

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES,

1993-1994

1017

9

a complete application, the department shall approve or disapprove the application for the credit within 60 days.

(c) The department may not approve a tax credit under this section if (1) the department determines that the contribution does not qualify under (a) of this section; or (2) the taxpayer claiming the credit is in arrears in the payment of the tax levied by this chapter. For purposes of this subsection, a taxpayer is not in arrears if the payment is under administrative or judicial appeal.

(d) A contribution allowed as a credit under this section may not be claimed as a credit under another provision of this title."

Page 4, following line 9:

Insert a new subsection to read:

"(e) In this section, "tax revenue collected" does not include amounts credited against taxes under AS 43.77.035."

Page 4, line 13, after "(1)":

Insert "'community development quota" has the meaning given that term in a regulation adopted by the Office of the Governor, under authority granted by art. III, secs. 1 and 24, Constitution of the State of Alaska, to implement a program of the North Pacific Fishery Management Council to set aside fisheries resources for community development purposes in western Alaska;

(2)"

Renumber the following paragraphs accordingly.

JUSTIFICATION: The western Alaska Community Development Quota program was initiated by the State of Alaska, western Alaska residents, and the North Pacific Fishery Management Council for the purpose of creating a fishing economy in one of the nation's most economically-depressed areas. To create these economies, six community groups have formed along the Bering Sea coastline. While each group has chosen a somewhat different method of obtaining this goal, the basic components are the same: training residents to work in the seafood industry; obtaining education in the various aspects of fisheries and fisheries business; building the infrastructure for the communities to become active members of the fishing industry; basic research into fisheries; and setting up seafood businesses.

The first four categories of the activities listed are in the nature of governmental, as opposed to business, functions. For those communities with ports, income from the landing tax will be available to carry out these governmental functions. However, those community groups without established ports will not be able to receive funds from the landing tax for these purposes and will have to use their limited investment capital on programs and projects which cannot sustain themselves financially. This amendment will provide a source of funding for these governmental programs to these "port-less" communities.

The amendment is written narrowly in order to limit its application and impact on the general fund and the established ports.

* First, the tax credit can only be used for a limited set of activities that can be considered "governmental functions" rather than to "private, business functions."

* Second, the tax credit will be counted against the amount of money available for appropriation by the Legislature for revenue sharing with communities, not against the general fund.

* Third, the tax credit is limited to 50% of the value of fish harvested by the community development quota fisheries, which at the present time is only 7.5% of the Bering Sea pollock quota. [The tax credit would be limited to 50% of the 3% landing tax or 1.5% of the value of 7.5% of Bering Sea pollock quota.] While this is an extremely small portion of the revenue sharing with communities, it will be an important source of funding for small communities seeking to establish a fishing economy, but presently without the skills and infrastructure to succeed.

* Fourth, allowing fishing companies which participate in the community development quota fisheries access to this tax credit does not impose any unfair burdens on other offshore fishing companies as all of the companies will pay the same amount of tax; the only difference is the end use of the funds made available.

CITY OF UNALASKA

P.O. BOX 89
UNALASKA, ALASKA 99685
(907) 581-1251
FAX (907) 581-1417



April 6, 1993

Representative Carl Moses
Alaska State Legislature
State Capital, Room 204
Juneau, Alaska 99811

Subject: HB264 - "An Act providing for a fishery resource
landing tax"

Dear Representative Moses:

The City of Unalaska supports HB264, creating a state shared landing tax for fish processed at sea and landed or transferred within Alaska state waters. The existing State of Alaska shared raw fish tax programs were created for sharing half the amount of state fisheries business tax revenues collected from in-state fish processing with municipalities. These fish tax program funds offset financial impacts incurred by local governments from fisheries business activities.

As you are aware, fish processed at sea and landed or transferred within the state is not subject to state or local taxes. The offshore fish processing sector has a significant presence in coastal communities, with activities ranging from transferring processed fish products to changing crews to taking on fuel and supplies to discarding wastes. The offshore sector also has a direct and substantial financial impact on local governments, including increased maintenance requirements of local transportation systems, providing emergency medical and other public safety services, and expanding recreational, educational and other social programs.

The City of Unalaska supports HB264, creating a shared landing tax for fish processed at sea and landed or transferred within state waters consistent with existing state raw fish tax programs.

Sincerely,

Frank V. Kelty
Mayor

Sincerely,

Mark Earnest
City Manager



Kodiak Island Borough

710 MILL BAY ROAD
KODIAK, ALASKA 99615-6340
PHONE (907) 486-5736

April 9, 1993

Representative Karl Moses
Alaska State Legislature
State Capital
Juneau, AK 99801-1182

Dear Representative Moses:

The Kodiak Island Borough has reviewed House Bill No. 264 and is fully supportive of the adoption of this bill, since it would level the playing field for the offshore fishing boats versus the boats from our communities that are currently fishing in state waters and paying the raw fish tax at this time. This bill corrects a long standing discrepancy regarding operating costs for the two different groups of fishermen, and is a positive step toward resolving this issue in terms of treating everyone in the fishing industry equally and will generate additional tax revenue in the process. We strongly encourage the adoption of this bill in this legislative session. Thank you for your thoughtful consideration of this bill. If you have any questions, please don't hesitate to give me a call.

Sincerely,

KODIAK ISLAND BOROUGH

Jerome M. Selby
Borough Mayor



April 7, 1993

Ms. Molly McCammon
Office of Representative Carl Moses
Alaska State House of Representatives
Room 204 - State Capitol
Juneau, Alaska 99801-1182

Dear Ms. McCammon:

As a follow-up to our telephone conversation, I am sending you information about the Bering Sea Commercial Fisheries Development Foundation (Foundation). Although we have only been in existence for less than two years, the projects that we have undertaken have provided a tremendous benefit to Western Alaska Coastal Communities. We are trying to expand these opportunities.

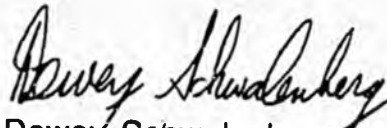
I believe that the Foundation has a real interest in the Fishery Resource Landing Tax Bill (House Bill No. 264) with respect to providing direct social welfare and economic development opportunities to Western Alaska Coastal Fishing Communities. My first impression of the bill is that language is needed to provide a mechanism that would allow the Foundation to receive direct appropriations from these revenues to assist the communities. In addition, an economic incentive to the fishing companies to contribute directly to the Foundation would require a tax credit provision recognizing these business contributions. The details of direct appropriations to the Foundation and a reasonable tax credit for the industry will need to be worked out.

The main objective of the Foundation is to match diverse funding sources to community based projects. Linking state tax revenues with private funds and community resources through the Foundation seems to me to be a way to maximize the financial opportunities that the communities have available to them, while expanding the individual contributions as far as they will go.

I am available to assist you in developing more specific ideas and language as the bill proceeds through the legislature if you feel that such assistance is warranted.

Please feel free to contact me if you should have questions about the enclosed information, our projects, or our interest in House Bill No. 264.

Sincerely,



Dewey Schwalenberg
Executive Director

enc. 1

cc: Mr. John Binkley, President
Mr. Harvey Samuelsen, Vice-President

AMERICAN FACTORY TRAWLER ASSOCIATION PRESENTATION
TO THE JOINT HOUSE AND SENATE ECONOMIC TASK FORCE
MARCH 13, 1993

PRESENTED BY: ED LUTTRELL, PRESIDENT, ARCTIC KING FISHERIES
JOE BLUM, EXECUTIVE DIRECTOR, AMERICAN FACTORY
TRAWLER ASSOCIATION

1. IN 1990 THE OFFSHORE SECTOR PROVIDED THE FOLLOWING
CONTRIBUTIONS TO ALASKA:

- TAXES \$5.4 MILLION (NOT COUNTING CORPORATE, PAYROLL AND CERTAIN LOCAL TAXES)
- PAYROLL \$7.0 MILLION
- ADMINISTRATIVE \$2.3 MILLION
- STORAGE \$8.7 MILLION
- TRANSPORTATION \$7.9 MILLION
- GROCERIES/SUNDRIES \$3.4 MILLION
- MAINTENANCE AND REPAIR \$14.4 MILLION
- FUEL AND LUBRICANTS \$59.7 MILLION
- MISCELLANEOUS \$12.5
- TOTAL/'90 = \$121.4 MILLION

2. IN 1991, AFTA ESTABLISHED THE BERING SEA COMMERCIAL FISHERIES DEVELOPMENT FOUNDATION FOR THE PURPOSE OF ASSISTING IN THE CREATION OF OPPORTUNITIES FOR THE RESIDENTS OF WESTERN ALASKA TO ENGAGE IN THE COMMERCIAL FISHING INDUSTRY -- IN BOTH THE HARVESTING AND PROCESSING SECTORS. AFTA MEMBERS SUPPORT THE

FOUNDATION THROUGH ASSESSMENTS AGAINST EVERY TON OF FISH THEY CATCH IN THE BERING SEA AND GULF OF ALASKA. BY THE END OF 1992, OVER \$680,000 HAD BEEN CONTRIBUTED TO THE FOUNDATION. THE FIRST PROJECT UNDERTAKEN BY THE FOUNDATION WAS AN AGGRESSIVE TRAINING PROGRAM THROUGH WHICH OVER 100 WESTERN ALASKAN RESIDENTS WERE RECRUITED FOR SPECIAL TRAINING PROGRAMS CONDUCTED BY THE ALASKAN VOCATIONAL TRAINING CENTER IN SEWARD. GRADUATES OF THE TRAINING PROGRAM WERE THEN OFFERED EMPLOYMENT ONBOARD AFTA VESSELS. BY THE END OF 1992, OVER 100 WESTERN ALASKANS HAD BEEN RECRUITED, TRAINED AND EMPLOYED BY THE OFFSHORE INDUSTRY. AN ADDITIONAL 300 GRADUATES OF THE PROGRAM ARE ANTICIPATED IN 1993.

3. SIX OFFSHORE COMPANIES, FIVE OF WHICH ARE AFTA MEMBERS, ARE CURRENTLY ENGAGED IN PROJECTS WITH CDQ COMMUNITIES IN WESTERN ALASKA -- FROM ATKA TO NOME AND THE PRIBILOFS. THOSE PROJECTS WILL GENERATE NEARLY \$20 MILLION DOLLARS A YEAR IN INCOME AND OTHER BENEFITS ACCRUING TO WESTERN ALASKAN COMMUNITIES. AS A RESULT, WESTERN ALASKAN RESIDENTS SHOULD HAVE THE SEED MONEY NECESSARY TO DEVELOP THE EXPERTISE AND INFRASTRUCTURE REQUIRED TO ESTABLISH A VIABLE COMMERCIAL FISHING INDUSTRY IN THEIR AREA.

4. IN ALASKA FOR 1990 THE AT-SEA FLEET GENERATED MORE THAN 800 JOBS (USING MULTIPLIER EFFECTS). THE AVERAGE WAGE IN 1990 WAS \$27,000. ENTRY LEVEL WAGES FOR A 60-DAY "TRIP" ARE AS MUCH AS \$10,000.

5. THE AT-SEA FLEET, IN ADDITION TO THE \$7.0 MILLION IN DIRECT WAGES WAS ALSO RESPONSIBLE FOR APPROXIMATELY \$9.0 MILLION IN INDIRECT WAGES. WE DO BUSINESS WITH ALASKA COMPANIES SUCH AS: OFFSHORE SERVICES INCORPORATED, ALASKA AIRLINES, MARK AIR, FACTORY TRAWLER SUPPLY, PENINSULA AIRWAYS, MORRIS AIR, DUTCH HARBOR BUNK HOUSE, SPENARD LUMBER, ALEUTIAN MARINE ELECTRONICS, INDEPENDENT LIFT TRUCKS, DUTCH HARBOR TAXI, HARRIS ELECTRIC, ALASKA SHIP SUPPLY, PACIFIC SHIP SUPPLY, UNISEA INN, WALSHECK SHIPYARD, ALFA WELDING, WATERFRONT WELDING, KODIAK TRANSFER, KODIAK WESTMARK, SHELIKOF INN, PUFFIN INN, ARC N SPARK, SPILL SHIELD, CARLS INC., NORTH STAR TERMINAL, AND NAPA TO NAME A FEW.

6. IN THE LETTERS INVITING US TO PARTICIPATE IN THIS IMPORTANT MINI-SUMMIT YOU ASKED US TO ADDRESS "INCENTIVES TO MAKE ALASKA AN ATTRACTIVE PLACE TO DO BUSINESS." OUR FIRST SUGGESTION WOULD BE THAT YOU DO YOUR OWN ASSESSMENT TO VERIFY THAT THE NUMBERS WE JUST PROVIDED YOU ARE CONSISTENT WITH YOUR RECORDS AND THEN RECOGNIZE THAT THE OFFSHORE PROCESSING SECTOR IS AN IMPORTANT ECONOMIC FACTOR IN ALASKA AND THAT YOU ENCOURAGE OUR CONTINUED PARTICIPATION IN THE FISHERIES OF THE U.S. OFF ALASKA.

UP UNTIL NOW, WE OFTEN FEEL THAT THE INVESTMENTS BY OURSELVES AND FINANCIAL PARTNERS ARE NOT TREATED AS CONTRIBUTING TO ALASKA'S ECONOMIC WELL BEING. WE NEED THE PEOPLE OF ALASKA TO RECOGNIZE OUR CONTRIBUTION AS OUTLINED ABOVE TO ALASKA'S ECONOMIC WELL-BEING AND FACTOR US INTO YOUR FUTURE PLANS.

OF A MORE SPECIFIC NATURE WE HAVE THE FOLLOWING SUGGESTIONS:

- STREAMLINE THE PROCESS FOR BECOMING INVOLVED IN SALMON AND HERRING PROCESSING.
- MODIFY STATE REGULATORY MEASURES THAT ARE DESIGNED FOR ON-SHORE PROCESSORS TO MEET THE CHALLENGES OF OFF-SHORE PROCESSING.

7. IN CONCLUSION, THE AFTA COMPANIES HAVE ENJOYED BUSINESS SUCCESS IN ALASKA. WE HAVE CONTRIBUTED SUBSTANTIALLY TO THE ALASKA ECONOMY AND WE VERY MUCH WANT TO CONTINUE DOING BUSINESS HERE -- A HEALTHY BUSINESS CLIMATE FOR FACTORY TRAWLERS IN ALASKA IS GOOD FOR US, GOOD FOR ALASKA AND GOOD FOR AMERICA'S DOMESTIC CONSUMERS AS WELL AS OUR BALANCE OF PAYMENTS OVERSEAS. LET'S KEEP TALKING POSITIVE!!

Carl L. Rosier, Commissioner

Public Communications
P.O. Box 25528
Juneau, Alaska 99802-5528
(907) 485-4112



Alaska Department of Fish & Game

NEWS

Testimony on House Bill 264 before the House Special Fisheries Committee

Carl L. Rosier
Commissioner
Alaska Department of Fish and Game
April 5, 1993

I am pleased to see HB 264 introduced. This is an idea whose time has come. With the departure of the foreign fleets from within the 200 mile limit, or Exclusive Economic Zone (EEZ) the offshore factory trawl industry is fully Americanized. A large fleet of approximately 60 plus modern vessels, mostly based in the state of Washington, operates within the EEZ off the coast of Alaska. This fishery has been extremely profitable and rapid capital investment has occurred.

This fleet harvests a bycatch of crab, halibut, herring and salmon while targeting on other species. These species are important to Alaska's resident fishermen and processors, and their coastal communities. The incidental harvest of these species by the factory trawlers has an economic impact on Alaskans by the removal through bycatch of resources that would otherwise be harvested and processed by residents of coastal Alaska.

This fleet avails itself of Alaskan docks and harbors, communications and transportation systems, as well as medical services when needed.

This fleet pays virtually no taxes to the state for either the services it receives or its impact on coastal, Alaskan communities. HB 264 proposes a modest, 3% tax on product landed in Alaska for shipment to market

elsewhere. The revenue from this tax could help pay for the services used by the factory trawlers and mitigate for some of the economic impact they have on Alaska's coastal communities.

It is also no secret that management and enforcement in the offshore fisheries are underfunded. The revenue from this landing tax would provide a necessary addition to the funding of these functions.

However, I am concerned about the budgeting process we are witnessing in the State Senate this year. If the approach to funding natural resource management being proposed in that body prevails, then the benefits offered by the additional revenue from HB 264 will be significantly reduced. If Alaska is to maintain or increase its revenues, jobs, and resident income from fish and wildlife resources, then it has to be willing to put its money into the management of these resources.

I recognize the fiscal situation the state is facing as oil revenue declines. While fish and wildlife resources will never offer the tax revenue that oil does, these resources do offer abundant employment and income producing opportunities for Alaskans. The facts show that the users have been willing to pay a fair share of the cost of managing and protecting these resources. The prudent thing is to build the renewable resource base of the state now, so that when oil revenue declines, these renewable sources of employment and income will be strong. This cannot be done with the cuts to natural resource management being proposed in the Senate.

In closing, I want to thank the House leadership for the approach they have taken on the budget this year. While the department has taken reductions, it has been done in a thoughtful, responsible fashion. I have especially appreciated the dialogue between the House budget writers and the department.

House bill 264 will help provide the management, research, and enforcement that must be done if fisheries resources are to continue their productivity on a sustained yield basis. I want to thank Representative

Moses and the House Rules Committee for the introduction of this bill. I fully support passage of it before the session adjourns.

BSFA Bering Sea Fishermen's Association



725 Christensen Drive
Anchorage, Alaska 99501
(800) 770-8519 (Within Alaska)
(907) 279-6519
FAX (907) 258-6888

Serving western Alaska small boat fisheries since 1980

MEMORANDUM

TO: Rep. Terry Martin
House Finance Committee

FROM: Karl Ohls *K.O.*
Bering Sea Fishermen's Association

DATE: April 24, 1993

RE: Request for information related to HB 264

In response to your request for information, I wish to provide you with a list of the communities in western Alaska that would be affected by the CDQ tax credit amendment to HB 264 and a list of the projects that could potentially benefit from the CDQ tax credit.

Below, I have listed the CDQ corporations I spoke for at today's House Finance Committee hearing, the communities they represent, and the nonprofit/community development projects they are implementing with their CDQ revenues. In some cases, these projects may be modified for reasons of feasibility, but they were all included in the development plans the corporations submitted to the state.

Bristol Bay Economic Development Corporation (BBEDC) - Aleknagik, Clark's Point, Dillingham, Egegik, Ekuk, Manokotak, Naknek, Pilot Point, Port Heiden, Savonoski/King Salmon, South Naknek, Togiak, Twin Hills, and Ugashik. BBEDC was established as a nonprofit corporation.

* A Community Development Plan consisting of a fisheries employment training program, a small business development program, grants for value-added processing and marketing, and extension services to halt the regional loss of limited entry permits.

* Scholarship Endowment Fund for university and vocational education.

- * Matching funds for regional infrastructure construction.

Coastal Villages Fishing Cooperative (CVFC) - Chefornek, Chevak, Eek, Goodnews Bay, Hooper Bay, Kipnuk, Kongiganak, Kwigillingok, Mekoryuk, Newtok, Nightmute, Platinum, Quinhagak, Scammon Bay, Toksook Bay, Tuntutuliak, and Tununak. (All of these communities are located in the Kuskokwim Delta region of western Alaska.) CVFC was established as a for-profit corporation and pays all applicable state and federal corporate income taxes.

- * "Salmon Roe University" to train residents to be salmon roe (eggs) technicians.
- * Purchase or construct a salmon processor to operate in the lower Kuskokwim River.
- * Grants for fisheries infrastructure development.
- * Training programs for residents to work in groundfish harvesting, processing, marketing, and corporate management.
- * Coastal Villages Scholarship Fund for careers in the fishing industry and in fisheries management.
- * Repatriation program for regional salmon and herring limited entry permits.
- * Financing for the purchase of vessels for local and nearshore fisheries.

Norton Sound Economic Development Corporation (NSED) - Brevig Mission, Diomedes/Inalik, Elim, Gambell, Golovin, Koyuk, Nome, St. Michael, Savoonga, Shaktoolik, Stebbins, Teller, Unalakleet, Wales, and White Mountain. NSED was established as a nonprofit corporation.

