

ALASKA LEGISLATURE SPECIAL COMMITTEES / SUBJECT INDEX 86 / 2

884 SCOMM31: SPECIAL COMM. FISHERIES (LIMITED ENTRY) 1973

The number of entry permits (indesc. simultaneous speaking) is a permit to use a particular unit of gear in the fishery...

Now David, wait a minute. I'm trying to see in my own mind whether it really matters and if maybe it isn't tidier to do it your way if we end up at the same place anyway and I'm just not clear yet, as to exactly how it would work...

Well, I can't see any difficulty with running a system solely on the basis of entry permits. If you have effective proportions, you will not permit the operation of gear unless the person has the entry permit. Your man goes aboard the boat and says skipper, let me see your entry permit and so he shows it to you and so that makes him alright. Until then, he isn't.

He'll do that in either case...

Okay, alright. You've got your control mechanism there. You've got your value systems attached and free transferrability has to do with what it is that you're letting him do. You're letting him participate and it's that capacity to participate is an intangible thing. That's what we're focusing on in terms of transferrability. That's what we're going to let him transfer to his son, if he wants to and if the son doesn't like the old man's boat, he doesn't have to use it, he can get another boat. What the boat market does, I think, is fully incidental.

No. As...

I don't want you to be concerned with boats. I don't want you to

have to store them in Anchorage or anyplace else...

Nobody wants to do that, so don't be concerned with it...

Alright, if it has to be, why then, I have in paragraph 92, down at the end, some sort of provision that's if you want a require the state to do it, and if the fishermen from whom that permit has been purchased, offers his boat to the commission, the commission should buy it...

Okay, now we've gone out and we've talked to people in every area. And every time you say buy-back, the first question you get is you mean, that you're going to take my entry permit away from me maybe for that and leave me with a worthless boat and there's no way in hell, that you're going to convince that person that the **very** value of his entry permit will take into account the reduced market value of boat. So what I'm saying is that you've got to set the system up so that it constitutes this kind of a transaction. It's an offer to buy entry permits, vessel and gear. Then you ask the guy what's your vessel and gear worth to you to keep? And he says X-numbers of dollars. You deduct that from your total offer and give him the rest of the balance for the entry permit. You never have to touch a boat and gear. But the commission is put in a legal position of having to offer to buy and if in some cases they have to buy the boat in gear, what difference does it make if they turn around and clear it?

That's right.

You hear stories about the British Columbian people in having to store boats. I don't want you to get into business once you get out of it...

But I don't either, but I can't...

Well I just...

It'll tidy things to say, nevertheless, this is an acquisition system for entry permits. Now, if what you've got to do when you deal with the man is to buy his boat also, you can prescribe in your buy-back system, that if the person wants to sell his boat, the commission has to buy it or you can put it to him and you're secure this way, that's the only way he's going to understand...

All I'm saying is that I want it in the bill that he has to offer to buy the entry permit, vessels and gear...

Alright. That's fine with me...

But when you come to doing it, we don't want to buy it...

That's fine too.

You may find some sort of circumstances in which you may have to buy them. When the guy wants to sell, you may end up doing that. But do believe that your mechanical operation of this thing is going to work only if you make it an operational system with respect to the permit. That's the whole thing that go up and down

and it's going to have market values and so on. Now...

If we do, this is what I'm trying to sort out in my own mind, if we structure the language in terms of setting the maximum number of entry permits, then what we're doing, in effect, because of the definition of entry permits, is setting the maximum number of units of gear. Right? So that we end up accomplishing the same thing, no matter which language form we use as far as their particular goes. Now if later on, in talking about buying back, we talked about buying back entry permits, then, we create the situation which...well, we don't talk about buying back units of gear though. The whole provision in the buy-back language is broad enough to include the entry permit, the boat and the whole package.

Yeah. I would distinguish it as sharply as I could. What if the person comes to you and says I don't want to sell you the boat or the boat goes down, the man dies, the bottom of the bay and no salvage at all and the personal representative comes in and says here's the permit and I want to sell it to the commission...

I'm trying to determine two things. One: whether there's any real problem if we use their language in these sections here that effects the rest of the way the bill is structured...

You can use entry permits to the units of gear as far as I'm concerned...

No. The other thing is when we come to the buy-back section, perhaps, you could help us work out language which is more explicit

because I have never been satisfied with the language we have for buy-back clearly allows the separate or combined purchase that David has described. Now...

I have notes to myself as to what to do when I got up to there was, adopt David's language, changing gear to permit. (indesc. simultaneous speaking)

That would cause us a minor revolution because as David said, regardless of what we suspect the facts of the situation will be, fishermen have a very deeply-engrain to be weak that a vessel without a permit is worth zero...

And you and I know that a vessel is a distinct (indesc. simul. speaking)

That's right.

And we will never convince them.

We will never convince them.

What we need to do as you suggest, let's look at the buy-back provisions, with it having in mind, because I would desperately like to do keep separate for many purposes...

Well whether the fisherman perceives it or not...

There's a practical matter for administrative purposes, we just

as soon not horse around with a bunch of boats...

Yeah.

But you can adopt the regulations. You see, all I wanted to do was leave it vague in the act and adopt the regulations to do that and call for buying the boats only in the small and maybe never.

You can even adopt regulations that says you will give salaries values credit in terms of what you pay for the entry permit or something like that.

I don't want us to ever handle boats, but I just want nobody to get the idea that we can screw it...

And leave him sitting there holding a boat without an entry permit.

Well may I suggest that you put your basic operative system of buy-back in terms of the permit. Then a section that immediately follows or a part of it that says that the option of the fisherman permit holder, he may offer too and the commission must accept the purchase of the gear...

What is wrong with the boat?

Well my first impression of it is that all I was going to have to do was to strike out gear whenever I had...

No, now (indesc. simultaneous speaking and noise) wouldn't it work the same way?

already have. (indesc. simultaneous speaking) and is already consistent.

Alright. You don't have to say by sale or gift, I threw it in. But it's pursuant to this capacity here that you do your purchasing or under...now this is the open market purchase, this is the "B" permit purchase up here, but the commission would be the recipient under either of those two or it could be (indesc. noise) anyone of those three is going to get a permit back. Now as to either of these two, where the money is going to come from, is over here. Now if what you want to do is to say when a person sells to the commission, the seller is also entitled to have his boat bought by the commission, isn't...

No, it isn't that I am going to sell my permit and now I'm entitled to anything, the commission goes out and offers to buy permits and boats and gear and whatever is necessary and you're given the transfer or the capacity to transfer his permit. He clearly doesn't need your authority to transfer his boat and gear. Then under your buy-back, you give the commission the quarry to offer to buy permits, vessels or gear.

I think I done this organizationally to you. I had taken out from under the buy-back sections, the power to do the buying. In other words, to power to do the buying is under transfer here rather than under the buy-back. The buy-back is a funding section in the way I perceive it.

That doesn't make sense. The transfer is the guy that holds the

You can say the optimum number of fishermen...

(indesc. simultaneous discussion)

The only thing I'm going to do is to talk about entry permits...

It's pretty much right but I've got a couple of (indesc. mumbling)...

Entry permits are also transferrable by sale or gift to the commission. Now here is where commissions using this fund to acquire a permit.

Why do you need to go through all this? Why can't you just say that a person can transfer his commission permit to anybody?

Well, I just wanted, I felt I had to describe the commission separately from the other people because I've described it as a person who is not ineligible and whose present (indesc. noise) tends to engage in fishing...

My real thing is why describe it as sale or gift? Why not just say he may transfer his permit to another person or to the commission?

Well, you could do this, but I had circumscribed the person to whom (indesc. mumbling) or I have could have done it this way: transferrable to the commission or to any person who is. That would have been alright too.

Alright. All I'm suggesting is that it's exactly the same as we

permit. The power to buy it is the power of the commission.

Permitted transfer covers both permission given to the transfer or the commission given to the transferee.

Well I just don't understand why we should leave. I mean, we've already reorganized it all. The buy-back is an authority to the commission to buy permits. So it ought to be in the buy-back provision, not stuck up here in transferrers.

I don't think that matters as to where you put it. All I was saying was to why I put it up here (indisc. mumbling) defensible to put it there.

Where is it here?

It's in here that the permits are transferrable to the commission.

It doesn't say that the commission can buy them.

Isn't that apparent in that. Maybe it doesn't say it then.

I think why you need it in the buy-back, is you have got to say that the commission can go out on the market and make offers to buy. That just says that the transfer can go to the commission but it doesn't give the commission the authority to take this money and go out and say bid on a market...

Then if you felt you had to specify authority, I would put it here but it doesn't matter. If you want to put it here that the commission can buy,...is this the only basis in which the commission can buy if they use the buy-back fund for the purpose?

Yes.

It is. (indesc. mumbling)

End of Tape.

SCOMM

#31:24

_____: It seems that that's an awful lot to do between the July start up date and the January 1 for all the distressed fisheries.

_____: You've already said you are going to do it for Bristol Bay and Cook Inlet and a few of the bad ones but all the distressed fisheries will be all the salmon fisheries and that's something like 20 some fisheries.

_____: Is there any reason why you shouldn't specify as to these three which the legislature now decides are worse?

_____: This is what we were going to do in our letter of intent I guess. The reason why we can't accomplish it that way and in our letter of intent, indicate the three particularly distressed fisheries that we talked about in the House bill and have that the closing date for applications prior to January 21 for January 1 (inaudible).

_____: With that kind of ... Would it be sufficient..... the commission in order to prepare its regulations is going to have to develop its statistical profile of each type of fishery so that although it doesn't know by individual it knows by numbers the income, the investment, the kind of boat and things like that. Would it be sufficient to present that information on these three fisheries to the legislature by that time. I don't know. I'm trying to think how much worse these guys could

really do.

_____: We counted on the interim entry permit stage as being a stage of information gathering in itself. We aren't going to have the information to know where to put people or how to develop the regulations.

_____: This is what I'm trying to...

_____: We don't have the information now.

_____: I'm not sure that the Commission would have adequate data itself to develop good regulations, let alone to be able to sort and evaluate the information on application forms by that time.

