

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9688 SENATE RESOURCES

The frozen wilderness
**ARCTIC
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March 1997



Beetle outbreak largest in history

*Eagle River area kills double,
Eklutna area tree kills quadruple*

By KRISTEN SEINE
Alaska Star News Editor

According to a report soon to be released by the U.S. Forest Service, spruce bark beetle damage to Anchorage, Eagle River and Eklutna area trees has reached unprecedented proportions. That has caused the risk for wildfire to skyrocket as well, making Eagle River one of the state's top hazardous areas.

In the last year, the Forest Service has mapped 21,350 acres of infested or killed trees — up from just over 8,000 the year before, a 260 percent increase, said Integrated Pest Management Technician Michael Fastabend of Alaska Cooperative Extension.

Eagle River Valley saw a similar increase, he said, up from 2,300 acres a year ago to 5,800 this year — roughly 250 percent.

Some of the worst numbers in the state, however, are found in the Eklutna Lake and valley area. Damage there has more than quadrupled in the last year, from 2,000 acres to 8,900, Fastabend said.

The destruction will reshape our state's forests, Fastabend said, and Anchorage is sitting "almost dead center" of this disturbance.

The ramifications

That will have several effects on local land and homeowners, Fastabend said. First off, property values of affected areas may go down substan-

(Please see BEETLES, Page 2)

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

3601 C Street, Suite 1034
Anchorage, Alaska 99503-3937

DIVISION OF FORESTRY

May 5, 1998

Sen. Rick Halford, Chair
Senate Resources Committee
State Capitol Room 121
Juneau, Alaska 99801-1182

Dear Chairman Halford,

DNR is continuing to salvage and reforest infested timber on state land. For example, we have held 23 salvage sales on the Kenai Peninsula since 1994.

We would like to reaffirm our position on HB 284. The Department of Natural Resources continues to oppose this bill because:

- It would not reduce the impacts of major infestations, but will be expensive to implement.
- It doesn't provide effective new tools to address infestations. DNR already has the authority to do emergency sales and below cost sales. The authority to waive the Forest Practices Act notification requirements risks water quality and fish habitat protection but has little effect on beetle populations. The Forest Practices Act requirements have not significantly hampered salvage operations.
- The Spruce Bark Beetle Task Force has completed its recommendation for near-term action. The recommendations for long-term action have been drafted and will be finalized on May 8. The Task Force recommended that timber harvest focus on reducing risks from fires near populated areas, but did not recommend other salvage. Most of the land adjacent to the populated areas where fire risks are greatest is private or municipal land, not state land. DNR is working to identify ways to implement the Task Force recommendations. We believe that this bill does not reflect the Task Force recommendations.

HB 284 would have little or no effect on large infestations because it does not address the main factors that cause insect outbreaks and limit their control. First, climatic conditions play a key role in determining the size of outbreaks, and are not controllable by agency action. Pests such as bark beetles occur naturally throughout Alaskan forests, and their populations can explode when weather conditions are favorable. Second, feasible salvage harvesting is limited by weak markets for low value timber, funding for timber sales and reforestation, and multiple use concerns about impacts of timber harvest and roading on other resources and activities.

HB 284 increases state costs by requiring the state to develop agreements with private landowners, regardless of the private owners' interests. Landowners respond to infestations in a variety of ways depending on their management intent and authorities for their land. It is unclear whether Section 1, paragraph (d) would require the state to pay for "necessary salvage measures" on private land.

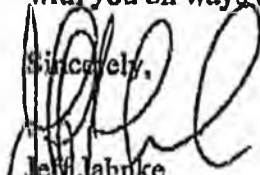
"Develop, Conserve and Enhance Natural Resources for Present and Future Alaskans"

Implementing this bill will be costly, since it applies statewide. In 1997, surveys recorded seventeen different types of insects or diseases that damaged more than 100 acres of forest land in Alaska, affecting a total of 2.5 million acres.

The fiscal note submitted by DNR is very conservative. In 1996, the Society of American Foresters invited infestation experts from British Columbia to view the bark beetle infestation in southcentral Alaska. The experts recommended that the state spend at least \$50 million dollars per year to respond to the infestation.

We respectfully request that you do not forward HB 284 at this time. We would be glad to work with you on ways to implement the Task Force recommendations.

