

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86 / 2
2213 SCOMM 87. HOUSE SPECIAL COMMITTEE ON FISHERIES, 1993-94 817

HOUSE COMMITTEE REPORT

(11)

Date Referred: April 13, 1993

FURTHER REFERRALS:

Rules
4/21

Date of Committee Action: 4/20/93

The FINANCE Committee considered:

HB 252

HOUSE BILL NO. 252

REFINANCING COMMERCIAL FISHING LOANS

"An Act amending the Commercial Fishing Loan Act to authorize refinancing of existing loans made under that Act."

RECOMMENDATIONS: [] the same title
be replaced with [] a new title
[] have attached amendments(s)
[] do pass
[] do not pass
[✓] no recommendations
[] individual recommendations
[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

[✓] fiscal impact Dept of Commerce By Finance Committee [] fiscal note(s) _____
[] zero fiscal note _____ [] zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Donald J. Larson</i> Larson	X	<i>EP Maclean</i> Maclean		✓	
<i>Ben Grussendorf</i> Grussendorf	X	<i>Mark Hanley</i> Hanley		X	
<i>Tom Hoffman</i> Hoffman	✓	<i>Terry Martin</i> Martin			2✓
<i>Richard Foster</i> Foster	X	<i>Sean Parnell</i> Parnell	X		
		<i>Mike Navarre</i> Navarre		✓	
		<i>Tan Brown</i> Brown		✓	
		<i>Gene Theriault</i> Theriault		X	
	(4)			(6)	(1)

CO-CHAIRS

Donald J. Larson *EP Maclean*
COCHAIRMAN'S SIGNATURE
Larson Maclean

STATE OF ALASKA

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF INVESTMENTS

WALTER J. HICKEL, GOVERNOR

MAR 22 1993

P.O. BOX 34159
3032 VINTAGE BLVD.
JUNEAU, ALASKA 99803-4159
PHONE: (907) 790-2693
FAX: (907) 790-2781

March 18, 1993

The Honorable Carl Moses
Alaska House of Representatives
State Capital, Room 204
Juneau, AK 99801-1182

Dear Representative Moses:

As requested by Molly McCammon from your staff, we have done some analysis of the costs involved in amending the Commercial Fishing loan program to include refinancing of existing loans. The majority of loans in our portfolio were made at 10.5%, resulting in an annual return of interest to the fund of approximately \$6,879,000. If refinancing were allowed, the interest rate on these loans would be reduced to 8% resulting in a reduction of \$1,638,000 in interest payments to the fund each year. In addition, there would be an administrative cost involved in refinancing approximately 1,200 loans. Even with a streamlined program, there would be a cost of, at least, \$210,000 in the first year. It should be noted that under current regulations a commitment fee paid by the borrower at closing would offset this expense by providing approximately \$328,000 to the loan fund.

Refinancing existing loans, if allowed, would reduce the interest paid by the borrowers. It would also, however, substantially reduce the cash flow into the loan fund, potentially jeopardizing the "revolving" nature of the fund, which has not had an infusion of General Fund dollars since 1985. Reduced payments into the fund may lessen our ability to meet the needs of those fishers who need loans to finance permit and vessel purchases.

Please contact me at 465-2510 if you have any further questions.

Cordially,



Martin J. Richard
Director

cc: Paul Fuhs, Commissioner
Department of Commerce and Economic Development

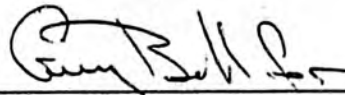
HB 252: "An act amending the Commercial Fishing Loan Act to authorize refinancing of existing loans made under that Act."

This legislation would allow the Department to refinance existing loans in the Commercial Fishing Revolving Loan Fund to take advantage of lower interest rates currently available. Almost all loans, more than 1,200, currently on the books were made at 10.5%. 3 AAC 80.055(k) provides for new fixed rate loans at 2% above the bank prime rate. The current bank prime rate is 6%, making the commercial fishing loan rate 8%.

A loan refinance is accomplished by originating a new loan under currently available terms and paying off the existing loan debt. Fees generated will be in excess of the administrative costs estimated for the program.

The reduction of 2.5% in interest on the existing loans will result in more than a million and a half dollars of reduced cash flow into the Commercial Fishing Revolving Loan Fund. This may limit the ability to meet loan demand in future years.

The Department is neutral on this legislation. This will result in a general benefit to all fishers with existing loans in the program, but may result in funds not being available in the future to those for which the program was designed to assist.



Paul Fuhs, Commissioner

Date: 3-25-93



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 112
Juneau, Alaska 99801
907/586-2820
Fax: 907/463-2545

April 20, 1993

The Honorable Carl Moses
Representative
Alaska State House of Representatives
The Capitol Building
Juneau, Alaska 99801-1182

Dear Representative Moses:

In regards to House Bill 252 - Refinancing Commercial Fishing Loans, United Fishermen of Alaska overwhelmingly supports this bill. If there is a bill that would have the largest single impact for commercial fishermen this year, this would be the one.

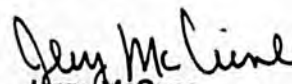
The existing loan fund has always been a solid program. It has paid for itself many times over and has paid \$5 million in surplus alone to the State's General Fund this year. The problem of refinancing these State loans has existed since 1989 and, throughout this time, we have continually tried to have it amended so that the current loanholders could refinance their loans at a lower interest rate. United Fishermen of Alaska feels that commercial fishermen continually pay their portion to the State's General Fund. The Legislature continues to address cutting the budget during this session due to rising costs. Likewise, the commercial fisherman needs relief from expenses from rising costs and HB 252 would allow such relief to the fisherman while continuing to support the Revolving Loan Fund.

