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HRES

HB 350

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HB 390

1106

March 17, 1980

Ref: Proposed CS FOR SS  
FOR HB 350

To the House Resource Committee

Gentlemen;

My name is Chuck Porter and I am representing the Juneau Hand Troll Association. Before getting into the bill, I believe some background is in order. The Board of Fisheries has for the past three years been very concerned about the rapid growth of the Hand Troll fleet which is presently, an open fishery.

They therefore in 1978, directed the Limited Entry Commission to begin putting the wheels in motion to put Limited Entry into the Hand Troll fishery effective 1979 and further, that the number of permits be a maximum of 600.

To give you an idea of active participants. In 1975, 1094 boats sold fish. 1976, 1237 boats, 1977, 1894 boats, 1978, 2604 boats. As you can see, that 600 number would have left the majority of existing users out of the fishery. It should be noted here, that the reasoning behind the Board's 600 figure was that according to statistical data, that many boats caught the so called allocation or quota allotted to the Hand Troll fishery.

Fortunately during 1978, the Limited Entry Commission undertook a series of surveys throughout South East Alaska to determine what kind of a fishery the Hand Trollers wanted and more particularly, try to determine the make up of the participants... We are attaching a copy of their results and conclusions as it more aptly describes the situation, ~~as it more aptly describes the situation~~ *and we quote a portion of their presentation to the board.* " After evaluating the management problems and hearing the desires of the fishermen, we cannot agree that your management plan to drastically reduce the size of the fleet and allow full development of highly efficient Hand Troll operations (ie the 600 number) is the best solution. Instead, it is our proposal to work toward a different goal, that is, to maintain the historical character of this fishery while at the same time providing for a professional fishery. Hand Trolling has been a small scale, low

investment, low return fishery, generally attracting participants who either utilize the fishery to sustain lifestyle, or as a fishing outlet for young and older residents and others who depend upon it to supplement their income. We therefore recommend a number between 2000 and 2500 permits". Unquote. The actual number settled upon was 2150.

With this background in mind, we now come to the bill before you. The contents were derived from many meetings and idea exchanges with various communities and individuals throughout South East Alaska. It is by no means a 100% concurrence and the main reason is the transferability clause. This bill  among other things, *Proposes* a non sale or non transferable permit

Our organization and many others believe that this clause is vital, if this is to continue as an entrance level fishery and this is why we wish you to thoroughly understand the differences.

For example, under existing law, initial issuance will go to Estates, <sup>*They*</sup> will go to fishermen who qualify, but have left the fishery for one reason or another, or will go to speculators who have qualified just to get a permit to sell.

Future costs of permits will become prohibitive for new entrants, especially for those who need them the most. By that we refer to people in rural areas, young people, retirees and so on.

The non sale provision takes away the monetary incentive , thus the eligible who have left the fishery, the estates, the speculators, would not apply, thus leaving those permits for the serious and active. The fishery would remain a low entrance level one, that accomodates its historical place.

We have also examined the following:

1. Sellable, Closed End: Permit would be sellable but with a price limit set.
2. Sellable, Closed End Contract: Price would be set by the State and sale would be by State Contract with purjury clause. Comment: On both of the above,

there would be no way to police under the table money and eventually we would be back to where we are now.

3. Sellable, Open or Closed: Thru a State loan program, wherein the State would loan the money for a permit on contract to permittee, thus only thru such loan program could a permit transfer. The comment on this one is too much manpower, paperwork, and cost to the State. Time consuming and so forth. Also price could fluctuate.

We therefore concluded that the non sale provision is the simplest and least costly to the State and a fair way to go.

This bill also has these added features.

1. The State is charged the responsibility for issuance and reissuance.
2. Permits would revert to the State upon death of the holder, unless willed prior to.
3. They may be voluntarily returned.
4. Permits must be actively fished annually or they revert. We realize this latter clause may cause apprehension due to forcing a fishermen to fish, so we point out to you the intent, that this provision is envisioned to mean something very minimal, like **FOUR** landings per season. This does not cause damage to the resource, nor does it burden the holder. The reason for this clause is that we are attempting to structure as rapid a turnover as possible in order for new entrants to be able to get into the fishery in a relative short time. The historical turnover rate of 47%, coupled with the above features should enable a maximum of 4 year wait down to 2 years. In fact we are betting on it because there is also a clause herein that if the annual turn over rate is not 25% plus average for the first four years, the commission is directed to come back to you with amendments.

This session will be the last chance we have to structure a change such as proposed. The alternatives to not passing it, are grim.

Limited Entry will be imposed under existing law, (ie Saleable Permits). We hope that between the history of existing permit costs and problems and the base information we have outlined herein, you will understand that there will be an

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outward migration of permits to the highest bidder. Thus in a few short years you will indeed, be looking at a highly efficient Hand Troll fleet of 600 boats. Meanwhile, those that need them most will be on the beach, the State will be facing the problems of what these people can do for alternate occupations and of course worst of all, what to do about future entry, for the young, the old, the retiree, the rural people?

The other alternative is equally as bad. There could be no Limited Entry in which case the resulting regulatory measures would be so drastic there would be no point in fishing.

We therefore urge you to please give favorable consideration to this bill and we thank you for your time.

Chuck Porter

  
Juneau Hand Troll Association

# LIMITED ENTRY COMMISSIONS

HAND TROLL PRESENTATION TO THE BOARD OF FISHERIES

DEC. 1979

The Commission appreciates the opportunity to be here today. Our purpose is to discuss with you the complex problem of managing the hand troll fishery. This particular fishery highlights the necessity of the Commission, the Board, and the Department coordinating management policies. We appreciate the recommendations received from the Board in the past regarding limitation of this fishery and other fisheries; and hope that our recommendations to the Board will be accepted in the same vein.

To summarize quickly, when the majority of the salmon fisheries were brought under entry limitation, the hand troll fishery was specifically segregated from power troll and left open to entry. From 1975 to 1978, the number of active hand trollers increased annually -- 1,094 in 1975, 1,237 in 1976, 1,849 in 1977, and 2,604 in 1978. Through those same years, the hand troll share of the troll fishery harvest has increased from 13% to 28%, measured by poundage. The preliminary data for 1979 shows that approximately 2% of the total troll harvest was taken by hand trollers.

During the spring of 1978, the Commission held several joint hearings with the Board in Southeastern communities regarding the hand troll fishery. Public comment at that time was generally opposed to limitation. In the 1978 season, the Board began a series of management measures to try to ensure a historical allocation of the troll catch, beginning with closing all outside waters to hand trolling. Despite the closure, the hand troll portion of the troll catch increased sharply. Consequently, for 1979, the Board further restricted hand troll effort by adding a series of closures in inside waters in an attempt to implement a tacit policy of an 80/20 split of the coho troll catch.

At the December, 1978 Board meeting, the Commission announced that it intended to propose limitation of the fishery in 1979. On September 14, after receiving management recommendations from the Department of Fish and Game, the Commission proposed limitation of the hand troll fishery, beginning in 1980, with a maximum number of 1,100. That proposal was advanced on September 21, 1979. Eight public hearings were held by the Commission with the public comment period closing on November 9, 1979.

At the time the Commission advanced the proposed regulation, we had received recommendations from the Board and the Department of Fish and Game. The Board recommended a maximum number of no greater than 600, by which you indicated to us a desire to significantly decrease the size of the fleet, so that the professional hand trollers that remained could be subject to the same management policies as applied to power trollers, and still not harvest more than 20% of the troll catch. The Department stated that the maximum number should not exceed 1,000 to avoid the necessity of excessive regulation to maintain historical harvest balances. The Department referenced expected efficiency gains in the fleet after limitation, a concern also raised by you in your recommendation.

The Commission proposed maximum number of 1,100 was chosen based upon the input from the Board and Department, plus the Commission's own research. Our intent was to use the fishing seasons from 1975 forward as the predominate indicators of hardship when the hand troll fishery was limited. As a practical matter, the Commission cannot use maximum numbers outside the boundaries of participation established during the most recent years. Thus, we chose the smallest effort level in recent years as our proposal.

Attached to your copies of this presentation is a summary of the public input received by the Commission during the public comment period. It seems quite apparent to us that the news release issued by the Board shortly before the first Commission public hearing greatly influenced the testimony. Prior to the news release, many viewed entry limitation as a mechanism for removing some of the restrictions imposed in the recent past. After the news release, many people testified that if limitation of the fishery would not ease management restrictions, they would prefer that it be left open to entry. Most comments we received favored removal of the restrictions plus an increase in the proposed maximum number, which would exacerbate the management problems you face today.

The Commission has now evaluated all comments and data available at this time. It is very apparent that no simple answer exists which will satisfy the management concerns of the Board, the Department, and ourselves; and at

the same time satisfy the wishes and desires of the Southeastern hand trollers. The very best that can be accomplished in the near future is to prevent the situation from becoming more complicated. We want everyone to understand that the Commission does not have a solution that will be all things for all people. It is our wish, though, to undertake a beginning in what will by necessity be an involved system of slowly working toward a fair and practical management framework. A reasonable result can only be achieved with full agreement between the Board and the Commission, close coordination of our respective regulatory powers, and with the understanding of hand trollers, power trollers, gillnetters, and seiners.

With that prelude, we come before you today to ask for your cooperation in the implementation of a management strategy for the hand troll fishery. After evaluating the management problems and hearing the desires of the fishermen, we cannot agree that your management plan to drastically reduce the size of the fleet and allow full development of highly efficient hand troll operations is the best solution. Instead, it is our proposal to work toward a different goal - that is, to maintain the historical character of the hand troll fishery while at the same time providing for a professional fishery. Hand trolling has been a small scale, low investment, low return fishery generally attracting participants who either utilize the fishery to sustain a particular lifestyle, or as a fishing outlet for young and older residents of Southeast and others who depend upon the bulk of their income from land-based occupations.

The fishery has generally been referred to as an entry level fishery. The distinguishing characteristic of this fishery is the prohibition of mechanical assistance other than hand power to place and retrieve gear. The definition of such a fishery suggests a special circumstance, particularly in the present environment of highly automated commercial fishing operations. We believe the special circumstance to be very indicative of the essence of this fishery. It is in fact a fishery purposefully defined as a low cost, relatively low return fishery tailored to social desires of those people who have historically partaken of the opportunities it presents. We must assume that those who have developed hand troll operations nearly as efficient as

power trollers have done so because of power troll limitation, or through reinvestment of hard-earned income from hand trolling in the past for the purpose of maximizing the benefits to be accrued in the future. Without some efforts at this time to prevent further efficiency increases, history tells us that limitation of the fishery will almost force those permits that remain to maximize their efficiency within the regulatory framework that dictates their operation. This would in fact seem to be contrary to the Board's statements to the Commission of maximizing the number of permits to be held by residents of rural communities. Rural residents have limited access to wellpaying jobs and mortgageable property. Hence, even if the Commission were to succeed in initially issuing a high percentage of permits to rural residents, those permits would through time tend to migrate to residents of urban communities IF large amounts of capital investment are necessary to remain competitive.

Preliminary analysis does suggest that profits earned in limited fisheries are being reinvested into more efficient operations. That same trend of efficiency increase can be demonstrated in the hand troll fleet. Since 1975, the numbers of permits fished has steadily increased along with the average number of weeks fished and the number of fish caught per week by each active permit holder. Much of this can be attributed to the widespread conversion to hand gurdies, and some must be attributed to the recent entry of more of the larger scale, more aggressive and versatile hand troll operations.

Our proposal is the antithesis of your present management policies. Rather than use regulatory powers to limit the vessel or gear efficiency of the hand troll fleet, time and area closures have been utilized almost exclusively to date. Our suggestion is to combine our respective regulatory powers to limit the efficiency of hand troll operations, through such means as entry limitation, gear restrictions, vessel restrictions, and tying permits to geographic areas; and to use closures as a mechanism for in season adjustments. Considering the dearth of management data available, it is impossible at this time to identify any particular combination of these restrictions to accomplish a specific goal. Nonetheless, we must begin now to implement some combination of these management restrictions at a profitable, entry level

hand troll fishery is to be maintained and made available to a reasonable number of users.

If you agree to work with us in the development of this management policy, the Board should develop a formal policy, including not only the desired structure of the fishery, but also including a statement of the relationship to the power troll fishery. If you wish to allocate the troll harvest between these two fleets, we need to know what that allocation will be so that we can develop an optimum number analysis. Such a policy will also be a determinant in the establishment of an initial maximum number.

In 1973, the Legislature turned down a proposal by then Governor Egan to limit fisheries by initially establishing a maximum number which would have been synonymous with the present law definition of optimum number. That amendment to the Egan administration bill must be interpreted as a desire by the Legislature to buy fishermen out of a fishery, rather than to ruthlessly eliminate them without compensation. As if to reiterate that point, they specifically identified three salmon fisheries that were distressed and specified that the initial maximum number was to be equivalent to the largest number of participants in any of the four most recent years prior to enactment of the law. Although they allowed the Commission broad authority in the establishment of maximum numbers in other fisheries, we feel compelled to follow the basic example established at that time.

In the attachments which you have to this presentation, you will find in Table 17 a breakdown of participation since 1975. Considering the particular patterns of participation in this fishery, we believe that a maximum number in the range of 2,000 to 2,400 will allow all hand trollers with present dependence on this fishery ample opportunity to qualify for a permanent permit if the fishery were limited in 1980. Should we resolve to mutually develop a management program including entry limitation for hand trolling, we would propose that range of participants should be considered for management purposes until a reduction can be accomplished either through buy-back or attrition.

This proposal recognizes the necessity of diminishing the original number of permanent permits to an optimum level to minimize the necessity of time and area closures and thus ensure an opportunity to realize reasonable earnings. We do not believe that closures can be eliminated in the near future even if this management proposal is implemented. While we realize that time/area closures are anathema to most of the hand troll fleet, we foresee no mechanism at this time for their elimination -- with the exceptions of Draconian reductions in the number of gear units or removal of allocation guidelines. Without entry limitation, the severity of management restrictions will by necessity be greater.

Reduction from the initial maximum number can be accomplished by two mechanisms. The first is as provided for in present law by using assessments against hand troll gross earnings to purchase permits on the open market. The second would involve some combination of non-transferability and attrition and would require legislative amendment. Such a bill was introduced last year at the request of the Southeast Hand Trollers Association, and has also, been suggested by Governor Hammond as a modification of the Entry Commission's enabling legislation. Limitation of the hand troll fishery in 1980 would not preclude legislative review of this issue because of the timing that would by necessity be followed. The Commission does not yet have access to completed 1978 and '79 participation data. Also, it is not like that a massive fish ticket editing process presently being conducted by Commission staff for the years 1975-78 will be completed before March. Consequently, permanent, transferable permits could not be made available until late in 1980 at the earliest. This would allow the Legislature the entirety of the upcoming session to review the pros and cons of the two distinctly different procedures.

In summary, we are proposing a joint use of Board and Commission regulatory power, to shape the future of the hand troll fishery. Those who would be most adversely impacted by these proposed changes are persons who have invested in relatively large scale operations, capable of high seas fishing and possessing great mobility. It is definitely not our intention to purposefully single out those individuals as the culprits of the hand troll fleet. We would hope that through discussions among the Board, the Commission, and

other interested parties that a mechanism might be developed to "grandfather" those operations that have established themselves as models of the efficient hand troller.

The Commission has met with representatives from the Department of Fish and Game on a number of occasions to discuss the possibilities of implementing a management plan along the lines suggested to you today. While we have mutually agreed in principle to this approach, time constraints precluded us from working on a detailed management proposal to present to you today. It is our hope that you will be able to agree to this approach and to develop an appropriate management regime to accomplish our mutual objective.

Thank you.

Respectfully submitted,

Commercial Fisheries  
Entry Commission

December 6, 1979

December 8, 1979

ALASKA BOARD OF FISHERIES

We support a 2,150-permit limited entry program. This program should accommodate mobile, two-line hand trollers. This fishery would have a floating allocation of approximately 20-25 percent. We support a four-line limit on power trollers, except north and west of Cape Spencer outside three miles where a six-line limit will be imposed. We endorse inseason management for both the hand and power troll fishery. Low cost permits within the hand troll fleet are requested.

IN FAVOR

OPPOSED

Sitka Advisory Committee

Point Baker

Yakutat Advisory Committee

Upper Lynn Canal Advisory Committee

for Ketchikan Advisory Committee

Anchorage Advisory Committee

Hoonah

Gastineau Channel Advisory Committee

Ellis Cove

Pelican Advisory Committee

Introduced: 2/21/80  
Referred: Resources and  
Judiciary

1 IN THE HOUSE

BY DUNCAN AND ELIASON

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 350

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled. "An Act relating to limited entry permits for hand-  
7 trolling."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 16.43.150(h) is amended to read:

10 (h) Upon the death of an entry permit holder, the entry [PERMA-  
11 NENT] permit shall be transferred by the commission directly to the  
12 surviving spouse by right of survivorship unless a contrary intent is  
13 manifested or unless the entry permit was issued for handtrolling. When  
14 no spouse survives, the rights of the decedent pass as part of his  
15 estate unless the rights relate to an entry permit that was issued fo.  
16 handtrolling.

17 \* Sec. 2. AS 16.43.150 is amended by adding new subsections to read:

18 (i) An entry permit issued for handtrolling shall be forfeited to  
19 the commission

20 (1) upon the death of the permit holder;

21 (2) upon failure of the permit holder to verify to the com-  
22 mission the landings of a substantial quantity of fish caught by hand-  
23 trolling each season in the fishery for which the entry permit was  
24 issued, except as waived by the commission for good cause.

25 ~~① In the case of this section, "substantial quantity" means the~~  
26 minimum amount of fish which a fisherman must catch to demonstrate an  
27 intent to make commercial fishing by handtrolling a substantial part of  
28 his occupation. The commission shall establish the minimum amount by  
29 regulation for each handtroll fishery for which entry permits have been

1 issued.

2 (k) An entry permit issued for handtrolling may be voluntarily  
3 transferred at any time to the commission, without compensation.

4 \* Sec. 3. AS 16.43.170(b) is amended to read:

5 (b) Except as provided in (c) and (e) of this section, the holder  
6 of an entry permit may transfer his permit to another person or to the  
7 commission upon 60 days notice of intent to transfer under regulations  
8 adopted by the commission. No sooner than 60 days nor later than 12  
9 months from the date of notice to the commission, the holder of an entry  
10 permit may transfer his permit. If the proposed transferee, other than  
11 the commission, can establish present ability to participate actively in  
12 the fishery, the commission shall approve the transfer and reissue the  
13 entry permit to the transferee.

14 \* Sec. 4. AS 16.43.170 is amended by adding a new subsection to read:

15 (e) Except as provided in AS 16.43.180(a) and notwithstanding the  
16 provisions of (a) - (c) of this section, an entry permit for hand-  
17 trolling is transferable only to the commission.

18 \* Sec. 5. 16.43.180(b) is amended to read:

19 (b) The commission shall adopt regulations providing for the  
20 temporary transfer of an entry permit issued for any fishery except a  
21 handtrolling fishery upon the death of the permittee pending final  
22 disposition of the permit as a part of the permittee's estate.

23 \* Sec. 6. AS 16.43.260(a) is amended to read:

24 (a) The commission shall accept applications for entry permits  
25 other than entry permits for handtrolling only from applicants who have  
26 harvested fishery resources commercially; while participating in the  
27 fishery as holders of gear licenses issued under AS 16.05.536 - 16.05.-  
28 670 before the qualification date established in (d) or (e) of this  
29 section. The commission may accept applications for entry permits for

1 handtrolling from any applicant but shall give priority to those who  
2 have harvested fishery resources as holders of gear licenses or interim-  
3 use permits before the qualification date established in (e) of this  
4 section.

5 \* Sec. 7. AS 16.43 is amended by adding a new section to read:

6 Sec. 16.43.274. ISSUANCE AND REISSUANCE OF HANDTROLL PERMITS. (a)

7 The commission may not issue an entry permit for handtrolling in a  
8 fishery unless the applicant has demonstrated his present ability to  
9 participate actively in the handtroll fishery under regulations adopted  
10 by the commission.

11 (b) An entry permit for handtrolling which is forfeited to the  
12 commission under AS 16.43.150(d) or (1) or 16.43.360, transferred to the  
13 commission under AS 16.43.150(j) or revoked by the commission under  
14 AS 16.43.355, shall be promptly reissued by the commission to an appli-  
15 cant who

16 (1) submitted an application for an entry permit for hand-  
17 trolling in the fishery during the initial application period estab-  
18 lished under AS 16.43.260(b);

19 (2) harvested fishery resources commercially while partici-  
20 pating in the handtroll fishery for which the entry permit was issued as  
21 a holder of a gear license or an interim-use permit before the qualifi-  
22 cation date established in AS 16.43.260(e);

23 (3) demonstrates present ability to participate in the hand-  
24 troll fishery for which the entry permit was issued; and

25 (4) was not previously issued an entry permit for handtrolling  
26 in the fishery.

27 (c) Entry permits shall be reissued under (b) of this section to  
28 applicants in order of descending priority classification as provided in  
29 AS 16.43.270(a).

1 (d) If within the lowest priority classification of applicants to  
2 which some entry permits for handtrolling may be reissued under (b) of  
3 this section, there are more applicants than there are entry permits to  
4 be reissued, then the allocation of entry permits for handtrolling  
5 within that priority classification shall be by lottery.

6 (e) After all the applicants described in (b) of this section have  
7 been issued entry permits for handtrolling in a fishery, entry permits  
8 for handtrolling in the fishery shall be reissued to other applicants in  
9 the order in which their applications were received by the commission.

10 (f) If more than one application was received by the commission on  
11 the latest date for which entry permits for handtrolling in a fishery  
12 are to be reissued, then the allocation of permits among the applica-  
13 tions received that day shall be by lottery.

14 \* Sec. 8. AS 16.43.290 is amended by adding a new subsection to read:

15 (b) The commission shall establish the optimum number of entry  
16 permits for handtrolling in a fishery within two years after issuance of  
17 the first entry permit for handtrolling in the fishery. The optimum  
18 number of entry permits for handtrolling may never be less than the  
19 maximum number established under AS 16.43.240 for the fishery.

20 \* Sec. 9. AS 16.43.300(b) is amended to read:

21 (b) If the commission decreases the optimum number of entry per-  
22 mits for a fishery, other than a handtroll fishery, the number of entry  
23 permits may be reduced only under the voluntary buy-back provisions set  
24 out in AS 16.43.310 - 16.43.320.

25 \* Sec. 10. AS 16.43.300 is amended by adding a new subsection to read:

26 (c) The commission shall review the optimum number of entry  
27 permits for a handtroll fishery at two-year intervals. If the optimum  
28 number of entry permits for a handtroll fishery exceeds the maximum  
29 number of entry permits established under AS 16.43.240 for the fishery,

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the commission shall issue additional permits in accordance with the procedure described in AS 16.43.274(b) - (f).

