

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

573 SCOMM17: JOINT INTERIM COMM. ON LIMITED ENTRY 1979

Kodiak Set Gill Net

	1969	1970	1971	1972	1973	1974	1975	1976	1977
Average Gross Earnings	3,431	4,290	2,959	2,481	1,558	4,834	4,639	16,046	19,656
Plus Bonus Payments at 5% of Gross	172	215	148	124	78	242	232	804	985
TOTAL EARNINGS	3,603	4,505	3,107	2,605	1,636	5,076	4,871	16,850	20,641
LESS:									
Operating Costs	3,701	3,900	1,880	2,315	965	1,726	2,061	4,518	4,358
Fixed Costs	521	541	557	572	594	662	759	814	875
Capital Costs	2,222	2,306	2,377	2,438	2,533	2,823	3,628	3,909	4,503
TOTAL COSTS	6,444	6,747	4,814	5,325	4,092	5,211	6,448	9,241	5,736
Net Earnings	-2,841	-2,242	-1,707	-2,720	-2,456	-135	-1,577	7,609	14,905
Less Crew Share of 55.6% of Gross	1,909	2,387	1,646	1,380	867	2,690	2,581	8,923	10,937
Return to Operator	-4,750	-4,629	-3,353	-4,100	-3,323	-2,825	-4,158	-1,319	3,968

Chignik Purse Seine

	1969	1970	1971	1972	1973	1974	1975	1976	1977
Average Gross Earnings	23,632	40,024	35,968	12,573	38,803	32,068	20,694	70,337	180,776
Plus Bonus Payments at 4.5% of Gross	1,063	1,801	1,619	566	1,746	1,443	931	3,165	8,135
TOTAL EARNINGS	24,695	41,825	37,587	13,139	40,549	33,511	21,625	73,502	188,911
LESS:									
Operating Costs	4,499	5,496	5,355	3,774	5,096	5,515	5,494	8,148	7,411
Fixed Costs	2,864	2,972	3,064	3,143	3,265	3,639	4,171	4,472	4,811
Capital Costs*	6,828	7,087	7,306	7,494	7,785	9,154	10,841	11,905	15,007
TOTAL COSTS	14,191	15,555	15,725	14,411	16,146	18,308	20,506	24,525	27,229
Net Earnings	10,504	26,270	21,862	-1,272	24,403	15,203	1,119	48,978	161,682
Less Crew Share of 42.3% of Gross	9,993	16,925	15,210	5,317	16,408	13,560	8,751	29,743	76,443
Return to Operator	511	9,345	6,652	-6,589	7,995	1,643	-7,632	19,234	85,239

*Information on Chignik permit transfer prices is confidential because of the small number of transfers and could not be used in this analysis to determine the opportunity cost of permit ownership. Prince William Sound purse seine permit prices have been substituted for this purpose, as they are the highest in the state for the years covered here, but the opportunity costs of holding a Chignik permit, and thus capital costs, are probably higher than estimated.

Bristol Bay Drift Gill Net

	1969	1970	1971	1972	1973	1974	1975	1976*	1977*
Average Gross Earnings	5,617	14,606	8,691	3,175	3,085	7,148	7,720	13,150	16,628
LESS:									
Operating Costs	903	1,338	1,125	793	677	1,170	1,055	1,320	1,469
Fixed Costs	743	771	795	815	847	944	1,082	1,780	1,915
Capital Costs	1,153	1,196	1,233	1,265	1,314	1,465	1,888	2,573	3,173
TOTAL COSTS	2,799	3,305	3,153	2,873	2,838	3,579	4,025	5,673	6,557
Net Earnings	2,818	11,301	5,538	302	247	3,569	3,695	7,477	10,071
Less Crew Share at 31.7% of Gross	1,782	4,634	2,757	1,007	979	2,268	2,449	4,172	5,275
Return to Operator	1,036	6,667	2,781	-705	-732	1,301	1,246	3,305	4,796

*1976 and 1977 estimates are based on a 1976 CFEC Survey by June Baker and Ben Muse.

**Although the 1973 CFEC Cost Survey found that 38% was the average crew share in this fishery, the 1976 CFEC Bristol Bay survey indicated that the average crew share was 31.7%. The 1976 crew share figure was determined to be more accurate and has been used for calculating the crew share for all years.

Bristol Bay Set Gill Net

	1969	1970	1971	1972	1973	1974	1975	1976	1977
Average Gross Earnings	1,930	2,741	2,972	609	614	3,235	2,113	3,628	4,782
LESS:									
Operating Costs	947	1,297	1,238	792	633	1,090	1,207	1,538	1,778
Fixed Costs	216	224	231	237	246	274	314	337	362
Capital Costs	867	899	927	951	988	1,101	1,472	1,682	1,773
TOTAL COSTS	2,030	2,420	2,396	1,980	1,867	2,465	2,993	3,557	3,913
Net Earnings	-100	321	576	-1,371	-1,253	770	-880	125	869
Less Crew Share of 21.6% of Gross	416	591	641	131	132	698	456	782	1,031
Return to Operator	-516	-270	-65	-1,502	-1,385	72	-1,336	-657	-162

Penninsula - Aleutians Purse Seine

	1969	1970	1971	1972	1973	1974	1975	1976	1977
Average Gross Earnings	10,191	21,602	14,065	7,399	7,166	9,975	7,732	33,837	28,210
LESS:									
Operating Costs	1,301	1,545	1,916	1,238	928	860	519	1,890	2,529
Fixed Costs	381	395	407	418	434	484	554	594	639
Capital Costs*	1,501	1,558	1,606	1,647	1,711	1,907	2,656	3,491	4,634
TOTAL COSTS	3,183	3,498	3,929	3,303	3,073	3,251	3,729	5,975	7,802
Net Earnings	7,008	18,104	10,136	4,096	4,093	6,724	4,003	27,862	20,408
Less Crew Share of 34.2% of Gross	3,486	7,389	4,811	2,531	2,451	3,412	2,645	11,575	9,650
Return to Operator	3,522	10,715	5,325	1,565	1,642	3,312	1,358	16,287	10,758

*Because no data on permit transfers was available, Kodiak permit prices were substituted for the calculation of permit opportunity costs.

Penninsula - Aleutians Set Gill Net

	1969	1970	1971	1972	1973	1974	1975	1976	1977
Average Gross Earnings	2,122	4,668	3,467	2,091	4,073	4,930	3,277	6,545	10,104
LESS:									
Operating Costs	710	818	832	730	545	456	472	891	891
Fixed Costs	381	395	407	418	434	484	554	594	639
Capital Costs	1,910	1,983	2,044	2,097	2,178	2,428	2,985	3,531	3,816
TOTAL COSTS	3,001	3,196	3,283	3,245	3,157	3,368	4,011	5,016	5,346
Net Earnings	-879	1,473	184	-1,154	916	1,562	-734	1,529	4,758
Less Crew Share of 38.5% of Gross	817	1,798	1,335	805	1,569	1,899	1,262	2,521	3,891
Return to Operator	-1,696	-326	-1,151	-1,959	-653	-337	-1,996	-992	867

Penninsula - Aleutians Drift Gill Net

	1969	1970	1971	1972	1973	1974	1975	1976	1977
Average Gross Earnings	8,466	9,469	9,409	7,707	7,283	7,000	7,771	17,041	19,075
LESS:									
Operating Costs	1,603	1,662	1,842	1,740	1,389	1,319	1,505	2,622	2,191
Fixed Costs	1,108	1,150	1,185	1,216	1,263	1,408	1,613	1,730	1,861
Capital Costs	2,027	2,104	2,169	2,225	2,311	2,576	3,278	3,915	4,623
TOTAL COSTS	4,738	4,916	5,196	5,181	4,963	5,303	6,396	8,267	8,675
Net Earnings	3,728	4,553	4,213	2,526	2,320	1,697	1,375	8,774	10,400
Less Crew Share of 23.4% of Gross	1,984	2,219	2,204	1,806	1,706	1,640	1,821	3,993	4,469
Return to Operator	1,744	2,334	2,009	720	614	57	-446	4,781	5,931

AVERAGE DAYS OF LANDINGS PER VESSEL MULTIPLIER FACTORS*

FISHERY	1969	1970	1971	1972	1973	1974	1975	1976	1977
Southeast Purse Seine	.7380	1.6313	1.2387	1.6945	1.0:17.2485 days	.9023	.5912	.7472	.7363
Prince Wm. Sound Purse Seine	1.5523	1.1291	1.8497	**	1.0:10.1385 days	.5971	1.3462	1.3440	1.5884
Cook Inlet Purse Seine	1.1213	1.2977	.8331	.5676	1.0: 9.1837 days	.2867	1.0923	.7129	1.4110
Kodiak Purse Seine	3.3955	2.8888	1.9131	2.1056	1.0: 7.0032 days	1.5902	1.3019	2.9492	2.1639
Chignik Purse Seine	1.0045	1.1809	1.1162	.7683	1.0:25.8987 days	.9123	.8014	1.1158	.9363
Penn. Aleutians Purse Seine	1.5911	1.8164	2.1860	1.3822	1.0: 8.3000 days	.7295	.3925	1.3513	1.6553
Southeastern Drift Gill Net	1.1665	1.2557	1.2405	1.2276	1.0:20.8796 days	.7900	.5755	.8458	.9161
Prince Wm. Sound Drift Gill Net	.7835	.9350	.7992	.9741	1.0:22.3230 days	1.1121	.8989	1.1806	1.0153
Cook Inlet Drift Gill Net	.8874	.9974	.4522	.8475	1.0: 9.7987 days	.7346	.8551	.9649	1.1033
Penn. Aleutians Drift Gill Net	1.3113	1.3061	1.4048	1.2979	1.0:13.1899 days	.7605	.7715	1.2683	.9726
Bristol Bay Drift Gill Net	1.5162	2.1613	1.7635	1.2143	1.0: 7.6561 days	1.4195	1.1335	1.4205	1.4767

(continued)

(continued)

FISHERY	1969	1970	1971	1972	1973	1974	1975	1976	1977
Yakutat Set Gill Net	1.0258	.9679	1.1548	.9346	1.0:17.8250 days	.8499	.8823	1.1010	1.2861
Prince Wm. Sound Set Gill Net	1.2365	.4957	**	1.5676	1.0:14.3684 days	1.1646	**	**	.7697
Cook Inlet Set Gill Net	1.2519	1.5550	.9970	1.2057	1.0: 9.3607 days	.9590	.9149	1.0411	.9183
Kodiak Set Gill Net	4.3684	4.4311	2.0728	2.4905	1.0: 4.4917 days	1.5344	1.6250	3.3349	2.9783
Penn. Aleutians Set Gill Net	1.4793	1.6421	1.6203	1.3898	1.0:11.6418 days	.6862	.6276	1.1167	1.0270
Upper Yukon Set Gill Net	1.1162	.9575	.7635	.4995	1.0: 7.3913 days	1.1628	.8876	.8402	1.0711
Bristol Bay Set Gill Net	1.7043	2.2481	2.0798	1.3002	1.0: 6.1158 days	1.4999	1.4568	1.7368	1.8603
Kuskokwim Set Gill Net	.9299	.8217	.4697	.6036	1.0:12.7217 days	.9144	.5717	.6978	.7836
Kotzebue Set Gill Net	.9147	1.4083	1.2190	1.2510	1.0:12.9180 days	.9842	1.2744	.8865	.9174
Lower Yukon Set Gill Net	.7972	.8035	.8479	.8280	1.0:16.0648 days	.9548	.7719	.8398	.8920
Norton Sound Set Gill Net	1.9844	2.2438	1.7504	1.3489	1.0: 7.6808 days	1.0782	1.2997	1.3444	1.5992

*Multiplier factors were prepared by using 1973 as the base year and dividing the days of landings for other years by the 1973 base figure for each fishery.

**Fishery was not opened.

Source: CFEC printout R01-03B-4550: Catch Data Tabulation from Gross Earnings file.

Percentage of Interim-Use permits
Issued in Limited Fisheries.

FISHERY	1975			1976			1977		
	Permanent	Interim	% of Total	Permanent	Interim	% of Total	Permanent	Interim	% of Total
Southeast Purse Seine	398	77	16.21%	409	9	2.15%	409	3	0.73%
Prince Wm. Sound	210	90	30.0%	247	35	12.41%	255	18	6.59%
Cook Inlet	49	51	51.0%	63	16	20.25%	72	10	12.2%
Kodiak	334	134	28.63%	358	36	9.14%	363	13	3.46%
Chignik	85	6	6.59%	90	3	3.23%	90	1	1.1%
Penn. Aleutians	108	18	14.29%	112	2	1.75%	113	0	0%
Southeastern Drift Gill Net	431	80	15.66%	451	36	7.39%	459	14	2.96%
Prince Wm. Sound	494	89	15.27%	514	25	4.64%	523	8	1.51%
Cook Inlet	453	331	42.22%	514	82	13.76%	538	36	6.27%
Penn. Aleutians	152	21	12.14%	153	2	1.29%	152	2	1.3%
Bristol Bay	1416	645	31.3%	1,621	99	5.76%	1,657	65	3.77%

(continued)

FISHERY	1975			1976			1977		
	Permanent	Interim	% of Total	Permanent	Interim	% of Total	Permanent	Interim	% of Total
Yakutat Set Gill Net	148	68	31.48%	156	3	1.89%	157	1	0.63%
Prince Wm Sound	26	1	3.7%	28	0	0%	28	1	3.45%
Cook Inlet	657	376	36.4%	711	7	0.97%	729	2	0.27%
Kodiak	139	90	39.3%	176	11	5.88%	180	5	2.7%
Penn. Aleutians	82	27	24.77%	105	10	8.70%	106	2	1.85%
Upper Yukon	Not limited in 1975			35	83	70.34%	44	25	36.23%
Bristol Bay	716	205	22.26%	759	5	0.65%	819	16	1.92%
Kuskokwim	Not limited in 1975			1177	489	41.55%	749	75	10.01%
Kotzebue	"	"	"	118	196	62.42%	173	60	25.75%
Lower Yukon	"	"	"	678	263	27.95%	675	8	1.02%
Norton Sound	"	"	"	169	141	45.48%	171	34	19.88%

By Dr. George Rogers

[illegible]

[illegible]

v

[illegible]

[illegible]

3

AREA	GEAR	SOUTHEAST										PRINCE WM. SOUND		COOK INLET			SOUTHWEST			BRISTOL BAY			ARCTIC-YUKON-KUSKOKWIM					ANCHORAGE			OTHER																	
		ANCHOR	HAINES	JUREAU	KETCHIKAN	OUTER KETCHIKAN	PRINCE OF WALES	SITKA	SKAGWAY/YAKUTAT	WRANGELL/PETERSBURG	TOTAL	CORDOVA MC CARTHY	VALDEZ/WHITTIER CHITINA	TOTAL	KENAI COOK INLET	SEWARD	TOTAL	ALEUTIAN ISLANDS	KODIAK	TOTAL	MORROW	DIVISION	TOTAL	NETEL	KODUK	KUSKOKWIM	NOHE	WADE HAMPTON	TOTAL	ANCHORAGE	MATANUSKA-SUSITNA	TOTAL	FAIRBANKS	UPPER YUKON	YUKON-KODUK	OTHER	TOTAL	ALASKA	OTHER STATES & COUNTRIES	AREA OR OPERATOR UNKNOWN								
SOUTHEASTERN & YAKUTAT	PURSE SEINE	9		6	41	12	26	37		64	195	2	19	21				1	1			1	1				1	1										220	131	23								
	DRIFT GILL NET		58	126	73	20	2	6		130	465	2		2				2	2			2	2		2			2		3	3							426	177	61								
	SET GILL NET			5				8	92	3	109																		3	3		1						112	14	12								
	POWER TRAWL	4	2	82	145	11	52	199	7	141	642				1	1									1				3	3		1						648	217	82								
	MUD TRAWL	41	4	264	351	107	89	246	8	326	1436																2	2	3	3		2					2	144	57	151								
	LONGLINE	9	26	124	60	35	43	144	8	277	726		2	2	6	6		1	2	3		2	2				1	1	8	8							749	87	82									
	POTS			14	13	1	2	24	4	41	99		6	1	7			1	1			1	1															108	34	9								
	OTTER TRAWL																																															
	BEAN TRAWL			1						8	9																														9		1					
	OTHER																																															
PRINCE WILLIAM SOUND	PURSE SEINE							1		1	159	159	32	9	41		16	16											5	1	6		1				1	224	41	23								
	DRIFT GILL NET		1				1	2		4	291	14	205	10	1	11		2	2										6	1	7							329	81	29								
	SET GILL NET																											159	159																			
	TRAWL																																															
	LONGLINE			1				1		4	6	10	10		10	10	20												24	24								60	7	1								
	POTS										74	74										1	1															75	1	2								
	OTTER TRAWL										3	3						2	2																			5										
	BEAN TRAWL										19	19																										19		6								
OTHER																																																
COOK INLET	PURSE SEINE																64	13	77																				90	2	3							
	DRIFT GILL NET			1						1	1	3	4	2	6		231	10	241		1	2	3		2	1	3											321	120	24								
	SET GILL NET				1					2							260	4	264				5	5				2	2	2	6		9	9		4		1	5	291	23	25						
	LONGLINE							1		4	5						101	15	116				15	15				1				35	35					172	18	5								
	POTS								3	3							157	13	172				5	5							1	1					181	3	5									
	OTHER																4	4													2	2					6		1									
	OTHER																																															
SOUTHWEST	PURSE SEINE			1				1		2	5	5					12	5	17																					334	81	20						
	DRIFT GILL NET												1	1			3	3																					180	26	12							
	SET GILL NET			1						1							2	2																					2	131	20	18						
	BEAN SEINE																																															
	LONGLINE																																															
	POTS																																															
	OTTER TRAWL																																															
	BEAN TRAWL			3																																												
OTHER																																																
BRISTOL BAY	DRIFT GILL NET			2	6	3			1	3	15		5	3	8		18	18			2	17	19				62	429	491		73	5	1	3	12	94		86	2	88		8		1	9	742	201	97
	SET GILL NET																13	2	15			2	2				59	203	262		3			4	7		42	1	43		5		334	37	31			
	OTHER																																															
ARCTIC YUKON KUSKOKWIM	PURSE SEINE																																															
	DRIFT GILL NET																																															
	SET GILL NET																																															
	POTS																																															
	OTHER																																															
UTILEN	SET GILL NET																																															
	OTHER																																															

[illegible]

SCOMM

#17:14

STATE
of ALASKA

MEMORANDUM

TO: ☐ Ella Anagick
Limited Entry Study Group

DATE: September 6, 1979

FILE NO: 465-3686

TELEPHONE NO:

FROM: AVRUM M. GROSS
ATTORNEY GENERAL

SUBJECT: Proposals to amend
Limited Entry Act

By: Jonathan K. Tillinghast
Assistant Attorney General

You have transmitted to this department for our comments a variety of options being considered by the Limited Entry Study Group for amending Alaska's Limited Entry Act (AS 16.43). Although several permutations were provided, the basic theme remains constant -- that is, a desire to restrict or prohibit the transferability of limited entry permits. The proposals were generated out of a concern by some for the increasing market value of permits, and fall into three basic categories: nontransferability, a moratorium on transferability and restricted transferability. Overlapping these three options were the following questions:

1. Should a limited entry permit be of unlimited duration, or should its term be established by an amortization schedule? and
2. Should intra-family transfers of the permit be permitted?