Commercial banks have cut way back on fisheries loans due to fluctuations of prices and unstable fisheries throughout the state. Many small fishermen rely on the State's Loan Program because of these cutbacks. State loans are a good investment for the State's future fishermen as it allows many residents the chance to begin a fisheries career who would not have otherwise had the opportunity.

House Bill 252 makes good sense from a business standpoint since every other kind of loan can be refinanced at a lower rate. Currently, fishermen with existing loans are paying a fixed rate of 10.5%, while new applicants for loans pay only eight percent (8%). The commercial fishermen who hold the 10.5% loans are struggling to make ends meet. Allowing them to refinance their loans at eight percent (8%) would give these loanholders and their families better financial stability.

You can make the difference for these Alaskan residents. Please support House Bill 252 and help a lot of State residents from Bristol Bay to Southeastern Alaska refinance their loans!

Sincerely,


Jerry McCune
President

cc: UFA Board of Directors

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Longline Fisherman's Association • Alaska Trollers Association • Area K Seiners Association
Bering Sea Fishermen's Association • Bristol Bay Driftnetters Association • Concerned Area "M" Fishermen
Cook Inlet Aquaculture Association • Cordova District Fishermen United • Kenai Peninsula Fishermen's Association
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Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Seafood Producers Cooperative
Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association
United Cook Inlet Drift Association • Western Alaska Cooperative Marketing Association



UNITED FISHERMEN OF ALASKA

MAR 29 1993

211 Fourth Street, Suite 112
Juneau, Alaska 99801
907/586-2820
Fax: 907/463-2545

March 25, 1993

The Honorable Carl Moses
House of Representatives
The Capitol Building, Room 204
Juneau, Alaska 99801-1182

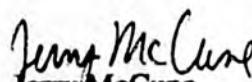
Dear Representative Moses:

United Fishermen of Alaska sincerely appreciates your introducing HB 252 "An Act amending the Commercial Fishing Loan Act to authorize refinancing of existing loans made under that Act." This bill would exempt a great many fishermen.

As you know, there are some fisheries and fishermen who are currently having a real rough time financially. This bill would benefit many families in the state of Alaska who are struggling for existence right now.

Once again, thank you. If UFA can be of any assistance to you, please do not hesitate to call.

Sincerely,


Jerry McCune
President

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSIONBILL NO. HB 252Revision Date: March 25, 1993Title: Refinancing Commercial Fishing LoansDepartment Affected: Commerce and Economic DevelopmentBRU: InvestmentsSponsor: Representative Moses

Component: _____

Requestor: House Labor and CommerceCOMPONENT SERIAL NO. 0384

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	166.5	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	4.0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	170.5	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE C/F LOAN FUND SOURCE: 1036	328.0	[1,638.0]	[1,638.0]	[1,638.0]	[1,638.0]	[1,638.0]
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER C/F LOAN 1036	170.5	0	0	0	0	0
TOTAL	170.5	0	0	0	0	0

POSITIONS:

FULL-TIME	4	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY 93) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Martin J. Richard
Division: InvestmentsPhone: 465-2510

Date: _____

Approved by Commissioner: Paul Fuhs
Agency: Commerce and Economic DevelopmentDate: 3 25 93PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 252

ANALYSIS: (continued)

This fiscal note assumes that this legislation will be effective in FY94. It will impact approximately 1,200 existing loans in the Commercial Fishing Loan Program. The refinance of an existing loan is accomplished by originating a new loan and paying off the existing debt.

Personal Services

Loan Examiner II - This position will coordinate the refinance program and be responsible for reviewing financial data and approving the origination of the new loan.

Loan Closer I - These two positions will process the requisite loan documentation for the loan and the collateral securing the loan.

Accounting Tech. I - This position will prepare the necessary accounting documentation to pay off the existing loan to be refinanced.

Supplies

This cost is for general office supplies needed by the above noted staff.

Revenue Fund Source

In FY94 \$328.0 will be earned through loan origination fees of 1/2% of the loan amount. The impact to the Commercial Fishing Revolving Loan Fund of this reduction from 10.5% loans to the currently available 8% loans is approximately \$1,638.0 per year. This is a reduction in cashflow to the Fund as a result of less interest being paid in each subsequent year.

Position Title Accounting Technician I			No. of Positions 1	Range / Step 12A	Barg. Unit GGU
Time Status Full-Time	Staff Months 12 months		Location Juneau		Election District
TYPE OF EXPENDITURE		AMOUNT	Justification This position is needed to process the requisite loan documents to complete the refinance of an existing loan.		
Salary		27.9			
Benefits		12.2			
Premium Pay					
Other					
Total Personal Services		40.1			
Travel					
Contractual					
Commodities		1.0			
Equipment					
Other					
Total Cost		41.1			
FUNDING SOURCE FOR TOTAL COST					
Federal Receipts	1002				
G.F. Match	1003				
General Fund	1004				
I-A Receipts	1007				
CIP Receipts	1061				
Other	C/F Loan 1036	41.1			

Request For New Position

AGENCY Commerce and Economic Development
BRU Investments
COMPONENT _____

FY 94

Page 1 of 1
Revised Date: March 25, 1993

Position Title Loan Closer I			No. of Positions 2	Range / Step 10A	Barg. Unit GGU
Time Status Full-Time	Staff Months 12 months		Location Juneau		Election District
TYPE OF EXPENDITURE		AMOUNT	Justification These positions are needed to process the requisite loan documents to complete the refinance of an existing loan.		
Salary	24.8	49.6			
Benefits	11.3	22.6			
Premium Pay					
Other					
Total Personal Services	36.1	72.2			
Travel					
Contractual					
Commodities		2.0			
Equipment					
Other					
Total Cost		74.2			
FUNDING SOURCE FOR TOTAL COST					
Federal Receipts	1002				
G.F. Match	1003				
General Fund	1004				
I-A Receipts	1007				
CIP Receipts	1061				
Other C/F Loan	1036	74.2			