Sincerely,



Jeff Jahnke
Director

Bruce H. Baker

Natural Resource Consultant

P.O. Box 211384

Auke Bay, Alaska 99821

Phone & Fax:
(907) 789-9354e-mail:
bbaker@alaska.net

May 5, 1998

To:

Senator Rick Halford	465-4928 (fax)
Senator Bert Sharp	2070
Senator John Torgerson	4779
Senator Georgianna Lincoln	2652
Senator Loren Leman	3810

Subject: HB 284

Dear Senate Resources Committee Members:

As a graduate forester, forest insect specialist, and private small woodlot owner, I strongly urge you to vote against HB 284. This bill would require salvage logging when it isn't even necessary or appropriate. HB 284 would result in government overregulation and interference with the rights of private property owners in the wise use of their forest land. By requiring salvage logging where it can't even pay its own way, it would be a waste of scarce public funds, a fiscal conservative's nightmare.

The timber salvage problems that this bill purports to address are not statewide problems. They're geographically localized situations that vary depending on the site-specific circumstances. They are situations in which sensible and responsible public officials, private land managers, and, where appropriate, the general public need to be involved in developing solutions on a case-by-case basis.

The best known current forest insect or disease condition in Alaska is the spruce bark beetle on the Kenai Peninsula, and that situation is being dealt with by the Kenai Borough's Bark Beetle Task Force. Let's let local government do its job without Legislative interference.

And finally, this bill offers no new solutions. The Department of Natural Resources already has the authority to put up emergency and below cost timber sales if circumstances call for that.

Thank you for the chance to comment.

Sincerely,



To SENATE RESOURCES COMMITTEE
From Mary Shields - Fairbanks

Dear Senator Halford and committee.
Please do not pass #248.

In our community we have been working to open up the public process in the Tanana Valley State Forest...so the people who really own the resource are in the planning process from the bottom up.

The recent flap about the Surprise Side Sale ^{tsa} ~~is~~ blatant examples where the public was left out.

I have been working on various forestry working groups for the past 3 years.

If DOF is mandated to log where ever insects threaten the forest...this will be a bomb going off in the public process. The whole forest fits this description. DOF can salvage log now, but to say they MUST log is not a decision to be made in Juneau. DOF needs the flexibility to manage in response to conditions as they change, not by some all inclusive order from Juneau.

Most important is the protection of the public process.

Please do not pass 284.

Thank you Mary Shields

box 80961

Fairbanks Alaska 99708



FAX ~~~~~ FAX ~~~~~

May 6, 1998

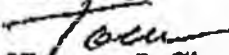
To: Senator Rick Halford

From: Thomas J. Classen

Subject: HB 284

Senator Halford I urge you to take no action on HB 284. This is a bad bill that tends to destroy more of the wilderness areas in Alaska. Bark beetles are a natural phenomena and should be treated that way. The loggers will do more damage to the wilderness removing the trees than will the beetle. The cycle will ultimately end and nature will restore itself but damage done by man usually remains forever. In my humble opinion all logging in Alaska should be terminated as it is the ultimate destruction of the land.

Sincerely,



Thomas J. Classen
P.O. Box 80505
Fairbanks, AK 99708

HEB

285

SENATE COMMITTEE REPORT

DATE: 3/23/98

FURTHER:

DATE TURNED
IN TO OFFICE: 4/21/98

Resources Committee considered CS FOR HOUSE BILL NO. 285(RES) am

"An Act relating to suspension or revocation of commercial fishing permits, licenses, and privileges; and providing for an effective date."

and recommends:

- be replaced with S CS HB 285 (RES)
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DQ PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Chris Kador</i>	-	<i>Lyla Green</i>	✓		
<i>Drew A. Loman</i>	✓				
CHAIR: <i>Rich Halford</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>DPS</i>	<i>3/31</i>	✓	
<i>CP&L</i>	<i>2/17</i>	✓	

APPLY
TO
S&S

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO: CSHB 285 (RES) am

Revision Date: March 31, 1998 Dept. Affected: Public Safety
 Title: Point system for commercial fishing violations BRU: Fish & Wildlife Protection
 Sponsor: Representative Ivan Component: _____
 Requestor: Senate Resources COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
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CHANGE IN REVENUES ()						
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GE Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 98) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This bill will not have any significant fiscal impact on FWP.

