission was not willing to assume this risk.

To conserve the fishery, CFEC could not have employed the traditional limited entry program without assuming the risk of violating its constitutional and statutory duty to conserve the fishery. Instead, after research and public hearings, CFEC found that it had a duty to employ the vessel limitation alternative in order to limit promptly the number of participating vessels. As noted, the owners of 20 vessels applied for permanent entry permits.

WEATHERVANE SCALLOP FISHERY

Similar conservation concerns weighed heavily on the weathervane scallop fishery, where managers of the fishery did not want to risk authorizing the operation of additional scallop dredges. By employing the vessel license limitation system over the qualifying years (1991-2003),⁵ the commission was promptly able to limit the number of participating vessels to a representative historic level of 9 vessels.⁶

In the alternative, over the shortest possible qualifying period,⁷ at least 27 vessel operators would have been eligible to apply for permanent entry permits under the traditional license limitation system. If, instead of this limited four-year period, CFEC had employed the same qualifying years it did for vessels, some 43 vessel operators would have been eligible to apply for permanent entry permits.

As with the hair crab fishery, CFEC again considered the time required to adjudicate these potential claims to reduce them to a maximum number representing the historic level of participation.⁸ The adjudication process would have taken at least five years under the most favorable of assumptions.

⁵ 20 AAC 05.1430.

⁶ *A Brief Overview of the Alaska Weathervane Scallop Fishery and the Vessel Permit Limited Entry Program* (February 2007 CFEC Report 07-2N at 7).

⁷ The four years immediately preceding the 1997 moratorium. CFEC February 4, 2004 memo to Commissioner of ADF&G at 2 n2.

⁸ The maximum number based on vessels would likely have been 12.

Consequently, the commission chose the vessel limitation alternative. The commission did not want to assume the risk of visiting on a fishery with critical conservation needs as many as three times the number of vessels that the fishery had ever supported in a particular year.

CONCLUSION

As we have attempted to explain, the legislature helped the commission meet the conservation needs of the two fisheries at issue by providing the commission with a vessel license limitation alternative to the traditional license limitation program designed in 1973 for salmon. The vessel license limitation alternative helped the commission to meet its duty to conserve these fisheries. *Simpson v. State, CFEC*, 101 P.3d 605 (Alaska 2004).

STATE OF ALASKA

SARAH PALIN, GOVERNOR

DEPARTMENT OF FISH AND GAME

DIVISION OF COMMERCIAL FISHERIES

P.O. BOX 115526
JUNEAU, AK 99811-5526
PHONE: (907) 465-4210
FAX: (907) 465-2332

February 5, 2008

The Honorable Donnie Olson
Alaska State Senate
State Capitol, Room 514
Juneau, Alaska 99801

Dear Senator Olson:

I am writing to express the support of the Alaska Department of Fish and Game (ADF&G) for passage of Senate Bill 251, "Vessel Permit System", of which you are the sponsor. As you know, ADF&G has expressed our support for House Bill 16, which does much the same thing as SB 251. The bill is supported by the Commercial Fisheries Entry Commission (CFEC), the North Pacific Fishery Management Council (NPFMC), the United Fishermen of Alaska (UFA) and numerous active participants in the Alaskan fishing industry.

As I have testified regarding HB 16, ADF&G supported the vessel-based limited entry system for scallops and Korean hair crab when it was adopted in 2004 because it provided conservation benefits, both for scallops and for crabs, which were not provided by an individual-based limited entry system. The vessel-based limited entry program works together with the guideline harvest ranges, observer data, other sampling, closed areas, seasons and gear limitations to provide a sustainable management program for scallops.

If SB 251 (or HB 16) fails to pass into law this year, and the vessel-based limited entry system goes away at the end of 2008, there will be no limit on the number of boats that can fish for scallops in state waters, unless the CFEC conducts an additional study and implements a different form of limited entry. It is unclear if such a study would support a different form of limited entry for scallops or how long it would take if such a change were to occur.

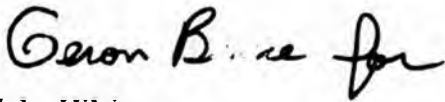
At the current time, we can not make a good estimate of how many vessels may decide to fish for scallops in state waters if those waters are open to entry by any vessel. In anticipation of the possibility that legislation will not be passed to prevent the expiration of the current system, we are developing some proposed approaches to managing these fisheries without limited entry. We intend to present these ideas to the Alaska Board of Fisheries next month.

Based on our analysis so far, we can not be certain whether or not an effective management regime can be developed that adequately provides for a fishery while allowing ADF&G to sustain a healthy population of scallops and minimize bycatch.

The fishery for Korean hair crab in the Bering Sea is currently closed because of poor stock condition. While this fishery is not expected to reopen in the near future, failure of the vessel-based limited entry system will further delay any possible opening.

ADF&G supports SB 251 and the continuation of the current approach to managing these fisheries. Please feel free to contact me if you have questions or need more information on this issue.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Hilsinger".

John Hilsinger
Director, Commercial Fisheries Division

ALASKA STATE LEGISLATURE

SENATOR DONALD C. OLSON



ALASKA
STATE CAPITOL
ROOM 514
JUNEAU, ALASKA 99801-1182

(907) 465-3707
FAX (907) 465-4821

RECOMMENDED WITNESS LIST

SB 251, Vessel Permit System

In Senate Resources Committee

- | | | |
|-----------------------|---------------------------------------|----------|
| 1. Frank Homan, Chair | Commercial Fisheries Entry Commission | 790-6942 |
| 2. Morgan Crow | Coastal Villages Region Fund (CDQ) | 278-5151 |
| 3. Jerry McCune | United Fishermen of Alaska | 321-0655 |

STAFF ASSIGNMENT

Dave Gray 465-3877

SB 251 Vessel Permit System

Senate Resources CS

Authorizes the Commercial Fisheries Entry Commission to continue administering the vessel-based limited entry system for two fisheries: Bering Sea Korean hair crab and weathervane scallops. Establishes a termination date of this authority of 2018.

STATE OF ALASKA

COMMERCIAL FISHERIES ENTRY COMMISSION

SARAH PALIN, GOVERNOR

8800 GLACIER HWY, #109

P.O. Box 110302

JUNEAU, AK 99811-0302

(907) 789-6150 Licensing Calls

(907) 789-6160 Other Business

(907) 789-6170 FAX

(907) 789-6180 BBS

INTERNET: www.cfec.state.ak.us

January 7, 2008

Re: Legislation to Preserve State Limited Entry for the Weathervane Scallop and Bering Sea Hair Crab Vessel Permit Holders

Dear Scallop and Hair Crab Fishermen:

The Alaska legislative session begins on January 15, 2008 for a shortened 90-day session. House Bill 16, extending the sunset date for the state waters scallop and hair crab limited entry programs until December 2013, has failed to move from the House Fisheries Committee. If the bill fails to pass the legislature this session, both of these fisheries will revert to unlimited open access at the end of 2008. In outside waters, the Federal scallop limited entry by the North Pacific Fisheries Management Council (NPFMC) will remain in place. The House Fisheries Committee held hearings on HB16 last year, but the bill did not move out of the committee.

It has come to our attention that some participants in the Alaska scallop fishery are under the impression that, if this bill does not pass, the state waters scallop fishery on-board observer requirement would end. This is not the case. A return to an unlimited open access state waters scallop fishery will not eliminate the observer program for this fishery. In fact, an open access scallop fishery would likely require more management measures from the Board of Fisheries (not fewer).

Please let your legislator know your views on this legislation.

Thank you.

By Direction of the

COMMERCIAL FISHERIES ENTRY COMMISSION



Frank Homan, Chairman

Peter Froehlich, Commissioner

Bruce Twomley, Commissioner

Attachment
Copy of HB 16
List of all Legislators and addresses

Sharon Long

From: Homan, Frank M (CFEC) [frank.homan@alaska.gov]
Sent: Thursday, January 17, 2008 12:03 PM
To: Sharon Long
Cc: Ufa2@ufa-fish.org
Subject: Scallops
Attachments: Mr. Big cases.pdf; Mr. Big New Release.pdf

Hi Sharon,

Thank you for meeting with us yesterday. This is just a follow up on our discussion about the scallop vessel "Mr. Big".

As you recall Mr. Big was fishing without a license in the mid 1990's and caused the entire scallop fishery to be closed for nearly two years. When we (the State) limited the scallop fishery in 2003 Mr. Big applied for a permit and was denied. Through a series of appeals to the Entry Commission he was finally denied by the Commission in July of 2006 as not eligible. Mr. Big has hired an attorney in Anchorage and appealed our denial to the Alaska Court System challenging our decision and the scallop limitation program. His first level of appeal is to the Superior Court and then to the Alaska Supreme Court. Mr. Big is trying to get back into the Alaska scallop fishery by overturning the program requirements. If a sunset extension or a permanent permit program is not passed this session the Alaska scallop fishery in state waters will be unlimited open access and Mr. Big will be able to return to fishing for Alaska scallops.

The attached Commission decisions document our reasons for denying Mr. Big's application. They should be read from the bottom up, in other words starting with the denial by the Commission Hearing Officer first.

The attached press releases from the Governor's Office in 1995 detail the severity of the problem that Mr. Big caused.

Also in one of the reports I left with you entitled "A Brief Overview of the Alaska Weathervane Scallop Fishery and the Vessel Permit Limited Entry Program" on page three the last paragraph is a brief description of the Mr. Big issue.

I hope this helps. As you can see Mr. Big is still a threat to the scallop fishery. (Of course with an open fishery any vessel could come into Alaska waters). Please let me know if you have any questions.

Frank Homan
Commissioner, CFEC
8800 Glacier Hwy, #109
Juneau, AK 99801
907-790-6942
907-789-6160

- likely referred to box not fish on H. Sell



Frank M. Homan
Chairman



STATE OF ALASKA
Commercial Fisheries Entry Commission
8800 Glacier Hwy., #109
P.O. Box 110302
Juneau, AK 99811-0302

Office: (907) 790-6942
Fax: (907) 790-7042
Cell: (907) 321-2454
Reception: (907) 789-6160

frank.homan@alaska.gov

State of Alaska

Sarah Palin, Governor

Commercial Fisheries Entry Commission

8800 Glacier Hwy, #100

P.O. Box 110302

Juneau, AK 99811-0302

MEMORANDUM

To: SENATE RESOURCES COMMITTEE

Senator Charlie Huggins, Chair
Senator Bert Stedman, Vice-Chair
Senator Lyda Green
Senator Gary Stevens
Senator Lesil McGuire
Senator Bill Wielechowski
Senator Thomas Wagoner

Date: April 25, 2007

Phone: (907) 789-6933 VOICE
(907) 790-6933 FAX

From: Commercial Fisheries Entry Commission

Frank Homan, Chairman
Peter Froehlich, Commissioner
Bruce Twomley, Commissioner

Subject: Background - Weathervane
Scallop and Bering Sea Hair Crab
Fisheries

INTRODUCTION

As an alternative to its traditional license limitation program designed in 1973 for Alaska salmon fisheries, in 2002, the Alaska Legislature provided the Commercial Fisheries Entry Commission (the commission or CFEC) with an alternative vessel permit system which could be applied to only two fisheries: the Bering Sea hair crab fishery and the weathervane scallop fishery. AS 16.43.450(a) authorized the commission to employ the vessel permit system, if (among other things) "limiting the number of participants under [the traditional license limitation program designed for salmon] would not achieve the purposes of [the Limited Entry Act]".

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Over time, the number of licensed vessel operators in each fishery was much greater than the number of vessels. Under the traditional license limitation system, each licensed vessel operator would have been eligible to apply for a permanent entry permit and could have continued to operate a vessel in the fishery until their applications were finally adjudicated. In fact, as explained in more detail below, a traditional license limitation program created the risk of more than doubling the number of vessels in each fishery for some time following limitation.

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The conservation crisis faced by the Bering Sea hair crab fishery (closed by managers since 2000) made it critical for CFEC to restrict the number of vessels as low as possible.

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Furthermore, considerable time would have been required to adjudicate the claims of 47 eligible applicants to reach the maximum number of 21. Under the most favorable assumptions, claims by applicants would have required at least one year for commission staff and hearing officers to adjudicate;

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As with the hair crab fishery, CFEC again considered the time required to adjudicate these potential claims to reduce them to a maximum number representing the historic level of participation.⁸ The adjudication process would have taken at least five years under the most favorable of assumptions. Consequently, the commission chose the vessel limitation alternative. The commission did not want to

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assume the risk of visiting on a fishery with critical conservation needs as many as three times the number of vessels that the fishery had ever supported in a particular year.

CONCLUSION

As we have attempted to explain, the legislature helped the commission meet the conservation needs of the two fisheries at issue by providing the commission with a vessel license limitation alternative to the traditional license limitation program designed in 1973 for salmon. The vessel license limitation alternative helped the commission to meet its duty to conserve these fisheries. *Simpson v. State, CFEC, 101 P.3d 605 (Alaska 2004)*.

HOUSE BILL NO. 16

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE SEATON

Introduced: 1/16/07

Referred: House Special Committee on Fisheries, Resources

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for an effective date by delaying the effective date of repeal of the
2 authority of the Commercial Fisheries Entry Commission to maintain the vessel-based
3 commercial fisheries limited entry systems for the Bering Sea Korean hair crab and
4 weathervane scallop fisheries, and the effective date of conforming amendments related
5 to the repeal of those systems."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * Section 1. Section 28, ch. 137, SLA 2002, is amended to read:

8 Sec. 28. Sections 5, 10, 12, 14, 16, 18, 21, 23, and 27 of this Act take effect
9 December 30, 2013 [2008].

**State of Alaska
Commercial Fisheries Entry Commission**

**Statewide Weathervane Scallop Vessel Permit Holders
December 8, 2008**

Vessel Permit Owner Name	Company Owner/Contact Person	Vessel Name	Skipper
Future Fisheries Inc. 14 Hervey Tichon Ave. New Bedford, MA 02740	Nordic Fisheries Inc. Roy Enoksen, Ron Enokson O'Hara Corp Francis O'Hara, Francis O'Hara, Jr.	F/V Pursuit (100 ft.) ADFG Number: 40312 Vessel Permit: W 2ABV85016Z	None - non-fishing co-op member 5/9/2005 CFEC was notified that vessel was sold. Vessel permit was retained.
Ocean Fisheries LLC 7216 Interlaaken Dr. SW Lakewood, WA 98499	Stone Maritime Inc. Jim Stone (LLC Manager) Mikkelsen Fisheries Inc. Glenn Mikkelsen, Egil Mikkelsen Fastus Fisheries Inc. John Lemar Stein Enterprises Stein Nyhammer	Ocean Hunter (100 ft.) ADFG Number: 40924 Vessel Permit: W 2ABV85007S	John Lemar (W 2AB27374U) 1302 Chambers St Stellecoom, WA 98388 Glenn Mikkelsen (W 2AB28558K) 2 Park Place Edmonds, WA 98028
Provider Inc. 1000 C Street Bellingham, WA 98225	Provider Inc. Mark Kandianis (President, Treasurer) John Doody (Vice-President, Secretary)	Provider (123 ft.) ADFG Number: 58200 Vessel Permit: W 2ABV85008L	Tom Minio (W 2AB26294I) 801 King Valley Dr. Maple Falls, WA 98268
Forum Star LLC 2025 1st Ave #900 Seattle, WA 98121	Forum Star LLC Coastal Villages Pollock LLC American Seafoods LLC Bert O. Bodal Jeffrey W. Davis	Forum Star (98 ft.) ADFG Number: 59887 Vessel Permit: W 2ABV85014O	None - non-fishing co-op member
Carolina Boy Inc. Box 600 Seaford, VA 23698	Carolina Boy Inc. William S. Wells, Jr. William S. Wells, III	Carolina Boy (95 ft.) ADFG Number: 64110 Vessel Permit: W 2ABV85013W	None - non-fishing co-op member
Thomas C. Hogan Box 1648 Homer, AK 99603	Thomas C. Hogan	Kilkenny (75 ft.) ADFG Number: 54988 Vessel Permit: W 2BBV85015J	Thomas C. Hogan (W 2BB27888I) Box 1648 Homer, AK 99603 George M. Milne (W 2BB27776Q) Box 1648 Homer, AK 99603
La Brisa Inc. Box 770881 Eagle River, AK 99577	La Brisa Inc. Max Hulse Robert Hulse	Wayward Wind (79 ft.) ADFG Number: 23574 Vessel Permit: W 2BBV85012H	Scott D. Hulse (W 2BB26790J) Box 770881 Eagle River, AK 99577
Tom Gilmartin, Jr. 46677 Lake St. Kenai, AK 99611	Tom Gilmartin, Jr.	Arctic Storm (58 ft.) ADFG Number: 66700 Vessel Permit: W 2BB85018L	Tom Gilmartin, Jr. 46677 Lake St. Kenai, AK 99611 (no permit for 2008)

A Brief Overview of the Alaska Weathervane Scallop Fishery and the Vessel Permit Limited Entry Program



CFEC Report 07-2N
February 2007
Prepared by Nancy Free-Sloan

State of Alaska
Commercial Fisheries Entry Commission
8800 Glacier Highway, Suite 109
Juneau, Alaska 99801

A Brief Overview of the Alaska Weathervane Scallop Fishery and the Vessel Permit Limited Entry Program

CFEC Report 07-2N

February 2007

Prepared by Nancy Free-Sloan

Passage of the vessel permit system bill (CSHB206 (RLS) am S) during the 2002 legislative session authorized creation of a vessel-based limited entry program in the statewide weathervane scallop and Bering Sea hair crab fisheries. Under AS 16.43.450-520, the current vessel permit system will expire on December 30, 2008 unless statutory authority is extended. Introduced in the 25th Alaska Legislature in January, 2007, House Bill 16 would extend the existing vessel permit system until December 30, 2013.

This briefing report has been prepared for the Alaska Legislature to review the statewide weathervane scallop vessel entry permit program. The report provides a brief history of the fishery. The history includes development of North Pacific Fishery Management Council's Fishery Management Plan for the Scallop Fishery off Alaska, the federal vessel moratorium in the exclusive economic zone, the state vessel moratorium in Alaska waters, the federal permanent license limitation program in the exclusive economic zone and the state vessel permit limited entry program. The report also provides an analysis of vessel participation and harvest figures in both fisheries before restricted access and in the years following restricted access.

Cover Photo: A typical Alaska scallop dredge. Courtesy of Alaska Department of Fish and Game

EO/ADA Compliance Statement

The Commission is administratively attached to the Alaska Department of Fish and Game (ADF&G).

The Alaska Department of Fish and Game (ADF&G) administers all programs and activities free from discrimination based on race, color, national origin, age, sex, religion, marital status, pregnancy, parenthood, or disability. The department administers all programs and activities in compliance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and Title IX of the Education Amendments of 1972.

If you believe you have been discriminated against in any program, activity, or facility please write:

- ADF&G ADA Coordinator, P.O. Box 115526, Juneau, AK 99811-5526.
The department's ADA Coordinator can be reached via phone at the following numbers: (VOICE) 907-485-6077, (Statewide Telecommunication Device for the Deaf) 1-800-478-3648, (Juneau TDD) 907-485-3648, or (FAX) 907-485-6078.
- U.S. Fish and Wildlife Service, 4040 N. Fairfax Drive, Suite 300 Webb, Arlington, VA 22203
- Office of Equal Opportunity, U.S. Department of the Interior, Washington DC 20240.

For information on alternative formats and questions on this publication, please contact the following:

Commercial Fisheries Entry Commission (CFEC)
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P.O. Box 110302
Juneau, Alaska 99811-0302
(907) 789-6160 phone
(907) 789-6170 fax
research@po.cfec.state.ak.us

Alaska Weathervane Scallop Fishery

Alaskan weathervane scallop *Patinopecten caurinus* fishing grounds off Alaska lie in state waters and in waters of the federal Exclusive Economic Zone (EEZ).¹ Weathervane scallops are the largest scallops in the world and currently the only scallop species targeted for commercial harvest in Alaska. Most of the commercial Alaska weathervane scallop resource is sold to domestic markets.

