

**HB**

**386**

<TARGET><BILL>HB 386</BILL><SUBJECT>HB  
386</SUBJECT><COMM>HFSH28</COMM></TARGET>



# ALASKA STATE LEGISLATURE

## House Fisheries Committee

**Representative Paul Seaton, Chair**

State Capitol Building, Room 102

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### **HB 386**

#### **Sponsor Statement**

In 1972, voters amended Alaska's constitution to allow limited entry into the state's commercial fisheries. Following this amendment, in 1973 the State Legislature enacted Alaska's Limited Entry Act (AS 16.43), creating the state's limited entry program and giving the Commercial Fisheries Entry Commission (CFEC) the responsibility for administering the program.

The commission serves as a regulatory and quasi-judicial agency of the state. Three commissioners are appointed by the Governor and confirmed by the legislature. Commission staff is organized into five sections: administration, adjudications, research & planning, licensing, and information technology. The commission is charged with establishing maximum numbers of entry permits for fisheries to be limited, processing entry permit applications and adjudicating claims, issuing annual permits in both limited and open access fisheries, processing requests for emergency and permanent transfers as well as research and coordination with state and federal management agencies in developing fisheries policies.

The commission has fulfilled its purpose commendably. Between 1974 and 2013, entry permits have been issued in a total of 65 commercial fisheries: 26 salmon fisheries, 19 herring fisheries, 9 crab fisheries, 5 sablefish fisheries, 3 shrimp fisheries, and 3 dive fisheries. To date, a total of 79 permit types have been issued in the 65 limited fisheries.

While undertaking the bulk of fisheries limitations in the 1970's, 80's and 90's, the commission established limited entry fisheries on nearly an annual basis. The caseload of permit adjudications before the commissioners has significantly decreased since this time. The last fishery that was limited in Alaska was in 2004. A comparative look at the permit caseload before the commissioners shows that in 1998 commissioners adjudicated 105 permit cases, 42 permit transfer cases and 10 miscellaneous actions while in 2013 commissioners adjudicated 3 entry permit applications, 2 permit transfers and one remand to the adjudication section.

Recognizing that the commission has fulfilled its statutory mandate under limited entry, HB 386 repeals the commission, and shifts the current permitting, research, licensing and other duties undertaken by the commission into a Commercial Fisheries Entry Division in the Department of Fish and Game. Employees of the Commercial Fisheries Entry Division would be moved into the classified employment category, instead of their current exempt category. Under HB 386 permit adjudications will be handled by the Office of Administrative Hearings.

The commission has served Alaska well. HB 386 would continue with the work of administering Alaska's limited entry fishery system under the Commercial Fisheries Entry Division.



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### **HB 386 Sectional Analysis**

HB 386 enacts a change in statutes establishing a Commercial Fisheries Entry Division in the Department of Fish and Game. HB 386 repeals references to the Commercial Fisheries Entry Commission. The majority of the sections in HB 386 enact conforming amendments replacing references to Commercial Fisheries Entry Commission with Commercial Fisheries Entry Division. The sectional below lists the topic of the section in which the conforming amendment occurs.

Please note that a sectional analysis of a bill or resolution should not be considered an authoritative interpretation of the measure itself. The legislation is the best statement of its contents.

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- Section 1 – Powers and Duties of the Commissioner of the Alaska Department of Fish and Game
- Section 2 – Process to petition the Board of Fisheries to establish a moratorium on new entrants into a commercial fishery
- Section 3 – Vessel license statute
- Section 4 – Social Security number to child services agency
- Section 5 – Vessel number plate
- Section 6 – Issuance of permanent vessel number plate
- Section 7 – Prohibition on landing or delivering fish in state without landing permit
- Section 8 – Issuance of landing permits
- Section 9 – Confidentiality of records
- Sections 10, 11, 12 - Loans for purchase of Alaska limited entry permits
- Section 13 – Limited entry permit loan default and foreclosure
- Section 14 – Transfer of entry permit after foreclosure
- Section 15 – Sale of a foreclosed permit
- Section 16 – Commercial Fishing Loan Act definitions section modification
- Section 17 – Salmon Fishery Associations
- Section 18 – Establishes the Commercial Fisheries Entry Division
- Section 19 – Powers and Duties of the Commercial Fisheries Entry Division
- Section 20 – Regulations and hearing procedures
- Section 21 - Application of Administrative Procedure Act
- Sections 22, 23 –Requirement for entry permit
- Section 24 – Failure to renew an entry permit
- Section 25 – Death of a permit holder
- Section 26 – Voluntary relinquishment of a permit
- Section 27, 28, 29 – Annual fee for entry permit
- Sections 30, 31, 32, 33 – Transferability of permits