_____: I don't know whether it would have to sort and evaluate all of them by January 1. I think, have the closing date for applications for at least those three fisheries by that time so that we've got some idea as to the number of people that were applying, compared to the optimum or the maximums that have been established. What's wrong with that?

_____: I certainly, you've picked three toughest problems under the whole bill and you've got to solve them. Number one, before you have any chance to get any information from the limited entry permits, because by the time you have set your regulations to avoid maximum limitations you've got to do that before you can even take any. Then you have to (inaudible) ...your regulations set on the toughest problem in the whole fisheries by October and

it's impossible. It's not possible, because when we got out and met with people the only way we could convince them they are going to be treated fairly is to say the Commission is going to move deliberately. They are not going to slap something down on you. They are going to come in here and meet with you and have public hearings and they are going to propose one set of regulations. And if you don't like those regulations they are going to come back and propose another. And you can't do it that fast.

_____: Now wait a minute. You were telling me a while ago, along those three distressed fisheries you thought it was reasonable to skip the interim permit year and then go to the initial permit in '74.

_____: I think I was wrong. I take it back. I don't think I was right. I think you pushed it up even another step. If you wanted to go directly to entry permits you still could be taking applications early in '74. You wouldn't have to have all your information in by January 1, 1974. I think I was wishfully thinking. It would be nice if we could. But I think the whole plan in the defensability of the thing and the workability of the thing is moving with deliberatness and carefulness through every stage of the process. Regulation of that and public hearings, going and talking to every one who will be effected and saying, what you want and what's fair.

And that's the basis upon which we've telling people that the commission is going to work. It's not just going to fly in and flop down a bunch of arbitrary standards and say here's the way we are going to cut it. I think you know the Commission will be in such a bind that frankly it would probably blow it on the first couple fisheries and that would make it much harder for it to operate through the rest of the program. This is the whole reasons for building in all the safeguards in terms of adjudicating applications. And that's why I think you really save, give the individuals a break and not hurt people. It's to do it carefully, and slowly, and cautiously.

_____: I would revise my suggestion for sort of a preliminary sort mechanism then for '74 as to some of these commercial fisheries. I really don't think that you'd be challengable at all to take a fishery of which it is perfectly obvious it's most grossly out of balance and requires some fairly rough measure as to who was entitled to fish, to get an interim use permit, but not for '73 but for '74.

_____: You want to do it on just three fisheries? That's fine.

_____: Yes that's fine.

_____: Because if you lost that in the courts you'd only lose it as to those three fisheries.

_____: I don't think I'd lose it on that one. They have a really strong showing for that. You might have the whole

program showing. If you've really got just an _____ situation up there and you have to do something about it. Then you might alleviate this really bad situation. Now that gets at your problem of, well, in a way it would, because it would allow the gradual accumulation and broaden more broadly based, statistically based judgment for what your final position is, and then you would be up for review on January 1, 1975 Session of your Legislature.

_____: Right. That's a combination that I can buy. If we went the highest here and then came back. Then I think I can go back and sell this thing.

_____: Ok. Highest in the last four years and interim use permits would be issued only to people who would be eligible, that is only people who have fished in the past, could be eligible in those three designated fisheries in Bristol Bay. I suppose you still want set and drift gill net both and Cook Inlet and Prince William Sound drift net. Then we've got two different peers of distressed fisheries. We have distressed fishery for interim entry permit, distressed fishery...

_____: Yeah, I think you would. I don't think you need to put it in the abstract, you could legislate it. (inaudible) condition that.

_____: Interim permits cannot be issued unless you have a...

_____: Yeah, or the interim use permits for '74 will

not be issued. '73 we'll let anybody in, but for '74 we are going to start clamping down because we'll have that thing operating by next year.

_____: Okay. That's fine.

_____: I wonder if we want to say interim use permits for a year. There's a possibility that we may have to use interim use permits for two years. You're talking about going too fast.

_____: You don't have the time limit. You could just say interim use permits in

_____: We know that nothing we do now effects '73 anyway. So it would be '74 and possibly '75 that they need to be used yet in '75.

_____: Yes.

_____: Now, those, I want you to follow up fairly quickly on these things. I don't want you to go on an interim use basis where you come in with this thing that Dave's been telling us we ought not to have and I'm agreeing more and more with it and letting that persist. I would say two years is your outer limit on it. And if you can get them to act before that I would.

_____: What it really amounts to is a selective freeze.

_____: Yeah, you haven't got any transferability in the interim you know.

_____: So you better long prolong it.

_____: That's right, I'd get out of it pretty quick.

_____: I was only for the first (Indiscernible)
(three people talking at once) legislature to decide
maybe in that next session that you have elected someone
more... (indiscernible)

_____: It will be really a restriction on the issuance
of interim use permits for those designated three fisheries
for 1974.

_____: Right. Okay.

_____: How about as you suggested earlier, creating
essentially a special kind of interim use permit which is
transferable?

_____: Mike, I think if we say "may be eligible" then
we are going to say, since we have restricted applications
to somebody that held a gear license and fished it prior
to 1973, that will be the _____.

_____: I was going to say. You had mentioned earlier
in connection with this when we were talking about limiting
the number of interim use permits, making them transferable
so that you didn't...(indiscernible) ...then we...

_____: ...presently able and presently intent. We
better straighten him out...(indiscernible)

_____: ...Dave, I think we've done one thing to you that
you weren't aware of. In listing eligibility, I did not
include except as....

_____: Okay, under application, it says the commission
shall accept applications for entry permits only from

applicants who have harvested fishery resources commercially...

_____: I don't think you should keep that.

_____: While participating in the fishery as holders of gear licenses?

_____: What we want to do is cut out the paper license holder from even applying, otherwise we are going to have three times the applications, or twice.

_____: Now just a minute. Let me go back here. Why don't you make this qualification for getting entry permits rather than being eligible to apply for entry permits. (Indiscernible) ...coming in at applicants eligible for or have that the standards under initial issue of entry permits. In other words, priority classification of applicants for initial issue.

_____: Then somewhere else I want eligibility treated then. Because I didn't want it put under application, which I thought was a procedural mechanism.

_____: Let's see, the commission shall accept application.

_____: This is an eligibility point and I don't think it should be under procedures.

_____: Eligibility for application to apply.

_____: Yes, but that's, you are saying who is going to get a permit when you do that.

_____: No, you're saying just who need apply.

_____: No.

_____: Same difference, I know.

_____: You've greatly restricted your group right there and I don't want to do that.

_____: You have to. You can't let everybody that's ever been on a boat apply.

_____: Sure you can. You're not going to give them anything.

_____: (Indiscernible) ...intent that you are going to limit the, that's what the Governor's bill originally did and everybody was up in arms because you were going to let people that never held a gear license and had just been commercial fishermen apply. And that's three times the number of people. In other words, we've got about 10,000 gear license holders which is about the number of entry permits you're working with. We've got about 35,000 people each year that hold commercial fishing licenses, and if you summed up the total of those who held fishing licenses sometime in the recent past, you might have as many as 60 or 70 thousand applications. If you don't restrict it to people who have held a gear license. Another thing you could do with weeding it out there, is screen out the paper licenses. Guys who have never fished _____ for 20 years. Procedurally, I see what you mean.

_____: Yes, that's correct. Let me go back over my notes and see what I have done with that. I think I had intended to come up with what I did come up with. But its

possible that I had intended a different.... Wait just a minute. (Long pause and paper shuffling) We still have to, where's our laundry list?

_____: The laundry list? About the other thing, is the optimum gear criteria, that third one. We bounced that one around back and forth.

_____: You just about talked me out of that one.

_____: Great.

_____: We haven't really found it. I think _____ before he notices it right off.

_____: We traded him yesterday _____ a month ago, it was a good idea to keep it in.

_____: If John goes, Chancy will go.

_____: On that point alone?

_____: In fact, its liable to go because of the free transferability.

_____: Boy, somebody ought to tell him that. Rich just called us today and he had over a hundred people at a _____, yesterday at a meeting, from all up and down the river, and they were as mad as they could be that nobody from the governor's office or anybody else had been out to talk to them about this. But they met from 10 o'clock in the morning till 6 o'clock. And they were absolutely insistent that limited entry be passed with free transferability this year, because last year was the first year any Seattle fishermen showed up on that river and

they are petrified. They know that if they get it now they are all in it. He said he was about to be lynched when he showed up at the meeting.

_____: We saw that telegram. All four feet of it.

_____: The natural thing to do is the commission, in its regulations, would not look upon a lapse of fishing file in active service as any sort of a real laps in fishing. But in terms of writing it into the bill. Its perfectly sensible, a guy in evaluating his past participation, if he goes into the service, that's not a voluntary leaving the fishery.

_____: The only basis upon which you can use the fact that a person who wants an initial entry permit, has fished in the fishery in the past, is a measure of how much hardship it would be upon him if he were not allowed to get that entry permit. And I think that that is a very good measure of how much that hardship might be on him. (inaudible) I don't see it useful for any other purpose. Now if you say that you want to make it a preliminary screening device so that the Commission doesn't even have to look at people who have not fished in the past, I would say that that's alright too. It is part of determining whether there is hardship or not. So when you are coming down to separating people on a hardship basis, crank it in. If you've got too many people, take your nondistressed fishery, as to which you are going to presumably let

people participate in that who have had, as to whom there will be no hardship whatsoever, because you're not up to optimum. Now you can't restrict that excess group, in any way, in terms of whether they have ever fished in Alaska or what fishery. You've got to let them all in. So you can't do your preliminary screening as early as who can even apply. You have to wait until you are down to a situation where hardship is of some materiality. Then you can put it in, I don't complain.

_____: I do, if you go hardship and stretch it to that extent, then I don't think you can really say that the class of people who have held, gear license holders are the only people who will be harmed. Clearly, a guy who has been a crewman all his life and was on the verge of applying for a gear license, may in lots of instances be harmed more. So I think if it falls there, you can't use his initial screening to say that the State is under no obligation to give a new entry permit to a guy who's never held a gear license. I don't think you can put it in anywhere. I think you have got to take applications, you have to consider everybody in the same standards like the Governor's bill originally did.

_____: I would feel happiest about this if all you did was to say, as you have to do, is, under the criteria which the Commission is to consider, in grading hardships, it shall consider economic dependence down to where you've

got past participation. And one of the ways to know whether he has past participation and whether he held a gear license. I suppose a guy who's been a crew member is a past participant too. It might have something to do with it.