Obviously, with respect to both the "nontransferability" and "restricted transferability" options, the question arises as to how new entry into the gear operation phase of Alaska's fisheries will be accomplished. One option is to allow (under the "restricted transferability" option) the permit holder to transfer the permit to any person who has served in a crewing capacity for a certain number of years. Alternatively, the Study Group is considering the establishment of an apprenticeship program. Under the "restricted transferability" option, the permittee could transfer to any person completing that program. Under the "nontransferability" option, the Commercial Fisheries Entry Commission, once it reacquired the permit (presumably on the death or retirement of the holder, or expiration of the permit) would issue the permit to a person having completed the apprenticeship program. Additionally, persons who have not obtained limited entry permits solely because they did not meet pertinent application deadlines might also be eligible for reacquired permits under this approach.

MEMORANDUM

Ella Anagick

- 2 -

September 6, 1979

As we understand it, the apprenticeship program contemplated would provide that persons wishing to enter the program would apply initially to the Commission, who would then induce (through tax incentives), and/or require, gear operators to take on specified individuals as apprentices. The intent of this arrangement is to insure that persons in the apprenticeship program are chosen and evaluated by neutral, publicly-administered criteria, rather than by the industry itself.

As I am sure you're aware, one fundamental issue pervades all of the options under consideration: Would these altered methods of gaining entry into Alaska's fishery satisfy the requirements of the equal protection clauses of the 14th Amendment to the United States Constitution, and Art. I, § 1 of the Alaska Constitution? The issue is compounded both by the decision of the U.S. District Court for the District of Alaska in Bozanich v. Reetz, 297 F.Supp. 300 (1969), and by the use of the so-called intensified scrutiny test of equal protection employed by the Alaska Supreme Court.

Many of the options being considered by the study group bear some similarity to Alaska's original limited entry legislation. Ch. 186, SLA 1968. That legislation provided, inter alia, that to obtain a gear license in the future, one would have to either (1) already be a gear license holder for the pertinent registration area; or (2) have served as a crewman "for any three years" in the pertinent area. Id. at § 2; AS 16.05.536(a) (1968 Supp.). On the basis of rather slender statutory authority, the Department of Fish & Game further limited eligibility to those holding gear licenses "in 1965 or subsequent years," and persons who had crewed for three years "since January 1, 1960." Bozanich v. Reetz, supra at 303. Transfer of the permit was permissible "only if sickness, injury, death, unavailability or other incapacitation of the licensee would keep or may keep a commercial fishing vessel in port." AS 16.05.670(a) (1968 Supp.).

In Reetz v. Bozanich, supra, the lower federal court ruled that the 1968 law violated federal equal protection guarantees by creating, essentially, a "closed class," with new entry controlled by existing participants:

An aspiring commercial licensee wishing to participate in salmon fishing may work for

MEMORANDUM

Ella Anagick

- 3 -

September 6, 1979

a locally-licensed employer for three years . . . Thus, if an outsider wishes to fish for salmon in a given year, and in three years to qualify for his own gear license, his chances are wholly dependent upon obtaining employment under a member of that closed class of fishermen who, in the specified past years, possessed the right to fish in the area. Although a state may enact fishing regulations in the legitimate interest of conservation and safety, it may not, to achieve those ends, employ arbitrary and irrational means which create or protect local, monopolistic interests. Under this scheme, entry into the salmon fishing industry is controlled not by the state, but by local fishermen in each area who are eligible for gear licenses and can choose among the commercial fishermen, if any, that they might wish to hire. The power to permit competition cannot be vested in private interests whose own benefit would ordinarily not be served by assisting potential competitors to qualify.

Id. at 304, 305.

As will be discussed infra, courts have generally ruled that there is nothing impermissible per se with creating a "closed class." Unfortunately, the difficulties with the opinion never received appellate consideration. The United States Supreme Court, in Reetz v. Bozanich, 397 U.S. 82 (1970), reversed the lower court's decision on the grounds that the three-judge panel should have "abstained" from deciding the issues presented, allowing state courts to first address the novel Alaska law questions posed by the litigation.

The state law questions raised in Bozanich v. Reetz, supra, involved interpretation of Art. VIII, §§ 3 and 15 of the Alaska Constitution, which provide, respectively, that "fish . . . and waters are reserved to the people for common use" and that "no exclusive right or special privilege of fisheries shall be created or authorized in the natural waters of the state." The lower federal court ruled in Bozanich v. Reetz that these constitutional provisions were also violated by the 1968 enactment. Again, the Supreme Court ruled that interpretation of these provisions should be provided, initially, by state courts, and it was to the Alaska judiciary

MEMORANDUM

Ella Anagick

- 4 -

September 6, 1979

that plaintiffs next went. The ensuing Alaska Superior Court decision (Bozanich v. Norenberg, No. 70-389 Civil, March 15, 1971) was as confusing as Bozanich v. Reetz. The court concluded that the statute's classifications as to who could, and who could not, obtain a gear license "constituted an unreasonable classification." Id. at 4-5. The court did not explain why. The court did, however, erroneously conclude that fishing "is a fundamental right." The court also held that the Act violated Art. VIII, § 15, in that "the right to fish commercially is sought to be restricted by the Act and this would in effect grant an exclusive right of fishery." Id. at 6. The court's opinion contained no discussion on the constitutionality of the law under Art. VIII, § 3, the "common use" provision.

Again, the lower court's conclusions that for unstated reasons, (1) the classifications drawn by the Act were "arbitrary"; (2) fishing is a "fundamental right"; and (3) any "restriction" on commercial fishing creates an exclusive fishery, never received appellate scrutiny. Rather, in the 1972 general election, Art. VIII, § 15 was amended to remove any state constitutional impediment to the creation of a viable limited entry program. Thus, your options do not violate Art. VIII, § 15. */

We do not know why the superior court in Norenberg believed the 1968 Act to be in contravention of federal equal protection guarantees. However, the "closed class" concept found defective in Bozanich v. Reetz, supra, was also present in Norenberg. If the court in Bozanich v. Reetz was correct, the proposals recommended by the Limited Entry Study Group would be constitutionally infirm. If entry into the fishery is preconditioned on a certain number of years of crewing experience, the case would seem directly on point.

*/ The lower court's holding in Bozanich v. Norenberg was, in our view, wrong, and therefore, the constitutional amendment was unnecessary. The court in that case did correctly note that the "exclusive fishery" prohibition was borrowed from § 1 of the White Act. 48 U.S.C. § 222. That prohibition -- limiting the ability of the Department of Interior to establish fishing regulations in Alaska -- did not constitute a prohibition on the establishment of restrictions, including restrictions that discriminated between persons wishing to engage in the fishery. Dow v. Ickes, 123 F.2d 909 (D.C. Cir. 1941). All that was proscribed was the establishment of absolute monopolies -- in which identified individuals were accorded exclusive fishing rights. Hynes v. Grimes Packing Co. 337 U.S. 86, 123 (1948).

MEMORANDUM

Ella Anagick

- 5 -

September 6, 1979

If an apprenticeship program is utilized, the degree to which existing gear operators retained discretion in the choice or evaluation of apprentices obviously governs the applicability of the rule from Reetz.

There is reason to believe that the court was wrong in Bozanich v. Reetz. At the outset, the court ignored Kotch v. Bd. of River Pilot Commissioners for the Port of New Orleans, 330 U.S. 552 (1947). That case involved a challenge to New Orleans' apprenticeship program for river pilots. Under the local law, a person could become a licensed pilot only if he had completed an apprenticeship program run by the pilots themselves. Unlike Bozanich v. Reetz, where the court hypothesized possible industry control over new entrants, the record in Kotch was rather clear that, in fact, the apprenticeship program had been utilized to limit new entry into the field of piloting to the sons and other close relatives of existing pilots. Nonetheless, the "closed class" aspect of the apprenticeship program withstood an equal protection attack. The case can be distinguished, because of the emphasis placed by the court on the peculiar advantages of an apprenticeship program in the pilotage trade. Of greatest importance in the present context, the court noted that the legislative branch was surely aware of the potential for "nepotism" and "favoritism" in an apprenticeship program. However, the court held that the decision as to whether those potential ills outweighed the advantages of an apprenticeship program was a political question, best left to legislative judgment. In other words, there is nothing constitutionally infirm per se with creating a closed class.

The same result has been uniformly reached with respect to liquor licensing. Commonly, state liquor laws will establish quotas for the maximum number of liquor licenses based upon area population -- quotas which will have already been reached before the enactment of the legislation. As a result, the law operates to create a "monopoly" for existing liquor dispensers. These quota systems have not been successfully attacked on equal protection grounds. Estate of Morrison v. Idaho Tax Comm'n, 572 P.2d 865 (Idaho 1977); State v. City of Jacksonville, 25 So.2d 569 (Fla. 1946); Zadrow v. State, 143 N.W. 639 (Wis. 1913).

In support of its perceived illegality of "closed class" legislation, the court in Bozanich v. Reetz, supra, cited the Washington case of Bacich v. Huse, 59 P.2d 1101

MEMORANDUM

Ella Anagick

- 6 -

September 6, 1979

(Wash. 1936), in which the court struck down an early attempt at limited entry. The legislation at issue in that case took effect in December, 1934, and provided that only those persons who had held gear licenses in 1932-33 could obtain gear licenses in the future. The licenses were not transferable.

Bacich v. Huse does not stand for the proposition that "closed class" legislation is unconstitutional. Rather, the court stressed the irrationality of "grandfathering" only those persons who had held gear licenses in two prior years, rather than in any year prior to the effective date of the Act. Of greatest importance to the court was the exclusion of the year 1934. Thus, as the court stressed, a person holding a gear license in 1933, but who is now pursuing non-fishing employment, could obtain a gear license under the Act, while someone who had become dependent on the fishery as of 1934 could not. The case of City of Spokane v. Coon, 100 P.2d 36 (Wash. 1940), provides an important limitation on Bacich. That case involved a challenge to the constitutionality of an ordinance which prohibited the use of frame structures for hospitals, unless the structure was being used as a hospital as of the effective date of the Act. The court distinguished Bacich by noting that, under Washington's fishery law, new entry into the fishery was prohibited, while under the ordinance in question, new hospitals were permitted, utilizing, albeit, more expensive construction techniques. Similarly, in the options you're considering, new entry into the fishery is not prohibited, but is subject to new burdens -- either crewing for a particular number of years, or a successful completion of an apprenticeship program.

In sum, Bozanich v. Reetz was not a well decided case. Nonetheless, the case exists. Because its reversal by the United States Supreme Court was not on the merits, lower courts in particular may feel compelled to give some deference to the case -- no matter how undeserved. Obviously, the option under consideration which would permanently prohibit transfer of a permit except to persons who had crewed in the fishery for a particular number of years would be most vulnerable under the case, while an option allowing a permits' reissuance by the commission to a person successfully completing an apprenticeship program effectively controlled by the state would be least vulnerable.

Bozanich v. Reetz aside, any change in the Act would undoubtedly give rise to an independent equal protection attack. It is in this respect that our advice is the most uncertain, because, quite candidly, equal protection jurisprudence in this state is, at best, unpredictable. Presumably, the

MEMORANDUM

Ella Anagick

- 7 -

September 6, 1979

changes contemplated in the Limited Entry Act would occur because of a legislative decision that entry into the fishery would be less burdensome through an apprenticeship program than through purchasing a permit through the market system established by the present legislation. That should be a political decision, for which the court would not substitute its judgment. See Kotch v. Bd. of River Pilot Commissioners for the Port of New Orleans, supra. Unfortunately, our courts may not see it that way. The best that we can do is to outline the state's equal protection analysis, noting some questions that may arise.

At the outset, the privilege of taking Alaska's fish resources should be just that -- a privilege, and not a right. Herscher v. State Dept. of Commerce, 568 P.2d 996 (Alaska 1977); Isakson v. Rickey, 550 P.2d 359 (Alaska 1976); Thomas v. Bailey, ___ P.2d ___ No. 1835 (Rabinowitz concurring) (April 10, 1979); Yunker v. CFEC, ___ P.2d ___ (No. 1892, August 3, 1979). As a result, legislative distinctions drawn between those who may and who may not enjoy the privilege need only bear a fair and substantial -- that is, rational -- relationship with the actual purpose of the legislation. Id. With respect to an apprenticeship program, for example, the state would argue that allowing only those who had successfully completed the program to gain entry into the fishery would allow for freer entry than under the market system currently in place. The court, however, may come to a different conclusion, see Isakson v. Rickey, supra, and if that conclusion leads to the identification of a perceived suspect, see Bozanich v. Reetz, supra, the legislation may encounter difficulties.

A particular equal protection problem may arise with respect to allowing "late applicants" in addition to or in lieu of successful apprentices, to obtain expired and/or transferable permits. If only late filers are allowed to apply, a person who did not apply at all because he felt it would be fruitless to pursue a late application will certainly raise "me too" arguments. In the pending cases, the appellees are arguing that, in hindsight, the legislature should have anticipated alleged peculiar problems that make existing requirements marginally underinclusive. Equal protection jurisprudence, of course, is replete with caveats that legislation need not be perfect or drawn with mathematical niceties. Nonetheless, that is precisely what is being asked by litigants, and should they prevail, any legislation -- with respect to fisheries or any other economic matter -- which, as a result of a lack of legislative prescience,

MEMORANDUM

Ella Anagick

- 8 -

September 6, 1979

operates with putative unfairness towards at least one individual will be vulnerable. A similar uncertainty would have to be acknowledged with respect to intra-family transfers. One can, quite frankly, imagine, in this state, a serious court challenge to a statute permitting intra-family transfers to the immediate family by a person without immediate family who had established a longterm domestic relationship with a cousin or uncle. Ludicrous as that may sound, it is precisely the type of arguments which this department has been required to meet.

The present Limited Entry Act is, both by its terms and operation, neutral with respect to residents and nonresidents -- any person with a requisite capital can obtain a permit. If a nonresident can demonstrate that, in operation, a limitation on transferability to persons crewing for a particular number of years, or successfully completing an apprenticeship program, systematically discriminates against nonresidents, far more difficult constitutional problems might arise. The right to travel -- the right impinged by residency requirements -- is, in Alaska, a fundamental right, requiring a showing of necessity in order to further a compelling state interest. Thomas v. Bailey, supra (Rabinowitz concurring). It would be difficult for a residency requirement -- defacto or dejure -- to withstand that kind of exacting scrutiny.

Undoubtedly, you had hoped for more unequivocal advice from this department. As I hope you can appreciate from this memorandum, the state of the law in this regard is simply too fluid in this state to permit any meaningful prediction.

JKT:dlm

cc: John Williams, Commissioner
Commercial Fisheries Entry Commission

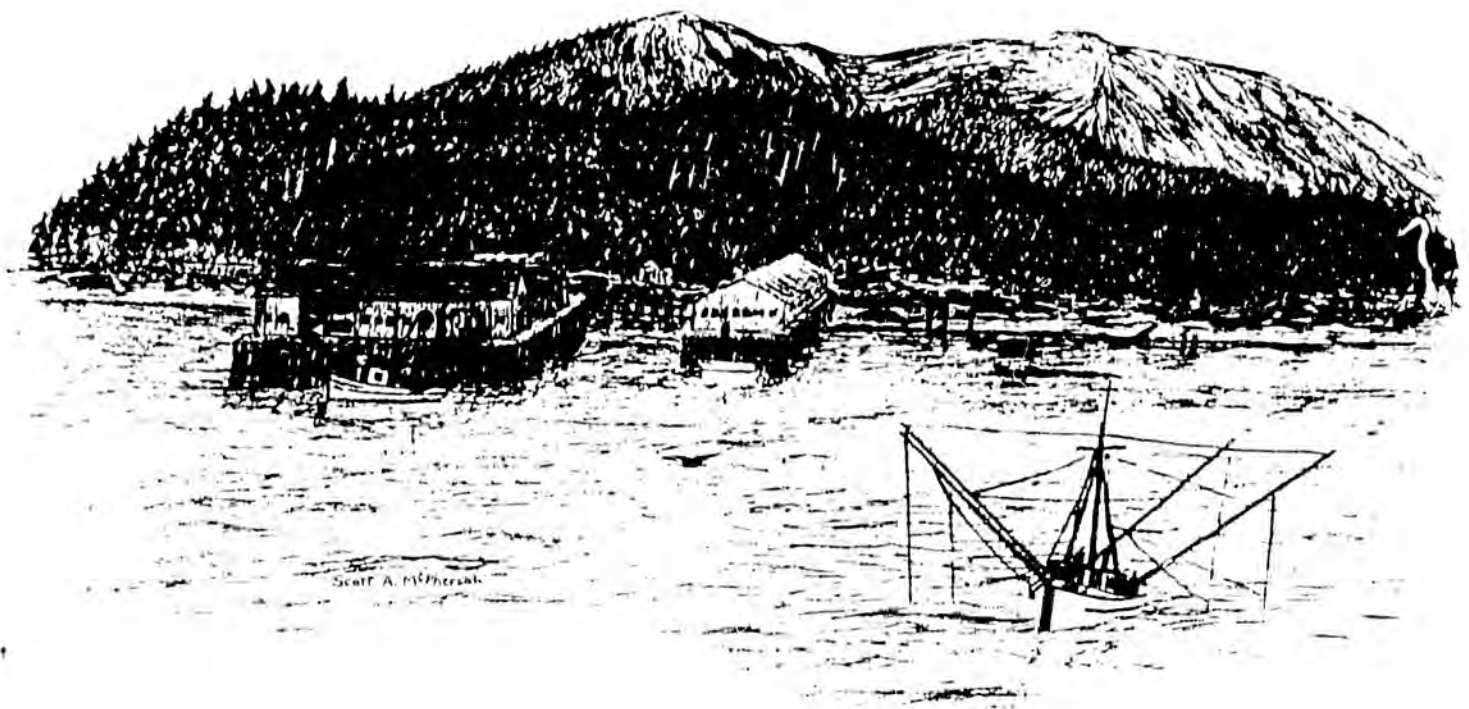
Larri I. Spengler
Assistant Attorney General
Anchorage AGO

SCOMM

#17:15

1978 Annual Report

Commercial Fisheries Entry Commission



State of Alaska

1978 ANNUAL REPORT
ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION
POUCH KB
JUNEAU, ALASKA
99811

ALLAN ADASIAK
CHAIRMAN

ROBERT J. SIMON
COMMISSIONER

JOHN N. GARNER
COMMISSIONER

APRIL 1979

ANNUAL REPORT

Introduction

This annual report submitted by the Commercial Fisheries Entry Commission (CFEC) addresses four categories of Commission activity during the 1978 calendar year. These areas are: (1) the continuing administration of the limited entry law (AS 16.43) in Alaskan fisheries; (2) court decisions handed down and cases pending involving the Commission; (3) CFEC work with the North Pacific Fisheries Management Council (NPFMC); and (4) legislative recommendations.

LIMITED ENTRY FOR 1978

1978 Commercial Fishing Licensing

Nineteen seventy-eight was the first year of combined licensing, enabling commercial fishermen to purchase a single permit from CFEC to operate gear in a commercial fishery. In addition, 1978 was the first year that vessel licenses were issued through the CFEC offices in Juneau. Considering the fundamental nature of these changes, problems encountered during the first year were relatively minor.