Section 34 – Emergency permit transfers  
Section 35 – Administrative areas  
Sections 36, 37, 38, 39– Interim use permits  
Section 40 – Moratorium on new entrants into certain fisheries  
Section 41 – Moratorium in Southeast Alaska Dungeness crab fishery  
Sections 42, 43 – Moratorium in Southeast Alaska dive fisheries  
Section 44 – Designation of distressed fisheries  
Sections 45, 46 – Determination of the maximum number of entry permits for initial issue  
Section 47 –Standards for initial issuance of entry permits  
Sections 48, 49, 50, 51, 52 – Application for initial issuance of entry permits  
Sections 53, 54, 55 – Initial issuance of entry permits  
Section 56 – Optimum number of entry permits  
Section 57 – Revision of optimum number of entry permits  
Section 58 – Establishment of buy-back funds and permit buy-back assessments  
Section 59 – Administration of buy-back program  
Section 60, 61 – Issuance of new entry permits; appropriations related to fleet reduction  
Sections 62, 63 – Educational entry permit  
Section 64, 65 – Terms and conditions of education entry permit  
Section 66 – Accounting of harvest  
Section 67 – Adoption of regulations  
Section 68 – Special harvest area entry permits  
Section 69 – Terms and Conditions of special harvest area entry permits  
Section 70 – Adoption of regulations  
Sections 71, 72, 73 – Demerit point system for commercial salmon fishery violations  
Sections 74, 75 – Assessment of demerit points  
Sections 76, 77, 78 – Permit suspensions  
Section 79 – Notice and appeal  
Section 80 – Required notice to commission  
Section 81 – Hearings in proximity to Board of Fisheries Meetings  
Section 82, 83, 84, 85, 86, 87, 88, 89 - Commission revocation or suspension of permits  
Section 90, 91, 92, 93 – Penalties  
Section 94 – Public disclosure of certain documents prohibited  
Section 95 – Annual report requirement  
Section 96, 97, 98 – Definitions  
Section 99 – Child support lien against commercial fishing earnings  
Section 100 – Program receipts reference – Fiscal Policies Act  
Section 101 – Election to terminate salmon enhancement tax  
Section 102 – Election to approve and or terminate dive fishery management assessment  
Section 103 – Definitions  
Section 104 – Election to approve and or terminate salmon fishery assessment  
Section 105 – Definitions  
Section 106 – Permit buy-back assessment  
Section 107 – Election to approve and or terminate seafood development tax  
Section 108 – Jurisdictions of the office of Administrative Hearings  
Section 109 – Pledge of permit for security on loan with the Commercial Fishing and Agriculture Bank (CFAB)  
Section 110 – Initial notice of default (CFAB)  
Section 111 – Foreclosure (CFAB)  
Section 112 – Termination of permit interest (CFAB)  
Sections 113, 114 – Transfer of entry permits after foreclosure (CFAB)  
Section 115 – Definitions (CFAB)

Section 116 – Repeal of Commercial Fisheries Entry Commission statutes and references: Definition section of Commercial Fishing Loan Act - 16.10.360(1), enabling statute of Commercial Fisheries Entry Commission – 16.43.02, Commission term of office, vacancy and removal – 16.43.030, Commission quorum – 16.43.040, Commission qualifications – 16.43.050, Commission compensation – 16.43.060, Commission legal counsel – 16.43.070, Commission Employment of personnel – 16.43.080, a portion of the Southeast Alaska dive fisheries statute is deleted as it is no longer valid statute – 16.43.228(e), The Commercial Fisheries Entry Commission is removed from the exempt service statute 39.25.110(11)(D), removes the Commercial Fisheries Entry commission from the public official financial disclosure law 39.50.200(b)(10)

Section 117 – Transition language

Section 118 – Employees

## EXECUTIVE SUMMARY

# CHANGES IN THE DISTRIBUTION OF ALASKA'S COMMERCIAL FISHERIES ENTRY PERMITS, 1975 to 2013

CFEC Report Number 14-2N-EXEC

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Alaska Commercial Fisheries Entry Commission  
8800 Glacier Highway, Suite 109  
P.O. Box 110302  
Juneau, Alaska 99811-0302  
(907) 789-6160