Request For New Position

AGENCY Commerce and Economic Development
 BRU Investments
 COMPONENT _____

FY 94

Page 1 of 1
 Revised Date: March 25, 1993

Position Title Loan Examiner II			No. of Positions 1	Range / Step 17A	Barg. Unit GGU
Time Status Full-Time	Staff Months 12 months		Location Juneau		Election District
TYPE OF EXPENDITURE		AMOUNT	Justification This position is needed to process the requisite loan documents to complete the refinance of an existing loan.		
Salary		39.0			
Benefits		15.2			
Premium Pay					
Other					
Total Personal Services		54.2			
Travel					
Contractual					
Commodities		1.0			
Equipment					
Other					
Total Cost		55.2			
FUNDING SOURCE FOR TOTAL COST					
Federal Receipts	1002				
G.F. Match	1003				
General Fund	1004				
I-A Receipts	1007				
CIP Receipts	1061				
Other	C/F Loan 1036	55.2			

Request For New Position

AGENCY Commerce and Economic Development

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COMPONENT _____

FY 94

Page 1 of 1
Revised Date: March 25, 1993



UNITED FISHERMEN OF ALASKA

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Fax: 907/463-2545

April 20, 1993

The Honorable Carl Moses
Representative
Alaska State House of Representatives
The Capitol Building
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Dear Representative Moses:

In regards to House Bill 252 - Refinancing Commercial Fishing Loans, United Fishermen of Alaska overwhelmingly supports this bill. If there is a bill that would have the largest single impact for commercial fishermen this year, this would be the one.

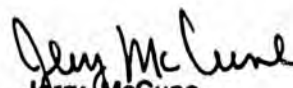
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House Bill 252 makes good sense from a business standpoint since every other kind of loan can be refinanced at a lower rate. Currently, fishermen with existing loans are paying a fixed rate of 10.5%, while new applicants for loans pay only eight percent (8%). The commercial fishermen who hold the 10.5% loans are struggling to make ends meet. Allowing them to refinance their loans at eight percent (8%) would give these loanholders and their families better financial stability.

You can make the difference for these Alaskan residents. Please support House Bill 252 and help a lot of State residents from Bristol Bay to Southeastern Alaska refinance their loans!

Sincerely,


Jerry McCune
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cc: UFA Board of Directors

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Alaska House of Representatives
Letter of Intent for HB 252

It is the intent of the Alaska House that the Department of Commerce and Economic Development establish regulations to reflect priorities for use of the Commercial Fishing Revolving Loan Fund in the following order:

- 1) new loans to purchase limited entry permits
- 2) new loans to purchase vessels
- 3) new loans to purchase gear
- 4) refinancing of existing loans
- 5) new loans to purchase IFQ quota shares



MAR 29 1993
UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 112
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907/586-2820
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March 25, 1993

The Honorable Carl Moses
House of Representatives
The Capitol Building, Room 204
Juneau, Alaska 99801-1182

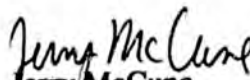
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Sincerely,


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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSIONBILL NO. HB 252Revision Date: March 25, 1993Title: Refinancing Commercial Fishing LoansSponsor: Representative MosesRequestor: House Labor and CommerceDepartment Affected: Commerce and Economic DevelopmentBRU: Investments

Component: _____

COMPONENT SERIAL NO. 0384

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	166.5	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	4.0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	170.5	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE C/F LOAN FUND SOURCE: 1036	328.0	[1,638.0]	[1,638.0]	[1,638.0]	[1,638.0]	[1,638.0]
---------------------------------------	-------	-----------	-----------	-----------	-----------	-----------

FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER C/F LOAN 1036	170.5	0	0	0	0	0
TOTAL	170.5	0	0	0	0	0

POSITIONS:

FULL-TIME	4	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY 93) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Martin J. Richard
Division: InvestmentsPhone: 465-2510
Date: _____Approved by Commissioner: Paul Fuhs
Agency: Commerce and Economic DevelopmentDate: 3 25 93PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 252

ANALYSIS: (continued)

This fiscal note assumes that this legislation will be effective in FY94. It will impact approximately 1,200 existing loans in the Commercial Fishing Loan Program. The refinance of an existing loan is accomplished by originating a new loan and paying off the existing debt.

Personal Services

Loan Examiner II - This position will coordinate the refinance program and be responsible for reviewing financial data and approving the origination of the new loan.

Loan Closer I - These two positions will process the requisite loan documentation for the loan and the collateral securing the loan.

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This cost is for general office supplies needed by the above noted staff.

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TYPE OF EXPENDITURE		AMOUNT	Justification This position is needed to process the requisite loan documents to complete the refinance of an existing loan.		
Salary		27.9			
Benefits		12.2			
Premium Pay					
Other					
Total Personal Services		40.1			
Travel					
Contractual					
Commodities		1.0			
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Request For New Position

AGENCY Commerce and Economic Development

BRU Investments

COMPONENT _____

FY 94

Page 1 of 1

Revised Date: March 25, 1993

Position Title Loan Closer I			No. of Positions 2	Range / Step 10A	Barg. Unit GGU
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Salary	24.8	49.6			
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Other					
Total Personal Services	36.1	72.2			
Travel					
Contractual					
Commodities		2.0			
Equipment					
Other					
Total Cost		74.2			
FUNDING SOURCE FOR TOTAL COST					
Federal Receipts 1002					
G.F. Match 1003					
General Fund 1004					
I-A Receipts 1007					
CIP Receipts 1061					
Other C/F Loan 1036		74.2			

Request For New Position

AGENCY Commerce and Economic Development

BRU Investments

COMPONENT _____

FY 94

Page 1 of 1
Revised Date: March 25, 1993

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General Fund	1004				
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Request For New Position