Commercial fishing for weathervane scallops occurs in the Gulf of Alaska, Bering Sea and Aleutian Islands. Scallops are usually found on the continental shelf in elongated sand, silt or clay "beds" at depths of 120 to 750 feet that are oriented in the direction of the prevailing currents. Commercial scallop beds are located in the vicinity of Yakutat, Kayak Island at the southeast end of Prince William Sound, Kamishak Bay in lower Cook Inlet, the east side of Kodiak Island, Shelikof Strait, the south side of the Alaska Peninsula, Umnak Island in the eastern Aleutian Islands and north of Unimak Island in the Bering Sea. The regulatory fishing season runs from July 1 to February 15 in all registration areas except in Cook Inlet, where the season is August 15 to October 31 in the Kamishak district.² In all other districts of Cook Inlet, fishing occurs on an exploratory basis only. The season for exploratory fishing within Cook Inlet runs from January 1 through December 31.

Background

The commercial scallop fishery in Alaska began in 1967 with two vessels harvesting weathervane scallops from fishing grounds off the east side of Kodiak Island. The fishery expanded to the Yakutat area in 1968 with a total of 19 vessels participating. Further expansion to the Alaska Peninsula occurred in 1975, to Cook Inlet in 1983, to the Bering Sea in 1987, and to Prince William Sound in 1992. The rapid expansion of this fishery was due in large part to declining catches of scallops on the east coast of the United States and Canada.

The scallop fishery changed during the early 1990s as vessels converted from icing to freezing of shucked product. The fishery changed from a short trip fishery to a long trip fishery with fewer deliveries. By 1996, all vessels in this fishery had been converted to catcher-processors capable of producing frozen products at sea.³

The Alaska Department of Fish and Game (ADF&G) was responsible for management of the fishery, defining specific areas, gear and reporting requirements. Due to the absence of a federal fishery management plan (FMP), ADF&G extended their jurisdiction into the EEZ as allowed by the Magnuson Fishery Conservation and Management Act.⁴

¹ Waters under state jurisdiction include internal waters and 0 to 3 miles from the baseline of the territorial sea. The EEZ is contiguous to the territorial sea and extends seaward from 3 to 200 miles from the baseline.

² ADF&G Special Publication No. 05-09. *Commercial Fisheries of Alaska. Scallop Fishery, June 2005.*

³ Barnhart, J.P. (2000). *Annual Management Report for the Weathervane Scallop Fisheries of the Westward Region, 1999/00* Pages 262-300. ADF&G, Div. of Commercial Fisheries, Regional Information Report No. 4K00-55, Kodiak.

⁴ Major amendments, including the Sustainable Fisheries Act, were enacted on October 11, 1996. The Act was retitled the Magnuson-Stevens Fishery Conservation and Management Act. The Act was recently revised and reauthorized.

From 1967 through mid-May 1993, passive management measures were employed by ADF&G. Crab species and habitat were protected by establishing fishing seasons and closing area waters when necessary to protect stocks. When catches of scallops declined in one area, vessels would move on to other exploitable beds. An influx of larger, more efficient vessels in the early 1990s led to increased harvests and changed the low-intensity nature of the fishery. As a result of increased effort and fleet efficiency, harvest levels nearly tripled from those of years prior to 1990. Amid concerns about crab bycatch and overharvest of the scallop resource, on May 21, 1993, the Commissioner of ADF&G declared the scallop fishery a "high impact emerging fishery". This State of Alaska designation applies to a fishery when at least one of four conditions are met: (1) harvesting effort recently increased beyond a low sporadic level; (2) the resource is harvested by more than one user group; (3) harvests approach levels that may not be sustainable; or (4) the Alaska Board of Fisheries (BOF) has not developed comprehensive regulations to address conservation and allocation issues. In 1993, ADF&G determined the scallop fishery fit the classification. Under 5 AAC 39.210, ADF&G was required to close the fishery and implement an interim management plan with associated regulations prior to reopening.

On June 17, 1993, the commissioner adopted the regulations and opened the fishery. The state fishery interim management plan required 100% observer coverage, a limit of 12 crew members per vessel, a ban on the use of automatic shucking machines, crab bycatch limits, dredge gear specifications and limits on the number of dredges to be deployed per vessel (a maximum of one or two depending on the area). Critical to sustained management of the fishery was the establishment of scallop guideline harvest ranges (GHRs). In March, 1994, the Alaska Scallop Fishery Management Plan (5 AAC 38.076) was adopted by the Alaska Board of Fisheries (BOF).⁵

Until early 1995, all vessels participating in the Alaska weathervane scallop fishery were licensed under the laws of the State of Alaska. The state had jurisdiction over scallop fishing in both state and federal waters for vessels licensed under Alaska laws. In January 1995, the captain of an unlicensed scallop fishing vessel elected to return his scallop interim use permit card to the State of Alaska Commercial Fisheries Entry Commission (CFEC or commission) in Juneau. With an unlicensed vessel and no interim use permit, the skipper proceeded to harvest scallops in the EEZ, ignoring not only harvest limits, but observer coverage and other management regulations as well. The unregulated action by this vessel and skipper resulted in closure of federal waters in the EEZ to scallop fishing by National Marine Fisheries Service (NMFS) emergency order (EO) from February 23, 1995, until May 30, 1995.⁶ The initial EO was extended an additional ninety days to August 28, 1995. Prior to the August expiration of the EO, North Pacific Fishery Management Council (NPFMC) submitted a proposed fishery management plan (FMP) under the Magnuson-Stevens Act that would close the EEZ to scallop fishing for a maximum of one year (August 28, 1995-August 28, 1996). The proposed FMP was approved by NMFS on July 26, 1995.

⁵ NPFMC (North Pacific Fishery Management Council) *Stock Assessment and Fishery Evaluation Report for the Weathervane Scallop Fishery Off Alaska*. March 2006.

⁶ Although the EEZ was closed to scallop fishing by emergency order during this time, the state waters portion of the fishery remained open. Harvest and earnings from 1995 fish tickets show landings in the EEZ and state waters in January and February, 1995, and landings in state waters only during July and August, 1995.

With the exception of license limitation in the EEZ, the scallop FMP delegated management authority to the State of Alaska. In March 1997, NMFS approved Amendment 2 to the FMP establishing a three-year vessel moratorium in federal waters. Eighteen vessel owners qualified to fish during the federal moratorium. Fourteen owners received endorsements for the statewide area (all waters except those waters defined in the Cook Inlet area), three owners received endorsements for Cook Inlet 'only' and one owner received endorsements for both the statewide and Cook Inlet areas.

Federal Moratorium and License Limitation Program

By February 1999, the NPFMC recommended replacing the temporary federal moratorium program in the EEZ with a permanent license limitation program (LLP).

This action became Amendment 4 to the scallop FMP. The federal moratorium expired June 30, 2000. The moratorium was replaced by the LLP that became effective on January 16, 2001. Between June 30, 2000, and January 16, 2001, the fishery was temporarily in open access status, although no additional vessels entered the fishery. Initial issuance of scallop LLP (SLLP) licenses by National Marine Fisheries Service occurred in April, 2001. Eight vessels received permanent scallop LLP licenses and two vessels initially received interim licenses pending adjudications. Interim SLLP 002 belonging to Forum Star Inc. was later adjudicated to be eligible for a permanent license. Interim SLLP 001 was eventually denied. A total of nine permanent licenses have been issued in the federal scallop LLP program. Table 1 shows vessel entities associated with the scallop License Limitation Program licenses that were initially issued.

Table 1. Federal Scallop License Limitation Permits Issued by National Marine Fisheries Service - Restricted Access Management as of April, 2001 (Initial Issuance).

License	License Holder	MLOA	Transferable	Gear Restrictions
001	Asp, Svend and Maxine	98'	No - Interim	Single 6ft scallop dredge ⁷
002	Forum Star, Inc.	98'	No - Interim	None
003	Hogan, Thomas C.	75'	Yes	None
004	Hulse, Max et al.	79'	Yes	Single 6ft scallop dredge
005	Ocean Fisheries LLC	100'	Yes	None
006	Oceanic Research Services, Inc.	70'	Yes	None
007	Pursuit, Inc.	101'	Yes	None
008	Provider, Inc.	124'	Yes	None
009	Carolina Boy, Inc.	95'	Yes	None
010	Carolina Girl II, Inc.	96'	Yes	None

⁷ There are two permits in this list with a six-foot dredge restriction. These vessels originally qualified with landings in the Cook Inlet registration area only. To prevent further increases in fishing capacity, these vessels were restricted to a dredge capacity no greater than what was used during the qualifying years. They could fish outside Cook Inlet, but only with a six-foot dredge. All LLPs were restricted by vessel length constraints no greater than what was used during the qualifying years.

Transfers of Federal Scallop LLP Licenses

Three transfers of federal scallop LLP licenses have occurred since initial issuance.

- Oceanic Research Services, Inc. (F/V Northern Explorer , ADFG#64572) sold SLLP 006 to Thomas J. Gilmartin (F/V Arctic Storm, ADFG#66700) April 18, 2001.
- Carolina Girl II, Inc. (F/V Carolina Girl, ADFG#64111) transferred SLLP 010 to Alaska Scallop, LLC in an apparent effort to consolidate. On December 23, 2002 Carolina Girl II, Inc. relinquished all eligibility rights to a weathervane scallop state moratorium vessel permit and limited entry vessel permit. SLLP 010 is not being fished.
- Carolina Boy, Inc. (F/V Carolina Boy, ADFG#64110) transferred SLLP 009 to Ocean Fisheries, LLC on August 21, 2003 in an apparent effort to consolidate. SLLP 009 is not being fished.

Table 2 lists federal scallop LLP licenses as of November, 2005.

Table 2. Federal Scallop License Limitation Permits Issued by National Marine Fisheries Service - Restricted Access Management as of November, 2005.

License	License Holder	MLOA	Transferable	Gear Restrictions
002	Forum Star, LLC	97	Yes	None
003	Hogan, Thomas C.	75'	Yes	2 Scallop Dredges with a combined width of no more than 20 feet (6.1m)
004	Hulse, Max et al.	79'	Yes	2 Scallop Dredges with a combined width of no more than 20 feet (6.1m)
005	Ocean Fisheries, LLC	100'	Yes	None
006	Gilmartin, Thomas	70'	Yes	None
007	Pursuit, Inc.	101'	Yes	None
008	Provider, Inc.	124'	Yes	None
009	Ocean Fisheries, LLC	95'	Yes	None
010	Alaska Scallop, LLC	96'	Yes	None

State Moratorium and Vessel Limited Entry Permit Program

In 1997, a four-year vessel moratorium (AS 16.43.906) was enacted in state waters by the Alaska Legislature. The state moratorium, originally set to expire June 30, 2001, was extended an additional three years by the Alaska Legislature until June 30, 2004.

Both federal and state moratoria established two fishery areas: the Cook Inlet area and a "statewide" area encompassing waters in the Gulf of Alaska and the Bering Sea, except those defined in the Cook Inlet area. Nineteen vessels were originally covered under either the state or federal moratorium. Eighteen vessels were associated with permits at initial issuance under the federal moratorium.

Table 3 lists vessels that qualified for state moratorium permits. Ten vessels qualified under the state moratorium for the statewide area, with three vessels also qualifying for a Cook Inlet permit.

Table 3. Vessels qualified for state moratorium by fishery area

Vessel Name	Statewide	Cook Inlet
Alaska Beauty	Yes	Yes
Arctic Queen	Yes	
Carolina Boy	Yes	
Carolina Girl II	Yes	
La Brisa	Yes	Yes
Northern Explorer	Yes	Yes
Provider	Yes	
Pursuit	Yes	
Rush	Yes	
Trade Wind	Yes	

Nine vessels were associated with permits for both the federal and state moratoria. In 1997, two unique vessels obtained vessel permits under the state's moratorium for the Cook Inlet registration area as defined in AS 16.43.906 (o) (1). The Cook Inlet registration area included both state waters and EEZ waters. In 1998, only one vessel obtained a Cook Inlet moratorium vessel permit. From the 1999 license year through expiration of the state moratorium in 2004, no permits were issued for the Cook Inlet area.

According to commission license data, from 1997-2000, eight unique vessels obtained vessel permits under the State's moratorium for the statewide registration area as defined in AS 16.43.906 (o) (3). Based on CFEC license data, the eight vessels ranged in size from 63 feet to 124 feet in overall length. The statewide registration area included state waters and EEZ waters. Under the State moratorium, vessels eligible for permits in the Cook Inlet registration area were also eligible for permits in the statewide registration area, although no vessels obtained permits for both areas in the same year.

State Limited Entry Vessel Permit Program

Passage of the vessel permit system bill (CSHB206 (RLS) am S) during the 2002 legislative session resulted in significant changes to the state's limited entry statutes. The changes authorized creation of a vessel-based limited entry program in the state's weathervane scallop and hair crab fisheries (AS 16.43.450-520). However, a sunset provision was included in the legislation. The vessel entry permits issued for the statewide weathervane scallop and hair crab fisheries will expire on December 30, 2008, unless statutory authority is extended.

On May 6, 2004, the Commission adopted regulations 20 AAC 05.1425 – 20 AAC 05.1444 establishing a vessel permit system for the statewide weathervane scallop fishery.

Based on those regulations, the nine vessels listed in Table 4 below were eligible for a state limited entry vessel permit. All nine vessels are associated with initial or current holders of federal scallop LLP licenses. However, one of the nine vessels had already relinquished its eligibility rights by request. Owners of the eight remaining vessels applied for and received weathervane scallop limited entry vessel permits.

Table 4. Vessels Eligible to Apply for a Limited Entry Vessel Permit

Vessel Name	ADFG#	Federal Scallop LLP License	State Waters Vessel Limited Entry Permit
F/V Carolina Boy	64110	Initial Issue of SLLP license 009 (sold 8/21/2003)	Initial Issue of State Vessel LEP W 2ABV 85013W (12/3/2004)
F/V Forum Star	59687	Initial Issue of SLLP license 002 (still holds)	Initial Issue of State Vessel LEP W 2ABV 85014O (12/6/2004)
F/V Kilkenny	54966	Initial Issue of SLLP license 003 (still holds)	Initial Issue of State Vessel LEP W 2BBV 85015J (12/6/2004)
F/V La Brisa	23574	Initial Issue of SLLP license 004 (still holds)	Initial Issue of State Vessel LEP W 2BBV 85012H (9/23/2004) (Permanent vessel substitution from 60773 (La Brisa)9/23/2004)
F/V Carolina Girl II	64111	Initial Issue of SLLP license 010 (sold 12/23/2002)	(relinquished moratorium/limited entry eligibility rights, 1/2003)
F/V Arctic Storm	66700	Purchased SLLP license 006 (4/18/01) (still holds)	Initial Issue of State Vessel LEP W 2BBV 85018L (1/6/2005)
F/V Ocean Hunter	40924	Initial Issue of SLLP license 005 (still holds plus SLLP 009)	Initial Issue of State Vessel LEP W 2ABV 85007S (6/17/2004)
F/V Provider	58200	Initial Issue of SLLP license 008 (still holds plus SLLP 010)	Initial Issue of State Vessel LEP W 2ABV 85008L (6/28/2004)
F/V Pursuit	40312	Initial Issue of SLLP license 007 (still holds)	Initial Issue of State Vessel LEP W 2ABV 85016Z (12/6/2004)

CFEC regulations established two length categories for vessel entry permit issuance based on the maximum length overall (LOA) of the vessel initially used to qualify for the fishery.

W2ABV vessel entry permits were issued to owners of vessels greater than 80 feet. W2BBV vessel entry permits were issued to owners of vessels 80 feet or less. The F/V Arctic Storm, F/V Kilkenny and F/V La Brisa were issued W2BBV permits based on a vessel length of 80 feet or less. The owners of all three W2BBV vessel entry permits list Alaska mailing addresses. The F/V Carolina Boy, F/V Forum Star, F/V Ocean Hunter, F/V Provider and F/V Pursuit were issued W2ABV permits based on a vessel length greater than 80 feet. The current owners of all W2ABV vessel entry permits list non-Alaska mailing addresses. However, one W2ABV limited entry vessel permit is in the process of being transferred as of this writing to an entity with an Alaskan mailing address. One W2BBV vessel permit, vessel and federal scallop LLP has been advertised for sale. At initial issuance on September 23, 2004, the owners of La Brisa, Inc.

requested and were granted a permanent vessel substitution from the F/V La Brisa to the F/V Billy D. On May 6, 2005, the owners of La Brisa, Inc. requested and were granted a vessel name change from the F/V Billy D to the F/V Wayward Wind.

Fishery Description

Alaska weathervane scallops are harvested using 'New Bedford' style scallop dredges (Figure 1). State regulations limit all vessels fishing inside the Cook Inlet Registration Area to the use of a single dredge not more than 6 feet wide. Unless restricted by federal LLP permit endorsements, vessels fishing outside of Cook Inlet and elsewhere in state and federal waters are allowed two dredges, each not more than 15 feet wide. Vessel lengths in this fishery range from 58 feet to 124 feet LOA. An average 15-foot dredge weighs about 2,600 pounds, while a 6-foot dredge weighs about 900 pounds.⁸ In addition to any restrictions due to state regulations and/or federal endorsements, vessel length, horsepower and available deck space may also be factored into determining an optimum dredge size for a particular vessel to use.

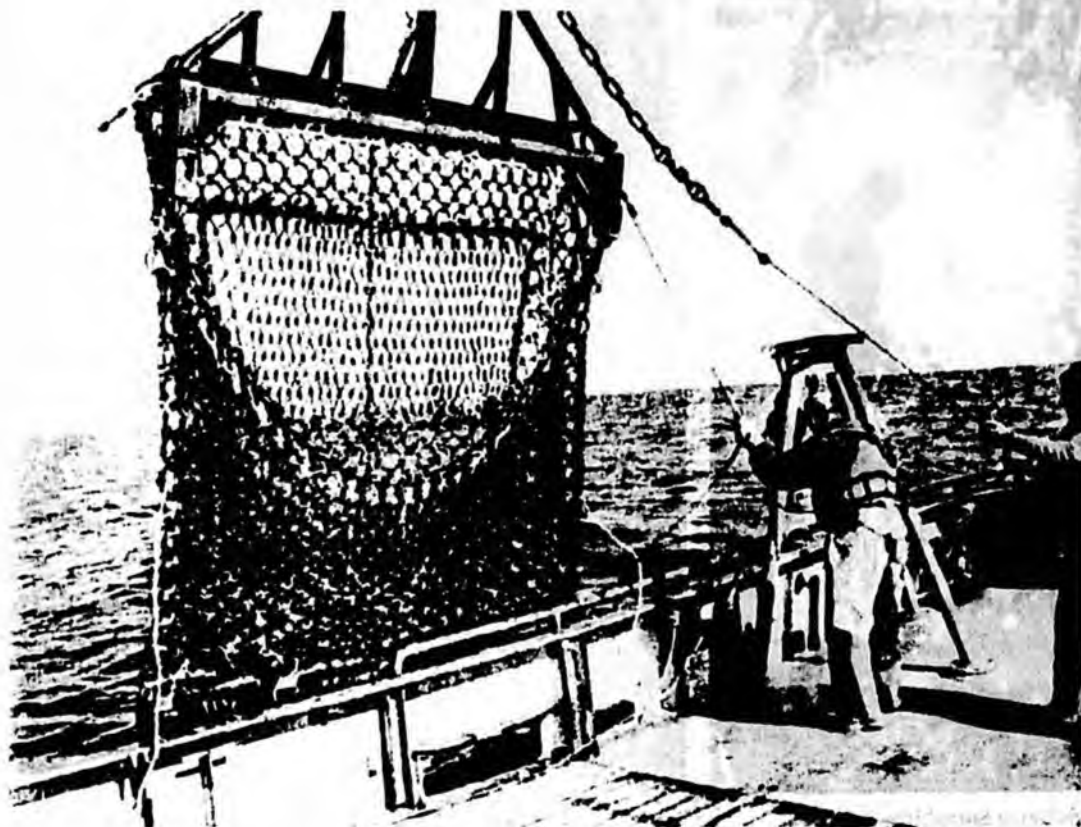


Figure 1. New Bedford Style Scallop Dredge (Courtesy of Alaska Department of Fish & Game)

⁸ NPFMC. *Stock Assessment and Fishery Evaluation Report*, 2006.