**TABLE 3: Total Number of Initial Permit Holders by Permit Type and Resident Type**

Permits First Issued in:	All Permits Issued to					All Transferable Permits Issued to					All Permits	
	Alaska Rural		Alaska Urban		NR	Alaska Rural		Alaska Urban		NR	Alaska Total	Grand Total
	Local	Nonlocal	Local	Nonlocal		Local	Nonlocal	Local	Nonlocal			
<b>1975</b>												
SE Salmon Seine	147	0	66	1	205	147	0	66	1	205	214	419
SE Salmon Drift Gillnet	172	1	143	4	155	172	1	143	4	155	320	475
Salmon Power Troll	321	5	354	11	281	321	5	354	11	281	691	972
Yakutat Salmon Setnet	129	3	0	22	18	129	3	0	22	18	154	172
PWS Salmon Seine	184	13	0	14	56	184	13	0	14	56	211	267
PWS Salmon Drift Gillnet	354	20	0	27	136	354	20	0	27	136	401	537
PWS Salmon Setnet	21	0	0	2	7	20	0	0	2	7	23	30
Cook Inlet Salmon Seine	76	0	7	1	1	76	0	7	1	1	84	85
Cook Inlet Salmon Drift	170	12	197	9	185	170	12	197	9	185	388	573
Cook Inlet Salmon Setnet	204	16	445	25	56	204	16	445	25	56	690	746
Kodiak Salmon Seine	77	26	165	10	106	77	26	165	10	106	278	384
Kodiak Salmon Beach Seine	13	2	18	1	2	12	1	17	1	1	34	36
Kodiak Salmon Setnet	44	3	79	11	51	44	3	79	11	51	137	188
Chignik Salmon Seine	32	12	0	28	19	32	12	0	28	19	72	91
Pen/Aleutian Salmon Seine	102	0	0	3	16	102	0	0	3	16	105	121
Pen/Aleutian Salmon Drift	99	1	0	13	49	99	1	0	13	49	113	162
Pen/Aleutian Salmon Setnet	98	0	0	9	9	98	0	0	9	9	107	116
Bristol Bay Salmon Drift	712	185	0	233	745	712	185	0	233	745	1,130	1,875
Bristol Bay Salmon Setnet	660	54	0	163	154	557	49	0	140	137	887	1,041
	3,615	363	1,474	587	2,251	3,510	347	1,473	564	2,233	6,039	8,290
<b>1976</b>												
Upper Yukon Salmon Gillnet	57	3	13	1	1	57	3	13	1	1	74	75
U Yukon Salmon Fish Wheel	141	4	17	2	1	141	4	17	2	1	164	165
Kuskokwim Salmon Gillnet	662	5	172	0	0	662	5	172	0	0	839	839
Kotzebue Salmon Gillnet	54	2	157	6	1	54	2	157	6	1	219	220
Lower Yukon Salmon Gillnet	672	27	0	12	1	672	27	0	12	1	711	712
Norton Sound Salmon Gillnet	178	1	23	2	0	178	1	23	2	0	204	204
	1,764	42	382	23	4	1,764	42	382	23	4	2,211	2,215
<b>1977-78</b>												
SB Roe Herring Seine	24	0	17	0	6	24	0	17	0	6	41	47
SE Herring Gillnet	44	0	39	1	27	44	0	39	1	27	84	111
PWS Roe Herring Seine	32	44	0	19	10	32	44	0	19	10	95	105
Cook Inlet Herring Seine	46	5	4	13	7	46	5	4	13	7	68	75
	146	49	60	33	50	146	49	60	33	50	288	338
<b>1980-87</b>												
Salmon Hand Troll	992	11	964	42	153	380	1	282	8	34	2,009	2,162
NSEI Sablefish Longline	14	2	31	2	22	14	2	31	2	22	49	71
SSEI Sablefish Longline	4	0	8	0	4	3	0	7	0	4	12	16
SSEI Sablefish Pots	1	0	1	0	1	1	0	1	0	0	2	3
SE Red,Blue King Crab Pot	2	0	2	0	2	2	0	2	0	2	4	6
SE Red,Blue,Brn King Crb Pot	4	0	1	0	2	3	0	1	0	1	5	7
SE Brown King Crab Pot	6	0	3	0	1	3	0	1	0	1	9	10
SE Red,Blue King/Tanner Pot	6	0	7	0	1	6	0	7	0	1	13	14
SE Brown King/Tanner Pot	2	0	1	0	3	2	0	0	0	2	3	6
SE All King/Tanner Pot	17	0	8	0	4	16	0	7	0	4	25	29
SE Tanner Crab Pot	10	1	6	0	10	8	1	6	0	5	17	27
PWS Roe Herring Gillnet	20	0	0	0	4	20	0	0	0	4	20	24
PWS Her Spawn on Kelp Pound	69	8	0	15	36	69	8	0	15	36	92	128
Kodiak Roe Herring Seine	11	11	43	3	17	9	5	36	1	6	68	85
Kodiak Roe Herring Gillnet	6	28	55	18	12	6	20	40	12	4	107	119
Kodiak Roe Her Seine/Gill	0	0	1	0	1	0	0	1	0	0	1	2
	1,164	61	1,131	80	273	542	37	422	38	1	2,436	2,709
<b>1988-91</b>												
B Bay Herring Spawn on Kelp	276	4	0	6	5	276	4	0	6	5	286	291
Norton Sd Her Beach Seine	0	4	0	1	4	0	4	0	1	4	5	9
Nelson Island Her Gillnet	142	19	0	8	9	126	18	0	7	7	169	178
Nunivak Island Her Gillnet	44	7	0	8	5	40	5	0	6	3	59	64
Lower Yukon Herring Gillnet	94	5	0	4	3	88	2	0	2	0	103	106
Norton Sd Herring Gillnet	154	36	6	40	64	154	36	6	40	64	236	300
	710	75	6	67	90	684	69	6	62	83	858	948