Prepared By: Sandy Perry-Provost, Special Assistant Phone: 465-4322
 Division: Commissioners Office Date: March 31, 1998
 Approved by Commissioner: *Ronald L. Oke* Date: March 31, 1998
 Agency: Ronald L. Oke, Dept. of Public Safety

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FISCAL NOTE

No: 2

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO: _____

Bill Version: CSHB 285 (RES)

(H) Publish Date: 2/27/98

Revision Date: 02/20/98

Dept. Affected: Public Safety

Title: Point System for Commercial Fish Violation

BRU: Fish & Wildlife Protection

Component: _____

Sponsor: Representative Ivan

Requestor: House Judiciary

COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS. CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES () <small>Revenue Code</small>	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 98) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This bill would not have any significant fiscal impact on FWP.

Prepared By: Captain Joel Hard

Phone: 746-9139

Division: Fish and Wildlife Protection

Date: 02/20/98

Approved by Commissioner: Ronald L. Otte *R. Otte*

Date: 2/23/98

Agency: Department of Public Safety

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COMMITTEE COPY

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No: 1
Bill Version: CSHB 285 (RES)
(H) Publish Date: 2/23/98

Revision Date: _____ Dept. Affected: Fish and Game
Title: An Act relating to suspension or revocation of commercial fishing permits, licenses and privileges BRU: Commercial Fisheries (Limited) Entry Commission
Sponsor: Rep. Ivan Component: Limited Entry Program Administration
Requester: House Resources COMPONENT SERIAL NO. 0471

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There are 600-800 commercial fishing convictions per year which are affected by this bill. The Court System is willing to work out a methodology to electronically transfer the convictions to CFEC on a weekly basis and thereby eliminating any need for additional personal services expenditures to accomplish the work detailed in this bill. Therefore, this bill will have no fiscal impact on this agency.

Prepared By: Roger Kolden Phone: 789-6160
Agency: Commercial Fisheries (Limited) Entry Commission Date: 2/17/98
Approved by Commissioner: Bruce Twomley
Agency: Commercial Fisheries (Limited) Entry Commission Date: 2/18/98

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Alaska State House of Representatives
House District 39



Session

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Juneau, Alaska 99801-1182
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Fax: (907) 465-4589
www.akrepublicans.org/Ivan.htm

Interim

P.O. Box 137
Akiak, Alaska 99552
Phone: (907) 765-7526

Representative Ivan M. Ivan

SPONSOR STATEMENT-CSHB 285 (RES) am

This bill was introduced to address concerns of illegal fishing activities committed by commercial fishers throughout my district and other commercial fishing communities. It has been said that some of these illegal activities become a philosophy among some fishers as the "cost of doing business" should they be convicted for such activities.

The main intent of this legislation is to establish a point system against a commercial fishing permit holder for a conviction of commercial fishing laws found under Title 16. Should 12 or more points be assessed against a permit holder during any consecutive 36-month period as a result of convictions, the Commercial Fisheries Entry Commission is given the authority to suspend the permit for a one-year period. A suspension of two-years occurs when 16 or more points are accumulated during a consecutive 48-month period. A suspension of three-years is invoked when a permit holder accumulates 18 or more points during any consecutive 60 month period. Two points will be deducted from the total points assessed against a permit if the permit holder is not convicted of a violation of commercial fishing laws during a 12-month period after the date of the last conviction.

The bill outlines the assessment of points, the suspension process, the notice and appeal process and the notification to the commission by the Court System.

Another provision of CSHB 285 (RES) am affects emergency transfers of a permit. Should the permit holder decide to transfer the permit, any points accumulated by the person in possession of the permit will also be assessed against the owner of the permit. This provision will discourage permit transfers by a permit holder who has accumulated a large number of points and is trying to avoid suspension by transferring the permit to another fisher.

0-LS0879\Q
Utermohle
4/20/98

SENATE CS FOR CS FOR HOUSE BILL NO. 285()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE IVAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to suspension or revocation of commercial fishing permits,
2 licenses, and privileges; and providing for an effective date."