The Alaska weathervane scallop fishery is executed using the following steps:⁴

- dredge is prepared and deployed (set)
- dredge is towed slowly (avg. 5 mph) on the ocean bottom for 50 to 60 minutes
- dredge is retrieved
- dredge contents are emptied on the deck
- scallops are sorted into baskets and bycatch is discarded overboard (Figure 2)
- baskets of scallops are moved from the deck to the shucking area on board the vessel
- dredge gear is prepared for the next set and deployed
- scallops are hand-shucked, washed, graded as to size, packaged and frozen (Figure 3)



Figure 2. Scallops Being Sorted Into Baskets



Figure 3. Scallops Being Hand Shucked

(photos courtesy of Saltwater Inc., Anchorage, Alaska)

⁴ NPFMC, *Stock Assessment and Fishery Evaluation Report*, 2006

Onboard Observer Program

Under the Alaska Scallop Fishery Management Plan (5 AAC 38.076 (g)), all vessels participating in this fishery are required to carry an onboard observer. Onboard observers are tasked with collecting biological and fishery-based data, monitoring bycatch and providing regulatory enforcement. This oversight is especially important in fisheries like the scallop fishery, where vessels operate as catcher-processors. Specific information collected includes data on crab and halibut bycatch (both prohibited species), discarded scallop catch, retained scallop catch, catch composition, weight of scallop meat recovered, location and general area of catch, dredge depth and amount of catch per tow (catch per unit effort or CPUE).

Observers report information to local ADF&G offices during the season. Amount of scallops harvested, number of tows, area fished and crab bycatch are examples of data reported to ADF&G up to three times weekly. These data are used to help manage the inseason fishery. Based on observer reporting, areas may be closed by emergency order (EO) at any time during the season when established crab bycatch limits have been met or exceeded. Observer data are also used to help set guideline harvest ranges (GHRs) for future seasons. ADF&G does not conduct scallop stock assessments in most areas of the state, so observer collected data are essential to fishery resource management.¹⁰

Onboard observer coverage is funded at vessel owners' expense through direct payments to independent contracting agents. These independent agents provide the onboard observers who are trained at the University of Alaska's North Pacific Fisheries Observer Training Center in Anchorage, Alaska. Onboard observer coverage is paid for by industry. Observer training is funded by a federal grant. Federal assistance is provided to the State of Alaska by a NOAA grant award to cover additional costs incurred to meet federal oversight.¹¹

Crab Bycatch

Under the federal scallop FMP, most management measures have been delegated to the State of Alaska for implementation. Setting of prohibited species and crab bycatch limits are included in the management measures delegated to the State.

Specific concerns about overfishing and bycatch have directed State management of the scallop fishery to be intentionally conservative. In response to concerns about damage done to habitat by dredging, ADF&G has intentionally closed known scallop beds in critical crab or juvenile fish habitats to protect the nurseries. Some of these areas have remained closed for upwards of thirty years.

Bycatch of crab in the scallop fishery is controlled through the implementation of crab bycatch limits. First instituted by the state in July 1993, crab bycatch limits are based on individual crab stock abundance information. Bycatch limits can be set to a specific number of crabs or as a percentage of the estimated available stock abundance, depending on district and/or registration area.

¹⁰ NPFMC, *Stock Assessment and Fishery Evaluation Report*, 2006.

¹¹ *Ibid.*

A number of vessel owners formed a private cooperative in May, 2000.¹² The cooperative hired an independent consulting firm to review data provided by participating co-op vessel skippers on bycatch, amounts of scallop harvest and locations. The consulting firm, Sea State Inc. of Vashon, WA, reports back to the cooperative on areas of high bycatch concentrations.¹³ The co-op can then direct its vessels away from those areas.

Crab bycatch limit-based closures have decreased over the years since 1993. Factors that may have contributed to this positive development include a reduction in the number of fishing vessels, input from the observer program and consulting firms and decreased crab abundance in general. During the 1993 season, four statewide areas were closed due to crab bycatch. Since the 2000 season, only one area has been closed due to crab bycatch.¹⁴

Historic Scallop Harvests

Table 5 lists Alaska weathervane scallop harvests from 1980 through the 2005 and preliminary 2006 harvest figures. Year 1980 through 1996 show harvest figures prior to federal and state waters moratoria. The state waters moratorium was in effect from July 1, 1997 through June 30, 2004. The three year federal waters moratorium was adopted in March, 1997 and expired June 30, 2000. The moratorium was replaced by the LLP that became effective on January 16, 2001. Between June 30, 2000 and January 16, 2001 the fishery in the EEZ was temporarily in open access status, although no additional vessels entered the fishery. Initial issuance of federal scallop LLP licenses by NMFS occurred in April, 2001. The state waters moratorium was replaced by the limited entry vessel permit program beginning in September, 2004.

Participation, harvest and earnings in this fishery trended upwards from 1980 until 1983 when a sharp downturn occurred. From 1984 through the mid 1990s, an upward trend in participation, harvest and earnings occurred. Participation in the fishery since 1997 has been limited by moratorium programs in both state and federal waters, followed by limitation. In the years since 1997, harvest figures have ranged between 420,000 and 840,000 pounds of shucked meat.

Earnings figures in this time period have ranged between 1.8 and 4.4 million dollars annually. It has been suggested that market prices in the Alaska scallop fishery are influenced by U.S. east coast and Canadian scallop stock conditions and related market prices.¹⁵ Regardless, revenues in this fishery as well as harvest and participation have varied widely over the years.

¹² North Pacific Scallop Cooperative, formed in May 2000 just prior to initial issuance of federal scallop license limitation permits by six of the licensed vessel owners.

¹³ Personal communication with Jeffrey P. Barnhart, statewide scallop observer program coordinator and biologist for the Alaska Department of Fish and Game, Division of Commercial Fisheries, Kodiak, Alaska.

¹⁴ NPFMC, *Stock Assessment and Fishery Evaluation Report*, 2006.

¹⁵ *Ibid.*

Table 5. Weathervane Scallop Harvests 1980 – 2006

Year	State Waters						Federal Waters						All Waters				
	Vessels	Pounds	%	Estimated Earnings	%	#NUPs	Vessels	Pounds	%	Estimated Earnings	%	#NUPs	Unique Vessels	Total Pounds	Total Est. Earnings	Unique NUPs	Average Price/lb
1980	4	113,193	20.7	\$433,618	21.4	7	6	432,741	79.3	\$1,590,864	78.6	10	6	545,934	\$2,024,482	11	\$3.71
1981	12	354,770	42.2	\$1,481,395	42.1	14	16	486,610	57.8	\$2,039,585	57.9	19	17	841,380	\$3,520,980	22	\$4.18
1982	10	288,706	31.6	\$890,371	28.0	13	11	623,590	68.4	\$2,293,017	72.0	17	12	912,296	\$3,183,388	18	\$3.49
1983	4	***	***	***	***	5	3	***	***	***	***	3	6	194,116	\$900,837	7	\$4.64
1984	5	145,089	38.2	\$641,803	38.1	6	8	235,134	61.8	\$1,042,179	61.9	9	8	380,223	\$1,683,983	9	\$4.43
1985	7	439,600	67.0	\$1,576,598	66.9	9	4	216,989	33.0	\$778,995	33.1	6	8	656,589	\$2,355,592	10	\$3.59
1986	5	293,782	41.9	\$1,045,749	43.7	9	7	407,337	58.1	\$1,345,163	56.3	11	8	701,119	\$2,390,912	14	\$3.41
1987	4	334,700	57.4	\$1,240,684	59.0	4	4	248,343	42.6	\$862,635	41.0	6	4	583,043	\$2,103,319	6	\$3.61
1988	1	***	***	***	***	2	4	***	***	***	***	5	4	341,070	\$1,201,201	5	\$3.52
1989	5	80,057	15.0	\$313,783	15.6	7	7	454,706	85.0	\$1,696,768	84.4	10	7	534,763	\$2,010,551	10	\$3.76
1990	9	596,254	40.1	\$2,020,051	39.8	12	9	892,483	59.9	\$3,053,521	60.2	13	9	1,488,737	\$5,073,572	15	\$3.41
1991	6	274,453	24.1	\$979,297	22.9	6	5	862,196	75.9	\$3,299,903	77.1	6	6	1,136,649	\$4,279,200	7	\$3.76
1992	7	227,920	13.0	\$886,890	13.0	8	7	1,525,953	87.0	\$5,909,809	87.0	11	8	1,753,873	\$6,796,699	12	\$3.88
1993	10	100,226	6.6	\$455,502	6.5	10	15	1,411,313	93.4	\$6,525,913	93.5	22	15	1,511,539	\$6,981,415	22	\$4.62
1994	12	204,746	16.3	\$1,156,258	16.4	14	16	1,051,990	83.7	\$5,883,004	83.6	20	17	1,256,736	\$7,039,263	22	\$5.60
1995*	9	114,821	32.7	\$617,290	33.4	9	9	238,202	67.3	\$1,230,376	66.6	9	10	351,023	\$1,847,667	10	\$5.26
1996	4	198,886	27.3	\$1,250,207	26.8	5	9	529,538	72.7	\$3,420,308	73.2	9	9	728,424	\$4,670,516	10	\$6.41
1997	7	253,134	31.5	\$1,348,634	31.1	7	9	549,249	68.5	\$2,981,118	68.9	11	9	802,383	\$4,329,752	11	\$5.40
1998	6	210,547	25.3	\$937,959	23.7	6	8	622,834	74.7	\$3,013,051	76.3	10	8	833,381	\$3,951,010	10	\$4.74
1999	6	145,588	17.4	\$502,454	16.8	6	10	692,226	82.6	\$2,479,880	83.2	11	10	837,814	\$2,982,334	11	\$3.56
2000	3	***	***	***	***	3	8	***	***	***	***	10	8	714,285	\$2,814,997	10	\$3.94
2001	2	***	***	***	***	2	6	***	***	***	***	6	6	552,240	\$2,153,876	6	\$3.90
2002	1	***	***	***	***	1	6	***	***	***	***	6	6	492,287	\$3,144,237	6	\$6.39
2003	1	***	***	***	***	1	4	***	***	***	***	4	4	526,262	\$1,849,214	4	\$3.51
2004	2	***	***	***	***	2	5	***	***	***	***	5	5	424,543	\$2,004,504	5	\$4.72
2005	3	***	***	***	***	5	5	***	***	***	***	7	5	525,086	\$4,212,304	7	\$8.02
2006**	3	***	***	***	***	5	3	***	***	***	***	5	3	***	***	5	\$7.78

Note: * From February 23, 1995, until August, 1996, the EEZ was closed to fishing. 1995 federal waters harvest and earnings occurred in January and February prior to closure.

** 2006 harvest and earnings figures are preliminary and incomplete.

*** Data are masked to preserve confidentiality under AS 16.05.815

Expiration of the State Vessel Limited Entry Permit Program

20 AAC 05.1425 – 20 AAC 05.1444 (adopted May 6, 2004) established a vessel permit system for the statewide weathervane scallop fishery. However, a sunset provision was added to the legislation. Under 20 AAC 05.1443, vessel entry permits issued for this fishery will expire on December 30, 2008, unless statutory authority is extended. Could the state of Alaska be faced with potential management and conservation issues if the state waters fishery was again opened to unrestricted fishing capacity?

Implementation of the federal scallop license limitation program and state waters vessel limited entry permit systems created a reduction in the number of participants in this fishery. Combined with the onboard observer program, gear and crew restrictions, vessel length restrictions and establishment of conservative guideline harvest ranges, scallop stocks in general appear to be healthy and not overfished.¹⁶ Formation of the voluntary scallop cooperative and removal of some co-op boats from active participation has further reduced effort.

The state waters vessel limited entry permit system has established two vessel length categories. Permits are issued to owners of vessels 80 feet and less and to owners of vessels greater than 80 feet. If vessel size were not restricted, it is likely that permit owners with smaller boats would upgrade to larger boats and larger dredges and fish in areas previously restricted by their size. Greater or unrestricted fishing capacity could lead to shorter seasons, exceeding guideline harvest ranges and potentially causing early area closures due to reaching or exceeding crab bycatch limits. Because of the onboard observer program in this fishery, however, the risk of exceeding guideline harvest ranges and bycatch limits is low.

Many scallop beds straddle the three-mile state waters boundary, with a larger portion of the bed located in federal waters and a smaller portion in state waters. The federal license limitation program has no sunset clause associated with it and will therefore remain in place. If access was not limited on the state waters side and a number of vessels with unrestricted capacity began harvesting in state waters only, localized depletion of beds on the state waters side could occur. The fishery is managed as a single fishery with respect to establishment of guideline harvest ranges. Guideline harvest ranges are established by management areas irrespective of whether they lie within state and/or federal waters. In the example just mentioned where localized depletion might occur in state waters, the entire bed and surrounding area could potentially be closed indefinitely to protect the resource. This scenario would impact not only the state waters portion of the fishery, but also the federal fishery. Since implementation of the federal LLP program in 2001 and the state waters vessel limited entry permit system in 2004, a closure of this nature has not occurred.¹⁷

¹⁶ Kevin Duffy, Commissioner ADF&G, Response to CFEC information request on scallop fishery, Feb. 23, 2004.

¹⁷ Personal communication with Jeffrey P. Barnhart



ALASKA DEPARTMENT OF FISH AND GAME

MEMORANDUM

TO: Mary McDowell
Commissioner
Commercial Fisheries Entry Commission
Juneau

DATE: February 23, 2004

PHONE: (907) 486-1842
FAX: (907) 486-1824

FROM: Kevin Duffy
Commissioner
Alaska Department of Fish & Game
Juneau

SUBJECT: Response to CFEC
information request
on scallop fishery

In response to your request, dated February 4, 2004, following are responses to specific questions regarding potential limited entry for the weathervane scallop fishery. This memo reiterates each CFEC question, followed by the ADF&G response in italics.

1. ADF&G was actively involved in the development of the legislation for the temporary moratorium, and supported the legislation authorizing a permanent vessel-based limited entry program. ADF&G also took an active role in supporting and developing the federal license limitation program for scallops, citing concerns for scallop overharvest and harm to crab stocks through bycatch.

Under a permanent vessel-based limited entry program in state waters, the number of vessel licenses issued could be similar to the number of licenses currently allowed under the federal LLP (9). Although the number of licenses may be similar between the state and federal programs, the total number of vessels fishing in a management area could increase if the list of state-permitted vessels differs from the list of federal LLP vessels.

If the Commission were to implement the traditional operator-based program, we would be obligated to issue permits to individuals who have made landings on CFEC interim-use permits. It is currently unclear how many permits the Commission would issue under the traditional program, but it would likely be in the range of 10 to 13 permits¹. Under the traditional program, CFEC would have to develop a point system to rank eligible applicants for permits. CFEC estimates there would be approximately 27 eligible applicants under the

¹ This assumes the number of permits would be determined from the highest number of units of gear that recorded landing in state waters in any of the four years immediately preceding the 1997 state waters vessel moratorium. Commission records indicate there were maximums of 10 vessels and 13 permit holders with state waters landings over the 4-year period from 1993 to 1996.

traditional program². Until these persons' individual rankings are determined by the point system, they would continue to fish scallops in state waters.

Perhaps most importantly, individuals who would qualify for permits under the traditional program are likely to be different than those who qualified for licenses in the federal LLP. In this scenario, with a federal LLP in place in federal waters and the traditional CFEC program in state waters, the total number of operations in state and federal waters may be considerably larger than it has been in recent years.

With these considerations, and with the knowledge and experience ADF&G has with the scallop fishery:

- a) Does ADF&G support some form of limited access in the Alaska scallop fishery, in both state and federal waters?

ADF&G supports limited access in Alaska's weathervane scallop fishery in both state and federal waters due to the limited size of the weathervane scallop resource and concerns about crab bycatch.

- b) If so, does ADF&G support implementation of a permanent vessel-based limited entry program in state waters to help manage this fishery in the future, or would the department prefer a traditional operator-based limited entry program?

ADF&G supports implementation of a vessel-based limited entry program in state waters because it would result in fewer participants than a traditional operator-based limited entry program. Fewer participants would likely reduce crab bycatch. However, vessel limited entry permits issued for the statewide weathervane scallop fishery will expire as of December 31, 2008 unless statutory authority is extended.

- c) Would either of the two limited entry programs described herein – the traditional operator-based program or the vessel-based program – better enable the state to retain management authority in federal waters?

Adoption of either type of CFEC limitation program would not jeopardize the state's management authority in federal waters. In the exclusive economic zone (EEZ) NMFS has retained the authority to limit participation and fishing capacity. A state-waters vessel-based limited entry system would be similar to the federal-waters vessel-based limited access system.

2. It is our understanding that ADF&G estimates scallop abundance using a variety of techniques, including harvest and observer data, biological observations on scallop size, age, and sex, and scallop dredge surveys (in Cook Inlet and Prince William Sound). In your professional judgement:

- a) What is the status of scallop stocks statewide?

² Again, this assumes qualified applicants would be individuals who made scallop landings in state waters during the four most recent years prior to the 1997 moratorium.

In general, scallop stocks are healthy and not overfished. Statewide harvest levels have been well below MSY. However, the department has closed specific registration areas or portions of registration areas due to poor fishery performance and has also reduced allowable harvest in several registration areas as a precautionary measure. Additionally, there are many locations where state and federal waters are closed to scallop dredging to protect habitats important to scallops and other species. Based on historic fishing effort, department marine surveys, and other data sources, many of the closed areas are known to contain populations of weathervane scallops. These unfished populations are thought to contribute to the enhancement of the commercially fished beds.

In Amendment 6 to the Fishery Management Plan for the Scallop Fishery off Alaska, Maximum Sustainable Yield (MSY) is defined as 1.24 million pounds of scallop meats. MSY is based on the average catch from 1990-1997, excluding 1995 when the fishery was closed. Optimum Yield (OY) is defined as 0 to 1.24 million pounds, and the overfishing control rule is defined as a fishing rate in excess of the natural mortality rate, which has been estimated as $M=0.13$ (12% per year) statewide. At this time, abundance is estimated for two of the nine registration areas. The fishery is managed conservatively with harvest levels well below MSY (39 to 66% of MSY since establishment of MSY).

- b) Does ADF&G think any new areas with substantial numbers of scallops will open to fishing?

In the recent past, commercially viable scallop beds have been discovered within registration areas open to commercial scallop fishing and it is likely in the future that similar discoveries will be made. In addition, there are areas known to have populations of weathervane scallops that are closed to scallop fishing by regulation to protect habitat and other marine resources. For example, the area in the vicinity of Chirikof Island, south of Kodiak Island is known to have a population of weathervane scallops that could be of commercial quantity; however, it was closed to scallop fishing over 30 years ago to protect red king crab. It is unknown if these areas, closed by the Board of Fisheries, would reopen in the future.

- c) Will populations and corresponding harvest likely increase or decrease substantially in the foreseeable future?

Wild populations of marine bivalves, including weathervane scallops, rise and fall depending to a large degree on environmental conditions. Barring an unfavorable change in environmental conditions or disease outbreak the department would expect the statewide weathervane scallop population to remain stable or perhaps increase slightly in the foreseeable future.