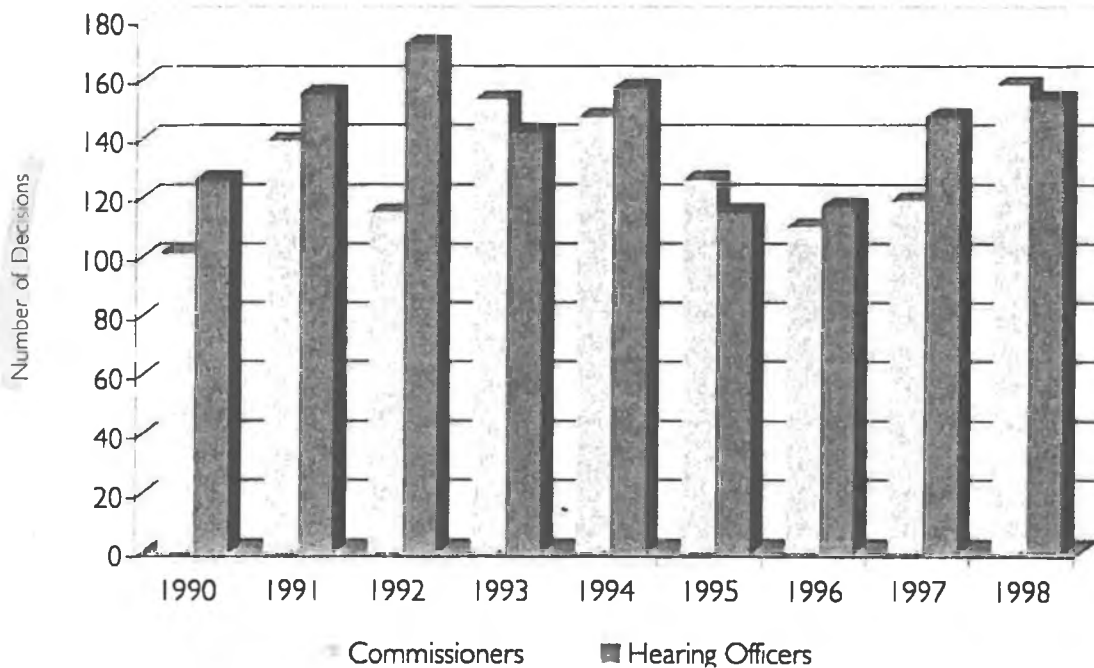
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Permits First Issued in:	All Permits Issued to					All Transferable Permits Issued to					All Permits	
	Alaska	Alaska	Alaska	Alaska	NR	Alaska	Alaska	Alaska	Alaska	NR	Alaska	
	Rural	Rural	Urban	Urban		Rural	Rural	Urban	Urban		Total	Grand Total
Local	Nonlocal	Local	Nonlocal	Local	Nonlocal	Local	Nonlocal	Local	Nonlocal	Local	Nonlocal	
<b>1997</b>												
SE Dungeness Ring Net	6	0	2	0	0	0	0	0	0	0	8	8
SE Dungeness Dive	1	0	2	0	0	0	0	0	0	0	3	3
SE Dungeness 300 Pot	32	0	7	0	13	32	0	7	0	13	39	52
SE Dungeness 225 Pot	29	0	8	1	10	28	0	7	1	10	38	48
SE Dungeness 150 Pot	54	0	18	0	15	53	0	17	0	13	72	87
SE Dungeness 75 Pot	78	3	25	0	21	50	1	14	0	7	106	127
Cook Inlet Dunge Ring Net	1	0	0	0	0	0	0	0	0	0	1	1
Cook Inlet Dungeness Pot	58	3	6	2	2	49	2	4	2	2	69	71
	259	6	68	3	61	212	3	49	3	45	336	397
<b>1998</b>												
NSE Her Spawn on Kelp Pound	32	1	58	4	17	32	1	58	4	17	95	112
SSE Her Spawn on Kelp Pound	146	0	48	1	14	114	0	28	1	10	195	209
SE Shrimp Otter Trawl	0	0	0	1	0	0	0	0	0	0	1	1
SE Shrimp Beam Trawl	25	0	2	0	5	18	0	2	0	3	27	32
SE Shrimp Pot	171	4	113	4	20	84	1	54	3	13	292	312
PWS Sablefish Net Gear	0	0	0	1	0	0	0	0	1	0	1	1
PWS Sablefish Fixed 90ft	1	0	0	0	0	1	0	0	0	0	1	1
PWS Sablefish Fixed 60ft	0	0	0	2	0	0	0	0	2	0	2	2
PWS Sablefish Fixed 50ft	6	7	0	15	4	6	7	0	15	4	28	32
PWS Sablefish Fixed 35ft	3	2	0	2	3	3	2	0	2	3	7	10
	384	14	221	30	63	258	11	142	28	50	649	712
<b>1999-2002</b>												
SE Urchin Dive	8	1	21	2	51	8	1	21	2	50	32	83
SE Geoduck Dive	22	0	31	3	56	7	0	8	1	34	56	112
SE Cucumber Dive	111	2	162	7	107	42	0	69	3	42	282	389
Goodnews Bay Her Gillnet	46	122	0	13	1	46	116	0	13	1	181	182
Kodiak Fd/Bt Her Seine/Gill	1	0	4	0	0	1	0	4	0	0	5	5
Kodiak Fd/Bt Her Trawl 75ft	0	0	0	0	1	0	0	0	0	1	0	1
Kodiak Fd/Bt Her Trawl 70ft	0	0	1	0	0	0	0	1	0	0	1	1
Kodiak Fd/Bt Her Trawl 60ft	0	0	0	0	2	0	0	0	0	2	0	2
	188	125	219	25	218	104	117	103	19	130	557	775
<b>2004</b>												
Kodiak Tnr Bairdi Pot 120ft	0	3	31	2	7	0	2	25	2	6	36	43
Kodiak Tnr Bairdi Pot 60ft	15	7	92	10	14	15	7	87	9	13	124	138
	15	10	123	12	21	15	9	112	11	19	160	181
<b>Overall Totals</b>	<b>8,245</b>	<b>745</b>	<b>3,684</b>	<b>860</b>	<b>3,031</b>	<b>7,235</b>	<b>684</b>	<b>2,749</b>	<b>781</b>	<b>2,740</b>	<b>13,534</b>	<b>16,565</b>

ceeding and six on miscellaneous actions. (The miscellaneous actions were primarily on qualifications for interim-use permits in fisheries subject to moratoria.) At the end of the year, 363 cases were pending before hearing officers.