_____: Well, now in the original SB 39 the two standards were economic dependance and past participation, and anybody could apply. Anybody that could make any showing under those clearly. Now a creman can make a lot of showing. A lot of guys have fished for 25 years and they are pretty darn dependant. So you have gotten into a really jolly game of breaking some crewman about existing gear license holders. And the only way to make this thing workable, because entry permits really are nothing more than permanent gear license. The only thing to make it manageable, it was felt by almost everybody, was to have an initial screening and only consider people who have been gear license holders.

_____: I don't complain at all if you can find the persons from among whom you are going to decide that there has been some imposition of hardship. To those who are at least within the category of those who have had previous gear license? I don't complain about that, that's alright. But I say that you cannot use that as a criterion when there will be some persons given an initial entry permits to non-distressed fisheries, when there's no hardship

involved. In other words, you've used up all your hardship people and you've still got some room for fishermen, and you can't say as to those that you have to qualify by having been a past participant to the fishery.

_____: Clearly, those are the fisheries where we still allow

_____: That's what I mean. Okay, so you can't put it back at the stage of saying I'm not even going to take applications, because these applications are for all kinds of fisheries, both distressed and nondistressed.

_____: Well, we never conceived of it that way. We've always conceived of it as you don't crank a fishery into the system until it gets up near the maximum. And then you have got people in it. You've got new people coming in it all the time because of gear licenses. And they are gear licenses then. In other words, but, we left the undistressed fisheries go for awhile.

_____: You may not issue initial entry permits to all your -- to a nondistressed fishery, but I don't see any reason why you shouldn't issue initial entry permits to nondistressed fisheries if the commission wants to get around to it. In fact, if I were on it, I would do it.

_____: Alright, but then what you would do...

_____: And we don't exclude that possible way of...

_____: It won't work that way. You can issue them interim permits. But once you start, the implication is

that once you go into your entry permit system, then you're getting out of your interim entry permit system, and then you do have to decide who is going to hold them and if you have any difference in new permits this year, you have got to issue them on these other standards you were talking about.

_____: That's... We're back under this.... See category problem, where we haven't really worked it out yet. Do you want entry permits to be operative and outstanding only in fisheries as to which there is an optimum lower or not more than how many people are in it?

_____: No. What we want to happen is that if the fishery gets up to what intuitively they think is around the optimum, that they can hike in maximum number...

_____; But they don't issue an entry permit until then. Every other fishery operates under interim use permits. Is that right?

_____: Yes.

(Several speaking at once)

_____: Well, all you do with a fishery like black cod, long-line fishery or something, is watch it. And the commission doesn't have to do a damn thing but issue an interim use permit to those guys until they see the fishery getting up to where they think it needs a lid on it. And that might be ten years from now. Then when it gets to that point, under the way that we work out this redrafting it, we had the language here when the commission finds that the

fishery has reached levels of participation which require the limitation of entry in order to achieve the purposes of this chapter, the commission shall establish the maximum number of entry permits for that fishery.

_____: Buy you are not, but you won't let them do this before then?

_____: No.

_____: No?

_____: They only issue interim use permits and people can continue to get gear licenses and come...

_____: And so you don't get any applications even in? Until you've got a fishery that's gotten into that category.

_____: No. Until you establish the maximum number of entry permits. Until you establish the maximum number of entry permits you don't crank in your application system and your whole other....

_____: Alright, damnit, you're going to measure hardship every time. Then I think you are alright to insist that the person be engaged in the fishery before.

_____: Okay fine.

_____: I must say that I don't that you've said it yet.

_____: Alright. But why can't we just do this. Where is that draft that you had? Application for entry permit. It seems to me that what we've got...

_____: I'm going to take it out of your procedures section.

_____: I know it. That ain't what I'm going to do.

That's why I'm going to show you how we might do it. Let's just say, "eligibility for application" have a separate section for that that directly proceeds this.

_____: Maybe what we had better say. I would much prefer that it be "eligibility for initial entry permit."

_____: But then you have got to take applications from people that have never held gear licenses.

_____: No you don't. You can tell them that "we won't let you apply unless you plan on _____" and one of those is that...

_____: Alright. I won't argue with you.

_____: But that can be done by regulation. Or you can spell it out by statute too. But I think you should say who it is that's going to be eligible. Now, I think in that case, I would take this out of here and put it into the section that's _____. This would be part of it and the other one would be part of it. That is to say that he has to have been a gear license holder.

_____: Alright, that's fine. Everybody got that down?

_____: No.

_____: Just a minute here, let's look down the pike.

If it is a 10 year from now proposition, is "gear license holder" an adequate description or do you want to call him an interim use holder?

_____: We have to have both. So if they have one they

will have the other. So I think "gear license holder" works fine. Because you are going to have to have both. A gear license and an interim use permit. So you don't really need to say both. You can just leave the standard the same.

_____: He couldn't get the gear license without the permit. He could get the permit and not ever get the gear license. We would rather have him do both and pay the taxes. So if we say "gear license holder" then he has to have bought the permit before he gets it.

_____: Yes.

_____: I knew I had done something about this. I had it over here. "In determining the existence and degree of hardship, the commission shall (1) include only those persons who have held a gear license for whatever period, and, as to those persons apply a reasonable balance of these factors." I knew I had cranked it in somewhere, I just wasn't able to put my finger on it.

_____: Okay, that's fine. As far as I'm concerned. As long as you don't put years. If you just have held a gear license pursuant to the statute because...

_____: Yes. I left it very much in the blank. I don't know what you want to put in there.

_____: Well, under AS, whatever the sections are, cause then that means since statehood. That automatically, you have to have held a gear license at some time. Because, see,

we had the other requirement, "held and fished". And I still think those both ought to go in there.

_____: Yes. I don't complain as to how restrictive you make that. I feel that these are all, in my opinion, okay. Let's put it under (d).

_____: What about this one here?

_____: Well, let's make sure that this other idea is in there because I certainly wasn't thinking in those terms. That you are not every going to go to the interim, you are not ever going to get out of the interim use period until you get a fishery that's potentially distressed.

_____: I think we are giving ourselves some problems changing the structure around on that.

_____: Well, I don't really want to change the structure. I just want to make sure that the structure is adequate to take care of that proposition. I like the language that you put together here down at the bottom of that one page.

_____: "when the commission..."?

_____: Yes, that's right. That's fine.

_____: When persons who have harvested fishery resources commercially are participating... and as to (inaudible) I'd sure like to get away from calling the categories and drawing the line. It just offends me to have people plugged with initials on them, rather than saying that the commission shall designate those priority classifications

within which individuals would suffer a significant degree of hardship by exclusion from the fishery. Rather than saying, defining that as a (b) category or an (a) category.

_____: The only reason for this was this idea of restriction on transfer.

_____: You could say, those things designated pursuant to section X shall be subject to this restriction on transfer.

_____: If you want to give your commission the power to say where on the hardship line you want to impose a restricted transwer...

_____: No, you tell them. You see, the way we had it here is that in terms of transfer, if the number of entry permits for a type of gear in an administrative area is greater than the optimun number of units of gear established pursuant to sections 270 and 280, the holder of an entry permit who qualified for that entry permit, in a priority classification designated under 200(b), that is the minor the guy that would suffer only minor hardship, of this chapter, may transfer his permit only to the comission.

_____: Yes. Well, you and I have said the same thing, haven't we?

_____: That's right. It gets away from me. Tagging a's and b's on here.

_____: Oh, well, I don't want to use a's and b's if you

don't want to use them. Those came out of yesterday's conversation. Do you want to strike a and b? It does no harm?

_____: Yes. I was just talking about drafting.

_____: Alright. Let's... Then the only thing you must do then when you get over to transferability is not talk about "b" but talk about... placed in the second category or something like that.

_____: Well, in other words, I...

_____: Don't you still have to define it?

_____: Yes. What you have to do is, you have to say, "the commission shall designate those priority classifications..."

_____: As to which this...

_____: As to which this hardship standard. _____

We had it here this way when we redrafted it. The standards for an issuance of entry permits, and you come down here to the last thing and you say, "the commission shall designate in the regulations those priority classifications of applicants who would suffer only minor and negligible economic hardship by exclusion by the fishery." So you do it before you get to individuals. You do it in the regulations. You say this priority classifications is going to be so designated. And then once it is designated, anybody who qualifies for a permit by being in that classification, is subject to the restrictions stated later on. Without getting the idea that there are "a" and

"b" licenses floating around. Which I know people will pick up if we have those letters in there. They will think we have adopted the Canadian system right off the bat.

_____: I haven't understood your fundamental point. Why is this one coming ahead of...

_____: You are saying that you want "b" to be people who have suffered only a minor degree of hardship. What I am saying is that what you are really doing is drawing a line. In some fisheries you may have six priority classifications and in some three. Some any number. And you don't want to tie the commission to coming up with just x number of classifications. What you want to tell them is that after they have come up with their classifications, designate those classifications which would define people who would suffer only a minor degree of hardship or whatever it is. Whether you want to say significant, or minor or whatever you want to say. Do it in terms of the particular fishery and then once they have designated those priority classifications...

_____: We are back to yesterday. And I must confess that I made no headway with you and you made none with me. I could not understand the non-generality of something that was described in terms of minor hardship.

_____: It appears to me that just listening to the two of you, it seems to me that you are both doing the same thing. Only what David wants to do is get away from

saying there are going to be two classes, "a" and "b", since, among other things, the Canadians divide their licenses like that...

_____: Yes. I perfectly willing to junk the letters.

(Several speaking at once)

_____: What David is doing is...

_____: He wants to have the commission rank all these people by whatever grouping is appropriate for the particular fishery. That's fine. I don't complain about that. And then he wants the commission to look at each fishery and say, as to that fishery, you people are in (shall I call it "b" for the moment), you people are in "b". And the basis on which the commission decides is that you would suffer only minor hardship, if you were excluded. Now, how is that any different from saying that the commission shall, as to each fishery, segregate the people into those who would suffer hardship more severe than the minor, and those who would suffer only minor?