Since the formation of the voluntary scallop cooperative and voluntary removal of vessels from the fishery, the harvesting capacity of the remaining fleet has decreased. For example, in the Yakutat Registration Area (Area D and D16), approximately 110,000 pounds of scallop meats were left unharvested annually in both the 2001/02 and 2002/03

regulatory seasons. Changes to the number of participants in the weathervane scallop fishery, economic conditions, fishing behavior, or other factors would likely increase or decrease the scallop harvest independent of annual scallop guideline harvest ranges.

3. As mentioned, there are currently 9 licenses qualified to fish in federal waters under the NMFS license limitations program. Under the state vessel moratorium, 10 vessels are qualified to fish in state waters. Before access was limited through state and federal moratoriums in 1997, as many as 17 vessels participated in the statewide federal and state-waters fishery. Does the department believe improved management and conservation of the resource results from the number of vessels limited by the moratorium?

Yes. From inception of the weathervane scallop fishery in 1967 through mid May 1993, the scallop fishery was passively managed employing minimal management measures such as a minimum ring size, season dates, and closed waters to protect crabs and crab habitat. As catches declined in one bed, vessels moved to better grounds. While this serial harvest pattern may have been generally acceptable for a sporadic low intensity fishery, increased participation led to boom and bust cycles experienced from 1967-1992.

After the boom cycle in the early 1980s when as many as 18 vessels fished outside of Cook Inlet, annual participation has ranged from four to nine vessels until 1994, when the number of vessels increased to 15 outside of Cook Inlet. This increase prompted concerns from the department and scallop industry about weathervane scallop resource conservation and impacts on depressed stocks of red king crab and Tanner crab. The resulting State of Alaska Scallop Fishery Management Plan (5 AAC 38.076) combined with the state vessel moratorium and the Federal Scallop Fishery Management Plan and amendments including a license limitation program, have contributed to the elimination of the boom and bust cycles in both state and federal waters. A reduction in the number of participants in the fishery combined with the onboard observer program, gear and crew restrictions, and guideline harvest ranges (GHR), has been key to the success of the management plans.

4. The Commission is concerned that the purposes and benefits of limiting the weathervane scallop fishery could be diminished if there are no restrictions on the expansion of fishing capacity for individual fishing operations. Under both the traditional program and the new vessel permit law, the Commission has the authority to issue permits with fishing capacity constraints if it serves the statutory purposes of limited entry. These could include gear restrictions, or restrictions on the length of the vessel that may be used in the fishery. The constraints would continue to apply upon transfer of the permit or, in the case of vessel permits, upon substitution of a vessel.
- a) Licenses issued in the federal scallop LLP have maximum vessel lengths attached to them. The license must be used on a vessel that is no greater in length than the vessel used to qualify under the program. In the current proposal for state waters, CFEC suggests similar capacity constraints based upon vessel lengths.
- i) In the absence of any fishing capacity constraints, does the department believe that fishing effort and capacity may grow in the weathervane scallop fishery after limited entry is implemented?

In the absence of fishing capacity constraints, fishing capacity would likely increase in state waters outside of Cook Inlet. If vessel size were unrestricted, it is likely that participants with small boats would upgrade to larger boats and be able to use larger size dredges. By Board of Fisheries regulation, all vessels fishing in Registration Area H, Cook Inlet, are limited to a single six foot dredge. Furthermore, two vessels are limited by the LLP to a single six foot dredge in federal waters, inside or outside of Cook Inlet.

- ii) Could unrestricted fishing capacity in the weathervane scallop fishery produce management or conservation concerns, such as short seasons with a higher risk of exceeding guideline harvests or high levels of bycatch?

The department has the authority to require 100% onboard observer coverage. So long as this coverage is required, the risk of exceeding the scallop GHR or crab bycatch limits (CBLs) is small. Data collected by observers are key to successful inseason management.

If access was not limited and numerous vessels with unrestricted fishing capacity targeted state waters only, a conservation concern could arise because weathervane scallop beds typically straddle the three-mile boundary with generally a smaller portion of the scallop bed in state waters and a larger portion in federal waters. Therefore localized depletion could occur in the state-waters portion of management areas. The department lacks information necessary to set harvest levels for portions of a scallop bed.

- iii) Would vessel length constraints attached to permits be a meaningful way to limit the expansion of fishing effort and capacity (premised on the original lengths of qualifying vessels)?

It would be appropriate to use vessel length constraints to limit expansion of the fishery in state waters. If small vessels were allowed to participate unrestricted in the statewide areas, these vessels would be expected to increase in size to handle larger gear, crew size and weather. Similarly, the Federal LLP utilizes vessel length constraints to limit expansion of the fishery in federal waters.

- b) The limited federal scallop licenses are valid for all federal waters off of Alaska. However, some licenses have specific gear endorsements for only a single 6-foot scallop dredge if the license was issued based upon a fishing history in Cook Inlet, where this gear restriction applies.

CFEC's proposed regulation for a vessel permit program in state waters also contains a single statewide area and a capacity restriction of a single 6-foot dredge for any permits issued to vessels that have a fishing history only in the Cook Inlet registration area.

- i) Is ADF&G comfortable with CFEC defining a single statewide administrative area for limited entry permits in the weathervane scallop fishery? If not, what CFEC administrative areas would ADF&G advocate?

A single statewide administrative area is an appropriate approach. This single administrative area should encompass the nine scallop registration areas described in 5 AAC 38 076 Alaska Scallop Management Plan. Also, a single administrative area is consistent with provisions of the plan that apply statewide, the only exception being the dredge gear requirements specific to the Cook Inlet Registration Area.

- ii) Does ADF&G believe it is necessary for CFEC to constrain vessel permits for vessels that have fished only in Cook Inlet to a single 6-foot dredge, given that the Board of Fisheries already has a regulation for 6-foot dredges in Cook Inlet and that the Commission has proposed a vessel length constraint for vessel permits?

Regulation 5 AAC 38.322 limits scallop gear in Registration Area H (Cook Inlet) in both state and federal waters to a single 6-foot dredge. The federal LLP also limits two vessels to a single 6' dredge, statewide.

No, it would not be necessary to restrict those vessels already limited by regulation to a single 6-foot dredge in Cook Inlet while fishing in state waters outside of Cook Inlet. Currently two vessels that fish primarily in Registration Area H are restricted under the federal LLP, to a single 6-foot dredge while fishing in federal waters outside of area H. If there are no gear restrictions in state waters outside of area H, those two vessels could fish up to the legal limit of two, 15-foot dredges in state waters but only a single 6-foot dredge in federal waters. This situation currently exists with a single scallop vessel.

Vessel length and width, more than other factors such as horsepower, limit fishing capacity in the weathervane scallop fishery. Small vessels in the 58 to 78 feet LOA range that typically fish Cook Inlet with a single six foot dredge, potentially have the capacity to fish two dredges. However, due to vessel size constraints it would be very difficult for vessels in that size range to fish two 15 foot dredges, which is the maximum allowed in the Alaska Scallop Management Plan. Deck space is very limited on the small processor vessels. Some vessels could however, fish two smaller sized dredges. Small scallop vessels are also limited by weather and sea conditions, which could limit their participation in the state water fishery outside of Cook Inlet, to a few summer months each year.

Kurt S

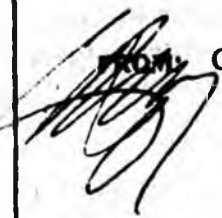
MEMORANDUM

STATE OF ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION

TO: Kevin Duffy, Commissioner
Dept. of Fish and Game
M/S: 1100

DATE: February 4, 2004

PHONE: (907) 789-6160 VOICE
(907) 789-6170 FAX



FROM: Commercial Fisheries Entry Commission
Bruce Twomley, Chairman
Mary McDowell, Commissioner
Frank Homan, Commissioner

SUBJECT: State waters scallop fishery limitation

In 1997, the Alaska legislature enacted a temporary moratorium on vessels for the state waters and Area H weathervane scallop fisheries. In 2001, the legislature authorized a 3-year extension of the moratorium; it is due to expire on July 1, 2004. During the 2002 legislative session, passage of CSHB206(RLS) am S resulted in changes to the limited entry statutes, authorizing use of a permanent vessel-based limited entry program in the weathervane scallop fishery and the Bering Sea hair crab fishery.

Under provisions of Amendment 3 of the Federal Management Plan (FMP) for scallops, the Alaska Department of Fish and Game (ADF&G) manages all aspects of the scallop fishery except for limited access in federal waters of Alaska. The National Marine Fisheries Service has implemented a license limitation program (LLP) for scallop fishing in federal waters; nine licenses have been issued to vessel owners. There is concern that many new vessels could enter state waters in the scallop fishery should the state waters vessel moratorium expire without a limited entry program in place.

Considering this situation, and the characteristics of the fishery, the Commission has decided to propose limited entry using the new authority to issue permits to vessels that have a history of participation in the weathervane scallop fishery. The comment period for the proposal extends from January 23 to February 23. Because ADF&G manages the scallop fishery, the Commercial Fisheries Entry Commission (CFEC or Commission) seeks the department's advice and expert opinion on matters that directly influence decisions on limited entry in the fishery. Any help or guidance ADF&G can provide during the comment period is greatly appreciated.

Questions:

- I. ADF&G was actively involved in the development of the legislation for the temporary moratorium, and supported the legislation authorizing a permanent vessel-based limited entry program. ADF&G also took an active role in supporting and developing the federal license limitation program for scallops, citing concerns for scallop overharvest and harm to crab stocks through bycatch.

Under a permanent vessel-based limited entry program in state waters, the number of vessel licenses issued could be similar to the number of licenses currently allowed under the federal LLP (9). Although the number of licenses may be similar between the state and federal programs, the total number of vessels fishing in a management area could increase if the list of state-permitted vessels differs from the list of federal LLP vessels.

If the Commission were to implement the traditional operator-based program, we would be obligated to issue permits to individuals who have made landings on CFEC interim-use permits. It is currently unclear how many permits the Commission would issue under the traditional program, but it would likely be in the range of

10 to 13 permits¹. Under the traditional program, CFEC would have to develop a point system to rank eligible applicants for permits. CFEC estimates there would be approximately 27 eligible applicants under the traditional program.² Until these persons' individual rankings are determined by the point system, they could continue to fish scallops in state waters.

Perhaps most importantly, individuals who would qualify for permits under the traditional program are likely to be different than those who qualified for licenses in the federal LLP. In this scenario, with a federal LLP in place in federal waters and the traditional CFEC program in state waters, the total number of operations in state and federal waters may be considerably larger than it has been in recent years.

With these considerations, and with the knowledge and experience ADF&G has with the scallop fishery:

- a) Does ADF&G support some form of limited access in the Alaska scallop fishery, in both state and federal waters?
 - b) If so, does ADF&G support implementation of a permanent vessel-based limited entry program in state waters to help manage this fishery in the future, or would the department prefer a traditional operator-based limited entry program?
 - c) Would either of the two limited entry programs described herein – the traditional operator-based program or the vessel-based program – better enable the state to retain management authority in federal waters?
2. It is our understanding that ADF&G estimates scallop abundance using a variety of techniques, including harvest and observer data, biological observations on scallop size, age, and sex, and scallop dredge surveys (in Cook Inlet and Prince William Sound). In your professional judgment:
- a) What is the status of scallop stocks statewide?
 - b) Does ADF&G think any new areas with substantial numbers of scallops will open to fishing?
 - c) Will populations and corresponding harvests likely increase or decrease substantially in the foreseeable future?
3. As mentioned, there are currently 9 licenses qualified to fish in federal waters under the NMFS license limitation program. Under the state vessel moratorium, 10 vessels are qualified to fish in state waters. Before access was limited through state and federal moratoriums in 1997, as many as 17 vessels participated in the statewide federal and state-waters fishery. Does the department believe improved management and conservation of the resource results from the number of vessels limited by the moratorium?
4. The Commission is concerned that the purposes and benefits of limiting the weathervane scallop fishery could be diminished if there are no restrictions on the expansion of fishing capacity for individual fishing operations. Under both the traditional program and the new vessel permit law, the Commission has the authority to issue permits with fishing capacity constraints if it serves the statutory purposes of limited entry. These could

¹ This assumes the number of permits would be determined from the highest number of units of gear that recorded landings in state waters in any of the four years immediately preceding the 1997 state waters vessel moratorium. Commission records indicate there were maximums of 10 vessels and 13 permit holders with state waters landings over the 4-year period from 1993 to 1996.

² Again, this assumes qualified applicants would be individuals who made scallop landings in state waters during the four most recent years prior to the 1997 moratorium.

include gear restrictions, or restrictions on the length of the vessel that may be used in the fishery. The constraints would continue to apply upon transfer of the permit or, in the case of vessel permits, upon substitution of a vessel.

- a) Licenses issued in the federal scallop LLP have maximum vessel lengths attached to them. The license must be used on a vessel that is no greater in length than the vessel used to qualify under the program. In the current proposal for state waters, CFEC suggests similar capacity constraints based upon vessel lengths.
 - i) In the absence of any fishing capacity constraints, does the department believe that fishing effort and capacity may grow in the weathervane scallop fishery after limited entry is implemented?
 - ii) Could unrestricted fishing capacity in the weathervane scallop fishery produce management or conservation concerns, such as short seasons with a higher risk of exceeding guideline harvests or high levels of bycatch?
 - iii) Would vessel length constraints attached to permits be a meaningful way to limit the expansion of fishing effort and capacity (premised on the original lengths of qualifying vessels)?

- b) The limited federal scallop licenses are valid for all federal waters off of Alaska. However, some licenses have specific gear endorsements for only a single 6-foot scallop dredge if the license was issued based upon a fishing history in Cook Inlet, where this gear restriction applies.

CFEC's proposed regulation for a vessel permit program in state waters also contains a single statewide area and a capacity restriction of a single 6-foot dredge for any permits issued to vessels that have a fishing history only in the Cook Inlet registration area.

- i) Is ADF&G comfortable with CFEC defining a single statewide administrative area for limited entry permits in the weathervane scallop fishery? If not, what CFEC administrative areas would ADF&G advocate?
- ii) Does ADF&G believe it is necessary for CFEC to constrain vessel permits for vessels that have fished only in Cook Inlet to a single 6-foot dredge, given that the Board of Fisheries already has a regulation for 6-foot dredges in Cook Inlet and that the Commission has proposed a vessel length constraint for vessel permits?

- cc. **Doug Mecum; Director, Division of Commercial Fisheries**
Denby Lloyd; Regional Supervisor, Westward Region, Commercial Fisheries Division
Jeff Regnart; Regional Supervisor, Central Region, Commercial Fisheries Division
Andy McGregor; Regional Supervisor, Southeast Region, Commercial Fisheries Division
Earl Krieger, Extended Jurisdiction Coordinator, Commercial Fisheries Division
Wayne Donaldson; Regional Shellfish and Groundfish Management Biologist, Westward Region
James Browning; Regional Finfish, Shellfish, and Groundfish Management Biologist, Central Region
Kyle Hebert; Marine Fisheries Supervisor, Southeast Region
Mike Ruccio; Area Management Biologist, Westward Region
Bob Berceli; Area Management Biologist, Prince William Sound
Charlie Trowbridge, Area Management Biologist, Cook Inlet/Prince William Sound
Gretchen Bishop, Shellfish Project Leader, Southeast
Jeff Barnhart; Statewide Scallop Observer Program Coordinator

**State of Alaska
Commercial Fisheries Entry Commission**

**Bering Sea Hair Crab Vessel Permit Holders
March 27, 2007**

Vessel Permit Holder Name	Company/Contact Person	Vessel Name	Permit
Marwin Inc. PO Box 509 Petersburg, AK 99833	John Winther, President Bert Winther, Vice President	Theresa Marie ADFG# 00034 93 ft.	E 91QV 85001 O Initial permit holder Initial vessel
Mattsen Fisheries Inc. PO Box 2686 Poulsbo, WA 98370	Daniel Mattsen, President John Walsh, Secretary	Shaman ADFG# 00036 110 ft.	E 91QV 85003 Z Initial permit holder Initial vessel
Royal Viking, Inc. 5303 Shilshole Ave NW Seattle, WA 98107	Trident Seafoods Charles H. Bundrant, President	Royal Viking ADFG#03718 108 ft.	E 91QV 85005 J Initial permit holder Initial vessel
American Star & Owners 14010 154th Ave SE Renton, WA 98059	Overa Fisheries Roger and Linda Overa Hjelle Enterprises, Inc. Mark Hjelle and Karen Clausen	American Star ADFG#08369 154 ft.	Initial permit holder (no serial no. issued) Vessel lost to fire
Pacesetter Mariner, Inc. 3762 S. 349th Pl. Auburn, WA 98001	Pamela Pope, President	Pacesetter ADFG# 21436 127 ft.	Initial permit holder (no serial no. issued) Vessel lost at sea
RSD (Ocean Cape), LLC PO Box 12946 Mill Creek, WA 98052	Robert Resoff, Inc George Steers, President Estate Trust of Robert Resoff George Steers, Co-Executor Linda Seven, Co-Executor	Ocean Cape ADFG# 29933 10C ft.	E 91QV 85017 Q Permit by transfer Initial vessel
Coastal Villages Region Fund 711 H St. #200 Anchorage, AK 99501	Coastal Villages Region Fund (CDQ) C. Morgan Crow, Agent	Arctic Sea ADFG# 33696 134 ft.	E 91QV 85010 U Permit by transfer Initial vessel

**State of Alaska
Commercial Fisheries Entry Commission**

**Bering Sea Hair Crab Vessel Permit Holders
March 27, 2007**

Vessel Permit Holder Name	Company/Contact Person	Vessel Name	Permit
Coastal Villages Region Fund 711 H St. #200 Anchorage, AK 99501	Coastal Villages Region Fund (CDQ) C. Morgan Crow, Agent	North Sea ADFG# 36047 126 ft.	E 91QV 85011 M Permit by transfer Initial vessel
MGF Fisheries 1216 NW Blakely CT. Seattle, WA 98177	Mason Williams, President Gary Stewart, VP	Polar Lady ADFG# 36822 105 ft.	E 91QV 85002 H Initial permit holder Initial vessel
F/V Maverick, LLC 1645 SW 14th St. Warrenton, OR 97146	Richard Quashnick, President Donna Quashnick, VP	Maverick ADFG# 45706 92 ft.	E 91QV 85004 Q Initial permit holder Initial vessel
American Eagle LLC 1212 NW Culbertson Dr. Seattle, WA 98177	Tynes Enterprises, Inc Reidar and Linda Tynes Wabey Enterprises, Inc. Joseph Wabey Hjelle Enterprises, Inc Mark Hjelle and Karen Clausen	American Eagle ADFG# 00039 118 ft.	E 91QV 85000 W Permit by transfer Vessel by substitution
Tamarack Ventures, LLC PO Box 7899 Kent, WA 98042	Kale Garcia	Aquila ADFG# 62505 155 ft.	E 91QV 85009 E Initial permit holder Initial vessel
Time Bandit, LLC PO Box 3843 Homer, AK 99603	Phillip Hillstrand, President	Time Bandit ADFG# 65577 110 ft.	E 91QV 85006 B Initial permit holder Initial vessel

**State of Alaska
Commercial Fisheries Entry Commission**

Bering Sea Hair Crab Vessel Permit Holders

March 27, 2007

Vessel Permit Holder Name	Company/Contact Person	Vessel Name	Permit
North Pacific LLC 620 8th St. S Kirkland, WA 98033	AK Beauty J/V Partners North Pacific Enterprises Ocean Olympic Fisheries, Inc. Norton Sound Investment Co. LLC Russel Moore, contact person	North Pacific ADFG# 06205 97.5 ft.	E 91QV 85019 B Initial permit holder Initial vessel
Ocean Olympic LLC 620 8th St. S Kirkland, WA 98033	AK Beauty J/V Partners North Pacific Enterprises Ocean Olympic Fisheries, Inc. Norton Sound Investment Co. LLC Russel Moore, contact person	Ocean Olympic ADFG# 56111 166 ft.	E 91QV 85020 R Initial permit holder Initial vessel
Zolotoi Partnership PO Box 1064 Sitka, AK 99835	Zolotoi Management Inc Gordon Blue Orca Fisheries, Inc. Jon Jorgenson AK Offshore LLC PBS Vessel Manage - CDQ CBSFC-CDQ	Zolotoi ADFG# 40917 102 ft.	Former owner of vessel Initial Permit Holder (No serial no. issued) Initial vessel
Ocean Ventures, LLC PO Box 12946 Mill Creek, WA 98082-0946	Mike Sheiford, contact person	Zolotoi ADFG# 40917 102 ft.	Current owner of vessel (No serial no. issued) Initial vessel

A Brief Overview of the Bering Sea Hair Crab Fishery and the Vessel Limited Entry Program

**CFEC Report No. 07-1N
February 2007**

**Prepared by
Cathy Tide**

**State of Alaska
Commercial Fisheries Entry Commission
8800 Glacier Hwy, Suite 109
P.O. Box 110302
Juneau, Alaska 99811-0302**

A Brief Overview of the Bering Sea Halibut Fishery
and the Vessel Limited Entry Program

OEO/ADA Compliance Statement

The Commission is administratively attached to the Alaska Department of Fish and Game (ADF&G).