## Chapter 43. Regulation of Entry into Alaska Commercial Fisheries.

Article

- 1 Creation of the Alaska Commercial Fisheries Entry Commission (§§ 16 43 010 — 16 43 080)
- 2 Powers and Duties of the Commission (§§ 16 43 100 — 16 43 120)
- 3 Requirements for Entry Permits (§§ 16 43 140 — 16 43 182)
- 4 Initial Issuance of Entry Permits (§§ 16 43 200 — 16 43 270)
- 5 Reduction to Optimum Number of Entry Permits (§§ 16 43 290 — 16 43 330)
- 6 General Provisions (§§ 16 43 350 — 16 43 380)

Legislative committee report. — For report on ch. 79 SLA 1973 (SCS CSHB 126

am.S) see 1973 House Journal p 503, 1973 Senate Journal Supplement No. 15

### Article 1. Creation of the Alaska Commercial Fisheries Entry Commission.

Section

- 10 Purpose and findings of fact
- 20 Alaska Commercial Fisheries Entry Commission
- 30 Term of office; vacancy
- 40 Quorum
- 50 Qualifications

Section

- 60 Compensation of members of the Alaska Commercial Fisheries Entry Commission
- 70 Legal counsel
- 80 Employment of personnel

**Sec. 16.43.010. Purpose and findings of fact.** (a) It is the purpose of this chapter to promote the conservation and the sustained yield management of Alaska's fishery resource and the economic health and stability of commercial fisheries in the public interest and without unjust discrimination.

(b) The legislature finds that commercial fishing for fishery resources has reached levels of participation, on both a statewide and an area basis, that have impaired or threaten to impair the economic welfare of the fisheries of the state, the overall efficiency of the harvest, and the sustained yield management of the fishery resource. (§ 1 ch. 79 SLA 1973)

Approved by the Alaska State Legislature  
 on April 1, 1973, at the 25th Session, 1973, P. 503, S. 155  
 1973 (11)

**Sec. 16.43.020. Alaska Commercial Fisheries Entry Commission.** (a) There is established the Alaska Commercial Fisheries Entry Commission as a regulatory and quasi-judicial agency of the state. The commission consists of three members appointed by the governor and confirmed by the legislature in joint session.

(b) The governor shall designate one member of the commission as chairman of the commission. The member designated shall serve as chairman for a term of two years, and may be designated chairman for successive two-year terms. (§ 1 ch 79 SLA 1973)

**Sec. 16.43.030. Term of office, vacancy.** (a) The members of the commission shall be appointed for terms of four years. Initial appointments shall be as follows: one member for two years, one member for three years, and one member for four years. The governor may remove a commissioner from office for cause including but not limited to incompetence, neglect of duty, or misconduct in office. A commissioner, to be removed for cause, shall be given a copy of the charges against him and afforded an opportunity to be publicly heard in person or by counsel in his own defense upon not less than 10 days notice. If a commissioner is removed for cause, the governor shall file with the lieutenant governor a complete statement of all charges made against the commissioner and his findings based on the charges, together with a complete record of the proceedings.

(b) A vacancy on the commission shall be filled by appointment by the governor, and the appointment shall be confirmed by the legislature in joint session. A member selected to fill a vacancy shall hold office for the balance of the full term for which his predecessor on the commission was appointed.

(c) A vacancy on the commission does not impair the authority of a quorum of commissioners to exercise all the powers and perform all the duties of the commission. (§ 1 ch 79 SLA 1973)

**Sec. 16.43.040. Quorum.** Two members of the commission constitute a quorum for the transaction of business, for the performance of a duty or for the exercise of a power of the commission. (§ 1 ch 79 SLA 1973)

**Sec. 16.43.050. Qualifications.** The commission shall consist of three members with a broad range of professional experience, none of whom has a vested economic interest in an interim use permit, entry permit, commercial fishing vessel or gear, or in any fishery resource processing or marketing business. (§ 1 ch 79 SLA 1973)

**Sec. 16.43.060. Compensation of members of the Alaska Commercial Fisheries Entry Commission.** Members of the commission are in the exempt service and shall receive an annual salary as established under AS 39.23 (§ 1 ch 79 SLA 1973, am § 5 ch 47 SLA 1974, am § 1 ch 148 SLA 1976, am § 2 ch 263 SLA 1976)

**Effect of amendments.** — The 1974 amendment rewrites this section.

The first 1976 amendment deleted payments in equal monthly installments from the end of the section.

The second 1976 amendment substituted as established under AS 39.23 for equal in equal monthly installments a total of 12 equal monthly installments.

**Sec. 16.43.070. Legal Counsel.** The attorney general is the legal counsel for the commission. He shall advise the commission on legal matters arising in the discharge of its duties and represent the commission in suits to which it is a party. However, the commission may retain additional legal counsel as appropriate. (§ 1 ch 79 SLA 1973)

**Sec. 16.43.080. Employment of personnel.** (a) The commission may employ those persons necessary to carry out the purposes of this chapter. Employees of the commission are in the exempt service under AS 39 25 110

(b) In addition to its staff of regular employees, the commission may contract for and engage the services of consultants, experts and hearing officers as necessary. (§ 1 ch 79 SLA 1973)

## Article 2. Powers and Duties of the Commission.

Section

100 General Powers

110 Regulations and hearing procedures

Section

120 Application of Administrative Procedure

Act

**Sec. 16.43.100. General powers.** (a) To accomplish the purposes set out in § 10 of this chapter the commission shall:

- (1) regulate entry into the commercial fisheries for all fishery resources in the state;
- (2) establish priorities for the application of the provisions of this chapter to the various commercial fisheries of the state;
- (3) establish administrative areas suitable for regulating and controlling entry into the commercial fisheries;
- (4) establish, for all types of gear, the maximum number of entry permits for each administrative area;
- (5) designate, when necessary to accomplish the purposes of this chapter, particular species for which separate interim-use permits or entry permits will be issued;
- (6) establish qualifications for the issuance of entry permits;
- (7) issue entry permits as provided in §§ 210 — 220 of this chapter;
- (8) establish, for all types of gear, the optimum number of entry permits for each administrative area;
- (9) administer the buy-back program provided for in §§ 310 — 320 of this chapter to reduce the number of outstanding entry permits to the optimum number of entry permits;
- (10) provide for the transfer and reissuance of entry permits to qualified transferees;
- (11) provide for the transfer and reissuance of entry permits for alternative types of legal gear in a manner consistent with the purposes of this chapter;
- (12) administer the collection of the annual fees provided for in § 160 of this chapter;
- (13) administer the issuance of commercial fishing vessel licenses under AS 16 05 480;
- (14) issue educational entry permits to applicants who qualify under the provisions of §§ 275—285 of this chapter;
- (b) The commission may do all things necessary to the exercise of its powers under this chapter, whether or not specifically designated in this chapter. (§ 1 ch 79 SLA § 14 ch 105 SLA 1977, am § 3 ch 123 SLA 1978)

**Effect of amendments.** — The 1977 amendment effective January 1, 1978, added paragraph (11) to (10) without change in

The 1978 amendment effective July 9, 1978, added paragraph (15) to subsection (a)

(8) issue interim-use permits as provided in §§ 210-220 of this chapter;

**Sec. 16.43.110. Regulations and hearing procedures.** (a) The commission may adopt regulations consistent with law necessary or proper in the exercise of its powers or for the performance of its duties under this chapter.

(b) The commission shall adopt regulations, consistent with due process of law, which govern practice and procedure and the conduct of all investigations, hearings and proceedings which it holds.

(c) Common-law rules of evidence apply to investigations, hearings and proceedings before the commission, except when the commission determines that their application is not required in order to assure fair treatment of all parties and that the evidence is relevant and of the sort on which responsible persons are accustomed to rely in the conduct of serious matters.

(d) The commission, each commissioner or an employee authorized by the commission may administer oaths, certify to all official acts, and issue subpoenas and other process to compel the attendance of witnesses and the production of testimony, records, papers, accounts and documents in an inquiry, investigation, hearing, or proceeding before the commission in any part of the state. The commission may petition a court to enforce its subpoenas or other process. (§ 1 ch 79 SLA 1973)

**Sec. 16.43.120. Application of Administrative Procedure Act.** (a) The administrative adjudication procedures of the Administrative Procedure Act (AS 44 62) do not apply to adjudicatory proceedings of the commission except that final administrative determinations by the commission are subject to judicial review as provided in AS 44 62 560 — 44 62 570.

(b) AS 44 62 010 — 44 62 320 and 44 62 840 apply to regulations adopted by the commission. (§ 1 ch 79 SLA 1973)

### Article 3. Requirements for Entry Permits.

Section  
140 Permit required  
150 Terms and conditions of entry permit, annual renewal  
160 Fees

Section  
170 Transfer of entry permits  
180 Emergency transfers  
182 Entry permit deductible as business expense

**Sec. 16.43.140. Permit required.** (a) After January 1, 1974, no person may operate gear in the commercial taking of fishery resources without a valid entry permit or a valid interim use permit issued by the commission.

(b) A permit is not required of a crewman or other person assisting in the operation of a unit of gear engaged in the commercial taking of fishery resources as long as the holder of the entry permit or the interim use permit for that particular unit of gear is at all times present and actively engaged in the operation of the gear.

(c) A person may hold more than one interim use or entry permit issued or transferred under this chapter only for the following purposes:

- (1) fishing more than one type of gear;
- (2) fishing in more than one administrative area;
- (3) harvesting particular species for which separate interim use or entry permits are issued. (§ 1 ch 79 SLA 1973)

Approved in *Reakoff v. Reakoff*, 569 P.2d 1001, 1267 (Alaska, 1977).  
Op. No. 1267 (June 21, 1977), 569 P.2d 1001 (1977).

**Sec. 16.43.150. Terms and conditions of entry permit; annual renewal.** (a) Each entry permit authorizes the permittee to operate a unit of gear within a specified administrative area.

(b) The holder of an entry permit shall have the permit in his possession at all times when engaged in the operation of gear for which it was issued.

(c) Each entry permit is issued for a term of one year and is renewable annually.

(d) Failure to renew an entry permit for a period of two years from the date of last renewal results in a forfeiture of the entry permit to the commission, except as waived by the commission for good cause.

(e) An entry permit constitutes a use privilege which may be modified or revoked by the legislature without compensation.

(f) An entry permit survives the death of the holder.

(g) Except as provided in AS 16.10.333 — AS 16.10.337, an entry permit may not be (1) pledged, mortgaged, leased, or encumbered in any way;

(2) transferred with any retained right of repossession or foreclosure, or

(3) attached, distrained, or sold on execution of judgment or under any other process or order of any court. (am § ch 83 SLA 1978)

(h) Upon the death of an entry permit holder, the permanent permit shall be transferred by the commission directly to the surviving spouse by right of survivorship unless a contrary intent is manifested. When no spouse survives, the rights of the decedent pass as part of his estate. (S 1 ch 79 SLA 1973; am § 1, 2 ch 73 SLA 1977)

**Effect of amendment.**

The 1978 amendment effective July 1, 1978 added. Except as provided in AS 16.10.333—16.10.337, to the beginning of subsection (g).

As the rest of the section was not affected by the amendment, it is not set out.

**Sec. 16.43.160. Fees.** (a) The commission shall establish annual fees for the issuance and annual renewal of entry permits or interim use permits. The amount paid by a permit holder under the provisions of AS 16.05.480 shall be credited by the commission toward payment of the fee charged under this section. No more than one credit may be obtained annually by a person.

(b) Annual fees established under this section shall be no less than \$10 and no more than \$750 and shall reasonably reflect the different rates of economic return for different fisheries.

(c) The resident holder of an entry permit or interim use permit who has a net family income falling within the Federal Community Services Administration poverty guidelines, adjusted by the commission to reflect appropriate cost of living differentials, is subject to a maximum annual fee of \$15. (S 1 ch 79 SLA 1973; am § 15 ch 105 SLA 1977; am § 4 ch 123 SLA 1978)

**Effect of amendments.**

The 1977 amendment effective January 1, 1978 deleted the effect the cost of possession; this chapter from the end of the fee section and added fee \$1 added for the cost to the end of the section; subsection (c) substituted \$750 for \$1000; subsection (c) inserted "resident" preceding "holder".

of an entry permit in subsection (c) and substituted Federal Community Services Administration for Federal Social Security Administration; and \$15 for \$5 in subsection (c).

The 1978 amendment effective July 1, 1978 deleted "or in January 1, 1978" in subsection (c) and the second sentence and added the third sentence.

**Sec. 16.43.170. Transfer of entry permits.** (a) Except as provided in AS 16 10 333 — 16 10 337 entry permits and interim-use permits are transferable only through the commission as provided in this section and § 180 of this chapter and under regulations adopted by the commission.

(b) Except as provided in (c) of this section, the holder of an entry permit may transfer his permit to another person or to the commission upon 60 days notice of intent to transfer under regulations adopted by the commission. No sooner than 60 days nor later than 12 months from the date of notice to the commission, the holder of an entry permit may transfer his permit if the proposed transferee, other than the commission, can establish present ability to participate actively in the fishery, the commission shall approve the transfer and reissue the entry permit to the transferee.

(c) If the number of outstanding entry permits for a fishery is greater than the optimum number of entry permits established under §§ 290—300 of this chapter, the holder of an entry permit who qualified for that entry permit in a priority classification designated under § 250(c) of this chapter may transfer his permit only to the commission. The transfer to the commission shall be made under the buy-back provisions of §§ 310—320 of this chapter.

(d) Repealed by § 9 ch 73 SLA 1977 (§ 1 ch 79 SLA 1973 and § 1 ch 126 SLA 1974 and §§ 3, 4, 9 ch 73 SLA 1977, and § 7 ch 83 SLA 1978).

**Effect of amendment.**

The 1978 amendment effective July 1, 1978, reads: Except as provided in AS 16 10 333—16 10 337 to the beginning of subsection (a).

As the rest of the section was not affected by the amendment, it is not set out.

**Sec. 16.43.180. Emergency transfers.** (a) The commission shall adopt regulations providing for the temporary emergency transfer of entry permits and interim use permits when illness, disability, death, required military or government service, or other unavoidable hardship prevents the permit holder from participating in the fishery. To alleviate hardship pending a final determination of the permit holder's eligibility for an entry permit, the commission shall adopt regulations providing for the temporary emergency transfer of an interim use permit issued under § 210(b) of this chapter.

(b) The commission shall adopt regulations providing for the temporary transfer of an entry permit upon the death of the permittee pending final disposition of the permit as a part of the permittee's estate (§ 1 ch 79 SLA 1973 and § 5 ch 73 SLA 1977 and § 1 ch 123 SLA 1978).

**Effect of amendment.**

The 1978 amendment reads: subsection (a).

**Sec. 16.43.182. Entry permit deductible as business expense.** An entry permit purchased under this chapter is deductible as a business expense as provided in AS 41 10 011(h) (§ 9 ch 73 SLA 1977).

**Article 4. Initial Issuance of Entry Permits.**

Section  
 200 Administrative areas  
 210 Interim use permit; qualifications  
 220 Terms and conditions of interim use permits  
 230 Designation of distressed fisheries  
 240 Determination of the maximum number of entry permits for initial issue

Section  
 250 Standards for initial issue of entry permits  
 260 Application for initial issue of entry permits  
 270 Initial issuance of entry permits

**Sec. 16.43.200. Administrative areas.** (a) The commission shall establish administrative areas suitable for regulating and controlling entry into the commercial fisheries. The commission shall make the administrative areas reasonably compatible with the geographic areas for which specific commercial fishing regulations are adopted by the Board of Fisheries.

(b) The commission may modify or change the boundaries of administrative areas when necessary and consistent with the purposes of this chapter (§ 1 ch 79 SLA 1973, am § 30 ch 206 SLA 1975).

**Effect of amendment.** — The 1975 amendment substituted Board of Fisheries for Board of Fish and Game

at the end of the second sentence of subsection (a).

**Sec. 16.43.210. Interim-use permit; qualifications.** (a) Pending the establishment of the maximum number of entry permits under § 240 of this chapter and the issuance of entry permits under § 270 of this chapter, the commission shall issue interim use permits under regulations promulgated by the commission for each fishery, to all applicants who can establish their present ability to participate actively in the fishery for which they are making application, except as provided under (e) of this section.

(b) Before the issuance of the maximum number of entry permits for a given fishery, the commission may issue an interim use permit to an applicant who may later become eligible for an entry permit under § 270 of this chapter.

(c) To the extent that the commissioner of fish and game authorizes it under AS 16 05 05(11), the commission may grant an interim use permit to a person to engage in the commercial taking from a fishery on an experimental basis.

(d) The sustained yield management and economic health of the following fisheries is severely impaired as a result, among other factors, of too many units of gear participating in the commercial harvest:

- (1) Bristol Bay registration area — drift gillnet fishery
- (2) Cook Inlet registration area — drift gillnet fishery
- (3) Prince William Sound registration area — drift gillnet fishery

(e) For a fishery specified under (d) of this section, an interim use permit may be issued for 1974 only to an applicant who has harvested the fishery resource commercially while his doing a gear to cease used under AS 16 05 06 — 16 05 07) before January 1, 1973 (§ 1 ch 79 SLA 1973).

**Editor's note.** — Alaska Statutes 16.05.536 and 16.05.620, referred to in subsection (a) were repealed by § 12 ch 71 SLA 1972 and § 2 ch 158 SLA 1978

respectively Alaska Statutes 16.05.540 — 16.05.650 and 16.05.670 referred to in subsection (a) were repealed by § 19 ch 105 SLA 1977 effective January 1, 1976

**Sec. 16.43.220. Terms and conditions of interim-use permits.** (a) The commission shall adopt regulations specifying the dates and places of application, the procedures to be followed in renewal of the interim-use permit, including the time, place of its renewal, and for any other purpose incident to the administration of interim-use permits for that fishery. An interim-use permit shall expire upon the final determination of the holder's eligibility for an entry permit.

(b) Repealed by § 9 ch 73 SLA 1977

(c) The holder of an interim-use permit must have the permit in his possession at all times when engaged in the operation of the gear for which it was issued. (§ 1 ch 79 SLA 1973 and § 2 ch 128 SLA 1974, and § 9 ch 73 SLA 1977)

**Effect of amendments.** — The 1974 amendment, in subsection (b), deleted from the end of the first sentence provisions relating to causes of hardship and to the duration of a temporary transfer of an interim-use permit.

The 1977 amendment repealed subsection (b) which read: The commission shall adopt regulations for the temporary transfer of interim-use permits to alleviate hardship. Interim-use permits are otherwise nontransferable.

**Sec. 16.43.230. Designation of distressed fisheries.** Pending the determination of maximum numbers of entry permits under § 240 of this chapter and before the initial issue of entry permits under § 270 of this chapter, the commission shall designate as distressed fisheries those for which it estimates that the optimum number of entry permits will be less than the highest number of units of gear fished in that fishery during any one of the four years immediately preceding January 1, 1973. (§ 1 ch 79 SLA 1973)

**Sec. 16.43.240. Determination of the maximum number of entry permits for initial issue.** (a) Except as provided in § 270(a) of this chapter, the maximum number of entry permits for a distressed fishery designated under § 230 of this chapter shall be the highest number of units of gear fished in that fishery during any one of the four years immediately preceding January 1, 1973.

(b) When the commission finds that a fishery not designated as a distressed fishery under § 230 of this chapter has reached levels of participation which require the limitation of entry in order to achieve the purposes of this chapter, the commission shall establish the maximum number of entry permits for that fishery. (§ 1 ch 79 SLA 1973)

**Sec. 16.43.250. Standards for initial issue of entry permits.** (a) Following the establishment of the maximum number of units of gear for a particular fishery under § 240 of this chapter, the commission shall adopt regulations establishing qualifications for ranking applicants for entry permits according to the degree of hardship which they would suffer by exclusion from the fishery. The regulations shall define priority classification of similarly situated applicants based upon a reasonable balance of the following hardship standards:

(1) degree of economic dependence upon the fishery, including but not limited to percentage of income derived from the fishery, reliance on alternative occupations, availability of alternative occupations, investment in vessels and gear,

(2) extent of past participation in the fishery, including but not limited to the number of years participation in the fishery, and the consistency of participation during each year

(b) The commission shall designate in the regulations those priority classifications of applicants who would suffer significant economic hardship by exclusion from the fishery

(c) The commission shall designate in the regulations those priority classifications of applicants who would suffer only minor economic hardship by exclusion from fishery. (§ 1 ch 79 SLA 1973)

**Determinative factor in allocation of initial permits.** — The legislative history rather clearly demonstrates that from the outset the framers of this legislation intended "hardship" to be the

determinative factor in the allocation of the initial free limited entry permits *Isakson v Rickey*, Sup Ct Op No 1267 /File No 2550). 550 P.2d 359 (1976)

**Sec. 16.43.260. Application for initial issue of entry permits.** (a) The commission shall accept applications for entry permits only from applicants who have harvested fishery resources commercially while participating in the fishery as holders of gear licenses issued under AS 16.05.53b — 16.05.670 before the qualification date established in (d) or (e) of this section

(b) The commission shall establish the opening and closing dates, places and form of application for entry permits for each fishery. The commission may require the submission of specific verified evidence establishing the applicant's qualifications under the regulations adopted under § 250 of this chapter

(c) When an applicant is unable to establish his qualifications for an entry permit by submitting the specific verified evidence required in the application by the commission, he may request and obtain an administrative adjudication of his application according to the procedures established in § 110(b) of this chapter. At the hearing he may present alternative evidence of his qualifications for an entry permit

(d) Except as provided in (e) of this section, an applicant shall be assigned to a priority classification based solely upon his qualifications as of January 1, 1973

(e) When the commission establishes the maximum number of entry permits for a particular fishery under § 240 of this chapter after January 1, 1975, an applicant shall be assigned to a priority classification based solely upon his qualifications as of January 1 of the year during which the commission establishes the maximum number of entry permits for the fishery for which application is made. (§ 1 ch 79 SLA 1973, am 4, 3 ch 126 SLA 1974)

**Editor's note** — Alaska Statutes 16.05.53b and 16.05.620 referred to above were repealed by § 12 ch 71 SLA 1972 and § 10 ch 159 SLA 1968 respectively. Alaska Statutes 16.05.510 through 16.05.650 and 16.05.670 referred to above were repealed by § 19 ch 105 SLA 1977 effective January 1, 1978

**Effect of amendment** — The 1974 amendment substituted the qualification date established in (d) or (e) of this section for January 1, 1973 at the end of subsection (a)

**Subsection (e) is unconstitutional** — Subsection (e) which limits applications for entry permits to persons holding gear

licenses prior to January 1, 1973, violates the equal protection rights, guaranteed by the state and federal constitutions, of commercial fishermen who obtained gear licenses after January 1, 1973. *Isakson v Rickey*, Sup. Ct. Op. No. 1267 (File No. 2550), 550 P.2d 359 (1976).

Holding a gear license before January 1, 1973, does not bear a fair and substantial relation to the purpose of the legislation, which is the segregation of hardship and nonhardship cases. *Isakson v Rickey*, Sup. Ct. Op. No. 1267 (File No. 2550), 550 P.2d 359 (1976).