The Commissioners adjudicated a total of 158 cases during 1998: 105 permit applications, 42 permit transfers, one notice to show cause action and 10 miscellaneous actions. At the end of the year, 227 cases were pending before the Commissioners.

## DECISIONS COMPLETED



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**THE COMMISSION'S WEB  
SITE NOW INCLUDES  
INFORMATION ABOUT THE  
NUMBERS OF LIMITED  
ENTRY PERMIT  
APPLICATIONS PENDING  
IN THE ADJUDICATION  
PROCESS**

The Adjudication Section's staff issued 108 decisions in 1999: 69 on entry permit applications, 33 on permit transfers, five renewal fee cases and one case on an applicant's qualifications for an interim-use permit in a fishery subject to a moratorium. At the end of the year, 323 cases were pending before hearing officers.

The Commissioners adjudicated a total of 127 cases during 1999: 80 permit applications, 41 permit transfers, five renewal fee cases and one moratorium case. At the end of the year, 217 cases were pending before the Commissioners.

The Commission's web site now includes information about the numbers of limited entry permit applications pending in the adjudication process for each fishery. The web site also has synopses of specific Commission decisions on entry permit applications.

## **JUDICIAL RULINGS AND APPEALS**

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The Alaska Supreme Court did not issue any decisions on limited entry cases during 1999.

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## **ADMINISTRATIVE PROCEEDINGS AND DECISIONS**

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During 2000, the Adjudication Section evaluated and classified applications for entry permits in the Southeast Alaska sea urchin dive fishery.

The Adjudications Section's staff issued 84 decisions in 2000: 47 on entry permit applications, 27 on permit transfers, 3 on notices to show cause and 7 on miscellaneous issues. At the end of the year, 291 cases were pending before hearing officers.

The Commissioners adjudicated a total of 103 cases during 2000: 70 permit applications, 25 permit transfers, 3 notices to show cause and 5 miscellaneous issues. At the end of the year, 177 cases were pending before the Commissioners.

The Commission's web site now includes information about the numbers of limited entry permit applications pending in the adjudication process for each fishery. The web site ([www.cfec.state.ak.us](http://www.cfec.state.ak.us)) also has synopses of specific Commission decisions on entry permit applications.

## **JUDICIAL RULINGS AND APPEALS**

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The Alaska Supreme Court did not issue any decisions on limited entry cases during 2000.

**THE COMMISSION'S  
WEB SITE NOW  
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PERMIT APPLICATIONS  
PENDING IN THE  
ADJUDICATION PROCESS**

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## **ADMINISTRATIVE PROCEEDINGS AND DECISIONS**

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The Adjudications section's staff issued 97 decisions in 2001: 64 permit applications, 25 permit transfers, and 8 miscellaneous issues. At the end of the year, 256 entry permit application cases were pending before hearing officers.

The commissioners adjudicated a total of 108 cases during 2001: 71 permit applications, 27 permit transfers, 1 fee arrearage, and 9 miscellaneous issues. At the end of the year, 166 cases were pending before the commissioners.

The Commission's web site includes information about the number of limited entry permit applications pending in the adjudication process for each fishery. The web site ([www.cfec.state.ak.us](http://www.cfec.state.ak.us)) also has synopses of specific Commission decisions on entry permit applications.

**THE COMMISSION'S  
WEB SITE INCLUDES  
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LIMITED ENTRY PERMIT  
APPLICATIONS PENDING  
IN THE ADJUDICATION  
PROCESS FOR EACH  
FISHERY.**

## **JUDICIAL RULINGS AND APPEALS**

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The Alaska Supreme Court issued two decisions on limited entry permit application cases during 2001.

In *Leuthe v. State, CFEC*, 20 P.3d 547 (Alaska 2001), the court upheld the CFEC's refusal to accept a permit application that Leuthe attempted to file three years after the application deadline.

In *Estate of Basargin v. State, CFEC*, 31 P.3d 796 (Alaska 2001) the court affirmed CFEC's denial of Basargin's point claims for unavoidable circumstances, investment in vessel and gear and income dependence. The court also rejected Basargin's claim that he was not given a meaningful opportunity to be heard because he presented his case, with counsel, to a hearing officer and again in oral appearances before the commissioners.

THE COMMISSION'S  
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THE NUMBER OF  
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PROCESS FOR EACH  
FISHERY.

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and bait herring trawl fishery. Additional information on these fisheries can be found in the "Decisions and Activities" section of this report.

The Adjudications section's staff issued 81 decisions in 2002: 53 on permit applications, 16 on permit transfers, 4 on assessment of fines, 7 on notices to show cause, and 1 on miscellaneous issues. At the end of the year, 204 entry permit application cases were pending before hearing officers.