The Alaska Department of Fish and Game (ADF&G) administers all programs and activities free from discrimination based on race, color, national origin, age, sex, religion, marital status, pregnancy, parenthood, or disability. The department administers all programs and activities in compliance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and Title IX of the Education Amendments of 1972.

If you believe you have been discriminated against in any program, activity, or facility please write:

- ADF&G ADA Coordinator, P.O. Box 115526, Juneau, AK 99811-5526.
The department's ADA Coordinator can be reached via phone at the following numbers: (VOICE) 907-465-6077, (Statewide Telecommunication Device for the Deaf) 1-800-478-3648, (Juneau TDD) 907-465-3648, or (FAX) 907-465-6078.
- U.S. Fish and Wildlife Service, 4040 N. Fairfax Drive, Suite 300 Webb, Arlington, VA 22203
- Office of Equal Opportunity, U.S. Department of the Interior, Washington DC 20240.

For information on alternative formats and questions on this publication, please contact the following:

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Abstract

In 2002 the Alaska State Legislature passed a law authorizing CFEC to implement a vessel-based limitation. CFEC adopted regulations establishing a vessel-based limited entry program in the Bering Sea hair crab fishery in 2003. The law, which allows the vessel-based limitation, expires on December 30, 2008. House Bill 16 was introduced in January 2007 in the 25th Alaska Legislature. The bill would delay the sunset date for the vessel permit program until December 30, 2013. This report provides the Alaska Legislature with a brief overview of the Bering Sea hair crab fishery, the vessel moratorium, and the vessel-based limitation.

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1.0 Introduction

In 1979, American vessels began participating in the Bering Sea hair crab fishery. Over the history of the fishery, participation and harvest fluctuated. In 1995 and 1996, the Commercial Fisheries Entry Commission (CFEC or commission) received petitions requesting limited entry in the hair crab fishery. Research into patterns of hair crab participation indicated that limiting the fishery under the state's traditional program would be problematic. Under Alaska's traditional limited entry program, CFEC must award permits only to individuals (permit holders) with a history of landings in the fishery. Limitation under the person-based program could have resulted in increases in participation even after limited entry was implemented, thereby diminishing the benefits and statutory purposes of the program.

CFEC and representatives from the hair crab fleet pursued legislation that would allow CFEC to issue permits that were tied to vessels rather than persons since a vessel-based limited entry program might provide the intended benefits and meet the statutory purposes of limited entry more readily. In 2002, the Alaska State Legislature approved a vessel-based program for the Bering Sea hair crab and weathervane scallop fisheries. The bill included a sunset provision specifying that the law expires on December 30, 2008.

CFEC adopted regulations in 2003 establishing a vessel-based limited entry program in the Bering Sea hair crab fishery. In 2004 the program was implemented; vessel owners applied for vessel entry permits and CFEC issued permits to qualified vessels. The Bering Sea hair crab fishery has been closed since 2000 due to low stock abundance. It was felt at the time of the limitation that if stock levels rose, limitation might help re-open the hair crab fishery and help avoid future closures of the fishery since fishing pressure would be restricted through a limited fleet size.

House Bill 16 was introduced in January 2007 in the 25th Alaska Legislature. The bill would delay the sunset date for the vessel permit program until December 30, 2013. This report provides the Alaska Legislature with a brief overview of the Bering Sea hair crab fishery, the vessel moratorium, and the vessel-based limitation.

2.0 The Bering Sea Hair Crab Fishery

The Bering Sea hair crab (*Erimacrus isenbeckii*) fishery is a small fishery that has usually occurred in the Pribilof Islands area of the Bering Sea. The hair crab fishery was originally pioneered by the Japanese during the 1960's and targeted by American vessels beginning in 1979. In 1980 a yearlong permit fishery was established within a three-mile area of the Pribilof Islands, then in 1984 the hair crab fishery was expanded in the Bering Sea District. Figure 1 indicates the area in which the Bering Sea hair crab fishery was prosecuted.¹

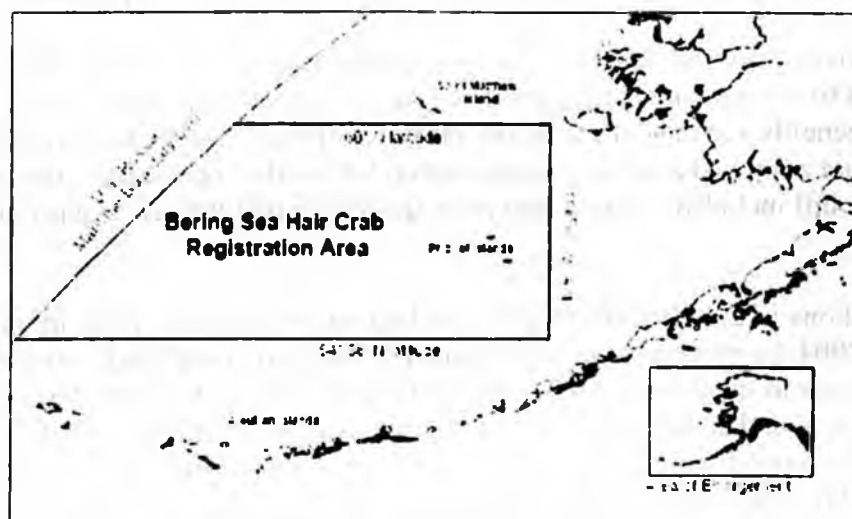


Figure 1. Bering Sea Hair Crab Fishing Area. Source: *Annual Management Report for the Commercial and Subsistence Shellfish Fisheries of the Aleutian Islands, Bering Sea and the Westward Region's Shellfish Observer Program, 2003*. ADF&G Regional Information Report No. 4K04-43, September 2004. Figure 2-13.

In December 1995 and January 1996 the Commercial Fisheries Entry Commission (CFEC or commission) received two petitions requesting limited entry in the Bering Sea hair crab fishery. One petition noted a sharp increase in the number of hair crab vessels that participated in the 1995 season. The petitioners claimed this caused a shorter season, with more gear conflicts and higher amounts of wastage due to lost and tangled gear. The petitioners also expressed concern that spillover of vessels from other Bering Sea fisheries, which were experiencing depressed stock levels, could impact the hair crab fishery, adding even more vessels in future years and complicating conservative management of hair crab. The petition indicated the hair crab fishery was not included in a federal fishery management plan, and therefore was not subject to a federal restricted access program.

¹ There is no formal hair crab registration area established in ADF&G regulations, and as such, the fishing area is established using the terms of a commissioner's permit. ADF&G uses king crab management area, district, and section descriptions for in-season management of the fishery. Between 1997 and 2003, CFEC vessel moratorium permits and interim-use permits issued to skippers participating in the fishery were issued for waters north of 54° 36' N. lat., south of 58° 39' N. lat., and east of the United States - Russia Convention line of 1867. From 2004 onward, CFEC interim-use permits issued to skippers participating in the fishery are for waters described in 5 AAC 31.505(e), the Tanner crab Bering Sea District of Area J (Westward Region). Vessel limited entry permits for the Bering Sea hair crab fishery are for waters of the Bering Sea District as described in 5 AAC 35.505(e) that are beyond five miles from shore.

Research into patterns of hair crab participation indicated that limiting the fishery under the state's traditional program might not be appropriate for this fishery. First, many vessels had been operated by more than one person, so the total number of permit holders with landings significantly exceeded the actual number of units of gear in the fishery. Limitation under the person-based program would likely have resulted in a potential increase in fishing effort even after limited entry was implemented, diminishing the benefits and statutory purposes of the program. A vessel-based permit program could achieve the purposes of limited entry in a more efficient manner than a person-based permit program, largely because the number of vessels with landings was considerably less than the number of persons who recorded landings, and fewer permits were likely to be issued under the vessel-based system.

Second, the traditional owner/operator fishing operation, which is characteristic of Alaska's salmon, herring, and other small-boat fisheries in state waters, was the model upon which the person-based limited entry program was designed. The Bering Sea hair crab fishery is characterized by larger boats that fish far offshore, a majority of which is owned by corporations or partnerships. A vessel-based program was thought to better preserve the character of the fishery and the place of all participants in the fishery – for vessel owners, skippers, and crewmen. If vessel permits were issued to vessel owners, qualifying operations could continue to fish in the same manner as they did in the open access and moratorium years.

3.0 The Moratorium and Development of a Vessel-Based Limitation

There was a risk associated with allowing the hair crab fishery to remain under open access while a vessel-based program was analyzed, debated, and potentially passed by the legislature: more boats could enter the fishery during the interim, adding to the existing conservation and economic problems. Recognizing this potential problem, the legislature passed a bill establishing a temporary moratorium for new vessels in the hair crab fishery in 1996. The moratorium went into effect on July 4, 1996 and was scheduled to expire on June 30, 2000.² Only vessels that made legal hair crab landings in the directed Bering Sea hair crab fishery from 1993 to 1995 were eligible for permits to fish during the moratorium.

The moratorium law directed the Alaska Department of Law and CFEC to draft legislation that would give CFEC the authority to implement vessel-based limited entry programs in fisheries in which traditional person-based limited entry programs would not effectively fulfill the commission's statutory duties. The proposed bill was introduced and referred to the Senate Resources Committee in 1999 as Senate Bill 143. No hearings were scheduled for the bill; it stayed in the Resources Committee and the legislature took no action on the bill. In 2000, CFEC again asked for the bill to be scheduled for consideration, but again it did not leave the committee. At the end of the 2000 session, SB 143 died. The legislature passed House Bill 429, which extended the moratorium until July 2003, when it became apparent during the 2000 session that legislation for a vessel permit program might not pass.³

During the 2002 legislative session, CFEC provided a draft bill to the legislature to authorize a vessel-based limited entry program. The draft bill was reworked by legislative counsel and was significantly amended in the House Resources Committee to allow CFEC to use this authority only in the Bering Sea hair crab and weathervane scallop fisheries. The amended bill passed the state House and was sent to the Senate Resources Committee. After passing through the Senate Resources and Judiciary committees, the bill was amended on the Senate floor to add a sunset provision specifying that the law expire on December 30, 2008.⁴

² See Section 3, ch. 126, SLA 1996.

¹ See Ch. 30, SLA 2000.

⁴ See Section 2, ch. 137, SLA 2002.

4.0 Bering Sea Hair Crab Vessel Limitation

On February 14, 2003, CFEC issued a notice of proposed regulation changes to establish a vessel permit limited entry program for the Bering Sea hair crab pot fishery. The notice invited public comment on the regulations and established a comment period from February 14 through April 2, 2003. Two public hearings were held by teleconference during the public comment period. After reviewing and considering all comments, the commission held a scheduled public meeting on June 5, 2003. At this meeting, the commission could either adopt the regulations as proposed, or adopt an amended form of the regulations, or take no action. The commission voted unanimously to accept several amendments to the original proposal and to adopt the regulations as amended. These regulations became effective on September 21, 2003. Principal elements of the adopted regulations included:

- Limitation of the Bering Sea hair crab fishery with vessel permits issued to vessel owners.
- To qualify for a permit, a vessel must have participated in at least 1 year from 1993 through 1995 and 1 year from 1996 through 2002 *or* at least 2 years from 1993 through 1995.
- No person or entity may hold an ownership interest in more than 2 vessel permits, unless the ownership existed at initial issuance.
- Permanent substitution of vessels is allowed, but the substitute vessel may not exceed the overall length of the original qualifying vessel.
- Vessel permits are transferable.
- The Bering Sea administrative area corresponds to the waters of the ADF&G Bering Sea management district for hair crab that are beyond five miles from shore.

The application period for a vessel entry permit in the Bering Sea hair crab fishery began January 2, 2004 and ended April 15, 2004. During this time the commission received twenty applications from vessel owners. Applications were evaluated, and based on qualification standards outlined in the regulations, sixteen of the vessels qualified for permits, two did not qualify, and two are still pending before the commission. Table 1 indicates the sixteen vessels and their owners that qualified for a Bering Sea hair crab vessel entry permit.⁵

⁵ Between December 13, 2003 and January 19, 2005, NMFS administered a capacity reduction program (buyback) in the Bering Sea/Aleutian Islands crab fisheries. Four vessels that qualified for a Bering Sea hair crab vessel entry permit were bought out under the federal buyback program. This raises the legal question: must a vessel owner who was bought out through this federal program relinquish a state issued permit based on the vessel's fishing history? An additional implication of the buyback is that these four vessels are prohibited from participating in any future commercial fishing activities for any species, including hair crab.

Table 1. Qualifying Vessels for Bering Sea Hair Crab Vessel Entry Permits and Their Owners.¹

Vessel Name	ADFG Number	Vessel Length	Vessel Owner
American Star	06369	154	American Star & Owners
Aquila	62505	165	Tamarak Ventures LLC
Arctic Eagle	61111	126	Arctic Eagle LLC
Arctic Sea	33696	134	Kristian E. Poulsen Ent. Inc.
Maverick	45706	92	F/V Maverick LLC
North Pacific	06205	96	North Pacific LLC
North Sea	36047	126	Kristian E. Poulsen Ent. Inc.
Ocean Cape	29923	98	Ocean Cape LLC
Ocean Olympic	56111	166	Ocean Olympic LLC
Pacesetter	21436	127	Pacesetter Mariner, Inc.
Polar Lady	36822	105	MGF Fisheries Inc.
Royal Viking	03718	108	Royal Viking Inc.
Shaman	00036	110	Mattsen Fisheries Inc.
Theresa Marie	00034	93	Marwin Inc.
Time Bandit	65577	113	Time Bandit LLC
Zolotoi	40917	102	Zolotoi General Partnership

¹ The vessel owner at the time of the application for a vessel entry permit.

In traditional, person-based limited entry fisheries, permits are only issued to natural persons. Each permit holder is required to declare his or her residency when they are issued a permit, and again each year when they renew their permits. In vessel-based limited entry fisheries, permits are issued to vessel owners regardless of whether they are a natural person or an entity. In many cases the entity reflects a complex structure of natural persons and/or other entities. Because entities do not have residency in the same sense that natural persons do, recipients of vessel entry permits are not required to declare a residency. As a result, CFEC is not able to provide a breakdown of resident and nonresident permit holders, as is typically done for the traditional, person-based limited entry fisheries.

5.0 Current Status of the Hair Crab Resource and Fishery

The National Marine Fisheries Service (NMFS) estimates the distribution and abundance of the hair crab resource in the eastern Bering Sea each year when it conducts its annual Eastern Bering Sea Trawl Survey. Figure 2 indicates the estimated abundance of large male hair crab in the Bering Sea from the NMFS survey for 1980 through 2006.⁶ Between 1980 and 2006, the hair crab population has seen a dramatic decline. The estimated levels in 2005 were just 2.0% of the 1980 population. A slight increase in large male abundance was detected in the 2006 survey, but overall, the estimated population is a small fraction of initial levels seen for hair crab.

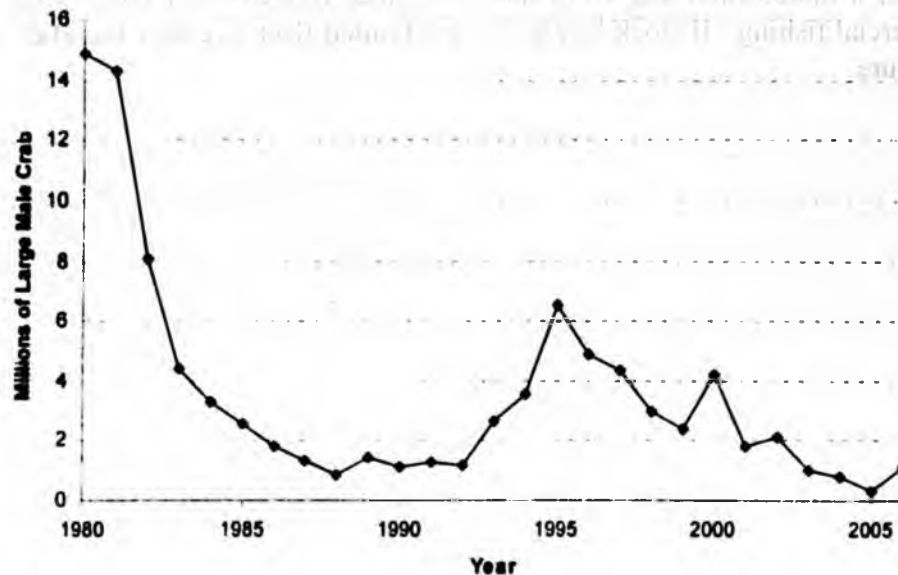


Figure 2. Estimated Abundance of Large Male Hair Crab in the Bering Sea, 1980-2006. Source of data: Rugolo, L.J., E.A. Chilton, C.E. Armistead, and J.A. Haaga. 2006. *Report to industry on the 2006 Eastern Bering Sea crab survey*. AFSC Processed Rep. 2006-17, 61 p. Alaska Fish. Sci. Cent., NOAA, Natl. Mar. Fish. Serv., Kodiak Fish. Res. Cent., 301 Research Court, Kodiak, AK 99615-7400 and Stevens, B.G., R.S. Otto, J.A. Haaga, and R.A. MacIntosh. 1998. *Report to industry on the 1997 Eastern Bering Sea crab survey*. AFSC Processed Rep. 98-02, Alaska Fish. Sci. Cent., NOAA, Natl. Mar. Fish. Serv., P.O. Box 1638, Kodiak AK 99615-1638.

Population trends and weak performance in commercial fisheries indicate that the Bering Sea hair crab population is severely depressed. Despite closure of the commercial fishery since 2000, the hair crab resource has not begun to rebuild.⁷ Much of the important hair crab habitat near the Pribilof Islands is closed to bottom trawling, so the traditional hair crab fishing grounds are fairly protected. Since 2000 there has been minimal human-caused hair crab mortality and there is very little bycatch of hair crab in other fisheries. It is likely that the population remains low due to poor recruitment, changes in

⁶ Abundance estimates were obtained from: Rugolo, L.J., E.A. Chilton, C.E. Armistead, and J.A. Haaga. 2006. *Report to industry on the 2006 Eastern Bering Sea crab survey*. AFSC Processed Rep. 2006-17, 61 p. Alaska Fish. Sci. Cent., NOAA, Natl. Mar. Fish. Serv., Kodiak Fish. Res. Cent., 301 Research Court, Kodiak, AK 99615-7400 and Stevens, B.G., R.S. Otto, J.A. Haaga, and R.A. MacIntosh. 1998. *Report to industry on the 1997 Eastern Bering Sea crab survey*. AFSC Processed Rep. 98-02, Alaska Fish. Sci. Cent., NOAA, Natl. Mar. Fish. Serv., P.O. Box 1638, Kodiak AK 99615-1638.