Because persons are automatically excluded from the class eligible to apply for permits, in spite of active participation and economic dependence upon the fishery, the January 1, 1973 classification is under-inclusive with respect to persons allowed to apply for permits. Because persons who have long since retired and have no economic dependence upon the fishery as of the cutoff date are allowed to apply for entry permits, the classification is overbroad with respect to those allowed to apply. *Isakson v Rickey*, Sup. Ct. Op. No. 1267 (File No. 2550), 550 P.2d 359 (1976).

**Sec. 16.43.270. Initial issuance of entry permits.** (a) The commission shall issue entry permits, for each fishery, first to all qualified applicants in the priority classifications designated under § 250(b) of this chapter and then to qualified applicants in order of descending priority classification, until the number of entry permits issued equals the maximum number of entry permits established under §§ 230 — 240 of this chapter for each fishery, except that no person within a priority classification specified under § 250(b) of this chapter may be denied an entry permit.

(b) If, within the lowest priority classification of qualified applicants to which some entry permits may be issued, there are more applicants than there are entry permits to be issued, then the allocation of entry permits within that priority classification shall be by lottery.

(c) If, at the time entry permits are issued, some applicants are still appealing the findings of an administrative adjudication under § 260 of this chapter, a sufficient number of permits shall be reserved out of the permits to be issued to protect the rights of those applicants, assuming all the appeals will be resolved in favor of the applicants. In the event that all appeals are not resolved in favor of the applicants, the remaining entry permits shall be allocated to the next most qualified applicants as provided in (a) and (b) of this section. (5/1 ch 79 SLA 1973)

**Purpose of provision in subsection (a) limiting applications.** — In essence the purpose of the provision in subsection (a) limiting applications for entry permits to those holding gear licenses prior to January 1, 1973 was to segregate hardship and nonhardship cases at the application phase of the permit issuance process. *Isakson v Rickey*, Sup. Ct. Op. No. 1267 (File No. 2550), 550 P.2d 359 (1976).

Subsection (a) was not intended to modify the allocation policy of the legislation, but rather was adopted to further that policy by simplifying the ranking process. *Isakson v Rickey*, Sup. Ct. Op. No. 1267 (File No. 2550), 550 P.2d 359 (1976).

When the act is viewed as a whole, it becomes apparent that the contested provision in subsection (a) was inserted because it was assumed that those persons who obtained gear licenses after January 1, 1973 would be unable to demonstrate the requisite hardship for an entry permit. Hence, for the sake of administrative convenience, it was decided that they need not even submit applications to the commission. *Isakson v Rickey*, Sup. Ct. Op. No. 1267 (File No. 2550), 550 P.2d 359 (1976).

## Article 4A. Educational Entry Permits.

Section

- 275 Educational entry permits
- 277 Term and conditions of educational entry permit
- 279 Disposition of fish

Section

- 281 Accounting of harvest
- 283 Adoption of regulations
- 285 Definition

Article

- 4A Educational Entry Permits (§§ 16.43.275 — 16.43.285)

Effective date of article. — Section 14, ch. 123, SLA 1978 makes this article

effective July 9, 1978 in accordance with AS 01.10.070(c)

**Sec. 16.43.275. Educational entry permits.** (a) In addition to entry permits and interim-use permits, the commission may issue educational entry permits to public, private or denominational educational institutions accredited by the Department of Education or accredited institutions, career or vocational programs approved by the Alaska Commission on Postsecondary Education, or full-time nonprofit residential child care facilities licensed by the Department of Health and Social Services, division of social services, if

- (1) the program is offered to students at the junior high school level or above,
  - (2) the issuance of an educational entry permit is reasonably necessary to the instruction of students under courses offered by the applicant for the educational entry permit;
  - (3) the program is offered by an institution which is located in the state and has been in operation for at least two years, and
  - (4) the institution offering the program is not a correspondence institution
- (b) An educational entry permit may only be used in a program conducted by the recipient of the permit for the purpose of training students in the methods of commercial fishing
- (c) The commission may issue educational entry permits notwithstanding the establishment of maximum or optimum numbers under §§ 270 and 290 of this chapter. (§ 10 ch 123 SLA 1978)

**Sec. 16.43.277. Term and conditions of educational entry permit.** (a) Educational entry permits may be applied for on an annual basis and shall be issued for a term of one year. The permits are non-transferable

- (b) A recipient may be issued an educational entry permit for each fishery in the administrative area the commission determines to be appropriate, considering the nature of the educational program and the location of the educational or vocational institution. The recipient of an educational entry permit may not be issued educational entry permits in more than one administrative area except as issued by the commission in its discretion upon good cause shown
- (c) An educational entry permit issued under § 275 of this chapter may be used by any agent or employee authorized by the recipient of the educational entry permit
- (d) Annual fees for educational entry permits shall be as specified by commission regulation under the authority of § 160 of this chapter. (§ 10 ch 123 SLA 1978)

**Sec. 16.43.279. Disposition of fish.** Fish caught under the authority of an educational entry permit are the property of the recipient of the permit. The recipient may sell the fish and use the proceeds to pay for the costs of the training program. Revenues generated from the sale

of fish harvested under an educational entry permit shall be paid to the general fund to the extent the revenues exceed costs of the training program. (§ 10 ch 123 SLA 1978)

**Sec. 16.43.281. Accounting of harvest.** The recipient of an educational entry permit shall report to the commission costs and earnings, amount of harvest and other information the commission requires to monitor training programs of recipients of educational entry permits (§ 10 ch 123 SLA 1978)

**Sec. 16.43.283. Adoption of regulations.** (a) Use privileges granted under §§ 275 — 285 of this chapter are subject to the regulations of the Board of Fisheries which may adopt regulations exclusively applicable to the use of educational entry permits

(b) The commission shall publish regulations relating to the issuance of educational entry permits, establishing eligibility criteria for recipients of the permits, and such other matters as are reasonably necessary to implement §§ 275 — 285 of this chapter. (§ 10 ch 123 SLA 1978)

**Sec. 16.43.285. Definition.** For the purposes of §§ 275 — 285 of this chapter, the term "recipient" means the entity to which an educational entry permit is issued. (§ 10 ch 123 SLA 1978)

### Article 5. Reduction to Optimum Number of Entry Permits.

Section  
290 Optimum number of entry permits  
300 Revisions of optimum number of entry permits  
310 Establishment of buy back funds

Section  
320 Administration of the buy back program  
330 Issuance of new entry permits

**Sec. 16.43.290. Optimum number of entry permits.** Following the issuance of entry permits under § 270 of this chapter, the commission shall establish the optimum number of entry permits for each fishery based upon a reasonable balance of the following general standards:

(1) the number of entry permits sufficient to maintain an economically healthy fishery that will result in a reasonable average rate of economic return to the fishermen participating in that fishery, considering time fished and necessary investments in vessels and gear

(2) the number of entry permits necessary to harvest the allowable commercial take of the fishery resource during all years in an orderly, efficient manner and consistent with sound fishery management techniques.

(3) the number of entry permits sufficient to avoid serious economic hardship to those currently engaged in the fishery, considering other economic opportunities reasonably available to them. (§ 1 ch 79 SLA 1973)

**Sec. 16.43.300. Revisions of optimum number of entry permits.** (a) The commission may increase or decrease the optimum number of entry permits for a fishery when one or more of the following conditions makes a change desirable considering the purposes of this chapter:

(1) an established long-term change in the biological condition of the fishery has occurred.

which substantially alters the optimum number of entry permits permissible applying the standards set out in § 290 of this chapter:

(2) an established long-term change in market conditions has occurred, directly affecting the fishery which substantially alters the optimum number of entry permits permissible under the standards set out in § 290 of this chapter.

(b) If the commission decreases the optimum number of entry permits for a fishery, the number of entry permits may be reduced only under the voluntary buy-back provisions set out in §§ 310 — 320 of this chapter. (§ 1 ch 79 SLA 1973)

**Sec. 16.43.310. Establishment of buy-back funds.** (a) When the optimum number of entry permits is less than the number of entry permits outstanding in a fishery, the commission shall establish and administer a buy-back fund for that fishery for the purpose of reducing the number of entry permits to the optimum number within no more than 10 years, at a rate to be established by the commission.

(b) For each buy-back fund, the commission shall adopt regulations establishing annual assessments on holders of entry permits of not more than seven per cent of the gross value of the total annual catch attributable to a holder's entry permit, except that the holder of a permit who has made no commercial landings in a given year will be assessed the average assessed all other holders of the same type of permit in that year. Assessments will be paid into the specific buy-back fund for which they are collected.

(c) Assessments need not equal annual buy-back fund expenditures within a particular fishery but shall be continued until the buy-back fund for that fishery has been reimbursed. (§ 1 ch 79 SLA 1973)

**Sec. 16.43.320. Administration of the buy-back program.** (a) The commission shall adopt regulations providing for the purchase of entry permits, vessels, and gear at fair market value with money accumulated in the buy-back fund for each fishery. The buy-back program for a fishery shall terminate when the number of entry permits is reduced to the optimum and the buy-back fund has been reimbursed.

(b) When entry permits subject to the restrictions in § 250(c) of this chapter and the vessels and gear related to those permits are offered for sale to the commission, the commission shall purchase the permits and related vessels and gear at fair market value, if sufficient funds are available in the appropriate buy-back fund. (§ 1 ch 79 SLA 1973)

**Sec. 16.43.330. Issuance of new entry permits.** (a) When the number of outstanding entry permits for a fishery is less than the optimum number established under § 290 of this chapter, the commission shall issue new entry permits to applicants who are presently able to engage actively in the fishery until the optimum number is reached.

(b) The commission shall determine equitable methods of issuance, as appropriate, under (a) of this section that assure the receipt of fair market value for the permits issued. (§ 1 ch 79 SLA 1973)

## Article 6. General Provisions.

### Section

350. Applications of regulations of Board of

### Section

370. Recommendations to the legislature

Fisheries

380 Definitions

355 Commission revocation of entry permits

360 Penalties

**Sec. 16.43.350. Applications of regulations of Board of Fisheries.** Nothing in this chapter limits the powers of the Board of Fisheries, including the power to determine legal types of gear and the power to establish size limitations or other uniform restrictions applying to a certain type of gear. Holders of interim-use permits or entry permits issued under this chapter are subject to all regulations adopted by the Board of Fisheries (§ 1 ch 79 SLA 1973, am § 31 ch 206 SLA 1975)

**Effect of amendment.** — The 1975 amendment substituted "Board of Fisheries" for "Board of Fish and Game" in the first and second sentences

**Sec. 16.43.355. Commission revocation of entry permits.** (a) The commission may revoke an entry permit if a person knowingly supplies, assists in supplying, or fails to correct false information provided to the commission for the purpose of

- (1) permit application; or
- (2) permit transfer

(b) Before revocation, the commission shall serve the permit holder personally or by certified or registered mail with a notice to show cause why the proposed action should not take place. The notice to show cause must

- (1) be supported by an affidavit which may be made on information or belief setting out the facts which are the basis of the proposed action;
- (2) provide for at least 30 days notice of the place, date, and time of the hearing where the permit holder may present evidence in opposition to the proposed action. Unless waived in writing by the permit holder, the hearing place shall be held within the judicial district in which the permit holder resides; if the permit holder resides in the state, the hearing place shall be at the discretion of the commission for those permit holders residing outside the state;
- (3) specify the statutes or regulations violated;
- (4) state with particularity the action proposed to be taken;
- (5) indicate to the permit holder that his ability to permanently transfer the permit which is the subject of the revocation proceedings has been suspended as of the date of the notice and will continue to be suspended until the exhaustion of all administrative and judicial remedies; and
- (6) provide other information the commission considers proper

(c) A permit subject to revocation proceedings under this section may not be transferred after the date of the notice in (b) of this section pending exhaustion of all administrative and judicial remedies arising from action taken under this section

(d) The revocation hearing shall be conducted before a quorum of commissioners and shall be presided over by a hearing officer appointed by the commission who shall rule on the presentation of evidence and other procedural matters. Within a reasonable time after the conclusion of the hearing, the hearing officer shall submit to the attending commissioners a proposed decision based on the record of the hearing and containing findings of fact, conclusions of law, and recommended action. The attending commissioners shall then review the hearing officer's proposed decision and adopt or amend or reject the contents of the

proposed decision in the written decision of the commission. A copy of the commission decision shall be mailed to each party or his attorney by certified or registered mail.

(e) The failure of a permit holder properly served under (b) of this section to appear at the hearing is not grounds for setting aside any commission action taken. However, the commission may in its discretion order a continuance or second hearing.

(f) The effective date of the commission decision under this section is the date of the notice to show cause first served upon the permit holder under (b) of this section.

(g) The provisions of this section do not apply to the permit of a person who is a bona fide purchaser.

(h) Judicial review of commission determinations under this section is in accordance with AS 44.62.560 — 44.62.570, however, if a hearing de novo is granted under AS 44.62.570(d), the hearing may, in the discretion of the court, be had with a jury sitting if application for the jury hearing is filed with the court no later than 10 days after service of the notice of appeal (§ 6 ch 123 SLA 1978).

**Effective date.** — Section 14 ch 123.

SLA 1978 makes this section effective July 9, 1978 in accordance with AS 01.10.070(c).

**Sec. 16.43.360. Penalties.** (a) A person who violates or assists in the violation of a provision of this chapter or a regulation promulgated under this chapter is, upon conviction, guilty of a misdemeanor and is punishable by a fine of not more than \$5,000 for a first conviction, and a fine of not more than \$10,000 for a second or third conviction. Upon a third conviction, the person shall forfeit all interim-use and entry permits held by him and loses eligibility for future issuance or transfer of interim use or entry permits for a period of three years. Upon a first or second conviction under this section, the court may in its discretion order a forfeiture of interim-use or entry permits held by him as well as a loss of eligibility for future issuance or transfer of interim use or entry permits or order a suspension of fishing rights under interim use or entry permits held or to be held by him for a period of not more than three years.

(b) A person who knowingly makes a false statement of fact in the application for or renewal of an interim use permit or an entry permit or vessel license application or renewal or in the application for a transfer under § 170 — 180 of this chapter, or a person who assists another by knowingly making a false statement of fact in support of the other person's application for issuance or renewal of an interim use permit or an entry permit or vessel license is guilty of a misdemeanor and shall forfeit all interim use permits and entry permits held by him and shall lose eligibility for interim use permits and for entry permits for a period of three years and is punishable by a fine of not more than \$5,000.

(c) If a permit holder is convicted of violation of AS 43.20.335 and the violation relates to income derived from commercial fishing under this title, he shall forfeit all interim-use permits and entry permits held by him and shall lose eligibility for interim use permits and for entry permits for a period of five years.

(d) If a permit holder is charged by the state with violating a provision of this chapter or a regulation adopted under this chapter, he may not transfer, under § 170 of this chapter, any interim use or entry permit he may hold, until after the final adjudication or dismissal of the charges.

(e) Notwithstanding any other provision of this section, no interim-use or entry permit may be transferred while under suspension, without the consent of the commission (§ 1 ch 79 SLA 1973 am § 7 ch 73 SLA 1977 am §§ 7 - 9 ch 123 SLA 1978)

**Effect of amendment.**

The 1978 amendment, effective July 9 1978, in the first sentence of subsection (a) inserted or inserts the violation of "is preceding upon conviction" and or third substituted "and" for a semicolon following "for a first conviction" and deleted the language providing a penalty for a third conviction from the end of that sentence. The amendment also added the second and third sentences of subsection (a), and in subsection (b) inserted "knowingly" near the beginning and near the middle, "or renewal of" near the

beginning, "or vessel license application or renewal" near the beginning and "or renewal" near the middle, deleted a material preceding "fact" near the beginning and near the middle, and substituted "vessel license for transfer of an entry permit upon conviction" near the middle, and "three years and is punishable by a fine of not more than \$5 000 for five years" at the end. Moreover, the amendment added subsection (e).

As the rest of the section was not affected by the amendment, it is not set out.

**Sec. 16.43.370. Recommendations to the legislature.** (a) The commission shall submit an annual report to the legislature. The report shall include but not be limited to the following:

- (1) a progress report on the reduction of entry permits to optimum levels;
- (2) recommendations for additional legislation relating to the regulation of entry into Alaska commercial fisheries;

(b) The commission shall study alternative methods of permit transferability and report its findings and recommendations to the legislature before January 15, 1975 (§ 1 ch 79 SLA 1973).

**Sec. 16.43.380. Definitions.** In this chapter:

- (1) "commission" means the Alaska Commercial Fisheries Entry Commission;
- (2) "economically healthy fishery" means a fishery that yields a sufficient rate of economic return to the fishermen participating in it to provide for, among other things, the following:
  - (A) maintenance of vessels and gear in satisfactory and safe operating condition; and
  - (B) ability and opportunity to improve vessels, gear, and fishing techniques, including, when permissible, experimentation with new vessels, new gear, and new techniques;
- (3) "fishery" means the commercial taking of a specific fishery resource in a specific administrative area with a specific type of gear;
- (4) "gear" means the specific apparatus used in the commercial harvest of a species, including but not limited to purse seines, drift gill nets, set gill nets, and troll gear;
- (5) "person" means a natural person and does not include a corporation, company, partnership, firm, association, organization, business trust, or society;
- (6) "present ability to actively participate" means the person applying for a permit is physically able to harvest fish in the fishery and has reasonable access to commercial fishing gear of the type utilized in that fishery.

(7) "priority classification" means the allocation of potential permit applicants into reasonable groupings of similarly situated applicants and the priority ranking of those groupings according to the extent to which they satisfy the standards of preference.

(8) "type of gear" means a customary and identifiable classification of gear and shall include

(A) those classifications for which separate regulations are adopted by the Board of Fisheries and for which separate gear licenses are required by AS 16 05 550 — 16 05 630, and

(B) distinct subclassifications of gear such as "power" troll gear and "hand" troll gear;

(9) "unit of gear" means the maximum amount of a specific type of gear which can be fished under a single gear license subject to regulations established by the Board of Fisheries defining the legal requirements for that type of gear. (§ 1 ch 79 SLA 1973, and §§ 32.33, ch 206 SLA 1975)

**Effect of amendment.** — The 1975 amendment substituted "Board of Fisheries" for "Board of Fish and Game" in paragraphs (8)(A) and (9).

**Editor's note.** — Alaska Statutes 16 05 550 — 16 05 630 referred to in paragraph (8)(A), were repealed by § 19, ch 105 SLA 1977, effective January 1, 1978. Alaska Statute 16 05 #20 had previously been repealed by § 2, ch 159, SLA 1968.

TITLE 20.

Chapter 05.

COMMERCIAL FISHERIES ENTRY COMMISSION

January 1980

**CHAPTER 05  
COMMERCIAL FISHERIES ENTRY  
COMMISSION**

**Article**

- 1 Permits and Vessel License Required  
(20 AAC 05.010 - 20 AAC 05.130)
- 2 Fishery Identification System, Administrative Areas and Annual Fees  
(20 AAC 05.200 - 20 AAC 05.240)
- 3 Designated Fisheries  
(20 AAC 05.300 - 20 AAC 05.320)
- 4 Interim-use Permits  
(20 AAC 05.400 - 20 AAC 05.430)
- 5 Issuance of Entry Permits  
(20 AAC 05.500 - 20 AAC 05.579)
- 6 Priority Classification Point System  
(20 AAC 05.600 - 20 AAC 05.670)
- 7 Transfer of Entry and Interim-use Permits  
(20 AAC 05.700 - 20 AAC 05.770)
- 8 Administrative Hearings and Adjudications  
(20 AAC 05.800 - 20 AAC 05.855)
- 9 Miscellaneous Provisions  
(20 AAC 05.900 - 20 AAC 05.990)

**ARTICLE 1  
PERMITS AND VESSEL  
LICENSE REQUIRED**

**Section**

- 10 (Repealed)
- 20 (Repealed)
- 30 (Repealed)
- 40 (Repealed)
- 50 (Repealed)
- 60 (Repealed)
- 100 Permit required to operate gear
- 110 Permit required to possess fish or shellfish
- 115 Personal identification required
- 120 Incidental taking of fishery resources
- 130 Vessel license required

20 AAC 05.010 ADMINISTRATIVE AREAS  
Repealed 12/18/74

20 AAC 05.020 FEES Repealed 12/18/74

20 AAC 05.030 APPLICATION PROCEDURES  
Repealed 12/18/74

20 AAC 05.040 ANNUAL RENEWAL Repealed 12/18/74

20 AAC 05.050 TEMPORARY TRANSFER  
Repealed 12/18/74

20 AAC 05.060 NOTIFICATION OF LOSS  
OR THEFT Repealed 12/18/74

20 AAC 05.100 PERMIT REQUIRED TO OPERATE GEAR. (a) It is unlawful for any person to operate gear, within water subject to the jurisdiction of the state, for the commercial taking of any fishery resource without a valid interim-use or entry permit card issued by the commission authorizing him to operate that type of gear in that fishery unless waived by the commission for good cause.

(b) Repealed 1/1/78  
(Eff. 12/18/74, Reg. 52, am 1/1/78, Reg. 64)  
Authority: AS 16.43.100(b)  
AS 16.43.110(a)

20 AAC 05.110 PERMIT REQUIRED TO POSSESS FISH OR SHELLFISH. (a) It is unlawful for any person to possess, within water subject to the jurisdiction of the state, any fish or shellfish, taken for a commercial purpose, aboard a fishing vessel commonly used for taking that species of fish or shellfish unless the person has in his possession a valid interim-use or entry permit card allowing him to take the fish or shellfish in his possession with the gear with which the vessel is equipped unless waived by the commission for good cause.

(b) As used in this section, a "commercial purpose" includes any sale, purchase, trade, gift, or any portion of a commercial transaction  
(Eff. 12/18/74, Reg. 52, am 1/1/78, Reg. 64)  
Authority: AS 16.43.100(b)  
AS 16.43.110(a)

20 AAC 05.115 PERSONAL IDENTIFICATION REQUIRED (a) Any person who is in possession of an interim-use or entry permit card issued by the commission shall, upon request of any officer authorized by the State of Alaska to enforce this chapter, present personal identification to the officer to establish that the card is in the possession of the person to whom it was issued. The interim-use or entry permit card is not sufficient proof of identity.

(b) Presentation of sufficient proof of identity to the officer within two weeks of the date of request satisfies the requirements of (a) of this section. (Eff. 12/27/79, Reg. 72)

Authority: AS 16-43-100(b)  
AS 16-43-110(a)

**20 AAC 05 120. INCIDENTAL TAKING OF FISHERY RESOURCES.** (a) In Administrative Area B (Statewide) holders of valid interim use permits for salmon hand troll gear and holders of valid entry permits for salmon power troll gear may take halibut or any other fishery resource with that gear.

(b) No person may take salmon without a valid entry permit or interim-use permit authorizing the taking of salmon.

(c) No person may take King, Tanner or Dungeness crab without a valid interim-use or entry permit authorizing the taking of each of those species of crab.

(d) During the halibut seasons established by the International Pacific Halibut Commission, holders of valid entry permits or interim-use permits authorizing the taking of halibut may take incidentally caught bottom t and black cod.

(e) The incidental taking of fishery resources not specifically authorized or prohibited in (a) - (d) of this section is authorized for holders of valid interim-use or entry permits so long as the total poundage of all incidental species does not exceed 20 percent of the total weight of each landing.