_____: Because. The objective of priority classification is to get similarly situated groups of applicants.

: I'm quite willing to let them do this. And then I am going to put an "a" on that and I'm going to put a "b" on that...

_____: Oh yeah. And then you agreed that you would strike the "a" and "b" so what is the point?

_____: Because all we are doing, we are not creating a group. We are drawing a line between priority classifications. That is what you are trying to do. Below this is minor, above this is more than minor. What I am trying to sell is _+_____ line rather than _____ group. Because it implies that you have got to...

_____: You haven't told them anything other than the fact that they are to rank them into similar groups?

_____: That's right.

_____: That's all you have told them?

_____: Right.

_____: And then they come in and draw this line.

_____: Because what you say and what it sounds like to me you are doing. Is first we rank them in terms of two groups. "a" and group "b". And then we can come in and sub-classify these groups in other priority classifications. But I want there to be only one... What they do is they set up proposed boxes in which they will fit people. And they develop their specific standards for that fishery based upon past dependence and economic dependence and past participation. That will fit people into these priority classifications. And that will be very unique to that particular fishery, these specific regulations and how many classifications and so forth. And then you come out with your general statewide standard and say, the commission is to designate for each fishery those

classifications containing applicants who would suffer only a minor degree of hardship if excluded from the fishery.

_____: Well, I guess we are going to come out at the same place. I don't really care which order you go in.

_____: I really think he is there. Because if you look at the way this is set up with "a" and "b", you have your subclassification rankings. And if you eliminate the specific references to "a" and "b" you end up in the same place. (Several speaking at once)

_____: The only place where you get into some problems is where you make any use of what you have done. So lets go over to transferability because there is the only place it makes any difference. Okay. What are you going to say when you get to transferability.

_____: Then I say, the commission shall designate in the regulations, those priority classifications of applicants who would suffer only, and I would say that would now be significant...

_____: No, I think...

_____: Let's skip that...

_____: Alright Minor, whatever way you want to go. Then you come back here and you say transfer of entry permits. And here is "a", accept as provided in "b" in this section, they are freely transferable. And here is "b". If the number of entry permits for a type of gear in an administrative

area is greater than optimum, the holder of an entry permit who is qualified for that entry permit in a priority classification designated under section 200(b).

_____: Who qualified for a....

_____: For that permit in a priority classification designated under section under 200(b).

_____: 200(b) was the one used to designate that.

_____: That's right.

_____: Alright. I will say, 195(b)(2).

_____: Okay. ...(Indiscernible)

_____: And you say the transfer his permit only to the commission.

_____: I told you it was easy.

_____: You're right, it was.

_____: Matter of fact, if he didn't want to talk, it would have only taken five minutes.

_____: I'll tell you where it doesn't work. And that is because you don't designate... You are coming down only part way in "a". You have really got three categories.

_____: At least in those fisheries in which that maximum number is determined by the previous license holders.

_____; I do think, to work the way yours works, you've got to have two different sections. You have got to say the commission shall designate those priority classifications of applicants who would suffer significant economic

hardship. And then later on, when you are getting around to issuing permits, you say, the commission, even if you are above the maximum, shall issue an entry permit to anybody in a priority classification designated in subsection so-and-so. And then you have another one and you say, the commission shall designate those priority classifications in which the applicants would suffer only minor hardship. And then you use that one to crank back into the transfer. Because you have really got classifying people having an operative effect two different places. Transfer and then who gets it. And I would be much happier with it because then you have only got two words. You have significant in one case and you've got minor in the other.

_____: Yes.

_____: Because the minor applies to the transfer, and the significant applies to who gets it. Right?

_____: Uh, if you have a fishery in which the limiting factor is not _____ number but the number of hardship people in it,...

_____: That's the one other case we....

_____: In one other case "b" functions there too.

_____: But that can be cranked in to the same kind of reference.

_____: I think we are all mechanically alright except til you get to the section I wrote on transfer.

_____: No. I think we are about the same on that, aren't we really.

_____: Probably. (several muttering at once)

_____: Well, hold off just a minute until we know what we are about to do. Now this distinguishes between "b" and all others.

_____: Well, if you would go with me on this other, you wouldn't need to rewrite transfer because this transfer thing would work.

_____: Yeah, but then wouldn't you junk most of the other mechanism here?

_____: No. You wouldn't junk a thing. It will work the same way. You have to apply to the commission, and those in "b" can only transfer to the commission. And an applicant, on a transfer, he has to be someone who is ready, willing, and able to fish. The only thing we don't pick up is the guy who is in "b" and has, but you can add that to this subsection in transfer that I've got.

_____: Yeah, that was...

_____: Ten years. You see. This we've thrown back into the buy back. "shall purchase and shall at fair market value". In other words, I think the transfer..

_____: No. You _____ look for the permittee, not to the commission. The power of the permittee in certain things.

_____: I felt it appropriate here to tell the commission it had to buy, if you are imposing a restriction on this

guy, that your buy back doesn't require.....

_____: Yes.

(Indiscerible)

_____: I agree with you. Fair market value. But I think it ought to be back in the buy back. The commission shall purchase at fair market value, all entry permits to it.

_____: No.

_____: In this.... you know. From these guys.

_____: Yes. I wouldn't complain if you put it back there.

_____: Course, by golly, I don't know if you really want to do that. You could conceive of a situation in which you had a buy back program all spaced out, and you all of a sudden had more of these guys offering their permits. What you are saying is that they can only sell to the commission. But do you really want to lock the commission into buying all of them. Because that gives them the power over what rate you buy back and ____.

_____: Yes. That is a decision you will have to make. Maybe you don't want to require the commission to buy those.

_____: In 99% of the cases the commission is going to buy from those guys because it will be cheaper first, and probably it won't be offered that fast.

_____: Yes. I don't know. That's a decision you've got to make.

_____: Because if they buy it, they have to buy it at fair market value.

_____: Yes.

_____: I was worried that they could really stick it to these guys. A guy could come around and say, I can only sell to you. And the commission would say, well, I will give you ten bucks.

_____: No. Presumably, there is enough of a market that they can look to the other sales to determine this.

_____: We had better make another decision. About what you.....

_____: You mean airplanes and things like that?

_____: Airplanes and things like that, yes.

_____: (Misc. off-subject chatter)

(end of side of tape)

_____: skirting the central issue which is how to put in the language about, you know, in addition to buying the permit, they buy the boat and the gear?

_____: It is in there.

_____: You ducked it the sense of leaving it very much up to regulations as to what it is that the commission is going to do.

_____: Right.

_____: I think that's going to be the saving grace in more cases than one. If we put in a whole bunch of fancy language about how they aren't really going to buy the boats,

and gear, people are going to read that and just go crazy.

_____: Well, this is what I wanted to.. It seemed to me that the principle issue we were looking at is how specific the language had to be about buying more than the permit, and where you stick in the language specifically empowering the commission to conduct a buy back program. You can position it later. That seems to be...

_____: We positioned it earlier in terms of our outline in the buy back section. It seems like.

_____: Well, okay. I will go along with you. Now just a minute. Let me make sure...

_____: I think it would work to change it to entry permit.

_____: If that is what you guess.

_____: Okay.

_____: ...do that and then let me tie it into this section I've got 203, called reduction. (Pause) Instead of the whens that you recite, I would prefer to recite that when this section is operative. In other words, for each fishery that went to the optimum number, is lower than the number of entry permits outstanding in that fishery. Or would you... Would you be willing to take that language and put it here again, and repeat it?

_____: No. I'd just replace this language with the outstanding language.

_____ : Yes. Alright. Let's do that.

_____ : The optimum number of entry permits is below the...

_____ : When the optimum..... is.... lower or is less than the number of entry permits.... outstanding. I say, in that fishery, because that is the same thing.

_____ : Yes. The way that we defined fishery.

_____ : Let me just put it that way then, in that fishery.

_____ : Well, I don't like to use the word "that". In "a" fishery.

_____ : Oh. Yes. I have started my sentence out by saying, "for each fishery and which."

_____ : Why don't we just say, "in a fishery." The point is, I'd like to leave it with type of gear and administrative area, because that emphasizes that(indiscernible)

_____ : Yes. Alright. That's right. Although definitionally you are going to pick that up anyway.

_____ : Okay. Either way.

_____ : I think that when you say, that when this is... (indiscernible) ...the commission shall establish and administer buy back funds.... alright.

_____ : You can say, for that fishery if you want to.

_____ : For that fishery... (Long Pause)

_____ : Is it just to "the optimum?"

_____ : Yes. I think it would be better to put it in the singular, don't you?

_____ : Yes. "To the optimum" right.

_____: And then this would... I wonder, should this say "for each fishery"? In other words, it terminates as to each separate fund, they are going to be accounted for separately. A program for each fishery?

_____: Well, say "each buy back program shall terminate". Would that do it?

_____: That's alright. Yes. That does it.

_____: Terminates when?

_____: When the number of entry permits is reduced to the optimum.

_____: I thought we can't -- oh, the buy back program.

_____: The buy back program shall terminate...

_____: It doesn't eliminate the possibility of _____ the money still coming in.

_____: Why don't we say, "the buy back program for a fishery:."

_____: "For a fishery" alright.

_____: In a sense you could read the buy back program as the whole thing.

_____: Yes. Alright.

_____: (Several speaking at once)

_____: How are we doing?

_____: Well, it is now 4:20.

_____: Well, actually, I think we are making pretty good time.

_____: I'm amazed at what shape we are in.

_____: We are almost down to the drawing pad.

_____: Well there are a few things that are consciously left up in the air. Your questions and some of these....

_____: I've got a little laundry.

_____: There is some wording here and there that might not be _____ policy level type thing. I don't know what else....

_____: One thing that I think we hadn't quite decided when you left before, was the issue of the interim use permit....(several talking at once) was that if we leave it open during the interim use permit stage we know will postpone the legal attack until we get further into the program. Because we will get a legal attack from the first guy we deny a permit to. If you see what I mean.

(Several speaking at once)

_____: Well, as you said earlier, that has to be balanced off, I guess, as an inhouse.....

_____: It is legislatively, a decision to make.

_____: And how severe do you think the legal threat is?

_____: Well, I must confess I am more persuaded by Dave's last point than I was with his arguments of ultimate validity and validity.