- * Major cooperative agreement with Alaska Department of Fish and Game to rebuild salmon runs on rivers throughout the region.
- * Educational salmon hatchery programs in local schools.
- * Loans for vessel upgrades and the purchase of fishing gear and Norton Sound salmon and herring permits.

- * Commercial herring and salmon fisheries workshops for local fishermen.
- * Construction fund for the renovation and construction of local shoreside fish processing plants.
- * Purchase multi-use vessel for halibut, black cod, and other species, and for use as a salmon and herring tender or processor.
- * Training and employment program for fishing and processing jobs.
- * Scholarships for advanced education and technical school training in fisheries-related areas.
- * Permanent endowment for training and education.

Yukon Delta Fisheries Development Association (YDFDA) - Alakanuk, Emmonak, Kotlik, and Sheldon Point. YDFDA was established as a nonprofit corporation.

- * Fisheries training program for local residents.
- * A fleet of small catcher vessels to operate in local longline and/or pot fisheries.
- * Emmonak shoreside processing and cold storage facility.
- * Fund for the purchase of regional salmon limited entry permits.

For both your information and the information of the committee, I will provide you with the requested details on the two remaining CDQ corporations. I wish to emphasize that my comments on HB 261 only reflect the positions of BBEDC, CVFC, NSEDC, and YDFDA. Additionally, the funding situation on the projects planned by APICDA and CBSFA may be entirely different than that of the previous CDQ corporations.

Aleutian Pribilof Islands Community Development Association (APICDA) - Atka, False Pass, Nelson Lagoon, Nikolski, and St. George. APICDA was established as a nonprofit corporation. Akutan and Unalaska participate in the training and education programs.

- * Comprehensive vocational education, job training and employment programs.

- * Higher education endowment fund.
- * Completion of St. George boat harbor and ancillary economic development.
- * Nelson Lagoon dock design.
- * False Pass gear storage warehouse.
- * Water and sewer service for the new False Pass dock.
- * Engineering design for Atka dock and economic feasibility study on related shoreside development.

Central Bering Sea Fishermen's Association (CBSFA) - St. Paul. CBSFA is a nonprofit corporation.

- * Boat loan program for 32 to 125 ft. vessels capable of participating in Bering Sea multi-species fisheries.
- * Set aside funds for St. Paul Island infrastructure development.

If I can provide you with further information, please do not hesitate to contact me at 279-6519. Also, for more details, please consult the booklet "The CDQ Program: New Economic Potential for Western Alaska". Extra copies should be available in the offices of Rep. Foster, Rep. Hoffman, Rep. MacLean, and Rep. Moses, and from Mr. John Walsh of the Dept. of Community and Regional Affairs.

By LAINE WELCH

FOR THE JUNEAU EMPIRE

Officials are pondering the possibility of bringing foreign buyers into state waters to buy Western Alaska herring.

With record catches of over 75,000 tons in the statewide forecast and a glut of herring already on the market, some processors have said they are not interested in buying fish from Togiak to Norton Sound. That news is devastating for westward fishermen who count on herring as one of their few sources of cash income.

Last week Ocean Trawl, on behalf of the Bristol Bay Economic Development Corp., requested a permit from the state to buy 10,000 tons of herring from Western Alaska. Ocean Trawl orchestrated a similar arrangement last summer by forming a joint venture with the Russians to buy pink salmon in Prince William Sound.

Before issuing the permit, state officials must determine that a surplus of herring exists and that domestic processors are not interested in the fish. Commerce Commissioner Paul Fuhs said the state is also concerned about the massive waste if the herring catch finds no buyers.

A decision on the permit request must be made quickly in order to have foreign buyers on the grounds when the herring arrive, usually in early May. "We're very aware of the time frame for the fishing season. If there is insufficient capacity from the domestic processors, we feel we can get the permit in time to provide a market," Fuhs said.

Sitka herring fishery ends: Sitka's sac roe fishery ended April 3 after a leisurely seven-day season. Processors set the pace of the fishery depending on plant capacity in handling the 9,700-ton quota, double that of last year.

The Sitka herring were bigger than they've been for about five years, with roe counts between 10 and 11 percent. Last year, Sitka fishermen were paid a statewide low of \$279 a ton.

Ketchikan fishermen at Kah Shakes were on two-hour notice at week's end as high winds continued to ground aerial surveys. The robust Kah Shakes herring, with its high 14 percent roe counts, last year brought nearly \$1,400 a ton.

Prince William Sound was also poised to take off. Seiners and gillnetters will share a 16,500-ton

quota, which last year averaged \$400 a ton. Prince William Sound spawn-on-kelp pounders got over \$18,000 a ton for their pricey product. In 1992, the sound's herring fisheries were worth nearly \$10 million.

Cook Inlet's Kamishak Bay has a somewhat reduced 2,200-ton quota. Fishermen last year took slightly less in a single half-hour opener and received \$570 a ton.

Kodiak's islandwide herring fishery, which runs from April 15 through June 30, has a quota this year of 3,500 tons. Kodiak fishermen were paid \$500 a ton last year, of which \$200 came from delivering to the docks.

Togiak herring averaged \$366 a ton last season, with fishermen from the Kuskokwim Delta getting in the \$300 range. Norton Sound lost out on its 1992 herring season when late pack ice kept buyers out of the area.

All of Alaska's herring goes to Japan, which sets strict import limits. To make market matters worse, a holdover of 20,000 tons of last year's product remains in inventory, which counts against this year's import quota.

Trawlers deny tax opposition: Factory trawler companies say they are not trying to derail a bill that would require them to pay a 3.3 percent landing tax on fish they catch in state waters.

Three percent is the raw fish tax shore-based operations now pay to the state, with 0.3 percent going to the Alaska Seafood Marketing Institute for generic promotions.

The bill, which would add an estimated \$10 million to state and local coffers, was introduced to the legislature March 30 by Rep. Carl Moses of Unalaska.

"We have not at this time taken a position either for or against the bill," said Joe Blum, executive director of the American Factory Trawler Association, which represents 20 companies that own and operate 46 trawler processors.

Blum said last week the association has hired a lobbyist to watch out for the group's interests. "That only makes sense when you're dealing in a sophisticated arena like the Alaska Legislature. It would be foolish to not have someone advising you on how the process works.

"I would hope the people of Alaska would not see anything sinister in that," he said.

Blum said that as the Legislature scrutinizes the tax proposal, members should consider the financial contribution catcher processors already make to the state. For example, Blum cited the Bearing Sea Commercial Fisheries Development Foundation, formed by AFTA in 1991 to provide jobs and training for people in Western Alaska coastal communities.

Funding, which as of last December totaled \$683,000, comes from an assessment on each ton of fish caught by member vessels in Alaska waters.

And in 1990 alone, Blum said, the offshore fleet spent nearly \$120 million for goods and services in Alaska ports. "Let's give credit where credit is due," he said.

A statewide teleconference on the landing tax bill (House Bill 264) is scheduled for 5 p.m. Monday at legislative information offices.

Cook Inlet crab fishery: A decision on limiting entry to Cook Inlet's dungeness crab fishery was delayed last week to May 20. Public comment period has also been extended until May 17. Widely diverse comments are coming in at a rapid rate, according to state Commercial Fisheries Entry Commission Chairman Bruce Twomley.

Twomley said the commission wants to take more time to carefully consider all input and to "give Fish and Game time to get its thought on the record."

The commission held a public hearing on the issue last month in Homer, where supporters of limiting entry to the dungeness fishery slightly outnumbered those in opposition.

Under state statute, Twomley said, the commission is required to follow specific guidelines when making its decision. "Would it promote conservation of the fishery as well as the health and economic well-being of the fishery? If the answer to both question is yes, then we have a legal duty to limit the fishery."

Cook Inlet's dungeness fishery has been closed since 1990.

Laine Welch produces Alaska Public Radio's "Alaska Fisheries Report" at KMKX in Kodiak. It can be heard on KTOO-FM in Juneau at 6:30 p.m. Fridays and 7:45 a.m. Saturdays. Bob King in Dillingham and Joe Gallagher in Homer contributed this week.

1991 Fish Tax Study



State of Alaska
Walter J. Hickel, Governor

Department of Revenue
Darrel J. Rexwinkel, Commissioner

May 1992



STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

P.O. BOX 5
JUNEAU, ALASKA 99811-0400
PHONE: (907) 465-2300
TELEFAX: (907) 465-2389

June 2, 1992

The Honorable Walter J. Hickel
Governor
State of Alaska
P.O. Box 110001
Juneau, AK 99811-0001

Dear Governor Hickel:

We are pleased to present you with this report on the results of our 1991 study of Alaska's fisheries business taxes. The report provides an overview of the laws, assesses how well they are working, and makes recommendations for improvements.

Following a 1989 Legislative Audit report, the Department of Revenue allocated additional audit resources to the fish tax programs. In conjunction with this effort, which yielded \$1.3 million in fish taxes in FY 91, the division analyzed the level of tax compliance for each of the fisheries. This study is the result of that analysis.

Sincerely,



Darrel J. Rexwinkel
Commissioner

DJR:ml
Enclosure

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

1991 Fish Tax Study



State of Alaska
Walter J. Hickel, Governor

Department of Revenue
Darrel J. Rexwinkel, Commissioner

May 1992



1991 Fish Tax Study prepared for

State of Alaska
Walter J. Hickel, Governor

Department of Revenue
Darrel J. Rexwinkel, Commissioner

Income and Excise Audit Division
Larry E. Meyers, Director



prepared by

Mark A. Graber
Susan L. Christy
Pat A. Shanley
Joan E. Roomsburg

Exhibit 1 prepared by
Cari Meyer

INCOME AND EXCISE AUDIT DIVISION
ALASKA DEPARTMENT OF REVENUE

May 1992

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

P.O. BOX 5
JUNEAU, ALASKA 99811-0400
PHONE: (907) 465-2300
TELEFAX: (907) 465-2389

June 2, 1992

The Honorable Walter J. Hickel
Governor
State of Alaska
P.O. Box 110001
Juneau, AK 99811-0001

Dear Governor Hickel:

We are pleased to present you with this report on the results of our 1991 study of Alaska's fisheries business taxes. The report provides an overview of the laws, assesses how well they are working, and makes recommendations for improvements.

Following a 1989 Legislative Audit report, the Department of Revenue allocated additional audit resources to the fish tax programs. In conjunction with this effort, which yielded \$1.3 million in fish taxes in FY 91, the division analyzed the level of tax compliance for each of the fisheries. This study is the result of that analysis.

Sincerely,



Darrel J. Rexwinkel
Commissioner

DJR:mll
Enclosure

Addendum to 1991 Fish Tax Study

On Page 32, Table 21, the table labeled Summary of Increased Revenues Per Year from Proposed Legislative Amendments and Landing Tax, should read as follows:

Table 21
Summary of Increased Revenues Per Year from
Proposed Legislative Amendments and Landing Tax

| | | |
|---|---|-------------------------|
| 43.75.011 Licensing Requirements | | - |
| 43.75.015 Roe Taxed Separately | \$ | 923,000 |
| 43.75.017 Exclusion | | - |
| 43.75.020 Raise License Fee to \$250 | | 107,000 |
| 43.75.030 Information Report by Cash Buyers | | - |
| 43.75.055 Acceptable Security | | - |
| 43.75.100 Tax Imposed on Acquiring Resources | | - |
| 43.75.070 Responsible Persons | | - |
| 43.75.290 Definitions | | |
| (4) Fisheries Business Defined | | - |
| (5) Roe as Resource Defined | | - |
| (11) Value - Determinations | | - |
| (12) Lienable Real Property Defined | | - |
| (13) Processing Defined | | - |
| (14) Processing for Sale to Consumers | | (5,000) |
| (15) Market Value to Include Tendering Costs | | 3,750,000 |
| 43.77.010 | Landing Tax Revenues | \$14,200,000 |
| Less estimated costs of administration | | |
| 1 Tax Examiner | | (40,000) |
| 2 Field Auditors | | <u>(116,000)</u> |
| | Net Revenues from a Landing Tax | <u>14,044,000</u> |
| | Total Net Increased Revenues per Year | <u>\$18,819,000</u> |

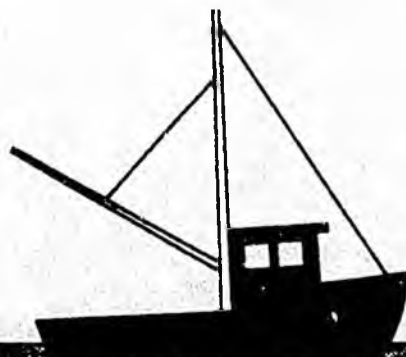
The earlier table contained an error in the estimated tax from a landing tax.

Table of Contents

| | |
|--|-----------|
| List of Tables | ii |
| Executive Summary | iii |
| PART I. PURPOSE AND SCOPE | 1 |
| PART II. OVERVIEW OF ALASKA FISH TAXES | 1 |
| Fisheries Business Tax (AS 43.75) | 1 |
| Seafood Marketing Assessment (AS 16.51) | 3 |
| Salmon Enhancement Tax (AS 43.76) | 3 |
| PART III. FISHERIES TAX COMPLIANCE | 4 |
| Alaska Fisheries Management | 4 |
| Compliance History | 5 |
| Audit and Compliance Efforts | 5 |
| Shared Taxes | 6 |
| Penalties | 6 |
| Compliance Analysis | 6 |
| Salmon Fisheries | 8 |
| Salmon Fisheries Management | 10 |
| Salmon Fisheries Compliance | 10 |
| Herring Fisheries | 12 |
| Herring Compliance | 13 |
| Shellfish Fisheries | 14 |
| The Crab Fishery | 15 |
| The Shrimp Fishery | 16 |
| Other Miscellaneous Shellfish Fisheries | 16 |
| Crab Compliance | 16 |
| Shrimp and Other Shellfish Compliance | 19 |
| Groundfish Fisheries | 19 |
| Groundfish Compliance | 21 |
| Halibut Fisheries | 23 |
| Halibut Compliance | 24 |
| Conclusions: Overall Rate of Non-Compliance | 25 |
| PART IV. RECOMMENDATIONS TO IMPROVE COMPLIANCE | 29 |
| The ADF&G Fish Ticket System | 29 |
| DOR Licensing Procedures and Unpaid Tax | 30 |
| The Observer Program | 30 |
| Statutory Changes to the Fish Tax - Landing Tax | 30 |
| EXHIBIT 1. PROPOSED CHANGES TO FISHERIES TAX PROVISIONS | 33 |

List of Tables

| Table | Page |
|--|------|
| 1 ADF&G Pounds Harvested in Alaska and Adjoining Federal Waters | 7 |
| 2 ADF&G Value Harvested in Alaska and Adjoining Federal Waters | 7 |
| 3 Department of Revenue Fish Tax | 7 |
| 4 ADF&G Pounds of Salmon Harvested and Percent of Total | 8 |
| 5 Relative Value of Salmon as Reported to DOR | 9 |
| 6A Salmon Harvested per ADF&G and the Percent Reported to DOR | 11 |
| 6B Salmon Roe Harvested per ADF&G and Percent Reported to DOR | 11 |
| 7 ADF&G Pounds Harvested by Herring Fishery | 12 |
| 8 Relative Value of Herring as Reported to DOR | 13 |
| 9 ADF&G Pounds (herring) Harvested and the Percent Reported to DOR as Taxable | 13 |
| 10 ADF&G Pounds of Shellfish Harvested | 14 |
| 11 Relative Value of Shellfish as Reported to DOR | 15 |
| 12 ADF&G Pounds of Crab Harvested and the Percent of Total | 17 |
| 13 Pounds Crab Processors Harvested and/or Purchased vs. Pounds Crab Processors Reported to DOR | 18 |
| 14 DOR Pounds of Groundfish Reported and the Percent of Total | 19 |
| 15 Relative Value of Groundfish as Reported to DOR | 20 |
| 16 ADF&G Pounds of Groundfish Harvested and Percent Reported to DOR | 21 |
| 17 ADF&G Pounds of Halibut Harvested and the Percent Reported to DOR | 24 |
| 18 ADF&G Pounds Harvested and the Percent Reported to DOR — All Species | 25 |
| 19 "Pound Compliance" Potential Tax from Unaccounted for Pounds | 27 |
| 20 "Pound Compliance" Potential Tax from EEZ Pounds | 28 |
| 22 Estimated Revenue from Landing Tax — Crab | 48 |
| 23 Estimated Revenue from Landing Tax — Groundfish | 48 |



EXECUTIVE SUMMARY

This study has three purposes: to provide an overview of Alaska's fisheries tax laws, to assess how well the laws are working, and to make recommendations for improvements.

Overview of Alaska Fish Taxes

The Department of Revenue administers three Alaska fish tax programs — Fisheries Business Tax, Seafood Marketing Assessment, and Salmon Enhancement Tax. This study briefly explains what is taxed and who must pay it, along with the basic tax structure and rates.

The Fisheries Business Tax is a tax on the value of fisheries resources processed in Alaska and unprocessed resources exported out of Alaska. There are four tax rates applied to value depending on where and how the resource is processed and whether the resource is an established or developing fishery.

The Seafood Marketing Assessment is assessed on the value of seafood products purchased by a processor. The tax rate — currently .3% — has been determined by vote of the processors.

Six aquaculture regions have elected to impose a Salmon Enhancement Tax by majority vote of the limited entry permit holders. The tax — currently 2% or 3% of the value depending on the region — is imposed upon the fisherman.

Fisheries Tax Compliance

Eight state and federal agencies are involved in managing fisheries in and around Alaska. In its efforts to administer fish tax laws, the Department of Revenue is affected by their decisions and activities. This study includes a brief description of each agency and the role it plays in Alaska fisheries management.

Responding to a June 1989 legislative audit, the department allocated additional audit resources to fish taxes. An audit group dedicated to fish tax audit and compliance completed 53 field audits and 788 desk audits during FY 91, assessing \$1.3 million. In addition, the group established a compliance presence on the fishing grounds and established internal programs to locate non-compliance.

In conjunction with these efforts, the division analyzed the level of compliance for each of the fisheries. The division wanted to know the potential revenue to be gained by increased audit and compliance efforts, as well as the fisheries and/or groups of taxpayers with the most non-compliance. Two types of compliance were considered: value compliance and pound compliance.

An analysis of "value compliance" asks: Is the correct taxable value being reported? The group found that this type of compliance could only be determined on an individual audit basis. However, the group found recurring value issues in its audits. The most common issues concerned the interpretation of "taxable value" and failure to report bonus payments and year-end adjustments.

An analysis of "pound compliance" asks: Were all taxable pounds reported to the department? To determine this, the division compared total pounds harvested in Alaska with total pounds reported to DOR as taxable. The difference, or "unaccounted for" pounds, represents potential additional taxable value. If all of these "unaccounted for" pounds in all of the fisheries were subject to tax, additional tax revenues would be \$1.2 to \$2.4 million/year.

Alaska's *salmon fisheries* provide the majority of the tax revenues, generating 61% of the fish tax revenues. Compliance within the salmon fisheries is high, with 96% of the salmon reported to ADF&G also reported to DOR as taxable.

The *herring fishery* also shows high pound compliance. While these fisheries are of high value, they are also very short in duration and so contribute only 3% of total fish tax revenue. On average, 97% of the herring pounds harvested are reported to DOR.

Based on compliance and audit experience, the division believes that unreported pounds of salmon and herring can be attributed to: (1) data entry and reporting errors made by the processors, ADF&G, and DOR; (2) custom processing arrangements whereby neither the owner of the resource nor the custom processor reports the resource processed; (3) dock sales of unprocessed resources as well as processing done outside Alaska's tax jurisdiction; and (4) non-compliance (processors not licensing with DOR nor filing tax returns and processors not reporting all pounds processed).

Shellfish is a high value resource that represents 22% of the total fish tax revenue. Most of the pounds reported to ADF&G — 97% — are crab. Over the three years covered by this study, the percentage of pounds not reported to DOR has remained relatively constant, averaging 21%. Most of this crab harvest — 18% — is attributed to catcher/processors operating outside Alaska's tax jurisdiction in the Exclusive Economic Zone (EEZ). The remaining 3% of unreported pounds can be attributed to data entry and reporting errors as well as non-compliance.