⁷ See Alaska Department of Fish and Game, *Bering Sea Hair Crab Fishery Closed for 2005-2006 Season*, ADF&G News Release, October 20, 2005.

environmental conditions, and predation by other species in the area.⁸ Forrest Bowers, ADF&G Area Management Biologist, does not believe the hair crab resource will recover enough in the next five years to warrant opening the commercial fishery.⁹ Hair crab appear to be a fragile resource and a conservative management approach is warranted.

Participation, harvest, and earnings in the Bering Sea hair crab fishery have fluctuated greatly over the history of the fishery. Table 2 indicates the total commercial harvest of the Bering Sea hair crab fishery by year, the total earnings, average ex-vessel price, the number of persons and vessels with landings, and the average and median harvest and earnings per person or vessel. Because of low stock abundance, the Bering Sea hair crab fishery has been closed since 2000. As a result, nearly half of the years that the fishery was under a moratorium and all of the years since limited entry has been in effect have been closed to commercial fishing. If stock levels rise, the limited fleet size may facilitate the opening of the fishery in the future.



Figure 2 indicates the estimated abundance of large male hair crab in the Bering Sea from the survey. Figure 2 indicates the estimated abundance of large male hair crab in the Bering Sea from the survey. Figure 2 indicates the estimated abundance of large male hair crab in the Bering Sea from the survey.

⁸ Bowers, Forrest. 2006. Personal communication. Alaska Department of Fish and Game; PO Box 920587, Dutch Harbor, AK 99692-0587.
⁹ Ibid.

Table 2. The Bering Sea Hair Crab Total Harvest and Earnings, and Average and Median Harvest and Earnings Per Person or Vessel With Landings, 1979-2008.¹

Year	Fishery Status	Total Harvest ²	Total Earnings ³	Average Ex-Vessel Price ³	Persons With Landings	Harvest ²		Earnings ³		Vessels With Landings ⁴	Harvest ²		Earnings ³	
						Average	Median	Average	Median		Average	Median		
1979		**	**	**	18	**	**	**	**	16	**	**	**	**
1980		69,009	\$50,272	\$0.728	19	3,632	271	\$2,646	\$190	17	4,059	511	\$2,957	\$358
1981		2,128,349	\$1,713,285	\$0.805	96	22,170	1,906	\$17,847	\$1,534	76	28,005	1,805	\$22,543	\$1,452
1982		1,225,098	\$799,250	\$0.652	80	15,314	1,676	\$9,991	\$1,088	69	17,755	2,127	\$11,583	\$1,296
1983		888,447	\$628,556	\$0.707	61	14,565	715	\$10,304	\$685	49	18,132	1,170	\$12,828	\$868
1984		568,717	\$746,654	\$1.313	24	23,697	1,234	\$31,111	\$1,322	24	23,697	666	\$31,111	\$852
1985		**	**	**	5	**	**	**	**	6	**	**	**	**
1986		**	**	**	4	**	**	**	**	3	**	**	**	**
1987	Open Access	23,243	\$43,337	\$1.865	8	2,905	645	\$5,417	\$1,278	8	2,905	645	\$5,417	\$1,278
1988		3,406	\$4,656	\$1.367	12	284	194	\$388	\$229	12	284	194	\$388	\$229
1989		**	**	**	1	**	**	**	**	1	**	**	**	**
1990		0	\$0	\$0	0	0	0	\$0	\$0	0	0	0	\$0	\$0
1991		379,715	\$1,237,491	\$3.259	6	63,286	6,502	\$206,249	\$21,190	6	63,286	6,502	\$206,249	\$21,190
1992		1,338,818	\$2,815,534	\$2.103	18	74,379	42,833	\$156,419	\$90,078	17	78,754	30,119	\$165,620	\$63,340
1993		1,439,155	\$3,109,853	\$2.161	27	53,302	33,881	\$115,180	\$73,217	22	65,416	32,333	\$141,357	\$69,872
1994		1,904,287	\$5,768,782	\$3.029	20	95,214	83,095	\$288,439	\$251,778	14	136,021	95,499	\$412,056	\$289,362
1995		1,986,106	\$5,441,930	\$2.740	25	79,444	69,476	\$217,677	\$190,364	21	94,576	102,373	\$259,140	\$280,502
1996		713,309	\$1,993,699	\$2.795	20	35,665	31,588	\$99,685	\$88,287	19	37,543	32,778	\$104,932	\$91,615
1997		650,240	\$2,078,167	\$3.196	18	36,124	27,756	\$115,454	\$88,707	16	40,640	38,876	\$129,885	\$124,246
1998		**	**	**	12	**	**	**	**	12	**	**	**	**
1999	Moratorium	**	**	**	9	**	**	**	**	8	**	**	**	**
2000		**	**	**	3	**	**	**	**	3	**	**	**	**
2001								-- No Fishery --						
2002								-- No Fishery --						
2003								-- No Fishery --						
2004	Limited Entry							-- No Fishery --						
2005								-- No Fishery --						
2006								-- No Fishery --						

¹ Data is masked for confidentiality where fewer than four participants, vessels, or processors (by ADF&G processor code or Federal ID when available) are indicated on fish ticket data within a year.

² Only commercial harvest of Bering Sea hair crab was included in this table. Landings made with invalid permit serial numbers were excluded.

³ Harvest is in pounds.

⁴ In nominal dollars. Earnings and ex-vessel prices have not been adjusted for inflation.

⁵ The number of vessels with landings includes unlicensed vessels.

⁶ This table includes both directed commercial hair crab harvests and hair crab bycatch in other crab fisheries. An ADF&G commissioner's permit was required for participation in the directed hair crab fishery and required for eligibility in the hair crab limited entry program. This note was added for clarification purposes following the initial web posting and distribution of this report.

6.0 Current Status of Permit Holders

The regulations adopted by CFEC established vessel entry permits in the Bering Sea hair crab fishery that are transferable. The vessel entry permits may be transferred by sale, trade, gift, or through inheritance. There are conditions that must be met for a vessel entry permit to be transferred, however. The recipient of a permit must own the vessel listed on the vessel entry permit or they must substitute a vessel they do own at the time of the permit transfer. The overall length of a substitute vessel must be equal to or less than the length of the original qualifying vessel. And lastly, no transfer may occur which would result in any person or entity holding ownership interest in more than two vessels in the Bering Sea hair crab fishery.

As of February 1, 2007, four Bering Sea hair crab vessel entry permits have been permanently transferred. One of the recipients made a permanent vessel substitution at the same time as the permit transfer. As required, the substitute vessel was of equal or lesser length than the original qualifying vessel. Table 3a indicates the thirteen vessels and their owners that are current holders of Bering Sea hair crab vessel entry permits and Table 3b lists the three vessels and their owners that qualified for a vessel entry permit but have not yet been issued a permit.¹⁰

Table 3a. Current Vessel Entry Permit Holders in the Bering Sea Hair Crab Fishery and Their Vessels.

Current Vessel Name	ADFG Number	Vessel Length	Current Permit Holders
American Eagle	00039	118	American Eagle LLC
Aquila	62505	165	Tamarak Ventures LLC
Arctic Sea	33696	134	Coastal Villages Region Fund
Maverick	45706	92	F/V Maverick LLC
North Pacific	06205	96	North Pacific LLC
North Sea	36047	126	Coastal Villages Region Fund
Ocean Cape	29923	98	RSD (Ocean Cape), LLC
Ocean Olympic	56111	166	Ocean Olympic LLC
Polar Lady	36822	105	MGF Fisheries Inc.
Royal Viking	03718	108	Royal Viking Inc.
Shaman	00036	110	Mattsen Fisheries Inc.
Theresa Marie	00034	93	Marwin Inc.
Time Bandit	65577	113	Time Bandit LLC

Table 3b. Vessels and Vessel Owners Qualified for a Bering Sea Hair Crab Vessel Entry Permit.¹

Qualified Vessel Name	ADFG Number	Vessel Length	Qualified Vessel Owner
American Star	06369	154	American Star & Owners
Pacesetter	21436	127	Pacesetter Mariner, Inc.
Zolotoi	40917	102	Zolotoi General Partnership

¹ Vessels have qualified for a vessel entry permit, but a permit has not yet been issued to the vessel owners, either due to the loss of the vessel or at the request of the vessel owners.

¹⁰ Vessels qualified for a Bering Sea hair crab vessel entry permit but either the vessel was lost and a replacement vessel has not been substituted or the vessel owners have requested that the permit not be issued at this time.

7.0 Conclusion

In 2003, CFEC adopted regulations establishing a vessel-based limited entry program in the Bering Sea hair crab fishery. The program was implemented and vessel entry permits issued beginning in 2004. The law authorizing CFEC to administer a vessel-based limited entry program in the Bering Sea hair crab fishery expires on December 30, 2008. If passed, House Bill 16 would delay the sunset date for the vessel entry program until December 30, 2013.

8.0 References

Annual Management Report for the Commercial and Subsistence Shellfish Fisheries of the Aleutian Islands, Bering Sea and the Westward Region's Shellfish Observer Program, 2003. ADF&G Regional Information Report No. 4K04-43, September 2004.

Alaska Department of Fish and Game, *Bering Sea Hair Crab Fishery Closed for 2005/2006 Season*, ADF&G News Release, October 20, 2005.

Bowers, Forrest. 2006. Personal communication. Alaska Department of Fish and Game; PO Box 920587, Dutch Harbor, AK 99692-0587.

Chapter 30, SLA 2000.

Rugolo, L.J., E.A. Chilton, C.E. Armistead, and J.A. Haaga. 2006. *Report to industry on the 2006 Eastern Bering Sea crab survey*. AFSC Processed Rep. 2006-17, 61 p. Alaska Fish. Sci. Cent., NOAA, Natl. Mar. Fish. Serv., Kodiak Fish. Res. Cent., 301 Research Court, Kodiak, AK 99615-7400

Section 2, ch. 137, SLA 2002.

Section 3, ch. 126, SLA 1996.

Stevens, B.G., R.S. Otto, J.A. Haaga, and R.A. MacIntosh. 1998. *Report to industry on the 1997 Eastern Bering Sea crab survey*. AFSC Processed Rep. 98-02, Alaska Fish. Sci. Cent., NOAA, Natl. Mar. Fish. Serv., P.O. Box 1638, Kodiak AK 99615-1638.

Appendix II
Memo from ADFG Commissioner Kevin Duffy to the Commercial Fisheries Entry Commission

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STATE OF ALASKA

DEPARTMENT OF FISH AND GAME
OFFICE OF THE COMMISSIONER

FRANK H. BUNYON, JR.
GOVERNOR

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JUNEAU, AK 99802-5629
PHONE: (907) 485-4100
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MEMORANDUM

TO: Mary McDowell, Commissioner
Commercial Fisheries Entry Commission

FROM: Kevin C. Duffy, Acting Commissioner *KCD*
Alaska Department of Fish & Game

DATE: February 26, 2003

SUBJECT: Response to CFEC information request

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In response to your request, dated January 17, 2003, following are responses to specific questions regarding potential limited entry for the Bering Sea Korean hair crab fishery. This memo reiterates each CFEC question, followed by the ADF&G response.

1. The Department was actively involved in the development of the legislation for the temporary moratorium, and the Department supported the legislation for a permanent vessel-based limited entry program. Does the Department support implementation of a permanent vessel-based limited entry program to help manage this fishery in the future, or would the Department prefer a traditional operator-based limited entry program?

If the CFEC decides for limited entry, then ADF&G supports a vessel-based system. A vessel-based system would result in fewer permits than a skipper-based limited entry system. The department would not want effort levels to increase above recent historic participation levels because of the absence of a regulatory management plan, the absence of a pot limit and the potential effects of Bering Sea crab rationalization.

2. If the Commission proposes a permanent vessel-based limited entry program for this fishery, what area should the commission define as a CFEC administrative area for limitation purposes?
 - a.) For purposes of issuing interim-use permits to skippers during the moratorium, CFEC defined a Bering Sea Korean hair crab administrative area that included all waters north of 54° 36' N. lat., south of 58° 39' N. lat., and east of the United States-Russia Convention Line of 1867 (see 20 AAC 05.230 (a)11). This area was arrived at after discussions with the Department, but our definition does not point to an existing Board of Fisheries regulation,

Appendix II
Memo from ADFG Commissioner Kevin Duffy to the Commercial Fisheries Entry Commission

Bering Sea Korean Hair Crab

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as CFEC regulations normally do. This definition includes an area in which the bulk of the fishery has occurred, but does not include all places where the fishery has occurred. CFEC did not define an administrative area for the vessel permits during the moratorium.

b.) The miscellaneous shellfish regulations of the Alaska Board of Fisheries refer to a Bering Sea District, the Western Aleutian District, and an Eastern Aleutian District. However, there does not appear to be a regulation in the Board of Fisheries shellfish regulation book that defines these districts. The *Annual Management Report for The Shellfish Fisheries of the Westward Region, 2001* (Regional Information Report No. 4K02-54) provides a map of the "Bering Sea Miscellaneous Shellfish District." This map includes all waters north of 54° 36' N. lat., and east of the United States-Russia Convention Line of 1867. Is this Bering Sea Miscellaneous Shellfish District defined in regulations or elsewhere?

The Bering Sea hair crab fishery is conducted in the Bering Sea portion of Miscellaneous Shellfish Registration Area J, 5 AAC 38.400, as depicted on Figure 5-12 of the above referenced report. Although not specifically stated, the districts mentioned in 5 AAC 38.415 FISHING SEASONS FOR KOREAN HAIR CRAB IN REGISTRATION AREA J (Bering Sea District, Western Aleutian District and Eastern Aleutian District) refer to Tanner crab management areas, see 5 AAC 35.505 DESCRIPTION OF REGISTRATION AREA J DISTRICTS (c)(d) & (e).

c.) In the same report, cited in 2.(a) above, there is a map of a Bering Sea Hair Crab Registration Area, which was apparently used to define a hair crab fishing area during at least one of the fisheries in the late 1990s. This map includes all waters north of 54° 36' N. lat., east of the United States-Russia Convention Line of 1867, south of 60° N. lat., and east of 168° W. longitude. The area corresponds to the entire Pribilofis king crab management district, plus a portion of the Bering Sea king crab Northern District. This area does not include king crab Area T where a hair crab fishery has occurred in the past, nor does it include areas north of the Aleutians where the fishery has also occurred.

Recent Bering Sea hair crab fisheries have been opened under a commissioner's permit in the Bering Sea, and the department has utilized king crab management area, district and section descriptions for inseason management. The king crab areas have conveniently described the areas opened for hair crab based on stock condition. In the past, fisheries have occurred in Bristol Bay and south of Nunivak Island, although the core Bering Sea hair crab fishery occurs near the Pribilof Islands. The department does not have abundance-based information from the Aleutian Islands. Hair crab fisheries in the Aleutian Islands have been very sporadic and may lend themselves to bycatch management rather than a directed fishery.

d.) Which of these area definitions does the Department think would make the most sense for limited entry purposes? Would the Department recommend an even broader definition for a CFEC Bering Sea Korean hair crab administrative area that would cover the entire

Appendix II
Memo from ADFG Commissioner Kevin Duffy to the Commercial Fisheries Entry Commission

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Bering Sea Korean Hair Crab

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The CFEC could use 5 AAC 35.505 DESCRIPTION OF REGISTRATION AREA J DISTRICTS (e) Bering Sea District as an administrative area for hair crab limited entry. This area covers the entire Bering Sea north of Cape Sarichef on Unimak Island. If CFEC adopts this district as an administrative area, we recommend not adopting the subdistricts in that subsection. Alternatively, CFEC could adopt only that portion of miscellaneous shellfish registration area J (5 AAC 38.400) north of Cape Sarichef (54°36' N lat.).

3. The current moratorium law excludes areas within five miles from shore. (See AS 16.43.901). Does the Department recommend that we continue to exclude those areas under a permanent vessel permit program? Note that AS 16.05.835 (b) restricts a vessel participating within the Bering Sea hair crab fishery within five miles of shore to be no more than 58 feet length overall. There have been very few of these small boats in this fishery during the moratorium.

Nearly all of the historic hair crab harvest has been taken outside of 5-nautical miles from the Pribilof Islands. Either including or excluding the area within 5-nautical miles of the Pribilof Islands for limitation would unlikely have an impact on inseason management because most of the resource is outside of 5-miles. Although small vessels from the Pribilofs have rarely participated, if those vessels were excluded it would be contrary to the original statute allowing small vessels to participate near shore.

4. There are twenty-five vessels qualified to fish under the moratorium. There were considerably fewer vessels actually fishing during the moratorium. What number of vessels does the Department believe is reasonable for this fishery from a management and resource conservation perspective?

Recent historic participation (post 1990) has a maximum of 21 vessels participating in a Bering Sea hair crab fishery. The department feels that this is a maximum manageable number, given current regulations for inseason management and stock condition.

5. The Commission is concerned that the purposes and benefits of limiting the hair crab fishery could be diminished if there are no restrictions on the expansion of fishing capacity for individual fishing operations. Under the new vessel permit law, the Commission has the authority to issue permits with fishing capacity restricted to the original level of the qualifying vessel if it serves the statutory purposes of limited entry. Those constraints would continue to apply upon transfer of the vessel permit or upon substitution of a vessel.

a.) In the absence of any constraints, does the Department believe that fishing effort and capacity may grow in the hair crab fishery after limited entry is implemented?

The department acknowledges that most effort is by larger vessels, although we do not have a summary of effort by vessel length. Since pot gear in the hair crab fishery is small, light and stackable, it is not likely that participants would employ larger vessels to gain a competitive advantage by carrying more pots. Participants use a large number of pots in this fishery because pots are easily carried onboard, the catch per pot is low and because

Appendix II

Memo from ADFG Commissioner Kevin Duffy to the Commercial Fisheries Entry Commission

Bering Sea Korean Hair Crab

4

February 26, 2003

there is currently no pot limit. Therefore there may not be an economic incentive or need to operate a larger more-expensive vessel.

b.) Could unrestricted fishing capacity in the hair crab fishery produce management concerns, particularly short seasons with a higher risk of exceeding guideline harvests?

Yes.

c.) Would vessel length constraints attached to permits be a meaningful way to limit the expansion of fishing effort and capacity (premised on the original lengths of qualifying vessels)?

No.

cc: Doug Mecum
Denby Lloyd
Wayne Donaldson
Forrest Bowers
Karl Granath

MEMORANDUM

STATE OF ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION

TO: Kevin Duffy, Acting Commissioner
Dept. of Fish and Game
M/S:1100

DATE: January 17, 2003

PHONE: (907) 789-6160 VOICE
(907) 789-6170 FAX

FROM: Commercial Fisheries Entry Commission
Marlene Johnson, Commissioner
Mary McDowell, Commissioner
Bruce Twomley, Chairman

SUBJECT: Bering Sea Hair Crab Fishery

The temporary legislatively enacted moratorium on vessels in the Bering Sea hair crab fishery is due to expire on July 1, 2003. During the 2002 legislative session, passage of CSHB206(RLS) am S resulted in changes to the limited entry statutes to authorize use of a permanent vessel-based limited entry program in the Bering Sea hair crab fishery (and the scallop fishery). The commission must now determine whether permanent limitation is needed in the Bering Sea hair crab fishery, and if so, whether to propose limitation under the traditional operator-based limited entry program or under the newly authorized vessel-based program.