During 1978, the Commission issued 23,799 entry permits and interim-use permits, resulting in revenues to the General Fund of \$2,332,200. (Appendix Table 1). Also during 1978, the Commission issued approximately 14,500 vessel licenses, generating revenues of \$290,180 to the General Fund.

Hearings

Hearings on pending permit applications are progressing as quickly as possible given the time required to research each applicant's file as well as the travel required to hold hearings in rural areas. (Appendix Table 2). In 1978, Commission hearing officers held over 200 hearings in virtually all urban and rural areas of the state to ensure that fishermen received a hearing near their homes. Some 400 hearings are presently pending before the Commission hearing officers, while some 40 additional cases are pending before the Commission for final decisions.

New Limited Entry Fisheries in 1978

During 1978, the Southeastern herring gill net fishery was brought under limited entry. The decision to limit entry into this fishery was based upon recommendations from fishermen and the Department of Fish and Game, as well as research conducted by CFEC staff in 1977.

The Commission held preliminary hearings in Ketchikan, Petersburg and Juneau in November of 1977. The purpose of these meetings was to get testimony on a proposed ranking system for entry permit applicants. Regulations for the Southeastern herring gill net fishery were proposed in January of 1978, followed by public hearings in Ketchikan, Wrangell, and Petersburg in February.

Applications for entry permits in the Southeastern herring gill net fishery were received from 161 individuals. Processing of these applications will continue into early 1979, and at least a preliminary determination of applicants' qualifications will be made prior to the 1979 season.

A maximum number of 110 entry permits has been adopted for this fishery.

During 1978, levels of participation in currently unlimited fisheries were monitored through the interim-use permit system, the commercial license file, landings data, and economic research where necessary.

The Salmon Hand Troll Fishery

The hand troll fishery in South Alaska, currently the only unlimited commercial salmon fishery, experienced rapid growth in recent years. The number of permits issued and fished in the last four years is listed in Table 1.

Table 1. Salmon Hand Troll Permits Issued and Permits Fished, 1975-1978.

<u>Year</u>	<u>Permits Issued</u>	<u>Permits Fished</u>
1975	2090	1086
1976	2084	1237
1977	2950	1849
1978	3910	2604

Before the 1978 fishing season, the Commission and the Department of Fish and Game held hearings in Angoon, Hoonah, Juneau, Ketchikan, Petersburg, Sitka, and Wrangell to discuss the possibility of limiting the hand troll fishery. However, most people opposed limiting entry and the fishery remained open in 1978. During 1978, the number of handtrollers as well as the hand troll catch increased substantially, which caused the Board of Fisheries to adopt several new regulations for the 1979 season. Several hand troll organizations, ADF&G, the Alaska Board of Fisheries, and the CFEC have agreed to work towards the development of a hand troll entry limitation program. To facilitate this task, the Commission is conducting further economic research, and will hold public meetings during 1979 to discuss a proposed qualification system.

Permit Transfers

Since 1975 the Commission has conducted a voluntary survey of all fishermen transferring or acquiring permits. (Copies of the questionnaires used in 1978 and tabulated results are included in the Appendix). The purpose of the survey is to monitor permit prices and analyze transfer trends. In 1978 the Legislature authorized a permit loan program through the Department of Commerce which enables five-year residents of Alaska to borrow up to 75% of the appraised value toward the purchase of a permit. Appraisals are computed on a quarterly basis from the prices supplied by fishermen acquiring

permits. (A summary of 1978 appraised values is attached in Appendix Table 4). In addition to the price survey, the Commission maintains a computer record of all transfer transactions. Table 6 shows the number of permits involved in permanent transfers as well as the number of permanent transfer transactions. In some cases, the number of transactions is larger than the number of permits transferred because some permits are transferred more than once.

Optimum Numbers of Permits

Work to determine the optimum number of entry permits in presently limited fisheries continued in 1978. According to AS 16.43.290, the optimum number of entry permits is the number which will: (1) maintain an economically healthy fishery that will result in a reasonable average rate of return to participants; (2) promote an orderly and efficient commercial harvest consistent with sound fishery management techniques; and (3) avoid serious economic hardship to those currently participating in the fishery, considering alternative economic opportunities reasonably available to them.

Work on the economic optimum numbers in 1978 included completion of operating cost studies for the Prince William Sound, Cook Inlet, and Bristol Bay drift gill net fisheries. The research staff is working with Regional Planning Teams (RPT) in these areas to coordinate CFEC and RPT actions. A buy-back study group in Cordova met three times in 1978 to discuss an economic optimum number framework as well as the potential structure of a buy-back program in Prince William Sound.

The determination of economic optimum numbers is complicated by the extreme uncertainty of the impacts of public and private enhancement programs on the various commercial fisheries of the state. As the D-2 lands issue is settled and more enhancement facilities begin production, reliable predictions as to the increased catches resulting from enhancement projects should become available. Failure to include this information could result in significant underestimation of the optimum number of permits in the Prince William Sound salmon fisheries.

A framework for determining management optimum numbers of permits has been established by CFEC and ADF&G personnel. The management optimum number is to be a range bounded by: (1) the minimum amount of gear necessary to harvest the largest run expected in the next ten years; and (2) the maximum amount of gear allowable to maintain conventional management practices during a low average run. In both cases, the assumption is made that time and area closures will remain constant. During 1978 a draft of management optimum numbers was submitted for some fisheries, and work on this project is continuing in 1979.

Data Information Requests

Throughout 1978, the Commission received and responded to 239 data requests. Of this total, 39 (16%) were fulfilled by the research section, 22 relating to permit prices and 17 involving special studies. The data processing section fulfilled the remaining 200 (84%) requests, including

102 alphabetical listings of fishery participants, 35 requests for mailing labels, 20 requests for vessel listings, 17 requests for permit status lists, and 26 miscellaneous computer listings. The above totals do not include information requests which were handled by telephone.

LITIGATION

Several major law suits are pending as of the time this report is prepared, many of which could have a substantial impact on the limited entry program.

In Wassillie v. Adasiak, a class of individuals who failed to apply for an entry permit in 1975 are seeking the opportunity to apply late on the grounds that the Commission failed to give the notice that due process would require and that the Commission failed to comply with a consent agreement that required an affirmative action application assistance program in 1975. The consent agreement required that the Commission make "all reasonable efforts" to notify individuals of their right to apply for an entry permit and of the availability of application completion assistance. The Wassillie suit further questions whether the application deadline (May 18, 1975) bore a fair and substantial relationship to the purposes of the limited entry law.

In January, 1979, the Superior Court in Anchorage ruled that the consent agreement had been complied with, that any constitutional due process requirements of notice had been met, and that the application deadline did not violate any constitutional standards. A written decision is yet to be forthcoming, and consequently it is not yet known if the plaintiffs will appeal the ruling.

A second major case is the Commercial Fisheries Entry Commission v. Apokedak, which was decided by the Superior Court in Anchorage in December, 1978. This judgement struck down significant portions of the limited entry law and regulations, and is therefore being appealed by the State to the Alaska Supreme Court.

The Court in Apokedak ruled that the Commission may not use the gear license in either of the following critical ways:

- 1) the holding of a gear license as a prerequisite to making application for an entry permit; and
- 2) the holding of a gear license in determining an applicant's qualifications for an entry permit.

The gear license was used for each of the above processes because the limited entry law limits the number of gear operators by requiring that they hold an entry permit; in the past gear operators had to have a gear license, and thus the individuals excluded from their past occupations if they did not receive a permit were people who had fished as gear license holders. It was therefore the legislative judgement that applications need only be accepted from those who fished as gear license holders, and that the qualifications of applicants should be based upon participation as a gear license holder. (AS 16.43.250-260).

The effect of the gear license requirement was to prevent qualification by crewmen and others who wanted to move up to the status of the gear operator. The Apokedak decision would seem to allow crewmen to apply for and qualify for permits on the same basis as did the gear operators.

Another law suit challenges the decision of the Commission to limit entry into Upper Yukon commercial fisheries. The Superior Court in Bethel decided in the Charlie v. Commercial Fisheries Entry Commission case that the Commission's decision was proper under the law. It is not yet known if the plaintiffs will seek Alaska Supreme Court review of this decision.

A total of some 70 judicial appeals or lawsuits involving the limited entry law are presently in the Alaska courts. A large majority of these involve issues related to either the constitutionality of using the gear license or to the legality of the various application deadlines that have been established. Most should therefore be resolved at the time that the Alaska Supreme Court has ruled on each of these two critical considerations.

NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL

The Commission staff cooperated with the North Pacific Fisheries Management Council (NPFMC) in two areas. Catch and earnings data were provided to be included in the fishery management plans developed by the NPFMC. The two management plans to which CFEC contributed the most data were the Bering Sea/Aleutians Groundfish Plan and the High Seas Salmon Plan. The Commission also provided draft limited entry sections for management plans where requested. Limited entry sections were requested for both the High Seas Salmon Plan and the Bering Sea/Aleutians Groundfish Plan.

1979 LEGISLATIVE RECOMMENDATIONS

The Commission supports these bills which are before the legislature:

(1) House Bill 48 amending the limited entry law (AS 16.43) to allow the Commission to issue special harvest area entry permits to holders of private, nonprofit hatchery permits issued by ADF&G. This legislation would allow hatchery operators to harvest returning fish in an efficient manner with gear authorized by the Board of Fisheries in special harvest areas.

(2) Senate Bill 51 repealing and re-enacting the section of the Fish and Game Code pertaining to the confidential nature of certain fishermen's and processor's records. Currently the Departments of Fish and Game, Public Safety, Revenue, and the CFEC are the only agencies authorized to obtain these records. SB 51 enables the North

Pacific Fisheries Management Council, the National Marine Fisheries Service, the University of Alaska, and the Department of Commerce and Economic Development to obtain reports which do not identify individual fishermen, buyers, or processors. This bill would speed research and statistical work by these agencies, and still maintain the confidential nature of individual records. It also allows the release of fish ticket information to the person who made the landings.

(3) Senate Bill 52 amending the definition of vessel in the Fish and Game Code to specifically exclude aircraft from that definition. If passed, float plane operators would not have to obtain vessel licenses from CFEC, which is believed to be an unnecessary and unintended requirement.

(4) House Bills 141 and 142 establish a legislative committee to study the limited entry law with the intention to report back to the legislature in 1980 with any appropriate legislative changes. The Committee will have the opportunity to examine three broad areas that the Commission believes should be reviewed at this time:

- a review of the goals of our limited entry legislation, including an analysis of whether those goals are being achieved under the present statutory structure;

- a review of the transferability provisions of the law including an analysis of the alternatives that might be available for allowing new entry into a fishery under limited entry;

- a consideration of various classes of individuals who have not qualified for entry permits under the existing law and regulations to determine if the law should be amended to allow issuance of permits to them.

Creation of the legislative committee under HB 141 and 142 will ensure an independent appraisal of the issues. The Commission believes that an objective and independent analysis of the limited entry law will only serve to strengthen the law and in turn the fishing industry in Alaska. The Commission is fully committed to assisting the committee in any manner possible.

Appendix Table 1. - Permits issued and licensing fees received for 1978 ^{1/}. The number of commercial fishing permits (in parentheses) and fees paid are organized by species -- all gear types are combined.

Type of Fish	Type of Fee			Total	
	Resident	Nonresident	Poverty ^{2/}	Number	Dollars
Herring	115,360 (1,911)	57,360 (323)	2,220 (148)	2,382	\$ 174,940
Bottomfish	43,760 (532)	18,960 (50)	900 (60)	642	63,620
Salmon	598,000 (10,275)	537,000 (2,308)	21,510 (1,434)	14,017	1,156,510
Halibut	175,160 (2,724)	48,360 (169)	2,880 (192)	3,085	226,400
Shellfish	347,280 (2,658)	354,120 (643)	2,475 (165)	3,466	703,875
Freshwater Fish	1,000 (26)	0- -0-	345 (23)	49	1,345
Miscellaneous	3,440 (124)	1,980 (28)	90 (6)	158	5,510
TOTAL:				23,799	2,332,200

^{1/} These figures include all sales from January 1, 1978-January 4, 1979.

^{2/} AS 16.43.160(c) provides for the issuance of permits at reduced fees for those people whose net family income falls within the poverty guidelines established by the Federal Social Security Administration.

Appendix Table 2. - Disposition of permits in limited fisheries from beginning of application process through February 9, 1979.

Fishery	Maximum Number	Number Permits Issued*	Number to be Issued	Number of Pending Applications			No. Applications Denied Due to:		
				Classifications	New Evidence	Remaining Hearings	Judicial Appeal	Late Application	Ineligibility and Inadequate Points
<u>SALMON</u>									
Southeastern:									
Purse Seine	395	412	0	0	5	20	3	3	134
Drift Gill Net	453	463	0	0	7	43	1	10	238
Power Troll	950	934	16	22 at 18 points	13	53	2	12	425
Yakutat:									
Set Gill Net	150	161	0	0	7	8	0	3	25
Prince William Sound:									
Purse Seine	258	257	1	5 at 16 points	6	15	0	10	75
Drift Gill Net	511	528	0	0	1	29	5	8	113
Set Gill Net	32	27	5	0	1	3	0	0	6
Cook Inlet:									
Purse Seine	68	74	0	0	2	11	0	1	35
Drift Gill Net	545	550	0	0	13	43	7	27	175
Set Gill Net	686	743	0	0	3	9	0	8	82
Kodiak:									
Purse Seine	368	371	0	0	5	15	1	9	131
Beach Seine	27	33	0	0	1	1	0	0	7
Set Gill Net	183	183	0	0	3	0	0	4	39
Chignik:									
Purse Seine	80	90	0	0	3	16	0	1	24

Appendix Table 2. Continued

Fishery	Maximum Number	Number Permits Issued*	Number to be Issued	Number of Pending Applications			No. Applications Denied Due to:		
				Classifications	New Evidence	Remaining Hearings	Judicial Appeal	Late Application	Ineligibility and Inadequate Points
Alaska Peninsula:									
Purse Seine	111	116	0	0	0	12	0	1	15
Drift Gill Net	155	156	0	0	3	12	1	4	25
Set Gill Net	110	108	2	0	1	12	0	5	7
Bristol Bay:									
Drift Gill Net ^{1/}	1669	1703	0	0 ^{2/}	68	81	13	80	683
Set Gill Net	803	891	0	0	21	18	2	50	132
Kuskokwim:									
Set Gill Net	810	767	43	34 at 7 points 37 at 6 points	31	12	4	15	145
Lower Yukon:									
Set Gill Net	671	691	0	0	20	5	1	7	125
Upper Yukon:									
Set Gill Net	63	47	16	4 at 8 points 2 at 7 points 11 at 6 points	4	6	3	8	32
Fishwheel	126	108	18	4 at 8 points 2 at 7 points 17 at 6 points	9	20	7	15	53
Norton Sound:									
Set Gill Net	195	175	20	19 at 9 points	7	3	0	3	67
Kotzebue:									
Set Gill Net	214	176	38	19 at 8 points 9 at 7 points 6 at 6 points 32 at 5 points	5	7	0	6	24

Appendix Table 2. Continued

Fishery	Maximum Number	Number Permits Issued*	Number to be Issued	Number of Pending Applications			No. Applications Denied Due to:		
				Classifications	New Evidence	Remaining Hearings	Judicial Appeal	Late Application	Ineligibility and Inadequate Points
<u>HERRING SAC ROE</u>									
Southeastern: Purse Seine	35	42	0	0	0	8	0	0	8
Prince William Sound: Purse Seine	55	92	0	0	0	13	0	1	17
Cook Inlet: Purse Seine	68	67	1	3 at 5 points	1	10	0	0	5
Southeastern: Set Gill Net	110	17	93	0	132	1	0	1	6
TOTALS:	9901	9982	231	226	372	486	50	292	2853

1/ Number of permits issued may exceed maximum number because of Isakson Decision applications and hardship determinations.

Bristol Bay drift gill net

2/ SO3T classifications at the sixteen (16) point level have not at this point been formally denied pending an evaluation of the maximum number.

Appendix Table 3. - This table presents the tabulated results of the Entry Commission's permit transfer survey of those people acquiring permits in 1975-1978.

Type of Gear and Area	# Permits Bought	# Permits Given Away	# Permits Traded	# Combination Sales	# Other Type Transfers	Total Number of Responses	High Permit Price	Low Permit Price	Average Permit Price	Price Most Frequently Paid for a Permit	# Permits Financed	--By Transferor	--By Processor	--By Bank	--By State Loan	--By Credit Union	--By Other Means	# Permits to Relatives	# Permits to Friends or Partners
SALMON PURSE SEINE:																			
Southeastern--1975	15	4	0	0	4	23	16,000	5,000	10,633	10,000	12	5	2	0	0	0	0	2	0
1976	9	0	1	0	0	10	15,000	6,000	9,222	10,000	5	2	2	1	0	0	0	0	0
1977	21	0	0	0	6	27	21,000	8,000	16,667	15,000	14	3	3	3	0	1	2	0	0
1978	14	1	0	2	4	21	50,000	19,000	30,929	25,000	13	3	8	2	0	0	0	2	1
Prince Wm Sd--1975	6	0	0	1	0	7	10,000	5,000	8,000	10,000	5	0	2	1	1	0	1	0	0
1976	10	0	1	1	4	16	20,000	2,000	10,700	10,000	6	2	1	3	0	0	1	2	0
1977	5	1	0	1	0	7	47,000	19,000	29,800	N/A	5	2	0	3	0	0	0	0	1
1978	9	0	3	1	0	13	30,000	20,000	24,272	25,000	4	1	0	2	0	1	0	0	0
Cook Inlet--1975	1	1	0	0	0	3	10,000	5,000	7,500	N/A	2	0	0	1	0	1	0	1	0
1976	4	1	0	0	1	6	20,000	2,000	10,625	N/A	2	1	0	0	1	0	0	1	0
1977	5	0	0	0	2	7	60,000	15,000	40,000	40,000	4	0	1	0	3	0	0	2	0
1978	7	2	1	0	1	11	7,500	1,000	4,571	5,000	5	2	3	0	0	0	0	0	0
Kodiak--1975	11	4	0	2	2	19	18,000	6,000	9,736	8,000	5	0	1	2	0	1	0	5	0
1976	18	6	1	1	6	32	36,000	1,500	17,611	20,000	7	3	3	2	0	1	1	7	0
1977	9	8	2	0	1	20	60,000	20,000	47,611	60,000	9	3	2	1	3	0	3	3	3
1978	1	0	0	0	1	2	N/A	N/A	N/A	N/A	1	1	0	0	0	0	0	0	0
Chignik--1975	1	0	0	0	1	2	N/A	N/A	N/A	N/A	1	0	0	0	0	0	0	0	0
1976	0	1	0	0	1	2	N/A	N/A	N/A	N/A	0	0	0	0	0	0	0	1	0
1977	1	0	0	0	1	3	N/A	N/A	N/A	N/A	1	0	0	0	0	1	0	1	0
1978	0	0	0	0	1	1	N/A	N/A	N/A	N/A	0	0	0	0	0	0	0	1	0
A: Peninsula--1975	1	0	0	0	0	0	N/A	N/A	N/A	N/A	0	0	0	0	0	0	0	0	0
1976	0	2	0	0	1	3	---	---	---	---	0	0	0	0	0	0	0	1	0
1977	1	0	0	0	2	5	---	---	---	---	0	0	0	0	0	0	0	2	0
1978	3	0	0	0	2	5	30,000	7,000	15,667	N/A	2	1	0	1	0	0	0	0	0