_____: I can think of something right now....

(Several speaking)

_____: Except for that factor, I don't worry too much about the idea that you have restricted your interim use permits people to those as to whom there is reasonable likelihood that they will get entry permits. That doesn't

worry me particularly. Because you have so closely tied it to the rest of the recipients. If you had stopped only on an interim entry permit and didn't, and left it up to the commission to work out something after that, I would be much more leary of it. (Indiscernible)

_____: And then the last factor is....

_____: Or put it the other way around, the postponement of litigation, which this fairly well assures. I think you are going to have a hard time finding a litigant that is able to sue you and get a determination until somebody has actually been denied.... You might get a court... (Indiscernible) ...very uphill battle to get hurt on it.

_____: I think that will make a lot of difference. The further down the road you are before you go to court.... That is the kind of predicament, however, which can just go wrong as the dickens because any one judge can take just the opposite viewpoint. You have some guy come in and say, okay, I can get an interim use permit, but that isn't what I wanted. I want to litigate this whole thing and the judge might just decide to hear it. whole darn operation.

_____: But even then his case would be _____ a week or so.

_____: I agree.

_____: But on the other hand, don't we, from one viewpoint, weaken the case by allowing everybody in in 1974. Aren't

we really saying, hey, this thing isn't quite as bad as you say, otherwise we would do something about it in '74.

_____: We have done something about it. We haven't let everybody in. We think we can make a pretty strong showing that it had to be somebody that was really ready to participate actively in the fishery. That will keep your speculators out. I mean, you know, you are going to cut out the paper licenses.....

_____: You are not cutting out anybody. (Indiscernible)

_____: But all I am suggesting is I think most of the increase...(indiscernible)...paper licensing... implies that you are going to have that many more people going fishing. And we don't have to issue interim entry permits to anybody who is not going fishing. They guy that will be aggrieved is the guy that is getting ready to go fishing and we tell him no.

_____: Well, we will know more about that after this year, won't we. We will know more about how many people (indiscernible). after this year.

_____: If you wanted to restrict the interim permit you could do it next year.

_____: Or I'm even saying that if a lot of these _____ this year, it will show the need (indiscernible)..

(Several talking at once)

_____: If they don't go fishing then we can pull the thing out of there too. It would show that it wasn't necessary. And we still would be _____ of the time when anybody would go into litigation (indiscernible).

_____: I don't think so because January 1, 1974 is the date when you have to start issuing the permits. If a person's going to apply then because they have a plan in the crab fishery and those early fisheries in January and February (indiscernible).

_____: Well, okay. By that same token, you can _____ it up the other way then. So therefore it would be too late to put on the interim use permits (indiscernible) (indiscernible)

_____: All seasons are open as far as buying licenses the first of January.

_____: Buy you won't have sold all your interm... you won't have sold very many interim use permits, because most people buy them when _____ March and April. But you will sell a few because some of the fisheries that are actually active in January and February.

_____: Well, we would have essentially gone through another legislative session by the time we could get anything done. And those that were buying from us would have already done so, the vast majority of them, prior to the time when anything could be passed this session.

_____: Well, in discussing this with the Attorney General, in the beginning and again last night, he felt that the strongest thing in this whole bill in terms of legal attack, is the fact that we are not, at any point, closing the fishery entirely. As to a certain class of people. You can make the argument that you can get in under an interim use permit if you are a bona fide fisherman and once you have an entry permit it is a transferrable system and you can buy it. And if we introduce this, we are going to have... I think we have upped our changes of getting into legal trouble materially. Because you are going to have a really aggrieved bunch of people. And you will have actually closed the fishery, on intuition of who may be eligible for 18 month, a year. And for some fisheries it will be longer than that. I have always thought that one of the best arguments that the canneries could make or anybody can make is that we are imposing unacceptable burdens on _____ and that this makes economic planning, and we are jeopardizing... A person cannot move. He is frozen there. And over the next 18 months nobody can do anything. And if we can keep it open and not suffer on down the line... I know I'm going to look forward to defending _____ a lot more, I'll put it that way. Because I will feel that those people don't have a leg to stand on. By golly, if I'm looking somebody in the eye, who bought a \$50,000 boat and I told him he can't fish it for two years, I'm not

_____: Well, but here's the problem. We have a fishery in Southeastern, the handtroll fishery, in which nobody would suffer any hardship, or very few people would suffer any hardship if you excluded them.

_____: Is it a distressed fishery or is it?

_____: It is at or above present levels, yes. And the idea isn't going to let everybody in. Even though very few people in that fishery are in "a" or "b". They are mostly in "c".

_____: Well, I don't think we can.

_____: Oh, sure you can.

_____: You had better put them in "b" to do it then.

_____: Okay. It is just juggling around.

_____: I would rather have you juggle to put them into "b" than to say that get in without any hardship.

_____: Well, nobody... anybody... Well, okay. It is all....

_____: Well, it may be, but

_____: If anybody that would not get a permit could show some hardship.

_____: Well, yes, hardship. But it is prospective. Hardship in retrospect is the thesis of the grandfather system. And if you move beyond it you have lost your

_____: Well, we went through that.

_____: Yes, we have. If it doesn't do any harm, indulge

my whim, then if you will. Okay. So you have set this. But in sub-b there you have this alleviating factor if by imposition of the first one of those factors you have cut across category 'a' right in the middle of it somewhere. Then you could work down through category 'a' beyond what that limiting factor would have told you, to increase the number, to pick up the persons who could show significant hardship. And this differs from a minor hardship. Okay, now skip 'c' for a minute, we'll come back to 'c'. And turn over to 195. Now, this describes who is eligible and then 196 ends up saying that the commission shall issue the permits. But this one simply tells you the persons to whom permits may be issued. Okay. First of all he must be able and intend to fish. Now, from among those persons, then, for fisheries designated as distressed, the commission classifys them into three categories, 'a', 'b' and 'c'. Now 'b' is the controlling one because it is the only one that has got a specification in it, that is, those who would suffer only minor hardship. Now, 'a' are those who would suffer more than that, and 'c' those who wouldn't suffer any. Now....

_____: How do you or Dave see various types of people fitting into 'a', 'b' and 'c'?

_____: I think we are bucking it to the commission. Trusting to good judgment.

_____: They would be fitting in terms of the, rather than just describing them, you would develop your priority classifications. There might be more than one. In terms of the standards of economic dependence, and then you would designate which of those priority classifications were in 'a', which in 'b' and which in 'c'.

_____: That's right. If you will turn over to the next page, there's is a sub-d over there that does give the commission some guidance in determining the existence and degree of hardship under 'b' and 'c', the commission shall (1) include only those who had certain licenses, and that has got to be filled in, and, as to those persons, only those persons... well, no. As to those persons, then you apply a reasonable balance of the following. And then I say what to use, and we have pretty much decided that the House Bill description of the factors was an adequate one. Now, I didn't proprot to make any decision on that, but there wasn't a heck of a lot of argument on it. Now this is where the things such as econ ic dependence on the fishery, investment in gear, availability of alternate occupations, was there anything else?

_____: Past participation.

_____: Past participation was described. Now, I don't complain about any of this. So long as it avoids any localism aspect of it.

_____: Okay. You say in determining the existence and degree of hardship under 'b' and 'c' of this thing...

_____: Now, 'c', I haven't talked about. I have to come back to talk about 'c' because 'c' applies to the well, 'c' applies there, and way back under this maximum number, where we are talking about the other types of fisheries, the ones which are not determined to be distressed. And we haven't really worked out the language that we want to use for those. But we are getting close to it. But, as to the distressed ones, we have been through the mechanism, but we haven't quite. Because then you end up with a section over there, number 196, which says to the commission, you issue permits to everyone who is eligible up to the time you reach the maximum number. And if your maximum number cuts across 'a', then you work down through sub-groups of similarly situated persons until you come to the last group, and if you have people who are available that you have in that group, then you do that group by lot.

_____: That would be above the significant....?

_____: No. By this time you have moved your, I don't know whether by this time, but you're maximum number will include those who can show significant hardship if they would have otherwise been excluded.

(Several talking at once)

_____: Why did you use the word 'minor' instead of negligible for 'b'?

going to feel very confident.

_____ : No, not at this time you can't.

_____ : I mean, in terms of just sheer human hardship, if our objective is to avoid as much hardship as we can in the implementation of this program, I think if you put that whole class of people _____, there are going to be a lot of hardship there. When you compare... Here we have been really worrying about cutting out some of these marginal people, fairly marginal people, when you get around to issuing entry permits. Just in terms of how much hardship you are going to load on to people.

_____ : Suppose, Dave, it were feasible to and the commission actually did this. It came into existence by April 15, it looked at the Bristol Bay Fishery or whatever particular one we will pick out as being the worst..(indiscernible). We can't tolerate anybody fishing up there, even if _____ in excess of such and such. And based it upon sound advise given to them even though lacking somewhat in formality, and came to a sensible and defensible conclusion as to that number. And said as to that law, we have...

_____ : Won't be (two speaking at once.

_____ : under the regular rate of system....

...get entry permit. But we haven't time to go through that now... So for that fishery, we've decided we are going to limit it only to those who have some reasonable prospects of being recipients of entry permits. There

is just no possibility in our thinking, that anyone else is going to get one anyway. Now, that would be step a. Add to it then, perhaps, a transferability then existant, for that type of a determination, suppose you let that interim use permit holder sell it. Right now.

_____: Transfer it?

_____: Yes. He gets it on May 1, and he sells it on May 10.

_____: Well, the administrative burden would be overwhelming if you are going to rely on transferability of interim use permits to get you out of the box. And it would. You are just assuming too much about gearing the commission up.

_____: I said you had to take my "ifs" and I'm commenting on my

_____: Furthermore, in terms of this year, if you stick with January 1, 1974, the legal requirements doesn't apply. I realize that you could change that bill.

_____: Yes, sure.

_____: But I think we sort of... We have assured everybody that this system isn't going to go into effect as the '73 fishing season. Only the requirement will be as of January 1, 1973. But I think it is a little late. People have already bought licenses and I think the bills draft will ~~would~~ be going into effect, permit requirement January 1, 1974.