(f) The provisions of (a) - (e) of this section are not construed as contrary to regulations of the Alaska Board of Fisheries or the Alaska Department of Fish and Game. (H. 6-28-74, Reg. 54 am 5/20/76, Reg. 58 am 12/31/79, Reg. 72)

Authority: AS 16-43-100(a)&(5)  
AS 16-43-100(b)  
AS 16-43-110(a)  
AS 16-43-150

**20 AAC 05 140. VESSEL LICENSE REQUIRED.** It is unlawful for any person to operate a fishing vessel required to be licensed under AS 16-05-490 which does not display a

valid vessel license as required by sec. 958 of this chapter. (Eff. 1/1/78, Reg. 64)

Authority: AS 16-05-450(b) AS 16-43-100  
AS 16-05-490 AS 16-43-100(a)  
AS 16-05-510

## ARTICLE 2 FISHERY IDENTIFICATION SYSTEM, ADMINISTRATIVE AREAS AND ANNUAL FEES

### Section

200	Fishery identification system
210	Fishery resource codes
220	Gear codes
230	Administrative areas
240	Schedule of annual fees

**20 AAC 05 200. FISHERY IDENTIFICATION SYSTEM.** (a) For the purpose of issuing interim-use permits and entry permits, administering the collection of annual fees, and other purposes required for the administration of AS 16-43, a fishery identification system is established.

(b) Each fishery is identified using a four-place letter and number code with the first place being a single letter indicating the fishery resource, the second and third place being a two-digit number indicating the type of gear, and the fourth place being a single letter indicating the administrative area. (H. 12-18-74, Reg. 52)

Authority: AS 16-43-100(a)&(3)  
AS 16-43-100(b)  
AS 16-43-110(a)  
AS 16-43-140(c)  
AS 16-43-150(a)  
AS 16-43-200(a)  
AS 16-43-280(3)

**20 AAC 05 210. FISHERY RESOURCE CODES.** The letter code from the following schedule will be used to indicate the specific fishery resource for which an interim-use or entry permit is issued.

### Code

A	Abalone
C	Black Cod
M	Bottomfish
D	Dungeness Crab
F	Freshwater Fish
H	Halibut
G	Herring

## Code

- L Herring Spawn  
K King Crab  
R Razor Clam  
S Salmon  
P Shrimp  
T Tanner Crab  
Z Other

11-11 12/18/74, Reg. 52 am 1/21/78, Reg. 65,  
am 12/27/79, Reg. 72)

Authority: AS 16.43.100(a)(5)  
AS 16.43.110(a)  
AS 15.43.140(c)

**20 AAC 05 220. GEAR CODES.** (a) A number code from the following schedule will be used to indicate the specific type of gear for which an interim-use or entry permit is issued:

## Code

- 01 purse seine (hand or power)  
02 beach seine  
03 drift gill net  
04 set gill net  
05 hand troll  
06 longline (vessel under five net tons)  
07 otter trawl  
08 fishwheel  
09 pot gear (vessel register length 50' or less,  
or undocumented vessel)  
15 power troll  
17 beam trawl  
18 shovel  
21 pound\*  
22 dredge  
26 jig  
34 herring gill net  
37 pair trawl  
61 longline (any vessel)  
91 pot gear (any vessel)  
99 other

\*A beering (pound) permit allows the incidental use of other gear which operated in compliance with a permit issued by the commissioner of the Alaska Department of Fish and Game.

181 Holders of gear code 61 and 91 permits shall notify the commissioner of any change of vessel used by the permit holder. (11/12/18/74, Reg. 52 am 4/9/76, Reg. 68 am 1/1/78, Reg. 64, am 12/27/79, Reg. 72)

Authority: AS 16.43.100 AS 16.43.140(c)  
AS 16.43.110(a) AS 16.43.301(a)

**20 AAC 05 230 ADMINISTRATIVE AREAS.**

(a) For the purpose of issuing interim-use permits and entry permits for all waters subject to the jurisdiction of the State of Alaska, the administrative areas described in the schedule below are established. A letter code from the following schedule will be used to designate the specific administrative area for which an interim-use permit or entry permit is issued:

## (1) Administrative Areas

## (A)

## Code:

- | Letter | Name and Description   |
|--------|--|
| A      | Southeastern Alaska Area all waters between the longitude of Cape Fairweather and the International Boundary at Dixon Entrance   |
| B      | Statewide Area all waters subject to the jurisdiction of the state   |
| D      | Yakutat Area all waters of and adjacent to the Pacific Ocean between the longitude of Cape Suckling and the longitude of Cape Fairweather  |
| F      | Prince William Sound Area all waters of and adjacent to the Pacific Ocean between the longitude of Cape Fairfield and the longitude of Cape Suckling   |
| H      | Cook Inlet Area all waters of and adjacent to the Pacific Ocean north of a line extending east from Cape Douglas to the longitude of Cape Fairfield  |
| K      | Kodiak Area all waters of and adjacent to the Pacific Ocean east of the longitude of Kodiak Rocks at 57° 11' 25" North latitude, 156° 20' 13" West longitude and south of a line extending east from Cape Douglas to the longitude of Cape Fairfield including Kodiak, Adognak and adjacent islands. |

Code Letter	Name and Description
L	Chignik Area — all waters on the south side of the Alaska Peninsula between a line extending southeast from Kupreanof Point and the longitude of Kilokak Rocks.
M	Alaska Peninsula-Aleutian Islands Area — 1) all waters of and adjacent to the Bering Sea south of the latitude of Cape Meilikof including the Pribilof Islands and 2) all waters of and adjacent to the Pacific Ocean west of a line extending southeast from Kupreanof Point excluding those waters of the Kodiak (K) and Chignik (L) administrative areas.
P	Upper Yukon Area — all drainages and watersheds of the Yukon River upstream of the Bonasila River to the Canadian border.
I	Bristol Bay Area — all waters of and adjacent to Bristol Bay westward to a line between Cape Newenham and Cape Menshikof and continuing seaward between the latitude of Cape Newenham and the latitude of Cape Menshikof.
H	Northern Alaska Area — all waters of and adjacent to the Arctic Ocean and Chukchi Sea west of 141° West longitude and north of latitude of Point Hope.
V	Port Clarence Area — all waters between the latitude of Cape Prince of Wales and the latitude of Cape Douglas.
W	Kuskokwim Area — all waters between the latitude of Cape Romanzof and the latitude of Cape Newenham including Nunivak and the St. Matthew Islands and excluding waters of Administrative Area I (Bristol Bay).
X	Kotzebue Area — all waters between the latitude of Point Hope and the latitude of Cape Prince of Wales.
Y	Lower Yukon Area — all waters between the latitude of Canal Point Light at 63° 22' North latitude 162° 26' West longitude and 62° North latitude and all drainages and watersheds of the Yukon as far upstream as the Bonasila River.

Code Letter	Name and Description
Z	Norton Sound Area — all waters between the latitude of Cape Douglas and the latitude of Canal Point Light including St. Lawrence Island.

(B) Where regulations of the Board of Fish and Game allow

(1) salmon set gillnet entry permits issued for Administrative Area E (Prince William Sound) are valid in all waters of and adjacent to the Pacific Ocean between the longitude of Cape Fairfield and the longitude of Ivy Cape.

(11) salmon set gillnet and salmon drift gillnet entry permits issued for Administrative Area I (Bristol Bay) are valid in Area I and, prior to June 15 and after August 1 of each year, in all waters of and adjacent to Bristol Bay between the latitude of Cape Menshikof and 160° West longitude.

(2) Special King Crab Administrative Areas

Code Letter	Name and Description
A	Southeastern Alaska/Yukutat Area — all waters of and adjacent to the Pacific Ocean between the longitude of Cape Suckling and the International Boundary at Dixon Entrance.
I	Prince William Sound Area — all waters of and adjacent to the Pacific Ocean between the longitude of Cape Fairfield and the longitude of Cape Suckling.
H	Cook Inlet Area — all waters of and adjacent to the Pacific Ocean north of a line extending east from Cape Douglas to the longitude of Cape Fairfield.
K	Kodiak Area — all waters of and adjacent to the Pacific Ocean east of the longitude of Cape Kumliik and south of a line extending east from Cape Douglas to the longitude of Cape Fairfield.
M	Alaska Peninsula Area — all waters of and adjacent to the Pacific Ocean between the

Code Letter	Name and Description
	longitude of Scotch Cap Light and the longitude of Cape Kumlik including all waters of Isanotaki Strait and Bechevin Bay south of a line from Chunak Point to Cape Krenitzen.
O	Dutch Harbor Area — all waters south of 54° 36' North latitude between 172° West longitude and the longitude of Scotch Cap Light.
Q	Bering Sea Area — all waters of and adjacent to the Bering Sea, Chukchi Sea and Arctic Ocean, north of 54° 36' North latitude.
R	Adak Area — all waters south of 54° 36' North latitude between 179° 15' West longitude and 172° West longitude.
S	Western Aleutians Area — all waters south of 54° 36' North latitude and west of 179° 15' West longitude.

## (3) Herring Purse Seine Administrative Areas

(A) Herring purse seine administrative areas, excluding areas B and P, are as follows:

Code Letter	Name and Description
A	Specific Southeastern Alaska Area — all water of Lynn Canal north of the latitude of Shrine of St. Teresa and south of the latitude of Sherman Rock, excluding all water of Berner's Bay within a line from Pt. St. Mary to Pt. Bridge, and all water of Seymour Canal north of 57° 37' North latitude and all water of and adjacent to the Pacific Ocean south of the latitude of Neva Point and north of a line projected southwest of Cape Ommaney and west of Baranof Island.
C	General Southeastern Alaska Area — all water between the latitude of Cape Fairweather and the International Boundary at Dixon Entrance which is not part of area A.
H	Yakutat Area — all water of and adjacent to the Pacific Ocean between the longitude

Code Letter	Name and Description
	of Cape Suckling and the longitude of Cape Fairweather.

E Specific Prince William Sound Area — all water encompassed by a line from a point on Knowles Head at 60° 42' North latitude, 146° 40' West longitude, then west to a point at 60° 42' North latitude, 146° 58' 30" West longitude, then north to a point at 60° 50' North latitude, 146° 58' 30" West longitude, then west to a point at 60° 50' North latitude, 147° 20' West longitude, then north to a point at the mainland at 60° 53' 45" North latitude, 147° 20' West longitude, all water encompassed by a line beginning at a point 60° 35' North latitude, 146° 58' 10" West longitude, then southeasterly to a point at 59° 40' North latitude, 147° 40' West longitude, then westerly to a point at 59° 46' North latitude, 148° 04' West longitude, then northerly to a point at 60° 15' 30" North latitude, 147° 32' West longitude, then northerly to the point of beginning.

G General Prince William Sound Area — all water of and adjacent to the Pacific Ocean between the longitude of Cape Fairfield and the longitude of Cape Suckling which is not a part of area E.

H Cook Inlet Area — all water of and adjacent to the Pacific Ocean north of a line extending east from Cape Douglas to the longitude of Cape Fairfield.

J Westward Area — all water specified as administrative areas K, L, M, T, U, V, W, X and Z in subsection (4)(1)(A) of this section.

## (4) General Herring Administrative Areas

(A) General herring administrative areas apply to harvest of the herring fishery resource w. all types of gear except purse seine gear.

(B) General herring administrative areas are those administrative areas specified in subsection (4)(1) of this section except that

areas B, K, L, M, P, T, U, V, W, X, Y and Z are excluded, and an additional area J is established as follows:

Code Letter	Name and Description
J	Westward Area - all water specified as administrative areas K, L, M, T, U, V, W, X, Y and Z in subsection (a)(1)(A) of this section

(b) Each administrative area listed in (a)(1) of this section shall include all freshwaters of Alaska draining into the ocean between the points on the coastline which designate the boundaries of the administrative area, unless otherwise provided in the description of the administrative area in (a)(1) of this section. (Ch. 12/18/74, Reg. 52, am 5/12/75, Reg. 54, am 4/9/76, Reg. 58, am 2/25/77, Reg. 61, am 1/21/78, Reg. 65)

Authority AS 16.43.100  
AS 16.43.110(a)  
AS 16.43.200

**20 AAC 05.240 SCHEDULE OF ANNUAL FEES** (a) The annual fee for the issuance in annual renewal of an inter-tour or entry permit is established as shown in the following schedule:

Resource Category	Gear and Area Code	Annual Fee	
		Resident	Nonresident
I	K91Q	\$250	\$750
II	K91H	200	NRJ
	K91I		
	K91K		
	K91M		
	K91R		
	T91B		
	K09Q		
	P97B		
J22B			
III	P97B	150	150
	K09M		
	K09N		
	K09K		
	K09H		
	P97M		

Resource Category	Gear and Area Code	Annual Fee	
		Resident	Nonresident
IV	S01 (all areas)	\$75	\$225
	G01 (all areas, except C, D and G)		
	B61B		
	K91A		
	K91E		
	K09A		
	K09E		
	C61B		
	P17B		
	S03 (all areas)		
	C91B		
	C09B		
	S15B		
	S02K		
	V		
P09B		40	120
D99B			
S08P			
G21B			
VI (all others)	20		

(b) Except as provided in sec 120 of this chapter, a separate permit is required for each separate fishery resource, gear, and administrative area.

(c) For the purpose of this section, "resident" means a person who, for 12 consecutive months immediately before permit application or renewal, has maintained a permanent place of personal abode within the state and who has not been registered to vote in another jurisdiction; however, any member of the military service who has been stationed in the state for 12 consecutive months will be considered a resident under this section, and the spouse or dependent children of any such resident or member of the military service will likewise be considered a resident. (Ch. 12/27/79, Reg. 12)

Authority AS 16.43.100  
AS 16.43.110(a)  
AS 16.43.140(c)  
AS 16.43.160  
AS 16.43.300(1), (4) and (5)

Editor's Note: 22 AAC 111.200 is hereby repealed as of 12/24/80.

ARTICLE 3  
DESIGNATED FISHERIES

## Section

300. Distressed fisheries  
310. Other designated fisheries  
320. Maximum number of entry permits

## 20 AAC 05.300. DISTRESSED FISHERIES.

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

## Salmon Fisheries

- (1) Southeastern Alaska (A)  
drift gillnet fishery\*
- (2) Prince William Sound (F)  
drift gillnet fishery
- (3) Cook Inlet (H)  
drift gillnet fishery  
set gillnet fishery
- (4) Kodiak (K)  
purse seine fishery
- (5) Alaska Peninsula Aleutian Islands (M)  
drift gillnet fishery
- (6) Bristol Bay (I)  
drift gillnet fishery  
set gillnet fishery

\*To add to the drift gillnet fishery to include the set gillnet fishery.

1971-1974 Reg. 57, Jan 4/75 Reg. 54  
Authority: AS 16.41.111(a) &  
AS 16.41.110

20 AAC 05.310. OTHER DESIGNATED FISHERIES. (a) The commission designates the following fisheries as those which have reached levels of participation which require the limitation of entry.

## Salmon Fisheries

- (1) Southeastern Alaska (A)  
purse seine fishery
- (2) Yakutat (D)  
set gillnet fishery
- (3) Prince William Sound (F)  
purse seine fishery  
set gillnet fishery
- (4) Cook Inlet (H)  
purse seine fishery\*
- (5) Kodiak (K)  
beach seine fishery  
set gillnet fishery
- (6) Chignik (L)  
purse seine fishery
- (7) Alaska Peninsula Aleutian Islands (M)  
purse seine fishery\*  
set gillnet fishery
- (8) Stetsonville (R)  
power troll fishery
- (9) Kushokwim (W)  
gillnet fishery
- (10) Kotzebue (X)  
gillnet fishery
- (11) Lower Yukon (Y)  
gillnet fishery

- (12) Upper Yukon (P)  
gillnet fishery  
fishwheel fishery

- (13) Norton Sound (Z)  
gillnet fishery

\*In area I and area M, the purse seine fishery includes the beach seine fishery.

#### Herring Fisheries

- (1) Specific Southeastern Alaska (A)  
purse seine fishery

- (2) Specific Prince William Sound (E)  
purse seine fishery

- (3) Cook Inlet (H)  
purse seine fishery

- (4) Southeastern Alaska (A)  
gillnet fishery\*

\*In area A, the herring gillnet fishery includes the set gillnet and drift gillnet fisheries.

(b) As used in this article, "power troll" means the taking of a salmon fishery resource with troll gear operated by nonmanual gurdys (EFF 2/18/74, Reg. 52; am 4/9/76, Reg. 58; am 2/25/77, Reg. 61; am 1/21/78, Reg. 65; am 4/30/78, Reg. 66)

(c) AS 16.43.100(b)

AS 16.43.110(a)

AS 16.43.240(b)

20 AAC 05.320 MAXIMUM NUMBER OF ENTRY PERMITS The maximum number of entry permits for each of the fisheries designated under sections 100 and 110 of this chapter is established as follows:

Salmon Fisheries	Maximum Number of Entry Permits
(1) Southeastern Alaska (A) purse seine fishery	195
drift gillnet fishery	453
(2) Yakutat (E) set gillnet fishery	150

#### Salmon Fisheries

- (3) Prince William Sound (E)

	Maximum Number of Entry Permits
purse seine fishery	238
drift gillnet fishery	511
set gillnet fishery	32

- (4) Cook Inlet (H)

purse seine fishery	68
drift gillnet fishery	545
set gillnet fishery	686

- (5) Kodiak (K)

purse seine fishery	355
beach seine fishery	31
set gillnet fishery	183

- (6) Chignik (L)

purse seine fishery	80
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- (7) Alaska Peninsula/Aleutian Islands (M)

purse seine fishery	111
drift gillnet fishery	155
set gillnet fishery	77

- (8) Bristol Bay (I)

drift gillnet fishery	1669
set gillnet fishery	803

- (9) Statewide (B)

power troll fishery	895
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- (10) Kusitokwim (W)

gillnet fishery	810
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- (11) Kotzebue (X)

gillnet fishery	214
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- (12) Lower Yukon (Y)

gillnet fishery	627
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- (13) Upper Yukon (P)

gillnet fishery	93
fishwheel fishery	126

- (14) Norton Sound (Z)

gillnet fishery	195
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Herring Fisheries	Maximum Number of Entry Permits
(1) Specific Southeastern Alaska (A) purse seine fishery	35
(2) Specific Prince William Sound (E) purse seine fishery	55
(3) Cook Inlet (H) purse seine fishery	68
(4) Southeastern Alaska (A) gillnet fishery	110

(Eff. 12/18/74, Reg. 52, am 4/7/75, Reg. 54, am 5/12/75, Reg. 54, am 4/9/76, Reg. 58, am 2/25/77, Reg. 61, am 1/21/78, Reg. 65, am 4/30/78, Reg. 66)

Authority AS 16 43 110(a)  
AS 16 43 240

#### ARTICLE 4 INTERIM USE PERMITS

##### Section

- 400 Interim use permit required  
410 Application and annual renewal of interim use permit  
420 (Repealed)  
430 Notification of loss or theft

Authority AS 16 43 110(a)  
AS 16 43 220(a)

**20 AAC 05 400 INTERIM USE PERMIT REQUIRED** (a) An interim-use permit is required under secs. 100 and 110 of this chapter for any commercial fishery not designated in secs. 300 and 310 of this chapter.

(b) For all applicants for interim-use permits except for a herring spawn fishery, there is a rebuttable presumption that the applicant is unable to participate actively in the fishery if:

(1) for set net permits, the applicant has not attained his or her 10th birthday; and

(2) for all other permits, the applicant has not attained his or her 16th birthday. (Eff. 12/18/74, Reg. 52, am 12/27/79, Reg. 72)

Authority AS 16 43 110  
AS 16 43 110(a)  
AS 16 43 210(a)

**20 AAC 05 410 APPLICATIONS AND ANNUAL RENEWAL OF INTERIM USE PERMIT** Application for the issuance or renewal of an interim use permit must be made to the commission in a form provided by the commission.

The application must be signed by the applicant, or his authorized agent, and accompanied by the total annual fee for the permit or permits being applied for or renewed. The commission may require an applicant to submit an affidavit or other evidence supporting his application or renewal. (Eff. 12/18/74, Reg. 52, am 1/1/78, Reg. 64)

Authority AS 16 43 100  
AS 16 43 110(a)  
AS 16 43 220

**20 AAC 05 420 TEMPORARY TRANSFER**  
Repealed 12/27/79

**20 AAC 05 430 NOTIFICATION OF LOSS OR THEFT** The holder of an interim use permit must promptly notify the commission of the loss or theft of his interim-use permit, and a request for a duplicate permit must be accompanied by an affidavit establishing the facts surrounding the loss or theft. (Eff. 12/18/74, Reg. 52)

Authority AS 16 43 110(a)  
AS 16 43 220(a)

#### ARTICLE 5 ISSUANCE OF ENTRY PERMITS

##### Section

- 500 Form of application  
510 Time of application  
520 Evidence of qualification  
530 Application by decedent's estate  
535 Applications for fishwheel entry permits  
540 Priority classification of applicants  
550 Issuance of entry permits  
560 Annual renewal of entry permit  
570 Notification of loss or theft  
575 Application for educational entry permits  
577 Educational entry permit gross operators  
579 Income from educational entry permits payable to general fund

**20 AAC 05 500 FORM OF APPLICATION** Application for the issuance of an entry permit must be made to the commission in a form provided by the commission. The application must be signed by the applicant and accompanied by the total annual fee for the permit being

applied for. (Eff. 12/18/74, Reg. 52)

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

**20 AAC 05.510 TIME OF APPLICATION (a)**

The application period for entry permits for those fisheries designated in sec. 300 or 310 of this chapter will be from December 19, 1974, through 12:00 midnight March 18, 1975.

(b) The application period for entry permits for those fisheries designated in sec. 310(a)(9)

(13) of this chapter will be from March 10, 1976 until midnight June 10, 1976.

(c) The commission will consider only those entry permit applications that are received on or before the closing date for application for that fishery.

(d) If an application contains errors, omissions or insufficient supporting evidence, the commission will indicate this to the applicant and will give the applicant a reasonable amount of time to correct any defects or insufficiencies in his application.

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

(f) The application period for entry permits for those fisheries designated in secs. 400 and 310(a)(1) (8) of this chapter for those individuals who harvested salmon commercially in one of these fisheries as a gear license holder for the first time in 1973 or 1974 will be from January 15, 1977, through midnight September 30, 1977. The commission will in its discretion extend the time for receipt of an application for a period not to exceed 30 days for good cause shown.

(g) The application period for entry permits for herring fisheries (1) (3) designated in sec. 310(a) of this chapter will be from February 25, 1977 through April 25, 1977.

(h) The application period for entry permits for the Southeastern herring gillnet fishery is from March 15, 1978 until midnight June 15, 1978. (1) (2) (3) (4) Reg. 61 am 6-14-77, Reg. 61

0-2-25/77, Reg. 61 am 6-14-77, Reg. 61 0-10/78, Reg. 61

Authority AS 16-43 1100(a) AS 16-43 2600(c) AS 16-43 110 AS 16-43 2600(c)

## 20 AAC 05.520 EVIDENCE OF

QUALIFICATION. (a) Every applicant shall bear the burden of establishing his qualifications for an entry permit. Specific evidence will be requested on the application form for that purpose. The commission may at any time require an applicant to submit additional

evidence in affidavit or other form relating to his qualifications.