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

4 * Section 1. AS 16.43 is amended by adding new sections to read:

5 Article 6A. Point System for Commercial Fishing Violations.

6 Sec. 16.43.850. Point system. (a) For the purpose of identifying frequent
7 violators of commercial fishing laws, the commission shall adopt regulations
8 establishing a uniform system for the suspension of commercial fishing privileges by
9 assigning demerit points for convictions for violations of commercial fishing laws that
10 are reported to the commission under AS 16.43.880. The commission shall assess
11 demerit points against a permit holder for each violation of commercial fishing laws
12 in accordance with (b) of this section. The commission shall assess points against a
13 permit holder for the fishery in which the violation of commercial fishing laws
14 occurred.

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(b) The commission shall assess demerit points against a permit holder for a conviction of a violation of commercial fishing laws under AS 16.05.722, 16.05.723, 16.05.831; AS 16.10.055, 16.10.070 - 16.10.090, 16.10.100, 16.10.110, 16.10.120 - 16.10.130, 16.10.165, 16.10.173, 16.10.200 - 16.10.220, 16.10.240, 16.10.250, and 16.10.760 - 16.10.790 for the following violations in accordance with this schedule:

- (1) fishing in closed waters 6 points;
- (2) fishing during closed season or period 6 points;
- (3) fishing with more than the legal amount of gear 4 points;
- (4) fishing with gear not allowed in fishery 6 points;
- (5) fishing before expiration of transfer period 6 points;
- (6) interfering with commercial fishing gear 4 points;
- (7) fishing with more than the legal amount of gear
on vessel 4 points;
- (8) improper operation of fishing gear 4 points;
- (9) permit holder not present when required ~~4~~ points;
- (10) fishing with underlength or overlength vessel 6 points;
- (11) taking or possessing prohibited sex or size of fishery
resources 6 points;
- (12) wanton waste of fishery resources 4 points.

(c) The commission shall suspend a permit holder's commercial fishing privileges for a fishery for a period of

- (1) one year if the permit holder accumulates 12 or more points during any consecutive 36-month period as a result of convictions for violations of commercial fishing laws in the fishery;
- (2) two years if the permit holder accumulates 16 or more points during any consecutive 48-month period as a result of convictions for violations of commercial fishing laws in the fishery;
- (3) three years if the permit holder accumulates 18 or more points during any consecutive 60-month period as a result of convictions for violations of commercial fishing laws in the fishery.

Sec. 16.43.855. Assessment of points. (a) Notice of each assessment of

1 points shall be given to the permit holder. Notice shall also be given to the permit
2 holder before the expiration of a suspension of commercial fishing privileges under
3 AS 16.43.850(c) that subsequent violations of commercial fishing laws in the fishery
4 may result in further suspensions of the permit. The notice may be given by first class
5 mail.

6 (b) The time periods provided for in AS 16.43.850 for the accumulation of
7 points shall be based on the date of conviction, either on a plea of guilty, nolo
8 contendere, or a forfeiture of bail or collateral, or as a result of a trial, for violation of
9 a commercial fishing law.

10 (c) The assessment of points against a permit holder by the commission under
11 AS 16.43.850 - 16.43.895 is in addition to, and not in substitution for, other provisions
12 of this title and is not a substitute for any penalty imposed by a court.

13 (d) If points are assessed against a permit holder who holds a commercial
14 fishing permit under an emergency transfer approved by the commission under
15 AS 16.43.180, the same number of points shall also be assessed against the transferor
16 of the permit. Points assessed against the transferor of the permit under this subsection
17 shall be included in calculations made under AS 16.43.850(c).

18 **Sec. 16.43.860. Suspension.** (a) A permit holder whose commercial fishing
19 privileges for a fishery are suspended under AS 16.43.850 - 16.43.895 may not obtain
20 an entry permit or interim-use permit for that fishery during the period of the
21 suspension of the privileges. During the period for which the permit holder's privilege
22 to obtain an entry permit or interim-use permit for a fishery is suspended under this
23 section, the commission may not issue a permit card to the permit holder for that
24 fishery.

25 (b) A permit holder whose privilege of obtaining a commercial fishing permit
26 for a fishery is suspended under as 16.43.850 - 16.43.895 may not

27 (1) engage in the fishery under a crewmember license; or

28 (2) lease or rent the permit holder's interest in a boat to another person
29 if the boat would be used in a fishery for which the permit holder's fishing privileges
30 are suspended.