_____: I realize this. I was just wondering whether this sliding gear scale and all this other stuff, I just can't imagine that, especially if the bill is passed, and people can read it and see that they are not going to improve their chances of getting grandfathered in.

_____: But that's logical and reasonable thinking...

_____: But you have got one safeguard. If you started to get in trouble. Your regulations can say someone who is ready to be an active participant in the fishery. You could bill that into a pretty good, you could require more of a showing than you might require if you weren't getting into trouble. In other words, you could screen out the people that are rushing in at the last minute. I think there is something we can use to clearly screen out the paper licenses of guys who are just speculating.

_____: Although that is,... I gather that the worry is the physical fishing effort.

_____: I don't worry about the paper licenses at all.

_____: Okay. There is no indication then. I don't think we have to...

_____: ...but this whole act goes into effect.. In other words, the way the required permit reads now, it doesn't talk about anything _____ said _____ for 1974.

_____: No, accept in terms of requirements, qualifications.

_____: As of January 1, 1973?

_____: That's right.

_____: (Indiscernible - several speaking at once)

_____: It is only the '74 season that is applicable and I would assume that _____ where we could anticipate the '74 season, the commission is going to be cranked up enough _____ isn't going to have to use an interim system in 1974.

_____: Maybe that is the best out.

_____: I think so. And you are just going to have to live with '73, just to...

_____: Well, 1973 we expect it. But 1974 was the point where we....

_____: I think that if you get your commission going, I think, Dave's basic mechanical structure lends itself to fairly rapid implementation of a lidding process under this determination that 's made initially. I think the commission should operate on that fairly quickly, in a really gross area. Wouldn't you Dave?

_____: _____ comment on it.

_____: Bristol Bay is a classic example of one fishery you could catch with amending legislation next year because...

_____: ...(Several speaking at once - indiscernible)

_____: ...whether the commission could realistically be expected to come up with having gone through the maximum setting, the determination of eligibility, the

issuance of initial entry permits.

_____: Well, if they are up and going by mid-summer this year, they are going to hack out proposed regulations pretty quick. They had proposed regulations by early fall. Before even January is reached, they could be pretty far into accepting applications.

_____: Do you have to wait til January to accept applications?

_____: No, they can accept their own applications. And they can do it separately for different fisheries. I think I'd start sending out statements.... On the Bristol Bay Fishery, your application has to be in by September 1.

_____: Hypothetically, you could issue permanent entry permits for an area for Bristol Bay and never issue interim entry permits at all.

_____: That's right.

_____: Wether, administratively, that is realistic, I don't know. But...

_____: Excuse me. I think it would be easier to go through the steps....

_____: Then what... Of course you need your interim use permits in a second case too. Even after your initial issue of entry permits, those that are under protest and being appealed in courts, you have got to issue interim entry permits to cover those.

_____: But that is a minor factor. (indiscernible -- Several talking at once)

necessary. The fishery doesn't physically start until June.

_____: I think that would work out.

_____: Let's think about the letter of intent, or something. Alright. We've got something over an hour. We'd better talk about constitutional points, I guess. Is there any of that...

_____: Well then, just to tie that down, we can stick with the interim use permit system to anyone.

_____: Yes.

_____: Okay. With those...

_____: Specifying that the other is in operation.

_____: That's right.

_____: By the 1974 season.

_____: I don't think that we have got any serious constitutional problems...(indiscernible)

_____: Okay. Where are we then, as far as initial entry? How do we decide that? Getting in in the first place?

_____: Well, we have, at the moment anyway, got a mechanical system that is proposed by Dave. I have reworked it into kind of an organizational structure sense, but it is still basically works the same way. And I think we are more or less in agreement as to the wording of it. The place that we have not come up with precise language is when it finally gets to the standards for measuring hardship. Although we agree in principle there that any

_____ : I got a little bit confused here, I thought that you were saying that we would have the first initial entry permits ready to go in 1974, for the distressed fisheries. ...Bristol Bay. Hopefully Cook Inlet, Prince William Sound.

_____ : Yes.

_____ : And then you came along and said something about....

_____ : No. That they could do it even sooner than January 1, 1974. I just said that conceivably they could move even faster than that.

_____ : There is no reason why they can't do quite a few things prior to January 1, 1974. The only thing that that date is tied to is when a person has to have some kind of a permit to fish.

_____ : It doesn't mean that the....(several people talking at once) they can require submission of applications and all manner of stuff.

_____ : They can also issue a statement that inland fleet distressed fisheries, or whatever they decide, there will be no fishing except with initial entry permits in 1974. So even if they don't have them ready by January 1, the gear licensing, they could be set back. See, right as of now, April 15 is the last date for buying a gear license. It is too late after that. That could be set back, giving them an extra couple of months to work, if

reasonable _____ of standards is an alright one.
Such things as economic dependence, investment in gear,
availability of other occupations, and so on. Are all
legitimate concerns..(indiscernible) We have not actually
written it out. And there are a couple models that you
can use.. (indiscernible)

_____: I thought that you had written up...

(Several speaking at once)

_____: ...He has "a" and "b" and all this and then it
was my understanding that you were going to define a line
of hardship between...

_____: Oh. I beg your pardon. I missed... The one
where I got down to the bracketed part, where I said what
to say, had to do.... that's over on the next page isn't
it?

_____: I think we are a lot further along though...

_____: Yes. That's right. It is this one. That is
the one I'm...When you are categorizing these people over
here, you are to use what kind of balance of what factors?

_____: I thought we decided to work through your "a" and
"b" category, and lock some people in that way, then use
the House Bill....

_____: Yes. That is fine with me. I don't complain
what you use there, but I wanted to find to Bob, that I
hadn't written it out.

(Several speaking at once)

_____: Alright, the mechanics. Let me use... Okay.

Yes, the mechanics of it I think have worked themselves out so that it is really quite a good system. We will start right there. Have you given him the outline first? Let's look at that. I think that helps.

_____: Yes. There was one here someplace.

_____: ...come up with some different titles for article numbers, for article headings. But the basic idea was that there are essentially three sequence phases that you can look at with which the first one is the one where there is the most argument on how, the questions is how you state it. But they all have to do with sort of getting under way. First covering interim use, and then with this mechanism, is the part that's been newly worked out. And this number two now correspondends with this. For designation, I called them severely threatened and we've changed it back to distressed. And this will call then, first of all, after you are in an interim use stage, however brief that may be, for a designation of those areas which are in this particular quality. And the way we define them is by having, in a sense, kind of an estimate made. In other words it is those fisheries which in the judgment of the commission will have the optimum number of entry permits likely to be set no higher than the average number of _____.

_____: What you are saying is that all fisheries that are at or above where you want to be, which is a lot more

fisheries than in the distressed fisheries in the Hous Bill would be under this.

_____ : So basically, all the salmon fisheries?

_____ : Optimum numbers....(indiscernible)

_____ : In other words, you haven't set the optimum yet. This is a preliminary look at things.

_____ : It is another way of saying that your present level is above your optimum level.

_____ : At or above.

_____ : Alright.

_____ : Now, this will allow a fairly rapid progress toward control of the worst areas. That is the idea. And the way to measure whether you are in a bad area or not is to use an estimate as to what you think the optimum is going to be and compare it to this, I've called it a formulated figure. I don't know how good a figure it is. But it is one that has been used in most conversations. The average number of units licensed for that fishery during the four years immediately prior to January 1, 1973.

_____ : It would be the highest....

_____ : Well, I don't really care what you use here. But you should have something that's in the ball park somewhere. Okay. Once you have done that, now, you can talk about distressed fisheries and you can talk about all other fisheries, but we move from that then, to a determination of the maximum number of initial entry permits which will make use of this classification that you have made. So, turn

the page. Now, the first two sections of this page deal with what the total number of initial entry permits you're going to have with respect to those fisheries that have been designated as distressed. And what you come up with by applying paragraphs "a" and "b" is a number. That is all it is. It doesn't tell you who, it just tells you what that number is. Now it's a little complicated because what the first section does is say that you should take the lesser of two. You take that average number of those four years, or, if it should turn out to be a smaller quantity, the persons who are going to be in these hardship categories, "a" and "b" that we come to in the next section.

_____ : Didn't we decide, Professor, that it wasn't necessary, that since there aren't going to be any fisheries where you would have that number, that you just say, the highest of the last four years, and that will be the lowest of the two figures?

_____ : Well, I want to keep this in for window dressing if nothing else. Because this limits the thing to hardship people, even though this number might be too high. Because I think you must limit it. I don't think you can grandfather anybody in who doesn't suffer hardship.

_____ : I don't see any difficulty...

_____ : You may have a fishery where this is a limiting number. In which case I think you had better live with it.

_____ : I felt that negligible got too close to zero. And we were allowing, and I thought when I wrote this that it was a significant group of fisheries as to which this might apply. I'm told that it is not. But if, as to any particular fishery, it would be such that your maximum number to be set is arrived at by the application of this second factor instead of the first one, then 'b' and 'a' together can be no broader than those persons as to whom there would be some hardship.

_____ : 'b' and 'a' together?

_____ : That's right. In other words, your total number, I think, cannot exceed those for whom there will be some hardship. And for that reason I wanted 'b' still to be at some degree of hardship, even though very minor.

_____ : You mean you _____ to set your maximum number of... level of permits at a level which would let people in that had suffered no hardship?

_____ : I don't think you can.

_____ : This is under a distressed fisheries, Dave.

_____ : Oh. Under a distressed fisheries.

_____ : Not under the other one?

_____ : No I'm not talking about the other one. Because under those I think you can't be.. needn't be so limited and probably ought not to be.

_____ : The thing is, you don't lose your _____ though because you are always talking about people... You

are not ever going to exclude anybody that would suffer more hardship. _____ handtroll fishery because it really bothers me. Because there is nobody in that fishery that suffers any hardship. But yet, if it is a distressed fishery, it has to be stopped at the present level. It is a hobby fishery. But there are too many hobby people in it.

_____: If _____ willing to let the person over and above the hardship people be selected from the world at large, as distinct from those who held past permits, I'd be with you.

_____: Isn't it true that even though they would suffer the most infinitesimal hardship, they would still suffer more hardship than someone who has never been in it.