(b) To the extent practicable, the commission will provide each applicant with a summary compiled from state records and other reliable sources which will indicate, for those years from 1969 to the qualification date, those years that the applicant participated in each fishery as a gear license holder, the consistency of participation each year, the annual catch value of the fishery resource, and vessel ownership, if any. If the applicant verifies the information on this summary is correct, the commission will subject to the provision of sec. 805(d) of this chapter accept the information on this summary as sufficient evidence of the facts stated. An applicant may contest the accuracy of any information included in this summary and may supplement this information by establishing additional facts regarding his qualifications with other evidence.

(c) An applicant may be required to submit copies of or authorize access to, his state and federal income tax returns for the appropriate years or evidence establishing that he was not required to file, or his Fisherman's Annual Information Report, as a primary source of evidence in support of his application. Tax returns and related information submitted by an applicant are confidential and will not be disclosed in any manner without the express consent of the applicant. When a copy of a tax return is no longer needed by the commission for the purposes for which it was requested, the copy will be destroyed.

(d) Evidence offered by the applicant for an entry permit will be accepted by the commission within the following time limits:

(1) Evidence in support of those applications which were to be submitted to the commission within the time limitations of sec. 510(a) of this chapter will be considered by the commission if received on or before July 1, 1978, unless the applicant is notified otherwise.

(2) Evidence in support of those applications which were to be submitted to the commission within the time limitations of sec. 510(b) of this chapter will be considered by the commission if received on or before September 1, 1978, unless the applicant is notified otherwise.

(3) Evidence in support of those applications which were to be submitted to the commission within the time limitations of sec. 510(f) of this chapter will be considered by the commission if received on or before September 1, 1978, unless the applicant is notified otherwise.

(4) Evidence in support of those applications which were to be submitted to the commission within the time limitations of sec. 510(g) of this chapter will be considered by the commission if received on or before May 1, 1978, unless the applicant is notified otherwise.

(5) Evidence in support of those applications which were to be submitted to the commission within the time limitations of sec. 510(h) of this chapter will be considered by the commission if received on or before December 31, 1978, unless the applicant is otherwise notified.

(c) A commission decision upon evidence submitted under (4) of this section does not constitute a determination for which the applicant may request and receive an administrative hearing under sec. 805 of this chapter if the applicant has already received the opportunity to request and receive an administrative hearing under sec. 805(b)(1) of this chapter (HJ 12/18/74, Reg. 52, am 1/21/78, Reg. 65, am 4/30/78, Reg. 66).

Authority AS 16-43-100(a)  
AS 16-43-110(a)  
AS 16-43-260(c)

#### 20 AAC 05.530 APPLICATION BY DECEDENT'S ESTATE.

(a) If an individual eligible to apply for an entry permit for any fishery designated in sec. 400 or 310(f) of this chapter should die on or after January 1, 1975, the authorized representative of his estate may apply for an entry permit for that fishery in the name of the decedent within the application period set out in sec. 510 of this chapter. An entry permit so acquired becomes part of the decedent's estate and may be transferred in accordance with the provisions of sec. 750 of this chapter.

(b) If an individual eligible to apply for an entry permit for any fishery designated in sec. 310(g) of this chapter should die on or after January 1, 1975, the authorized representative of his estate may apply for an

entry permit for that fishery in the name of the decedent, within the application period set out in sec. 510 of this chapter. An entry permit so acquired becomes part of the decedent's estate and may be transferred in accordance with the provisions of sec. 750 of this chapter.

(c) If an individual eligible to apply for an entry permit for herring fisheries (1), (2) and (3) designated in sec. 310(a) of this chapter dies after December 31, 1975, the authorized representative of his estate may apply for an entry permit for that fishery in the name of the decedent within the application period set out in sec. 510(g) of this chapter. An entry permit so acquired becomes part of the decedent's estate and may be transferred in accordance with the provisions of sec. 750 of this chapter.

(d) For fisheries not specified in (a) - (c) of this section if an individual eligible to apply for an entry permit dies on or after the qualification date established in AS 16-43-260(e), the authorized representative of his estate may apply for an entry permit for that fishery in the name of the decedent within the application period set out in sec. 510 of this chapter. An entry permit so acquired becomes part of the decedent's estate and may be transferred in accordance with the provisions of sec. 750 of this chapter (HJ 12/18/74, Reg. 52, am 5/20/76, Reg. 58, am 2/25/77, Reg. 61, am 4/30/78, Reg. 66).

Authority AS 16-43-100(b)  
AS 16-43-110(a)  
AS 16-43-260(d)

#### 20 AAC 05.535 APPLICATIONS FOR FISHWHEEL ENTRY PERMITS.

Applications will be accepted from fishermen who operated fishwheels commercially between 1960 and 1975 with registration numbers issued to them by the Department of Fish and Game (HJ 4/9/76, Reg. 58).

Authority AS 16-43-100(f) AS 16-43-260(d)  
AS 16-43-110(a) AS 16-43-260(e)  
AS 16-43-260(a)

#### 20 AAC 05.540 PRIORITY CLASSIFICATION OF APPLICANTS.

(a) The commission will assign each applicant to a priority classification according to the point system established in secs. 600 - 660 of this chapter.

(b) If the applicant is assigned to a priority classification designated in sec. 640(a) of this chapter as involving significant economic hardship, the commission will either issue the entry permit or send a notice to the applicant indicating that he will receive an entry permit.

(c) If the applicant is assigned to a priority classification not designated in sec. 640(a) of this chapter as involving significant economic hardship, the commission will send a notice of classification to the applicant setting forth the commission's findings of fact with respect to the applicant and the date on or before which a request for a hearing must be received if the applicant disagrees with the commission's determination of his priority classification (Eff. 12/18/74, Reg. 52).

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

**20 AAC 05.550 ISSUANCE OF ENTRY PERMITS.**

(a) The commission will issue entry permits to all applicants assigned to the priority classifications designated in secs. 600 - 660 of this chapter as involving significant economic hardship.

(b) If the number of permits issued to applicants assigned to priority classifications designated as involving significant economic hardship equals or exceeds the maximum number of permits established for the fishery, the commission will immediately send a notice of classification to all remaining applicants and indicate that their applications are denied and will refund all fees submitted by those applicants who do not file a request for a hearing pursuant to sec. 805 of this chapter.

(c) If the number of permits issued to

applicants assigned to priority classifications designated as involving significant economic hardship is less than the maximum number of permits established for the fishery, the commission will issue the remaining permits to applicants in the order of descending priority classifications up to the maximum number less the number required to be reserved to protect the rights of applicants who are still contesting the commission's initial determination or appealing the findings of an administrative adjudication. All other applicants not issued an interim-use permit under (e) or (f) of this section will be issued a notice of denial.

(d) If, at the end of all administrative hearings and judicial appeals, the number of permits remaining to be issued is less than the number of applicants in the highest priority classification to which permits have not been issued, the commission will allocate the permits to the applicants within that classification by lottery.

(e) Permits will be reserved to protect the rights of applicants who are still contesting the commission's initial determination or appealing the findings of an administrative adjudication. When such reservations are made, the commission will determine, on the basis of its original classification and subsequent adjudications, which applicants would be eligible for entry permits but for the administrative process. The commission may issue interim-use permits to those applicants if it finds that the administrative delay would otherwise preclude participation in the fishery. If the group of potentially eligible applicants includes any who fall within a classification that would require a lottery for their selection, interim-use permits will be issued to all applicants within that classification.

(f) The commission may issue an interim-use permit to an applicant for an entry permit if it finds that administrative delay would otherwise preclude participation in the fishery.

(g) Applicants issued interim-use permits under (e) or (f) of this section or under any other process of law are subject to all buy-back assessments required under AS 16.43.310(a) and (b) if they are ultimately unsuccessful in receiving an entry permit.

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

(i) When the maximum number of entry permits has been issued for a fishery, the commission will immediately notify all remaining applicants that their applications are denied and will refund all fees submitted with those applications. (Eff. 12/18/74, Reg. 52, am 4/9/76, Reg. 58)

Authority AS 16.43.100(a)(7)  
AS 16.43.100(b)  
AS 16.43.110(a)  
AS 16.43.270  
AS 16.43.310(a)  
AS 16.43.310(b)

#### 20 AAC 05.560 ANNUAL RENEWAL OF

**ENTRY PERMIT.** (a) Annual renewal of an entry permit must be made to the commission on a form provided by the commission. The renewal form must be completed and signed by the permit holder or his authorized agent, and accompanied by the total annual fee for the permit or permits being renewed.

(b) An entry permit is forfeited and reverts to the commission if it has not been renewed by December 31 of the second consecutive calendar year after its issuance or last renewal, except as waived by the commission upon good cause demonstrated within 60 days from the date of forfeiture. (Eff. 12/18/74, Reg. 52, am 1/1/78, Reg. 64)

Authority AS 16.43.110(a)  
AS 16.43.150(c)  
AS 16.43.150(d)

#### 20 AAC 05.570 NOTIFICATION OF LOSS

**OR THEFT.** The holder of an entry permit must promptly notify the commission of the loss or theft of his entry permit card or certificate and a request for a duplicate card must be accompanied by an affidavit establishing the facts surrounding the loss or theft. (Eff. 12/18/74, Reg. 52)

Authority AS 16.43.100(b)  
AS 16.43.110(a)

**20 AAC 05 575. APPLICATION FOR EDUCATIONAL ENTRY PERMITS** (a) Application for educational entry permits must be made upon forms required by the commission and must be accompanied by a written statement from the appropriate governmental agency acknowledging that the applicant is accredited, approved, or licensed as required by AS 16 43 275.

(b) Before permit issuance the applicant shall, upon forms provided by the commission, state the anticipated budget of the fishing activities for which permit application is made.

(c) Before April 1 of the year following permit issuance and before subsequent permit issuance, whichever occurs first, the applicant shall provide copies of all fish tickets for fish harvested under each permit, and, upon forms provided by the commission, shall state

(1) actual operating expenditures under each permit, and

(2) total earnings from fishing activities under each permit.

(d) Failure to submit required information to the commission will, in the commission's discretion, result in permit issuance being withheld, denied, revoked or suspended (H 15 27 79, Reg. 72).

Authority AS 16 43 275 AS 16 43 281  
AS 16 43 277 AS 16 43 283(b)  
AS 16 43 279

**20 AAC 05 577. EDUCATIONAL ENTRY PERMIT GEAR OPERATORS** (a) Only persons designated by the holder of an educational entry permit may operate gear. Designation must be made on a form provided by the commission.

(b) Each educational entry permit gear operator shall have in his possession a copy of his completed designated agent form and a valid Educational Entry Permit Card while operating gear or while in possession of fish or shellfish as required by sec. 100 and 110 of this chapter (H 15 27 79, Reg. 72).

Authority AS 16 43 277  
AS 16 43 283(b)

**20 AAC 05 579. INCOME FROM EDUCATIONAL ENTRY PERMITS PAYABLE TO GENERAL FUND** (a) As provided in AS 16 43 279, proceeds of the sale of fish taken under the rights conferred by an educational entry permit are payable to the general fund through the commission to the extent the proceeds exceed reasonable operating costs of the training program.

(b) Payment must be made on or before April 1 of the calendar year following the year of operation.

(c) For purposes of this section the term "reasonable operating costs of the training program" means actual operating expenditures of the training program incurred in the calendar year of operation, but excludes payments toward capital having a useful life of more than five years, and excludes wages, grants-in-aid, and all other forms of payment paid to students enrolled in the training program.

(d) Any wages paid under the training program may not be based upon a share or percentage of the value of fish taken (H 15 27 79, Reg. 72).

Authority AS 16 43 279  
AS 16 43 283(b)

**ARTICLE 6  
PRIORITY CLASSIFICATION  
POINT SYSTEM**

## Section

- 600 Priority classification system  
610 Past participation  
620 Economic dependence  
630 Point system for designated fisheries  
640 Designation of significant and minor hardship classifications  
650 Special rules for use of the point system  
651 Priority classification system for those fisheries designated in sec. 310(4)(9) (13) of this chapter  
656 Point system for fisheries designated in sec. 310(4)(9) (13) of this chapter  
659 Designation of significant and minor economic hardship classifications for those fisheries designated in sec. 310(4)(9) (13) of this chapter  
660 Definitions  
662 Priority classification system for herring fisheries (1) (3) designated in sec. 310(4) of this chapter  
664 Point system for herring fisheries (1) (3) designated in sec. 310(4) of this chapter  
666 Designation of significant and minor hardship classifications  
667 Priority classification system for Southeastern herring gillnet fishery  
668 Point system for the Southeastern herring gillnet fishery  
669 Designation of significant and minor hardship classifications for the Southeastern herring gillnet fishery  
670 Definitions

**20 AAC 05.600 PRIORITY CLASSIFICATION SYSTEM** (a) For each fishery for which a maximum number of entry permits has been established under sec. 320 of this chapter, the commission will adopt regulations defining priority classifications in terms of a point system for ranking applicants for entry permits. These priority classifications will be based upon a reasonable balance of the hardship standards of degree of economic dependence upon the fishery and extent of past participation in the fishery. The commission will use the following classification system and the guidelines set out in secs. 610 and 620, except

for those fisheries where special circumstances are found to require modification of the classification system considering the number of applicants, the variance in their qualifications, the history of the fishery, and the purposes of AS 16.43

(b) A point scale from 0 - 40 will be established, with 20 points assigned for each of the two hardship standards (1) economic dependence and (2) past participation.

(c) The commission will assign an applicant to one of the 41 priority classifications designated by the numbers 0 through 40, based on the total points to which his qualifications as of the qualification date entitled him under sec. 630 of this chapter. The higher the total number of points, the greater the degree of hardship the applicant would suffer by exclusion from the fishery.

(d) The commission will designate

(1) an upper range of priority classifications of those applicants who would suffer significant economic hardship by exclusion from the fishery, and therefore will receive entry permits as required by AS 16.43 270(a), and

(2) a lower range of priority classifications of those applicants who would suffer only minor economic hardship by exclusion from the fishery, and an entry permit originally issued to them by the commission pursuant to AS 16.43 250(a), may therefore have certain restrictions placed upon its transfer as required by AS 16.43 170(c).

(e) The designations made in (d) of this section may leave a middle range of priority classifications that are not subject to either the significant or minor economic hardship provisions of AS 16.43 (B.P. 12/18/74, Reg. 52, am. 2/25/77, Reg. 61)

Authority AS 16.43 100(a) AS 16.43 110(a)  
AS 16.43 100(b) AS 16.43 250(a)

**20 AAC 05.610 PAST PARTICIPATION** The standard of past participation in the fishery includes the number of years participation in the fishery and the consistency of participation. The commission will determine an applicant's extent of past participation as of the qualification date

established under AS 16.43.260(d) or (e), and will apply the above two factors as follows:

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

(2) the commission will rank an applicant based on consistency of participation by considering the number of weeks of the season in which the applicant harvested the fishery resource commercially while participating as a gear license holder. This factor will be given less weight than the number of years of participation (Eff. 12/18/74, Reg. 52).

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

#### 20 AAC 05.620 ECONOMIC DEPENDENCE.

The standard of economic dependence upon the fishery includes a consideration of percentage of income derived from the fishery, reliance on alternative occupations, availability of alternative occupations, and investment in vessels, gear and set net sites. The commission will determine an applicant's economic dependence as of the qualification date established under AS 16.43.260(d) or (e) and will therefore give primary weight to evidence from the years immediately preceding the qualification date and will consider the above four factors as follows:

(1) the commission will rank an applicant based on the two factors of percentage of income derived from the fishery and reliance on alternative occupations by considering the relation between "annual catch value" and "nonfishing occupational income," expressed as an "income dependence percentage" as these terms are defined in sec. 660 of this chapter. Points for income dependence will be awarded

only to applicants who harvested the fishery resource commercially while participating as a gear license holder during a year in which income dependence is claimed. A higher income dependence percentage indicates a higher degree of economic dependence upon the fishery.

(2) the commission will rank an applicant based on the factor of investment in vessels, gear and set net sites if the applicant, on the qualification date, was the owner of a vessel, gear or set net site used or to be used in the fishery for which he is applying, or, if the applicant at any time between his last landing in the fishery and the qualification date was the owner of a vessel, gear or set net site used in the fishery, so long as the applicant had fished consistently in the year prior to the qualification date. In the case of a set net site the commission will consider the owner to be the person or persons who could rightfully exercise the power to sell or transfer the set net site according to the accepted customs and usages of the area. In cases where a vessel, gear or set net site was owned jointly or in a corporate capacity, an applicant's points will be determined by multiplying his percentage of ownership interest times the total number of points possible. Fractional points will round off to the nearest whole number, with .5 rounding off to the lower whole number.

(3) the commission will rank an applicant based on the factor of availability of alternative occupations according to his place of domicile (Eff. 12/18/74, Reg. 52).

Authority AS 16.43.100(a)(6)  
AS 16.43.100(b)  
AS 16.43.110(a)  
AS 16.43.250(a)(10)

#### 20 AAC 05.640 POINT SYSTEM FOR DESIGNATED FISHERIES. (a) Part

Participation: Up to a maximum of 20 points will be awarded an applicant for part participation in the fishery applied for based on the following schedule:

(1)		Consistent of Participation as a Gear License Holder (required minimum number of weeks fished is shown in (c)(1) of this section)	Year	Minimum Percentage A from schedule in (c)(2) of this section Percentage B from schedule in (c)(2) of this section. (In the Prince William Sound purse seine and set net fishery, percentages A and B use the year 1970.) Percentage C from schedule in (c)(2) of this section Percentage D from schedule in (c)(2) of this section. (In the Prince William Sound purse seine	Points
Year Fished as a Gear License Holder	Points				
1972	3	2	1971	4	2
1971	3	2	1972	6	
1970	2	1	1972	3	
1969	2	1			

(2) one point for each additional year of actual participation as a gear license holder in the fishery applied for from 1965 through 1968.

(3) one point for each additional year of actual participation as a gear license holder in the fishery applied for from 1960 through 1964 provided the applicant participated as a gear license holder in the fishery applied for during at least one year from 1965 through 1972.

(4) one point from each year of actual participation as a crewman from 1965 through 1972 in the fishery applied for. Points for crewmen participation and points for participation as a gear license holder may not be claimed in the same year.

(5) if unavoidable circumstances exist such that an applicant's past participation in the fishery is not realistically reflected by points awarded for past participation for the years 1960 through 1972, the commission may award an applicant up to a maximum of 16 points upon a special showing of past participation during the years 1960 through 1972.

(6) to receive credit for past participation as a gear license holder an applicant must have harvested the resource commercially while participating as a gear license holder in a given year.

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

(1) income dependence percentage based on harvesting the fishery resource while participating as a gear license holder in the fishery applied for as shown for each line item in (c)(2) of this section. (Maximum of 10 points possible.)

fishery, percentages (and use the year 1971.)

(2) if special circumstances exist such that an applicant's income dependence is not realistically reflected by his income dependence percentage for the years 1971 and 1972, the commission may award an applicant up to a maximum of 10 points based on a special showing of income dependence;

(3) investment as of the qualification date in vessel, gear or set net site used or to be used in the fishery for which application is being made. Applicants for the Southeastern drift gillnet fishery who participated in the Southeastern set gillnet fishery may claim points for the ownership of a set gillnet site, set gillnet gear, drift gillnet gear or drift gillnet vessel as of the qualification date. (Maximum of 6 points possible.)

(A) owns vessel (does not include set net skiffs) . . . . . 6 points

(B) owns set net site . . . . . 6 points

(C) owns gear . . . . . 3 points  
(Gear must include the net in salmon net fisheries. In the troll fisheries, gear includes the lines, leaders and lures).

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

(A) domicile in a census district or county with a population that is more than 80% rural or has a total population of under 10,000 as of the 1970 census . . . . . 4 points

(B) domicile in a census district or county with a population that is more than 40% rural or has a total population of under 25,000 as of the 1970 census . . . . . 2 points

(C) domicile in a census district or county with a population that is 40% or less rural or has a total population of 25,000 or more as of the 1970 census . . . . . 0 points

(D) an applicant from a zero or two point

area may receive up to the maximum of four points through a special showing that there is neither a road nor adequate daily transportation service from the applicant's domicile to other potential areas of employment in his census district.

(c) The commission will use the following schedules in determining an applicant's points for consistent participation and income dependence.

(1) consistent participation

Salmon Fisheries	Minimum Number of Weeks Fished To Show Consistent Participation			
	1969	1970	1971	1972
<b>Southeastern Alaska (A)</b>				
purse seine fishery	4	7	6	8
drift gillnet fishery	7	7	6	7
<b>Yakutat (D)</b>				
set gillnet fishery	6	7	7	7
<b>Prince William Sound (E)</b>				
purse seine fishery	3	3	3	
drift gillnet fishery	4	4	4	4
set net fishery	4	4		4
<b>Cook Inlet (H)</b>				
purse seine fishery	2	2	2	2
drift gillnet fishery	1	3	2	1
set gillnet fishery	1	3	2	1
<b>Kodiak (K)</b>				
purse seine fishery	4	4	4	4
beach seine fishery	2	2	2	2
set gillnet fishery	3	3	3	
<b>Chignik (I)</b>				
purse seine fishery	4	4	4	4
<b>Alaska Peninsula-Aleutian Is. (M)</b>				
purse seine fishery	3	3	3	1
drift gillnet fishery	1	1	1	1
set gillnet fishery	3	1	1	1
<b>British Bay (T)</b>				
drift gillnet fishery	1	1	1	1
set gillnet fishery	1	1	1	1
<b>Statewide (H)</b>				
power troll fishery	6	8	8	8

(2) income dependence

Salmon Fisheries	Minimum Percentages For Income Dependence			
	1971			
	A	B	C	D
<b>Southeastern Alaska (A)</b>				
purse seine fishery	90	70	90	70
drift gillnet fishery	90	70	90	50
<b>Yakutat (D)</b>				
set gillnet fishery	90	60	70	40
<b>Prince William Sound (E)</b>				
purse seine fishery*	90	60	90	60
drift gillnet fishery	90	50	90	50
set net fishery**	80	40	80	40
<b>Cook Inlet (H)</b>				
purse seine fishery	80	40	60	30
drift gillnet fishery	80	40	80	50
set gillnet fishery	90	40	90	40
<b>Kodiak (K)</b>				
purse seine fishery	90	50	80	50
beach seine fishery	90	50	80	50
set gillnet fishery	70	40	70	30
<b>Chignik (L)</b>				
purse seine fishery	90	70	90	70
<b>Alaska Peninsula/Aleutian Is. (M)</b>				
purse seine fishery	90	50	90	50
drift gillnet fishery	90	60	90	60
set gillnet fishery	90	50	90	50
<b>British Ray (T)</b>				
drift gillnet fishery	80	40	60	90
set gillnet fishery	90	40	70	
<b>Statewide (H)</b>				
power troll fishery	90	40	90	30

\*Prince William Sound purse seine fishery uses income percentages for the years 1970 and 1971 respectively.