Although the fishery is currently closed, there is concern that many new boats could enter the fishery should it reopen in the future. To have limitation in place by the end of the moratorium, the commission would have to propose regulations very soon.

The Department manages the Bering Sea hair crab fishery and the Commission seeks the Department's expert advice on this matter. Any help and advice the department can provide on the following questions will be greatly appreciated.

Questions:

1. The Department was actively involved in the development of the legislation for the temporary moratorium, and the Department supported the legislation for a permanent vessel-based limited entry program. Does the Department support implementation of a permanent vessel-based limited entry program to help manage this fishery in the future, or would the Department prefer a traditional operator-based limited entry program?
2. If the Commission proposes a permanent vessel-based limited entry program for this fishery, what area should the commission define as a CFEC administrative area for limitation purposes?
 - a) For purposes of issuing interim-use permits to skippers during the moratorium, CFEC defined a Bering Sea hair crab administrative area that included all waters north of 54° 36' N. lat., south of 58° 39' N. lat., and east of the United States-Russia Convention Line of 1867 (see 20 AAC 05.230 (a)(11)). This area was arrived at after discussions with the Department, but our definition does not point to an existing Board of Fisheries regulation, as CFEC regulations normally do. This definition includes an area in which the bulk of the fishery has occurred, but does not include all

places where the fishery has occurred. CFEC did not define an administrative area for the vessel permits during the moratorium.

b) The miscellaneous shellfish regulations of the Alaska Board of Fisheries refer to a Bering Sea District, a Western Aleutian District, and an Eastern Aleutian District. However, there does not appear to be a regulation in the Board of Fisheries shellfish regulation book that defines these districts. The *Annual Management Report for the Shellfish Fisheries of the Westward Region, 2001* (Regional Information Report No. 4K02-54) provides a map of the "Bering Sea Miscellaneous Shellfish District." This map includes all waters north of 54° 36' N. lat., and east of the United States-Russia Convention Line of 1867. Is this Bering Sea Miscellaneous Shellfish District defined in regulations or elsewhere?

c) In the same report, cited in 2.(a) above, there is a map of a Bering Sea Hair Crab Registration Area, which was apparently used to define a hair crab fishing area during at least one of the fisheries in the late 1990's. This map includes all waters north of 54° 36' N. lat., east of the United States-Russia Convention Line of 1867, south of 60° N. lat., and east of 168° W. longitude. The area corresponds to the entire Pribilof king crab management district, plus a portion of the Bering Sea king crab Northern District. This area does not include king crab Area T where a hair crab fishery has occurred in the past, nor does it include areas north of the Aleutians where the fishery has also occurred.

d) Which of these area definitions does the Department think would make the most sense for limited entry purposes? Would the Department recommend an even broader definition for a CFEC Bering Sea hair crab administrative area that would cover the entire range of the species where a fishery might occur in the future? If so, how would that area be defined?

3. The current moratorium law excludes areas within five miles from shore. (See AS 16.43.901). Does the Department recommend that we continue to exclude those areas under a permanent vessel permit program? Note that AS 16.05.835 (b) restricts a vessel participating in the Bering Sea hair crab fishery within five miles of shore to be no more than 58 feet length overall. There have been very few of these small boats in this fishery during the moratorium.
4. There are twenty-five vessels qualified to fish under the moratorium. There were considerably fewer vessels actually fishing during the moratorium. What number of vessels does the Department believe is reasonable for this fishery from a management and resource conservation perspective?
5. The Commission is concerned that the purposes and benefits of limiting the hair crab fishery could be diminished if there are no restrictions on the expansion of fishing capacity for individual fishing operations. Under the new vessel permit law, the Commission has the authority to issue permits with fishing capacity restricted to the original level of the qualifying vessel if it serves the statutory purposes of limited entry. Those constraints would continue to apply upon transfer of the vessel permit or upon substitution of a vessel.

a) In the absence of any constraints, does the Department believe that fishing effort and capacity may grow in the hair crab fishery after limited entry is implemented?

b) Could unrestricted fishing capacity in the hair crab fishery produce management concerns, particularly short seasons with a higher risk of exceeding guideline harvests?

c) Would vessel length constraints attached to permits be a meaningful way to limit the expansion of fishing effort and capacity (premised on the original lengths of qualifying vessels)?

**cc. Doug Mecum; Director, Division of Commercial Fisheries Management and Development
Denby Lloyd; Regional Supervisor, Westward Region, ADFG/CFMD
Wayne Donaldson; Regional Shellfish and Groundfish Management Biologist, Westward Region
Forrest Bowers; Area Shellfish Management Biologist, Dutch Harbor**

HOUSE BILL NO. 16
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE SEATON

Introduced: 1/16/07
Referred: House Special Committee on Fisheries, Resources

extends sunset to 2013

A BILL
FOR AN ACT ENTITLED

1 "An Act providing for an effective date by delaying the effective date of repeal of the
2 authority of the Commercial Fisheries Entry Commission to maintain the vessel-based
3 commercial fisheries limited entry systems for the Bering Sea Korean hair crab and
4 weathervane scallop fisheries, and the effective date of conforming amendments related
5 to the repeal of those systems."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * Section 1. Section 28, ch. 137, SLA 2002, is amended to read:
8 Sec. 28. Sections 5, 10, 12, 14, 16, 18, 21, 23, and 27 of this Act take effect
9 December 30, 2013 [2008].

**State of Alaska
Commercial Fisheries Entry Commission**

Statewide Weathervane Scallop Vessel Permit Holders

December 8, 2008

Vessel Permit Owner Name	Company Owner/Contact Person	Vessel Name	Skipper
Future Fisheries Inc. 14 Hervey Tichon Ave. New Bedford, MA 02740	Nordic Fisheries Inc. Roy Enoksen, Ron Enokson O'Hara Corp Francis O'Hara, Francis O'Hara, Jr.	FV Pursuit (100 ft.) ADFG Number: 40312 Vessel Permit: W 2ABV85016Z	None - non-fishing co-op member 5/9/2005 CFEC was notified that vessel was sold. Vessel permit was retained.
Ocean Fisheries LLC 7216 Interlaken Dr. SW Lakewood, WA 98499	Stone Maritime Inc. Jim Stone (LLC Manager) Mikkelsen Fisheries Inc. Glenn Mikkelsen, Egl Mikkelsen Festus Fisheries Inc. John Lemar Stain Enterprises Stein Nyhammer	Ocean Hunter (100 ft.) ADFG Number: 40924 Vessel Permit: W 2ABV85007S	John Lemar (W 2AB27374U) 1302 Chambers St Steilacoom, WA 98388 Glenn Mikkelsen (W 2AB28558K) 2 Park Place Edmonds, WA 98026
Provider Inc. 1000 C Street Bellingham, WA 98225	Provider Inc. Mark Kandianis (President, Treasurer) John Doody (Vice-President, Secretary)	Provider (123 ft.) ADFG Number: 58200 Vessel Permit: W 2ABV85006L	Tom Minto (W 2AB26294I) 801 King Valley Dr. Maple Falls, WA 98286
Forum Star LLC 2025 1st Ave #900 Seattle, WA 98121	Forum Star LLC Coastal Villages Pollock LLC American Seafoods LLC Bernt O. Bodal Jeffrey W. Davis	Forum Star (98 ft.) ADFG Number: 59887 Vessel Permit: W 2ABV85014O	None - non-fishing co-op member
Carolina Boy Inc. Box 500 Seaford, VA 23698	Carolina Boy Inc. William S. Wells, Jr. William S. Wells, III	Carolina Boy (95 ft.) ADFG Number: 64110 Vessel Permit: W 2ABV85013W	None - non-fishing co-op member
Thomas C. Hogan Box 1648 Homer, AK 99603	Thomas C. Hogan	Kilkenny (75 ft.) ADFG Number: 54988 Vessel Permit: W 2BBV85015J	Thomas C. Hogan (W 2BB27888I) Box 1648 Homer, AK 99603 George M. Milne (W 2BB27776Q) Box 1648 Homer, AK 99603
La Brisa Inc. Box 770881 Eagle River, AK 99577	La Brisa Inc. Max Hulse Robert Hulse	Wayward Wind (79 ft.) ADFG Number: 23574 Vessel Permit: W 2BBV85012H	Scott D. Hulse (W 2BB26790J) Box 770881 Eagle River, AK 99577
Tom Gilmartin, Jr. 46677 Lake St. Kenai, AK 99611	Tom Gilmartin, Jr.	Arctic Storm (58 ft.) ADFG Number: 86700 Vessel Permit: W 2BB85018L	Tom Gilmartin, Jr. 46677 Lake St. Kenai, AK 99611 (no permit for 2008)

CS FOR HOUSE BILL NO. 206(RLS) am S
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

passed
2002

Amended: 5/11/02
Offered: 2/27/02

Sponsor(s): HOUSE RESOURCES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a vessel-based commercial fisheries limited entry system for the
2 Bering Sea Korean hair crab fishery and for weathervane scallop fisheries, to
3 management of offshore fisheries, and to the definition of 'person' for purposes of the
4 commercial fisheries entry program; and providing for an effective date."

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

6 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 FINDINGS. The legislature finds that

9 (1) the conventional commercial fisheries limited entry system, which limits
10 the entry of natural persons into a fishery, may not adequately protect the economic health
11 and stability of certain fisheries in this state;

12 (2) a system that limits the number of vessels that may engage in a fishery
13 may be necessary to regulate certain fisheries in order to promote the conservation and
14 sustained yield management of Alaska's fishery resource and the economic health and

1 stability of commercial fishing in this state;

2 (3) the existing moratorium on entry of new vessels into the Bering Sea
3 Korean hair crab fishery (AS 16.43.901) expires on June 30, 2003, and the existing vessel
4 moratorium for the weathervane scallop fisheries in state waters (AS 16.43.906) expires on
5 June 30, 2004;

6 (4) a vessel-based limited entry system may be necessary to facilitate state
7 management of fisheries that overlap with federally managed fisheries in the United States
8 exclusive economic zone; and

9 (5) a vessel-based limited entry system may be necessary to achieve
10 compatible state and federal management and enforcement of fisheries.

11 * **Sec. 2.** AS 16.43 is amended by adding new sections to read:

12 **Article 6A. Vessel Permit System for Bering Sea Korean Hair Crab Fishery**
13 **and Weathervane Scallop Fisheries.**

14 **Sec. 16.43.450. Vessel permit system.** (a) The commission may establish a
15 vessel permit system under AS 16.43.450 - 16.43.520 for the Bering Sea Korean hair
16 crab fishery or a weathervane scallop fishery if the commission determines that

17 (1) the regulation of entry into the fishery is necessary to achieve the
18 purposes of this chapter;

19 (2) a vessel permit system would achieve the purposes of this chapter;

20 and

21 (3) either

22 (A) limiting the number of participants in the fishery under
23 AS 16.43.140 - 16.43.330 would not achieve the purposes of this chapter; or

24 (B) regulating the number of vessels in the fishery would
25 enable the state to gain or retain management of the fishery.

26 (b) If the federal government has delegated management authority in the
27 United States exclusive economic zone to the state for the Bering Sea Korean hair crab
28 fishery or a weathervane scallop fishery, the commission may, to the extent consistent
29 with this chapter, adopt regulations to ensure that the vessel permit system is
30 consistent with applicable federal laws.

31 (c) If the commission establishes a vessel permit system for a fishery that

1 involves more than one fishery resource, type of gear, or administrative area, the
2 commission may limit, as the commission determines appropriate, the fishery
3 resources that may be harvested under the vessel permit, the types of gear that may be
4 used under the vessel permit, or the areas where fishing may occur under the vessel
5 permit. The commission shall adopt criteria, as appropriate, for determining

6 (1) how restrictions on fishery resources, types of gear, and areas
7 fished are established for individual vessel interim-use permits and vessel entry
8 permits; and

9 (2) how eligibility to take a particular fishery resource, to use a
10 particular type of gear, or to fish in a particular area is established.

11 (d) The commission may, after consultation with the Department of Fish and
12 Game, regulate the fishing capacity or effort authorized under a vessel interim-use
13 permit or a vessel entry permit if the commission finds that limitations on fishing
14 capacity or effort are necessary to achieve the purposes of this chapter. The
15 commission shall adopt criteria, as appropriate, for measuring the fishing capacity or
16 effort of a vessel and for determining how restrictions on vessel fishing capacity or
17 effort are established for individual vessel interim-use permits and vessel entry
18 permits. The criteria may be based on past participation.

19 (e) The commission shall adopt regulations limiting the number of vessel
20 permits that may be held by a permit holder or group of related permit holders if the
21 commission finds that limiting the number of vessel permits that may be held by a
22 permit holder or group of related permit holders is necessary to prevent the excessive
23 concentration of ownership of vessel permits in the fishery.

24 **Sec. 16.43.460. Initial issuance of vessel permits.** (a) For each fishery in
25 which the commission establishes a vessel permit system under AS 16.43.450, the
26 commission shall establish qualifications for vessel interim-use permits and vessel
27 entry permits. The qualifications may include a qualification date, eligibility period,
28 recent and past participation requirements, minimum requirements for the nature and
29 degree of ownership interest that a permit holder must have in a vessel in order to
30 receive a vessel permit for the vessel, and criteria for receiving transferable and
31 nontransferable vessel entry permits. In adopting qualifications for transferable and

1 nontransferable vessel entry permits, the commission shall consider

2 (1) information provided by the Department of Fish and Game,
3 participants in the fishery, owners of vessels and gear used in the fishery, and other
4 interested parties;

5 (2) the level of recent and past participation and harvest in the fishery,
6 the nature of the fishery, and the need to ensure the manageability of the fishery and
7 conservation of the fishery resource.

8 (b) If the commission establishes a vessel permit system under AS 16.43.450
9 for a fishery that is, or recently was, subject to a moratorium on entry of new vessels
10 under AS 16.43.901 or 16.43.906, the commission shall incorporate some or all of the
11 vessel eligibility criteria established for the moratorium into the eligibility criteria for
12 vessel permits issued under the vessel permit system.

13 (c) Pending the issuance of vessel entry permits for a fishery for which the
14 commission has established a vessel permit system under AS 16.43.450, the
15 commission shall issue a vessel interim-use permit to the owner of each vessel that the
16 commission finds is potentially eligible to receive a vessel entry permit. A vessel
17 interim-use permit is renewable from year to year; however, a vessel interim-use
18 permit expires at the end of the period for which the permit was issued and may not be
19 renewed after a final determination by the commission that the vessel is or is not
20 eligible for a vessel entry permit.

21 (d) The commission shall issue vessel entry permits for a fishery, subject to
22 conditions established by the commission under AS 16.43.450 - 16.43.520, to the
23 owner of each vessel that the commission finds is eligible to receive a vessel entry
24 permit for that fishery.

25 (e) The commission shall adopt regulations regarding

26 (1) the determination of which person or entity is eligible to receive a
27 vessel interim-use permit or a vessel entry permit for a vessel in the event of
28 competing claims to ownership of the vessel;

29 (2) the substitution of another vessel by the applicant for a vessel
30 interim-use permit or a vessel entry permit if the vessel or vessels used to establish
31 eligibility for a vessel entry permit are lost, or are retired from the fishery by the vessel

1 owner, before the initial issuance of a vessel entry permit for the vessel.

2 **Sec. 16.43.470. Optimum number range of vessel permits.** (a) If, after the
3 initial issuance of vessel entry permits for a fishery, the commission determines that a
4 long-term biological or economic change has occurred in the fishery, the commission,
5 in consultation with the Department of Fish and Game, shall establish the optimum
6 number range of vessel entry permits for the fishery.

7 (b) In determining the optimum number range of vessel entry permits, the
8 commission shall seek to

9 (1) facilitate sound management of the fishery;

10 (2) promote

11 (A) the economic health and stability of the fishery;

12 (B) broad access to the fishery;

13 (C) conservation of the fish resources taken in the fishery;

14 (D) quality seafood products; and

15 (3) discourage waste of harvested fish.

16 (c) The commission may increase or decrease the optimum number range of
17 vessel entry permits for a fishery if the commission finds that an established long-term
18 change in the biological or economic condition of the fishery has occurred and that the
19 number of vessel entry permits that are necessary to achieve the goals set out in (b) of
20 this section has substantially changed.

21 (d) If the optimum number range of vessel entry permits is less than the
22 number of outstanding vessel permits for the fishery, the commission may adopt
23 regulations to allow the voluntary consolidation of vessel entry permits by permit
24 holders, including entities. The commission may investigate procedures to
25 permanently reduce the number of vessel permits issued for a fishery to within the
26 optimum number range.

27 (e) If the optimum number range of vessel entry permits is greater than the
28 number of permits authorized for the fishery, the commission shall issue additional
29 vessel entry permits until the number of vessel entry permits is consistent with the
30 optimum number range for the fishery. The commission shall obtain fair market value
31 for new vessel entry permits issued under this subsection. The commission shall

1 determine whether the additional vessel entry permits issued under this subsection are
2 transferable or nontransferable.

3 **Sec. 16.43.480. Transfer and expiration of vessel entry permits.** (a) The
4 commission may adopt regulations authorizing the transfer of a transferable vessel
5 entry permit to an eligible transferee and establishing the terms and conditions under
6 which vessel entry permits may be transferred. The commission may require that the
7 transferee of a vessel entry permit must have a legal ownership interest in the vessel
8 identified on the vessel entry permit. The commission may establish by regulation
9 minimum requirements for the nature and degree of ownership interest that the
10 transferee must have in the vessel.

11 (b) The commission may adopt regulations authorizing the simultaneous
12 transfer of a transferable vessel entry permit to an eligible transferee and the
13 substitution of another vessel for the vessel identified on the permit under
14 AS 16.43.490.

15 (c) The commission shall adopt regulations relating to the expiration of
16 nontransferable vessel entry permits.

17 **Sec. 16.43.490. Substitution of vessels.** (a) The commission shall adopt
18 regulations providing for the permanent or temporary substitution, after the initial
19 issuance of vessel entry permits, of another vessel for the vessel that is identified on a
20 vessel entry permit. The commission may specify by regulation the nature and degree
21 of legal ownership interest that a permit holder must have in the vessel that is
22 permanently or temporarily substituted for the vessel identified on the permit. Upon
23 the approval of a permanent substitution of a vessel, the commission shall issue a new
24 vessel entry permit for the substituted vessel.

25 (b) A substituted vessel and the operation of the substituted vessel are subject
26 to all terms and conditions attached to the vessel entry permit at the time that the
27 vessel permit is transferred from the original vessel to the substituted vessel.

28 **Sec. 16.43.500. Renewal of vessel permits.** (a) A vessel interim-use permit
29 or vessel entry permit is issued for one year and must be renewed annually.

30 (b) A vessel interim-use permit or vessel entry permit may not be renewed
31 until the fees for each preceding year during which the permit has not been renewed

1 are paid.

2 (c) Failure to renew a vessel entry permit for two consecutive years from the
3 year of last renewal results in a forfeiture of the permit unless the forfeiture is waived
4 by the commission for good cause. If an administrative closure of a fishery occurs for
5 an entire season, the commission may not count the season toward the two-year
6 period.

7 **Sec. 16.43.510. Vessel permit fees.** (a) The commission shall establish fees
8 for the issuance and annual renewal of vessel interim-use permits and vessel entry
9 permits. Annual fees established under this subsection may not exceed \$2,500 and
10 shall reasonably reflect the rate of economic return for the fishery.

11 (b) The commission shall waive the payment of the annual fees for a vessel
12 interim-use permit or a vessel entry permit for a fishery in which there was an
13 administrative closure for the entire season.

14 (c) Subject to AS 37.10.050(a), the commission may establish fees for
15 processing applications for vessel interim-use permits and vessel entry permits, for
16 transfer of vessel entry permits, and for permanent and temporary substitution of
17 vessels.

18 (d) The commission may charge interest at a rate not to exceed the legal rate
19 of interest established in AS 45.45.010(a) on fees established under the section that are
20 more than 60 days overdue.