The commissioners adjudicated a total of 104 cases during 2002: 75 on permit applications, 16 on permit transfers, 3 on assessment of fines, 7 on notices to show cause, and 3 on miscellaneous issues. At the end of the year, 158 cases were pending before the commissioners.

The Commission's web site includes information about the number of limited entry permit applications pending in the adjudication process for each fishery. The web site ([www.cfec.state.ak.us](http://www.cfec.state.ak.us)) also has synopses of specific Commission decisions on entry permit applications.

## JUDICIAL RULINGS AND APPEALS

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The Alaska Supreme Court issued two decisions on limited entry permit application cases during 2002.

In *Cleaver v. State, CFEC*, 48 P.3d 464 (Alaska 2002), the court upheld CFEC's denial of Cleaver's claim that extraordinary circumstances prevented him from qualifying for participation credit for 1983. Cleaver's attempt to participate in the fishery failed because he used unsuitable equipment, lacked experience and abandoned his intention to participate after some initial difficulties. The court agreed that Cleaver did not encounter an "extensive mechanical breakdown" as required under CFEC's extraordinary circumstances regulation.

In *Crivello v. State, CFEC*, 59 P.3d 741 (Alaska 2002), the court upheld CFEC's decision to give Crivello only three of the six points available for owning a vessel and gear because he shared ownership of the vessel and gear with a partner. The court rejected Crivello's claim that his partner should be able to donate the additional points to him. It also rejected his claim

# Adjudications

## Overview

The Adjudications Section evaluates, classifies, and adjudicates applications for limited entry permits. Permit applicants are classified and ranked against each other under point systems that measure each applicant's past participation and economic dependence on a fishery. Entry permits are issued first to applicants shown by their point levels to be most dependent on a fishery and then to applicants at successively lower classification levels, until a maximum number of permits for the fishery has been issued.

Adjudication functions are performed by paralegals, hearing officers, and commissioners. Paralegals evaluate entry permit applications and make the initial determination accepting, denying, or classifying each application. An applicant may challenge the denial or classification of an entry permit application by requesting a hearing. Commission hearing officers conduct administrative hearings and issue decisions based on the record.

Hearings may also be requested if the Commission's Licensing Section denies requests for emergency transfers or permanent transfers of entry permits. Emergency transfer hearings are held and decided by paralegals. Permanent transfer hearings are held and decided by hearing officers.

Commissioners review each paralegal and hearing officer decision and may order further review and hearings on their own motion or upon the request of an affected party. Commissioners may also take formal action to modify, reverse, or affirm the decisions.

Hearing officers also preside over hearings that arise from enforcement proceedings, where the Commission may impose fines, revoke, or suspend permits of those who attempt to mislead the Commission with false information. These hearings are held in the presence of the commissioners.

*COMMISSION HEARING OFFICERS CONDUCT ADMINISTRATIVE HEARINGS AND ISSUE DECISIONS BASED ON THE RECORD.*

## Administrative Proceedings and Decisions

The Adjudications staff issued 38 decisions in 2010, 7 permit applications, 30 permit transfer requests, and a miscellaneous matter (fee refund). At the end of the year, 13 entry permit application cases were pending before hearing officers.

Commissioners adjudicated a total of 46 cases during 2010; 14 permit applications, 31 permit transfers, and a fee refund. At the end of the year, 26 entry permit applications were pending before the commissioners.



# Adjudications

## Overview

The Adjudications Section evaluates, classifies, and adjudicates applications for limited entry permits. Permit applicants are classified and ranked against each other under point systems that measure each applicant's past participation and economic dependence on a fishery. Entry permits are issued first to applicants shown by their point levels to be most dependent on a fishery and then to applicants at successively lower classification levels, until a maximum number of permits for the fishery has been issued.

Adjudication functions are performed by paralegals, hearing officers, and commissioners. Paralegals evaluate entry permit applications and make the initial determination accepting, denying, or classifying each application. An applicant may challenge the denial or classification of an entry permit application by requesting a hearing. Commission hearing officers conduct administrative hearings and issue decisions based on the record.

Hearings may also be requested if the Commission's Licensing Section denies requests for emergency transfers or permanent transfers of entry permits. Emergency transfer hearings are held and decided by paralegals. Permanent transfer hearings are held and decided by hearing officers.

Commissioners review each paralegal and hearing officer decision and may order further review and hearings on their own motion or upon the request of an affected party. Commissioners may also take formal action to modify, reverse, or affirm the decisions.

*COMMISSION HEARING OFFICERS CONDUCT ADMINISTRATIVE HEARINGS AND ISSUE DECISIONS BASED ON THE RECORD.*

Hearing officers also preside over hearings that arise from enforcement proceedings, where the Commission may impose fines, revoke, or suspend permits of those who attempt to mislead the Commission with false information. These hearings are held in the presence of the commissioners.

## Administrative Proceedings and Decisions

The Adjudications staff issued 31 decisions in 2011: 4 permit applications, 26 permit transfer requests, and 1 miscellaneous matter (demerit points). At the end of the year, 9 entry permit application cases were pending before hearing officers.