\*\*Prince William Sound set net fishery uses income percentages for the years 1970 and 1972 respectively.

(Eff. 12/18/74, Reg. 52 and 4/7/75, Reg. 54)

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

**20 AAC 05.640 DESIGNATION OF SIGNIFICANT AND MINOR HARDSHIP CLASSIFICATIONS** (a) The commission designates the priority classifications 1 through 40 as classifications of applicants who would suffer significant economic hardship by exclusion from the fishery, and therefore will

receive entry permits as required by AS 16.43.270(a).

(b) The commission designates the priority classifications 0 through 5 as classifications of applicants who would suffer only minor economic hardship by exclusion from the fishery, and an entry permit originally issued to them by the commission pursuant to AS 16.43.250(c) may therefore have certain restrictions placed upon its transfer as required to AS 16.43.170(c) (Eff. 12/18/74, Reg. 52)

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

**20 AAC 05.650 SPECIAL RULES FOR USE OF THE POINT SYSTEM.** (a) All eligible applicants for any designated fishery will receive 0 points for any year in which there was an administrative closure for the entire season.

(b) An applicant who is eligible to apply for an entry permit under the terms of AS 16.43.260(a) and whose participation in a fishery was interrupted by his first enlistment or draft period of military service will be awarded the maximum number of points for past participation for the fishing seasons missed due to that military service as follows: If the applicant did not harvest the fishery resource commercially while participating as a gear license holder prior to the commencement of the military service, then the applicant will receive crewmen participation points for the fishing seasons missed; if the applicant harvested the fishery resource commercially while participating as a gear license holder prior to the commencement of the military service, then the applicant will receive the maximum number of points for past participation for the fishing seasons missed.

(c) To use the special showing provisions in sec. 630(a)(4) (for past participation), (b)(1) (for income dependence) and (b)(4)(D) (for availability of alternative occupations) of this chapter an applicant must claim a specific number of points and must submit documentation of the facts and circumstances surrounding the claim along with his application for an entry permit. Where necessary, the commission will request additional explanation

or documentation of the facts and circumstances surrounding the claim before making its determination.

(d) Due to the season-long administrative closure of the Prince William Sound purse seine fishery in 1972, those persons who can show that they were the owner or part-owner of a purse seine vessel and would have fished as a purse seine gear license holder in Prince William Sound for the first time in 1972 but for the closure of that fishery are eligible to apply for an entry permit for that fishery (Eif 12/18/74, Reg. 52 am 4/7/75, Reg. 54).

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

#### 20 AAC 05.653 PRIORITY CLASSIFICATION SYSTEM FOR THOSE FISHERIES DESIGNATED IN SEC. 310(a)(9)-(13) OF THIS CHAPTER.

(a) The commission finds that special circumstances (set out in detail in the findings of October 20, 1975, which accompanied the proposed regulations) exist requiring the use of the priority classification system in sec. 656 of this chapter for those fisheries designated in sec. 310(a)(9)-(13) of this chapter:

(b) For each fishery for which a maximum number of entry permits has been established in sec. 320(10)-(14) of this chapter a point system is used for ranking applicants for entry permits:

(c) A point value of 0-24 is established:

(d) The commission will assign an applicant to one of 25 priority classifications designated by the numbers 0-24, based on the total points to which his qualifications, as of the qualification date entitled him under sec. 656 of this chapter. The greater the degree of hardship the applicant would suffer by exclusion from the fishery, the higher the total number of points (Eif 12/9/76, Reg. 58).

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

#### 20 AAC 05.656 POINT SYSTEM FOR

**FISHERIES DESIGNATED IN SEC. 310(a)(9)-(13) OF THIS CHAPTER** (a) Past Participation Up to a maximum of 16 points will be awarded to an applicant for past participation in the fishery applied for based upon the following schedule:

(1) Year fished as a gear license holder*	Schedule (a)**	Schedule (b)**
1975	4	3
1974	3	3
1973	3	3
1972	3	3
1971	2	2
1970	1	2
	16	16

\*In the Upper Yukon Fishwheel Fishery, where gear licenses have not been required, only the operator of a fishwheel in the commercial fishery, as described in sec. 435 of this chapter, may qualify for the points listed in the schedule in this subsection.

\*\*Schedule (a) is to be used in all fisheries designated in sec. 310(a)(9)-(13) except the Kotze or Gilmer fisheries, for which schedule (b) is to be used.

(2) If unusual circumstances exist such that an applicant was unable to participate in the fishery during 1974 or during 1975 the commission will in its discretion award the applicant up to a maximum of seven points upon a special showing of past participation.

(b) Economic Dependence: Up to a maximum of eight points will be awarded an applicant for economic dependence on a fishery based on the schedule in this subsection.

(1) Income dependence percentage on harvesting occupational income based on harvesting the fishery resource while participating as a gear license holder, in the fishery applied for, in 1974 and 1975 is shown in the following schedule: \*

	Criteria	1975 Points	1974 Points
Salmon Fishery Kuskokwim (W) gillnet fishery	Income dependence percentage in excess of 60%, or nonfishing occupational income less than \$3,000	4	2
	Income dependence percentage in excess of 30%, or nonfishing occupational income less than \$6,000.	2	1
Kotzebue (X) gillnet fishery	Income dependence percentage in excess of 80%, or nonfishing occupational income less than \$2,000	4	2
	Income dependence percentage in excess of 60%, or nonfishing occupational income less than \$4,000.	2	1
Lower Yukon (Y) gillnet fishery	Income dependence percentage in excess of 60%, or nonfishing occupational income less than \$3,000.	4	2
	Income dependence percentage in excess of 30%, or nonfishing occupational income less than \$6,000.	2	1
Upper Yukon (P) gillnet fishery	Income dependence percentage in excess of 60%, or nonfishing occupational income less than \$3,000	4	2
	Income dependence percentage in excess of 30%, or nonfishing occupational income less than \$6,000	2	1
Upper Yukon (P) fishwheel fishery	Income dependence percentage in excess of 60%, or nonfishing occupational income less than \$3,000	4	2
	Income dependence percentage in excess of 30%, or nonfishing occupational income less than \$6,000	2	1
Norton Sound (Z)	Income dependence percentage in excess of 60%, or nonfishing occupational income less than \$3,000	4	2
	Income dependence percentage in excess of 30%, or nonfishing occupational income less than \$6,000	2	1

\*In the Upper Yukon fishwheel fishery, where gear licenses have not been required, only the operator of a fishwheel in the commercial fishery as described in sec. 515 of this chapter may qualify for the points listed in this section.

(2) If unavoidable circumstances exist such that an applicant's income dependence upon the fishery is not realistically reflected by his income dependence in 1974 and 1975, the commission in its discretion award an applicant up to a maximum of six points based on a special finding of income dependence.

(3) Points will be awarded for investment in fishing gear as of the qualification date \*

- (A) Owns vessel or gear or both 1 point  
(B) Owns fishwheel 1 point

\*A maximum of one point may be claimed under this paragraph.

(4) Points will be awarded for availability of alternative occupations in the applicant's place of domicile as of the qualification date.

(A) One point will be awarded an applicant whose domicile is in a census district or county with a population that is 80 percent or more rural or has a total population of under 10,000 as of the 1970 census.

(B) Zero points will be awarded an applicant whose domicile is in a census district or county with population that is less than 80 percent rural or has a total population of more than 9,999.

(C) An applicant from a zero point area may receive one point through a special showing that there is neither a road nor an adequate daily transportation service from the applicant's domicile to other potential areas of employment in his county or census district. (Eff. 4/9/76, Reg. 58)

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

**20 AAC 05.659. DESIGNATION OF SIGNIFICANT AND MINOR ECONOMIC HARDSHIP CLASSIFICATIONS FOR THOSE FISHERIES DESIGNATED IN SEC 310(a)(9) (13) OF THIS CHAPTER.** (a) Priority classifications 10 through 24 are classifications of applicants who would suffer significant economic hardship by exclusion from

the fishery, except in the Kotzebue gillnet fishery where such classifications are 12 through 24.

(b) Priority classifications 0 through 2 are classifications of applicants who would suffer only minor economic hardship, by exclusion from the fishery, and an entry permit originally issued to them under AS 16.43.250(c) may therefore have certain restrictions placed upon its transfer as required by AS 16.43.170(c). (Eff. 4/9/76, Reg. 58)

Authority AS 16.43.100(a)(2)  
AS 16.43.110(a)  
AS 16.43.127(c)  
AS 16.43.250(b)  
AS 16.43.250(c)

**20 AAC 05.660. DEFINITIONS.** In secs 600 through 660 of this chapter:

(1) "annual catch value" means the number of pounds of any species of fish caught by an applicant in the fishery for which he is applying, as derived from fish tickets, during a given year, multiplied by the average price per pound paid for the species in that fishery during the year, or the gross amount actually received for the calendar year from harvesting the fishery resource commercially while participating as a gear license holder in the fishery for which he is applying.

(2) "income dependence percentage" means the annual catch value divided by the sum of the annual catch value and the nonfishing occupational income, with the result multiplied by 100.

(3) "nonfishing occupational income" means that portion of earned income that comes from sources other than commercial fishing. It includes gross wages, salaries, professional fees and other amounts received as compensation for personal services actually rendered including cost of living allowances. In the case of an applicant engaged in a trade or business other than commercial fishing, the net profits of such trade or business shall be included as nonfishing occupational income. Pensions, interest, dividends, other investment income, and income received directly from participating in any fishery as a gear license holder or crewman will not be included.

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

(5) "gear" means the fishing apparatus necessary to harvest the fishery resource commercially (EIF 12/18/74, Reg. 52)

Authority AS 16.43.100(b)  
AS 16.43.110(a)

**20 AAC 05 662 PRIORITY CLASSIFICATION SYSTEM FOR HERRING FISHERIES (1)-(3) DESIGNATED IN SEC. 310(a) OF THIS CHAPTER.** (a) The commission finds that special circumstances exist (set out in detail in the findings of February 1977) requiring the use of the point system in sec. 664 of this chapter for herring fisheries (1)-(3) designated in sec. 310(a) of this chapter.

(b) For each herring fishery for which a maximum number of entry permits has been established in sec. 320 of this chapter, a point system is used for ranking applicants for entry permits.

(c) A point scale of 0-9 is established for areas A-I and H.

(d) A point scale of 0-8 is established for area E-I.

(e) The commission will award an applicant to a priority classification based on the total points to which his qualifications as of the qualification date entitled him under sec. 664 of this chapter. The greater the degree of hardship the applicant would suffer by exclusion from the fishery, the higher the total number of points (EIF, 2/25/77, Reg. 61)

Authority AS 16.43.100(a) AS 16.43.110(a)  
AS 16.43.100(b) AS 16.43.250(a)

**20 AAC 05 664 POINT SYSTEM FOR HERRING FISHERIES (1)-(3) DESIGNATED IN SEC. 310(a) OF THIS CHAPTER.** (a) Past Participation. Points will be awarded to an applicant for past participation in the fishery applied for based on the following:

Past Participation as a Herring Purse Seine Interim Use Permit Holder	Adm. Areas A-I and H Points	Adm. Area E-I Points
Year		
1976	2	2
1975	2	1
1974	1	1
Maximum Allowable Age	5	4

(2) If unavoidable circumstances existed such that an applicant was unable to participate during any of the years 1974 through 1976, the commission will in its discretion award an applicant the appropriate point(s) allowable under (a)(1) of this section, upon a special showing of past participation.

(3) "Past participation," for purposes of this section, mean:

(A) the commercial taking of the herring resource in herring administrative areas A-I, E-I or H with a herring purse seine, interim-use permit and appropriate licenses, or

(B) being on the fishing grounds in herring administrative areas A-I, E-I or H, with the appropriate vessel, gear, licenses, and interim-use permit with the intention of taking the herring resource during the time the season was open and the herring resource was harvested.

(b) Economic Dependence. A maximum of four points will be awarded to an applicant for economic dependence on the fishery:

(1) A maximum of three points will be awarded for investment in vessel and gear as of the qualification date (December 31, 1976):

(A) Ownership of a purse seine vessel used or to be used in the herring purse seine fisheries will result in the owner being awarded one point.

(B) Ownership of a herring purse seine used or to be used in the herring fisheries will result in the owner being awarded two points.

(2) One point will be awarded for availability.

of alternative occupations if an applicant's domicile, as of the qualification date and according to the 1970 U.S. Census, is in a census district or county with a population of 25,000 or less (Eff. 2/25/77, Reg. 61)

Authority AS 16.43.100(a) AS 16.43.110(a)  
AS 16.43.100(b) AS 16.43.250(a)

**20 AAC 05.666 DESIGNATION OF SIGNIFICANT AND MINOR HARDSHIP CLASSIFICATIONS.** (1) The herring fisheries (1) (3) designated in sec. 310(a) of this chapter, the commission designates

(1) priority classifications of applicants with six or more points as those who would suffer significant economic hardship by exclusion from the fishery and therefore will receive an entry permit.

(2) priority classifications of applicants 0 through 2 are those who would suffer only minor economic hardship by exclusion from the fishery and an entry permit originally issued to them by the commission pursuant to AS 16.43.250(a) may therefore have certain restrictions upon its transfer as required by AS 16.43.170(a) (Eff. 2/25/77, Reg. 61)

Authority AS 16.43.100(a) AS 16.43.250(b)  
AS 16.43.110(a) AS 16.43.250(c)  
AS 16.43.127(c)

**20 AAC 05.667 PRIORITY CLASSIFICATION SYSTEM FOR SOUTHEASTERN HERRING GILLNET FISHERY.** (a) The commission finds that special circumstances exist (set out in detail in its findings on this herring gillnet fishery dated January 1978) requiring the use of the point system in sec. 668 of this chapter for the Southeastern herring gillnet fishery.

(b) A point scale of 0 - 23 is established for the Southeastern herring gillnet fishery.

(c) The commission will assign an applicant to a priority classification based on the total points to which his qualifications as of the qualification date entitle him under sec. 668 of this chapter. The greater the degree of hardship the applicant would suffer by exclusion from the fishery, the

higher the total number of points (Eff. 4/30/78, Reg. 66)

Authority AS 16.43.100  
AS 16.43.110(a)  
AS 16.43.250(a)

**20 AAC 05.668. POINT SYSTEM FOR THE SOUTHEASTERN HERRING GILLNET FISHERY.** (a) Past Participation. Up to a maximum of 18 points will be awarded to an applicant for past participation in the fishery based on the following:

11) Past Participation as a Herring Gillnet Operator		
Year	Sub-Area	Points
1977	Juneau	3
	Kah Shakes	3
	Other	3
1976	Juneau	0
	Chuk Bay	0
	Camber Bay	0
	Pybus Bay	0
	Kasaan	0
	Helm Bay	0
	Kah Shakes	2
	Other	2
1975		0
1974		0
1973		1
1972		1
Past Participation as a Crewman		
Year		Points
1977		1
1976		1
1975		1
1974		1

(2) For purposes of this subsection, no more than six points may be claimed for participation as a herring gillnet operator in 1977, nor no more than six points as a herring gillnet operator in 1976. Points may not be claimed as an operator and as a crewman in the same year.

(3) If unavoidable circumstances exist such that an applicant's past participation in the fishery is not realistically reflected by points awarded for past participation for the years 1972 through 1977, the commission may award a maximum of 18 points upon a special showing of past participation during the years 1972 through 1977.

(4) For purposes of this subsection, "past participation" means

(A) the commercial taking of the herring resource in herring administrative area A with a gillnet, while holding the appropriate license and/or permit, or

(B) being on the fishing grounds in the sub-area with vessel, gear, license and interim-use permit and with the ability to and intention of commercially harvesting the herring resource during the time the season was open and the herring resource was harvested, or

(C) being on the fishing grounds in the sub-area during the time when a season opening was anticipated by appropriate Department of Fish and Game personnel but did not materialize, with vessel gear license and interim-use permit and with the ability and intention of commercially harvesting the herring resource.

(5) For purposes of this subsection, sub-areas are as follows:

Sub-area	Statistical Chart Area*
Juneau	111 5D & 115 1D
Chuk Bay	112 6D & 112 1E
Cambier Bay	110 2A
Sylus Bay	110 22
Kasaan	102 6D
Helm Bay	101 9D
Kah-Shake	01 23
Other	All portions of administrative area A not included above, excluding waters of the Metlakatla Indian Reservation

\* As defined by regulations of the Board of Fisheries.

(6) For purposes of this subsection, a person demonstrating the following is presumed to be an "operator" of herring gillnet gear

(A) had a gear license for herring gillnet gear, and

(B) had the appropriate interim-use permit, and

(C) was licensed to operate the vessel from which that unit of gear was fished, and

(D) had the immediate right to control the vessel and unit of gear being operated.

(7) For the purposes of this subsection, a unit of gear is the aggregate amount of gear operated from a single vessel. The maximum number of participation points available to credit the operation of a unit of gear may not exceed the amount which can be claimed by a single operator.

(8) The commission will in its discretion, consider other evidence relevant to "operator" status. Where two or more individuals claim to have operated the same unit of gear, the commission will in its discretion determine who was the operator based upon all available evidence. If unable to determine which individual was the operator, the commission will award the available operator points proportionally.

(9) Economic Dependence. Up to a maximum of five points will be awarded an applicant for economic dependence on the Southeastern herring gillnet fishery based on the following:

(i) a maximum of four points will be awarded an applicant for investment in vessel and gear.

(A) Ownership of a vessel used in to be used in the commercial gillnet harvest of herring.

(a) one point if owned on May 15, 1977, and

(b) one point if owned on December 31, 1977.

(B) Ownership of gear used or to be used in the commercial gillnet harvest of herring (available in addition to points claimed in (A) of this subsection)

(i) one point if owned on May 15, 1977 and

(ii) one point if owned on December 31, 1977.

(C) In cases where a vessel or gear is owned jointly or in a corporate capacity, an applicant's points will be determined by multiplying the percentage of ownership interest times the total number of points possible, except in cases where the applicant is the only individual with an ownership interest in the vessel or gear who has applied and been found eligible to apply for a Southeast herring gillnet permit, in which case the applicant will receive the total number of points possible.

(2) One point will be awarded for availability of alternative occupations in the place of the applicant's domicile as of the qualification date when the place of domicile is in a census district or county with a population that is 50 percent or more rural or has a total population of 25,000 or less as of the 1970 census (11/13/78, Reg. 66).

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

**20 AAC 05.669 DESIGNATION OF SIGNIFICANT AND MINOR HARDSHIP CLASSIFICATIONS FOR THE SOUTHEASTERN HERRING GILNET FISHERY** (a) Priority classifications 11 through 23 are classifications of applicants who would suffer significant economic hardship by exclusion from the fishery and will therefore receive an entry permit.

(b) Priority classifications 0 through 4 are classifications of applicants who would suffer only minor economic hardship by exclusion from the fishery (11/4/30/78, Reg. 66).

Authority AS 16.43.100(a) AS 16.43.250(b)  
AS 16.43.110(a) AS 16.43.250(c)  
AS 16.43.127(c)

**20 AAC 05.670 DEFINITIONS** In secs. 667-669 of this chapter, unless otherwise specified, "gear" must include 100 or more fathoms of gillnet with mesh of not more than three inches stretched measure, as defined in 5 AAC 39.975(11), with cork and lead line. Additional points will not be awarded for additional nets, nor for gear other than the net. (Eff. 4/30/78, Reg. 66)

Authority AS 16.43.100(b)  
AS 16.43.110(a)

**ARTICLE 7  
TRANSFER OF ENTRY  
AND INTERIM-USE PERMITS**

Section	
700	Requirements for transfer
710	Notice of intent to transfer
720	Application for transfer
730	Transfer and reissuance of entry permits
741	Lease or retained right of repossession prohibited
745	Designation of agents by commission
746	Emergency transfers
747	Transfer on death of the holder
760	Administrator hearings
770	Definitions for secs. 700-770

**20 AAC 05.700 REQUIREMENTS FOR TRANSFER** (a) The holder of an entry or interim-use permit may transfer that permit only through the commission in accordance with secs. 700-777 of this chapter.

(b) It is a violation of this chapter for any permit holder to allow another to use his or her permit without first transferring the permit through the commission in accordance with secs. 700-777 of this chapter. The permit holder and the unauthorized transferee will be subject to penalties as provided in AS 16.43.360 (11/12/18/74, Reg. 52, am. 12/27/79, Reg. 72).

Authority AS 16.43.100(a)(1)  
AS 16.43.110(a)  
AS 16.43.170  
AS 16.40.339

**20 AAC 05.710 NOTICE OF INTENT TO TRANSFER** (a) The holder of an entry permit not subject to the restrictions of AS 16.43.170(a) or (d) may establish a filing date, effective date, and expiration date for the transfer of his entry permit by filing a notice of in-

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

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

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

(d) Any person who has applied for an entry permit under sec. 500 of this chapter may file with his application, or later, a notice of intent to transfer an entry permit. The effective date for purposes of transfer shall be the date of the original issuance of the entry permit, or the date 60 days after the filing of the notice, whichever is later (Eff. 12/18/74, Reg. 52).

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

**20 AAC 05.720 APPLICATION FOR TRANSFER.** (a) An application for the transfer of an entry permit may be filed with the commission on or after the effective date and must be filed with the commission on or before the expiration date of the notice of intent to transfer.

(b) Application for the transfer of an entry permit must be made to the commission on a form provided by the commission. The application must be signed by the applicant and the proposed transferee. The applicant and the proposed transferee must certify to facts establishing the present ability of the proposed transferee to participate actively in the fishery, and will be required upon request to produce a mention of those facts, and such other information as the commission finds necessary.

(c) An application for the transfer of an entry permit may be withdrawn only upon the written request of both the applicant and the proposed transferee. (Eff. 12/18/74, Reg. 52)

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

**20 AAC 05.730 TRANSFER AND REISSUANCE OF ENTRY PERMITS.** (a) Subject to the provisions of secs. 731 - 740 and 090(b) of this chapter, the commission will approve a request to transfer an entry permit and reissue an entry permit to the proposed transferee if the applicant and proposed transferee (other than the commission) comply with sec. 720(a) and (b) of this chapter.

(b) When the proposed transferee is a loan applicant with the Department of Commerce and Economic Development or the Alaska Commercial Fishing and Agricultural Bank, the commission will approve the request to transfer an entry permit and reissue an entry permit to the proposed transferee when final loan approval has been given by the Department of Commerce and Economic Development or the Alaska Commercial Fishing and Agricultural Bank.

(c) If the commission determines that the proposed transferee's present ability to participate actively in the fishery has not been established, it will so notify the applicant and the proposed transferee, giving its findings of fact and conclusions.