31 (c) If, during the period for which a permit holder's commercial fishing

1 privileges for a fishery are suspended, the commission establishes a limited entry
2 system for the fishery, the permit holder shall be eligible to obtain an entry permit for
3 that fishery to the extent that the permit holder qualifies for the entry permit under
4 regulations adopted by the commission. If the permit holder qualifies for an entry
5 permit for the fishery, the commission shall withhold issuance of the entry permit until
6 the period of the suspension imposed under AS 16.43.850 - 16.43.895 has expired.

7 (d) The commission may not transfer a commercial fishing permit for a fishery
8 under an emergency transfer under AS 16.43.180 if, at the time of the application for
9 the emergency transfer,

10 (1) the permit holder's fishing privileges for the fishery have been
11 suspended; or

12 (2) the permit holder has accumulated sufficient points, or is currently
13 subject to outstanding charges of violating commercial fishing laws in the fishery for
14 which the permit holder, if convicted of the charges, would accumulate sufficient
15 additional points to result in the suspension of the permit holder's commercial fishing
16 privileges for the fishery under AS 16.43.850(c).

17 **Sec. 16.43.870. Notice and appeal.** The commission shall provide notice of
18 determinations of the commission under AS 16.43.850 - 16.43.895. Respondents may
19 request a hearing under regulations adopted by the commission under AS 16.43.110.

20 **Sec. 16.43.880. Required notice to commission.** (a) A court that convicts
21 a person of a violation of commercial fishing laws under this title or under a regulation
22 adopted under this title shall forward a record of the conviction to the commission on
23 a weekly basis.

24 (b) A conviction on a plea of nolo contendere accepted by the court or a
25 forfeiture of bail or collateral deposited to secure a defendant's appearance in court
26 that has not been vacated, or as a result of trial, is a conviction for purposes of
27 AS 16.43.850 - 16.43.895.

28 **Sec. 16.43.895. Definitions for AS 16.43.850 - 16.43.895.** In AS 16.43.850 -
29 16.43.895,

30 (1) "commercial fishing law" means a statute or regulation that
31 regulates the conduct of a person engaged in commercial fishing activities by

1 establishing requirements relating to fishing licenses and permits; catch records and
2 reports; size, nature, quantity, or use of fishing vessels, sites, and gear; time, place, or
3 manner of taking fishery resources; possession, transportation, sale, barter, or waste of
4 fishery resources; or other aspects of commercial fishing;

5 (2) "commercial fishing permit" means an entry permit or an interim-
6 use permit issued under this chapter;

7 (3) "commercial fishing privileges" means the privilege of participating
8 in an activity for which a commercial fishing permit is required and the privilege of
9 obtaining a commercial fishing permit;

10 (4) "permit holder" includes the holder of a commercial fishing permit
11 as the result of an emergency transfer, an applicant for a commercial fishing permit
12 if the applicant's commercial fishing permit was suspended under AS 16.43.850 -
13 16 43.895, and a person whose privilege of obtaining a commercial fishing permit for
14 a fishery is suspended under AS 16.43.850 - 16.43.895.

15 * Sec. 2. AS 16.05.723(a) is amended to read:

16 (a) A person who negligently violates AS 16.05.440 - 16.05.690, or a
17 regulation of the Board of Fisheries or the department governing commercial fishing,
18 is guilty of a misdemeanor and in addition to punishment under other provisions in this
19 title, including AS 16.05.195 [AND 16.05.710], is punishable upon conviction by a
20 fine of not more than \$15,000 or by imprisonment for not more than one year, or by
21 both. In addition, the court shall order forfeiture of any fish, or its fair market value,
22 taken or retained as a result of the commission of the violation, and the court may
23 forfeit any vessel and any fishing gear, including any net, pot, tackle, or other device
24 designed or employed to take fish commercially, that was used in or in aid of the
25 violation. Any fish, or its fair market value, forfeited under this subsection may not
26 also be forfeited under AS 16.05.195. For purposes of this subsection, it is a
27 rebuttable presumption that all fish found on board a fishing vessel used in or in aid
28 of a violation, or found at the fishing site, were taken or retained in violation of
29 AS 16.05.440 - 16.05.690 or a commercial fisheries regulation of the Board of
30 Fisheries or the department, and it is the defendant's burden to show by a
31 preponderance of the evidence that fish on board or at the site were lawfully taken and

1 retained.