AGENCY Commerce and Economic Development
BRU Investments
COMPONENT _____

FY 94

Page 1 of 1
Revised Date: March 25, 1993

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Date: 3-25-93

STATE OF ALASKA

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF INVESTMENTS

WALTER J. HICKEL, GOVERNOR

P.O. BOX 34189
3082 VINTAGE BLVD.
JUNEAU, ALASKA 99803-4189
PHONE: (907) 780-2993
FAX: (907) 780-2781

March 18, 1993

The Honorable Carl Moses
Alaska House of Representatives
State Capital, Room 204
Juneau, AK 99801-1182

Dear Representative Moses:

As requested by Molly McCammon from your staff, we have done some analysis of the costs involved in amending the Commercial Fishing loan program to include refinancing of existing loans. The majority of loans in our portfolio were made at 10.5%, resulting in an annual return of interest to the fund of approximately \$6,879,000. If refinancing were allowed, the interest rate on these loans would be reduced to 8% resulting in a reduction of \$1,638,000 in interest payments to the fund each year. In addition, there would be an administrative cost involved in refinancing approximately 1,200 loans. Even with a streamlined program, there would be a cost of, at least, \$210,000 in the first year. It should be noted that under current regulations a commitment fee paid by the borrower at closing would offset this expense by providing approximately \$328,000 to the loan fund.

Refinancing existing loans, if allowed, would reduce the interest paid by the borrowers. It would also, however, substantially reduce the cash flow into the loan fund, potentially jeopardizing the "revolving" nature of the fund, which has not had an infusion of General Fund dollars since 1985. Reduced payments into the fund may lessen our ability to meet the needs of those fishers who need loans to finance permit and vessel purchases.

Please contact me at 465-2510 if you have any further questions.

Cordially,


Martin J. Richard
Director

cc: Paul Fuhs, Commissioner
Department of Commerce and Economic Development

SCOMM

87:17

SECTIONAL ANALYSIS

HOUSE BILL NO. 264

An Act Providing For A Fishery Resource Landing Tax and providing for an effective date.

Section 1 adds a new chapter in AS 43 to implement a landing tax. The landing tax imposed under AS 43.77.010 will apply to processed fishery resources that are not subject to AS 43.75 (the Fisheries Business Tax provisions). A fisheries resource that is subject to tax under AS 43.75 is not subject to the landing tax in AS 43.77.

The Fisheries Business Tax in AS 43.75 applies to fishery resources that are either caught or processed in Alaska. Therefore, the landing tax provisions will apply to fishery resources that were both caught and processed outside the jurisdiction of Alaska and thereafter brought into the state and first landed in this state.

The landing tax will apply to processed resources that are first landed in the state of Alaska rather than in another state or foreign country. The landing tax does not apply if the processed resources are first landed in another state or foreign country. A first landing outside the jurisdiction of a state or foreign country, such as in United States jurisdictional waters, is not a landing in a state or foreign country and does not prevent the Alaska tax from applying. The tax rate is 3.3% of the value of the processed fishery resources at the place of the landing.

AS 43.77.020 provides that a person subject to the tax must file a return reporting the value of the resources landed and the point of landing, as well as such other information as may be required by the department in regulations. The return is to be made on a calendar year basis and is due before April 1 of the following year, as is the case with the Fisheries Business tax return. An extension of time to file may be granted by the department but the tax remains due and payable before April 1.

AS 43.77.030 allows a credit against the landing tax on a fishery resource for processing and salmon enhancement taxes paid to a state in which the fishery resource was caught or processed prior to landing in Alaska. In this provision, we interpret "state" to include foreign countries. The Department understands this credit provision is intended to avoid certain constitutional challenge to the tax, and recognizes that in reality few, if any, resources that are first landed in Alaska will have been subject to tax by another state or foreign country.

AS 43.77.040 provides that the tax collected on .3% of the value of the fishery resource is to be deposited into the general fund in an account for the use of the Alaska Seafood Marketing Institute upon appropriation by the legislature. Similarly, the tax collected on 3% of the value of the fishery resource shall be deposited into the general fund and may be appropriated by the legislature for revenue sharing purposes under AS 43.77.050 and other public purposes.

AS 43.77.050 contains the revenue sharing provisions. AS 43.77.050 must be read in conjunction with AS 43.77.040(b) and the amount available for sharing with municipalities and cities is 50% of the tax collected on 3% of the value of the fisheries resources. These revenue sharing provisions mirror the revenue sharing provisions in AS 43.75.130 and AS 43.75.137 that apply to the Fisheries Business Tax.

AS 43.77.060 gives the department the authority to adopt regulations to interpret and implement the landing tax provisions.

AS 43.77.200 contains definitions. A fishery resource for purposes of this chapter is a processed resource. An unprocessed fishery resource in the state, if otherwise taxable, would be subject to AS 43.75.

Landing is defined as the act of unloading or transferring a fishery resource. A taxable landing can take place over water or on land. For instance, a factory ship might catch and process fishery resources on the high seas outside the Alaska 3 mile limit, transfer the processed resources to a second vessel on the high seas, and the second vessel might enter the 3 mile jurisdiction of Alaska and transfer the product to a third vessel. The Fisheries Business Tax under AS 43.75 would not apply because the fishery resources were both caught and processed outside the state. However, the landing tax would apply at the point the second vessel transferred the product to the third vessel. There has been no previous landing in any other state or foreign country so the first landing of the processed resources is in Alaska. The owner of the fishery resources aboard the second vessel at the moment of unloading or transfer is liable for the landing tax.

The valuation of the resources for purposes of computing the tax differs from that under the Fisheries Business Tax provisions. The value is the lesser of the actual market value of the resource at the point of the landing in the state or the statewide average price paid for the resource in that tax year as reported by the Department of Fish and Game.