Appendix Table 3. - Continued

Type of Gear and Area	# Permits Bought	# Permits Given Away	# Permits Traded	# Combination Sales	# Other Type Transfers	Total Number of Responses	High Permit Price	Low Permit Price	Average Permit Price	Price Most Frequently Paid for a Permit	# Permits Financed	—By Transferor	—By Processor	—By Bank	—By State Loan	—By Credit Union	—By Other Means	# Permits to Relatives	# Permits to Friends or Partners
<u>SALMON BEACH SEINE:</u>																			
<u>Kodiak--</u>																			
1977	3	0	0	0	1	4	30,000	5,000	15,000	N/A	2	2	0	0	0	0	0	0	0
1978	3	2	0	0	2	7	N/A	N/A	29,250	N/A	1	1	0	0	0	0	0	2	1
<u>SALMON DRIFT GILL NET:</u>																			
<u>Southwestern--1975</u>																			
1976	27	3	3	1	3	37	15,000	4,000	9,211	10,000	21	10	1	7	2	0	1	1	0
1977	12	2	0	0	4	18	13,000	5,500	10,213	10,000	7	1	0	5	0	0	1	1	0
1978	21	4	2	4	5	36	25,000	8,000	16,262	15,000	17	2	2	6	3	0	4	5	0
	25	4	1	1	6	37	50,000	10,000	34,604	40,000	18	3	1	8	2	1	3	6	0
<u>Prince Wn Sd--1975</u>																			
1976	9	3	1	0	0	13	5,000	500	3,089	2,500 & 5,000	6	3	0	2	0	0	1	1	0
1977	17	5	1	1	4	28	7,000	1,000	4,500	5,000	15	3	6	3	0	1	2	4	0
1978	28	3	0	2	5	38	35,000	7,000	13,750	10-15- & 20,000	20	6	7	5	1	0	1	1	3
	25	6	0	0	2	33	47,050	10,000	27,742	25,000	19	3	7	4	2	1	2	6	0
<u>Cook Inlet--</u>																			
1975	9	2	1	1	0	13	10,000	500	3,911	1-5- & 10,000	3	2	0	1	0	0	0	0	0
1976	29	6	1	0	2	38	13,000	2,500	5,552	5,000	12	3	0	2	0	4	3	5	3
1977	25	6	0	3	7	41	25,000	1,000	9,643	10,000	14	1	4	3	0	2	4	5	1
1978	20	7	2	1	11	41	60,000	2,500	36,825	45,000	15	6	1	4	0	4	0	13	1
<u>AK Peninsula--1975</u>																			
1976	0	0	0	0	1	1	N/A	N/A	N/A	N/A	0	0	0	0	0	0	0	0	0
1977	3	1	0	0	0	4	10,000	4,000	6,333	N/A	1	0	0	1	0	0	0	0	0
1978	7	4	0	0	3	14	12,000	10,000	10,286	10,000	5	3	0	1	0	0	1	3	2
	5	1	0	0	5	11	30,000	5,000	15,000	N/A	3	2	0	1	0	0	0	1	0
<u>Bristol Bay--1975</u>																			
1976	16	13	0	3	3	35	2,500	500	1,166	1,000	9	4	0	3	0	0	2	2	0
1977	25	21	2	5	11	64	10,000	500	2,536	2,000	10	2	1	7	0	0	0	25	3
1978	52	19	3	11	25	110	12,000	250	6,180	10,000	40	9	7	12	0	6	6	24	3
	77	21	2	1	26	127	60,000	1,000	21,638	25,000	52	12	5	18	5	6	6	31	9

Appendix Table 3. - Continued

Type of Gear and Area	# Permits Bought	# Permits Given Away	# Permits Traded	# Combination Sales	# Other Type Transfers	Total Number of Responses	High Permit Price	Low Permit Price	Average Permit Price	Price Most Frequently Paid for a Permit	# Permits Financed	—By Transferor	—By Processor	—By Bank	—By State Loan	—By Credit Union	—By Other Means	# Permits to Relatives	# Permits to Friends or Partners
<u>SALMON SET GILL NET:</u>																			
<u>Yakutat--</u>																			
1975	2	0	0	0	1	3	1,000	500	750	N/A	2	1	0	0	0	0	0	0	0
1976	3	7	0	0	1	11	10,000	3,000	6,000	N/A	2	0	0	1	0	0	1	6	0
1977	4	2	0	0	0	6	10,000	3,000	7,000	10,000	1	0	0	1	0	0	0	2	0
1978	5	2	0	0	2	9	15,000	5,400	10,480	10,000	2	1	0	1	0	0	0	3	0
<u>Prince Wn Sd--1975¹/₂</u>																			
1975 ¹ / ₂	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
1977 ¹ / ₂	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
1978	1	0	0	0	0	1	N/A	N/A	N/A	N/A	1	1	0	0	0	0	0	0	0
<u>Cook Inlet--</u>																			
1975	6	5	0	3	2	16	2,500	2,000	2,250	2- & 2,500	6	6	0	0	0	0	0	0	0
1976	9	8	1	5	5	28	3,000	1,000	1,778	2,000	7	0	2	4	0	1	0	9	1
1977	24	9	1	5	2	41	18,500	2,000	4,821	2,500	15	4	3	1	0	7	2	9	0
1978	38	15	1	8	7	69	25,000	2,000	9,824	10,000	15	7	0	3	1	4	0	5	4
<u>Kodiak--</u>																			
1975	5	5	0	2	2	14	11,000	1,000	5,360	1,000	5	3	0	0	0	0	2	1	0
1976	8	1	0	2	3	14	6,000	500	3,900	4- & 5,000	2	1	0	1	0	0	0	2	0
1977	5	4	0	2	1	12	15,000	2,600	6,600	5,000	4	3	0	0	0	0	1	4	0
1978	5	5	0	1	4	15	30,000	10,000	19,800	N/A	4	3	0	0	0	1	0	6	1
<u>AK Peninsula--1975</u>																			
1975	0	1	0	0	1	2	N/A	N/A	N/A	N/A	0	0	0	0	0	0	0	2	0
1976	1	0	2	0	0	3	5,000	5,000	5,000	N/A	1	1	0	0	0	0	0	0	0
1977	4	0	0	0	1	5	10,000	600	5,150	N/A	1	1	0	0	0	0	0	1	0
1978	2	0	0	0	3	5	15,000	5,300	10,150	N/A	0	0	0	0	0	0	0	2	0
<u>Bristol Bay--</u>																			
1975	0	9	0	0	0	9	—	—	—	—	0	0	0	0	0	0	0	1	0
1976	11	14	1	0	8	34	5,000	300	2,755	5,000	6	4	0	2	0	0	0	16	2
1977	16	12	0	3	9	40	5,000	100	2,624	5,000	4	1	0	1	0	0	0	12	0
1978	27	23	0	0	16	66	30,000	1,500	8,507	5- & 10,000	9	3	2	2	0	2	0	26	3

Appendix Table 3. - Continued

Type of Gear and Area	# Permits Bought	# Permits Given Away	# Permits Traded	# Combination Sales	# Other Type Transfers	Total Number of Responses	High Permit Price	Low Permit Price	Average Permit Price	Price Most Frequently Paid for a Permit	# Permits Financed	—By Transferor	—By Processor	—By Bank	—By State Loan	—By Credit Union	—By Other Means	# Permits to Relatives	# Permits to Friends or Partners
SALMON POWER TROIL:																			
Southwestern--1975	46	11	0	6	2	65	10,000	300	5,303	5,000	27	10	0	14	1	0	2	2	1
1976	23	7	1	6	6	43	10,000	1,000	5,065	5,000	18	7	1	7	0	1	2	5	2
1977	58	3	3	6	5	75	15,000	1,000	8,831	10,000	25	7	1	11	1	3	2	3	0
1978	73	4	1	5	8	91	30,000	600	15,457	20,000	39	10	0	15	6	2	6	3	3
A-Y-K GILL NET:																			
Upper Yukon--1976 ^{1/}	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
1977 ^{1/}	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
1978	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Kuskokwim--																			
1976	0	2	0	0	1	3	—	—	—	—	0	0	0	0	0	0	0	3	0
1977	0	9	0	0	2	11	—	—	—	—	0	0	0	0	0	0	0	10	0
1978	5	18	2	1	6	32	10,000	2,500	6,100	5,000	2	0	0	1	0	1	0	20	0
Kotzebue--																			
1976	0	1	0	0	1	2	N/A	N/A	N/A	N/A	0	0	0	0	0	0	0	1	0
1977 ^{1/}	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
1978	1	2	0	0	3	6	N/A	N/A	N/A	N/A	1	0	0	1	0	0	0	3	0
Lower Yukon--																			
1976	6	3	0	0	1	4	—	—	—	—	0	0	0	0	0	0	0	3	0
1977	2	3	0	0	0	5	1,000	100	550	N/A	0	0	0	0	0	0	0	3	0
1978	5	10	0	0	4	19	10,000	3,500	6,700	5,000	3	2	0	1	0	0	0	14	0
Norton Sound--1977^{1/}																			
1978	4	1	0	0	0	5	6,000	900	4,350	6,000	3	1	0	2	0	0	0	1	0
FISIMHEEL:																			
Upper Yukon--1976 ^{1/}	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
1977 ^{1/}	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
1978	5	0	0	0	0	5	9,000	5,000	7,500	8,000	2	0	0	0	0	0	2	0	0

^{1/} Not enough data to protect individual confidentiality.

STATE OF ALASKA

JAY S. HAMMICH, GOVERNOR

A COMMERCIAL FISHERIES ENTRY COMMISSION

POUCH KB
JUNEAU, ALASKA 99811

Please submit this in connection with the Request for Transfer form you have submitted for your entry permit.

This form does not identify you, and the information on it will not be disclosed in any manner that would allow identification of you. The information will be used to monitor permit prices and transfer trends.

You are acquiring a permit for _____

1. How did you locate this permit?

- | | |
|--|--|
| ☐ Relative or friend | ☐ Fish processor |
| ☐ Advertisement | ☐ Other (explain) _____ |
| ☐ Commission list of permits for transfer | |

2. Did you acquire the permit by-- (check all that apply)

- | | |
|---|--|
| ☐ Sale
What was the sale price (including the approximate value of any items traded for the permit)? \$ _____ | ☐ Trade
What was traded? _____ |
| ☐ Gift (no money)
What is your relationship to the person you are getting the permit from? _____ | ☐ Along with vessel, gear or set net site (indicate estimated value)
Vessel \$ _____
Gear \$ _____
Site \$ _____ |
| ☐ Inheritance
What is your relationship to the person you are getting the permit from? _____ | ☐ Other (explain) _____
_____ |

3. Was the sale financed ☐ yes ☐ no

If yes, was it through--

- | | |
|---|--|
| ☐ The person you got the permit from | |
| ☐ Bank | |
| ☐ Fish Processor | ☐ Credit Association |
| ☐ State Loan | ☐ Other (explain) _____ |

4. Do you plan to transfer the permit back to the person you acquired it from?

- ☐ Yes
☐ No

If you need more space to answer any of the questions, please use the back of this paper.

If you have any questions concerning the completion of the form, do not hesitate to call or write the Commission. The Commission's phone number is (907) 586-3456, and its mailing address is Pouch KB, Juneau, Alaska 99811.

Thank you for your cooperation.

01-AGLH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

T COMMERCIAL FISHERIES ENTRY COMMISSION

POUCH KB
JUNEAU, ALASKA 99811

Please submit this in connection with the Request for Transfer form you have submitted for your entry permit.

This form does not identify you, and the information on it will not be disclosed in any manner that would allow identification of you. The information will be used to monitor permit prices and transfer trends.

You have transferred a permit for _____

1. Did you transfer the permit by-- (check all that apply)

☐ Sale

What was the sale price (including the approximate value of any items traded for the permit)? \$ _____

☐ Trade

What was traded? _____

☐ Gift (no money)

What is your relationship to the person you are transferring this permit to? _____

☐ Along with vessel, gear or set net site (indicate estimated value)

Vessel \$ _____
Gear \$ _____
Site \$ _____

☐ Inheritance

What is your relationship to the person you are transferring this permit to? _____

☐ Other (explain)

2. Was the sale financed ☐ yes ☐ no

If yes, was it through--

☐ My own financing

☐ Bank

☐ Fish Processor

☐ State Loan

☐ Credit Association

☐ Other (explain) _____

3. Do you plan to get the permit back from the person to whom it was transferred?

☐ Yes

☐ No

4. Why did you transfer your permit?

☐ Poor Health

☐ Retirement

☐ Plan to seek nonfishing employment

☐ Plan to enter other fisheries

☐ Permit was part of the estate of a deceased fisherman

☐ Financial reasons

☐ Other (explain) _____

If you need more space to answer any of the questions, please use the back of this paper.

If you have any questions concerning the completion of the form, do not hesitate to call or write the Commission. The Commission's phone number is (907) 586-3456, and its mailing address is Pouch KB, Juneau, Alaska 99811.

Thank you for your cooperation.

01-ACLIH

01-822 Rev. 4/24/78

Appendix Table 4.

1978 QUARTERLY PERMIT PRICE INFORMATION

1st Quarter (JAN FEB MAR)
2nd Quarter (APR MAY JUN)

3rd Quarter (JUL AUG SEP)
4th Quarter (OCT NOV DEC)

The Commercial Fisheries Entry Commission provides the Department of Commerce Commercial Fishing Loan program with appraised values for entry permits. The appraised value of entry permits is calculated on quarterly basis. The sale prices for each quarter are obtained from the commission's transfer survey. These prices are averaged. No source other than the Commission's confidential survey can be accepted for permit prices. In cases where sufficient data are not available for any quarter, any new data will be averaged with data from the previous quarter. Quarterly updates will be available one (1) month after the end of the subject quarter.

Fishery	Quarter No.	High Price	Low Price	Average Price/ Appraised Value
<u>SEINE</u>				
Southeastern	1	35,000	20,000	25,833
	2	50,000	19,000	33,000
	3	insufficient data		34,000
	4	insufficient data		40,000
Prince William Sound	1	23,500	20,000	20,875
	2	30,000	25,000	27,488
	3	insufficient data		26,658
	4	35,000	27,000	31,000
Cook Inlet	1	insufficient data		
	2	40,000	15,000	31,667
	3	insufficient data		35,000
	4	insufficient data		52,500
Kodiak	1	40,000	20,000	35,000
	2	insufficient data		40,000
	3	insufficient data		60,000
	4	insufficient data		57,125
Chignik		No applicable information--call 586-3456*		
Alaska Peninsula		No applicable information--call 586-3456		
Kodiak Beach Seine	1-3	No applicable information		
	4	insufficient data		29,250

Call or write: Beth Stewart, Commercial Fisheries Entry Commission, Pouch KB,
Juneau, AK 99811.

Fishery	Quarter No.	High Price	Low Price	Average Price/ Appraised Value
<u>DRIFT GILL NET</u>				
Southeastern	1	42,500	10,000	32,375
	2	40,000	22,000	33,929
	3	insufficient data		35,313
	4	50,000	27,000	39,875
Prince William Sound	1	40,000	10,000	24,346
	2	30,000	18,000	23,833
	3	42,000	40,000	41,000
	4	45,000	20,000	36,250
Cook Inlet	1	42,500	25,000	30,000
	2	47,000	15,000	35,300
	3	insufficient data		37,545
	4	75,000	35,000	57,500
Alaska Peninsula		No applicable information--call 586-3456		
Bristol Bay	1	30,000	5,000	13,941
	2	50,000	12,000	22,000
	3	30,000	20,000	30,000
	4	70,000	20,000	41,867
<u>SET GILL NET</u>				
Yakutat: All 4 quarters		15,000	5,400	10,480
Prince William Sound		No applicable information--call 586-3456		
Cook Inlet	1	15,000	2,000	7,636
	2	12,000	2,500	8,625
	3	15,000	2,000	8,730
	4	25,000	10,000	14,571
Kodiak: All 4 quarters		25,000	10,000	24,667
Bristol Bay	1	5,000	2,000	3,925
	2	13,000	1,500	5,893
	3	10,000	6,500	7,833
	4	30,000	10,000	16,000
FOR ALL A-Y-K FISHERIES--CALL 586-3456 [Yukon; Kuskokwim; Kotzebue; Norton Sound]				
<u>POWER TROLL</u>				
Southeastern	1	16,000	8,500	12,341
	2	25,000	5,000	15,652
	3	25,000	18,000	20,250
	4	30,000	15,500	23,045

Appendix Table 5. - No. of permits in limited fisheries (renewed and
unrenewed) both permanent and interim-use for 1978
(as of 12/31/78)

FISHERY	No. of Permits--Renewed & Unrenewed		
	Permanent	Interim-use	Total
HERRING			
Purse Seine, Southeastern Sac Roe	41	7	48
Purse Seine, Prince Wm. Sound Sac Roe	91	12	103
Purse Seine, Cook Inlet	67	12	79
Gill Net, Southeastern	10	159	169
SALMON			
Purse Seine, Southeastern	413	7	420
Purse Seine, Prince Wm. Sound	257	15	272
Purse Seine, Cook Inlet	74	9	83
Purse Seine, Kodiak	371	18	389
Purse Seine, Chignik	90	5	95
Purse Seine, Peninsula-Aleutians	115	8	123
Beach Seine, Kodiak	33	1	34
Drift Gill Net, Southeastern	463	28	491
Drift Gill Net, Prince Wm. Sound	528	16	544
Drift Gill Net, Cook Inlet	549	42	591
Drift Gill Net, Peninsula-Aleutians	156	2	158
Drift Gill Net, Bristol Bay	1,700	78	1,778
Set Gill Net, Yakutat	161	3	164
Set Gill Net, Prince Wm. Sound	28	0	28
Set Gill Net, Cook Inlet	742	5	747
Set Gill Net, Kodiak	184	4	188
Set Gill Net, Peninsula-Aleutians	108	5	113
Set Gill Net, Upper Yukon	47	24	71
Set Gill Net, Bristol Bay	889	19	908
Set Gill Net, Kuskokwim	767	74	841
Set Gill Net, Kotzebue	177	56	233
Set Gill Net, Lower Yukon	694	4	698
Set Gill Net, Norton Sound	176	23	199
Fishwheel, Upper Yukon	108	50	158
Power Troll, Southeastern	934	42	976
TOTAL - Herring Permits	209	187	396
TOTAL - Salmon Permits	9,764	538	10,302

Appendix Table 6. - Actual number of permits involved in permanent transfer transactions and the total number of permanent permit transfer transactions by residence for 1978. These figures are preliminary. Some changes may occur as corrections are made on the computer file.