2 * Sec. 3. AS 16.10.335 is amended by adding a new subsection to read:

3 (g) If a limited entry permit that has been pledged as security under
4 AS 16.10.333 or 16.10.338 is revoked under AS 16.43.970, the debtor's interest in the
5 permit is terminated by operation of law without further notice as of the date that the
6 revocation takes effect.

7 * Sec. 4. AS 16.10.337(a) is amended to read:

8 (a) Upon a foreclosure on an entry permit as provided in AS 16.10.335 or the
9 termination of a debtor's interest in an entry permit under AS 16.10.335(g), the
10 commissioner shall offer the commission a right of first refusal if the permit is subject
11 to a buy-back program under AS 16.43.290 - 16.43.330 at a price equal to the amount
12 outstanding on the note plus any costs the department directly incurred in
13 administering the loan.

14 * Sec. 5. AS 16.43.970(a) is repealed and reenacted to read:

15 (a) A person who violates a provision of this chapter or a regulation adopted
16 under this chapter is, upon conviction, guilty of a class B misdemeanor and is
17 punishable by a fine of not more than \$5,000 for a first conviction, and a fine of not
18 more than \$10,000 for a second or third conviction. Upon a first or second conviction
19 under this subsection, the court may in its discretion also order the commission to
20 suspend the commercial fishing privileges of the person for a period of not more than
21 three years and to revoke one or more or all commercial fishing permits held by the
22 person. Upon a third or subsequent conviction under this subsection, the person is also
23 subject to a loss of commercial fishing privileges as provided under (i) of this section.
24 This subsection does not apply to violations of AS 16.43.140(a).

25 * Sec. 6. AS 16.43.970(b) is amended to read:

26 (b) A person who knowingly makes a false statement to the commission for
27 the purpose of obtaining a benefit, including the issuance, renewal, duplication, or
28 transfer of an entry or interim-use permit or vessel license or a person who assists
29 another by knowingly making a false statement to the commission for the purpose of
30 obtaining a benefit for another, is guilty of the crime of unsworn falsification as set
31 out in AS 11.56.210. Upon conviction, the person is also subject to suspension of

1 commercial fishing privileges and revocation of commercial fishing permits under
2 (i) of this section [(1) SHALL FORFEIT TO THE COMMISSION ALL INTERIM-
3 USE PERMITS AND ENTRY PERMITS AND (2) LOSES ELIGIBILITY FOR
4 INTERIM-USE PERMITS AND FOR ENTRY PERMITS FOR A PERIOD OF
5 THREE YEARS].

6 * Sec. 7. AS 16.43.970(f) if amended to read:

7 (f) A commercial fishing [AN ENTRY] permit revoked [FORFEITED] under
8 this section that is pledged [TAKEN] as security for a loan under AS 16.10.333, or
9 16.10.338, or AS 44.81.231 shall be reassigned as provided in AS 16.10.337 or
10 AS 44.81.250.

11 * Sec. 8. AS 16.43.970(g) is amended to read:

12 (g) A person who violates the provisions of AS 16.43.140(a) is

13 (1) upon a first conviction, guilty of a class B misdemeanor and may
14 be sentenced to a definite term of imprisonment of not more than 90 days, or forfeiture
15 of the person's fishing vessel, or both, and shall be sentenced to a fine of not less than
16 \$5,000 nor more than \$10,000 and loss of commercial fishing privileges under (i) of
17 this section [FOR A PERIOD OF ONE YEAR AFTER THE DATE OF
18 CONVICTION];

19 (2) upon a second conviction, guilty of a class A misdemeanor and may
20 be sentenced to a definite term of imprisonment of not more than one year, and shall
21 be sentenced to a fine of not less than \$10,000 nor more than \$20,000, forfeiture of
22 the person's fishing vessel, and loss of commercial fishing privileges under (i) of this
23 section [FOR A PERIOD OF TWO YEARS AFTER THE DATE OF CONVICTION];

24 (3) upon a third or subsequent conviction, guilty of a class A
25 misdemeanor and may be sentenced to a definite term of imprisonment of not more
26 than one year, and shall be sentenced to a fine of not less than \$20,000 nor more than
27 \$50,000, forfeiture of the person's fishing vessel, and loss of commercial fishing
28 privileges under (i) of this section [FOR A PERIOD OF FIVE YEARS AFTER THE
29 DATE OF CONVICTION].