Department of Revenue
House Bill No. 264
April 2, 1993

The use of the statewide average price paid is intended to accomplish two results. First, it will simplify the determination of the tax value since the market value for the processed product may otherwise be difficult to ascertain. Second, it will roughly approximate the value that would otherwise have been applicable under the Fisheries Business Tax provisions.

While the value for purposes of the landing tax, as a result of the use of a statewide average price as a base, may be lower than the actual value as determined by a similar taxpayer under AS 43.75, the landing tax will not generally result in a higher tax burden than that incurred under AS 43.75. That is because the statewide average price paid is based on unprocessed product and therefore does not include the value added from the act of processing. The value added to fishery resources from processing is not included in taxable value under AS 43.75, and HB 264 thereby achieves an equality in the tax burden.

Section 2 provides that the Act takes effect on January 1, 1994 and applies to fishery resources that are first landed in the state on that date.

The Department of Revenue strongly supports House Bill No. 264.

HOUSE BILL NO. 264
LANDING TAX QUESTIONS AND ANSWERS

Question 1. Who is impacted by this legislation?

Answer Those operators who both catch and process outside Alaska and bring the processed product into the state. The legislation is aimed at catcher/processors in the Exclusive Economic Zone ("EEZ") that currently pay no Fisheries Business Tax.

Question 2. Why are the EEZ catcher/processors not subject to the Fisheries Business Tax?

Answer The Fisheries Business Tax only applies if fishery resources are either caught or processed in Alaska. Since the catcher/processors catch and process in the EEZ exclusively, the Fisheries Business Tax does not apply to them.

Question 3. Why should the state impose the tax if the resources are not caught or processed in Alaska?

Answer Alaska provides significant benefits and services and incurs fishery management costs with respect to the resources to various degrees. Coupled with the impact the operations have on local Alaska communities, the tax is one way to compensate the state for these services.

Question 4. Will the Fisheries Business Tax and the Landing Tax apply to the same resource and result in a double tax burden?

Answer No. The Fisheries Business Tax applies to unprocessed fishery resources while the Landing Tax applies to processed fishery resources. If the Fisheries Business Tax applies, the Landing Tax will never be applicable.

Question 5. Does the Landing Tax apply to fishery resources that are first landed in another state or foreign country and again landed in Alaska?

Answer No. The Landing Tax only applies if the first landing is in this state.

Question 6. Does the Landing Tax apply to fishery resources that are first landed in Alaska and then immediately shipped outside the state?

Answer Yes. The Landing Tax applies to fishery resources that are unloaded or transferred in Alaska without regard to the final destination.

Question 7. Which party is subject to the Landing Tax where a sale occurs upon the first landing in Alaska?

Answer The seller will generally be liable for the tax. The tax is imposed on the owner of the resource at the moment of unloading or transfer.

Question 8. How is taxable value determined?

Answer Value is the lesser of the fair market value of the processed resource at the time and place of the transfer or the statewide average price paid for the unprocessed resource as determined by the Department of Fish and Game. Generally, the statewide average price will be the lower value. The statewide average prices will be determined by Fish and Game and made available to taxpayers for use in filing the tax returns.

Question 9. Is the taxable value zero if there is no statewide average price for a particular year?

Answer No. The Department will adopt regulations to substitute other prices in that event or require the use of fair market value.

Question 10. How does the landing tax rate compare to the rates under the Fisheries Business Tax?

Answer The Landing Tax rate of 3.3% is equivalent to the 3.3% paid by a shore-based fisheries business under the Fisheries Business Tax and Alaska Seafood Marketing Institute ("ASMI") provisions.

Question 11. Is the Landing Tax revenue shared with municipalities?

Answer Yes. The tax collected on .3% of the value is envisioned for ASMI and 50% of the remaining tax is shared in the same manner as under the Fisheries Business Tax provisions as summarized below:

Landings Within Municipalities

--Unified municipalities and cities in unorganized boroughs	50%
--City located within a borough	25%
--Borough where landed within city	25%
--Borough where landed outside a city	50%

except for a city within a borough incorporated after June 16, 1987:

--Year of incorporation	45% to city	5% to borough
--1st year after incorporation	40% to city	10% to borough
--2nd year after incorporation	35% to city	15% to borough
--3rd year after incorporation	30% to city	20% to borough

except a city may adopt an ordinance to transfer some of its revenues to the borough.

Landings Outside Municipalities

--50% of the tax that is otherwise not shared is transmitted to the Department of Community and Regional Affairs for sharing under AS 29.60.450.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 26, 1993

SUBJECT: Draft bill establishing fishery resource landing tax (Work Order No. 8-LS0941\A)

TO: Representative Carl Moses
ATTN: Molly McCammon

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum addresses the draft bill, establishing a fishery resource landing tax, that you requested.

The draft bill is largely identical to the proposed bill that was supplied with your drafting request. The significant difference between this draft bill and the material provided involves those provisions of the bill relating to the use of the proceeds of the tax for support of the Alaska Seafood Marketing Institute and for municipal revenue sharing. These provisions have been rewritten to avoid any suggestion of a dedicated fund and to directly incorporate the relevant provisions of AS 43.75.130 and 43.75.137 into the bill.

In addition to being cognizant of the constitutional issues associated with a tax such as that proposed by this bill, the legislature should pay attention to precisely defining the taxable event to which the tax is applied. The bill currently proposes to impose the landing tax on the first act of unloading or transferring a processed finfish or shellfish for which the raw fish tax has not been paid, provided that the first act of unloading or transferring occurs in the state. The legislature should consider whether this provision encompasses the situations where the legislature intends that the tax should apply.

If I may be of further assistance, please advise.

GU:gc
93-279.glc

Enclosure

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 26, 1993

Hon. Darrel Rexwinkel
Commissioner
Department of Revenue
P.O. Box 110400
Juneau, Alaska 99811-0400

Dear Commissioner Rexwinkel:

You have asked that we comment on the constitutionality of the proposed legislation which would institute a landing tax on processed fisheries resources taken outside Alaskan waters but subsequently brought into the State. "Landing" would be defined as the act of unloading or transferring a fishery resource inside Alaska waters.