Fishery	Resident to Resident	Resident to Nonresident	Nonresident to Nonresident	Nonresident to Resident	Total No. of Transactions	No. Permits Involved
<u>HERRING</u>						
<u>Purse Seine:</u>						
Southeastern	1	1	0	0	2	2
Prince William Sound	7	0	0	0	7	6
Cook Inlet	7	1	1	0	9	7
<u>Set Gill Net:</u>						
Southeastern	1	0	0	0	1	1
<u>SALMON</u>						
<u>Purse Seine:</u>						
Southeastern	17	11	23	3	54	50
Prince William Sound	11	7	15	1	34	31
Cook Inlet	10	0	0	0	10	9
Kodiak	34	7	10	9	60	52
Chignik	1	1	0	1	3	3
Peninsula/Aleutians	10	0	1	1	12	12
<u>Beach Seine:</u>						
Kodiak	16	0	0	0	16	14
<u>Drift Gill Net:</u>						
Southeastern	55	2	15	5	77	67
Prince William Sound	55	7	13	6	81	68
Cook Inlet	62	5	15	3	85	81
Peninsula/Aleutians	14	5	8	0	27	25
Bristol Bay	117	26	71	14	228	210
<u>Set Gill Net:</u>						
Yakutat	14	1	5	0	20	19
Prince William Sound	3	0	1	1	5	4
Cook Inlet	113	6	4	6	129	120

Appendix Table 6. - Continued

Fishery	Resident to Resident	Resident to Nonresident	Nonresident to Nonresident	Nonresident to Resident	Total No. of Transactions	No. Permits Involved
<u>Set Gill Net (cont.):</u>						
Kodiak	14	3	3	6	26	24
Peninsula/Aleutians	9	1	2	2	14	13
Bristol Bay	83	10	24	14	131	124
<u>A-Y-K Gill Net:</u>						
Upper Yukon	2	0	0	0	2	2
Kuskokwim	50	0	0	0	50	47
Kotzebue	17	0	0	0	17	17
Lower Yukon	24	1	0	0	25	24
Norton Sound	7	0	0	0	7	7
<u>A-Y-K Fishwheel:</u>						
Upper Yukon	11	0	0	0	11	10
<u>Power Troll:</u>						
Southeastern	85	11	21	23	140	126

proposed regulations

Limited Entry

Report to the Fishermen of Alaska

Commercial Fisheries Entry
Commission
July 15, 1974

PROPOSED REGULATIONS

LIMITED ENTRY

REPORT TO THE FISHERMEN OF ALASKA

COMMERCIAL FISHERIES ENTRY COMMISSION

COMMISSION

DAVID S. JACKMAN
CHAIRMAN

ROY A. RICKEY
COMMISSIONER

CHARLES J. STOVALL
COMMISSIONER



JULY 15, 1974

STATE OF ALASKA

COMMERCIAL FISHERIES ENTRY COMMISSION

WILLIAM A. EGAN, GOVERNOR

POUCH KB - JUNEAU 99801

July 12, 1974

TO THE COMMERCIAL FISHERMEN OF ALASKA:

It is no secret that most of Alaska's commercial fisheries are sliding downhill, and that new measures are required to bring them back to their full economic potential. One root cause of this decline has been unlimited entry into the fisheries.

Unregulated entry has allowed more and more gear to enter fisheries already harvesting maximum yields. This brought shorter seasons and more regulations aimed at cutting down the production and efficiency of each fisherman. More gear brought higher costs and lower returns to individual fishermen, with no increase in overall harvests. Too much gear also increased management risks, and thereby threatened the future of the fisheries.

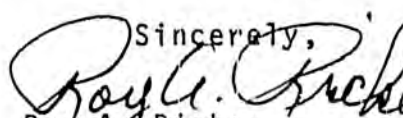
A fishery based on inefficiency, where costs are going up and production is going down, cannot survive and prosper in a competitive economy. This commission was established in 1973 for the purpose of stabilizing the number of units of gear in the commercial fisheries at levels consistent with good fisheries management and fair dollar returns to the fishermen.

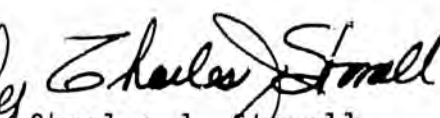
We have held more than thirty public meetings during the past year to discuss limited entry and get your views on how best to apply it to the different fisheries. This year only interim-use permits have been required, but next year we will start issuing permanent entry permits for certain designated fisheries.

Our proposed regulations for issuing permanent entry permits are set forth in this booklet. Between now and October 1, 1974 we will be seeking public comment and review of these initial proposals. After carefully reviewing public testimony, and making the adjustments and revisions that will almost certainly be required, the commission will adopt final regulations sometime after October 1, 1974.

We hope that you will read and review these proposals carefully, and make your views known by writing the commission or attending one of the public hearings which will be scheduled.


David S. Jackman
Chairman

Sincerely,

Roy A. Rickey
Commissioner


Charles J. Stovall
Commissioner

FISHERIES PROPOSED FOR LIMITED ENTRY IN 1975

ALL SALMON SEINE AND GILL NET FISHERIES IN ALASKA, EXCEPT THOSE IN THE ARCTIC-YUKON-KUSKOKWIM AREA, ARE BEING PROPOSED FOR LIMITED ENTRY STARTING IN 1975. THE POWER TROLL FISHERY IS ALSO BEING PROPOSED.

Table of Contents

Explanation of Proposed Point System - - - - -	1 - 6
Notice of Proposed Changes in the Regulations of Commercial Fisheries Entry Commission - - - - -	7 - 10
Proposed Regulations - - - - -	11 - 18
Findings of the Commission Regarding the Proposed Priority Classification System - - - - -	19 - 21
Maps - - - - -	23 - 26

EXPLANATION OF PROPOSED POINT SYSTEM

The Commercial Fisheries Entry Commission has developed a point system that it proposes to use for deciding which commercial fishermen will receive permanent entry permits for those fisheries subject to limited entry in 1975.

Anyone who fished in these fisheries as a gear license holder after January 1, 1960 and before January 1, 1973 can apply for an entry permit. There will almost certainly be more applicants than the maximum number of entry permits the commission can issue.

Since all applicants cannot receive permits, the limited entry law requires us to rank applicants according to the hardship they would suffer by not getting a permit, as indicated by their past participation and economic dependence on the fishery. In issuing permits, we must start first with those who rank highest on this scale of hardship, and work down this hardship ranking until the maximum number of permits have been issued. Any applicant who would suffer significant hardship, as defined in the ranking system, will get a permit even if this means going over the maximum number.

The purpose of the point system proposed here is to accomplish this ranking of applicants into priority classifications as easily and fairly as possible. In this way the same standards can be applied to all fishermen within a given fishery.

Here is an example of how a fisherman might qualify for points. The example is imaginary. Some of the actual figures will vary from fishery to fishery as shown in the proposed regulations. In this case the example fisherman got a total of 31 points. In the proposed regulations, 20 points or more defines significant economic hardship, so with 31 points, our example fisherman is assured of getting a permit. Many fishermen scoring less than 20 points may also get permits, but that will depend on the number of applicants in relation to the maximum number of permits that we can issue for a particular fishery.

Actual points for various fisheries are in the proposed regulations later in this booklet.

PAST PARTICIPATION (Total Possible - 20 pts)

<u>Standard</u>	<u>Possible Points</u>	<u>Example Fisherman's Points</u>
Year Fished as Gear License Holder		
1972	3 points	3
1971	3	3
1970	2	2
1969	2	0
Consistent Participation as Gear License Holder		
1972 (7 wk minimum)	2 points	2
1971 (8 wk minimum)	2	0
1970 (7 wk minimum)	1	1
1969 (7 wk minimum)	1	0
Any additional year fished as a gear license holder in the fishery from 1965-1968	1 per year	2
Any year as a crewman 1965 - 1972	1 per year	2

ECONOMIC DEPENDENCE (Total Possible = 20 pts)

<u>Standard</u>	<u>Possible Points</u>	<u>Example Fisherman's Points</u>
Income Dependence Percentage		
1972 above 70%	6 points	6
1972 above 40% thru 70%	3	0
1971 above 80%	4	0
1971 above 50% thru 80%	2	2
or special showing of income dependence up to 10 pr		
Investment in Vessels and Gear		
own vessel (or set net site)	6 points	6
own gear only	3	0

Availability of Alternative Occupations

Domicile in a census district or county:

80% or more rural, or population under 10,000

4

40% to 80% rural, or population under 25,000

2

2

Total Points Possible

40

31*

* This would be the fisherman's priority classification, and would include all others who got 31 points.

WHY A POINT SYSTEM?

More fishermen are expected to apply for permanent entry permits than there are permits to be issued. The limited entry law requires that applicants for any fishery proposed for limited entry be ranked according to the two hardship standards of past participation and economic dependence in that fishery.

In public hearings throughout the state, fishermen have said that they would prefer a point system for ranking. The system proposed here provides points for a number of things that make up either past participation or economic dependence.

DO SOME NUMBERS VARY FROM FISHERY TO FISHERY?

What you have to do to get points varies somewhat from fishery to fishery because of the differences in Alaska's fisheries. If they were all treated the same it would be unfair to the fishermen.

For example, in one fishery it might be fair to say that a person should get points for consistency of participation if he fishes a minimum of seven weeks. But in a fishery that lasts only six weeks and is over, that would be completely unfair. Three weeks might be a fair minimum requirement.

WHO CAN APPLY?

A January 1, 1973 cut-off date has been set by law for the 21 fisheries that are being proposed for limited entry in 1975. That means that anyone can apply for a permanent entry permit for one of these fisheries if he has held a gear license and fished that fishery commercially after January 1, 1960 and before January 1, 1973. It also means that in figuring points for a particular fishery a fisherman must consider only what he has done in that fishery before January 1, 1973.

WHEN TO APPLY?

We cannot get the applications out until the Commission has completed public hearings on the proposed point system in this booklet and made any necessary changes. That will be sometime in late 1974. Then the application period will be announced, and application forms will be distributed.

HOW DOES THE POINT SYSTEM WORK?

Figuring out your actual points may require you to think back a little and dig up a few records, but that effort is necessary in order to allow the Commission to have the information it needs to treat everybody fairly. In many cases, though, we will have done a lot of the work for you, and when you write us for an application it will come back indicating what your records show many of your points to be. Of course, these records are not perfect, and you may have to add things or make corrections based on your records.

If you are applying for more than one fishery, you will have to figure your points separately for each fishery. You will have to indicate your past participation and economic dependence information separately for each fishery you are applying for. After we have gone through this example, you should have a fairly good idea of how to figure your own points using the actual systems shown in the proposed regulations.

Here is how the point system would work using the example shown earlier.

PAST PARTICIPATION

A fisherman can score points under Past Participation in terms of two things: 1. The number of years he has fished, and 2. The consistency with which he fished during each of those years. Using the sample point system here is how it would work.

Years Fished

Our example fisherman met the legal requirements of having held a gear license and harvested the fishery resource commercially before the January 1, 1973 cutoff date set in the law, so he is eligible to apply for a permanent permit.

How did he do under "Years Fished"? He fished in 1973 and 1974, but does not get points for these years because the law says that only experience prior to 1973 can be considered in the fisheries currently proposed for limited entry.

Our fisherman scored a total of 8 points for his fishing as a gear license holder between 1970 and 1972. He was ill in 1969 and did not fish, so he scored no points for that year.

Because he was a gear license holder in the fishery in 1967 and 1968, he scored two additional points. And he got another two because he had worked as a crewman in that fishery in 1965 and 1966.

Notice that it is not possible to score points both as a gear operator and as a crewman in the same year. If the fisherman had worked one boat as a gear license holder in 1968 and another as a crewman, he could only claim points for one or the other.

Consistent Participation

Under Consistent Participation, our fisherman scored two points for 1972, when he fished more than seven weeks. But in 1971 he didn't score any points because he didn't fish the eight weeks minimum required to show consistency that year. In figuring out how many weeks he fished, the fisherman counted any calendar week he made at least one landing as a week fished.

He fished the seven week minimum in 1970, so he scored one point for that, but his illness in 1969 kept him from scoring a point for that year.

Under consistency of past participation, the example fisherman had to have fished a minimum number of weeks before he could score points for a year. Consistency is another way of measuring how much a person relies on a particular fishery. We know that the number of openfishing periods may vary in different places within the same fishery, and we recognize that there are also other things that make it impossible to measure consistency precisely. The minimum number of weeks attempts to draw a line between fishermen with serious professional reliance on the fishery and those without it, in terms of how many weeks they have fished.

Point Weighting

In working with the points, you probably noticed that more weight has been given to the four years immediately preceding the 1973 qualification date cutoff than to earlier years. Fishermen's testimony at public hearings generally supported doing this. The Commission believes that a fisherman who stopped fishing some years ago, or is not fishing every year, is indicating a lack of actual reliance on the particular fishery he is applying for. This means that in most cases he would experience less hardship if he didn't get a permanent entry permit than someone who is fishing regularly.

Points are also given for years that a fisherman has worked as a crewman in a fishery, since work as a crewman also indicates a pattern of general reliance on the fishery.

ECONOMIC DEPENDENCE

A fisherman can score points under Economic Dependence in terms of three things: 1.) his income dependence; 2.) his investment in vessel and gear; and 3.) the availability of alternative occupations. Let's see how the example fisherman scored in these areas.

Income Dependence Percentage

The "Income Dependence Percentage" is probably the hardest thing in the point system for the example fisherman to figure out. Finding out what his percentage was for 1972 and 1971 required some checking of records and a little pencil and paper work.

Income dependence is very important, though, because it goes right to your pocketbook. The income dependence factor will balance earnings from fishing against earnings from other jobs or occupations. And, as you will see, this way of figuring income dependence incorporates two specific things that fishermen said at public hearings they felt were important:

1. If you are applying for an entry permit for a particular fishery, what you earned in any other fishery as either a crewman or a gear license holder will not count against you in figuring economic dependence.
2. If you have been able to save or invest some of

the money you made, that will not count against you.

To figure out your income dependence factor you have to know two things: your "annual catch value" and your "nonfishing occupational income."

The "annual catch value" is the number of pounds of the fishery resource harvested under your gear license in a year, multiplied by the average price per pound of the fishery resource during that year. In other words, it's the annual gross value of your catch, figured from the average prices for the area and year. Be sure you do not include the value of any catch from other fisheries. For example, a purse seiner would not include his power troll earnings. As a rough estimate of your "annual catch value", figure out how much you were paid each year for the fish that you caught in each fishery you are applying for.

Your "nonfishing occupational income" is your total gross earnings from wages, salaries, professional income, or other compensation for personal services excluding fishing. It does not include income on money you have saved, such as interest income, stock dividends, or returns on capital investments.

To figure your "income dependence percentage", first determine your "annual catch value" and your "nonfishing occupational income." Then add those two figures together and divide the total into your annual catch value.

$$\frac{(\text{annual catch value})}{(\text{annual catch value}) + (\text{non-fish occ. income})}$$

The answer is your "income dependence percentage". When the example fisherman determined his percentage, he found it was above 50 per cent for 1972 and between 25 per cent and 50 per cent for 1971, so he scored the points shown. The actual cutoff percentages will vary from fishery to fishery.

Work patterns in Alaska's fisheries are not the same. In some fisheries the seasons are shorter and more fishermen hold additional jobs than in others. To take such things into account, the "income dependence percentage" necessary to score points changes from fishery to fishery.

Income dependence is considered only for those two years because, as a general rule, a fisherman can't have had much economic dependence on a fishery if he didn't earn any money from it during the two years closest to our January 1, 1973 cutoff date.

There are two exceptions to this general rule. First, if the fishery you are applying for was closed during one of those two years, income dependence for the next closest year, 1970, is considered instead. Second, illness or equipment breakdowns may have kept a fisherman from fishing in 1971 or 1972, or other circumstances may exist which make this formula an unfair measure of a certain fisherman's income dependence. In such a case, if he can satisfactorily demonstrate his income dependence as of the qualification date, the commission can award him an appropriate number of points based on his special showing.

Investment in Vessel and Gear

Figuring out points for your investment in vessels and gear used in the fishery is easier than what we have just been through. The question to be answered is simple: What did you own as of December 31, 1972? Our example fisherman owned his vessel and gear that he used in the fishery he was applying for, and he got six points. If he owned more than one vessel in the same fishery, he would still score only six points. If he owned gear only--say he leases the vessel--then he would receive three points.

If the example fisherman had been applying for a set net fishery, he would be able to score points in a somewhat different way. He would not receive any points for vessel ownership, but he could receive points for owning a set net site. He would also receive some points if he owned only his gear.

In some areas of Alaska there are established patterns of set net site ownership. Sometimes the uplands may be owned and the tidelands leased; other times there may be only a transfer of established use rights. The example fisherman could receive points if he was in one of these areas and owned or held the recognized right to transfer a site.

In other areas of the state set net fishing is more mobile and established ownership patterns have not developed. The example fisherman could have received points only for his investment in gear or in related site improvements if he was in one of these areas.

Availability of Alternative Occupations

The final set of points that can be scored is under "Availability of Alternative Occupations". The example fisherman lived in a partially rural area as of December 31, 1972 and scored two points for that. However, he did not live in an area so rural that it was completely isolated from city jobs, so he did not score the maximum of 4 points.

How many other job opportunities a fisherman has depends a great deal on where he lives. Compared to fishermen in rural areas, most fishermen who live in urban areas have better access to alternative jobs other than fishing. Thus the fisherman in a rural area scores points toward an entry permit because getting another job would generally be harder for him than for a fisherman in the city.

Two categories of rural areas are defined in terms of the figures from the 1970 U. S. Census. The general rule is that you score four points for rural domicile if you live in a U. S. Census Bureau statistical area that is at least 80 per cent rural or has less than 10,000 people in it. The assumption here is that you are really isolated from any urban center where a variety of jobs might be available. Two points would be scored if you live in an area at least 40 per cent rural and with no more than 25,000 people. This is less rural but rules out those who live in large urban areas like Anchorage or Seattle where different kinds of jobs other than fishing are generally available.

In most cases, you can see how you would score here by checking the information provided later in this booklet. Your domicile is where you make your permanent home the greater part of the year. More information on the census characteristics of the area of your domicile is available in the U. S. Census Bureau publication called "General Social and Economic Characteristics" for your state. Ask any U. S. Department of Commerce field office or your local library about how to see a copy.

Who will Get a Permit?

Once you have worked through the point system for a fishery, the key question from a fisherman's view is probably "How many points do I need to get a permit?" Or, put more generally, "Who will get permits?"

Obviously, a high number of points will get you an entry permit. A low number of points may not. Two lines will be drawn on the point scale to determine what applicants receive permits. The first line identifies the "maximum number" of permits that can be issued. The second identifies "significant economic hardship".

The maximum number is the highest number of units of gear that fished in a fishery between 1969 and 1972. We are still working to be sure that number is as accurate as possible in each of the fisheries proposed for limited entry. The exact place on the point scale where a maximum number line falls will depend on the number of people who score at various point levels.

In our imaginary illustration, the maximum number line might fall between 17 and 18 points, so our example fisherman would have made it easily with 31 points. This means that the number of applicants who scored 18 points or higher equals the maximum number. Or, the line might fall right on 16 points. If the number of people with 16 points pushed the total number of permits over the maximum, then all fishermen who scored exactly 16 points would become part of a lottery. Out of all those scoring 16 points, names would be drawn at random to bring the number of permits up to the maximum.