30 * Sec. 9. AS 16.43.970 is amended by adding new subsections to read:

31 (i) Upon the conviction of a person for an offense described under (a), (b), or

1 (g) of this section, the court shall immediately notify the commission of the conviction.
2 The notice provided by the court shall be accompanied by an order suspending
3 commercial fishing privileges and revoking commercial fishing permits under (a) of
4 this section, as appropriate. The commission shall, upon receipt of

5 (1) an order from the court under (a) of this section, suspend the
6 commercial fishing privileges of a person for the period set by the court and revoke
7 commercial fishing permits held by the person as directed by the court;

8 (2) a notice from the court that a person has been convicted of a third
9 or subsequent violation of (a) of this section, suspend all commercial fishing privileges
10 of the person for a period of three years from the date of conviction and revoke all
11 commercial fishing permits held by the person;

12 (3) a notice from the court that a person has been convicted of a
13 violation described under (b) of this section, suspend all commercial fishing privileges
14 of the person for a period of three years from the date of conviction and revoke all
15 commercial fishing permits held by the person;

16 (4) a notice from the court that a person has been convicted of a
17 violation described under (g)(1) of this section, suspend all commercial fishing
18 privileges of the person for a period of one year from the date of conviction;

19 (5) a notice from the court that a person has been convicted of a
20 violation described under (g)(2) of this section, suspend all commercial fishing
21 privileges of the person for a period of two years from the date of conviction;

22 (6) a notice from the court that a person has been convicted of a
23 violation described under (g)(3) of this section, suspend all commercial fishing
24 privileges of the person for a period of five years from the date of conviction.

25 (j) In this section, "commercial fishing permit" and "commercial fishing
26 privileges" have the meanings given in AS 16.43.895.

27 * Sec. 10. AS 44.81.247 is amended by adding a new subsection to read:

28 (b) If a limited entry permit that has been pledged as security under
29 AS 44.81.231 is revoked under AS 16.43.970, the debtor's interest in the permit is
30 terminated by operation of law without further notice as of the date that the revocation
31 takes effect.

1 * **Sec. 11.** AS 44.81.250(a) is amended to read:

2 (a) Upon foreclosure of a pledge of an entry permit under AS 44.81.241 -
3 44.81.249 or the termination of a debtor's interest in an entry permit under
4 AS 44.81.247(b), the bank shall determine if the permit is subject to a buy-back
5 program under AS 16.43.290 - 16.43.330 and, if it is subject to a buy-back program,
6 shall offer the permit to the commission at a price equal to the outstanding
7 indebtedness on the loan.

8 * **Sec. 12.** AS 16.05.710(a) and 16.05.710(d)(1) are repealed.

9 * **Sec. 13.** APPLICABILITY. This Act applies to violations of commercial fishing laws
10 that occur on or after the effective date of this Act.

11 * **Sec. 14.** This Act takes effect immediately under AS 01.10.070(c).

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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Mail Stop 3101

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

MEMORANDUM

April 2, 1998

SUBJECT: SCS CSHB 285(); Suspension of commercial fishing privileges

TO: Senator Rick Halford
Attn: Brett Huber

FROM: George Utermohle *GU*
Legislative Counsel

Enclosed is a draft SCS CSHB 285() relating to suspension of commercial fishing privileges. This version of the bill provides that demerit points for commercial fishing violations are attached to the permit and not to the permit holder.

This version of the bill should be reviewed by the Division of Fish and Wildlife Protection, Alaska Commercial Fisheries Entry Commission, the Division of Investments, and the Commercial Fisheries and Agriculture Bank. This bill as originally introduced provided that the demerit points be attached to the commercial fishing permits; however a number of practical issues were raised by these agencies that dictated that the demerit points be attached to the permit holder. Those issues went away when the demerit points were attached to the permit holder. If you contact the agencies listed above they can inform you of their concerns with the approach taken by the original bill and whether those concerns still exist in regard to the proposed SCS. I can no longer remember what the precise issues were.