The *groundfish fishery* can be characterized as a high volume, low value fishery. Groundfish accounts for 70% of the ADF&G pounds harvested, 22% of the value harvested, but only 6% of the tax revenue collected. The low tax revenue is due to harvesting and processing groundfish in the EEZ, the low price per pound value, and the low developing fishery tax rates that apply to most of the groundfish species processed during the period covered by this study.

For the combined crab and groundfish fisheries, the total pounds claimed to be harvested and processed in the EEZ represent value of approximately \$192.3 million/year. If all of these pounds were subject to tax, additional tax revenues would be \$6.8 million/year. But there are vast differences of opinion surrounding how often crab and groundfish operators harvest and process in Alaska waters. Currently the state does not have the data to determine if these pounds are taxable. However, based on its knowledge of the EEZ fisheries, DOR believes the majority of these pounds are not subject to tax.

If the state wants to tighten compliance in the EEZ fisheries, DOR would need better information. An effective tool could come from requiring the onboard crab and groundfish observers to document the harvesting and processing inside Alaska waters by EEZ catcher/processors.

As with groundfish, much of the *halibut* is harvested outside Alaska's three mile limit. Because openings are short (usually one to two days) many fishermen with sophisticated refrigeration systems transport their catch directly to Seattle where it commands a higher price. The study shows that 8% of the halibut pounds harvested is not reported to DOR. This difference most likely represents data capturing and reporting errors, dock sales by fishermen to consumers, and non-compliance. At present, the International Pacific Halibut Commission only releases halibut harvest data by pounds landed per port. Compliance information such as pounds per processor is not released. This lack of harvest data hampers DOR's efforts to further analyze compliance in the halibut fishery.

Recommendations

The department has identified four general areas that can be changed to improve fish tax compliance and enhance revenues.



1. The ADF&G Fish Ticket System

Problem: The current system allows an unscrupulous processor to operate without a license by using plates and tickets left over from a prior year. DOR has found 21 processors that were using invalid processor ID codes for 1989, and 37 for 1990.

Recommendation: Provide for a yearly processor ID code and provide for an annual expiration date on the imprint plates. This would require a change in ADF&G procedures, and the purchase of a new machine that can make a plate in seconds (available at a cost of \$13,000—\$18,000).

2. DOR Licensing Procedures and Unpaid Tax

Problem: An analysis of the non-collectible accounts shows that many are for businesses that operated for only one year and either had prepaid tax as security that did not cover their eventual liability or did not file returns.

Recommendation: DOR must continue to scrutinize license applications for adequate prepayment of tax, and issue assessments as soon as possible for non-filers. (Improvements in licensing and auditing procedures were made following the 1989 legislative audit.)

Recommendation: Change the fisheries business statutes to allow the department to deny licenses to fisheries businesses and owners that owe the state any taxes, and give express authority for DOR's current policy of requiring lienable value to be three times the tax liability, and make it clear that personal property and other forms of collateral are not acceptable.

3. The Observer Program

Problem: There is no practical way for auditors to determine and document processing done by floaters or catcher/processors inside the three mile limit.

Recommendation: Have ADF&G observers on board vessels monitor and document harvesting and processing inside the three mile limit. With this evidence, DOR could ensure that every vessel with an observer is in compliance with the fish tax laws. This procedure would need to be approved by the Alaska Board of Fisheries and coordinated with ADF&G.

4. Statutory Changes to the Fish Tax — Landing Tax

Problem: The in-depth audits of processors have brought to light areas of confusion by the industry and problems of inconsistent interpretation of the law.

Recommendation: Change the statutes to clarify the issues encountered in field audits, including modifying the definition of taxable value and the definition of who is liable for the tax, and make other changes that will give the state better tools to administer the fish tax program. Make statute changes that will enhance revenues, such as taxing salmon roe when processed and defining the point of valuation.

Problem: The current structure of the fisheries business tax imposes a tax only on those resources harvested and/or processed inside Alaska's three-mile limit. This has not been effective in generating revenue from floating crab and groundfish catcher/processors.

Recommendation: Impose a landing tax which taxes the market value of the fisheries resources brought into the jurisdiction of the state not otherwise subject to the fisheries business tax established by AS 43.75. The objective would be to tax that part of the offshore fishing and processing activity that impacts Alaska's fishing communities and which is not at present being taxed.

Changes to the tax law would capture significantly more tax. Although estimates of revenue are difficult with data available, DOR estimates that Alaska would receive an additional \$14.2 million/year from a landing tax. This estimate is based on unprocessed value and a 5% tax rate. Actual tax received would vary depending on the tax base and the tax rate.

Table 21 on page 32 summarizes DOR's estimates of net increased revenues from statutory changes and the imposition of a landing tax.

Exhibit 1 beginning on page 33 details the proposed statutory changes with explanations for and comments about each.

Note:

All of the research and data compilation, and most of the writing of this study was completed in the early fall of 1991. Since that time, significant events have occurred and new data has become available that may change some of the analyses presented. Time constraints do not allow for a complete revision of this study; however, the reader should be aware of the following recent developments and their potential effect on the points made in this study.

- For 1988-1990, salmon was the most valuable fisheries resource. The collapse of salmon prices in 1991 and the rebound of crab fisheries, particularly around the Aleutians, will probably change this relationship. When all 1991 data is collected and available, crab may surpass salmon as Alaska's most valuable fisheries resource.
- Effective for 1992, most of the groundfish species previously categorized as developing species by ADF&G have been reclassified to the established category. Established resources carry a higher tax rate. The estimates in this report are based upon the fishery continuing in the developing category.
- Very recent actions by the North Pacific Fisheries Management Council will dramatically change the nature of the EEZ fishery. In the past, groundfish were harvested in a virtual "free for all", with shore-based processors and catcher/processors competing for a limited resource. Recently the council adopted a plan to allocate groundfish between shore-based and floating processors. This allocation should increase fish taxes. With more resources processed at shore-based plants, the expected revenue from the imposition of a landing tax would be reduced.

PART I. Purpose and Scope



This Fish Tax Study has three purposes:

1. Provide an understanding of Alaska's fisheries tax laws
2. Assess how well the law is working
3. Make recommendations for improvements

The scope of this report deals with fisheries taxes administered by the Alaska Department of Revenue (DOR):

1. AS 43.75 — Fisheries Business Tax
2. AS 16.51 — Seafood Marketing Assessment
3. AS 43.76 — Salmon Enhancement Tax

The data in this report comes from DOR's Income and Excise Audit Division and other state and federal agencies. Where possible, conclusions are drawn from statistical data. However, where statistical information is lacking, conclusions are based on field audit experiences and interviews with experts working in the various fisheries.

PART II. Overview of Alaska Fish Taxes

FISHERIES BUSINESS TAX (AS 43.75)

AS 43.75.015 imposes a tax on the value of resources processed in Alaska and upon unprocessed fisheries resources exported out of Alaska. The tax is imposed upon the first processor of the resource or upon the person exporting unprocessed resource, whether or not caught in Alaska's taxing jurisdiction. In this study, processors and exporters are collectively referred to as processors.

Every processor is required to obtain a fisheries business license prior to engaging in a fisheries business. The processor is required to provide security, post a bond, or make a prepayment of tax before a license is issued. (AS 43.75.011, 43.75.055).

A fisheries business is defined as "a person who engages in processing fisheries resources for sale by freezing, cooking, salting, or other method and includes but is not limited to canneries, cold storages, freezer ships, and processing plants" (AS 43.75.140(4)).

Processing is defined by regulation 15 AAC 75.300 as: "any activity which modifies the physical condition of a fisheries resource" and includes butchering, freezing, salting, canning, etc. This regulation excludes certain activities such as gutting, gilling and icing solely for the purpose of maintaining product quality until processing takes place.

In custom processing arrangements, the business performing the processing may deduct the value of the resource processed, so long as the processing is performed for another licensed fisheries business, and that fisheries business reports and pays the tax (15 AAC 75.030).

Excluded from the tax are fishermen who clean and freeze fish if the fish are sold to a licensed fisheries business. The licensed fisheries business is then liable for the tax (AS 43.75.017).

There are four tax rates applied to value at AS 43.75.015 depending on *where* and *how* the resource is processed and *what* resource is processed.

If the resource is designated an "established" fishery, then the tax rate is:

- 5.0% of the value of the resource processed by a floating processor
- 3.0% of the value of the resource processed by a shore-based processor
- 4.5% of the value of the salmon canned by a shore-based facility

If the resource is designated a "developing" fishery, then the tax rate is:

- 3.0% of the value of the resource processed by a floating processor
- 1.0% of the value of the resource processed by a shore-based processor

Each year the Alaska Department of Fish and Game (ADF&G) determines by geographical areas which species are established or developing. During calendar year 1991 most of the salmon, herring, crab, halibut and sablefish were designated established species while most of the groundfish (pollock, pacific cod and rockfish) were designated developing species.

Taxable value is defined by 15 AAC 75.300(6) as the price paid for the resource including indirect consideration such as bonus payments, fuel, bait, etc., whether paid at the time of sale or paid after the season as a bonus or price adjustment.

Fisheries business tax returns are filed on a calendar year basis and are due on March 31.

Beginning in 1987, the taxpayer was allowed a credit for expenditures for improvements to, or new construction of, shore-based processing facilities. The credit equals 50% of the qualified expenditure and the taxpayer is allowed a credit of up to 50% of the tax liability. The credit is effective through December 31, 1991 (AS 43.75.032).

Fish tax revenue is shared with the city or borough where the processing takes place. Fifty percent of the tax before credits is subject to revenue sharing if the processing takes place within city limits or borough boundaries (AS 43.75.130).

It is important to recognize that the fisheries business tax only applies to resources processed within Alaska's three mile jurisdictional limit. "Alaska waters" for purposes of resource management includes Alaska and adjoining federal waters. Later this report attempts to identify and value those resources taken in the federally controlled zone referred to as the Exclusive Economic Zone, or EEZ. This zone encompasses the waters from three miles to 200 miles off Alaska's shore. Fisheries resources caught and processed in the EEZ and brought into the state for loading and trans-shipment only, are not subject to the tax.

Interviews conducted during compliance trips show that the term "Alaska waters", as it applies to the Alaska taxing jurisdiction, is widely misunderstood. The term is used loosely and in many instances is taken to indicate all waters that surround Alaska. For tax purposes, the term "Alaska waters" means waters within three miles of Alaska's shore.

SEAFOOD MARKETING ASSESSMENT (AS 16.51)

AS 16.51.120 provides for an assessment of 0.1%, 0.2%, 0.3% or 0.4% of the value of seafood products purchased by a processor. The tax rate is determined by vote of the processors. Currently the rate is 0.3%. The return is due annually with the fisheries business tax return.

Funds collected by DOR from this assessment are deposited in the general fund for the purpose of providing funds for the Alaska Seafood Marketing Institute (ASMI).

SALMON ENHANCEMENT TAX (AS 43.76)

The holders of limited entry salmon permits in a given aquaculture region may, by majority vote, elect to impose a salmon enhancement tax (SET). The tax is imposed upon the fisherman and is collected by the first buyer of the salmon, usually the processor. The region may impose a 1%, 2% or 3% tax on the value of the salmon.

SET returns are due monthly. Funds collected by DOR from the salmon enhancement tax are deposited in the general fund. These funds may be appropriated by the legislature to fund the aquaculture association for the region where the tax was collected.

Currently six aquaculture regions have a SET. Kodiak, Cook Inlet, Prince William Sound and Chignik impose a 2% SET. Northern Southeast and Southern Southeast impose a 3% SET.

PART III. Fisheries Tax Compliance

ALASKA FISHERIES MANAGEMENT

An analysis of fisheries tax compliance begins with a review of some of the agencies involved in managing fisheries in and around Alaska.

The **Alaska Board of Fisheries** has primary management responsibility for finfish (except halibut) and shellfish harvested in state waters out to three miles. The Board has seven members appointed by the governor. The Board is responsible for writing regulations that serve to conserve the fish stock and allocate the economic benefits of harvest.

The **Alaska Department of Fish and Game (ADF&G)** is responsible for managing the fisheries in accordance with the policies and regulations given by the Alaska Board of Fisheries. From a tax compliance standpoint, ADF&G is the primary source of catch data for shellfish and finfish.

The **Commercial Fisheries Entry Commission (CFEC)** issues licenses to crewmen and vessels. On every vessel and beach site at least one person must hold a limited entry or interim-use permit. Processors are required to file an Annual Operators Report with CFEC, giving a summary of fish purchased and prices paid.

The **North Pacific Fishery Management Council (NPFMC)** issues fisheries management plans for fisheries in the U.S. Exclusive Economic Zone (EEZ). This zone begins at the Alaska three mile limit and extends to the 200 mile United States limit. The Council has 15 members.

The **National Marine Fisheries Service (NMFS)** is responsible for implementing the management plans issued by the NPFMC.

There is considerable coordination between ADF&G and NMFS, particularly for those fisheries that take place inside and outside Alaska waters. In the crab fishery, for example, ADF&G makes management recommendations to NPFMC and in coordination with NMFS manages the crab fishery.

The **International Pacific Halibut Commission (IPHC)** makes policies and issues regulations for the U.S. and Canada halibut fishery. The IPHC's regulations are geared toward quotas and other biological concerns. The enforcement of the IPHC regulations are carried out by state and federal agencies.

Enforcement of regulations in state waters is carried out by the **Fish and Wildlife Protection Agency (F&WP)**, a branch of the **Alaska Department of Public Safety**. F&WP officers are trained at the **Alaska State Troopers Academy** in Sitka.

Enforcement in federal waters is carried out by officers of the **NMFS** and by the **U.S. Coast Guard (USCG)**.



COMPLIANCE HISTORY

A legislative audit of the fisheries business tax program was completed in June 1989. In addition to recommending that DOR improve internal accounting for tax collections, the audit report made three other recommendations:

1. DOR should increase audit efforts of fisheries business tax returns and should increase compliance efforts to identify unlicensed processors.
2. DOR should properly share fish tax revenues with local governments.
3. DOR should seek legislation which would provide more stringent penalties for operating a fisheries business without a fisheries business license.

In order to address these recommendations, the Income and Excise Audit Division allocated audit resources to fish tax compliance. During fiscal year 1991, one audit supervisor, two field auditors and one tax examiner were assigned to fish tax compliance. The group's actions during FY 91 are outlined below.

Audit and Compliance Efforts

During FY 91 the group completed 53 field audits and 788 desk audits, assessing \$1.3 million. The field audits averaged \$15,000 per return audited, for a total of \$785,000. For the most part, audit issues involved "value compliance", such as year-end bonus payments not being reported and incorrect interpretation of the term *taxable value*.

The desk audits of 788 tax returns averaged \$800 per return reviewed or prepared on behalf of the taxpayer, for a total of \$542,000. For the most part, audit issues involved "pound compliance" such as processors not reporting resource processed, processors not filing tax returns, and custom processing arrangements whereby neither the owner of the resource nor the processor reported the taxable resource.

In addition to performing audits, the group established a compliance presence on the fishing grounds. The auditors attended openings for herring in Sitka; for halibut in Kodiak, Homer and Seward; for salmon in Bristol Bay and the Aleutians; and for groundfish in the Gulf of Alaska, Aleutians, Bering Sea and Pribilofs. During these compliance trips they patrolled the fishing grounds with F&WP officers and NMFS enforcement agents to check licenses and become familiar with the fishing industry. During FY 91 very few processors were found operating in Alaska waters without a fisheries business license. In addition, the auditors met with city and borough officials, followed up on compliance leads, and set up compliance channels.

In-house compliance consisted of establishing programs to locate non-compliance.

Numerous "paper trail" compliance projects were set up. Other government agencies' field personnel were enlisted as compliance eyes and ears, and procedures to monitor and improve compliance were instituted. Enhanced in-house procedures have led to policies on acceptable security, prepayment of tax being strictly enforced, and processors with outstanding liabilities being denied current licenses until their assessments have been paid.

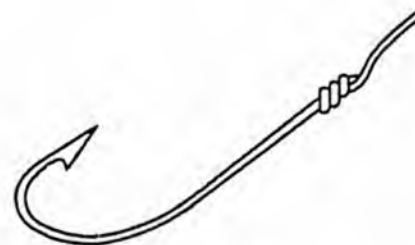
Shared Taxes

To improve the accuracy of revenue sharing, the division revised the allocation section of the fisheries business tax return. The allocation form now consists of five separate schedules that allow the division to reconcile the total tax reported.

The division has assigned a full time accounting technician to review and correct the allocation schedules. This review includes contacting the taxpayer as necessary for clarification and adjustment of the allocation schedule. Additionally, the division has made the examination and review of the allocation schedule a mandatory step in every field audit.

Penalties

The third recommendation in the legislative audit report was to increase penalties. This resulted in the enactment of AS 43.75.011 effective January 1, 1991. This statute provides for a \$5,000 penalty for processing without a license. If the processor continues to operate without a license, the penalty increases incrementally so that it totals \$10,000 the second month, \$15,000 the third month, and so on, to a maximum of \$25,000. This penalty helps persuade the processor to obtain a license when requested to do so by the division.



COMPLIANCE ANALYSIS

The 1989 legislative audit recommended DOR increase compliance efforts to identify and audit fisheries business taxpayers. The scope of the legislative audit did not include a measurement of the amount of fish tax revenue that is being lost through non-compliance.

In responding to this recommendation DOR thought it important to know:

1. How much potential revenue is to be gained by increased audit and compliance efforts?
2. Which fisheries and/or groups of taxpayers show the most non-compliance?

After completing 53 in-depth field audits, the group had a good basis for determining the "value non-compliance" issues common in the fishing industry. However, prior to this study, the division had not quantified the potential tax loss from resource not reported to DOR, a category this study calls "pound non-compliance".

To assess pound non-compliance the division began by determining how much resource is harvested each year in Alaska and federal waters as reported to ADF&G (Table 1), the total value of that resource harvested per ADF&G (Table 2) and what fish tax is reported to DOR (Table 3). The study focused our study on tax years 1988 through 1990. Tax years prior to 1988 were not analyzed because they have limited applicability from a tax standpoint. Tax years after 1990 were not analyzed because data is not yet available.

Table 1
ADF&G Pounds Harvested in Alaska and Adjoining Federal Waters
(Millions of Pounds)

| Fisheries | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|--------------|----------------|-------------|----------------|-------------|----------------|------------|-------------------|-----------------|
| | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total |
| Salmon | 534.8 | 23% | 698.8 | 21% | 692.3 | N/A | 642.0 | 19% |
| Herring | 112.7 | 5% | 96.6 | 3% | 91.2 | N/A | 100.2 | 3% |
| Shellfish | 179.8 | 8% | 199.6 | 6% | 266.0 | N/A | 215.1 | 6% |
| Groundfish | 1,454.3 | 62% | 2,198.6 | 68% | 3,261.6 | N/A | 2,304.8 | 70% |
| Hallbut | 61.0 | 2% | 56.0 | 2% | N/A | N/A | 58.5 ¹ | 2% ¹ |
| Total | 2,342.6 | 100% | 3,249.6 | 100% | 4,311.1 | N/A | 3,320.6 | 100% |

¹ Two year average.

Table 2
ADF&G Value Harvested² in Alaska and Adjoining Federal Waters
(Millions of Dollars)

| Fisheries | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|--------------|------------------|-------------|------------------|-------------|------------------|------------|------------------|-------------|
| | ADF&G Value | % of Total | ADF&G Value | % of Total | ADF&G Value | % of Total | ADF&G Value | % of Total |
| Salmon | \$ 780.5 | 57% | \$ 571.8 | 46% | \$ 578.1 | N/A | \$ 643.5 | 48% |
| Herring | 51.5 | 4% | 18.7 | 2% | 27.8 | N/A | 32.7 | 2% |
| Shellfish | 235.7 | 17% | 275.1 | 22% | 360.4 | N/A | 290.4 | 22% |
| Groundfish | 222.5 | 16% | 288.4 | 23% | 348.0 | N/A | 286.3 | 22% |
| Hallbut | 74.7 | 6% | 84.1 | 7% | N/A | N/A | 79.4* | 6%* |
| Total | \$1,364.9 | 100% | \$1,238.1 | 100% | \$ 1314.3 | N/A | \$1,332.3 | 100% |

¹ Two year average.