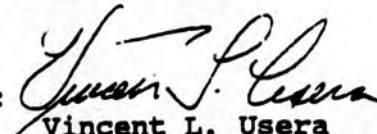
We believe the tax to be constitutionally defensible because the tax would be triggered only by activities within State waters and because there is a sufficient nexus between the availability of State services and resources and a vessel to justify the tax. See, e.g., *Sjong v. State, Dep't of Revenue*, 622 P.2d 967 (Alaska 1981).

This letter will serve to confirm the Department of Law's position that the proposed legislation is constitutionally defensible. We will be available for further analysis should you require.

Very truly yours,

CHARLES E. COLE
ATTORNEY GENERAL

By:



Vincent L. Usera
Assistant Attorney General

VLU/ps

cc: K. Lethin, Leg. Liaison
Office of the Governor

D. Behr, AAG

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

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FAX: (907) 451-2846
- ☐ P.O. BOX 110300 - STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

RECEIVED
ALASKA DEPARTMENT OF REVENUE

MAR 26 1993

COMMISSIONER'S OFFICE

SECTIONAL ANALYSIS

An Act Providing For A Fishery Resource Landing Tax and providing for an effective date.

Section 1 adds a new chapter in AS 43 to implement a landing tax. The landing tax imposed under AS 43.77.010 will apply to processed fishery resources that are not subject to AS 43.75. The landing tax will apply to these processed resources that are first landed in the state of Alaska rather than in another state or foreign country. A landing outside a state or foreign country, such as in United States waters, is not material and does not defeat the tax. The tax rate is 3.3%.

AS 43.77.020 provides that a person subject to the tax must file a return reporting the value of the resources landed and the point of landing, as well as such other information as required by the department in regulations. The return is to be made on a calendar year basis and is due before April 1 of the following year, as is the case with the Fisheries Business tax return. An extension of time to file may be granted by the department but the tax remains due and payable before April 1.

AS 43.77.030 allows a credit against the landing tax on a fishery resource for processing and salmon enhancement taxes paid to a state or foreign country in which the fishery resource was caught or processed.

AS 43.77.040 provides that .3% of the tax collected is to be deposited into the general fund in an account for the use of the Alaska Seafood Marketing Institute.

AS 43.77.050 provides that 1.5% of the landing tax revenue collected will be shared with local governments in the same manner as fisheries business taxes under AS 43.75.130 and AS 43.75.137.

AS 43.77.800 gives the department the authority to adopt regulations to interpret and implement the landing tax provisions.

AS 43.77.900 contains definitions. A fishery resource for purposes of this chapter is a processed resource.

Landing is defined as the act of unloading or transferring a fishery resource. A taxable landing can take place over water or on land. For instance, a factory ship

might catch and process fishery resources on the high seas outside the Alaska 3 mile limit, transfer the processed resources to another vessel on the high seas, and the second vessel might enter the 3 mile jurisdiction of Alaska and transfer the product to a third vessel. The landing tax would apply at the point the second vessel transferred the product to the third vessel. There has been no previous landing in any other state or foreign country so the first landing of the processed resources is in Alaska. The owner of the fishery resources aboard the second vessel at the moment of unloading or transfer is liable for the landing tax.

The valuation of the resources for purposes of computing the tax differs from that under the Fisheries Business Tax provisions. The value is the lesser of the actual market value of the resource at the point of the landing in the state or the statewide average price paid for the resource in that tax year as reported by the Department of Fish and Game. The use of the statewide average price paid is intended to accomplish two results. First, it will simplify the determination of the tax value since the market value for the processed product may otherwise be difficult to ascertain. Second, it will roughly approximate the value that would otherwise have been applicable under the Fisheries Business Tax provisions. While the landing tax value may be lower than that actually computed by a taxpayer under AS 43.75, it will not result in a higher tax as compared to AS 43.75 simply because the value includes the value added from the act of processing. The value added to fishery resources from processing is not included in taxable value under AS 43.75 and the legislation is designed to achieve equality in the tax burden.

Section 2 provides that the Act takes effect on January 1, 1994 and applies to fishery resources that are first landed in the state on that date.

1991 Fish Tax Study



State of Alaska
Walter J. Hickel, Governor

Department of Revenue
Darrel J. Rexwinkel, Commissioner

May 1992



STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

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

June 2, 1992

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

Dear Governor Hickel:

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

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

Sincerely,



Darrel J. Rexwinkel
Commissioner

DJR:ml
Enclosure

CORRECTION

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

1991 Fish Tax Study



State of Alaska
Walter J. Hickel, Governor

Department of Revenue
Darrel J. Rexwinkel, Commissioner

May 1992



1991 Fish Tax Study prepared for

State of Alaska
Walter J. Hickel, Governor

Department of Revenue
Darrel J. Rexwinkel, Commissioner

Income and Excise Audit Division
Larry E. Meyers, Director



prepared by

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

Exhibit 1 prepared by
Carl Meyer

INCOME AND EXCISE AUDIT DIVISION
ALASKA DEPARTMENT OF REVENUE

May 1992

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

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

June 2, 1992

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

Dear Governor Hickel:

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

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

Sincerely,



Darrel J. Rexwinkel
Commissioner

DJR:ml
Enclosure

Addendum to 1991 Fish Tax Study

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

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

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

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

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EXECUTIVE SUMMARY

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

Overview of Alaska Fish Taxes

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

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

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

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

Fisheries Tax Compliance

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

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

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

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

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

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

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

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

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

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

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

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

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

Recommendations

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



1. The ADF&G Fish Ticket System

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

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

2. DOR Licensing Procedures and Unpaid Tax

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

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

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

3. The Observer Program

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

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

4. Statutory Changes to the Fish Tax — Landing Tax

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

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

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

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

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

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

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

Note:

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

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

PART I. Purpose and Scope

This Fish Tax Study has three purposes:

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



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

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

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

PART II. Overview of Alaska Fish Taxes

FISHERIES BUSINESS TAX (AS 43.75)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEAFOOD MARKETING ASSESSMENT (AS 16.51)

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

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

SALMON ENHANCEMENT TAX (AS 43.76)

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

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

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

PART III. Fisheries Tax Compliance

ALASKA FISHERIES MANAGEMENT

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

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

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

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

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

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

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

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

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

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



COMPLIANCE HISTORY

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

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

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

Audit and Compliance Efforts

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

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

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

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

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

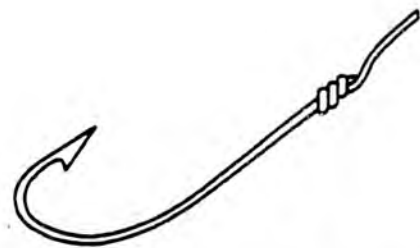
Shared Taxes

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

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

Penalties

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



COMPLIANCE ANALYSIS

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

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

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

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

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

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

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

¹ Two year average.

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

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

¹ Two year average.

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

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

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

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

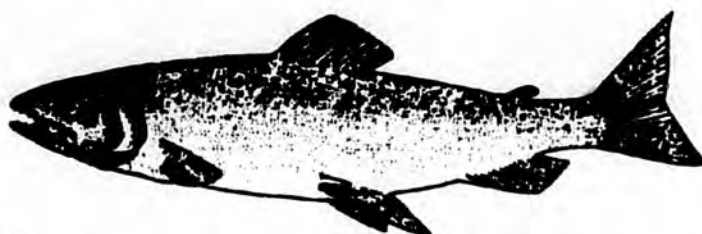
Tables 1, 2 and 3 show that groundfish represents 70% of pounds harvested, 22% of value harvested, but only 6% of tax, while salmon represents 19% of the pounds harvested, 48% of value harvested and 61% of tax.

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

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

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

Salmon Fisheries



Salmon Fisheries Overview

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

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

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

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

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

Salmon	1988		1989		1990		3 Yr Avg	
	DOR Value	% of Total	DOR Value	% of Total	DOR Value	% of Total	DOR Value	% of Total
King	\$ 26.4	4%	\$ 21.2	4%	\$ 21.2	4%	\$ 22.9	4%
Sockeye	430.3	58%	360.3	65%	392.0	68%	394.2	63%
Coho	53.6	7%	22.1	4%	40.1	7%	38.6	6%
Chum	101.3	13%	23.0	4%	28.1	5%	50.8	8%
Pink	133.2	18%	129.0	23%	91.3	16%	117.8	19%
Subtotal	744.8	100%	555.6	100%	572.7	100%	624.3	100%
Roe	1.2	0%	1.5	0%	.9	0%	1.2	0%
Total	\$ 746.0	100%	\$ 557.1	100%	\$ 573.6	100%	625.5	100%

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

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

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

Salmon Fisheries Management

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

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

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

Salmon Fisheries Compliance

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

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

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

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

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

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

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

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

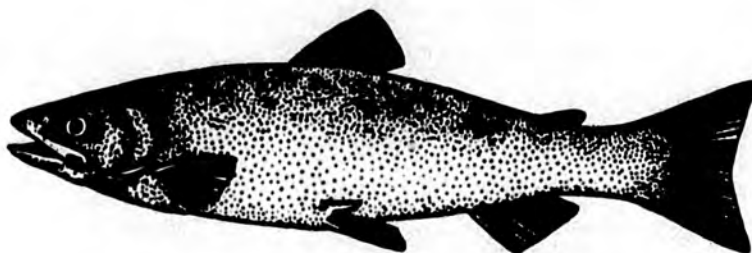
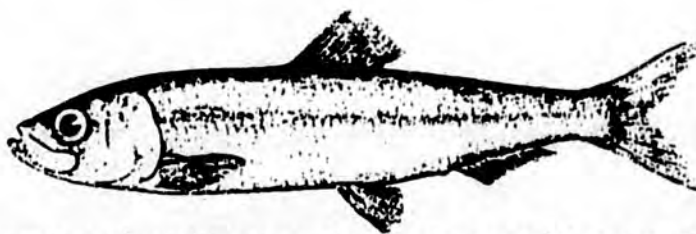


Table 6B
Salmon Roe Harvested per ADF&G and Percent Reported to DOR
(Thousands of Pounds)

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

Herring Fisheries



Herring Overview

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

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

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

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

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

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

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

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

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

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

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

Herring Compliance

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

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

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

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

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

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

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

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



Shellfish Fisheries

Shellfish Overview

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

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

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

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

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

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

The Crab Fishery

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

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

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

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

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

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

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

The Shrimp Fishery

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

Other Miscellaneous Shellfish Fisheries

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

Crab Compliance

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

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

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

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

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

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

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

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

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

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

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

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

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

1988-1990 Three Year Average				
	ADF&G Lbs	Processors		% of Harvest
Processing Facility	Harvested	% of Harvest	vs.	Processors Reported
Catcher/Processors	38.7	19%		2%
Floating Processors	86.0	41%		100%
Shore-based Processors	84.7	40%		92%
Totals	209.4	100%		79%