21 **Sec. 16.43.520. General vessel permit provisions.** (a) A person or entity
22 may not operate a vessel or use a vessel to take fish in a commercial fishery for which
23 a vessel interim-use permit or vessel entry permit is required unless the appropriate
24 vessel permit has been issued for the vessel and is posted in a prominent location on
25 the vessel.

26 (b) A person or entity may not hold more than one vessel entry permit for a
27 fishery unless

28 (1) the number of vessel entry permits held by the person or entity is
29 consistent with regulations of the commission regarding concentration of ownership of
30 vessel permits in the fishery; and

31 (2) either

1 (A) the person or entity qualified for each vessel entry permit at
2 the time of the initial issuance of vessel entry permits for the fishery; or

3 (B) the vessel entry permits are issued for a vessel for which
4 the person or entity already holds another vessel entry permit for that fishery.

5 (c) The operator of a vessel for which a vessel interim-use permit or vessel
6 entry permit has been issued shall comply with the terms of the vessel permit while the
7 vessel is operated in the fishery for which the permit is issued.

8 (d) A vessel interim-use permit and a vessel entry permit constitute a use
9 privilege that may be modified or revoked by order of the commission or by law
10 without compensation.

11 (e) A vessel entry permit may not be

12 (1) pledged, mortgaged, leased, or encumbered in any way;

13 (2) transferred with any retained right of repossession or foreclosure,
14 or on any condition requiring a subsequent transfer; or

15 (3) attached, distrained, or sold on execution of judgment or under any
16 other process or order of any court.

17 (f) Unless the person who holds a vessel entry permit has expressed a contrary
18 intent in a will that is probated, the commission shall, upon the death of the person,
19 transfer the vessel entry permit by right of survivorship directly to the person's
20 surviving spouse or, if no spouse survives, to another person designated by the vessel
21 permit holder on a form provided by the commission. If no spouse survives and if the
22 person designated on the form, if any, does not survive, the permit passes as part of the
23 vessel permit holder's estate. A designation under this subsection must be
24 acknowledged before a person authorized to administer an oath under AS 09.63.010 or
25 must be witnessed by two persons who are qualified under AS 13.12.505 to witness
26 the will of the vessel permit holder. A vessel entry permit is exempt from the claims of
27 creditors of the estate.

28 (g) AS 16.43.450 - 16.43.520 do not alter the requirement for an interim-use
29 permit or entry permit under AS 16.43.140 or a vessel license under AS 16.05.490 -
30 16.05.520.

31 (h) Nothing in AS 16.43.450 - 16.43.520 limits the powers of the Board of

1 Fisheries or the Department of Fish and Game.

2 (i) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may
3 release to the owner of a vessel information on the vessel's history of harvests in a
4 fishery that is necessary to apply for a vessel interim-use permit or vessel entry permit
5 under AS 16.43.450 - 16.43.520.

6 * Sec. 3. AS 16.05.735 is amended to read:

7 **Sec. 16.05.735. Management of offshore fisheries.** The state may assume
8 management of a fishery [THE SCALLOP FISHERIES] in offshore water adjacent to
9 the state in the absence of a federal fishery management plan for the fishery
10 [SCALLOPS] or in the event that a federal fishery management plan for the fishery
11 [SCALLOPS] delegates authority to the state to manage the fishery [SCALLOP
12 FISHERIES] in the United States exclusive economic zone.

13 * Sec. 4. AS 16.43.010(a) is amended to read:

14 (a) It is the purpose of this chapter to promote the conservation and the
15 sustained yield management of Alaska's fishery resource and the economic health and
16 stability of commercial fishing in Alaska by regulating and controlling entry of
17 participants and vessels into the commercial fisheries in the public interest and
18 without unjust discrimination.

19 * Sec. 5. AS 16.43.010(a) is amended to read:

20 (a) It is the purpose of this chapter to promote the conservation and the
21 sustained yield management of Alaska's fishery resource and the economic health and
22 stability of commercial fishing in Alaska by regulating and controlling entry of
23 participants [AND VESSELS] into the commercial fisheries in the public interest and
24 without unjust discrimination.

25 * Sec. 6. AS 16.43.100(a) is amended to read:

26 (a) To accomplish the purposes set out in AS 16.43.010, the commission shall
27 (1) regulate entry into the commercial fisheries for all fishery resources
28 in the state;
29 (2) establish priorities for the application of the provisions of this
30 chapter to the various commercial fisheries of the state;
31 (3) establish administrative areas suitable for regulating and

- 1 controlling entry into the commercial fisheries;
- 2 (4) establish, for all types of gear, the maximum number of entry
- 3 permits for each administrative area;
- 4 (5) designate, when necessary to accomplish the purposes of this
- 5 chapter, particular species for which separate interim-use permits or entry permits will
- 6 be issued;
- 7 (6) establish qualifications for the issuance of entry permits;
- 8 (7) issue entry permits to qualified applicants;
- 9 (8) issue interim-use permits as provided in AS 16.43.210, 16.43.220,
- 10 and 16.43.225;
- 11 (9) establish, for all types of gear, the optimum number of entry
- 12 permits for each administrative area;
- 13 (10) administer the buy-back program provided for in AS 16.43.310
- 14 and 16.43.320 to reduce the number of outstanding entry permits to the optimum
- 15 number of entry permits;
- 16 (11) provide for the transfer and reissuance of entry permits to
- 17 qualified transferees;
- 18 (12) provide for the transfer and reissuance of entry permits for
- 19 alternative types of legal gear, in a manner consistent with the purposes of this
- 20 chapter;
- 21 (13) establish and administer the collection of the annual fees provided
- 22 for in AS 16.43.160;
- 23 (14) administer the issuance of commercial fishing vessel licenses
- 24 under AS 16.05.490;
- 25 (15) issue educational entry permits to applicants who qualify under
- 26 the provisions of AS 16.43.340 - 16.43.390;
- 27 (16) establish reasonable user fees for services;
- 28 (17) issue landing permits under AS 16.05.675 and regulations adopted
- 29 under that section;
- 30 (18) establish and collect annual fees for the issuance of landing
- 31 permits that reasonably reflect the costs incurred in the administration and

1 enforcement of provisions of law related to landing permits; [AND]

2 (19) establish a moratorium on entry into commercial fisheries as
3 provided in AS 16.43.225; and

4 (20) administer, when necessary to accomplish the purposes of this
5 chapter, a vessel permit system under AS 16.43.450 - 16.43.520.

6 * Sec. 7. AS 16.43.240(b) is amended to read:

7 (b) When the commission finds that a fishery, not designated as a distressed
8 fishery under AS 16.43.230 or not subject to a moratorium under AS 16.43.225, has
9 reached levels of participation that require the limitation of entry under AS 16.43.140
10 - 16.43.330 in order to achieve the purposes of this chapter, the commission shall
11 establish the maximum number of entry permits for that fishery.

12 * Sec. 8. AS 16.43.240(c) is amended to read:

13 (c) When the commission finds that a fishery subject to a moratorium under
14 AS 16.43.225 has reached levels of participation that require the limitation of entry
15 under AS 16.43.140 - 16.43.330 in order to achieve the purposes of this chapter, the
16 commission shall establish the maximum number of entry permits for that fishery.

17 * Sec. 9. AS 16.43.960(a) is amended to read:

18 (a) The commission may revoke, suspend, or transfer all entry or interim-use
19 permits, vessel entry permits, or vessel interim-use permits held by a person or
20 entity who knowingly provides or assists in providing false information, or fails to
21 correct false information provided to the commission for the purpose of obtaining a
22 benefit for self or another, including the issuance, renewal, duplication, or transfer of
23 an entry or interim-use permit, [OR] vessel license, vessel entry permit, or vessel
24 interim-use permit. The commission may suspend, as appropriate, that person's or
25 entity's eligibility to hold an entry or interim-use permit, vessel entry permit, or
26 vessel interim-use permit for a period not to exceed three years, and may impose an
27 administrative fine of not more than \$5,000 on the person or [. THE COMMISSION
28 MAY ALSO IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAN
29 \$5,000 ON AN] entity whose officers, employees, representatives, or agents
30 knowingly provide or assist in providing false information, or fail to correct false
31 information provided, to the commission for the purpose of obtaining a benefit.

1 * Sec. 10. AS 16.43.960(a) is amended to read:

2 (a) The commission may revoke, suspend, or transfer all entry or interim-use
3 permits [, VESSEL ENTRY PERMITS, OR VESSEL INTERIM-USE PERMITS]
4 held by a person [OR ENTITY] who knowingly provides or assists in providing false
5 information, or fails to correct false information provided to the commission for the
6 purpose of obtaining a benefit for self or another, including the issuance, renewal,
7 duplication, or transfer of an entry or interim-use permit or [,] vessel license [,
8 VESSEL ENTRY PERMIT, OR VESSEL INTERIM-USE PERMIT]. The
9 commission may suspend, as appropriate, that person's [OR ENTITY'S] eligibility to
10 hold an entry or interim-use permit [, VESSEL ENTRY PERMIT, OR VESSEL
11 INTERIM-USE PERMIT] for a period not to exceed three years, and may impose an
12 administrative fine of not more than \$5,000 on the person. The commission may also
13 impose an administrative fine of not more than \$5,000 on an [OR] entity whose
14 officers, employees, representatives, or agents knowingly provide or assist in
15 providing false information, or fail to correct false information provided, to the
16 commission for the purpose of obtaining a benefit.

17 * Sec. 11. AS 16.43.970(a) is amended to read:

18 (a) A person who violates a provision of this chapter or a regulation adopted
19 under this chapter or an entity that violates a provision of AS 16.43.450 - 16.43.520
20 or a regulation adopted under AS 16.43.450 - 16.43.520 is, upon conviction, guilty
21 of a class B misdemeanor and is punishable by a fine of not more than \$5,000 for a
22 first conviction, and a fine of not more than \$10,000 for a second or third conviction.
23 Upon a first or second conviction under this subsection, the court may in its discretion
24 also order the commission to suspend the commercial fishing privileges of the person
25 or entity for a period of not more than three years and to revoke one or more or all
26 commercial fishing permits held by the person or entity. Upon a third or subsequent
27 conviction under this subsection, the person or entity is also subject to a loss of
28 commercial fishing privileges as provided under (i) of this section. This subsection
29 does not apply to violations of AS 16.43.140(a).

30 * Sec. 12. AS 16.43.970(a) is amended to read:

31 (a) A person who violates a provision of this chapter or a regulation adopted

1 under this chapter [OR AN ENTITY THAT VIOLATES A PROVISION OF
2 AS 16.43.450 - 16.43.520 OR A REGULATION ADOPTED UNDER AS 16.43.450 -
3 16.43.520] is, upon conviction, guilty of a class B misdemeanor and is punishable by a
4 fine of not more than \$5,000 for a first conviction, and a fine of not more than \$10,000
5 for a second or third conviction. Upon a first or second conviction under this
6 subsection, the court may in its discretion also order the commission to suspend the
7 commercial fishing privileges of the person [OR ENTITY] for a period of not more
8 than three years and to revoke one or more or all commercial fishing permits held by
9 the person [OR ENTITY]. Upon a third or subsequent conviction under this
10 subsection, the person [OR ENTITY] is also subject to a loss of commercial fishing
11 privileges as provided under (i) of this section. This subsection does not apply to
12 violations of AS 16.43.140(a).

13 * Sec. 13. AS 16.43.970(b) is amended to read:

14 (b) A person or entity who knowingly makes a false statement to the
15 commission for the purpose of obtaining a benefit, including the issuance, renewal,
16 duplication, or transfer of an entry or interim-use permit, [OR] vessel license, vessel
17 interim-use permit, or vessel entry permit, or a person who assists another by
18 knowingly making a false statement to the commission for the purpose of obtaining a
19 benefit for another, is guilty of the crime of unsworn falsification as set out in
20 AS 11.56.210. Upon conviction, the person or entity is also subject to suspension of
21 commercial fishing privileges and revocation of commercial fishing permits under (i)
22 of this section.

23 * Sec. 14. AS 16.43.970(b) is amended to read:

24 (b) A person [OR ENTITY] who knowingly makes a false statement to the
25 commission for the purpose of obtaining a benefit, including the issuance, renewal,
26 duplication, or transfer of an entry or interim-use permit or [,] vessel license [,
27 VESSEL INTERIM-USE PERMIT, OR VESSEL ENTRY PERMIT,] or a person who
28 assists another by knowingly making a false statement to the commission for the
29 purpose of obtaining a benefit for another, is guilty of the crime of unsworn
30 falsification as set out in AS 11.56.210. Upon conviction, the person [OR ENTITY] is
31 also subject to suspension of commercial fishing privileges and revocation of

1 commercial fishing permits under (i) of this section.

2 * Sec. 15. AS 16.43.970(d) is amended to read:

3 (d) If a permit holder is charged by the state with violating a provision of this
4 chapter or a regulation adopted under this chapter, the holder may not transfer [,
5 UNDER AS 16.43.170,] any interim-use or entry permit under AS 16.43.170 or any
6 transferable vessel entry permit under AS 16.43.450 - 16.43.520 [,] until after the
7 final adjudication or dismissal of the charges.

8 * Sec. 16. AS 16.43.970(d) is amended to read:

9 (d) If a permit holder is charged by the state with violating a provision of this
10 chapter or a regulation adopted under this chapter, the holder may not transfer any
11 interim-use or entry permit under AS 16.43.170 [OR ANY TRANSFERABLE
12 VESSEL ENTRY PERMIT UNDER AS 16.43.450 - 16.43.520] until after the final
13 adjudication or dismissal of the charges.

14 * Sec. 17. AS 16.43.970(e) is amended to read:

15 (e) Notwithstanding any other provision of this section, an interim-use or entry
16 permit or transferable vessel entry permit may not be transferred while under
17 suspension, without the consent of the commission.

18 * Sec. 18. AS 16.43.970(e) is amended to read:

19 (e) Notwithstanding any other provision of this section, an interim-use or entry
20 permit [OR TRANSFERABLE VESSEL ENTRY PERMIT] may not be transferred
21 while under suspension, without the consent of the commission.

22 * Sec. 19. AS 16.43.970(f) is amended to read:

23 (f) A commercial fishing entry permit revoked under this section that is
24 pledged as security for a loan under AS 16.10.333, or 16.10.338, or AS 44.81.231
25 shall be reassigned as provided in AS 16.10.337 or AS 44.81.250.

26 * Sec. 20. AS 16.43.970(i) is amended to read:

27 (i) Upon the conviction of a person or entity for an offense described under
28 (a), (b), or (g) of this section, the court shall immediately notify the commission of the
29 conviction. The notice provided by the court shall be accompanied by an order
30 suspending commercial fishing privileges and revoking commercial fishing permits
31 under (a) of this section, as appropriate. The commission shall, upon receipt of

1 (1) an order from the court under (a) of this section, suspend the
2 commercial fishing privileges of a person or entity for the period set by the court and
3 revoke commercial fishing permits held by the person or entity as directed by the
4 court;

5 (2) a notice from the court that a person or entity has been convicted
6 of a third or subsequent violation of (a) of this section, suspend all commercial fishing
7 privileges of the person or entity for a period of three years from the date of
8 conviction and revoke all commercial fishing permits held by the person or entity;

9 (3) a notice from the court that a person or entity has been convicted
10 of a violation described under (b) of this section, suspend all commercial fishing
11 privileges of the person or entity for a period of three years from the date of
12 conviction and revoke all commercial fishing permits held by the person or entity;

13 (4) a notice from the court that a person has been convicted of a
14 violation described under (g)(1) of this section, suspend all commercial fishing
15 privileges of the person for a period of one year from the date of conviction;

16 (5) a notice from the court that a person has been convicted of a
17 violation described under (g)(2) of this section, suspend all commercial fishing
18 privileges of the person for a period of two years from the date of conviction;

19 (6) a notice from the court that a person has been convicted of a
20 violation described under (g)(3) of this section, suspend all commercial fishing
21 privileges of the person for a period of five years from the date of conviction.

22 * Sec. 21. AS 16.43.970(i) is amended to read:

23 (i) Upon the conviction of a person [OR ENTITY] for an offense described
24 under (a), (b), or (g) of this section, the court shall immediately notify the commission
25 of the conviction. The notice provided by the court shall be accompanied by an order
26 suspending commercial fishing privileges and revoking commercial fishing permits
27 under (a) of this section, as appropriate. The commission shall, upon receipt of

28 (1) an order from the court under (a) of this section, suspend the
29 commercial fishing privileges of a person [OR ENTITY] for the period set by the
30 court and revoke commercial fishing permits held by the person [OR ENTITY] as
31 directed by the court:

1 (2) a notice from the court that a person [OR ENTITY] has been
 2 convicted of a third or subsequent violation of (a) of this section, suspend all
 3 commercial fishing privileges of the person [OR ENTITY] for a period of three years
 4 from the date of conviction and revoke all commercial fishing permits held by the
 5 person [OR ENTITY];

6 (3) a notice from the court that a person [OR ENTITY] has been
 7 convicted of a violation described under (b) of this section, suspend all commercial
 8 fishing privileges of the person [OR ENTITY] for a period of three years from the date
 9 of conviction and revoke all commercial fishing permits held by the person [OR
 10 ENTITY];

11 (4) a notice from the court that a person has been convicted of a
 12 violation described under (g)(1) of this section, suspend all commercial fishing
 13 privileges of the person for a period of one year from the date of conviction;

14 (5) a notice from the court that a person has been convicted of a
 15 violation described under (g)(2) of this section, suspend all commercial fishing
 16 privileges of the person for a period of two years from the date of conviction;

17 (6) a notice from the court that a person has been convicted of a
 18 violation described under (g)(3) of this section, suspend all commercial fishing
 19 privileges of the person for a period of five years from the date of conviction.

20 * Sec. 22. AS 16.43.970(j)(1) is amended to read:

21 (1) "commercial fishing permit" means an entry permit, [OR] an
 22 interim-use permit, a vessel entry permit, or a vessel interim-use permit issued
 23 under this chapter;

24 * Sec. 23. AS 16.43.970(j)(1) is amended to read:

25 (1) "commercial fishing permit" means an entry permit or [,] an
 26 interim-use permit [, A VESSEL ENTRY PERMIT, OR A VESSEL INTERIM-USE
 27 PERMIT] issued under this chapter;

28 * Sec. 24. AS 16.43.980(a) is amended to read:

29 (a) The commission shall prepare an annual report and notify the legislature
 30 that it is available. The report must [SHALL] include but not be limited to the
 31 following:

1 (1) a progress report on the reduction of entry permits to optimum
2 levels;

3 (2) recommendations for additional legislation relating to the
4 regulation of entry of participants and vessels into Alaska commercial fisheries.

5 * Sec. 25. AS 16.43.990(5) is amended to read:

6 (5) "person" means a natural person; "person" [AND] does not
7 include a corporation, company, partnership, firm, association, organization, joint
8 venture, [BUSINESS] trust, [OR] society, or other legal entity other than a natural
9 person;

10 * Sec. 26. AS 16.43.990 is amended by adding a new paragraph to read:

11 (10) "entity" means a corporation, company, partnership, firm,
12 association, organization, joint venture, trust, society, or other legal entity other than a
13 natural person.

14 * Sec. 27. REPEAL OF VESSEL PERMIT SYSTEM. AS 16.43.100(a)(20), 16.43.450,
15 16.43.460, 16.43.470, 16.43.480, 16.43.490, 16.43.500, 16.43.510, and 16.43.520 are
16 repealed.

17 * Sec. 28. Sections 5, 10, 12, 14, 16, 18, 21, 23, and 27 of this Act take effect December 30,
18 2008.

19 * Sec. 29. Except as provided in sec. 28 of this Act, this Act takes effect immediately under
20 AS 01.10.070(c).