² ADF&G Harvest value was calculated using ADF&G pounds harvested and DOR reported average price per pound.

Table 3
Department of Revenue Fish Tax¹
(Millions of Dollars)

| Fisheries | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|---------------|---------------|-------------|----------------|-------------|---------------|-------------|----------------|-------------|
| | Fish Tax | % of Total | Fish Tax | % of Total | Fish Tax | % of Total | Fish Tax | % of Total |
| Salmon | \$ 27.3 | 69% | \$ 21.9 | 63% | \$ 22.1 | 56% | \$ 23.8 | 61% |
| Herring | 2.0 | 5% | .7 | 2% | 1.1 | 3% | 1.3 | 3% |
| Shellfish | 6.6 | 16% | 8.0 | 23% | 11.4 | 29% | 8.6 | 22% |
| Groundfish | 2.0 | 5% | 2.0 | 6% | 2.4 | 6% | 2.1 | 6% |
| Hallbut | 2.0 | 5% | 2.0 | 6% | 2.5 | 6% | 3.2 | 8% |
| Totals | \$39.9 | 100% | \$ 34.6 | 100% | \$39.5 | 100% | \$ 39.0 | 100% |

¹ Fish Tax reflects calendar year tax reported on the tax returns before fisheries business tax credits.

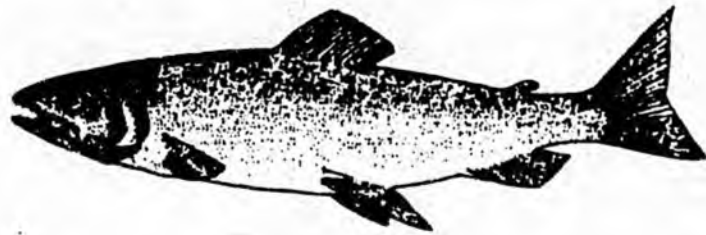
Tables 1, 2 and 3 show that groundfish represents 70% of pounds harvested, 22% of value harvested, but only 6% of tax, while salmon represents 19% of the pounds harvested, 48% of value harvested and 61% of tax.

Based on pound, value, and tax disparities between fisheries the division began its analysis by grouping Alaska's fisheries into five segments: salmon, herring, shellfish, groundfish and halibut.

For each of the five segments, using ADF&G and DOR data, the division calculated total pounds harvested in Alaska and adjoining federal waters and the value of that harvest. Next, this information was compared to total pounds and value reported to DOR as taxable. This comparison provided an estimate of pounds and value not reported as taxable.

Finally, the division attempted to determine what portion of pounds and value not reported to DOR was subject to tax and thus represented "pound non-compliance". Non-compliance in this sense represents pounds harvested and/or processed within Alaska's taxing jurisdiction and the associated values which were not reported to DOR as taxable. It does not refer to "value non-compliance" where the processor reports the pounds as taxable but incorrectly reports the associated taxable value.

Salmon Fisheries



Salmon Fisheries Overview

Alaska's salmon fisheries provide the majority of the tax revenues, generating 61% of the fish tax revenues (Table 3). Most parts of coastal Alaska support some form of salmon fishery.

Table 4 shows total pounds of salmon harvested and Table 5 shows the relative total taxable value of salmon as reported to DOR.

Table 4
ADF&G Pounds of Salmon Harvested and Percent of Total
(Millions of Pounds)

| Salmon | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|--------------------------|--------------|-------------|--------------|-------------|--------------|-------------|--------------|-------------|
| | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total |
| King | 10.9 | 2% | 11.3 | 2% | 11.4 | 2% | 11.3 | 2% |
| Sockeye | 188.6 | 35% | 260.6 | 37% | 306.0 | 44% | 251.7 | 39% |
| Coho | 35.4 | 7% | 33.2 | 5% | 40.0 | 6% | 36.2 | 6% |
| Chum | 121.6 | 23% | 61.6 | 9% | 62.7 | 9% | 82.0 | 13% |
| Pink | 177.9 | 33% | 331.5 | 47% | 271.9 | 39% | 260.4 | 40% |
| Roe | .4 | 0% | .6 | 0% | .3 | 0% | .4 | 0% |
| ADF&G Harvest | 534.8 | 100% | 698.8 | 100% | 692.3 | 100% | 642.0 | 100% |

Table 5
Relative Value of Salmon as Reported to DOR
(Millions of Dollars)

| Salmon | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|--------------|-----------------|-------------|-----------------|-------------|-----------------|-------------|--------------|-------------|
| | DOR Value | % of Total | DOR Value | % of Total | DOR Value | % of Total | DOR Value | % of Total |
| King | \$ 26.4 | 4% | \$ 21.2 | 4% | \$ 21.2 | 4% | \$ 22.9 | 4% |
| Sockeye | 430.3 | 58% | 330.3 | 65% | 392.0 | 68% | 394.2 | 63% |
| Coho | 53.6 | 7% | 22.1 | 4% | 40.1 | 7% | 38.6 | 6% |
| Chum | 101.3 | 13% | 23.0 | 4% | 28.1 | 5% | 50.8 | 8% |
| Pink | 133.2 | 18% | 129.0 | 23% | 91.3 | 16% | 117.8 | 19% |
| Subtotal | 744.8 | 100% | 555.6 | 100% | 572.7 | 100% | 624.3 | 100% |
| Roe | 1.2 | 0% | 1.5 | 0% | .9 | 0% | 1.2 | 0% |
| Total | \$ 746.0 | 100% | \$ 557.1 | 100% | \$ 573.6 | 100% | 625.5 | 100% |

Following is a summary of the five species of salmon and salmon roe:

- **King (*Chinook*)**. Kings are the largest species (6-16 pounds) and command the highest average salmon price per pound. They are taken by all salmon gear types in Alaska and federal waters. The majority are processed by freezing and some are flown out fresh.
- **Sockeye (*Red*)**. Sockeye average price per pound is second to king salmon. They are taken mainly in drift or set gillnets in every district. The state's top sockeye producing area is Bristol Bay. The majority are processed by freezing.
- **Coho (*Silver*)**. Cohos are taken by all salmon gear types in almost every district. The majority are processed by freezing.
- **Chum (*Dog*)**. Chum are taken by all salmon gear types in every district. The majority are canned, with a significant portion frozen for smoking.
- **Pink (*Humpback*)**. Pinks are the smallest species of salmon (3-5 pounds) and realize the lowest average price per pound. They are harvested mainly in seines and are taken in every district. The state's top pink producing area is Southeast. Historically the majority have been canned; however, the current trend is toward freezing.
- **Salmon Roe**. Salmon roe is the most expensive of the commercial salmon products. Roe is usually taken from sockeye or chum and is processed by grading and salting. Roe accounts for less than 1% of the total value reported to DOR.

"Custom processing" is common in the salmon fishery with an average of 12% of the total harvest custom processed each year. Custom processing is an arrangement where the owner of the resource pays a fee to have the resource processed. These arrangements are designed to minimize transportation costs and to handle excess supply of salmon during the peak of the runs. These arrangements often result in pound non-compliance, as the owner of the resource and the custom processor each assumes the other is remitting the tax.

Salmon Fisheries Management

Salmon fisheries are managed by ADF&G and salmon are harvested predominantly inside Alaska's three mile limit.

The fundamental resource management tool used by ADF&G to gather information on the salmon harvest is the "fish ticket". According to ADF&G regulations, the first buyer of the resource (or the fisherman if he removes the resource from the state) is required to issue a fish ticket. The fish ticket shows the name or number of the vessel from which the catch is taken, the date of landing and the pounds purchased of each species. The fisherman records the statistical area in which the resource was taken on the fish ticket.

The price paid for the salmon is sometimes entered on the fish ticket. This so called "ex-vessel" value is preliminary because price adjustments or bonus payments after the season are common in the fishery.

Salmon Fisheries Compliance

Tax compliance in the salmon fisheries is directly affected by ADF&G's management. ADF&G manages each fishery by setting levels of escapement to insure future runs. With minor exceptions, ADF&G manages the salmon fisheries so that areas open to fishing are within the three mile limit.

Because virtually all of the salmon are harvested inside three miles, virtually all of the salmon harvest is taxable. To measure compliance the division compared the total pounds harvested per ADF&G with the total pounds reported as taxable to DOR (Table 6A).

Table 6A shows that 96% of the salmon reported to ADF&G was also reported to DOR as taxable. Based on past compliance and audit experience the division believes the 4% not reported is due to:

1. errors the processors, ADF&G, and DOR make when data capturing and reporting pounds;
2. custom processing arrangements whereby neither the owner of the resource nor the custom processor reports the resource processed;
3. non-taxable dock sales of unprocessed salmon by fishermen to consumers; and
4. non-compliance (processors not licensing with DOR nor filing tax returns and processors not reporting all pounds processed).

The division estimates the 4% of salmon pounds not reported to DOR has a harvest value of approximately \$18.0 million/year (1988-1990 three year average). If this salmon was all taxable, at an established/shore-based or floating tax rate of 3% to 5%, it would result in \$541,000 to \$902,000 additional tax per year.

Table 6A
Salmon Harvested per ADF&G and the Percent Reported to DOR
(Millions of Pounds)

| Salmon | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|------------------|--------------|-------------|--------------|-------------|--------------|-------------|--------------|-------------|
| | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total |
| Reported to DOR | 507.0 | 95% | 664.3 | 95% | 681.7 | 99% | 617.7 | 96% |
| Not Rep'd to DOR | 27.5 | 5% | 33.9 | 5% | 10.4 | 1% | 23.9 | 4% |
| Totals | 534.5 | 100% | 698.2 | 100% | 692.1 | 100% | 641.6 | 100% |

Table 6B shows that more than 100% of the salmon roe reported to ADF&G is reported to DOR as taxable. This statistic is misleading. Processors usually do not write a separate fish ticket for the roe contained in a salmon and very few fish tickets reflect roe as a resource harvested. However, processors who acquire roe from another processor will report this roe on their tax returns. Therefore, more roe is reported to DOR than is recorded as harvested by ADF&G.

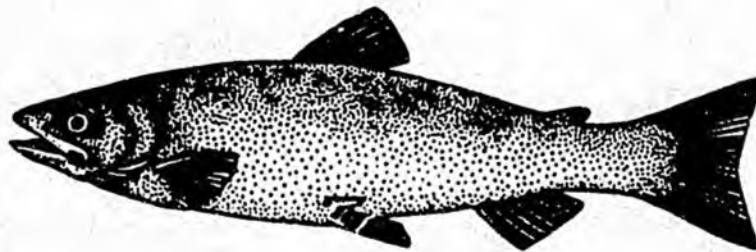
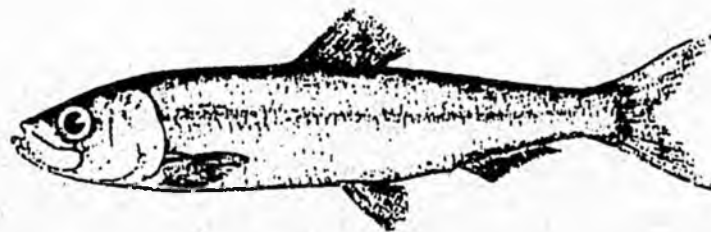


Table 6B
Salmon Roe Harvested per ADF&G and Percent Reported to DOR
(Thousands of Pounds)

| Roe | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|------------------|--------------|-------------|--------------|-------------|--------------|-------------|--------------|-------------|
| | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total |
| Reported to DOR | 380.7 | 102% | 521.3 | 92% | 544.2 | 201% | 482.1 | 119% |
| Not Rep'd to DOR | (6.1) | (2%) | 47.4 | 8% | (272.8) | (101%) | (77.2) | (19%) |
| Totals | 374.6 | 100% | 568.7 | 100% | 271.4 | 100% | 404.9 | 100% |

Herring Fisheries



Herring Overview

Alaska's herring resource is harvested at numerous locations around coastal areas of the state. In general, the fisheries are of high value and of very short duration.

Tables 1, 2 and 3 (page 7) illustrate that the herring fishery accounts for 3% of pounds harvested, 2% of value harvested and 3% of total fish tax revenue.

Following is a summary of the three types of herring fisheries:

- **Sac-Roe.** The sac-roer fishery targets herring returning in large schools to spawn within a few hundred yards of the beach. Pre-spawning herring are taken with either seines or gillnets for their nearly mature roe. Processors may extract the roe or freeze the whole fish and sell the product to a secondary processor. Males (and the carcasses of the females) are sold as food or bait.
- **Roe-on-Kelp.** The roe-on-kelp fishery targets roe which is deposited on kelp. There are two harvesting methods: a wild roe-on-kelp fishery where fishermen collect kelp which has been subject to roe deposit, and a pound roe-on-kelp fishery where pre-spawning herring are captured and placed in pounds to spawn on kelp. Processors salt the collected roe.
- **Food and Bait.** The food and bait fishery, harvested by seiners, targets herring not in a spawning condition. Some of the sac-roer herring is sold as food or bait when the roe percentages are very low. Quality has the largest impact on price in the herring roe fisheries. Relatively minor differences in quality can be the difference between a high value product and a virtually worthless one.

Like the salmon fishery, custom processing in the herring fishery is common. An average of 17% of the total harvest is custom processed each year.

The sac-roer fishery represents the most pounds harvested (Table 7) and also reflects the largest share of value reported (Table 8).

Table 7
ADF&G Pounds Harvested by Herring Fishery
(Millions of Pounds)

| | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|--------------|--------------|-------------|--------------|-------------|--------------|-------------|--------------|-------------|
| | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total |
| Herring | | | | | | | | |
| Roe-on-Kelp | .9 | 1% | .5 | 1% | .9 | 1% | .8 | 1% |
| Sac-Roe | 95.3 | 84% | 80.0 | 83% | 73.5 | 81% | 82.9 | 83% |
| Food & Bait | 16.5 | 15% | 16.1 | 16% | 16.8 | 18% | 16.5 | 16% |
| Total | 112.7 | 100% | 96.6 | 100% | 91.2 | 100% | 100.2 | 100% |

Table 8
Relative Value of Herring as Reported to DOR¹
(Millions of Dollars)

| Herring | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|-------------------|----------------|-------------|----------------|-------------|----------------|-------------|-------------|-------------|
| | DOR Value | % of Total | DOR Value | % of Total | DOR Value | % of Total | DOR Value | % of Total |
| Herring (General) | \$ 16.7 | 34% | \$ 5.2 | 28% | \$ 8.1 | 30% | 10.0 | 32% |
| Roe-on-Kelp | .4 | 1% | .2 | 1% | .9 | 3% | .5 | 2% |
| Herring Eggs | .3 | 0% | .1 | 0% | 12.8 | 48% | 4.4 | 14% |
| Sac-Roe | 30.6 | 62% | 11.5 | 63% | 2.8 | 11% | 15.0 | 47% |
| Food | .1 | 0% | .4 | 2% | .8 | 3% | .4 | 1% |
| Bait | 1.4 | 3% | 1.2 | 6% | 1.2 | 5% | 1.3 | 4% |
| Total | \$ 49.5 | 100% | \$ 18.6 | 100% | \$ 26.6 | 100% | 31.6 | 100% |

¹Due to the difference in data capture categories of ADF&G and DOR it is not possible to reconcile ADF&G and DOR figures by herring category.

Herring Compliance

The herring fisheries are managed by ADF&G using the fish ticket system. Most herring is valued for roe content which is harvested shoreside. Therefore virtually all herring is harvested within Alaska's waters and is subject to tax.

To determine pound compliance, the division compared the total pounds ADF&G reported as harvested with the total pounds reported to DOR as taxable.

Table 9 shows that on average, 97% of the herring pounds harvested are reported to DOR.

Table 9
ADF&G Pounds Harvested and the Percent Reported to DOR as Taxable
(Millions of Pounds)

| Herring | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|----------------------------|--------------|-------------|--------------|-------------|--------------|-------------|--------------|-------------|
| | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total |
| Reported to DOR | 108.2 | 96% | 95.9 | 99% | 87.3 | 96% | 97.2 | 97% |
| Not Rep'd to DOR | 4.5 | 4% | .7 | 1% | 3.9 | 4% | 3.0 | 3% |
| ADF&G Harvested | 112.7 | 100% | 96.6 | 100% | 91.2 | 100% | 100.2 | 100% |

Based on past compliance and audit experience the division believes the 3% of herring pounds not reported can be attributed to:

1. errors the processors, ADF&G, and DOR make when data capturing and reporting pounds;
2. custom processing arrangements whereby neither the owner of the resource nor the custom processor reports the resource processed;
3. dock sales of unprocessed herring and processing done outside Alaska's tax jurisdiction; and
4. a small amount of non-compliance (processors not licensing with DOR nor filing tax returns and processors not reporting all pounds processed).

The division estimates the 3% of herring pounds not reported to DOR has a harvest value of approximately \$1.0 million/year (1988-1990 three year average). If this herring was all taxable, at an established/shore-based or floating tax rate of 3% to 5%, it would result in \$29,000 to \$49,000 additional tax per year.



Shellfish Fisheries

Shellfish Overview

For purposes of this report the term "shellfish" includes crab, shrimp and miscellaneous other species (scallops, sea cucumbers, abalone, clams, sea urchins, octopus, oysters, squid and snails). Shellfish is a high value resource representing 6% of total ADF&G pounds harvested, 22% of total value harvested, and 22% of total DOR tax revenue (Tables 1, 2 & 3 on page 7).

Table 10 shows that crab represents approximately 97% of total ADF&G pounds of shellfish harvested and Table 11 shows that crab represents 98% of total DOR shellfish taxable value reported. Therefore, the shellfish section of this report focuses on the crab fishery.

Table 10
ADF&G Pounds of Shellfish Harvested
(Million of Pounds)

| Shellfish | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|--------------|--------------|-------------|--------------|-------------|--------------|-------------|--------------|-------------|
| | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total |
| Crab | 175.8 | 98% | 195.2 | 98% | 257.2 | 97% | 209.4 | 97% |
| Shrimp | 2.2 | 1% | 1.7 | 1% | 2.7 | 1% | 2.2 | 1% |
| Other | 1.8 | 1% | 2.7 | 1% | 6.1 | 2% | 3.5 | 2% |
| Total | 179.8 | 100% | 199.6 | 100% | 266.0 | 100% | 215.1 | 100% |

Table 11
Relative Value of Shellfish as Reported to DOR
(Million of Dollars)

| Shellfish | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|--------------|----------------|-------------|----------------|-------------|----------------|-------------|--------------|-------------|
| | DOR Value | % of Total | DOR Value | % of Total | DOR Value | % of Total | DOR Value | % of Total |
| Crab | \$181.6 | 98% | \$213.7 | 98% | \$274.6 | 98% | 223.3 | 98% |
| Shrimp | 1.7 | 1% | 1.5 | 1% | 1.7 | 0% | 1.6 | 1% |
| Other | 1.7 | 1% | 3.8 | 1% | 4.9 | 2% | 3.5 | 1% |
| Total | \$185.0 | 100% | \$219.0 | 100% | \$281.2 | 100% | 228.4 | 100% |

The Crab Fishery

There are numerous species of crab taken in the fishery but they fall into three main categories: King, Tanner, and Dungeness. Nearly all crab fishing in Alaska and federal waters is done with pots. The pots vary in size and weight (between 60-700 pounds) depending on the species and area being fished. Crab are kept alive until processed. Processing occurs at shore-based facilities, on floating processors, and on catcher/processors. The bulk of the crab is processed by butchering, dipping in a bacterial dip or steaming/boiling, and freezing. Most of the processed product ends up in foreign markets with over 90% going to Japan.

The management of King and Tanner crab fisheries has been delegated to ADF&G by NMFS, through the North Pacific Fisheries Management Council, under a cooperative agreement.

ADF&G uses the fish ticket system to track crab harvest. A major component of ADF&G's crab fishery management is the shellfish observer program. This program places observers in processing facilities to collect biological data on crab processed. The State of Alaska Mandatory Shellfish Observer Program was adopted in April of 1988 after the Alaska Board of Fisheries received data that showed large catch discrepancies between catcher/only vessels and catcher/processor vessels operating in the Bering Sea and Aleutian Islands. The observer program was instituted as a deterrent to the harvesting and retention of undersized crab. It currently has two major goals: enforcement and data collection.