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

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

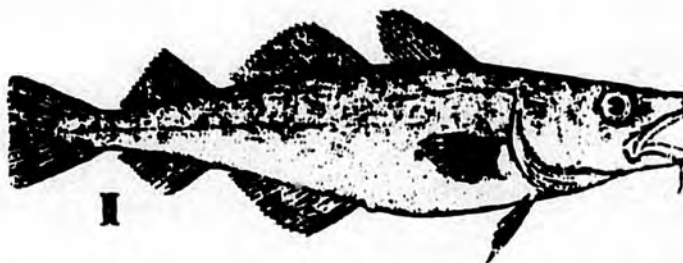


Shrimp and Other Shellfish Compliance

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

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

Groundfish Fisheries



Groundfish Overview

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

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

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

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

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

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

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

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

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

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

Groundfish Compliance

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

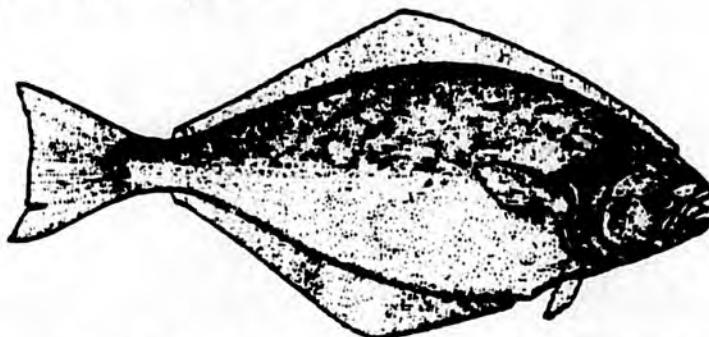
Groundfish compliance can be summarized as follows:

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

Other Pounds Not Reported. An average of 8% of ADF&G reported groundfish harvest (Table 16) is not accounted for. If the entire 8% was taxable (at a three year average value of \$17.8 million/year and a developing/shore-based or floating tax rate of 1% to 3%) this would result in approximately \$178,000 to \$533,000/year in additional tax.

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

Halibut Fisheries



Halibut Overview

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

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

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

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

Halibut Compliance

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

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

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

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

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

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

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

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

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

Conclusions: Overall Rate of Non-Compliance

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

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

Fisheries	1988		1989		1990		3 Yr Avg	
	ADF&G Pounds	DOR % Rep'd	ADF&G Pounds	DOR % Rep'd	ADF&G Pounds	DOR % Rep'd	ADF&G Pounds	DOR % Rep'd
Salmon	534.8	95%	698.8	95%	692.3	99%	642.0	96%
Herring	112.7	96%	96.6	99%	91.2	96%	100.2	97%
Shellfish	179.8	78%	199.6	80%	266.0	78%	215.1	79%
Groundfish	1,454.3	39%	2,198.6	32%	3,261.6	30%	2,304.8	33%
Halibut	61.0	88%	56.0	82%	N/A	N/A	58.5 ¹	85% ¹
ADF&G	2,342.6	59%	3,249.6	52%	4,311.1	46%	3,320.6	51%

¹ Two year average.

The following is a brief summary of each fisheries compliance:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

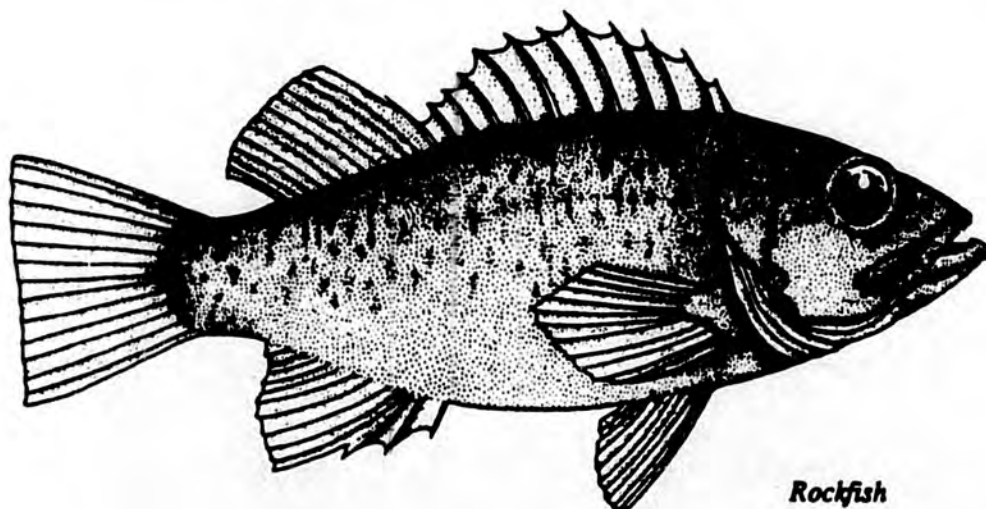
Table 20
"Pound Compliance" Potential Tax from EEZ Pounds
(In Dollars)

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

SB - Shore-based Processing Facility

FP - Floating Processor Facility

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



Rockfish

PART IV. Recommendations to Improve Compliance

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

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

1. The ADF&G Fish Ticket System

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

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

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

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

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

2. DOR Licensing Procedures and Unpaid Tax

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

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

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

3. The Observer Program

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

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

4. Statutory Changes to the Fish Tax — Landing Tax

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

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

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

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



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

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

EXHIBIT #1

Proposed Changes to Fisheries Tax Provisions

Thlrd Draft 5/92

Alaska Statutes

Title 43

REVENUE AND TAXATION

Chapter 75. Fisheries Taxes.

Article

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

Article 1. Taxes and Licenses.

Section

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

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

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

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

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

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

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

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

COMMENT

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

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

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

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

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

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

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

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

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

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

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

COMMENT

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

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

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

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

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

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

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

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

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

COMMENT

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

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

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

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

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

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

[(b)] (c) Upon receipt of the application in proper form, accompanied by the annual fee, the department shall issue the license. The department may revoke a license if the person would not thereafter qualify for a license at any time during the calendar year if an application is presumed to be made at that time. (§ 2 82 SLA 1949; am § 93 ch 59 SLA 1982; am § 3 ch 150 SLA 1990)

COMMENT

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

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

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

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

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

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

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

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

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

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

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

COMMENT

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

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