Commissioners adjudicated a total of 30 cases during 2011: 5 permit applications, 24 permit transfers, and 1 demerit point case. At the end of the year, 26 entry permit applications were pending before the commissioners.



# Adjudications

## Overview

The Adjudications Section evaluates, classifies, and adjudicates applications for limited entry permits. Permit applicants are classified and ranked against each other under point systems that measure each applicant's past participation and economic dependence on a fishery. Entry permits are issued first to applicants shown by their point levels to be most dependent on a fishery and then to applicants at successively lower classification levels, until a maximum number of permits for the fishery has been issued.

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Commissioners review each paralegal and hearing officer decision and may order further review and hearings on their own motion or upon the request of an affected party. Commissioners may also take formal action to modify, reverse, or affirm the decisions.

Hearing officers also preside over hearings that arise from enforcement proceedings, where the Commission may impose fines, revoke, or suspend permits of those who attempt to mislead the Commission with false information. These hearings are held in the presence of the commissioners.

## Administrative Proceedings and Decisions

The Adjudications staff issued 29 decisions in 2012: 2 entry permit applications, 22 permit transfer requests, and 5 miscellaneous matters (fees and residency status). At the end of the year, 7 entry permit application cases were pending before hearing officers.

Commissioners adjudicated a total of 19 cases during 2012: 3 entry permit applications, 9 permit transfers and 7 miscellaneous cases. At the end of 2012, 25 entry permit applications were pending before the commissioners.

By the end of 2012, commissioners and hearing officers had made substantial progress reducing the Commission's adjudication caseload. Looking back to 1990, as the result of the *Wassillie* settlement (authorizing hundreds of new applications in the salmon fisheries) and a series of Alaska Supreme Court cases during the 1980s, the Commission's caseload had risen to nearly 900 cases.

Additionally, since 1990, the Commission has been required by statute to limit 26 additional fisheries generating thousands of new applications for entry permits. From 1990 through 2012, the Commission issued more than 2,100 final decisions, thereby deciding cases at a rate faster than applicants filed new appeals and reducing its overall caseload to 32.

Commission decisions implementing the Limited Entry Act and their review by the Alaska Courts have generated a unique body of law characterized by one Alaska Supreme Court Justice as "arcane".

**Louie Flora**

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**Subject:** FW: 2013 adjudications, cfec

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**From:** Glass, Frank A (CFEC) [<mailto:frank.glass@alaska.gov>]  
**Sent:** Monday, March 17, 2014 4:17 PM  
**To:** Louie Flora  
**Cc:** Twomley, Bruce C (CFEC); Brown, Ben (CFEC)  
**Subject:** 2013 adjudications, cfec

Mr. Flora:

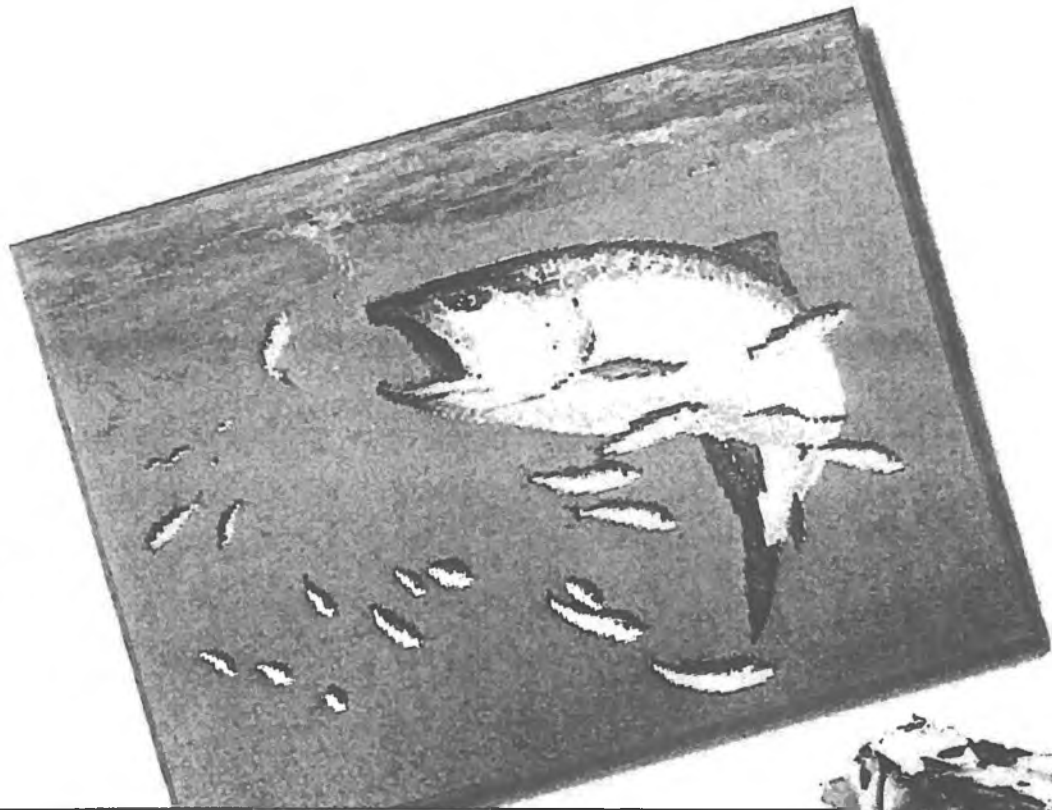
I obtained the numbers of adjudicative decisions at the CFEC during calendar year 2013. Using the format from CFEC annual reports:

"The adjudication staff issued 41 decisions in 2013: 1 entry permit application, 34 permit transfer requests, and 6 miscellaneous matters. At the end of the year, 7 entry permit application cases were pending before hearing officers.