In 1988 the Alaska Board of Fisheries required onboard observers for all vessels processing King and Bairdi Tanner crab. In 1991 the program was expanded to require onboard observers for all vessels processing Opilio Tanner crab. Shore-based processing facilities are included in the program by requiring ADF&G samplers to sample deliveries at the peak of the season.

The following is a brief summary of major categories of crab harvested in Alaska and federal waters:

- **King Crab.** Red and Brown King dominate the King crab fishery. Current major production is from the ADF&G's Westward region (Kodiak, Alaska Peninsula, Aleutians and the Bering Sea). Most of the fisheries in this region are short (two weeks or less) with the majority occurring August through November. The King fishery peaked in 1980 with 186 million pounds landed and has since dropped dramatically. The current three year average is 26 million pounds landed per year.

- **Tanner Crab.** Alaska has two species of Tanner crab: bairdi and opilio. Current major production is from ADF&G's Westward region with fisheries November through March. The Tanner fishery peaked in 1990 with 178 million pounds landed. The current three year average is 162 million pounds landed per year.
- **Dungeness Crab.** The Alaska Dungeness fishery is relatively small compared to the King and Tanner crab fishery but is comparable to Dungeness harvests in other west coast states. Most fishing takes place in less than 20 fathoms of water in bays, inlets, and off river mouths. The Dungeness fishery peaked in 1982 with 16 million pounds landed. The current three year average is 9 million pounds landed yearly.

The Shrimp Fishery

The bulk of the Alaskan shrimp harvest is comprised of the small pink shrimp and humpy shrimp which are harvested on mud or sand bottoms and are fished by trawls. The coonstripe, sidestripe and spot shrimp are larger and are fished with pots. The Alaska shrimp fishery peaked in 1976 with 111 million pounds landed. Since then the fishery has declined. The current three year average is 2.2 million pounds.

Other Miscellaneous Shellfish Fisheries

The "other" shellfish category (Tables 10 and 11) includes scallops, sea cucumbers, abalone, clams, sea urchins, octopus, oysters, squid and snails. Most of the pounds in the "other" shellfish category represent scallops, squid and sea cucumbers.

Crab Compliance

The division began its analysis of crab compliance by comparing pounds ADF&G reported as harvested from Alaska and federal waters to pounds reported to DOR as taxable.

Table 12 gives an overview of crab compliance by splitting the ADF&G total harvest into pounds reported to DOR as taxable, pounds reported to ADF&G by EEZ catcher/processors, and unaccounted for pounds. Over the last three years the percentage of pounds reported to DOR as taxable and those not reported to DOR have remained relatively constant at an average of 79% and 21% respectively. DOR's three year average estimated value of the 21% of pounds not reported is approximately \$60.9 million/year. To determine if any of this value was subject to tax, the division analyzed the unreported pounds.

EEZ Catcher/Processor Pounds Not Reported. An average of 18% of the ADF&G crab harvest that is not reported to DOR is attributed to EEZ catcher/processors (Table 12). Catcher/processors are distinguished from floating processors in that the catcher/processor both harvests and processes the resource. The floating processor follows the catcher fleets and processes only. If the entire 18% was taxable (at a three year average value of \$52.2 million/year and an established/floating tax rate of 5%) this would result in approximately \$2.6 million/year in additional tax.

However, given that the catcher/processor vessels are by design intended to catch and process simultaneously at sea, it is probable that these pounds are caught and processed in the EEZ and are not subject to tax. Currently the division does not have the processing location data available to identify and document every processing incursion into state waters.

Table 12
ADF&G Pounds of Crab Harvested and the Percent of Total
(Millions of Pounds)

| Crab | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|----------------------------|--------------|-------------|--------------|-------------|--------------|-------------|--------------|-------------|
| | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total |
| Reported to DOR | 137.7 | 78% | 154.7 | 79% | 201.0 | 78% | 164.4 | 79% |
| EEZ Not Rep'd | 30.1 | 17% | 35.0 | 18% | 49.7 | 19% | 38.3 | 18% |
| Other Not Rep'd | 8.0 | 5% | 5.5 | 3% | 6.5 | 3% | 6.7 | 3% |
| ADF&G Harvested | 175.8 | 100% | 195.2 | 100% | 257.2 | 100% | 209.4 | 100% |

Other Pounds Not Reported to DOR. Table 12 shows 3% of the crab harvest represents unaccounted for pounds. Based on past compliance and audit experience the division believes the crab not reported can be attributed to:

1. errors the processors, ADF&G, and DOR make when data capturing and reporting pounds; and
2. non-compliance (processors not licensing with DOR nor filing tax returns and processors not reporting all pounds processed).

If the entire 3% was taxable (at a three year average value of \$8.7 million/year and an established/shore-based or floating tax rate of 3% to 5%) this would result in approximately \$261,000 to \$435,000/year in additional tax.

“EEZ Only” Crab Fishery. Some processors in the crab fishery claim that all of their harvesting and processing activity takes place in federal waters and they register with ADF&G as “EEZ Only” operators. A commonly held belief among shore-based processors and local municipalities is that although these “EEZ Only” operators are able to harvest and process entirely within federal waters, they often harvest and process in calm, protected coastal areas within three miles and do not file tax returns or pay fish tax.

Detailed fish ticket data on the EEZ crab fishery is available from ADF&G because under cooperative agreement with NMFS, ADF&G manages the crab stocks both inside and outside the three mile limit. The ADF&G fish ticket system for crab is a comprehensive database for crab harvest from shore to 200 miles.

To assess the catcher/processor's role in the crab fishery, the division analyzed pounds reported to ADF&G and pounds reported to DOR by processing facility type. A review of ADF&G crab ticket summaries shows that catcher/processors, as a whole, purchase or harvest approximately 19% of the total resource and only report 2% of their harvest as taxable to DOR (See Table 13). However, these figures should be interpreted as a rough estimate because it is common for one processor to write the fish ticket and another processor to actually process the resource and report the tax. Table 13 does not reflect this movement of resource between processors.

Table 13
Pounds Crab Processors Harvested and/or Purchased vs.
Pounds Crab Processors Reported to DOR
 (Millions of Pounds)

1988-1990 Three Year Average

| Processing Facility | ADF&G Lbs Harvested | Processors | | DOR Lbs Reported | % of Harvest Processors Reported |
|------------------------|---------------------|--------------|-----|------------------|----------------------------------|
| | | % of Harvest | vs. | | |
| Catcher/Processors | 38.7 | 19% | | .6 | 2% |
| Floating Processors | 86.0 | 41% | | 86.2 | 100% |
| Shore-based Processors | 84.7 | 40% | | 77.6 | 92% |
| Totals | 209.4 | 100% | | 164.4 | 79% |

The attempt to audit EEZ catcher/processors to determine tax liability led to the following. First, the division could use ADF&G fish tickets to determine where resources were harvested and thus determine if the processor is liable for tax due to resource taken in Alaska waters. However, the fish ticket is not a third party tax document, but an ADF&G resource management tool which is completed by the catcher/processor. The division is concerned that making tax assessments from fish tickets would encourage catcher/processors to manipulate the statistical areas and thus jeopardize ADF&G's resource management tool. Because there are no third party records to show where processing takes place, and vessel log books rarely record processing location, the division is not able to determine tax liability incurred from processing in Alaska waters.

A potentially difficult but possible way to determine how much taxable harvesting and processing takes place in Alaska waters would be to have ADF&G onboard shellfish observers record harvesting and processing in Alaska waters along with currently required biological data. This procedure would need to be approved by the Alaska Board of Fisheries and coordinated with ADF&G.

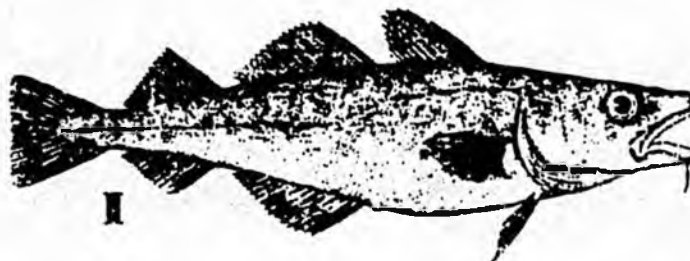


Shrimp and Other Shellfish Compliance

Shrimp and other shellfish represent only 3% of the total ADF&G pounds of shellfish harvested (Table 10). Of 5.8 million pounds/year of shrimp and other shellfish harvested, 22% of those pounds are not reported to DOR as taxable.

The division estimates the value of the shrimp and other shellfish not reported to DOR to be \$1.1 million/year. If the entire \$1.1 million was taxable at a low developing/shore-based or high established/floating tax rate of 1% to 5%, this would yield between \$11,000 to \$55,000/year in additional tax revenue.

Groundfish Fisheries



Groundfish Overview

The term "groundfish" includes pollock, pacific cod, sablefish (black cod), rockfish, flatfish and other miscellaneous species. The groundfish fishery can be characterized as a high volume, low value (price per pound) fishery. Groundfish accounts for 70% of the ADF&G pounds harvested, 22% of the value harvested, but only 6% of the tax revenue collected (Tables 1, 2 & 3). The low tax revenue generated by the groundfish fishery is primarily due to harvesting and processing groundfish outside Alaska's taxing jurisdiction, the low price per pound value, and the majority of the groundfish being taxed at the low developing fishery tax rates of 1% to 3%.

Tables 14 and 15 show that pollock, sablefish and pacific cod represent 97% of taxable pounds and 96% of taxable value reported to DOR. Therefore, the groundfish section of this report focuses on those three species.

Table 14
DOR Pounds of Groundfish Reported and the Percent of Total
(Millions of Pounds)

| Groundfish | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|--------------|--------------|-------------|--------------|-------------|--------------|-------------|--------------|-------------|
| | DOR Pounds | % of Total | DOR Pounds | % of Total | DOR Pounds | % of Total | DOR Pounds | % of Total |
| Pollock | 367.1 | 64% | 472.4 | 66% | 660.5 | 67% | 500.0 | 66% |
| Sablefish | 36.8 | 6% | 33.7 | 5% | 34.8 | 4% | 35.1 | 5% |
| Pacific Cod | 140.6 | 25% | 185.1 | 26% | 270.1 | 28% | 198.6 | 26% |
| Flatfish | 24.1 | 4% | 8.2 | 1% | 12.1 | 1% | 14.8 | 2% |
| Rockfish | 3.9 | 1% | 10.0 | 2% | 4.0 | 0% | 5.9 | 1% |
| Other | 1.1 | 0% | 2.3 | 0% | 4.6 | 0% | 2.7 | 0% |
| Total | 573.6 | 100% | 711.7 | 100% | 986.1 | 100% | 757.1 | 100% |

Table 15
Relative Value of Groundfish as Reported to DOR
(Millions of Dollars)

| Groundfish | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|--------------|----------------|-------------|----------------|-------------|----------------|-------------|----------------|-------------|
| | DOR Value | % of Total | DOR Value | % of Total | DOR Value | % of Total | DOR Value | % of Total |
| Pollock | \$ 24.8 | 24% | \$ 42.0 | 35% | \$ 49.6 | 38% | \$ 38.8 | 33% |
| Sablefish | 56.3 | 53% | 49.4 | 42% | 41.3 | 31% | 49.0 | 41% |
| Pacific Cod | 17.9 | 17% | 22.6 | 19% | 37.6 | 28% | 26.0 | 22% |
| Flatfish | 2.6 | 2% | 1.0 | 1% | 1.2 | 1% | 1.6 | 1% |
| Rockfish | 1.9 | 2% | 2.2 | 2% | 1.5 | 1% | 1.9 | 2% |
| Other | 2.1 | 2% | 1.0 | 1% | 0.9 | 1% | 1.3 | 1% |
| Total | \$105.6 | 100% | \$118.2 | 100% | \$132.1 | 100% | \$118.6 | 100% |

The following is a summary of the major species of groundfish:

- **Pollock.** Pollock commands a low ex-vessel price of approximately \$.08/lb (1988-1990 three year average) and accounts for an average of 66% of total groundfish pounds reported to DOR. Pollock are harvested with large scale trawls operated by catcher boats or catcher/processors (often referred to as "factory trawlers"). Factory trawlers are from 150 to 300 feet in length and have the capability to harvest and process the resource into finished product. The majority of the harvested pollock is processed into surimi (a colorless, odorless fish paste) that is further processed into such products as imitation crab meat.
- **Sablefish.** Sablefish is an exception to the usual low price per pound paid for groundfish and commands an average ex-vessel price of approximately \$1.39/lb (1988-1990 three year average). Sablefish is harvested by trawl, pots, and longlines.
- **Pacific Cod.** Pacific cod (grey cod) commands a low ex-vessel price of approximately \$.13/lb (1988-1990 three year average). It is harvested by trawls, pots and a growing longline fishery.
- **Rockfish, Flatfish, and Other.** This category of groundfish is harvested by trawls and longlines. However, the majority of this harvest is the result of other fisheries harvest by-catch.

Groundfish resources in federal waters around Alaska have been managed under federal authority since 1977, following enactment of the Magnuson Act of 1976. Persons engaging in fishing in the 3-200 mile EEZ must comply with the regulations implemented by the North Pacific Fishery Management Council. This does not exempt persons operating in Alaska's waters (shore to the three mile limit) from federal regulations, but additionally requires that they comply with ADF&G regulations. Enforcement of federal fisheries regulations is carried out by NMFS and the USCG and is assisted in state waters by ADF&G and F&WP officers.

Almost all species of groundfish have been considered developing species and are taxed at the lower rates of 1% for shore-based operators and 3% for floating processors. The majority of the floating groundfish processors claim their activity is entirely outside the state's three mile limit and therefore not subject to Alaska's fish tax. According to NMFS special field agents, the location of the groundfish habitats are generally outside the three mile limit. Thus it is unlikely that processors would come inside Alaska waters to harvest groundfish except for some pot fishing between Kodiak Island and the Alaskan Peninsula.

Groundfish Compliance

For the years of this study, harvest data are available from two sources: ADF&G fish tickets and NMFS harvest logbooks. DOR found that changes in record-keeping rules by NMFS gradually phased out the use of fish tickets and introduced the use of logbooks during 1989 and 1990.

NMFS requires that processors maintain logbooks in which they record catch data for resource management. ADF&G required that fish tickets be issued to record harvest data. ADF&G cannot require a processor to issue fish tickets if that processor claims to harvest/process entirely in the EEZ. Therefore ADF&G fish ticket summaries do not reflect total groundfish harvested. The division has not been able to reconcile NMFS and ADF&G data to arrive at the detail needed for a complete compliance analysis.

ADF&G fish ticket summaries do reflect by processor code those species and pounds harvested by processors claiming EEZ status who are still completing fish tickets. This is due to F&WP officers requiring processors "landing" (off-loading) finished product in Alaska ports to complete fish tickets.

The division's estimates for pounds, value, and unreported tax do not include those pounds harvested and processed by operators who do not file fish tickets, and may therefore be understated. Table 16 gives an overview of groundfish compliance using ADF&G data. It shows total pounds reported to DOR, total pounds reported to ADF&G by EEZ operators, total pounds unaccounted for, and total harvest per ADF&G.

Table 16
ADF&G Pounds of Groundfish Harvested and Percent Reported to DOR
(Millions of Pounds)

| Groundfish | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|----------------------------|----------------|-------------|----------------|-------------|----------------|-------------|----------------|-------------|
| | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total |
| Reported to DOR | 573.6 | 40% | 711.7 | 32% | 986.1 | 30% | 757.1 | 33% |
| EEZ Not Rep'd | 707.4 | 48% | 1,342.5 | 61% | 2,071.7 | 64% | 1,373.9 | 59% |
| Other Not Rep'd | 173.3 | 12% | 144.4 | 7% | 203.8 | 6% | 173.8 | 8% |
| ADF&G Harvested | 1,454.3 | 100% | 2,198.6 | 100% | 3,261.6 | 100% | 2,304.8 | 100% |

For assessment of groundfish pound non-compliance this study assumes that EEZ pounds represent non-taxable resource harvested and processed in the EEZ. The three year average of pounds not reported to DOR is 173.8 million/year. The value of these unreported pounds, using DOR average price per pound, is \$17.8 million/year. The potential unreported tax at a developing/shore-based or floating tax rate of 1% to 3% is between \$178,000 and \$533,000/year.

The NMFS domestic observer program was implemented in 1990 to provide biological catch data. Information gathered by observers is used by NMFS to pace the progress of groundfish fisheries toward harvest and by-catch quotas.

As for using this observer information as a tax compliance tool, observer Form A may contain information useful to DOR in determining where a vessel was located at the time of processing. However, that information is not data captured by NMFS as it has a low priority for them. Observer information could only be obtained on a case by case basis to support other evidence of a processor's activity in state waters.

As with the crab fishery, a commonly held belief among shore-based processors and local communities is that although EEZ operators claim to harvest and process only in federal waters, they often follow the resource into Alaska waters or seek the protection of Alaska waters for processing but do not file tax returns or remit tax.

Identifying operators who claim they operate only in the EEZ but who do in fact harvest and/or process inside Alaska's three mile limit is a compliance problem that can only be partially solved on a case by case basis at this time. For groundfish operators who are still remitting fish tickets, DOR can determine if the resource was harvested in Alaska waters. However, fish tickets are not a third party record and are subject to manipulation. DOR has not found a specific record maintained by any government agency that reflects processing location. Therefore, DOR is not able to assess tax based on processing in Alaska waters.

The division has preliminarily reviewed the detailed fish ticket information for 13 groundfish catcher/processors for 1988 to determine how many pounds have been harvested inside the three mile limit. Its taxable value and related tax was determined by using an average price per pound. DOR found that out of 13 catcher/processors who were reviewed, five showed pounds harvested in Alaska waters and therefore were subject to tax. For the group as a whole, 7% of pounds harvested were in Alaska waters. At the developing/floating 3% tax rate and a low value (\$.08 for pollock and \$.13 for the Pacific Cod), a large number of pounds must be harvested inside Alaska waters to make a significant adjustment.

The potential tax assessment for the 13 processors reviewed totaled \$12,636. This averaged only \$972 in tax per processor reviewed. Caution must be used when applying the results of this review to catcher/processors as a whole. The sample group selected was either known to have operated in Alaska waters or the division had reason to suspect they fished in Alaska waters, so the average tax could be higher than it would be overall. Conversely, it's possible that the average tax for the sample group is lower than the industry average would be because the assessment does not reflect tax incurred from processing in Alaska waters. Currently the division has no data on processing location. With the increase in EEZ operators — from 51 in 1988 to 82 in 1990 — the incidence of fishing and processing in Alaska waters by these EEZ operators may be higher.

The division found many limitations in its attempt to make tax assessments from fish tickets. The major limitation is that DOR could only make assessments on resource harvested in Alaska waters because the fish ticket does not record processing location. Thus, tax due from processing in Alaska waters is not determinable. In addition, the division found it very time consuming to review the detailed fish ticket runs for each processor.

As an added complication, the division requested original copies of the fish tickets issued by each processor to determine that the information was accurate. Upon obtaining the original fish tickets, the division noted that ADF&G has implemented certain editing procedures. Often, fish ticket editors allocate a percentage of the total pounds harvested to statistical areas when the catcher boat indicates

continuous operation overlapping several statistical areas. In addition, since ownership of vessels changes quickly and most are out of state, it is difficult to locate the owner liable for the tax. Finally, it is not clear at this time if assessments made based on fish ticket data will hold up through the appeals process.

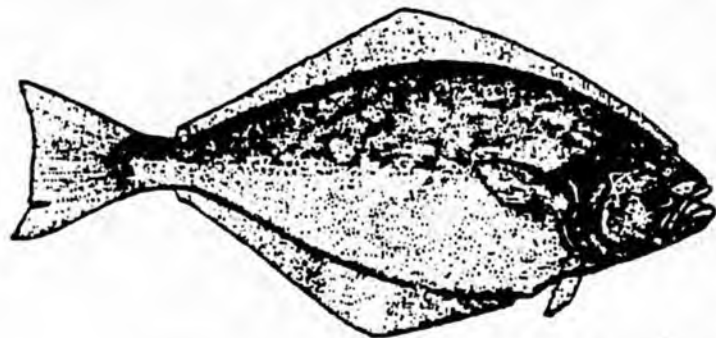
Groundfish compliance can be summarized as follows:

EEZ Pounds Not Reported. An average of 59% of ADF&G groundfish harvest (Table 16) not reported to DOR is attributed to EEZ operators. If the entire 59% was taxable (at a three year average value of \$140.1 million/year and a developing/floating tax rate of 3%) this would result in approximately \$4.2 million/year in additional tax. However, it is probable that these pounds are caught and processed in the EEZ and are not subject to tax. Currently the division does not have processing location data available to assess tax liability.