_____: Well..... (several talking at once.)

_____: As a practical matter, wouldn't it be easier to attempt to see to it, although you can't put an armlock on the commission, that if the commission proceeds promptly to treat the troll fishery under 'c', which is a non-distressed fishery, and the net effect would be the same, its going to put a lid on it.

_____: Okay. It's just that... its the concept that I'm concerned with.

_____: Well the concept is that, we're not creating grandfather rights, we're just saying that if somebody has to be kicked out, it ought to be somebody who is hurt

less, not somebody that is hurt more.

_____: Well, if he is hurt at all, I would put him in 'b'.

_____: Alright, then everybody is hurt to some degree.

_____: Now, this has to have some retrospective quality to it. It isn't what you might be hurt in the future if you don't get to do something. It is the fact that you have got a past association with something. (Indiscernible)

_____: ...only people who can apply are people who have past association.

_____: I think that when you put into your criterion for deciding whether there is hardship, the degree of past participation, that that of itself is a kind of measure of hardship. (Indiscernible)

_____: Then we don't have any 'c's. Because all applicants will have to have fished at some time.

-----; Yes. Yes. I think that is right.

_____: That's what I came around to before. The 'b' on page 195, item 'c', the "all others" category is really a....

_____: It is a zero category as far as I can tell. Because you are not going to be issuing any _____...

_____: Well, I agree then, with that.

_____: I don't want you to.

_____: I agree with that.

_____: So even though the guy nominally held a paper permit, he is not going to get one. Now, that's the

mechanism for the distressed fishery. And I think it is a quite workable one. Because that gets your initial entry permits out and it gets them out fairly rapidly.

_____: Yes. My big difficulty is in trying to convince the 90% of part timers in Cook Inlet that they are taken care of, rather than being left out.

_____: Well, it can't be less than the present level. Or the highest of the last...

_____: I understand that. But, again, with the rotation in and out...(indiscernible)

_____: If you think that your people who are... well, I don't know how this is going to be a factual matter that somebody, either legislatively or administratively _____ sooner or later, and that where there are persons on a part time basis, are suffering hardship if they are kicked out or not. I don't know how you are going to treat them. Are you going to postpone the evil day and let the commission decide it? I think you have got a mechanism to do it.

_____: No. I don't. I don't want to at all. I want to assure them that they are in. Again, I am not interested in _____ such a professional thing that those people are no longer in. That's not good for them and it's not good for the fishery, I don't think. It is not good for anything.

_____: Well under the standard of the highest for four years, or the average of four years, and change it to the

highest of the last four years. Some of these people have not fished consistently every year. But then, the same holds true with all the other fisheries in the state. There are going to be some people who are eliminated because of erratic participation. Cook Inlet isn't the only situation.

(Several speaking at once)

_____: Right. So that my point is that everybody is being treated fairly as far as the number of units of gear.

_____: I'm sorry sir. I do not accept it.

_____: And whether they have had consistent participation or erratic participation.

_____: Basically, you don't want to kick anybody out.

_____: Basically, I want to put a lid on now for those that have any substantial degree of hardship at all...

_____: Well substantial is already talked about. Minor is a different thing.

_____: Well...

_____: The difference between minor and substantial is very great.

_____: That's right. And that we are leaving to the commission and that I'm not willing to. If there is any way around it whatsoever.

_____: But you have got to leave them to actually putting people into those categories because the words themselves won't do it. Hardship, minor hardship, is a concept. It doesn't make any sense unless you tie it to some more

objective standard like past participation or degree of economic dependence, and that still is going to have to be evaluated in the individual cases.

_____: I see no solution for the problem of getting certainty other than to be certain and other than to be specific. And if 'minor' doesn't do it, then I think you have to say 'and' I don't know how we will write it....
(end of tape)

SCOMM

31:25

CSSB 39 Limited Entry Special Fisheries Commission Hearing: Final
March 30, 1973

(Copies distributed)

Senator Palmer While it doesn't say proposed committee substitute, that's what it is. If there are objections that the Resource Committee or ^{also the} (?) Committee wish to make, they will be made. Now I would like to bring us up to date on what's happening. We worked rather strenuously last week in trying to bring this thing to a head, and I think Friday night was it, we finally finished the last proposed substitute prior to this one. We thought we had a good bill. The House members who were particularly concerned came in and met with us on Saturday and went through it. We made allowances for their concerns and amended as they desired, so we had something that would pass both houses we possibly thought. It was then further considered by the attorney general's office and Mr. Jackman was quite concerned with some of the elements in it and since he was probably going to be on the floor defending it before a court, we did think it was important for him to be at least halfway in agreement with what we did. It looked at that point like we might run into so many problems that we finally decided the best thing to do was to try to have a preconference committee meeting prior to passage of the Senate. So at that time we called Professor Fletcher and he came up and we spent two more days, starting from scratch Professor Fletcher on one side of the table and Jackman and Adasiak on the other side outnumbering him and beating our heads on this thing until we could come up with something that did appear workable and do the job for those of us who were concerned there at that time. We did limit the number of people that were there because of the fact that we have so much to do and such a little time to do it in.

I think you are all aware of the problems when we have a room full of people each one trying to have his say *and the tremendous burden that results*. So this is the reason we didn't have an open meeting *with all the public there at that time*. However, we did have members of both houses at times and we had other members of the Senate who are not senators and were not members of the committee. I think at this time then the best thing to do since the _____ is to try let Dave Jackman summarize this for us. The important points first of all are the bill itself and then I think perhaps if the members of the committee have questions about how it would work, lets get those questions out so Dave or some of us can answer them. Perhaps after that if you're interested we'll let Dave compare this bill to the House version. Let's lead off that way. Dave.

Dave Jackman Thank you Mr. Chairman. As you stated this proposed committee substitute was the result of much work drawn primarily from the committee substitute and professor put together and the inputs of the people attending those meetings. I think the structure can be most easily understood if you think of it ^{AS} four parts, or maybe there are five. First, the first article dealing with the creation of the commission, the second article dealing with the basic entry permit system, what entry permits are, what the terms and conditions of entry permits are, how they can be transferred, so forth. The third article dealing with the initial issue of permits, in other words, starting with the present situation, how do we decide where we're going, how we're going to go about putting a lid on things and getting the entry permits out initially to the people

that have been fishing. The fourth article is really phase two of the program. It addresses the reduction of the number of entry permits down to optimum levels. It is working from where we are now down to something like a reasonable level of gear, and the fifth article if I remember it correctly, simply deals with general provisions, penalties, regulations, definitions and so forth. I know you're under time constraints, but I'll take a few minutes to go through the details as to how the mechanism will work. The first article, as I say, deals with the creation of the commission. The commission would be a three member commission made up of full-time commissioners, be a quasi-judicial and regulatory agency of the State. One member would be designated as chairman, the commissioners would serve for staggered terms, be removable only for cause shown, including incompetence, neglect of duty and such as that. I think the sentiment there was so that there wouldn't be an automatic change in makeup of this commission with the change of administration. The two members of the commission would constitute a quorum and clearly the organization of the commission contemplates that it would have an adequate supporting staff. There would be a need for a fairly sizable clerical staff to handle just the bookkeeping mechanics of issuing, collecting fees, and all of that. In addition to that the commission would rely on experts as they needed. The attorney general would be legal counsel and as the chairman noted we would be the ones that no doubt are going to be in court trying to defend this program. The powers and duties of the commission are enumerated in article two. Its just a general rundown so that if somebody might want to make

reference can see all the things that are accomplished some other place in the act. I don't think its necessary to discuss them in and of themselves because they're all going to be covered as we work through . Basically the provisions of the administrative procedure act would apply to all regulations adopted by the commission and the adoption of regulations, public hearings, notice and publication, pretty much just conform with our _____

The commission would adopt its own standards for administrative adjudication. That again is in its quasi-judicial role when it gets around to looking at individuals and giving individual applicants hearing on their applications. It's directed to establish its own regulations and procedures for that purpose. The basic reason for that is experience with other commissions, such as the public utilities commission and transportation commission has shown the ABA procedures for adjudication to be cumbersome, more cumbersome than necessary. Now the article three which lays out the basic entry permit system begins at the bottom of page 5. Section 140 states that the basic permit requirement that after January 1, 1974 no persons may operate gear engaged in the commercial taking of fishery resources in the State without a valid entry permit or valid interim-use permit. It goes on to state that a permit is not required of a crewman to make it clear that the requirement that a person have an entry permit or comes under this system at all does not apply to crewmen or others who would assist in the operation of fishing gear. This applies to—would have to^{be} issued in one-to-one correspondence with the number of units of gear. Sometimes that^s vessels, sometimes not. It goes on to state that there are only three circumstances in which a

person can hold more than one permit, that would be to allow a person to fish more than one type of gear, say a purse seine drift gill net or shellfish gear and salmon gear. This is very much an established pattern in many of the fisheries of the State that people fish more than one type of fishery. Fishing in more than one administrative area where we have established fisheries people that actually want to fish or have fished in the past say Southeastern and Prince William Sound something like that. The third situation would be harvesting particular species for which separate interim-use or entry permits are issued. Now that's necessary to provide for situations like you might have in Kodiak where one type of gear shellfish pots is used to harvest tanner crab, king crab, dungeness crab and the level of gear for each of those different fisheries might be very different. So you have to have different permits for king crab than for tanner crab. Now Section 150 starting _____ page 6 spells out the terms and conditions of entry permits. Basically it states that permits operate a unit of gear within a specified administrative area, must be in the possession of the holder, issued for a term of one year, but is renewable annually. This is to make clear that once these things are issued, as long as ^a person remains in good standing, pays the fees and assessments, he has a right to renewal of a permit. An important term and condition which was added, it may have been in the last couple of drafts, the Senate version, I'm not sure Mr. Chairman, is that an entry permit constitutes a use privilege which may be modified or revoked by the legislature without compensation. This is to make it clear that the entry permits do not constitute