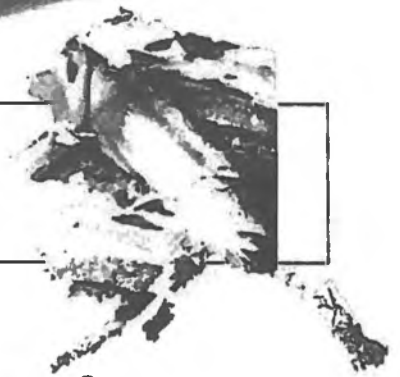
"Commissioners adjudicated a total of 6 cases during 2013: 3 entry permit applications, 2 permit transfers and 1 remand to the adjudication section. At the end of 2013, 22 entry permit applications were pending before the commissioners."

Do not hesitate to contact me if you have questions or need more information.

Frank Glass  
CFEC Adjudications  
790-6926



**C F E C**



**Commercial Fisheries  
Entry Commission  
2012 Annual Report**



## Introduction

The commercial fishing industry is a crucial component of Alaska's economy and serves as the economic backbone of Alaska's coastal communities. The seafood industry is the state's largest private-sector employer. The Alaska Commercial Fisheries Entry Commission (CFEC or Commission) plays an essential management role in developing and sustaining Alaska's billion-dollar fishing industry.

The Limited Entry Act directs the Commission to promote the conservation and sustained-yield management of Alaska's fishery resources, and the economic health and stability of the fishing industry, by regulating entry into Alaskan commercial fisheries. To fulfill these responsibilities, the Commission is organized into five sections: Administration, Adjudications, Research & Planning (sometimes shortened to Research), Licensing, and Information Technology (IT) (see chart on page 8).

The Commission engages in the following activities as mandated by the Limited Entry Act (AS 16.43.010 *et seq.*):

- Establishing maximum numbers of entry permits for fisheries to be limited and administering applications and point systems to rank eligible applicants;
- Processing entry permit applications and adjudicating claims not resolved in the initial classification process;
- Issuing annual permits in limited and open-access fisheries, and issuing annual vessel licenses for all commercial vessels as required to legally participate in the state's commercial fisheries;
- Processing requests for emergency and permanent transfers of limited entry and interim-use permits and compiling data on all such transfers;
- Enforcing provisions of the Limited Entry Act including regulation of permit transfer activities;
- Participating in the research and development of comprehensive fisheries economic data;
- Working with other State and federal management agencies to develop, analyze, and coordinate fisheries policies;
- Assessing demerit points against, and when appropriate suspending the fishing privileges of, permit holders for convictions for violations of commercial fishing laws in the salmon fisheries.

The Commission has limited entry into 68 of Alaska's fisheries, continues to receive requests for the limitation of additional fisheries and works with fishermen and the Alaska Department of Fish & Game (ADF&G) to analyze these requests.

The percentage of limited entry permits held by Alaska residents continues to remain relatively stable. After 40 years, Alaskans hold about 77% of all limited entry permits. At the end of 2012, Alaskans held nearly 11,000 permanent limited entry permits, with rural Alaskans holding nearly two-thirds of that number.

For calendar year 2012, the Commission issued a combined total of 29,574 permanent permits, interim-use permits, and vessel licenses, and reviewed 1,972 permit transfer requests. In fiscal year 2012 (July 1, 2011 to June 30, 2012), the Commission collected approximately \$7.5 million in revenues for the State. The economic challenges facing the salmon industry have generated substantial discussion about potential cost efficiencies in the fisheries, including consideration of options for reducing fleet size. The Commission plays a direct role in fleet-reduction programs, and continues to participate in ongoing discussions with the public and policy makers, and provides data to assist and inform

the exploration of ideas for further fleet-reduction plans (see Decisions and Activities section for more information, page 4).

By working with other State and federal agencies, the Commission continues to help Alaska fishermen protect their fishing privileges. In addition to working with policy makers, agencies, fisheries organizations, and individual fishermen on the many pressing issues facing the fishing industry, the Commission continues to perform its primary functions of limiting fisheries, licensing fishermen and vessels, adjudicating claims, performing critical research, and providing data to governmental agencies, private organizations and the general public.

Major decisions and activities of the Commission in 2012 are outlined in this report. Prior years' activities, events, and decisions that affected the Commission's operations are highlighted in the appendices.

Alaska's fishing industry is vital to the state's economy and provides an important food source to the world. Alaskans must continue to ensure that our fisheries are developed wisely and sustained through sound management. We at the Commission are committed to fulfill our statutory role in achieving this goal.



Photo courtesy of Susan Brown French From the collection of Dr Charles Black & family Photo is circa 1917