Other Pounds Not Reported. An average of 8% of ADF&G reported groundfish harvest (Table 16) is not accounted for. If the entire 8% was taxable (at a three year average value of \$17.3 million/year and a developing/shore-based or floating tax rate of 1% to 3%) this would result in approximately \$178,000 to \$533,000/year in additional tax.

At the present the division can only determine, for processors who file fish tickets, on a taxpayer by taxpayer basis, where the resource was harvested and thus if it is subject to tax. The division does not have data to determine where resource was processed and so cannot determine if resource harvested in the EEZ was processed in Alaska waters and is therefore subject to tax.

Halibut Fisheries



Halibut Overview

The halibut fishery is managed by the International Pacific Halibut Commission (IPHC). The annual quota is apportioned by area and season. Openings last one or two days, occurring on pre-determined dates, usually in May and September. The only legal gear is setline or longline.

ADF&G fish tickets are the source documents used to record halibut harvest data. IPHC has implemented procedures whereby Alaska and adjoining federal waters are broken into harvest regions. Fishermen use these regions to designate location of their catch. Unlike ADF&G statistical areas, IPHC regions do not designate whether the catch was in Alaska or federal waters.

IPHC data captures fish ticket information and assigns port codes that reflect the port of "landing" (off loading). Halibut harvest data is then released as total pounds landed by port.

As with groundfish, much of the halibut is harvested outside Alaska's three mile limit. Because openings are short (usually one to two days) many fishermen with sophisticated refrigeration systems transport their catch directly to Seattle where it commands a higher price.

Halibut Compliance

To determine pound compliance, the division compared the total pounds ADF&G reported as harvested with the total pounds reported to DOR as taxable. Table 17 splits the total halibut harvest into halibut reported to DOR as taxable, halibut delivered "outside" (Washington State), and halibut not accounted for.

The division believes that the 7% delivered "outside" is probably not taxable. These pounds most likely represent halibut caught in federal waters and taken directly to Washington State. Halibut seasons are very short and have many participants from the Seattle area. The division suspects that a certain number of fishermen fish until closing and then head straight for Seattle to offload. However, the division is not able to document this as IPHC regions are not specific enough to determine whether the resource was caught in Alaska or federal waters.

The 8% not reported to DOR in Table 17 most likely represents:

1. errors the processors, IPHC and DOR make when data capturing and reporting pounds;
2. dock sales by fishermen of unprocessed halibut to consumers; and
3. non-compliance (processors not licensing with DOR nor filing tax returns and processors not reporting all pounds processed).

Using DOR's average price per pound, the estimated two year average value for the 4.6 million pounds not reported to DOR is \$7.5 million/year. If the entire \$7.5 million was taxable at an established/shore-based or floating tax rate of 3% to 5%, the estimated tax would be \$226,000 to \$377,000/year.

Table 17
ADF&G Pounds of Halibut Harvested and the Percent Reported to DOR
(Millions of Pounds)

| Halibut | 1988 | | 1989 | | 1990 ¹ | | 2 Yr Avg | |
|----------------------------|--------------|-------------|--------------|-------------|-------------------|------------|--------------|-------------|
| | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total | ADF&G Pounds | % of Total |
| Reported to DOR | 53.9 | 88% | 46.1 | 82% | 47.4 | N/A | 50.0 | 85% |
| Delivered Outside | 3.6 | 6% | 4.2 | 8% | N/A | N/A | 3.9 | 7% |
| Not Rep'd to DOR | 3.5 | 6% | 5.7 | 10% | N/A | N/A | 4.6 | 8% |
| ADF&G Harvested | 61.0 | 100% | 56.0 | 100% | N/A | N/A | 58.5 | 100% |

¹Data for 1990 is not yet available from IPHC and ADF&G.

At present, IPHC only releases halibut harvest data by pounds landed per port. Compliance information such as pounds per processor is not released. Thus, compliance efforts for the halibut fishery have been hampered by lack of harvest data.

Conclusions: Overall Rate of Non-Compliance

Table 18 summarizes pound compliance as ADF&G total pounds harvested (Alaska and federal waters) and the percent of those pounds reported to DOR as taxable.

Table 18
ADF&G Pounds Harvested and the Percent Reported to DOR
All Species
(Millions of Pounds)

| Fisheries | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|------------------|----------------|-------------|----------------|-------------|----------------|-------------|-------------------|------------------|
| | ADF&G Pounds | DOR % Rep'd | ADF&G Pounds | DOR % Rep'd | ADF&G Pounds | DOR % Rep'd | ADF&G Pounds | DOR % Rep'd |
| Salmon | 534.8 | 95% | 698.8 | 95% | 692.3 | 99% | 642.0 | 96% |
| Herring | 112.7 | 96% | 96.6 | 99% | 91.2 | 96% | 100.2 | 97% |
| Shellfish | 179.8 | 78% | 199.6 | 80% | 266.0 | 78% | 215.1 | 79% |
| Groundfish | 1,454.3 | 39% | 2,198.6 | 32% | 3,261.6 | 30% | 2,304.8 | 33% |
| Halibut | 61.0 | 88% | 56.0 | 87% | N/A | N/A | 58.5 ¹ | 85% ¹ |
| ADF&G | 2,342.6 | 59% | 3,249.6 | 52% | 4,311.1 | 46% | 3,320.6 | 51% |

¹ Two year average.

The following is a brief summary of each fisheries compliance:

Salmon. Salmon is harvested almost entirely within Alaska's taxing jurisdiction. On average, 96% of the salmon harvested in Alaska and federal waters is reported to DOR as taxable. Overall, the division concludes salmon compliance is high.

The potential additional tax revenue, if the entire 4% did represent taxable pounds not reported, would be approximately \$541,000 to \$902,000/year.

Herring. Herring is also harvested almost entirely within Alaska's taxing jurisdiction. On average, 97% of the herring harvested in Alaska and federal waters is reported to DOR as taxable. Overall, the division concludes herring compliance is high.

The potential additional tax revenue, if the entire 3% did represent taxable pounds not reported, would be approximately \$29,000 to \$49,000/year.

Shellfish. The shellfish harvest is dominated by the crab fishery. Crab is harvested and processed in both Alaska and federal waters. On average, 79% of the crab harvested in these waters is reported to DOR as taxable. The 21% not reported represents 18% EEZ pounds and 3% pounds not accounted for.

At the present DOR is unable to determine if the EEZ pounds are subject to tax due to the following data limitations:

1. DOR is unable to determine if the crab was harvested in Alaska or federal waters, except on a taxpayer by taxpayer audit basis; and
2. information regarding floating processors' processing location is non-existent.

The EEZ pounds represent approximately \$52.2 million/year of value. If these pounds were subject to tax, potential additional tax revenue would be \$2.6 million/year. However, based on this study the division believes most of the EEZ pounds are not subject to tax.

The 3% of pounds not accounted for is most likely due to reporting errors and non-compliance. Potential additional tax revenue, if the entire 3% did represent taxable pounds not reported, would be approximately \$261,000 to \$435,000/year.

In order to assess actual compliance in the crab fishery, DOR needs third party data on where floating processors' harvesting and processing takes place. DOR recommends that this data be gathered by ADF&G onboard observers. This would be the most efficient and inexpensive means because the observer program is already in place and would only entail having the observer collect additional data.

Groundfish. Groundfish is harvested and processed in both Alaska and federal waters. On average, 33% of the groundfish harvested in these waters is reported to DOR as taxable. The division estimates the 67% not reported represents 59% EEZ pounds and 8% pounds not accounted for.

At the present DOR is unable to determine if the EEZ pounds are subject to tax due to the following data limitations:

1. DOR is unable to determine if the groundfish was harvested in Alaska or federal waters, except on an audit basis taxpayer by taxpayer; and
2. information regarding floating processors' processing location is non-existent.

The EEZ pounds represent approximately \$140.1 million/year of value. If these pounds were subject to tax, potential additional tax revenue would be \$4.2 million/year. However, based on this study the division believes the majority of the 59% of EEZ pounds are not subject to tax.

The 8% of pounds not accounted for are most likely due to reporting errors and non-compliance. Potential additional tax revenue, if the entire 8% did represent taxable pounds not reported, would be approximately \$178,000 to \$533,000/year.

In order to assess actual compliance in the groundfish fishery, DOR needs third party data on where floating processor harvesting and processing takes place. DOR recommends that this data be gathered by NMFS onboard observers.

This would be the most efficient and inexpensive means because the observer program is already in place and would only entail having the observer collect additional data.

Halibut. Halibut is harvested both in Alaska and federal waters, but the majority is brought shoreside for processing. On average, 85% of the halibut harvested in Alaska and federal waters is reported to DOR as taxable. The 15% not reported represents 7% pounds delivered outside Alaska and 8% pounds not accounted for.

Based on this study the division concludes that most of the 7% of pounds delivered "outside" is not subject to tax. The 8% of pounds not accounted for is most likely due to reporting errors and non-compliance. The potential additional tax revenue, if the entire 8% did represent taxable pounds not reported, would be approximately \$226,000 to \$377,000/year.

Overall the division is unable to draw conclusions about halibut compliance. Without access to halibut fish tickets, the division cannot analyze compliance in this fishery.

Table 19 summarizes the potential additional tax from increased pound compliance. "Unaccounted for pounds" for all fisheries represent potential additional taxable value of \$54.1 million/year. If 100% of these pounds were subject to tax, potential additional tax revenues would be approximately \$1.2 to \$2.4 million/year.

Table 19
"Pound Compliance" Potential Tax from Unaccounted for Pounds
 (in Dollars)

| Fishery | Low Tax Estimate | Low Tax Rate | High Tax Estimate | High Tax Rate |
|-----------------|--------------------|--------------|--------------------|---------------|
| Salmon | \$ 541,000 | 3% Est/SB | \$ 902,000 | 5% Est/FP |
| Herring | 29,000 | 3% Est/SB | 49,000 | 5% Est/FP |
| Shellfish-Crab | 261,000 | 3% Est/SB | 435,000 | 5% Est/FP |
| Shellfish-Other | 11,000 | 1% Dev/SB | 55,000 | 5% Est/FP |
| Groundfish | 178,000 | 1% Dev/SB | 533,000 | 3% Dev/FP |
| Halibut | 226,000 | 3% Est/SB | 377,000 | 5% Est/FP |
| Total | \$1,246,000 | | \$2,351,000 | |

SB - Shore-based Processing Facility
 FP - Floating Processor Facility

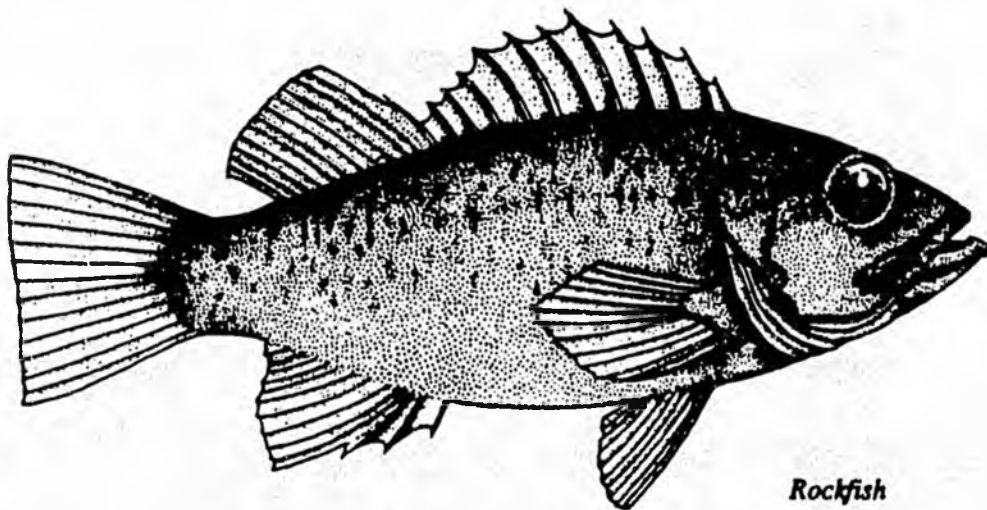
Table 20 summarizes the potential additional tax from "EEZ pounds not reported to DOR" for the crab and groundfish fisheries. EEZ pounds not reported to DOR represent value of approximately \$192.3 million/year. If 100% of these pounds were subject to tax, potential additional tax revenues would be approximately \$6.8 million/year. There are vast differences of opinion surrounding how often EEZ operators harvest and process in Alaska waters and thus if they are subject to tax. Currently the division does not have the data to determine if these pounds are taxable. However, the division concludes, based on its knowledge of the fisheries, that the majority of these pounds are not subject to tax.

Table 20
"Pound Compliance" Potential Tax from EEZ Pounds
 (in Dollars)

| Fishery | Low Tax Estimate | Low Tax Rate | High Tax Estimate | High Tax Rate |
|----------------|---------------------------|--------------|--------------------|---------------|
| Shellfish-Crab | N/A | N/A | \$2,600,000 | 5% Est/FP |
| Groundfish | N/A | N/A | 4,200,000 | 3% Dev/FP |
| Total | \$ N/A¹ | | \$6,800,000 | |

SB - Shore-based Processing Facility
 FP - Floating Processor Facility

¹Note: The "low tax" estimate for shore based processing is not applicable, because the pounds, if taxable, would be taxed at the higher rate for floating processors.



Rockfish

PART IV. Recommendations to Improve Compliance

The third purpose of this report is to provide recommendations to improve fish tax compliance and enhance revenues. The division has determined there are four general areas that, if modified, would improve compliance and/or enhance revenues:

1. The ADF&G Fish Ticket System
2. DOR's Licensing Procedures and Unpaid Tax
3. The Observer Program
4. Statutory Changes to the Fish Tax Laws and Institution of a Landing Tax

1. The ADF&G Fish Ticket System

The Income and Excise Audit Division relies heavily on the ADF&G fish ticket system as a primary audit and compliance tool. The division recognizes that the overall purpose of the system is to provide information to resource managers and that the system is not designed as a tax information system. The division also recognizes that tampering with a working system may not always be productive and that the system is largely based upon voluntary compliance by processors and fishermen. However, in its work the division has experienced certain frustrations with the current fish ticket system. For example, there are no physical controls over the blank fish tickets, nor is there any expiration date on the imprint plates used to issue fish tickets.

Once a fisheries business is licensed with Revenue, ADF&G issues the business a four-digit "Processor ID Code", a supply of fish tickets and a metal imprint plate. Every time a fish ticket is issued to a fisherman by a processor, this metal plate is used to imprint the processor's ID code on the fish ticket. This code provides the only means to track processors through the fish ticket system.

The division understands that ADF&G will supply a processor with as many blank fish tickets as requested and often make multiple copies of processor imprint plates. The current system allows an unscrupulous processor to operate without a license by using plates and tickets left over from a prior year. Such a processor would likely not be identified until well after the fishing season. When the division compared lists of licensed fisheries with a listing of processor ID codes used on fish tickets, it found 21 processors that were using invalid processor ID codes for 1989, and 37 for 1990. Investigations of these processors is ongoing. A possible remedy would be to provide for a yearly processor ID code and provide for an annual expiration date on the imprint plates.

This suggestion has been discussed with ADF&G personnel. They have a problem in that the current imprint machine is antique and it may take up to an hour to create a new plate with this machine. ADF&G does not have the manpower to make every processor new plates every year.

A possible solution is to purchase a state of the art machine which can make a plate in seconds. The new machine would enable ADF&G to provide expiration dates on the imprint plates and issue new ones annually. Such a machine is currently available and would cost \$13,000 to \$18,000. DOR believes the enhanced controls on fish tickets would justify state expenditure for the new machine.

2. DOR Licensing Procedures and Unpaid Tax

As part of the study the division noted that the amount of assessed but unpaid tax as of June 30, 1991, for all fish taxes was approximately \$3,457,000. Of that amount, \$1,591,000 was classified as non-collectible. An analysis of the non-collectible accounts revealed that most of them were for tax years that pre-dated the legislative audit of 1989 and subsequent improvements by the division. Most of the uncollectible accounts resulted from assessments made well beyond the end of the respective tax year and they also tended to represent businesses that operated for only one year. These businesses either had prepaid tax as security that did not cover their eventual liability or did not file returns. In the latter cases the assessments represent returns prepared on their behalf by the division.

The current procedures in DOR's licensing section have addressed this problem by closely scrutinizing license applications for adequate prepayment of tax. Furthermore, the Audit group is taking timely action to issue assessments as soon as possible for non-filers of returns. With the exception of active investigations, every taxpayer who was issued a license for 1990 and has not filed a 1990 return has been persuaded to file or has had a return filed on their behalf by the division.

DOR has also made statute recommendations that would reduce the unpaid and non-collectible tax in the future. (See Exhibit 1.) Briefly, new language added to AS 43.75.011 would allow the department to deny licenses to fisheries businesses and owners that owe the state any taxes, and additional language proposed for AS 43.75.055 would give the department express authority for its current policies on acceptable security for collection of taxes.

3. The Observer Program

The division's compliance analysis concluded that there is no practical way for auditors to determine and document processing done by floaters or catcher/processors inside the three mile limit. The audit resources of the division are not sufficient to examine in detail every floating processor to gather documentation to support an assessment. A typical floating processor's log may show hundreds of locations listed in degrees longitude and latitude. With existing audit tools, each location must be manually plotted on a map showing the three mile limit. Even if the processor is shown to be inside, evidence must be presented to show that harvesting and/or processing occurred inside the three mile limit. While the harvesting data might be logged with a location, the processing information rarely is.

One possible solution would be to have ADF&G observers on board vessels monitor and document harvesting and processing inside the three mile limit. If the division had evidence in the form of observer logbooks that documented processing inside the three mile limit, it could ensure that every vessel with an observer is in compliance. This change in procedures would need to be approved by the Alaska Board of Fisheries and coordinated with ADF&G.

4. Statutory Changes to the Fish Tax — Landing Tax

With an ever changing fishing industry, the results of field audits and compliance investigations show the need for statute clarifications and amendments. The in-depth audits of processors have brought to light areas of confusion by the industry and problems of inconsistent interpretation of the law. DOR recommends statute changes in the definition of taxable value, the definition of who is liable for the tax, and other changes that will give the state better tools to administer the fish tax program. DOR also prepared draft language for instituting a landing tax along with an estimate of additional revenues.

Exhibit 1 details the proposed statutory changes and provides an explanation of each proposal. The proposed changes fall into three categories:

- A. Clarifications to existing statutes on issues encountered in field audits
- B. Revenue enhancement provisions
- C. New language for establishing a landing tax

Table 21 on the next page summarizes the net fiscal impacts of the proposed statutory changes including a landing tax. Certain statute changes would add needed definitions and clarifications or would increase the department's power to obtain information. Estimates of increased revenue from these types of changes cannot be quantified.



Table 21
Summary of Increased Revenues Per Year from
Proposed Legislative Amendments and Landing Tax

| | | |
|-----------|---|---------------------|
| 43.75.011 | Licensing Requirements | - |
| 43.75.015 | Roe Taxed Separately | \$ 923,000 |
| 43.75.017 | Exclusion | - |
| 43.75.020 | Raise License Fee to \$250 | 107,000 |
| 43.75.030 | Information Report by Cash Buyers | - |
| 43.75.055 | Acceptable Security | - |
| 43.75.100 | Tax Imposed on Acquiring Resources | - |
| 43.75.070 | Responsible Persons | - |
| 43.75.290 | Definitions | - |
| (4) | Fisheries Business Defined | - |
| (5) | Roe as Resource Defined | - |
| (11) | Value - Determinations | - |
| (12) | Lienable Real Property Defined | - |
| (13) | Processing Defined | - |
| (14) | Processing for Sale to Consumers | (5,000) |
| (15) | Market Value to Include Tendering Costs | 3,750,000 |
| 43.77.010 | Landing Tax Revenues | \$9,700,000 |
| | Less estimated costs of administration | |
| | 1 Tax Examiner | (40,000) |
| | 2 Field Auditors | <u>(116,000)</u> |
| | Net Revenues from a Landing Tax | <u>9,544,000</u> |
| | Total Net Increased Revenues per Year | <u>\$14,319,000</u> |

EXHIBIT #1

Proposed Changes to Fisheries Tax Provisions

Thlrd Draft 5/92

Alaska Statutes

Title 43

REVENUE AND TAXATION

Chapter 75. Fisheries Taxes.