(d) For purposes of this chapter, there is a rebuttable presumption that the proposed transferee is unable to participate actively in the fishery if:

(1) for set net permits, the proposed transferee has not attained his or her 10th birthday, and

(2) for other permits, the proposed transferee has not attained his or her 16th birthday (Eff. 12/18/74, Reg. 52 and 12/27/79, Reg. 72)

Authority: AS 16.10.313  
AS 16.10.319  
AS 16.43.100(a)(11)  
AS 16.43.110  
AS 16.43.150(g)  
AS 16.43.170

**20 AAC 05.731. LEASE OR RETAINED RIGHT OF REPOSSESSION PROHIBITED.**

(a) A request for a permanent transfer of an entry permit is presumed to be pursuant to a lease or retained right of repossession if the proposed transferee or a member of the proposed transferee's immediate family has, within the two years immediately preceding the filing of the request to transfer, held and caused to be permanently transferred a permit for the same fishery as that currently requested. The commission will refuse to approve a request for transfer which is presumed to be pursuant to a lease or retained right of repossession unless

(1) where the entry permit to be transferred is the identical permit previously transferred by the proposed transferee, or member of the proposed transferee's immediate family, the presumption is rebutted by clear and convincing evidence, or

(2) where the entry permit to be transferred is not the identical permit, but is for the same fishery as the permit previously transferred by the proposed transferee, the presumption is rebutted by a preponderance of the evidence.

(b) For the purposes of this section, the term "lease or retained right of repossession" does not include gratuitous transfers of an entry permit or approved emergency transfers under AS 16.43.180.

(c) A request for permanent transfer to a person who held that same permit during any part of the calendar year in which the request for permanent transfer is considered filed will be denied (Eff. 12/27/79, Reg. 72).

Authority AS 16.10.333 AS 16.43.180  
AS 16.10.339 AS 16.43.150

**20 AAC 05.735. DESIGNATION OF AGENTS BY COMMISSION.**

(a) The commission will, in its discretion, designate agents for the purpose of receiving and reviewing notices of intent to transfer and requests for transfer.

(b) Properly completed notices of intent to transfer and requests for transfer received under this section must be date stamped and forwarded to the commission. Properly completed forms are received by the commission on the date received by a designated agent of the

commission. (Eff. 12/27/79, Reg. 72)

Authority AS 16.10.333  
AS 16.10.339  
AS 16.43.170(a)

**20 AAC 05.740. EMERGENCY TRANSFERS.**

(a) A holder of an entry or interim-use permit under this section or sec. 750(b) of this chapter may apply for an emergency transfer of the entry or interim-use permit to another person by making application to the commission on a form provided by the commission.

(b) The commission will grant an emergency transfer of an entry or interim-use permit if the proposed transferee is not a permit holder in the fishery and is presently able to participate actively in the fishery, and if it is established that illness, disability, death required military or government service, or other unavoidable hardship prevents the transferor from participating in the fishery.

(c) Where illness, disability, or death precludes communication by the transferor, the commission will, in its discretion, authorize the emergency transfer of an entry or interim-use permit upon application by a person other than the transferor. Such a transfer is subject to revocation at any time upon application by the transferor.

(d) Unless further restricted by the transferor, or otherwise limited by the commission, an emergency transfer will be effective for the remainder of the calendar year.

(e) The proposed transferor and transferee of an emergency transfer under this section shall provide information and executed releases for information the commission determines is reasonably necessary to establish the basis upon which the emergency transfer is requested. Sufficient proof to verify the basis of the transfer must be submitted when the transfer request is made.

(f) An emergency transfer of an entry permit will be approved in favor of a loan applicant during a period of interim commercial financing if the holder has on file with the commission a notice of intent to transfer and the loan applicant has been issued a letter of loan commitment by the Department of Commerce and

Economic Development or the Alaska Commercial Fishing and Agricultural Bank. Emergency transfers under this subsection expire on the date of formal loan approval and transfer of the permit to the Department of Commerce and Economic Development or the Alaska Commercial Fishing and Agricultural Bank (Eff. 12/18/74, Reg. 52, am 12/27/79, Reg. 72)  
Authority: AS 16 10 339 AS 16 43 110(a)  
AS 16 43 100(b) AS 16 43 180(a)

**20 AAC 05 750. TRANSFER ON DEATH OF THE HOLDER.** (a) An entry permit survives the death of the holder and will be transferred by the commission directly to the surviving spouse by right of survivorship unless a contrary intent is expressed by the holder

(b) When no spouse survives the decedent or the rights to the permit otherwise pass to the estate, the authorized representative of the deceased holder's estate may apply for an emergency transfer of an entry permit pending final disposition of the permit as a part of the holder's estate by making application to the commission on a form provided by the commission. The emergency transfer must be to a person who is not a permit holder in the fishery and who can establish the present ability to participate actively in the fishery. The commission will approve an application for an emergency transfer under this subsection if the representative establishes that the holder is deceased and that the representative is authorized to request the transfer. Unless further restricted by the authorized representative, an emergency transfer after the death of the holder is effective for the remainder of the year. The authorized representative may annually renew an entry permit and apply for subsequent emergency transfers if he can establish that the permit has not been finally disposed of as part of the deceased holder's estate.

(c) The authorized representative may make final disposition of the entry permit under secs. 700 - 710 of this chapter upon demonstrating authorization for that action from the appropriate judicial authorities, except that a person named to receive that permit by distribution from the estate, rather than by sale from the estate, will receive that entry permit without being subject to the requirements of sec. 710(b).

(Eff. 12/18/74, Reg. 52, am 12/27/79, Reg. 72)  
Authority: AS 16 43 100(a)(11)  
AS 16 43 110(a)  
AS 16 43 150(f)  
AS 16 43 170(b)  
AS 16 43 180(b)

**20 AAC 05 760. ADMINISTRATIVE HEARINGS.** Either the holder of an entry or interim-use permit, the authorized representative of the holder, or the authorized representative of a deceased holder's estate may request an administrative hearing and adjudication under the provisions of secs. 800 - 855 of this chapter to contest a determination by the commission under secs. 700 - 750 of this chapter. (Eff. 12/18/74, Reg. 52, am 12/27/79, Reg. 72)

Authority: AS 16 43 110

**20 AAC 05 770. DEFINITIONS FOR SECS 700 - 770.** In secs. 700 - 770 of this chapter:

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

(2) "filing date" means the date upon which a document is delivered to the commission, except that a request to transfer will be considered filed upon the expiration of 60 days following the filing date of the notice of intent to transfer or when delivered to the commission, whichever occurs last.

(3) "effective date" means the date 60 days after the filing date of the notice of intent to transfer, or the date of expiration of a prior notice of intent to transfer, whichever occurs last.

(4) "expiration date" means the date 12 months after the filing date.

(5) "present ability to participate actively" means the person is physically able to harvest fish in the fishery and has reasonable access to commercial fishing gear of the type utilized in that fishery.

(6) "holder" means the person to whom the entry permit is issued.

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

(8) "disability" means a serious impairment or loss of physical function.

(9) "illness" means a disease or ailment of such a character as to seriously affect the general soundness and healthfulness of the somatic system and not a mere temporary indisposition which does not tend to undermine or weaken the constitution.

(10) "immediate family" means spouse, child, stepchild, parent, step-parent, brother, step-brother, sister, step-sister, parent-in-law, son-in-law, daughter-in-law, brother-in-law and sister-in-law.

(11) "required governmental service" includes service at the federal, state, or local level required by law or which, if voluntarily performed, is not the permit holder's primary occupation; service without compensation, or service for which only stipend, per diem, or expenses are paid is prima facie evidence that the service provided is not the permit holder's primary occupation.

(12) "required military service" means any service in the Armed Forces of the United States or the several states including related branches of service or substituted service where that service is required by law, or voluntary service during time of war or other national or local emergency. (Eff. 12/18/74, Reg. 52, am. 12/27/79, Reg. 72)

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

## ARTICLE 8 ADMINISTRATIVE HEARINGS AND ADJUDICATIONS

### Section

800	Matters covered
805	Request for an administrative hearing
810	Notice of hearing
815	Scope of hearing
820	Rules of evidence
825	Subpoenas, depositions, affidavits and documents
830	Continuances
835	Default
840	Hearing officer's written recommendations
845	Administrative adjudication
850	Reconsideration
855	(Repealed)

**20 AAC 05 800 MATTERS COVERED** The provisions of secs. 800-850 of this chapter apply to all matters presented to the commission for administrative hearing and adjudication. (Eff. 12/18/74, Reg. 52)

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

**20 AAC 05 805 REQUEST FOR AN ADMINISTRATIVE HEARING.** (a) An applicant or other party may request an oral or written administrative hearing by filing a request for a hearing with the commission. The request for a hearing must contain a statement of why the commission's determination should be changed and indicate which findings of fact, interpretation of regulation, or interpretation of statute the party believes to be in error. An administrative hearing will be granted upon the determination that the written request for a hearing demonstrates a genuine issue in contention.

(b) The following schedule governs requests for a hearing:

(1) Application classification or denial. The request for a hearing must be received on or before the 45th day following the mailing date of the notice of classification or notice of denial, whichever was earlier.

(2) Ineligibility for the reduced annual fee under sec. 220(b) of this chapter. The request for a hearing must be received on or before the 45th day following the date that the notice of ineligibility for the reduced annual fee was mailed to the applicant.

(3) Transfer of an entry permit under secs. 700-770 of this chapter, or of an interim-use permit under sec. 420 of this chapter. The request for a hearing must be received on or before the 45th day following the date that the notice of denial was mailed to the holder and the proposed transferee.

(4) All other commission determinations. The request for a hearing must be received on or before the 45th day following the mailing of the written notice of the commission's determination.

(c) Failure to request a hearing following a determination by the commission as set out in subsection (b) of this section, precludes further administrative consideration except as provided in subsection (d) of this section.

(d) The commission may adjust administrative errors affecting a commission determination during or after the period for requesting a hearing, upon written notice to the applicant or other party. Such adjustment is subject to an administrative hearing for an additional period specified in subsection (b) of this section (Eff. 12/18/74, Reg. 52).

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

**20 AAC 05 810 NOTICE OF HEARING.** In all cases where an administrative hearing is granted, the commission will determine the time and place of hearing and deliver or mail a notice of hearing to the applicant or other party at least 30 days before the hearing. The applicant

or other party may waive the 30-day notice requirement (Eff. 12/18/74, Reg. 52).

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

**20 AAC 05 815. SCOPE OF HEARING.** The applicant or other party may present relevant evidence at the hearing, including testimony, affidavits, and documents, in support of the contention for which the hearing was granted. Depositions, affidavits, and documents that have been stipulated to by the applicant or other party and the commission prior to the hearing will also be entered into the record (Eff. 12/18/74, Reg. 52).

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

**20 AAC 05 820. RULES OF EVIDENCE.** (a) Oral evidence may be taken only upon oath or affirmation.

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

(c) The applicant, or other party and the hearing officer may:

(1) call and examine witnesses;

(2) introduce exhibits;

(3) cross-examine opposing witnesses on matters relevant to the issues even though the matter was not covered in the direct examination. If the applicant or other party does not testify, he may be called and examined by the hearing officer.

(d) The applicant or other party shall bear the burden of proving by a preponderance of the evidence that a determination of the commission is erroneous (Eff. 12/18/74, Reg. 52).

Authority: AS 16.43.100(b); AS 16.43.110(a);  
AS 16.43.110(a); AS 16.43.120(a);  
AS 16.43.110(c).

**20 AAC 05.825 SUBPOENAS, DEPOSITIONS, AFFIDAVITS AND DOCUMENTS.** (a) At the request of an applicant or other party for good cause shown or upon its own motion, the hearing officer may issue subpoena and subpoena duces tecum to compel production of testimony or other evidence at a hearing. The issuance of subpoenas will be governed by the provisions of AS 44.62.430.

(b) In accordance with the provisions of AS 44.12.440 the hearing officer may order that the testimony of a material witness be taken by deposition.

(c) Documents or affidavits intended to be used at a hearing should be submitted to the commission by mail or at a prehearing conference so that they may be stipulated to whenever possible. (Eff. 12/18/74, Reg. 52)  
Authority: AS 16.43.110(b), AS 16.43.110(d), AS 16.43.110(a), AS 16.43.120(a), AS 16.43.110(c)

**20 AAC 05.830 CONTINUANCES.** For good cause shown and at his discretion the hearing officer may order the continuance of a hearing. (Eff. 12/18/74, Reg. 52)  
Authority: AS 16.43.110(b), AS 16.43.110(b), AS 16.43.110(a), AS 16.43.120(a)

**20 AAC 05.835 DEFAULT.** If an applicant or other party does not appear at an oral hearing that has been granted, the hearing officer, unless good cause is shown, may act upon the evidence presently at his disposal without notice to the applicant or other party. (Eff. 12/18/74, Reg. 52)  
Authority: AS 16.43.110(b), AS 16.43.110(b), AS 16.43.110(a), AS 16.43.120(a)

**20 AAC 05.840 HEARING OFFICER'S WRITTEN RECOMMENDATIONS.** The hearing officer shall prepare a written recommendation in a form which may be adopted as the decision in the case. A copy will be served on the applicant or other party. (Eff. 12/18/74, Reg. 52)  
Authority: AS 16.43.110(b), AS 16.43.110(b), AS 16.43.110(a), AS 16.43.120(a)

**20 AAC 05.845 ADMINISTRATIVE ADJUDICATION.** (a) The commissioners will

adjudicate the matter before them on the basis of the material previously filed with the commission by the applicant or other party, evidence presented at the hearing or introduced into the hearing record, matters officially noticed by the hearing officer under the procedure of AS 44.62.490 and the written recommendation of the hearing officer.

(b) The applicant or other party will be given two weeks from the date of mailing of the hearing officer's written recommendations to submit written comments on that recommendation. If the applicant or other party desires an opportunity to make an oral presentation to the commissioners, he must make the fact known to the commission within the two-week period. Any presentation to the commissioners shall be limited to the record before them and no commissioner may vote unless he has heard any additional oral presentation.

(c) If an applicant or other party fails to act within the two-week period, or fails to appear at the time and place scheduled for oral presentation, the commissioners will grant a second opportunity only upon good cause shown.

(d) The commissioners may adopt the hearing officer's written recommendation in its entirety or in part. If the recommendation is not adopted in its entirety, the commissioners may decide the case upon the record or request additional evidence.

(e) A case requiring additional evidence will be referred to a hearing officer to take that evidence. The hearing officer shall prepare a second written recommendation based upon additional evidence and the original record of the earlier hearing. A copy of the second recommendation will be given to the applicant or other party and the commissioners will resume the adjudication.

(f) The commissioners' decision will be written and contain findings of fact and determinations of the issues presented.

(g) A decision is effective and final 90 days after it is hand delivered or mailed to the applicant or other party unless a recommendation

is ordered within that time. (Eff. 12/18/74, Reg. 52)

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

**20 AAC 05.850 RECONSIDERATION.** (a) The commissioner may order a reconsideration of their decision on their own motion or on petition of the applicant or other party. A petition for reconsideration by the applicant or other party shall set forth specifically the grounds upon which the petitioner believes the decision to be erroneous or specify new evidence he believes will have a substantial bearing on the decision.

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

(c) The commissioner may reconsider a matter in the original record or order a supplementary hearing in accordance with sec. 845(e) of this chapter. (Eff. 12/18/74, Reg. 52)  
Authority: AS 16.43.100(b) AS 16.43.110(b)  
AS 16.43.110(a) AS 16.43.120(a)

**20 AAC 05.855 APPEARANCE** Repealed  
4/7/75

#### ARTICLE 9 MISCELLANEOUS PROVISIONS

##### Section

- 900 Communications
- 910 Remittances and charges
- 920 Permit files
- 930 Confidential records and information
- 940 Designation of salmon net gear permits by area
- 942 Redesignation of salmon net gear permits by area
- 944 Issuance of permit cards for designated salmon net area
- 950 Area registration of salmon net fishing vessel
- 952 Area registration of salmon net fishing vessel
- 954 Issuance of vessel license area tag
- 958 Vessel license

- 960 Power of authorized agent
- 980 Assistance by designated agent
- 985 Time of permit renewal and vessel license application
- 990 Appraised value

**20 AAC 05.900 COMMUNICATIONS.** (a) All correspondence with the commission should be addressed to the commission at its principal office.

(b) A written communication is considered to be officially filed when delivered to the commission's office unless otherwise specified. A written communication will be considered officially received when delivered to the commission's office or postmarked.

(c) No correspondence signed by an individual staff member or commissioner shall be deemed to state an official determination or decision by the commission unless the signature is preceded by the recital "By Direction of the Commercial Fisheries Entry Commission." The presence of this recital constitutes presumptive evidence that the signatory has been delegated authority to state the commission's action in the particular matter. (Eff. 12/18/74, Reg. 52, am. 1/1/78, Reg. 64)

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

**20 AAC 05.910 REMITTANCES AND CHARGES.** (a) Every remittance shall be by money order, bank draft or check payable to the Commercial Fisheries Entry Commission. Remittances in cash or currency will be sent at the risk of the loss of money sent in that manner.

(b) Postage stamps shall not be sent as a remittance unless the sender is directed.

(c) The commission may charge the costs it incurs in furnishing copies of notices, reports, orders or any printed or typed material in its possession. (Eff. 12/18/74, Reg. 52)

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

**20 AAC 05.920 PERMIT FILES.** The commission will maintain a file of interim permit and entry permit information. The file will contain information pertaining to, but not limited to, the following:



holds a valid salmon net permit. (Eff. 5/21/78, Reg. 66)

Authority AS 16 43 100  
AS 16 43 110(a)  
AS 16 43 140(c)

#### 20 AAC 05 942 REDESIGNATION OF SALMON NET GEAR PERMITS BY AREA (a)

A person who holds salmon net permits in more than one administrative area and has designated an area of intended fishing as provided in sec. 940 of this chapter may, before the initial annual opening of the salmon net fishery designated, redesignate the area in which he intends to fish.

(b) Redesignation, as provided in (a) of this section, may occur only once each calendar year unless this limitation is waived by the Department of Fish and Game for good cause.

(c) A person desiring to redesignate the area of intended salmon net fishing as provided in (a) of this section shall submit to the commission:

(1) any salmon net permit cards issued by the commission for that year;

(2) a writing indicating the area of intended redesignation which is dated and signed by the permit holder or his authorized agent as provided in sec. 940 of this chapter; and

(3) the appropriate permit renewal fees for the permit corresponding to the redesignated area, if not previously renewed for that year.

(d) Redesignation under this section supersedes the original designation as if the original designation had never been made. (Eff. 5/21/78, Reg. 66)

Authority AS 16 43 100  
AS 16 43 110(a)  
AS 16 43 140(c)

#### 20 AAC 05 944 ISSUANCE OF PERMIT CARDS FOR DESIGNATED SALMON NET AREA (a)

A person who holds salmon net permits in more than one administrative area may annually renew all permits so held.

(b) A person who holds salmon net permits in more than one administrative area and who has designated the area of intended salmon net

fishing as provided in secs. 940 or 942 of this chapter, will be issued a permit card only for the salmon net area so designated. (Eff. 5/21/78, Reg. 66)

Authority AS 16 43 100  
AS 16 43 110(a)  
AS 16 43 140(c)

#### 20 AAC 05 950 AREA REGISTRATION OF SALMON NET FISHING VESSEL (a)

A person who owns a commercial fishing vessel to be used to take salmon with net gear, or his authorized agent, shall complete the area registration required by 5 AAC 39 120 by designating upon the vessel license application or renewal form in the space provided by the commission, the vessel's single area of intended salmon net operation for that year.

(b) As used in this section, the term "area" means any one of those areas defined in 5 AAC 39 120(d) except that:

(1) in registration area T, vessel registration is also required for a fishing district as specified in 5 AAC 16 170;

(2) in registration areas W, Y, and Z, vessel registration is also required for a fishing subdistrict as specified in 5 AAC 03 370 (Eff. 11/78, Reg. 66)

Authority AS 16 05 450(b) AS 16 43 100  
AS 16 05 510 AS 16 43 110(a)

#### 20 AAC 05 952 AREA REGISTRATION OF SALMON NET FISHING VESSEL (a)

If a person who owns a salmon net fishing vessel or his authorized agent desires to reregister the vessel for a different salmon net registration area as provided in 5 AAC 39 120, he will be issued a new vessel license area tab for the area of registration upon receipt by the commission of:

(1) a written certification or personal affidavit stating that the vessel has not been used for salmon net fishing in the original area of registration; and

(2) a properly completed registration form supplied by the commission.

(b) Any license area tab for that vessel previously issued by the commission for that year is:

(2) an authorization from the commissioner of the Department of Fish and Game, or his authorized agent stating that a vessel has been lost through sinking, destruction, or extensive mechanical breakdown, or that the vessel operator has suffered serious injury, sickness, or death during open season and

(A) a properly completed reregistration form supplied by the commission

(B) any license area tabs for that vessel issued by the commission for that year

(b) Reregistration under (a)(1) of this section may occur only once each calendar year unless this limitation is waived by the commission for good cause (EIF 1/1/78, Reg. 64)

Authority AS 16 05 450(b) AS 16 43 100  
AS 16 05 530 AS 16 43 110(a)

**20 AAC 05 954 ISSUANCE OF VESSEL LICENSE AREA TAB** (a) A fishing vessel which has been registered in an area of intended salmon net operation as provided in sec. 950 or 952 of this chapter will be issued a vessel license area tab by the commission for the single area selected for that year

(b) The vessel license area tab is part of the vessel license and must be affixed to the vessel license at all times of vessel operation

(c) No vessel owner or operator may possess for each vessel, and no vessel may display, more than one vessel license area tab (EIF 1/1/78, Reg. 64)

Authority AS 16 05 450(b)  
AS 16 05 530  
AS 16 43 110(a)

**20 AAC 05 958 VESSEL LICENSE** (a) A commercial fishing vessel license issued by the commission will include

(1) a number plate

(2) a tab designating the year to be fished, and

(3) in the case of a salmon net fishing vessel, an area tab designating the registration area code for the area to be fished

(b) The number plate, year tab, and area tab must be permanently affixed to the vessel for display unless waived by the commission for good cause (EIF 1/1/78, Reg. 64)

Authority AS 16 05 450(b) AS 16 43 100(a)  
AS 16 05 530 AS 16 43 110(a)

**20 AAC 05 960 POWER OF AUTHORIZED**

**AGENT** (a) By submitting to the commission all properly completed forms required, together with the appropriate fees, an authorized agent may renew an entry permit, renew an interim-use permit, make initial application for an interim-use permit and apply for or renew a vessel license on behalf of his principal

(b) Unless waived by the commission for good cause, the power of the authorized agent must appear in a dated writing signed by the principal

(c) Writings sufficient to confer representative power upon the agent include but are not limited to

(1) power of attorney

(2) letters testamentary

(3) letters of guardianship,

(4) personal affidavit in a summary administrative proceeding, or

(5) marriage certificate

(d) Unless the written authorization specifically states the contrary or is declared irrevocable by a court of competent jurisdiction, all authorizations are revocable in the same manner and form with which they were created

(e) The commission will after a hearing as provided in sec. 900, 950 of this chapter refuse to accept an agent's actions on behalf of his principal if the commission finds that the agent consistently intentionally or through gross negligence has either supplied false information to the commission or omitted necessary or required information forms or fees. Upon such a commission finding, the agent may not thereafter represent any principal before the commission for the period of time the commission specifies

(f) Nothing in this section affects the ownership of a permit nor confers upon the agent the power to transfer a permit on behalf of the principal.