Only one thing might allow the commission to issue more than the maximum number of permits. That is the "significant economic hardship" line. The "significant economic hardship" line is set in the proposed regulations as 20 points or more. Any applicant who scores 20 points or more is thus assured of receiving a permit. If more than the "maximum number" of fishermen score that number of points or higher, they will all receive permits. In most cases, however, less than the maximum number will score 20 points or more. Then the fishermen scoring 20 points or more will know for sure they're going to get permits, but remember, many fishermen scoring less than 20 points will also get permits until the maximum number is reached.

We do not know in detail who will apply for permits to any fishery, and we do not know how many points will be scored by how many applicants. So, until all of the applications have been acted upon no one can tell precisely how far down the point scale permits may be issued, or who will get a permit beyond those whose points are above the significant economic hardship line.

CONCLUSION

We have just taken a look at the type of point system the Commercial Fisheries Entry Commission proposes to use in applying limited entry to 21 salmon fisheries in 1975. While this was just an illustration, the real point systems are shown in the proposed regulations that follow.

The limited entry program was established to stabilize the number of units of gear participating in Alaska's commercial fisheries at levels that will allow good fisheries management and reasonable dollar returns to the fishermen.

Changing over to limited entry is bound to create some hardship. We hope that the point system proposed here is fair and will minimize that hardship so that the people who do not get permanent entry permits are those who will experience the least hardship. Even these people are not totally excluded from the fishery, because once permanent permits are issued they are in almost all cases "freely transferable". This means that a fisherman who wants to get into a fishery can do so by buying a permit from a fisherman who has one and is getting out of a fishery.

We have held more than 30 public hearings, we worked with the State Departments of Fish and Game and Revenue as well as the National Marine Fisheries Service and other state and federal agencies, and we have conducted our own independent research. The proposed point system is the result of our efforts to make sure that limited entry goes into effect with the least possible hardship and economic dislocation.

Your comments on these proposals will help us make whatever final adjustments are necessary to do the fairest possible job.

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

Pursuant to the Administrative Procedure Act (Alaska Statute 44.62) notice is hereby given that the Commercial Fisheries Entry Commission, under authority vested by AS 16.43.110, proposes to adopt, amend or repeal regulations which implement, interpret and make specific the provisions of AS 16.43.

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

(1) In provisions concerning interim-use permits, the Commission proposes that:

- (A) 20 AAC 05.010 (administrative areas) be repealed;
- (B) 20 AAC 05.020 (fees) be repealed;
- (C) 20 AAC 05.040 (annual renewal) be repealed;
- (D) 20 AAC 05.050 be amended to change the types of hardship transfers of interim-use permits.

(2) In the provisions concerning the general permit requirement:

- (A) require an interim-use permit or entry permit to operate gear for the commercial taking of fishery resources;
- (B) require an interim-use permit or entry permit to possess fish or shellfish for a commercial purpose aboard a vessel equipped with commercial fishing gear;
- (C) provide for application procedures for interim-use permits;
- (D) establish the conditions for temporary transfers of interim-use permits;
- (E) require notification of loss or theft.

(3) In the general area of a fisheries identification system and permit fees:

- (A) establish a fisheries identification system;
- (B) establish fishery resource codes;
- (C) establish gear codes and permit fee schedules;
- (D) provide for annual renewal of permits;

(E) establish administrative areas.

(4) For the appropriate fisheries, establish the maximum number of entry permits.

(5) Establish a priority classification system for ranking applicants for entry permits according to hardship:

- (A) establish a point system for each fishery, with points awarded for economic dependence on a fishery and past participation in a fishery;
- (B) priority classifications will be established based on the points received;
- (C) past participation will include years fished in the fishery and consistency of that participation;
- (D) past participation will include points for years fished as a crewman and as a gear license holder;
- (E) economic dependence will include percentage of income derived from the fishery, reliance on alternative occupations, availability of alternative occupations and investment in vessels, gear and set net sites;
- (F) designate significant and minor hardship classifications.

(6) Establish a system for issuing entry permits:

- (A) establish rules for the completion of applications, the application forms, and the time for filing;
- (B) the applicant has burden to show qualification for an entry permit;
- (C) the commission shall base its decision to award or deny an entry permit on its own data and the data it requests from the applicant;
- (D) those applicants in the priority classifications designated as including those who would suffer significant economic hardship will receive an entry permit, other permits will be awarded in order of descending priority classifications according to the procedures established by the commission;
- (E) administrative appeals will be allowed within 45 days from notice of classification or denial of a permit;
- (F) establish procedures for issuing interim-use permits

while appeals are pending.

(7) Establish a system for transferring or renewing entry permits:

- (A) permits may be transferred only through the commission according to its regulations;
- (B) the permit holder must file a notice of intent to transfer a permit with the commission at least 60 days before transfer;
- (C) the notice of intent to transfer may be revoked;
- (D) the notice may be given when application is made for the permit;
- (E) an application for transferring a permit will be approved only when there is an effective notice of intent to transfer on file with the commission;
- (F) the holder or the proposed transferee may appeal the commission's denial of transfer;
- (G) temporary transfers will be allowed in cases of unavoidable hardship;
- (H) a permit becomes part of the personal estate upon the death of the holder.

(8) Establish a system of administrative adjudication covering:

- (A) when an administrative appeal will be granted;
- (B) notice of the hearing will be given to the applicant or party;
- (C) relevant evidence may be introduced at the hearing;
- (D) applicants have the burden of showing the commission's initial determination is erroneous;
- (E) the common law rules of evidence;
- (F) continuances or reconsiderations may be granted on a showing of good cause;
- (G) decision will be based on the evidence presented at the hearing and will be in writing.

(9) Miscellaneous provisions covering:

- (A) procedures for communicating with the commission

and the authority for responding on behalf of the commission;

- (B) procedures for payment of fees to the commission;
- (C) charge for furnishing materials in the commission's possession, upon request, except no charge for materials needed to prosecute an appeal;
- (D) no access by the public for records designated as confidential;
- (E) individual file for each applicant;
- (F) a party may be represented at proceedings before the commission by an attorney, or some other person at the commission's discretion.

Copies of the proposed regulations may be obtained by writing:

Commercial Fisheries Entry Commission
Pouch KB
Juneau, Alaska 99801

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

THE PROPOSED REGULATIONS ARE SUBJECT TO CHANGE PRIOR TO ADOPTION.

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

DATED: July 16, 1974.

Commercial Fisheries Entry Commission

/s/ Roy A. Rickey
Acting Chairman

/s/ Charles J. Stovall
Commissioner

TITLE 20. MISCELLANEOUS BOARDS AND COMMISSIONS.

CHAPTER 05. COMMERCIAL FISHERIES ENTRY COMMISSION

Article

1. Permit Requirement; Interim-Use Permits
2. Fishery Identification System, Administrative Areas and Annual Fees
3. Designated Fisheries
4. Priority Classification of Applicants
5. Issuance of Entry Permits
6. Transfer of Entry Permits
7. Administrative Hearing and Adjudication
8. Practice Before the Commission

ARTICLE 1. PERMIT REQUIREMENTS; INTERIM-USE PERMITS.

Section

10. Permit Required to Operate Gear (adopted as emergency regulation)
20. Permit Required to Possess Fish or Shellfish (adopted as emergency regulation)
30. Application Procedures
40. Temporary Transfer (change proposed)
50. Notification of Loss or Theft

20 AAC 05.010. PERMIT REQUIRED TO OPERATE GEAR. (a) It is unlawful for any person to operate gear within all waters subject to the jurisdiction of the state for the commercial taking of fishery resources without a valid interim-use permit or entry permit issued by the commission authorizing him to operate that type of gear in that fishery.

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

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

20 AAC 05.020. PERMIT REQUIRED TO POSSESS FISH OR SHELLFISH. (a) It is unlawful for any person to possess within all waters subject to the jurisdiction of the state, aboard a vessel equipped with commercial fishing gear, any fish or shellfish taken for a commercial purpose unless such person has in his possession a valid interim-use permit or entry permit authorizing him to take the fish or shellfish in his possession with the type of gear with which the vessel is equipped.

(b) As used in this section, a "commercial purpose" includes any sale, purchase, trade, or gift, or any transportation which forms part of a commercial transaction.

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

20 AAC 05.030. APPLICATION PROCEDURES FOR INTERIM-USE PERMITS. (a) Application for the issuance of an interim-use permit may be made to the commission, on a form provided by the commission, either by mail or in person during regular office hours.

(b) Each application must be signed by the applicant and accompanied by a check or money order for the total fee for the permit or permits being applied for.

(c) The commission may require an applicant to submit an affidavit or other evidence supporting his application.

(d) Applications for 1974 interim-use permits for the drift gill net fisheries in administrative areas T, H and E must be accompanied by an affidavit or other evidence establishing to the satisfaction of the commission that before January 1, 1973 the applicant harvested the fishery resource commercially from the administrative area being applied for while holding a drift gill net license issued under AS 16.05.570. (Effective 12/21/73, Register 48)

Authority: AS 16.43.100(a) (13)
AS 16.43.100(b)
AS 16.43.110(a)
AS 16.43.210(a)
AS 16.43.210(e)
AS 16.43.220(a)

20 AAC 05.040. TEMPORARY TRANSFER. Application for the temporary transfer of an interim-use permit to alleviate hardship may be made at any time on a form provided by the commission, and must be accompanied by an affidavit and any other evidence the commission finds necessary to establish the facts justifying the temporary transfer. (Effective 12/21/73, Register 48)

Authority: AS 16.43.100
AS 16.43.110(a)
AS 16.43.180
AS 16.43.220(b)

20 AAC 05.050. NOTIFICATION OF LOSS OR THEFT. The holder of an interim-use permit must promptly notify the commission of the loss or theft of his interim-use permit,

and a request for a duplicate permit must be accompanied by an affidavit of the facts surrounding the loss or theft. (Effective 12/21/73, Register 48)

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

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

Section

100. Fishery Identification System
110. Fishery Resource Codes
120. Gear Codes and Schedule of Annual Fees
130. Renewal
140. Administrative Areas

20 AAC 05.100. FISHERY IDENTIFICATION SYSTEM. (a) For the purposes of issuing interim-use permits and entry permits, administering the collection of annual fees, and other purposes required for the administration of AS 16.43, the commission will maintain a fishery identification system which will be used to designate the specific fishery for which an interim-use permit or entry permit is issued. Each fishery will be identified as the commercial taking of a specific fishery resource with a specific type of gear in a specific administrative area.

(b) A system of letter and number codes will be used to designate, for each interim-use permit or entry permit:

(1) the specific fishery resource (e.g. salmon) for which the permit is issued,

(2) the specific type of gear (e.g. drift gill net) for which the permit is issued, and

(3) the specific administrative area (e.g. Cook Inlet) for which the permit is issued.

(c) Each fishery will be identified using a four place letter and number code with the first place being a single letter designating the fishery resource, the second and third place being a two-digit number code designating the type of gear, and the fourth place being a single letter code designating the administrative area.

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

20 AAC 05.110. FISHERY RESOURCE CODES. The following letter codes will be used to designate the specific fishery resource for which an interim-use permit or entry permit is issued:

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

Authority: AS 16.43.100(a) (1)
AS 16.43.110(a)
AS 16.43.140(c)

20 AAC 05.120. GEAR CODES AND SCHEDULE OF ANNUAL FEES. The number codes on the schedule below will be used to designate the specific type of gear for which an interim-use permit or entry permit is issued. The annual fee for the issuance or annual renewal of an interim-use permit or entry permit for a particular type of gear is established as shown on the following schedule:

Gear Codes and Annual Fees

Code	Annual Fee	Code	Annual Fee
01 purse seine*	\$ 60	07 otter trawl	\$100
02 beach seine	\$ 20	17 beam trawl	\$ 50
03 drift gill net	\$ 50	09 pot gear** (vessel	
04 set gill net	\$ 20	keel length 50'	
05 hand troll	\$ 20	or less)	\$ 50***
15 power troll	\$ 50	19 pot gear (vessel	
06 longline gear		keel length over 50')	\$100
(vessel keel length		21 dredge	\$100
26' or less)	\$ 20	18 shovel	\$ 10
16 longline gear		08 fishwheel	\$ 10
(vessel keel length		44 other	\$ 10
over 26')	\$ 60		

* Purse seine includes hand purse seine

** Includes: king crab, tanner crab, dungeness crab, bottomfish, black cod and shrimp

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

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

20 AAC 05.130. ANNUAL RENEWAL. Application for the annual renewal of an interim-use permit or entry permit may be made to the commission either by mail or in person, during regular office hours, on a form provided by the commission. The commission will establish the opening dates for the receipt of annual renewal applications for each fishery.

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

20 AAC 05.140. ADMINISTRATIVE AREAS. (a) For the purpose of issuing interim-use permits and entry permits, the administrative areas described in the schedule below are established. The letter codes shown on this schedule will be used to designate the specific administrative area for which an interim-use permit or entry permit is issued.

(1) Administrative Areas

Code Letter	Name and Description
A	Southeastern Alaska Area - all waters subject to the jurisdiction of the state between the longitude of Cape Fairweather and Dixon Entrance
D	Yakutat Area - all waters subject to the jurisdiction of the state between the longitude of Cape Suckling and the longitude of Cape Fairweather
E	Prince William Sound Area - all waters subject to the jurisdiction of the state between the longitude of Cape Fairfield and the longitude of Cape Suckling
H	Cook Inlet Area - all waters subject to the jurisdiction of the state north of a line extending east from Cape Douglas and west of the longitude of Cape Fairfield
K	Kodiak Area - all waters subject to the jurisdiction of the state east of the longitude of Kilokak Rocks at 57° 11' 22" North latitude, 156° 20' 13" West longitude and south of a line extending east from Cape Douglas
L	Chignik Area - all waters subject to the jurisdiction of the state on the south side of the Alaska Peninsula between the longitude of Kilokak Rocks at 57° 11' 22" North latitude, 156° 20' 13" West longitude and a line extending southwest from Kupreanof Point
M	Alaska Peninsula-Aleutian Island Area - all waters subject to the jurisdiction of the state 1) in the Bering Sea between Cape Menashikof and 172° East longitude, and 2) in the Pacific Ocean between 172° East longitude and a line extending southwest from Kupreanof Point
T	Bristol Bay Area - all waters subject to the jurisdiction of the state in Bristol Bay east of a line from Cape Newenham to Cape Menashikof
U	Northern Alaska Area - all waters subject to the jurisdiction of the state between the longitude of Demarcation Point and the latitude of Point Hope
V	Port Clarence Area - all waters subject to the jurisdiction of the state in the Bering Sea between the latitude of Cape Prince of Wales and a line extending southwest from Cape Douglas
W	Kuskokwim Area - all waters subject to the jurisdiction of the state in the Bering Sea between 62° North latitude and a line extending southwest from Cape Newenham including the waters of Nunivak Island and St. Matthew Island
X	Kotzebue Area - all waters subject to the jurisdiction of the state between the latitude of Point Hope and the latitude of Cape Prince of Wales

Yukon Area - all waters subject to the jurisdiction of the state in the Bering Sea and Norton Sound between the longitude of Cape Stephens and 62° North latitude including the waters of Stuart Island

Norton Sound Area - all waters subject to the jurisdiction of the state in Norton Sound between a line extending southwest from Cape Douglas and the longitude of Cape Stephens

I) Statewide Area - all waters subject to the jurisdiction of the state

(2) Special King Crab Administrative Areas

Code Letter	Name and Description
J	Southeastern Alaska - Yakutat Area - all waters subject to the jurisdiction of the state between the longitude of Cape Suckling and Dixon Entrance
E	Prince William Sound Area - all waters subject to the jurisdiction of the state between the longitude of Cape Fairfield and the longitude of Cape Suckling
K	Kodiak Area - all waters subject to the jurisdiction of the state south of a line extending east from Cape Douglas and east of the longitude of Cape Kumlik
M	Alaska Peninsula Area - all waters subject to the jurisdiction of the state in the Pacific Ocean east of the longitude of Scotch Cap Light to the longitude of Cape Kumlik. All waters of Isanotski Strait and Bechevin Bay, south of a line from Chunak Point to Cape Krenitzen are included in this area
O	Dutch Harbor Area - all waters subject to the jurisdiction of the state east of 172° West longitude to the longitude of Scotch Cap Light and south of 54° 36' North latitude
Q	Bering Sea Area - all waters subject to the jurisdiction of the state in the Bering Sea and Chukchi Sea north of 54° 36' North latitude, including all tributary bays except Isanotski Strait and Bechevin Bay north of a line from Chunak Point to Cape Krenitzen
R	Adak Area - all waters subject to the jurisdiction of the state between 172° West longitude and 179° 15' West longitude
S	Western Aleutians Area - all waters subject to the jurisdiction of the state between 179° 15' West longitude and 172° East longitude

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

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

ARTICLE 3. DESIGNATED FISHERIES

Section
200. Distressed Fisheries
210. Other Designated Fisheries
220. Maximum Number of Entry Permits

20 AAC 05.200. DISTRESSED FISHERIES. The commission designates the following fisheries as distressed fisheries based upon its estimate that the optimum number of entry permits for these fisheries will be less than the highest number of units of gear fished in these fisheries during any one of the four years immediately preceding January 1, 1973:

- (1) salmon-drift gill net fishery - Southeastern Alaska (A);
- (2) salmon-drift gill net fishery - Prince William Sound (E);
- (3) salmon-drift gill net fishery - Cook Inlet (H);
- (4) salmon-set gill net fishery - Cook Inlet (H);

- (5) salmon-purse seine fishery - Kodiak (K);
- (6) salmon-drift gill net fishery - Alaska Peninsula-Aleutians (M);
- (7) salmon-drift gill net fishery - Bristol Bay (T);
- (8) salmon-set gill net fishery - Bristol Bay (T);

Authority: AS 16.43.110(a)
AS 16.43.230

20 AAC 05.210. OTHER DESIGNATED FISHERIES. The commission finds that the following fisheries have reached levels of participation which require the limitation of entry:

- (1) salmon-purse seine fishery - Southeastern Alaska (A);
- (2) salmon-power troll fishery - Statewide;
- (3) salmon-set gill net fishery - Yakutat (D);
- (4) salmon-purse seine fishery - Prince William Sound (E);
- (5) salmon-set gill net fishery - Prince William Sound (E);
- (6) salmon-purse seine fishery - Cook Inlet (H);
- (7) salmon-beach seine fishery - Cook Inlet (H);
- (8) salmon-set gill net fishery - Kodiak (K);
- (9) salmon-beach seine fishery - Kodiak (K);
- (10) salmon-purse seine fishery - Chignik (L);
- (11) salmon-purse seine fishery - Alaska Peninsula-Aleutians (M);
- (12) salmon-set gill net fishery - Alaska Peninsula-Aleutians (M);
- (13) salmon-beach seine fishery - Alaska Peninsula-Aleutians (M).