Article

1. Taxes and Licenses (43.75.011 - 43.75.055)
2. Acquiring [TAKING OF] Fisheries Products Which Are Sold Outside Taxing Jurisdiction (43.75.100 - 43.75.110)
3. General Provisions (43.75.130 - 43.75.140)

Article 1. Taxes and Licenses.

Section

- | | |
|---|--|
| 11. Fisheries business license | 30. Filing return and payment of tax |
| 15. Fisheries business tax | 32. Fisheries business tax credits tax |
| 17. Exclusion from fisheries business | 34. Tax credit report |
| 18. Fisheries business education credit | 55. Security for collection of taxes |
| 20. Application for license | 70. Responsible persons |

Sec. 43.75.011. Fisheries business license. A person engaging or attempting to engage in a fisheries business shall first apply for and obtain a license as provided in AS 43.75.020.

(b) The commissioner may assess a civil penalty against a person required to have a license under (a) of this section who fails to obtain the license. The civil penalty for a violation of (a) of this section may not exceed \$5,000 the first time a civil penalty is assessed, \$10,000 for a second assessment, \$15,000 for a third assessment, \$20,000 for a fourth assessment, and \$25,000 for a fifth or subsequent assessment. The commissioner may not assess a person more than one civil penalty for a violation of (a) of this section in a 30-day period. (§ 3 ch 79 SLA 1979; am §§ 1, 2 ch 150 SLA 1990)

(c) A fisheries business shall not be issued a license if:

(1) the fisheries business is in arrears in the payment of a tax under this title; or

(2) a person who owns, directly or indirectly, 10% of the equity interest in the fisheries business is in arrears in the payment of a tax under this title, or,

(3) any other person owns, directly or indirectly, 10% of the equity interest in the fisheries business and who also owned, directly or indirectly, 10% of the equity interest in any person in arrears in the payment of a tax under this title.

(d) For purposes of this section, a person is not in arrears if the payment of the tax is under administrative or judicial appeal.

COMMENT

AS 43.75.011 (c) & (d). *The fishing industry is a high risk and sometimes unstable industry. The division has experienced problems with some processors accruing large unpaid tax liabilities, the owners abandoning the insolvent company and then starting up a new business. The current statutes provide no legal basis to deny the new company a business license even if formed, owned and operated by the same principals.*

The new language would allow the department to deny licenses to fisheries businesses and owners that owe the state any taxes. It would also cover the situation where individuals form one corporation to conduct processing activities in one year, fail to pay the various fisheries taxes, dissolve or file bankruptcy, and then come in the next year with a new corporation to be licensed. This provision allows the department to look to the owners of the corporations to determine if they owe the state any taxes from other corporations with which they were involved.

Sec. 43.75.015. Fisheries business tax. (a) A person engaged in a fisheries business is liable for and shall pay the tax levied by this section on the value of each of the following fisheries resources processed during the year at the rate set out after each:

(1) salmon canned at a shore-based fisheries business — four and one-half percent;

(2) salmon processed by a shore-based fisheries business, except salmon for which the tax is due under (1) of this subsection, and all other fisheries resources processed by a shore-based fisheries business — three percent.

(3) fisheries resources processed by a floating fisheries business — five percent.

(b) Instead of the taxes levied by (a) of this section, a person who processes a developing commercial fish species is liable for and shall pay a tax equal to:

(1) one percent of the value of the developing commercial fish species processed by a shore-based fisheries business during the year; and

(2) three percent of the value of the developing commercial fish species processed by a floating fisheries business during the year.

(c) A person engaging or attempting to engage in a fisheries business who first actually and physically processes the fishery resource, or a person who purchases a fishery resource that is frozen from a person excluded by AS 43.75.017 from liability for the tax, is liable for and shall pay to the department the entire tax imposed by this section. In determining this tax liability, the person may deduct from the value of the fishery resources processed, the value of fishery resources that are canned or processed for other licensed fisheries businesses. A person taking the deduction authorized by this subsection shall report all information relating to the deduction in accordance with regulations issued by the department. The owner of the fisheries resources at the time of processing is liable for and shall pay the tax, or any portion of the tax, if the person otherwise liable does not for any reason pay the tax.

(d) Fish eggs, such as roe, are not considered to be processed with the fisheries resources from which obtained, but are instead first actually and physically processed at the time of packaging for shipment after removal from the fisheries resource. (§ 3 ch 79 SLA 1979; am §§ 5, 6 ch 117 SLA 1981; am § 1 ch 79 SLA 1986)

COMMENT

AS 43.75.015(c). Custom processing arrangements often result in unpaid tax as the owner and the processor believe the tax has been or should be paid by the other. This provision would make it clear that the owner will be liable for tax if the processing is performed by an unlicensed fisheries business.

The addition of the word "licensed" conforms the statute to the regulations. This will make it clear that a custom processor is required to process for licensed fisheries businesses in order to escape tax liability placed on the first processor of the resource.

The additional sentence at the end of subsection (c) places the ultimate responsibility for the tax on the owner of the fisheries resources in the event the tax is not paid. This will cover dissolutions and bankruptcies, etc.

AS 43.75.015(d). Very little salmon roe is reported as taxable value. The current department position as reflected in formal hearing decisions considers roe processed when removed from the salmon. Therefore, the price paid for the whole salmon is considered to include roe. However, if a processor purchases roe already separated from the carcass, that roe is taxable.

For those few processors who do report taxable roe, the values reflected are high, up to \$3 per pound. Fish tax revenues would increase if roe were treated as a separate fisheries resource. The average volume of salmon roe exported from 1981 through 1987 was 10,263,000 pounds (according to the Commerce Department's Sector Report, May 1991). Using the shore-based tax rate of 3% and an average value of \$3.00 per pound, this equates to approximately \$923,000 in additional revenue per year.

The addition of subsection (d) will provide that roe is processed only after removal from the resource. Further, the cleaning and washing of roe by the processor is not processing. The taxable processing event for salmon roe will be at the time of packaging for shipment. Currently roe is generally considered as having been processed with the resource so no tax is being paid.

Sec. 43.75.017. Exclusion from fisheries business tax. A person is not liable for the fisheries business tax under AS 43.75.015 and is not required to obtain a fisheries business license under AS 43.75.011 when the fishery resource is frozen aboard a fishing vessel if

- (1) the vessel is operated as a commercial fishing vessel under a valid commercial fishing license;
- (2) the fishery resource is not processed beyond heading, gutting or cleaning, freezing and glazing;

- (3) the fishery resource was caught by the vessel; and
(4) the fishery resource is sold by the person claiming an exclusion from the tax to a fisheries business licensed under this chapter. (§ 7 ch 117 SLA 1981)

COMMENT ***AS 43.75.017.** Technically, fishermen are engaged in a fisheries business when they perform processing activities on the vessel. The statute says they are not subject to the tax under section 15 but, presumably, since section 11 requires a fisheries business to obtain a license, they would have to be licensed. This amendment would conform the statute to present practice not to require fishermen to obtain licenses in these situations.*

Sec. 43.75.018. Fisheries business education credit. (a) A person engaged in a fisheries business is allowed as a credit against the tax due under this chapter 50 percent of cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions, by an accredited, nonprofit, public or private, Alaska, two- or four-year, college or university. The credit may not exceed the lesser of 10 percent of the amount of tax due under this chapter or \$100,000. A contribution claimed as a credit under this section may not be claimed as a credit under another provision of this title.

(b) Contributions accepted for endowment purposes are not eligible for the credit under (a) of this section.

(c) By September 30 of each year, the Department of Revenue shall report to the Legislative Budget and Audit Committee on the credits taken under this section. Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used. (§ 7 ch 58 SLA 1987)

Sec 43.75.020. Application for license. (a) Application for a license shall be filed with the department and accompanied by an annual fee of \$250 [\$25]. A separate annual fee is required for each plant or location specified in the application covered by the license. The application shall contain the name of the applicant, the line of business to be licensed, place of business, and other facts which the department prescribes. The applicant shall state that the applicant agrees to pay the tax imposed by AS 43.75.015 or 43.75.100, and that the applicant will file a return and pay the tax at the time provided by law.

(b) A person with a fisheries business tax liability not exceeding \$500 in the previous tax year who reasonably expects to have tax liability in the current year not to exceed \$500 may file a special application for a license accompanied by an annual fee of \$25. A qualifying special applicant is exempt from AS 43.75.055.

[(b)] (c) Upon receipt of the application in proper form, accompanied by the annual fee, the department shall issue the license. The department may revoke a license if the person would not thereafter qualify for a license at any time during the calendar year if an application is presumed to be made at that time. (§ 2 §2 SLA 1949; am § 93 ch 59 SLA 1982; am § 3 ch 150 SLA 1990)

COMMENT ***AS 43.75.020 (a).** The \$25 fee, which has been in effect since statehood, is replaced with a \$250 fee. This new fee will cover more of the costs of the licensing function.*

The addition of the word location is designed for buyers who do not operate processing facilities.

AS 43.75.020 (b). A new subsection (b) has been added to allow small operations to operate at the current \$25 fee and to file a special simplified application. These processors would not be required to post security as the amount of tax liability is minimal.

AS 43.75.020 (c). Language is added to subsection (c) to expressly give the department the authority to revoke a license if the taxpayer would not qualify at any time during the tax year.

Sec. 43.75.030. Filing return and payment of tax. (a) A person subject to the tax shall file a return stating the value of fisheries resources processed during the license year, computed as required by this chapter, and such other information as the department prescribes by regulation. A person who buys fisheries resources prior to processing for resale shall file an information return or report reporting such information as the department prescribes by regulation. The return shall show the license number and shall be signed by the taxpayer or an authorized agent, under penalty of perjury. If a receiver, trustee, or assign is operating the property or business, that person shall file the return for the person. A tax due on the basis of such a return shall be collected in the same manner as if collected from the person of whose business the receiver, trustee, or assign has custody and control.

(b) The return shall be made on the basis of the calendar year to the department at Juneau before April 1 after the close of the calendar year.

(c) The department may adopt regulations for the granting of a reasonable extension of time for filing and may grant an extension of time for filing.

(d) The tax shall be paid before April 1 after the close of the calendar year.

(e) Every person engaging or attempting to engage in a business for which a license is required under this chapter shall keep records, make statements under oath, file returns, and comply with all regulations which the commissioner of revenue may adopt.

(f) When the department considers it necessary, it may require a person, by notice served upon the person, to file a return, make such statements under oath, or keep and display to it such records as it considers sufficient to show the tax for which the person is liable. If a person fails to file a return as prescribed by law or by regulation, or makes, willfully or otherwise, a false or fraudulent return, the department shall make the return from the information which it can obtain. A return made by the department is prima facie good and sufficient for all legal purposes.

(g) For purposes of this subsection, in the case of each failure to file an information return or report on the date prescribed (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, a penalty of \$5000 shall be paid to the department for each 30 day period or fraction of the period during which the person fails to file the return or report. The department may prescribe by regulation circumstances which constitute reasonable cause for purposes of this subsection. (§ 3 ch 82 SLA 1949; am §§ 2, 3 ch 146 SLA 1962; am §§ 5, 6, ch 79 SLA 1979)

COMMENT

AS 43.75.030 (a) & (g). The new language would require buyers of unprocessed resource to file information returns reporting such information as the department deems necessary. This would allow the department to track resource from the fishermen to the entity liable for the tax.

The requirement would be given teeth by penalizing a buyer \$5000 for each 30 day period the information return or report is late.

Sec. 43.75.032. Fisheries business tax credits (Effective until January 1, 1992). (a) A fisheries business is entitled to a credit of not more than 50 percent of the business tax liability under AS 43.75.015 for capital expenditures made during the tax year that (1) increase product diversity, or production efficiency and capacity, or improve product quality, at a shore-based fisheries business facility in the state, or (2) contribute to development of a cooperative seafood industrial park in the state, if an application for the credit is approved by the department in advance of the capital expenditure. A fisheries business may claim a credit under this subsection for a maximum period of three consecutive years. An applicant for the credit may elect to begin the three-year period with any tax year from 1987 through 1989. A tax credit under this subsection may not be approved for more than 50 percent of a capital expenditure, plus any increase required under (b) of this section.

(b) The amount of a credit under (a) of this section for a capital expenditure involving a shore-based fisheries business facility or cooperative seafood industrial park located or to be located in a municipality shall be increased by the amount by which the municipality's fisheries business tax refund is reduced under AS 43.75.130(c). The total amount of a credit increase under this subsection during a three-year period may not exceed 25 percent of the amount of the capital expenditure.

(c) The portion of a capital expenditure that is eligible for a credit under this section but is claimed during a single tax year may not be carried back to a prior tax year but is available for the computation as a credit under this section for a subsequent tax year within the three-year period elected under (a) of this section.

(d) Within 10 days after submitting an application for a credit under (a) of this section the applicant shall send a copy of the application to the municipality, if any, in which the shore-based fisheries business facility or cooperative seafood industrial park for which the expenditure is to be made, is located or is to be located.

(e) A fisheries business is entitled to a credit of not more than five percent of the business tax liability under AS 43.75.015 for contributions made during the tax year to the A.W. "Winn" Brindle memorial scholarship account (AS 14.43.250). A fisheries business may claim a credit under this subsection for the 1987 tax year and subsequent tax years. A tax credit under this subsection may not be approved for more than 100 percent of a scholarship contribution.

(f) The total tax credits that may be claimed under this section for a tax year for capital expenditures and scholarship contributions combined may not exceed 50 percent of the taxpayer's business tax liability under AS 43.75.015 for that tax year.

(g) The department may not approve a tax credit under this section if

(1) the property for which the capital expenditure was made was the subject of a previous capital expenditure by another taxpayer for whom a corresponding tax credit under this section has been approved;

(2) the property for which the capital expenditure was made was sold or transferred between fisheries businesses having substantial common ownership; or

(3) the fisheries business claiming the credit is in arrears in the payment of a fisheries business tax under AS 43.75.015; for purposes of this paragraph, a taxpayer is not in arrears if the payment is under administrative or judicial appeal.

(h) The department shall prepare an application form for a credit under this section.

(i) The department shall approve or disapprove an application for a credit under this section not later than 60 days after receiving the application.

(j) In this section

(1) "cooperative" has the meaning given in AS 10.15.595.

(2) "seafood industrial park" means a seafood processing center with facilities to land, handle, and process or to ship or transship to any location all marketable species of seafood; a seafood industrial park

may contain commercial facilities to support the activities of the park, and the labor force and vessels that operate at or from the park. (§ 2 ch 79 SLA 1986)

Sec. 43.75.034. Tax credit report (Repealed effective February 15, 1992). Not later than the 15th legislative day of each regular legislative session the Department of Revenue, in conjunction with the Department of Commerce and Economic Development, shall submit to the legislature a report on the fisheries business tax credit program under AS 43.75.032. The report shall describe the expenditures for which a credit was approved during the previous tax year and, if possible, the increase in employment and processing capacity by the fisheries businesses for which the credit was approved. (§ 2 ch 79 SLA 1986; am § 8 ch 79 SLA 1986)

Sec. 43.75.055. Security for collection of taxes. Each applicant for a license under this chapter shall, in or with the application, state under oath the amount of each of the products which the applicant expects to produce during the license year. The applicant shall further state the extent of lienable real property owned by the applicant in the state against which the tax may be collected and other information with respect to description, location and value of the property which the department prescribes. If the lienable value of the property is equal to three times the amount of the tax for which the applicant will probably be liable under this section, the department may issue the license if the applicant provides the department with an appraisal made within the immediately preceding 30 days, a commercial title report, and a deed of trust securing three times the amount of the probable tax and naming the department as beneficiary. If the lienable value of the property is not equal to three times the amount of the tax for which the applicant will probably be liable under this section, the department may not issue the license until the applicant files with the department a surety bond approved by the attorney general in a penal sum equal to twice the probable amount of the tax for which the applicant will be liable, conditioned upon payment of the tax in full when due, with interest if not paid before delinquency. However, if the applicant purchases salmon for export from Alaska in the round, the amount of the bond is \$50,000 unless the applicant is the owner of lienable real property in the state of a value of at least \$50,000, and the bond must be conditioned upon payment to the fisherman of the full purchase price for the salmon and the payment of the tax in full when due. The department may waive the bond requirement if the applicant posts other equivalent security as collateral acceptable to the department in the form of intangible property easily converted to cash [COLLATERAL ACCEPTABLE TO THE DEPARTMENT] or prepays the estimated tax. The department may reject intangible property if accepting it as collateral would necessitate additional accounting by the department or require reporting to federal or other state agencies. (§ 4 ch 84 SLA 1967; am § 8 ch 79 SLA 1979)

COMMENT

AS 43.75.055. *The additional language gives express authority for the department's current policy of requiring lienable value to be three times the tax liability, an appraisal within 30 days, a commercial title report, and a deed of trust.*

The changes in the last two sentences would allow intangible property such as stock or bonds to be used as security. The changes would also make it clear that personal property and other forms of collateral are not acceptable.

AS 43.75.070. Responsible Persons. For purposes of this chapter, all officers and directors of the fisheries business, and such other persons controlling the fisheries business, are jointly and severally liable to account for and pay over the tax to the department.

COMMENT

AS 43.75.070. This provision would give the department much needed leverage over the collection of fisheries business taxes. It would allow the department to collect unpaid tax from the responsible individuals of the fisheries business. The penalty provision of AS 43.05.220(d) would apply to responsible persons.

Article 2. Acquiring [TAKING OF] Fisheries Products Which Are Sold Outside Taxing Jurisdiction.

Section

100. Tax imposed on acquiring a [TAKING OF] fishery resource

110. Duty of taxpayer and payment of tax

Sec. 43.75.100. Tax imposed on acquiring a [TAKING OF] fishery resource. (a) A person [TAKING, PURCHASING, OR OTHERWISE] acquiring a fishery resource covered by this chapter which has not been subject to the tax imposed in AS 43.75.015, is subject to the tax levied in AS 43.75.015 on the value of the fishery resource if the person

(1) transports the fishery resource to a point outside the taxing jurisdiction of the state for subsequent processing or sale outside the taxing jurisdiction of the state;

(2) sells the fishery resource outside the taxing jurisdiction of the state; or

(3) has the fishery resource processed by a fisheries business in the state.

(b) The rate of tax that shall be paid by a person whose liability for the tax is established by this section is the rate of tax that would have been due under AS 43.75.015 if the fisheries business that first actually and physically processed the fish had been liable to pay the tax. (§ 1 ch 190 SLA 1959; am § 4 ch 79 SLA 1979; am § 8 - 9 ch 117 SLA 1981; am § 4 ch 150 SLA 1990)

COMMENT

AS 43.75.100. Removing this unnecessary language would simplify the law and focus its meaning on the activity that is being taxed.

Sec. 43.75.110. Duty of taxpayer and payment of tax. A person subject to taxes under AS 43.75.100 shall make a return stating the value of fisheries resources taken, purchased, or otherwise acquired during the license year for sale to fisheries businesses outside of the taxing jurisdiction of the state computed as required by AS 43.75.100, and other information to carry out the provisions of AS 43.75.100 as may be prescribed by the department. The return shall contain the license number and shall be signed by the taxpayer or an authorized agent, under penalty of perjury. If a receiver, trustee, or assign is operating the property or business, that person shall make the return for the person. A tax due on the basis of such return shall be collected in the same manner as if collected from the person of whose business the receiver, trustee, or assign has custody and control. The requirements for time and place of payment of tax, and the obligation to keep records and make the records available to the commissioner of revenue are the same as those prescribed in AS 43.75.011 — 43.75.050. (§ 2 ch 190 SLA 1959; am § 9 ch 79 SLA 1979)

Article 3. General Provisions.