(g) For the purpose of this section, "principal" means a permit holder, interim-use permit applicant, or vessel owner, represented by the agent (Eff. 1/1/78, Reg. 64)

Authority AS 16 05 530  
AS 16 43 100  
AS 16 43 110(a)

**20 AAC 05 980 ASSISTANCE BY DESIGNATED AGENT.** (a) Annual applications or renewals under secs 410 and 560 of this chapter will be accepted by the commission from agents, designated by the commissioner of revenue, who assist in the completion of annual application or renewal forms. An agent so appointed by the commissioner of revenue may retain 15 percent of the permit fee collected for assisting in the completion of an application or renewal form.

(b) As used in this section "assist in completion of" means to aid in supplying information which is substantial material and necessary for the completion of the application or renewal form but does not include:

(1) assistance in dating or signing the form or

(2) performance of acts which would normally occur after completion of the application or renewal form including but not limited to:

(A) addressing envelopes to the commission

(B) stamping envelopes

(C) inserting completed forms in envelopes for mailing

(D) delivering the envelope and form to a United States Post Office station for mailing

(E) duplication of information supplied by the commission to the applicant or permit holder or

(F) designation of the salmon net area to be fished under sec 940 or 942 of this chapter.

(c) On a daily basis as assistance is rendered, designated agents shall forward to the commission completed permit forms together with all fees, less 15 percent if appropriate, and a completed accounting form supplied by the commission (Eff. 1/1/78, Reg. 64, am 5/21/78, Reg. 66)

Authority AS 16 05 460 AS 16 43 110(a)  
AS 16 05 470(b) AS 16 43 220(a)  
AS 16 43 100

**20 AAC 05 985 TIME OF PERMIT RENEWAL AND VESSEL LICENSE APPLICATION.**

(a) Subject to the limitations of secs 100 110, 130 and 560 of this chapter permits may be renewed and vessel licenses applied for at any time after the appropriate forms are made available by the commission. The date of permit renewal or vessel license application is the date upon which the commission receives the renewal or application form substantially completed along with the appropriate fees.

(b) The commission will issue a permit card or vessel license only upon the filing of a permit renewal or vessel license application form substantially completed together with the appropriate fees except as waived if the commission for good cause shows (Eff. 1/1/78, Reg. 64)

Authority AS 16 05 450(b)  
AS 16 43 110  
AS 16 43 110(a)

**20 AAC 05 990 APPRAISED VALUE.** (a) The commission will determine appraised values of entry permits on a quarterly basis to carry out the purposes of AS 16 10 333 AS 16 10 334. Requests for interim-revaluation of appraised values will not be considered except from the Department of Commerce and Economic Development.

(b) Appraised values will be based upon the best information available to the commission as compiled from requests to transfer forms which are completed by all proposed permit transferees and other sources the commission considers appropriate. Failure of the transferee to com-

plete the request-to-transfer form will result in refusal to issue the entry permit card and the transferee will not be considered as holding a currently valid entry permit card for purposes of this chapter (Eff. 12/27/79, Reg. 72)

Authority AS 16.10.339  
AS 16.43.170

## CHAPTER 10. PROFESSIONAL TEACHING PRACTICES COMMISSION

### Sections

- 10. Coverage
- 20. Code of ethics and teaching standards
- 30. Distribution of handbook

**20 AAC 10.010 COVERAGE.** All members of the teaching profession (as defined in AS 14.20.370) are obligated to abide by the code of ethics and the professional teaching standards adopted by the Professional Teaching Practices Commission. (Eff. 1/30/75, Reg. 53)

Authority AS 14.20.480

**20 AAC 10.020. CODE OF ETHICS AND TEACHING STANDARDS.** The code of ethics and professional teaching standards of the Professional Teaching Practices Commission as well as the commission's bylaws, procedures and forms are contained in Alaska State Professional Teaching Practices Commission Handbook for Alaskan Educators (1974 Edition). This handbook is adopted by reference (Eff. 1/30/75, Reg. 53)

Authority AS 14.20.450  
AS 14.20.460

*Editor's note:* Additional copies of the handbook adopted in 20 AAC 10.020 and mentioned in 20 AAC 10.010 are available from the Professional Teaching Practices Commission, 1001 West 70th Avenue, Anchorage, Alaska 99502 or from the Department of Education, P.O. Box 1, Alaska Office Building, Juneau, Alaska 99801.

**20 AAC 10.030 DISTRIBUTION OF HANDBOOK.** Copies of the Alaska State Professional Teaching Practices Commission Handbook for Alaskan Educators shall be conspicuous and available at every educational institution in the state whose employees are members of the teaching profession as defined in AS 14.20.370 (Eff. 1/30/75, Reg. 53)

Authority AS 14.20.460

*Editor's note:* Additional copies of the handbook adopted in 20 AAC 10.020 and mentioned in 20 AAC 10.010 are available from the Professional Teaching Practices Commission, 1001 West 70th Avenue, Anchorage, Alaska 99502 or from the Department of Education, P.O. Box 1, Alaska Office Building, Juneau, Alaska 99801.

HB

359

# COMMITTEE REPORT

## HOUSE

FURTHER:

JUDICIARY

March 7, 1979

Date: 3/16/1979

Mr. Speaker:

The Committee on RESOURCES has had HB 359

"An Act relating to salmon enhancement."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title
- and recommends \_\_\_\_\_  new title
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

**MEMBERS SIGNING  
DO PASS**

[Signature]

\_\_\_\_\_

[Signature]

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**MEMBERS HAVING  
OTHER RECOMMENDATIONS:**

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[Signature]

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\_\_\_\_\_

CHAIRMAN



Presented by  
 FDG FRED division  
 at 3/15 hearing  
 on HB359

Estimated Annual Hatchery Returns of Species  
 Public Facilities

	1975	1976	1977	1978	79 (Forecast)
Pink Salmon					
Southcoast					18,500
Prince William Sound					
Cook Inlet		3700	100	164,900	200,300
A Y K					
Rristol Bay					
Alaska Peninsula					
Kodiak	5500	12500	23900	36400	158800
Subtotal	5500	16200	27000	200400	317300

	1975	1976	1977	1978	79 (Forecast)
Chum Salmon					
Southcoast				3900	34000
Prince William Sound					
Cook Inlet					
A Y K					
Rristol Bay					
Alaska Peninsula					
Kodiak				3700	34000
Subtotal				7600	68000

	1975	1976	1977	1978	79 (Forecast)
King Salmon					
Southcoast		500	700	100	2100
Prince William Sound					
Cook Inlet	100	600	1200	1800	4300

Grand Total	28200	33600	37500	241,200	495,700
-------------	-------	-------	-------	---------	---------

Sub Total	-	-	-	17300	31000
Southeastern					
Prince William Sound				17300	30400
Cost Inlet					
A.Y. I.C.					
Bristol Bay					700
Alaska Peninsula					
Kodiak					

Sub Total	22600	16,300	10400	17700	41,000
Southeastern					
Prince William Sound					
Cost Inlet	10500	6500	9400	15100	32500
A.Y. I.C.					
Bristol Bay					
Alaska Peninsula					
Kodiak					

Sub Total	100	1100	1900	1900	6400
Bristol Bay					
Alaska Peninsula					
Kodiak					

Red Salmon  
Colo Salmon

by

Greg Cook, Executive Director  
Boards of Fisheries & Game

March 15, 1978

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE

MY NAME IS GREG COOK, EXECUTIVE DIRECTOR FOR THE BOARD OF FISHERIES AND BOARD OF GAME. I WOULD LIKE TO ADDRESS SECTION 8, OF THIS BILL, SINCE IT WILL RESULT IN A MAJOR CHANGE IN THE ADMINISTRATION AND REGULATION OF AQUACULTURE IN ALASKA.

SECTION 8, REPEALS AS 16.10.440 (b). THIS SECTION OF EXISTING LAW GRANTS BROAD REGULATORY AUTHORITY TO THE BOARD OF FISHERIES. THE BOARD OF FISHERIES, ACTING UNDER THIS SECTION OF EXISTING LAW, HAS BEEN ACTIVELY INVOLVED IN THE AQUACULTURE PROGRAM BY ISSUING PERMITS, SELECTING SITES FOR HATCHERIES, DECIDING ON THE BOUNDARIES OF THE SPECIAL HARVEST AREAS, AND ENSURING THAT THE FINANCIAL REPORTING REQUIREMENTS OF AS 16.10.470 ARE MET. OTHER REGULATORY POWERS ARE ALSO VESTED IN THE BOARD.

THE BOARD OF FISHERIES HAS PLAYED A POSITIVE ROLE IN THESE AREAS IN THE PAST. THE BOARD'S DELIBERATIONS HAVE INCLUDED MUCH PUBLIC TESTIMONY. FOR EXAMPLE, AT THE JANUARY 1979 MEETING IN JUNEAU, 12 MEMBERS OF THE PUBLIC TESTIFIED. IN JUNEAU THE PUBLIC ALSO WAS ABLE TO HEAR PERTINENT DEPARTMENT OF FISH AND GAME STAFF REPORTS, TESTIMONY FROM OTHER STATE AND FEDERAL AGENCY OFFICIALS, AND THE OPINIONS LEADING TO THE FINAL DECISIONS.

THE PRIVATE NONPROFIT AQUACULTURE PROGRAM IN ALASKA IS NEW. PRIVATE NONPROFIT AQUACULTURE HAS ENGENDERED CONSIDERABLE PUBLIC DEBATE AND PUBLIC PARTICIPATION IN THE DECISION MAKING PROCESS. BROAD INVOLVEMENT

BY THE BOARD OF FISHERIES INSURES THAT THE PUBLIC WILL BE HEARD ON THESE QUESTIONS.

THE BOARD OF FISHERIES HAS PROVIDED A PUBLIC FORUM FOR DISCUSSION OF THE CONCERNS OF THE CITIZENS OF ALASKA. THE BOARD OF FISHERIES IS A RESPONSIBLE GROUP AND WHILE THEY ARE NOT IMMUNE FROM PRESSURE, THEIR STATUS AS PRIVATE CITIZENS AND THE FACT THAT THEIR DELIBERATIONS ARE PUBLIC, MAKES THEM LESS SUSCEPTIBLE TO SPECIAL INTERESTS THAN DEPARTMENT PERSONNEL.

THE BOARD OF FISHERIES' INVOLVEMENT IN THE PERMITTING PROCESS HAS ALSO BEEN BENEFICIAL. BY DECIDING TO APPROVE OR DISAPPROVE OF PERMITS FOR PRIVATE HATCHERIES, THE BOARD IS, IN EFFECT, MAKING AN ALLOCATION DECISION. THE FOLLOWING EXAMPLE MAY PERHAPS CLARIFY HOW THIS OCCURS:

IMAGINE A PRIVATE HATCHERY IS PROPOSED TO BE BUILT ON RIVER "A." THEY WISH TO RAISE HUMPIES AND HARVEST THEM WITH GILL NETS. HEREBY THERE IS A SIGNIFICANT SPORT FISHERY FOR COHO. IF THE PRIVATE HATCHERY IS BUILT, AND A NET FISHERY IS BEGUN, THERE WILL BE AN INCIDENTAL CATCH OF COHO SALMON THAT WILL REDUCE THE SPORT FISHERY. SHOULD THIS PRIVATE HATCHERY BE BUILT? ALLOCATION DECISIONS OF THIS TYPE HAVE TRADITIONALLY BEEN MADE BY THE BOARD OF FISHERIES, SINCE THE BOARD MEETS IN PUBLIC AND RECEIVES TESTIMONY FROM ALL INTERESTED PERSONS.

THE EFFECT OF HB 359 AS IT CURRENTLY STANDS IS TO REMOVE THESE DE FACTO ALLOCATION DECISIONS FROM THE BOARD OF FISHERIES. IT WOULD REDUCE THE AMOUNT OF PUBLIC INVOLVEMENT IN THE AQUACULTURE PROGRAM--A PROGRAM WHICH IS INTENDED TO CONTRIBUTE TO THE COMMON PROPERTY FISHERY WITHOUT ADVERSELY AFFECTING NATURALLY OCCURRING STOCKS.

IT IS, OF COURSE, THE PREROGATIVE OF THE LEGISLATURE TO DETERMINE THE LEVEL OF PUBLIC INVOLVEMENT IN THE PRIVATE NONPROFIT BUSINESS OF AQUACULTURE. MY TESTIMONY BEFORE THIS COMMITTEE IS INTENDED SIMPLY TO REMIND YOU OF SOME OF THE BENEFITS TO THE PUBLIC--AND COINCIDENTALLY, TO THE DEPARTMENT OF FISH AND GAME AS WELL--WHICH HAVE RESULTED FROM THE INVOLVEMENT OF THE BOARD OF FISHERIES BY VIRTUE OF THE BROAD REGULATORY AUTHORITY OF AS 16.10.440 (b).

# Cordova District Fisheries Union

Headquarters: Box 939, Cordova, Alaska

April 9, 1979

Representative Terry Gardiner  
Speaker of the House  
Pouch V  
Juneau, Alaska 99811

HB 359

Dear Terry:

By the time this letter reaches you, certain decisions will have been made which might or might not make my comments inappropriate or unnecessary. However, because I do have to be on the fishing grounds rather than in Juneau expressing my views, I do hope that my negative reactions to what I understand are possible proposed amendments to HB 359 will be considered. This is not just for the immediate future, but for over the long haul unless we find that reasonable compromises regarding the Board of Fisheries role in the hatchery permitting, brood stock and harvest allocation system are in fact impossible.

I personally feel, with no disrespect intended, that portions of HB 359 which are aimed at stripping all authority from the Alaska Board of Fisheries during the process of developing the PNP hatchery system not only verges on, but is, premature paranoia.

After sitting through last December's Board session on the PNP discussion, etc., I can appreciate much of the Regional Corporations' concerns and fears of what roles the Board might play and how they could create significant problems for PNP development. However, even though I don't live and breathe PNP, I am reasonably aware of these concerns and have spent an appreciable amount of time addressing these problem areas with various Board members on my own.

I also attended the portion of this past Board meeting which addressed these issues of concern and during which the Board actually reviewed a permit application and addressed the brood stock problem. Personal at present, I am very much satisfied with the role the Board is playing as expressed by their decision, attitudes, and associated actions on the evening of April 6.

It would be in the best interest of all concerned to review the last tapes of the Board meeting to see if your fears are justified. I sincerely feel they are not.

Representative Terry Gardiner  
Speaker of the House

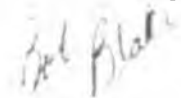
April 9, 1979  
Page 2

I think I have a pretty good feel for the PNP concerns since I am a member of the PWS Regional Planning Team and on FWSAC's board. I can also relate to the average fisherman off the street's attitude, which unfortunately is often falsely based due to being uninformed, primarily caused by the nature of the beast.

I sincerely feel that the Board has a role to play in the process, especially in the conflict areas. The Board is still sorting out just what particular areas these entail, but they have come a long way since December. To legislate their role now is definitely premature and unnecessary.

For the most part, it is my opinion that the really controversial issues must be settled by the Board. Let them take the heat, because the Regional PNP associations cannot stand the losses that will be sustained if they are the conflict decision makers.

Sincerely,



Bob Blake  
Chairman

BB: jmr

cc: Representative Margaret Branson  
Senator Clem Tillion  
Senator Bob Mulcahy  
Senator Jay Kerttula  
Representative Alvin Osterback  
Keith Specking  
All Regional Aquaculture Corporations  
All Fishing Organizations  
UFA

HB

360

# COMMITTEE REPORT

## HOUSE

FURTHER: JUDICIARY

March 7, 1979

Date: \_\_\_\_\_

Mr. Speaker:

The Committee on RESOURCES has had HB 360

"An Act relating to late applications for limited entry permits; eff. date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

**MEMBERS SIGNING  
DO PASS**

**MEMBERS HAVING  
OTHER RECOMMENDATIONS:**

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CHAIRMAN



ALASKA STATE LEGISLATURE

ELEVENTH Legislature FIRST Session

HOUSE BILL NO. 363

By SANDILIN AND ANDERSON

"An Act relating to late applications for limited entry permits, and providing for an effective date."

Limited Entry Permits

Introduced in the House 1979

HISTORY IN THE HOUSE

19	79	Read first time and referred to Committee on Resources and Judiciary										
Mar.	7	Reported back with recommendation that										
		Read second time and										
		Read third time and										
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		Reported correctly engrossed										
		Signed by Speaker										
		Sent to Senate										

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19	Read first time and referred to Committee on										
	Reported back with recommendation that										
	Read second time and										
	Read third time and										
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PASS	Effective Date										
Yeas	Yeas										
Nays	Nays										
Absent	Absent										
Excused	Excused										
	Reported correctly engrossed										
	Signed by President										
	Returned to House										

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede: VOTE
	Senate receded from amendment: VOTE
	Senate failed to recede from amendment: VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House: VOTE
	CC adopted by Senate: VOTE
	To enrolling
	Reported correctly enrolled
	Sent to Governor
	by Governor
	Filed with Lt Governor
	Chapter No.

LAW OFFICES OF FREDERICK TORRISI  
P.O. BOX 10047  
DILLINGHAM, ALASKA 99576

HB360

-----  
842-5608

March 12, 1979

Alvin Osterback, Co-chairman  
Committee on Natural Resources  
Alaska State House of Representatives  
Pouch V  
Juneau, Alaska 99811

re: HB 360

Dear Representative Osterback:

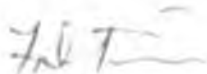
As I mentioned in my letter of February 1, 1979, a significant number of rural Alaskans failed to obtain limited entry permits to which they were entitled solely because their applications were not timely filed. In an area in which the availability of alternative occupations is minimal, this situation is intolerable economically as well as equitably.

House Bill 360, referred to Natural Resources and Judiciary last week, solves this problem. There is no expense involved, although the Entry Commission will necessarily have to process additional applications. The number of new permits issued will be extremely small in most fisheries, as it was the rare person who had enough points yet still failed to apply. The problem is that those rare persons didn't understand what was happening and are now permanently excluded from the only jobs realistically available to them. I hope you are able to support HB 360 and move it quickly to the House floor.

Please feel free to call or otherwise contact me on this. I am well acquainted with the Commission's position on this subject and would be happy to discuss any problems you may see in the bill.

Thank you for your consideration of this.

Sincerely,



Frederick Torrissi

HB

390

HB 390 return to Clerk's office  
on 1/25/80 for SS

AGO 126056

USE

mt

COMMITTEE REPORT

(9)

HOUSE

1/25/80

FURTHER: JUDICIARY

Date: \_\_\_\_\_

Mr. Speaker:

The Committee on RESOURCES has had SS HB 390

"An Act relating to boating safety."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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\_\_\_\_\_  
CHAIRMAN

65-28  
Buchholdt

<b>ALASKA STATE LEGISLATURE</b>	
ELEVENTH Legislature      SECOND Session	
SPONSOR SUBSTITUTE HOUSE BILL                      NO. SSHB 390	
By BUCHHOLDT	
"An Act relating to boating safety."	
Boating safety	
Introduced in the House 1/25, 1980	

HISTORY IN THE HOUSE													
1980	Read first time and referred to Committee on												
Jan. 25	Resources and Judiciary Reported back with recommendation that												
	Read second time and												
	Read third time and												
	<table border="0"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused		
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	Reported correctly engrossed Signed by Speaker Sent to Senate												
CHIEF CLERK OF THE HOUSE													

HISTORY IN THE SENATE													
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SECRETARY OF THE SENATE													

HISTORY IN THE HOUSE	
19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede VOTE
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	CC adopted by House VOTE
	CC adopted by Senate VOTE
	To enrolling Reported correctly enrolled sent to Governor
	by Governor
	Filed with Lt. Governor
	Chapter No.

ALASKA STATE LEGISLATURE

ELEVENTH Legislature SECOND Session

SPONSOR SUBSTITUTE HOUSE BILL NO. SSHB 390

By BUCHHOLDT

"An Act relating to boating safety."

Boating safety

Introduced in the House 1/25, 1980

HISTORY IN THE HOUSE

19 80 Read first time and referred to Committee on

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Signed by Speaker  
Sent to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

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SECRETARY OF THE SENATE

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Senate failed to recede from amendment VOTE

CC appointed by House

CC appointed by Senate

CC adopted by House VOTE

CC adopted by Senate VOTE

To enrolling Reported correctly enrolled Sen' to Governor

by Governor

Filed with Lt. Governor

Chapter No.

6528  
Buchholdt



# Alaska State Legislature

## House

HOUSE RESOURCES COMMITTEE

FISH & GAME ISSUES

Alvin Osterback, Chairman

Pouch V State Capitol  
Juneau, Alaska 99811  
(907) 465-3715

### HEARING NOTIFICATIONS

BILL	DATE INFORMED	LETTER/PHONE	INFORMED	HEARING DATE
SSHB 390 Boating Safety	2/22/80	call	Rep. Thelma Buchholdt, Sponsor	2/25
	2/22	586-7300	Coast Guard: David Illuminate to testify	2/25
	2/22	486-5438	Harbor Masters Assoc. - (Kodiak) George McCordle, Sec.	2/25
	2/22		Dept. of Public Safety Mike Clemens to testify	2/25



(907) 886-7198

SS

Mr. Ellor

7300  
36-100

CAPT JOHN C HANSON  
CHIEF, MARINE SAFETY DIVISION  
SEVENTEENTH COAST GUARD DISTRICT

UNITED STATES  
COAST GUARD

P O BOX 35001  
SIKOTIA ALASKA 99512

approx. \$ 250,000 - 300,000  
would go to Alaska  
first year

GB/TP

96TH CONGRESS  
1ST SESSION

# S. 1957

To amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program, and for other purposes.

## IN THE SENATE OF THE UNITED STATES

OCTOBER 30 (legislative day, OCTOBER 15), 1979

Mr. EAGLETON introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

## A BILL

To amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 *That this Act may be cited as the "Recreational Boating*
- 4 *Safety and Facilities Improvement Act of 1979".*

RECEIVED

Office of...

1 approved State vessel numbering system is necessary  
2 for full eligibility for Federal funds allocated and dis-  
3 tributed under this section;

4       “(2) a cooperative boating safety assistance pro-  
5 gram with the Coast Guard in that State;

6       “(3) sufficient patrol and other activity to insure  
7 adequate enforcement of applicable State boating safety  
8 laws and regulations;

9       “(4) an adequate State boating safety education  
10 program;

11       “(5) the designation of a State lead authority or  
12 agency, which would implement or coordinate the im-  
13 plementation of the State recreational boating safety  
14 and facilities improvement program supported by Fed-  
15 eral financial assistance in that State, including the re-  
16 quirement that the designated State authority or  
17 agency submit required reports in the form prescribed  
18 by the Secretary; and

19       “(6) a facilities improvement program describing  
20 boating facility projects, including but not limited to:  
21 acquisition of title, or any interest in riparian or sub-  
22 merged land; and capital improvement of riparian or  
23 submerged land for the purpose of increasing public  
24 access to the waters of the United States, and such an-