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

20 AAC 05.220. MAXIMUM NUMBER OF ENTRY PERMITS. The maximum number of entry permits for each of the fisheries designated under sec. 200 or sec. 210 of this chapter is established as follows:

<u>Fishery</u>	<u>Maximum Number of Entry Permits</u>
(1) salmon-drift gill net fishery Southeastern Alaska (A) . . .	474
(2) salmon-purse seine fishery Southeastern Alaska (A) . . .	400
(3) salmon-power troll fishery	795
(4) salmon-set gill net fishery Yakutat (D) . . .	142
(5) salmon-drift gill net fishery Prince William Sound (E) . . .	520
(6) salmon-purse seine fishery Prince William Sound (E) . . .	243
(7) salmon-set gill net fishery Prince William Sound (E) . . .	23
(8) salmon-drift gill net fishery Cook Inlet (H) . . .	625
(9) salmon-set gill net fishery Cook Inlet (H) . . .	525
(10) salmon-purse seine fishery Cook Inlet (H) . . .	69
(11) salmon-beach seine fishery Cook Inlet (H) . . .	
(12) salmon-purse seine fishery Kodiak (K) . . .	358
(13) salmon-set gill net fishery Kodiak (K) . . .	147
(14) salmon-beach seine fishery Kodiak (K) . . .	31
(15) salmon-purse seine fishery Chignik (L) . . .	80
(16) salmon-drift gill net fishery Alaska Peninsula-Aleutians (M) . . .	161

- (17) salmon-purse seine fishery
Alaska Peninsula-Aleutians (M) . . . 122
- (18) salmon-set gill net fishery
Alaska Peninsula-Aleutians (M) . . . 81
- (19) salmon-beach seine fishery
Alaska Peninsula-Aleutians (M) . . .
- (20) salmon-drift gill net fishery
Bristol Bay (T) . . . 1710
- (21) salmon-set gill net fishery
Bristol Bay (T) . . . 623

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

ARTICLE 4. PRIORITY CLASSIFICATIONS

Section

300. Priority Classification System
310. Past Participation
320. Economic Dependence
330. Definitions
340. Point System for Designated Fisheries
350. Designation of Significant and Minor Hardship Classifications
360. Special Rules for Use of the Point System

20 AAC 05.300. PRIORITY CLASSIFICATION SYSTEM. (a) For each fishery for which a maximum number of entry permits has been established under sec. 200 et seq. of this chapter the commission will adopt regulations defining priority classifications in terms of a point system for ranking applicants for entry permits. These priority classifications will be based upon a reasonable balance of the hardship standards of degree of economic dependence upon the fishery and extent of past participation in the fishery. The commission will use the following classification system except for those fisheries where special circumstances are found to require modification of the classification system, considering the number of applicants, the variance in their qualifications, the history of the fishery, and the purposes of AS 16.43.

(b) A point scale from 0-20 will be established for each of the two hardship standards: (1) economic dependence and (2) past participation. A greater number of points will represent a greater degree of economic dependence or a greater degree of past participation.

(c) Each applicant will be ranked on these two point scales according to the number of points that his qualifications as of the qualification date entitle him under the regulations adopted pursuant to sec. 340 of this chapter establishing a point system for the particular fishery.

(d) The commission will assign an applicant to one of 40 priority classifications designated by the numbers 0-40 based on the total points derived from the applicant's ranking on the point scales for the two hardship standards. The higher the number of the priority classification, the greater the degree of hardship the applicant would suffer by exclusion from the fishery.

(e) The commission will designate:

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

(2) a lower range of priority classifications including those applicants who would suffer only minor economic hardship by exclusion from the fishery, and therefore may have certain restrictions placed upon the transfer of any entry permit they may receive as required by AS 16.43.170(c).

(f) The designations made in (e) of this section may leave a middle range of priority classifications subject to neither AS 16.43.270(a) or AS 16.43.170(c).

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

20 AAC 05.310. PAST PARTICIPATION. The standard of past participation in the fishery includes the number of years participation in the fishery and the consistency of participation during each year. The commission must determine an applicant's extent of past participation as of the qualification date established under AS 16.43.260(d) and (e), and will apply the above two factors as follows:

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

(2) The commission will rank an applicant as to consistency of participation by considering the number of weeks of the season in which the applicant harvested the fishery resource. This factor will be given less weight than the number of years of participation.

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

20 AAC 05.320. DEGREE OF ECONOMIC DEPENDENCE. The standard of economic dependence upon the fishery includes a consideration of percentage of income derived from the fishery, reliance on alternative occupations, availability of alternative occupations, and investment in vessels, gear and set net sites. The commission must determine an applicant's economic dependence as of the qualification date established under AS 16.43.250(d) and (e) and will therefore give primary weight to evidence from the years immediately preceding the qualification date and will consider the above four factors as follows:

(1) The commission will rank an applicant as to the two factors of percentage of income derived from the fishery and reliance on alternative occupations by considering the relation between "annual catch value" and "non-fishing occupational income", expressed as an "income dependence percentage" as these terms are defined in 20 AAC 05.330. A higher income dependence percentage indicates a higher degree of economic dependence upon the fishery since it involves either a higher percentage of total income derived from the fishery or a lower degree of reliance on non-fishing occupations or both.

(2) The commission will rank an applicant as to the factor of investment in vessels, gear and set net sites, if the applicant, on the qualification date, was the owner of a vessel, gear or set net site used in the fishery for which he is applying. In the case of a set net site, the commission will consider the owner to be the person or persons who could rightfully exercise the power to sell or transfer the set net site according to the accepted customs

and usages of the area. Since hardship under this factor is not necessarily related to the total value of specific vessels, gear, or set net sites, the commission will not consider the relative market values of different vessels, gear, or set net sites. In cases where a vessel, gear or set net site was owned jointly or in a corporate capacity, an applicant's points will be determined by multiplying his percentage of ownership interest times the total number of points possible and rounding off the result to the nearest whole point.

(3) The commission will rank an applicant as to the factor of availability of alternative occupations by considering whether his place of domicile is rural or urban.

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

20 AAC 05.330. DEFINITIONS. In chapter 05 of this title:

(1) "annual catch value" is the number of pounds of the fishery resource attributable to an applicant in a given year times the average price per pound of the fishery resource during the year;

(2) "income dependence percentage" is the annual catch value divided by the sum of the annual catch value and the non-fishing occupational income;

(3) "non-fishing occupational income" is the total gross earnings of an applicant from wages, salaries, professional income, or other compensation for personal services, including that portion of the gross return from non-fishing self-employment which fairly constitutes a return on labor. It does not include compensation from the commercial harvest of fishery resources, or income on capital such as interest income, dividends, or similar investment income. In the circumstances described in 20 AAC 05.360(a) the income of the applicant's entire household shall be considered as therein described.

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

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

20 AAC 05.340. POINT SYSTEM FOR DESIGNATED FISHERIES.

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

Year Fished As a Gear License Holder	Points for Consistent Participation	
	Minimum number of weeks fished as shown in schedule (d) (1) of this section	Points
1972		2
1971		2
1970		1
1969		1

1 point for each additional year of actual participation as a gear license holder from 1965-1968.

1 point for each year of actual participation as a crewman only in the fishery from 1965-1972.

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

(1) Income Dependence Percentage as shown for each fishery in the schedule in (d) of this section. (Maximum of 10 points possible)

Year	Minimum Percentage	Points
1972	Percentage A from schedule in (d) (2)	6
1972	Percentage B from schedule in (d) (2)	3
1971	Percentage A from schedule in (d) (2)	4
1971	Percentage B from schedule in (d) (2)	2

(2) Special showing of income dependence as provided in (c) of this section. Maximum of 10 points possible.

(3) Investment in vessel, gear or set net site as of qualification date. Maximum of 6 points possible.

own vessel or set net site
(with or without gear) 6 points
own gear only points

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

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

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

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

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

(1) consistent participation:

Fisheries	Minimum number of weeks fished to show consistent participation			
	1969	1970	1971	1972
Salmon-drift gill net- Southeastern	7	7	6	7
Salmon-drift gill net- Prince William Sound.	4	4	4	4
Salmon-drift gill net- Cook Inlet.	3	3	2	3
Salmon-set gill net- Cook Inlet.	3	3	2	3
Salmon purse-seine- Kodiak.	4	4	4	4
Salmon-drift gill net- Alaska Peninsula-Aleutians.	3	3	3	3
Salmon-drift gill net- Bristol Bay.	3	3	3	3

Fisheries	Minimum number of weeks fished to show consistent participation.			
	1969	1970	1971	1972
Salmon-set gill net- Bristol Bay	3	3	3	3
Salmon-purse seine- Southeastern.	4	7	6	8
Salmon-power troll- Statewide	6	8	8	8
Salmon-set gill net- Yakutat.	6	7	7	7
Salmon-purse seine- Prince William Sound . . .	3	3	5	-
Salmon-set gill net- Prince William Sound . . .	4	4	-	4
Salmon-purse seine- Cook Inlet	2	2	2	2
Salmon-beach seine- Cook Inlet.	-	2	2	2
Salmon-set gill net- Kodiak	3	3	3	3
Salmon-beach seine- Kodiak	2	2	2	2
Salmon-purse seine- Chignik	4	4	4	4
Salmon-purse seine- Alaska Peninsula-Aleutians. .	3	3	3	3
Salmon-set gill net- Alaska Peninsula-Aleutians. .	3	3	3	3
Salmon-beach seine- Alaska Peninsula-Aleutians. .	-	-	-	-

(2) income dependence:

Fisheries	percentage A		percentage B	
	1971	1972	1971	1972
Salmon-drift gill net- Southeastern.	90	90	70	50
Salmon-drift gill net- Prince William Sound	90	90	50	50
Salmon-drift gill net- Cook Inlet	80	80	40	50
Salmon-set gill net- Cook Inlet	90	90	40	40
Salmon-purse seine- Kodiak	90	80	50	50
Salmon-drift gill net- Alaska Peninsula-Aleutians .	90	90	60	60
Salmon-drift gill net- Bristol Bay	80	60	40	20
Salmon-set gill net- Bristol Bay.	90	70	40	20
Salmon-purse seine- Southeastern.	90	70	90	70
Salmon-power troll- Statewide	90	90	40	30
Salmon-set gill net- Yakutat	90	70	60	40
Salmon-purse seine- Prince William Sound.	90*	90*	60*	60*
Salmon-set gill net- Prince William Sound	80	80	40	40
Salmon-purse seine- Cook Inlet	80	60	40	30
Salmon-beach seine- Cook Inlet	80	60	40	30

Fisheries	percentage A		percentage B	
	1971	1972	1971	1972
Salmon-set gill net- Kodiak.	70	70	30	30
Salmon-beach seine- Kodiak	90	80	50	50
Salmon-purse seine- Chignik	90	90	70	70
Salmon-purse seine- Alaska Peninsula-Aleutians . .	90	90	50	50
Salmon-set gill net- Alaska Peninsula-Aleutians . .	90	90	50	50
Salmon-beach seine- Alaska Peninsula-Aleutians . .	90	90	30	30

* Prince William Sound purse seine fisheries shown the years 1970 and 1971 for income percentages.

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

20 AAC 05.350. DESIGNATION OF SIGNIFICANT AND MINOR HARDSHIP CLASSIFICATIONS. (a) The commission designates the priority classifications 20 through 40 as classifications of applicants who would suffer significant economic hardship by exclusion from the fishery, and therefore will receive entry permits as required by AS 16.43.270(a).

(b) The commission designates the priority classifications 0-5 as classifications of applicants who would suffer only minor economic hardship by exclusion from the fishery, and therefore may have certain restrictions placed upon the transfer of any entry permit they may receive as required by AS 16.43.170(c).

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

20 AAC 05.360. SPECIAL RULES FOR USE OF THE POINT SYSTEM. (a) If the applicant was a dependent family member as of the qualification date then his points for income dependence will be determined based on either the income dependence percentage for the family unit as a whole, the income dependence percentage of the head of the household, or a special showing of income dependence under sec. 340(c).

(b) Due to the administrative closure of the salmon purse seine fishery for Prince William Sound (area F) during the entire 1972 season, those applicants who participated in that fishery prior to 1972 will be awarded the same number of points for past participation in 1972 as for the last year they actually fished. Those applicants who can show that they had purchased or contracted to purchase a vessel and would have fished as purse seine gear license holders for the first time in 1972 except for the closure, are deemed eligible to apply for an entry permit, and will be awarded the maximum number of points for participation in 1972.

(c) An applicant who is eligible to apply for an entry permit under the terms of AS 16.43.260(a) and whose participation in a fishery was interrupted by military service will be awarded the maximum number of points for past participation for the fishing seasons missed due to military service.

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

ARTICLE 5. ISSUANCE OF ENTRY PERMITS

Section
400. Form of Application
410. Time of Application
420. Evidence of Qualification
430. Classification of Applicants
440. Administrative Appeals
450. Issuance of Entry Permits

20 AAC 05.400. FORM OF APPLICATION. Application for the issuance of an entry permit must be made to the commission on a form provided by the commission. The application must be signed and verified by the applicant and accompanied by the total annual fee for the permit or permits being applied for.

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

20 AAC 05.410. TIME OF APPLICATION. (a) The commission will establish for each fishery for which entry permits are to be issued an opening date and a closing date for receipt of applications. The closing date will be not less than 90 days after the opening date.

(b) The commission will accept applications for entry permits for a designated fishery on or after the opening date for application for that fishery and will only accept applications for entry permits for a designated fishery that are received by the commission in substantially completed form on or before the closing date for application for that fishery.

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

(d) The commission will send each applicant a notice of receipt of his application indicating whether it has been received before the closing date in substantially completed form. If the commission determines that an application has not been received before the closing date in substantially completed form it will notify the applicant giving its findings of fact and conclusions. The applicant may request an administrative hearing and adjudication by filing notice of appeal. The notice must be received by the commission on or before the 45th day following the date the commission's notice was mailed to the applicant. The hearing and adjudication shall be in accordance with the provisions of 20 AAC 05.600 et seq.

(e) If an application is received in substantially completed form, but there are errors, omissions, or insufficient supporting evidence, the commission will indicate this to the applicant in the notice of receipt, and will give the applicant a reasonable amount of time to correct any defects or insufficiencies in his application.

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

20 AAC 05.420. EVIDENCE OF QUALIFICATION. (a) Every applicant shall have the burden of establishing his qualifications for an entry permit. Specific evidence will be requested on the application form in order to establish an applicant's qualifications. The commission may at any time require an applicant to submit additional evidence in affidavit or other form relating to his qualifications.

(b) To the extent practicable, the commission will provide each applicant with a summary compiled from state records and other reliable sources which will indicate, for the years from 1969 to the qualification date, those years that the applicant participated in each fishery as a gear license holder, the number of weeks fished in each year, the annual catch value of the fishery resource, and vessel ownership, if any. If the applicant verifies the information on this summary as substantially correct, the commission will accept the information on this summary as sufficient evidence of the facts stated. An applicant may contest the accuracy of any information included in this summary and may supplement this information by establishing additional facts regarding his qualifications with other evidence.

(c) An applicant may be required to submit copies of, or authorize access to, his State of Alaska and federal income tax returns for the appropriate years, or evidence establishing that he was not required to file, or his Fisherman's Annual Information Report, as a primary source of evidence regarding economic dependence, and as corroborating evidence of past participation. Tax returns and related information submitted by an applicant are confidential and will not be disclosed in any manner without the express consent of the applicant.

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

20 AAC 05.430. PRIORITY CLASSIFICATION OF APPLICANTS. (a) The commission will assign each applicant to a priority classification according to the priority classification point system adopted for the fishery pursuant to 20 AAC 05.300.

(b) If the applicant is assigned to a priority classification designated as involving significant economic hardship under AS 16.43.250(b), the commission will either issue the entry permit or send to the applicant a notice of classification indicating that he will receive an entry permit.

(c) If the applicant is assigned to a priority classification not designated as involving significant economic hardship under AS 16.43.250(b), the commission will send to the applicant a notice of classification setting forth the commission's findings of fact and conclusions with respect to the applicant and the date on or before which notice of

administrative appeal must be received if the applicant disagrees with the commission's determination of his priority classification.

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

20 AAC 05.440. ADMINISTRATIVE APPEALS. (a) An applicant may request an administrative hearing by filing a notice of administrative appeal with the commission. The notice of administrative appeal must contain a short statement of why the applicant should be placed in a higher priority classification and indicate which findings of fact, if any, the applicant believes to be in error. The notice of administrative appeal must be received by the commission on or before the 45th day following the date that the notice of classification was mailed to the applicant. The hearing and adjudication will be in accordance with the provisions of 20 AAC 05.600 et seq.

(b) Failure to appeal a notice of classification precludes further administrative appeal except as to clerical or other administrative errors in the issuance of permits.

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

20 AAC 05.450. ISSUANCE OF ENTRY PERMITS. (a) The commission will issue entry permits to all applicants assigned to a priority classification designated as involving significant economic hardship under AS 16.43.250(b).

(b) If the number of permits issued to applicants assigned to priority classifications designated as involving significant economic hardship equals or exceeds the maximum number of permits established for the fishery, the commission will immediately notify all remaining applicants that their applications are denied and will refund all fees submitted with these applications.

(c) If the number of permits issued to applicants assigned to priority classifications designated as involving significant economic hardship is less than the maximum number of permits established for the fishery, the commission will, after passage of the period provided for filing notice of appeal seeking judicial review under AS 44.62.560, issue additional permits to applicants in the order of descending priority classifications up to the maximum number less the number required to be reserved to protect the rights of applicants who are still appealing the

findings of an administrative adjudication. If the number of permits remaining to be issued is less than the number of applicants in the highest priority classification to which permits have not been issued, the commission will allocate the permits to the applicants within the classification by lottery. No lottery shall be held until all judicial appeals are resolved.

(d) The commission will issue interim-use permits to applicants appealing the findings of an administrative adjudication if it finds that the delay caused by the appeal would otherwise preclude participation in the fishery.

(e) As judicial appeals are finally resolved, the commission will issue permits no longer required to be reserved to the applicants next most qualified under (d).

(f) If permits are reserved to protect the rights of applicants who are still appealing the findings of an administrative adjudication, the commission will determine which applicants are next most qualified and would be eligible for entry permit but for the reservation of permits. The commission will issue interim-use permits to such tentatively eligible applicants if it finds that the delay caused by such appeals would otherwise preclude participation in the fishery. If the determination of the applicants next most qualified would require the holding of a lottery within a priority classification, the commission will issue interim-use permits to all applicants within the classification.

(g) The commission may issue an interim-use permit to an applicant for an entry permit when it is necessary to avoid hardship or uncertainty due to administrative delays.

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

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

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

ARTICLE 6. TRANSFER OF ENTRY PERMIT

Section

- 500. Requirements for Transfer
- 510. Definitions
- 520. Notice of Intent to Transfer
- 530. Application for Transfer
- 540. Transfer and Reissuance of Entry Permits
- 550. Emergency Transfers
- 560. Transfers on Death of the Holder

20 AAC 05.500. REQUIREMENTS FOR TRANSFER. A holder may transfer an entry permit only through the commission and in accordance with these regulations.

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

20 AAC 05.510. DEFINITIONS. In secs. 500-570 of this chapter

(1) "authorized representative" is the personal representative duly appointed pursuant to the provisions of AS 13.16.245 et seq. or pursuant to comparable provisions of the laws of the jurisdiction of the deceased holder's domicile to administer the estate of a deceased entry permit holder.

(2) "effective date" is the date 60 days after the filing date.

(3) "expiration date" is the date 12 months after the filing date.

(4) "filing date" is the date upon which the commission receives from the holder a notice of intent to transfer.