property rights in the fishery or something that is subject to fifth amendment compensation if the legislature wants to modify or restrict or even completely repeal the system. In a sense it's stating the obvious, the legislature's hands are never tied in terms of a system which it creates, but it's to make it clear to people that in terms of the entire system, the legislature could come back and make whatever necessary modifications it needs to in the future. Also stated the entry permit shall survive the death of the holder and that a permit may not be pledged, mortgaged or encumbered or subject to right of repossession or any of that. The fees section underwent substantial discussion and revision because several of the committee members noted the problem of charging one set fee for all the different types of gear in the State. Whereas a family of setnetters that might not make that much money in any given year, still have to pay three or four \$50 fees whereas the same fifty dollar fee would be all that an operator of crab pot who might gross \$100,000 or more would be subject to. To correct that inequity, the fee section reads that annual fees will be no less than \$10 and no more than \$100 and shall reasonably reflect the different rates of economic return for different fisheries. In addition to that change the Senate bill permits those falling below federal social security administration poverty guidelines to in no case be subject to more than a \$5 maximum fee. Transfer of entry permits by and through the commission only. The permits can only be transferred by making application to the commission and only upon a six months notice of intent to transfer, so that the transfer of permits is a deliberate and protected

by going through the commission and being done in full view of the commission. Basically the permits are freely transferable with one exception, one important exception, well, two important exceptions. They are freely transferable with the restriction that the transferee, the person the permit is going to, be a fisherman; they cannot be transferred to speculators or people that are not prepared to actively participate in the fishery. The other important exception will become clear when we discuss the mechanism later on in the bill. But one class of applicants will receive permits subject to a temporary restriction on transfer, which will say that as long as the gear is above optimum level, still up to where we are now in most of the fisheries, they can only transfer back to the commission, they cannot transfer to another fisherman. They will get fair market value just like everyone else but they can only transfer to the commission. Article four--the initial issuance of entry permits first establishes administrative areas which will have to be compatible with the areas established by the Board of Fish and Game. Then introduces the interim-use permit. The interim-use permit is just what it says; it's a permit which the commission will issue while it is making, adopting the regulations, accepting the applications, making the determinations that it needs to make to issue the final entry permits. The interim-use permit system probably in some of the fisheries will only be in effect for six months at most a year. Some of the other fisheries it may be in effect longer than that and be in the developing fisheries which are below optimum levels now, where there's no need to cut off gear, the interim-use permit system is the mechanism will keep track of

that fishery and put on a lid when it needs a lid put on it. But the interim-use system might remain in effect in those fisheries for a number of years depending on how they develop. There is one special restriction on the interim-use permit issuance. Generally they can be issued to anyone who is ready to actively participate in the fisheries, however there is a finding at the bottom of page 9 that in Bristol Bay, Cook Inlet, Prince William Sound drift net fisheries are severely impaired and as a result even on an interim-basis, permits can only go to individuals who have at some time in the past fished in those fisheries. They cannot be issued, even interim permits cannot be issued to fishermen who come in there for the first time this next year. There is a one year restriction on that so the legislature can keep a tight control on that exception. Now on page 10, Terms and Conditions of Interim-Use Permits basically they are non-transferable, they have to be in possession, the commission can adopt regulations for the hardship transfer of interim-use permits and temporary transfer due to sickness or for other unavoidable consequences that would keep a man out for all or part of a season. Then the next important provision is the designation of the stressed fisheries. Now this is substantially different from anything in the House bill. Distressed fisheries are those fisheries that are at or above the optimum level basically. Most of the salmon fisheries would fall in that category. Some of the shellfish fisheries. The only fisheries which would be excluded from that definition are fisheries which in the judgement of the commission can be allowed to grow which are still below the optimum level, there is no need to put a lid on them yet.

Going on to page 11, Determination of Maximum Number of Entry Permits. Basically for the distressed fisheries, the maximum number of permits for initial issue will be the highest number of units of gear fished in that fishery during any one of the four years immediately preceding January 1, 1973. Now for the other fisheries, the non-distressed fisheries, when the commission finds that that fishery has reached levels which require limitation on down the line, the commission shall establish the maximum number of entry permits for that fishery. Then in terms of standards for initial issue of entry permits, these are set forth as hardship standards to rank the applicants in degree of hardship which they would suffer by exclusion from the fishery. The regulations would define priority classifications based on two standards, degree of economic dependence upon the fishery and extent of past participation in the fishery. And at the same point in time, the commission is proposing those regulations which would set forth the qualifications, now they will do this fishery by fishery as in all the bills dealing with each area and each type of gear separately, that the commission will designate those applicants who would suffer significant economic hardship by exclusion from the fishery. Now that designation is important because later on those people must receive permits, they're locked in as much as in one of the earlier drafts the top three hardship categories were. Another designation which the commission must make is the designation of those priority classification of applicants who would suffer only minor

economic hardship by exclusion from the fishery and it is only people who receive permits in that category that have the restricted transfer applied to them, in other words, they can only transfer the permits to the commission until you get back down to optimum levels. Now if they hold on to it or if it goes on to their family there's no problem with that, they can keep the permit. But if they want to sell it to anybody, they can only sell it to the commission. The application procedures are pretty straightforward. Only applicants who have at some time held gear licenses in the area can apply for permits. If the applicant is not satisfied with the commission's decision on his application, he can ask for and receive an administrative adjudication as his own separate hearing of his qualifications at which he can present alternative evidence. Another very important provision included in the section on line 21 of page 12 is that all qualifications are determined on a person's participation prior to January 1, 1973. What that means is that if someone comes into the fishery at the last minute this year can do so, but he won't get any credit toward qualifying for an entry permit by virtue of what he does in '73. The commission will look only at what he has done prior years. Question--unidentified speaker 2 Dave, how does that prior to January 1, 1973 apply to Paragraph A on page 16?

Dave Jackman--To my recollection, Joe, correct me if I'm wrong, the typist dropped the January 1, 1973, this is on line 8 page 12. There should be an amendment there. You see that was in there and for some reason the typist missed it because applications can only be accepted if you're only going to let people qualify on

the basis of prior to January 1, 1973 then the applications should only be accepted from people who have held a gear license prior to January 1, 1973.

Joe--So if you change that period after 670 to a comma and add the words "prior to January 1, 1973" that will straighten it out. Line 8, page 12.

Dave--On page 13, initial issuance of entry permits, the commission shall issue entry permits first to all qualified applicants designated under 250B that is anyone who would suffer significant economic hardship, then to all applicants in descending priority classification until they reached the maximum number of permits for that area. How far down that list of priority classifications depends very much on the fisheries. In some areas where the fishery is a part-time fishery, you're going to be well down into the casual participants probably including all of them. In other fisheries, Bristol Bay, the cutoff line might be somewhat higher. But in any event no one who suffers significant economic distress can be denied a permit, so those people are locked in. If the maximum number cuts right through the middle of the priority classification, then the decision of who gets permits within that priority classification is by lottery. This priority classification becomes somewhat confusing, but what it is an attempt to do is group people, similarly situated people, into an _____ in the terms of the nature of that fishery and not to pretend that you can draw a line between individuals. You get to a certain point where the commission would be up against a hopeless task if they tried to differentiate 20 or 30 individuals who have

qualifications that were virtually identical, so they're all put into one priority classification and treated equally. Now, if at the time permits are issued some applicants are still appealing the result of an administrative adjudication, permits are held out to protect on the assumption that the appeal will be resolved in their favor. So a person cannot only appeal through the commission but they can appeal it through the courts all the provisions on appeal are ABA applied. If a person thinks he has been treated unfairly by the commission what the commission then would do let him continue to fish on an interim use permit and hold out an entry permit for him until the appeal is finally determined.

Senator Palmer--Let me see if I can get this straight in my own thinking and hopefully in others too. The regs have a maximum first and that maximum shall be no less than the largest number of units of gear that have been fished during the previous four years in that fishery. No less than that.

Dave--That's right.

Palmer--Chairman--It's also going to include all of those that would suffer a significant hardship if they were excluded, and if that last number is bigger than the first why so be it.

Dave--That's right.

Senator Palmer--Now when you're talking about putting across a hardship category and lottery, what your saying is, that after this first group for significant hardship those people are all going to be included. Now if you still have room for all of those and you still haven't gone up to your maximum you're gonna drop on down to another little minor hardship and start letting them in.

Dave--That's right.

Chairman--Now if you don't have room for all of the minor hardship cases, that's when your line cuts through them. Then you're going to stop and say instead of letting any of those in on a one-one-one basis, instead we're simply going to stop and all of those people will be treated the same, they'll be given a chance to draw out of a hat on a lottery basis for the slots that are left before you get to the maximum. Is that it?

Dave--That's right?

Female speaker--I'm a little confused. Just to use a figure, say 500 permits is the highest for the four years...

Palmer--You want me to go on from there?

Female speaker--yes.

Palmer--The highest year of the four there were 500 permits that were fished or five hundred gear licenses that were fished. Suppose that the commission goes in and ranks all of the applicants and they find 400 of them where there will be a significant hardship if those people were kept out. Then they find another 200 where there would be only minor hardship if they were left out. All four hundred of those go in. The 200 instead of taking the first 100 of them. Now let's take the same situation again, suppose again we have 500 left when we start ranking according to hardship, we find that we have six hundred people all of whom would suffer a significant hardship if they were excluded and other 200 who would suffer a minor hardship if they were excluded. So what we simply do is ignore the 500 and take all of the six hundred and put them in and none of the minors go in then.

Dave--One thing I'd like to ^{ADD} that, because I think there is still one point of confusion. In the example that Senator Palmer gave where you have a maximum set at 500, you have 400 people who would suffer significant hardship, they get permits first. You have 100 permits left to issue and 200 applicants. Now those 200 applicants might be divided into as many as 2 or 3 other priority classifications. Priority classification is sort of a notion of a point system if you want to in terms of how many years and what... Some of them would be minor, some negligible, some not at all. So you might not have a drawing of all the 200 but you might come down through one of those and a line would cut across the middle of the second one, so you have a drawing of say 60 who were in one of those priority classifications. So you aren't necessarily condemning all of the people below significant degree of hardship to a drawing but if you have to cut through a group of people that you can't really differentiate one from another, then the only fair way to do it at that point is by lottery. That's all it really says or allows the commission to do.

Unidentified speaker--The commission now determines minor classifications?

Chairman--They would determine them only as set out in terms of the standards of the bill ranking in terms of economic hardship and past participation

Unintelligible question and answer regarding fishing in 1973,
Palmer's answer included words "that has nothing to do with what happens here."