Section

130. Refund to local governments.

133. Provision of information to municipalities.

137. Additional refund (Effective July 1, 1992).

140. Definitions

Sec. 43.75.130. Refund to local governments. (a) Except as provided in (d) of this section, the commissioner of revenue shall pay

(1) to each unified municipality and to each city located in the unorganized borough, 50 percent of the amount of tax revenue collected in the municipality from taxes levied under this chapter;

(2) to each city located within a borough, 25 percent of the amount of tax revenue collected in the city from taxes levied under this chapter; and

(3) to each borough

(A) 50 percent of the amount of tax revenue collected in the area of the borough outside cities from taxes levied under this chapter; and

(B) 25 percent of the amount of tax revenue collected in cities located within the borough from taxes levied under this chapter.

(b) For purposes of this section, tax revenue collected under AS 43.75.015 from a person entitled to a credit under AS 43.75.032 shall be calculated as if the person's tax had been collected without applying the credit.

(c) (REPEALED EFFECTIVE JANUARY 1, 1992) Within 50 days after a credit is approved under AS 43.75.032 for a capital expenditure involving a shore-based fisheries business facility or cooperative seafood industrial park located or to be located in a municipality, the municipality may adopt an ordinance directing the department to reduce the municipality's refund under this section over a period of not more than three years by an amount not exceeding 25 percent of the capital expenditure.

(d) Notwithstanding the provisions of (a)(2) and (a)(3)(B) of this section, the commissioner shall pay (1) to each city that is located in a borough incorporated after June 16, 1987, the following percentages of the tax revenue collected in the city from taxes levied under this chapter:

(A) 45 percent of the taxes collected during the calendar year in which the borough is incorporated;

(B) 40 percent of the taxes collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 35 percent of the taxes collected during the second calendar year after the calendar year in which the borough is incorporated; and

(D) 30 percent of the taxes collected during the third calendar year after the calendar year in which the borough is incorporated; and

(2) to each borough that is incorporated after June 16, 1987, the following percentages of the tax revenue collected in the cities located within the borough from taxes levied under this chapter:

(A) 5 percent of the taxes collected during the calendar year in which the borough is incorporated;

(B) 10 percent of the taxes collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 15 percent of the taxes collected during the second calendar year after the calendar year in which the borough is incorporated; and

(D) 20 percent of the taxes collected during the third calendar year after the calendar year in which the borough is incorporated.

(e) Notwithstanding the provisions of (d) of this section, a city may adopt an ordinance to transfer a portion of the funds received under (d)(1) of this section to the borough in which the city is located.

(f) In this section, "tax revenue collected" includes the amount credited against taxes under AS 43.75.018. (§ 6 ch 155 SLA 1962; am § 75 ch 69 SLA 1970; am § 10 ch 218 SLA 1976; am § 11 ch 79 SLA 1979; am § 10 ch 117 SLA 1981; am § 73 ch 74 SLA 1985; am §§ 4,7 ch 79 SLA 1986; am § 8 ch 58 SLA 1987; am §§ 1, 2, ch 80 SLA 1987)

Sec. 43.75.133. Provision of information to municipalities. (a) If the mayor, manager, or administrator of a municipality makes a written request, the department shall furnish the mayor, manager, or administrator of the municipality the names of all fisheries businesses that have filed tax returns under this chapter in which the fisheries business listed the municipality as the location in which the fisheries business processed a fisheries resource subject to the tax imposed under this chapter.

(b) If the mayor, manager, or administrator of a municipality makes a written request, the department shall verify that, as to a tax levied and collected by the municipality that is based on the value of fisheries resource processed in or transported to or within the municipality, the value of the fisheries resources reported by a fisheries business to the municipality and the value of the fisheries resources reported by the fisheries business to the department under this chapter are substantially the same. If the values are not substantially the same, the department shall permit the mayor, manager, or administrator of the municipality to inspect tax returns filed by the fisheries business with the department under this chapter, or shall furnish to the municipal officer a copy of the tax returns, if the department determines that the municipality provides adequate safeguards for the confidentiality of the returns and that the returns will be used by the municipality only for purposes of collection of its tax levied and collected on fisheries resources. In this subsection, the value of the fisheries resources reported by the fisheries business to the department and the value reported to the municipality are substantially the same if the values are equal or the variance between them does not exceed one percent of the greater value. (§ 1 ch 128 SLA 1988)

Sec. 43.75.137. Additional Refund (Effective July 1, 1992). To the extent that appropriations are available for the purpose, and notwithstanding the requirement of AS 37.07.080(e) that approval of the office of management and budget is required, and amount equal to 50 percent of the tax revenue that is collected under this chapter from floating fisheries businesses and is not subject to division with a municipality under AS 43.75.130 shall be transmitted each fiscal year, without the approval of the office of management and budget, by the department to the Department of Community and Regional Affairs for dispersal to eligible municipalities under AS 29.60.450. (§ 2 ch 195 SLA 1990).

Sec. 43.75.140. Definitions. In this chapter

(1) (REPEALED EFFECTIVE JANUARY 1, 1992) "capital expenditures" includes the price paid for equipment and the cost of improvements made to depreciable property, but does not include expenditures that are deducted entirely for federal income tax purposes in the year in which they accrued or were paid; in this paragraph, "equipment" and "depreciable property" have the meaning given in regulations adopted by the Commissioner of Commerce and Economic Development;

(2) "department" means the Department of Revenue;

(3) "developing commercial fish species" means those species of fish and shellfish annually designated by the Commissioner of Fish and Game under AS 16.05.050(11);

(4) "fisheries business" means a person who;

(a) engages in processing fisheries resources for sale by freezing, cooking, salting, or other method, and includes but is not limited to, canneries, cold storages, freezer ships, and processing plants;

(b) engages in processing fisheries resources for another person for a fee or other compensation; or

(c) buys fisheries resources prior to processing for resale or for transport out of the taxing jurisdiction of the state.

(5) "fishery resource" means finfish, shellfish and fish by-products, including but not limited to salmon, halibut, herring, flounder, crab, clam, cod, shrimp, roe and pollock; the term does not include such resources in package form for distribution and sale to consumers.

(6) "floating fisheries business" means a fisheries business which is not a shore-based fisheries business; the term includes, but is not limited to, a shore-based fisheries business as defined in (9)(B) of this section when it is removed from the state;

(7) (REPEALED EFFECTIVE JANUARY 1, 1992) "product diversity" means the processing of non-traditional fish or other seafood species or products;

(8) (REPEALED EFFECTIVE JANUARY 1, 1992) "product quality" means the handling of fish or other seafood species or products in order to increase product sales or value.

(9) "shore-based fisheries business" means a fisheries business

(A) operated from a facility which is permanently attached to the land; or

(B) operated from a facility which remains in the same location in the state for the entire tax year;

[(10) "TAKING" MEANS PURSUING, FISHING, CAPTURING, OR HARVESTING A FISHERIES RESOURCE IN ANY MANNER;] Repealed

(11) "value" means the full market value consideration for the fisheries resource at the instant the resource becomes subject to the tax under this chapter. The department may use confidential Alaska Department of Fish and Game statewide statistics of prices paid by region for fisheries resources, as adjusted to eliminate high and low prices and as further adjusted to take into account deferred payments such as bonus, to establish a presumption for market value. The data upon which the presumption is made is confidential and may not be disclosed. The presumption of the department shall only be overcome with clear and convincing proof of the full market value of the fisheries resources that were processed [ACTUAL PRICE PAID FOR THE FISHERIES RESOURCE BY THE FISHERIES BUSINESS, INCLUDING INDIRECT CONSIDERATION SUCH AS FUEL, SUPPLIES, OR GEAR, WHETHER PAID AT THE TIME OF PURCHASE OF THE FISHERIES RESOURCE OR TENDERED AS A DEFERRED OR DELAYED PAYMENT, EXCEPT THAT "VALUE" MEANS THE MARKET VALUE OF THE FISHERY RESOURCE IF THE TAKING OF THE FISHERY RESOURCE IS DONE IN COMPANY-OWNED OR COMPANY-SUBSIDIZED BOATS OPERATED BY EMPLOYEES OF THE FISHERIES BUSINESS OR IN BOATS WHICH ARE OPERATED UNDER LEASE OR OTHER ARRANGEMENT]. (§ 3 ch 79 SLA 1979; am § 46 ch 94 SLA 1980; am § 46 ch 113 SLA 1980; am §§ 11, 12 ch 117 SLA 1981; am §§ 5, 7 ch 79 SLA 1986)

(12) "lienable real property" means the excess of current appraised value over all (a) recorded liens and encumbrances shown on a title report made within 15 days of the date of the license application and (b) unrecorded liens and encumbrances known by the owner of the real property.

(13) "process", "processes" and "processing" means any activity which modifies the physical condition of a fisheries resource, including butchering, freezing, salting, cooking, canning, dehydrating, or smoking. Processing does not include decapitating shrimp and gutting, gilling, sliming, washing or icing a fisheries resource solely for the purpose of maintaining the quality of the fresh resource until the resources can be delivered to a processing facility. The activities aboard a fishing vessel by a person with an exclusion from the tax under AS 43.75.017 are not considered process. g. For purposes of fisheries resources that do not traditionally require processing in the industry, such as scallops and oysters, processing is deemed to occur at the last unloading of the fisheries resources from (a) the vessel from which caught, (b) a tender vessel, or (c) another vessel owned, leased, arranged or provided by the purchaser, and the processor is deemed to be the first fisheries business acquiring the fisheries resource from the person who harvested the fisheries resource, or the person who harvested the fisheries resource if he sells or transports the fisheries resource outside the taxing jurisdiction of the state.

(14) "processing fisheries resources for sale" means the series of processing activities which are performed by a person in preparing the fisheries resources for a subsequent sale to other than individual consumers, regardless whether the person owns the fisheries resources and regardless whether the person is the seller in the subsequent sale of the fisheries resources:

(15) "market value consideration" means the highest price a willing buyer would pay and a willing seller would accept, both being fully informed and neither under any compulsion to buy or sell, and the property being exposed for a reasonable period of time. The market value may be different from the price a property can actually be sold for at a given time. Market value shall not be less than all amounts paid or incurred by the fisheries business to acquire, deliver, and preserve the resources prior to processing and includes, but is not limited to, the actual price paid to fishermen at the time of purchase for the resources and to preserve the resources and as deferred payments or bonuses, all indirect consideration provided to the fishermen such as fuel, supplies, gear or credits, and transportation and other costs to deliver the resources to the processing facilities.

COMMENT

AS 43.75.290 (4). The definition of "fisheries business" is made in three parts. The first defines a regular processor. The second defines a custom processor. The third defines a buyer. The purpose is to require all three to be licensed.

AS 43.75.290 (5). The definition of "fisheries resource" is expanded to include roe and exclude resource in package form for distribution and sale to consumers. This would tie in with a landing tax provision.

AS 43.75.290 (10). Subsection (10) defining "taking" is repealed as unnecessary.

AS 43.75.290 (11). During the course of field audits the division became aware of the need for clarification of the definition of taxable "value". The current definition of taxable value is "the actual price paid for the fisheries resource by the fisheries business, including indirect consideration..." This definition has been interpreted by a portion of the industry to mean ex-vessel value. The current definition is unworkable and unauditible because the point of taxation (processing) and the point of valuation (ex-vessel) are not the same.

Audits have disclosed taxpayers who have subtracted imputed costs, such as tendering costs, from the price paid to the fishermen to arrive at an "ex-vessel" or taxable value. For example, certain processors will pay more for fish that the fishermen have brought to the dock than for fish picked up on the fishing grounds by a company-owned tender. The price difference is considered by the processor to be for tendering and not attributable to taxable value (the actual price paid for the resource). These imputed tendering costs are virtually unauditible as the fishermen are paid a lump amount and the processor is left to determine what portion of that amount represents taxable value and what portion represents tendering.

Other examples of imputed costs are premiums for refrigerated seawater systems, spotting fees, management fees, and unloading fees. All of these items have been subtracted from the total paid by the fisheries business for the resource and are not reported as taxable value.

The division's review of "ex-vessel" prices as reported to the Commercial Fisheries Entry Commission (CFEC) shows that reported prices vary widely for the same resource, harvested by the same gear type in the same area. While the division recognizes that quality is a factor in a true price, the variances seen lead it to believe the ex-vessel prices as reported to CFEC are not a reliable measure of value.

The new language would allow the department to use the average price per pound reported to the Department of Revenue to derive a taxable value per audit for non-arms length transactions. The taxpayer would bear the burden of proof that the value proposed by the department is incorrect.

The new definition would also make it clear that value is market value in all cases and includes "added" value. Value would be determined generally at the processor's facilities at the point of processing. In determining this value, the department is given authority to use ADF&G statistics to establish a presumption of value. The taxpayer cannot attack the presumption but must instead establish a market value for the resources.

Furthermore, this section would define taxable value as all values and costs incurred by the processor up to and just before the point the resource is processed. This would make the taxable event (processing) and the point of taxable valuation the same.

Expanding the definition of value would result in additional estimated revenue of \$3,750,000.

AS 43.75.290 (12). *A new subsection (12) is added to define "lienable real property". The definition would provide express authority for current department practices.*

AS 43.75.290 (13), (14) & (15). *Additional definitions are added for "processing", "processing fisheries resources for sale", and "market value consideration". These are all key elements and will clarify the intent behind the changes.*

Chapter 77. Landing Tax Act.

Section

10. Landing Tax

20. Filing Return and Payment of Tax

30. Credit for Taxes Paid Other States

40. Definitions

AS 43.77.010. Landing Tax. A person owning fisheries resources not subject to AS 43.75 that are brought into the jurisdiction of the state shall pay a landing tax on the market value of the fisheries resources.

AS 43.77.020. Filing Return and Payment of Tax. (a) A person subject to the tax shall file a return stating the value of fisheries resources brought into the state and such other information as the department prescribes by regulation.

(b) The return shall be made on the basis of the calendar year to the department at Juneau before April 1 after the close of the calendar year and the tax shall be paid with the return.

(c) The department shall adopt regulations for the implementation of this chapter, including the granting of a reasonable extension of time for the filing.

AS 43.77.030. Credit For Taxes Paid Other States. A credit not to exceed the liability for the tax on each fisheries resource shall be granted for taxes equivalent to those imposed under AS 43.75 and AS 43.76 that are paid to other states in which the resources were either caught, processed, or first landed.

AS 43.77.040. Definitions.

(a) "fishery resource" means finfish, shellfish and fish by-products, including but not limited to salmon, halibut, herring, flounder, crab, clam, cod, shrimp, roe and pollock; the term does not include such resources in package form for distribution and sale to consumers.

(b) "value" means the full market value consideration for the fisheries resource at the instant the resource becomes subject to the tax under this chapter. The department may use confidential Department of Fish and Game statewide statistics of prices paid for fisheries resources to establish a presumption for market value. The presumption of the department shall only be overcome with clear and convincing proof of the full market value of the fisheries resources.

COMMENT

AS 43.77. *A landing tax would capture significant tax revenues. The division suspects that most of the tax leakage reported to auditors is really related to fisheries resources that are caught and processed outside Alaska's three mile limit. A portion of those resources are actively managed by the state but no tax revenues are realized.*

The current structure of the fisheries business tax taxes only those resources harvested and/or processed inside Alaska's three mile limit. This has not been effective in generating revenue from floating crab and groundfish catcher/processors. The objective of the landing tax would be to tax that part of the offshore fishing and processing activity that impacts Alaska's fishing communities and which is not at present being taxed under AS 43.75. The landing tax would apply to processed resources brought into Alaska's taxing jurisdiction. The landing tax would not apply to resources processed in Alaska that are currently taxed under the existing provisions of AS 43.75.

The Landing Tax could work using the following definitions and concepts:

- 1. Taxable Event. The first possession or landing (off-loading) of processed resource in Alaska.*
- 2. Taxpayer. The owner of the processed resource at time of landing.*
- 3. Tax Base. Value of fisheries resource at the point of landing in Alaska, as evidenced by shipmate's receipts, bills of sales, sales invoices, insurance value declarations, export documents, etc.*
- 4. Point of landing. Fish are "landed" when they are placed on a tender, freighter, or other mode of transport for hire in the territorial waters of Alaska or when they are brought to land, which includes wharves, piers, or other such extensions.*
- 5. Rate of Tax. For discussion purposes, this study uses the highest current tax rate of 5% as the proposed landing tax rate.*
- 6. Licensing and Reporting. The taxpayer would be required to obtain a Fisheries Business License. The taxpayer would report and pay tax on a monthly or quarterly basis.*
- 7. Estimated revenues. The actual revenues received would depend upon the value base used and the tax rate applied. Because processed product values are not available, DOR's estimate of landing tax revenue uses unprocessed value and the fisheries business tax rates. Tables 22 and 23 depict estimated landing tax revenue for crab and groundfish.*

A landing tax would primarily affect resource harvested and processed in the EEZ which includes approximately 18% of total crab harvest (Table 12) and 59% of the total groundfish harvest (Table 16). DOR does not believe that the landing tax would generate significant additional revenues from salmon, herring and halibut because the majority of these resources are harvested and/or processed within Alaska's taxing jurisdiction.

An estimate for crab was prepared on the assumption that all unreported crab value would be captured in a landing tax. Total value was calculated by sorting ADF&G harvest pounds by species and multiplying those pounds by the department's species average price per pound. This estimate is conservative because the value base reflects unprocessed value, not processed value as envisioned by a landing tax. The estimated revenue arising from a landing tax would be \$3.0 million per year, as calculated per Table 22.

Table 22
Estimated Revenue from Landing Tax - Crab
(Millions of Dollars)

| Crab | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|-----------------------------------|---------|------------|---------|------------|---------|------------|----------|------------|
| | Value | % of Total | Value | % of Total | Value | % of Total | Value | % of Total |
| DOR Total Value | \$231.7 | 100% | \$269.5 | 100% | \$351.4 | 100% | \$284.2 | 100% |
| DOR Rep'd Value | 181.6 | 78% | 213.7 | 80% | 274.6 | 78% | 223.3 | 79% |
| Value Not Taxed | \$ 50.1 | 22% | \$ 55.8 | 20% | \$ 76.8 | 22% | \$ 60.9 | 21% |
| Average value not currently taxed | | | | | | | \$ 60.9 | |
| Landing tax at 5% | | | | | | | \$ 3.0 | |

An estimate for groundfish has been prepared using value published by Pacific Fisheries Information Network (Pac-FIN), a joint Federal and State data collection and management program. Using the three year average of values for total groundfish harvested and landed in the Alaska region and assuming that all value of groundfish not reported to DOR in those years would fall under landing tax, the estimated revenue arising from a landing tax would be \$11.2 million per year, as calculated per Table 23.

Table 23
Estimated Revenue from Landing Tax - Groundfish
(Millions of Dollars)

| Groundfish | 1988 | | 1989 | | 1990 | | 3 Yr Avg | |
|-----------------------------------|---------|------------|---------|------------|---------|------------|----------|------------|
| | Value | % of Total | Value | % of Total | Value | % of Total | Value | % of Total |
| Pac-FIN | | | | | | | | |
| Total Value | \$245.2 | 100% | \$338.3 | 100% | \$446.6 | 100% | \$343.3 | 100% |
| DOR Rep'd Value | 105.6 | 47% | 118.2 | 35% | 132.1 | 30% | 121.5 | 35% |
| Value Not Taxed | \$139.6 | 53% | \$220.2 | 65% | \$314.5 | 70% | \$224.8 | 65% |
| Average value not currently taxed | | | | | | | \$224.8 | |
| Landing tax at 5% | | | | | | | \$ 11.2 | |

The total crab and groundfish revenues expected from a landing tax would be \$14.2 million. This estimate would vary depending on tax rate and underlying market values.

This publication was released by the Alaska Department of Revenue, produced at a cost of \$2.59 per copy, including printing at the state's Central Duplication Facilities in Juneau, Alaska and binding at REACH Ready Mail. Its purpose is to provide the public with the results of its study of Alaska's fisheries tax laws and recommendations for improvement.

Drawings of fish species courtesy of the Alaska Department of Fish and Game.