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

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

20 AAC 05.520. NOTICE OF INTENT TO TRANSFER.

(a) A holder may establish a filing date, effective date, and expiration date for transfer of an entry permit by filing a notice of intent to transfer with the commission on a form supplied by the commission. A holder need not name a proposed transferee when filing notice of intent to transfer. The commission will return a copy of the notice of intent to transfer together with a statement of the filing date, effective date, and expiration date for transfer of an entry permit.

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

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

(d) Any person who has applied for an entry permit under 20 AAC 05.400 may file with his application a notice of intent to transfer an entry permit on a "when-issued" basis. If an entry permit is issued to an applicant that has filed such a notice, the effective date for purposes of transfer shall be the date 60 days after the filing of the notice or the date of the original issuance of the entry permit, whichever is later.

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

20 AAC 05.530. APPLICATION FOR TRANSFER. (a) An application for the transfer of an entry permit may be filed with the commission on or after the effective date and must be filed with the commission on or before the expiration date.

(b) Application for the transfer of an entry permit must be made to the commission on a form provided by the commission. The application must be signed and verified by the applicant and the proposed transferee. The application shall set forth the consideration to be received for transfer of the entry permit, the existence of any contract or agreement to transfer the permit, facts establishing the present ability of the proposed transferee to participate actively in the fishery, and such other information as the commission shall require.

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

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

20 AAC 05.540. TRANSFER AND REISSUANCE OF ENTRY PERMITS.

(a) The commission shall approve the application to transfer an entry permit and reissue an entry permit to the proposed transferee if the proposed transferee (other than the commission) establishes present ability to participate actively in the fishery.

(b) If the commission determines that the proposed transferee has not established present ability to participate actively in the fishery, it will so notify the holder and the proposed transferee, giving its findings of fact and conclusions. Either the holder or the proposed transferee may request an administrative hearing and adjudication by filing a notice of appeal. The notice of appeal must be received by the commission on or before the 30th day following the date the commission's notice was mailed to the applicant. The hearing and adjudication shall be in accordance with the provisions of 20 AAC 05.600 et seq.

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

20 AAC 05.550. EMERGENCY TRANSFERS. (a) A holder may temporarily transfer an entry permit to another person who is able to participate actively in the fishery by making application to the commission on a form provided by the commission.

(b) The commission will grant a temporary transfer if the holder establishes that sickness, injury or other unavoidable hardship prevents the holder from participating in the fishery. Unless further restricted by the holder, the temporary transfer will be effective for the remainder of the year.

(c) Where sickness or injury precludes communication by the holder, the commission may authorize temporary transfer of an entry permit upon application by a person other than

the holder to avoid hardship during the fishing season. Such a transfer is subject to revocation at any time upon application by the holder.

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

20 AAC 05.560. TRANSFER ON DEATH OF THE HOLDER. (a) An entry permit shall survive the death of the holder and pass into the holder's estate as personal property.

(b) The authorized representative of the deceased holder's estate may temporarily transfer an entry permit pending final disposition of the permit as a part of the holder's estate by making application to the commission on a form provided by the commission. The temporary transfer may be to any person who is able to participate actively in the fishery. The commission will approve an application for a temporary transfer, if the representative establishes that the holder is deceased and that the representative is authorized to request the transfer. A temporary transfer after death of the holder is effective for the remainder of the year. The authorized representative may annually renew an entry permit and make subsequent temporary transfers if he can establish at the time the permit is annually renewed that the permit has not been finally disposed of as part of the deceased holder's estate.

(c) The authorized representative of a deceased holder's estate may transfer an entry permit by making application to the commission in accordance with 20 AAC 05.530 and 05.540.

Authority: AS 16.43.100(a)(11)
AS 16.43.110(a)
AS 16.43.160(f)
AS 16.43.170(b)
AS 16.43.180(b)

ARTICLE 7. ADMINISTRATIVE HEARING AND ADJUDICATION

Section

- 600. Matters Covered
- 610. Notice of Hearing
- 620. Scope of Hearing
- 630. Rules of Evidence
- 640. Subpoena and Depositions
- 650. Continuances
- 660. Decision
- 670. Reconsideration

20 AAC 05.600. MATTERS COVERED. The provisions of this Article apply to all matters presented to the commission for administrative hearing and adjudication, including but not limited to appeals from (1) priority classification of an applicant for an entry permit, (2) determination that an application for an entry permit has not been received in substantially completed form on or before the closing date for the fishery, (3) determination of ineligibility for a \$5 maximum annual fee under AS 16.43.160(c), and (4) determination as to any matter relating to the transfer of an entry permit or interim-use permit.

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

20 AAC 05.610. NOTICE OF HEARING. In all cases where an administrative hearing and adjudication is requested, the commission will determine the time and place of hearing and deliver or mail a notice of hearing to the applicant or party at least 30 days before the hearing, unless this period for notice is waived by the applicant.

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

20 AAC 05.620. SCOPE OF HEARING. (a) The applicant or other party requesting a hearing may present at the hearing such relevant evidence as he has, including testimony, affidavits, and documents, in support of his contention that the findings or conclusions of the commission's initial determination are erroneous. The applicant may also cross-examine any witnesses for the commission.

(b) The commission may present relevant evidence or witnesses and may also cross-examine witnesses for the applicant or other party.

(c) The applicant or other party shall bear the burden of proving by a preponderance of the evidence that the findings or conclusions of the commission's initial determination are erroneous.

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

20 AAC 05.630. RULES OF EVIDENCE. (a) Oral evidence may be taken only on oath or affirmation.

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

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

20 AAC 05.640. SUBPOENA AND DEPOSITIONS. (a) At the request of an applicant or other party for good cause shown or upon its own motion, the commission may issue subpoena and subpoena duces tecum to compel production of testimony or other evidence at a hearing. The issuance of subpoenas by the commission shall be governed by the provisions of AS 44.62.430.

(b) In accordance with the provisions of AS 44.62.440, the commission may order that the testimony of a material witness be taken by deposition.

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

20 AAC 05.650. CONTINUANCES. For good cause shown and in its discretion, the commission may order a continuance of a hearing to enable an applicant or other party to obtain additional evidence in support of his contentions.

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

20 AAC 05.660. DECISION. (a) The commission will adjudicate the matter before it on the basis of the material previously filed with it by the applicant and evidence presented at the hearing.

(b) The decision will be written and contain findings of fact and a determination of the issues presented.

(c) A decision is effective and final 30 days after it is delivered or mailed to the applicant or other party unless a reconsideration is ordered within that time.

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

20 AAC 05.670. RECONSIDERATION. (a) The commission may order a reconsideration of its decision on its own motion or on petition of the applicant or other party. A petition for reconsideration shall set forth specifically the grounds upon which the petitioner believes the decision to be erroneous.

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

(c) The commission may reconsider a matter in the original record or order a supplementary hearing.

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

ARTICLE 8. PRACTICE BEFORE THE COMMISSION

Section

- 700. Communications
- 710. Fees, Remittances and Charges
- 720. Files
- 730. Appearances
- 740. Confidential Records and Information.

20 AAC 05.700. COMMUNICATIONS. (a) All correspondence with the commission should be addressed to the commission at its principal office and not to an individual staff member or commissioner unless otherwise specifically authorized or directed by the commission. If a written communication to the commission is in response to correspondence or an order of the commission, the response should make reference to the file reference number used by the commission.

(b) Every written communication shall be deemed to be officially received and filed when delivered to the commission's office, but a commissioner or any of its employees who may be designated by the commission may also receive written communications under conditions prescribed by the commission.

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

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

20 AAC 05.710. FEES, REMITTANCES AND CHARGES. (a) Every charge payable to the commission shall be transmitted indicating the amount and purpose thereof.

(b) Every remittance shall be by money order, bank draft or check payable to the Alaska Commercial Fisheries Entry Commission. Remittances in coin or currency will be tendered at the risk of the loss of money sent in that manner.

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

(d) The commission may, by general order, prescribe appropriate charges to recover, in whole or in part, the costs it incurs in furnishing copies of notices, reports, orders or any printed or typed material in its possession, except privileged information or records. There shall be no such charge for such notices, reports or orders needed solely to prosecute an appeal as provided for in AS 16.43.120.

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

20 AAC 05.720. PERMIT FILES. The commission will maintain a Record File of Interim-Use Permits and Entry Permits for each fishery for which permits have been issued.

The commission will promptly enter upon the Record File in chronological order information on each permit including the following:

- (1) issuance of the permit to the named applicant;
- (2) annual renewal of the permit;
- (3) any assessment of the permit;
- (4) payment of any assessment on the permit;
- (5) proceedings to forfeit the permit for any cause;
- (6) application for temporary transfer of the permit;
- (7) temporary transfer of permit to named person;
- (8) notice of intent to transfer the permit;
- (9) revocation of notice of intent to transfer the permit;
- (10) application for transfer of permit;
- (11) withdrawal of application for transfer of permit;
- (12) reissuance of permit to named person.

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

20 AAC 05.730. APPEARANCES. (a) In any matter or proceeding before the commission or its delegate, an applicant may appear in his own behalf or may be represented by

- (1) attorneys at law admitted to practice in Alaska;
- (2) attorneys at law qualified and entitled to practice before the highest court of record of any other state;
- (3) any person who can satisfy the commission that he possesses the qualifications necessary to enable him to render valuable service before the commission and that he is otherwise competent to advise and assist in the presentation of matters before the commission.

(b) An attorney may be permitted to withdraw from a proceeding before the commission under the conditions and in the manner prescribed in Alaska Rule of Civil Procedure 81 for the withdrawal of an attorney from a superior court proceeding.

(c) The commission may disqualify, and deny, temporarily or permanently, the privilege of appearing or practicing before it in any way, to any individual who is found by the commission, after hearing, to be lacking in the requisite qualifications to represent others or to have engaged in any conduct disruptive of the orderly and lawful process of the commission.

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

20 AAC 75.740. CONFIDENTIAL RECORDS AND INFORMATION.

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

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

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

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

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

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

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

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

FINDINGS OF THE COMMISSION REGARDING
THE PROPOSED PRIORITY CLASSIFICATION SYSTEM

Ranking Applicants According to Hardship

1. Because the number of applicants for entry permits may exceed the maximum number of entry permits available for issuance, the commission has developed a system for ranking applicants into priority classifications according to the relative hardship they would experience by exclusion from the fishery. In this way entry permits can be issued in the order of this hardship ranking, with permits going first to those classifications of applicants who would experience the most hardship by not receiving a permit.
2. A uniform point system for ranking applicants has been developed for each fishery so that the hardship standards of past participation and economic dependence can be applied equally and without discrimination to all applicants within a fishery.
3. The proposed point system will reasonably group applicants with various combinations of past participation and economic dependence into priority classifications of applicants similarly situated with respect to overall hardship.
4. The commission has received public comment on the development of the priority classification system at numerous public hearings. While views varied, an analysis of testimony from these hearings and of the responses to questionnaires distributed at the hearings has given the commission certain general indications of criteria that would be considered fair and reasonable indications of past participation and economic dependence.

Significant and Minor Economic Hardship Classifications

5. The proposed regulations establish, for each fishery, a uniform definition of significant and minor economic hardship in terms of the point system standards of past participation and economic dependence.
6. Significant and minor hardship designations will apply to individual applicants only if those applicants are within priority classifications so designated in terms of the point system. This is done in order to treat all applicants fairly and equally, and to comply with the express provisions of AS 16.43.250 (b) and (c).

Past Participation

7. Under past participation the point system will measure two factors: 1.) the number of years fished, and 2.) the consistency of participation during each year. The fact that a fisherman is a regular and consistent participant in a fishery indicates reliance on that fishery for a regular part of his livelihood.
8. The commission thinks that fairness requires primary weight be given the four years immediately preceding the qualification date. A fisherman who has stopped fishing, or is not fishing every year, is indicating a lack of actual reliance on the fishery. This means that in most cases, he would experience less hardship by exclusion than someone who is fishing regularly.
9. Although fishing as a gear license holder from 1960-1964 will entitle a person to apply, no points will be given for past participation prior to 1965 because the commission thinks such participation is too remote to indicate possible hardship. Such an applicant may, however, be able to qualify for points under other standards such as investments in vessels and gear.
10. The commission proposes to give some points for those years an applicant participated as a crewman, since this usually indicates a pattern of continuing reliance upon the fishery.
11. The fairest measure of consistency of participation is the number of weeks of a given fishing season that an applicant made landings of fish. However, the number of open fishing periods may have varied in different places within the same registration area, and there are other variables that make this an imperfect measure of consistency. For this reason, the commission intends merely to set a minimum acceptable number of weeks fished, and anything over that would entitle an applicant to the full number of points for consistency.

Economic Dependence

12. Under economic dependence the point system measures four factors:
 - (1) The percentage of an applicant's income derived from the fishery;

- (2) The extent of an applicant's reliance on occupations other than fishing;
- (3) An applicant's investment in vessels, gear or set-net sites; and
- (4) The general availability of nonfishing occupations in the applicant's place of domicile.

13. The commission proposes to consider together the first two factors of percentage of income and reliance on nonfishing occupations. This will be done by considering the relation between the value of a fisherman's annual catch and the amount of his income from occupations other than fishing. In the proposed regulations this relationship has been termed the "income dependence percentage". Nonfishing occupational income will not include income on money a fisherman has saved, such as interest income, stock dividends or returns on capital investments.

14. Since the commission must look at economic dependence as of the January 1, 1973 qualification date, the "income dependence percentage" will be considered for the two years 1971 and 1972. Where special circumstances make this an unreasonable indication of an applicant's income dependence, the commission may award an appropriate number of points based upon an applicant's special showing of income dependence.

15. The value of a fisherman's annual catch (gross earnings) will be determined by multiplying the number of pounds of the fishery resource which an applicant landed times the average price per pound for that area and year. The commission will establish average prices for each fishery for the purpose of determining annual catch value. Requiring applicants to use average price figures will avoid substantial evidence problems since good evidence is generally available on the pounds of fish a fisherman landed, but not on the actual prices or bonuses paid.

16. The commission recognizes that annual catch value is no direct indication of net income. However, it assumes that for a given fisherman in a given year, as gross earnings increase, so does net income. The relation between gross earnings and income also varies from fishery to fishery. Gross earnings of \$20,000 might represent a loss in a purse seine fishery, where the same total gross for a drift gill net boat might represent a good net income. However, within a given fishery, costs are roughly comparable, so annual catch value should provide a fair point of comparison.

17. Considering an applicant's "income dependence percentage" has the following advantages:

- (a) It does not penalize the longtime successful fisherman who has saved money or made wise investments which contribute to his total income.
- (b) It does not penalize the more professional fishermen who fish several different fisheries, but rely solely on fishing for their livelihoods.
- (c) By using average prices for each fishery in determining annual catch value, it avoids the problem of trying to account fairly for differential bonuses paid by processors.
- (d) By using gross earnings in determining annual catch value it avoids the confusion and unfairness which would result from the different ways individuals treat fishing income in their tax returns in arriving at net income.
- (e) Using annual catch value is the only ready way to separate what a fisherman made from a specific fishery within Alaska from the rest of his fishing income.
- (f) In most cases good evidence is obtainable, even if the fisherman cannot provide his own records. Annual catch value can be determined in most cases from existing state records. A fisherman can establish his nonfishing occupational income from his federal income tax returns. Duplicates of these are obtainable from the IRS if necessary.

18. It is true that using the income dependence percentage may give some advantage to a person who could have worked another job during the offseason but chose not to, because of either lack of initiative or lower income needs. However, there is no fair and practical way to separate these individuals from those whose high income dependence percentage represents real need and necessary reliance on fishing for a livelihood. The requirement of protecting those who are truly income dependent on fishing outweighs the shortcomings of this measure.

19. The commission recognizes that the average percentage of income dependence will vary greatly from fishery to fishery. Many fisheries are naturally part-time, and most fishermen may work other jobs in the off-season. In such fisheries the income dependence percentage required will tend to be lower, because the average dependence of all fishermen is less.

20. The income dependence percentage will be used to group the participants in the fishery. A cut-off percentage (for example, 60%) is established in the regulations so that the top group in terms of income dependence get the maximum points possible under this factor. The middle group get a lesser number of points, and below a lower cut-off percentage (for example, 25%), the bottom group would get no points at all under this factor. Because of the difference in average fisherman's dependence from fishery to fishery, these cut-off percentages will vary from fishery to fishery.

21. Income dependence is a very important consideration in defining hardship. Someone who makes a major part of his livelihood from some other occupation is not likely to experience as much hardship by not getting a permit as someone who relies primarily on fishing. In many cases, an individual may fish part of the year by preference, but would have his nonfishing occupation available to him the year round if necessary. A person with a low income dependence percentage has demonstrated that he has other ways to turn.

Investment in Vessels, Gear and Set Net Sites

22. Significant investment in a vessel, gear, or set net site is usually good evidence of a fisherman's serious involvement in a fishery. His fishing income must produce an adequate return on that investment as well as on his own labor unless he can afford to fish at a loss. Therefore, investment indicates possible hardship by providing an additional measure of a fisherman's reliance on fishing for part or all of his livelihood.

23. Investment also indicates a second kind of possible hardship. If a fisherman who has a significant investment does not get an entry permit, he may suffer a loss if he cannot readily sell his vessel, gear or site at fair market value. The amount of this possible loss may vary greatly depending on special market circumstances, and may not be directly proportional to the amount of investment or the present market value of the vessel, gear, or set net site.

24. The treatment of set net sites will vary from fishery to fishery depending upon the customs of the local region. In some areas, there are established patterns of ownership, with sites being bought and sold for considerable sums of money. In some cases the uplands may be owned and the tidelands leased, in others there may be nothing more than the transfer of established use rights. Under the proposed point system, points for site ownership would be given in these areas to those fishermen who owned or held the recognized right on the qualification date to transfer a particular site for valuable consideration.

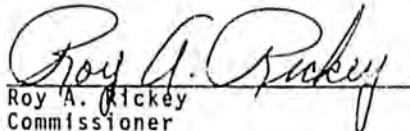
Availability of Alternative Occupations

25. To the extent that the availability of alternative occupations is a function of an applicant's individual aptitudes and training, it may be reflected under the income dependence measure as actual reliance on alternative occupations. In addition, there is no fair and ready way to determine the availability of alternative occupations in terms of each individual's abilities. Therefore, the commission will consider the availability of alternative occupations solely as an attribute of an applicant's domicile, that is, where he makes his permanent home for the greater part of the year.

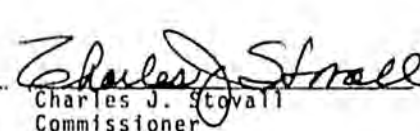
26. The availability of alternative occupations where an applicant lives reflects hardship in one very important way. A fisherman living in a rural area where other jobs are scarce or not available, will probably experience more hardship if denied an entry permit than a fisherman who lives in an urban area where other work is generally available. This is particularly true in very remote areas where there is poor transportation and little business activity.

27. All urban residents are considered to have reasonable access to alternative jobs, and for this reason would suffer no special hardship on this account. The commission recognizes that there are some seasonal and regional variances in the availability of employment within urban areas, but it would be extremely difficult to allow fairly for these differences, and in general the job markets are much broader in the diversified economies of urban areas.

Adopted by the Commercial Fisheries Entry Commission at its regular meeting on the 12 day of July, 1974.


Roy A. Rickey
Commissioner


David S. Jackman
Chairman


Charles J. Stovall
Commissioner

Census Divisions and Selected Places