If I may be of further assistance, please advise.

GU:lmb
98-048.lmb

Enclosure

0-LS0879L
Utermohle
3/30/98

SENATE CS FOR CS FOR HOUSE BILL NO. 285()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE IVAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to suspension or revocation of commercial fishing permits,
2 licenses, and privileges; and providing for an effective date."

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

4 * Section 1. AS 16.43 is amended by adding new sections to read:

5 Article 6A. Point System for Commercial Fishing Violations.

6 Sec. 16.43.850. Point system. (a) For the purpose of identifying frequent
7 violators of commercial fishing laws, the commission shall adopt regulations
8 establishing a uniform system for the suspension of commercial fishing privileges by
9 assigning demerit points for convictions for violations of commercial fishing laws that
10 are reported to the commission under AS 16.43.875. In accordance with (b) and (c)
11 of this section, the commission shall assess demerit points against a commercial fishing
12 permit for the fishery in which the permit holder was convicted for a violation of
13 commercial fishing laws.

14 (b) The commission shall assess demerit points against a permit holder's

1 commercial fishing permit for each conviction of the permit holder for a violation of
 2 commercial fishing laws under AS 16.05.723, 16.05.831; AS 16.10.055, 16.10.070 -
 3 16.10.090, 16.10.100, 16.10.110, 16.10.120 - 16.10.130, 16.10.165, 16.10.173,
 4 16.10.200 - 16.10.220, 16.10.240, 16.10.250, and 16.10.760 - 16.10.790 for the
 5 following violations in accordance with this schedule:

- 6 (1) fishing in closed waters 6 points
- 7 (2) fishing during closed season or period 6 points
- 8 (3) fishing with more than the legal amount of gear 4 points
- 9 (4) fishing with gear not allowed in fishery 6 points
- 10 (5) fishing before expiration of transfer period 6 points
- 11 (6) interfering with commercial fishing gear 4 points
- 12 (7) fishing with more than the legal amount of gear
- 13 on vessel 4 points
- 14 (8) improper operation of fishing gear 4 points
- 15 (9) employing an unlicensed crewmember 2 points
- 16 (10) fishing without required documents 2 points
- 17 (11) fishing with improperly marked or unmarked vessel . . 2 points
- 18 (12) fishing with improperly marked or unmarked gear . . . 2 points
- 19 (13) permit holder not present when required 6 points
- 20 (14) fishing with underlength or overlength vessel 6 points
- 21 (15) taking or possessing prohibited sex or size of fishery
- 22 resources 6 points
- 23 (16) wanton waste of fishery resources 4 points.

24 (c) The number of points assessed against a permit holder's commercial fishing
 25 permit for a conviction of the permit holder for a violation of commercial fishing laws
 26 under AS 16.05.722 must be one-half of the points assessed for a conviction of a
 27 violation of commercial fishing laws under AS 16.05.723.

28 (d) The commission shall suspend a commercial fishing permit for a fishery
 29 for a period of

- 30 (1) one year if the permit accumulates 12 or more points during any
- 31 consecutive 36-month period as a result of convictions of the permit holder for

1 violations of commercial fishing laws in the fishery;

2 (2) two years if the permit accumulates 16 or more points during any
3 consecutive 48-month period as a result of convictions of the permit holder for
4 violations of commercial fishing laws in the fishery;

5 (3) three years if the permit accumulates 18 or more points during any
6 consecutive 60-month period as a result of convictions of the permit holder for
7 violations of commercial fishing laws in the fishery.

8 **Sec. 16.43.855. Assessment of points.** (a) Notice of each assessment of
9 points against a commercial fishing permit shall be given to the permit holder. Notice
10 shall also be given to the permit holder before the expiration of a suspension of a
11 commercial fishing permit under AS 16.43.850(d) that subsequent violations of
12 commercial fishing laws in the fishery may result in further suspensions of the permit.
13 The notice may be given by first class mail.

14 (b) The time periods provided for in AS 16.43.850 for the accumulation of
15 points shall be based on the date of conviction, either on a plea of guilty, nolo
16 contendere, or a forfeiture of bail or collateral, or as a result of a trial, for violation of
17 a commercial fishing law.

18 (c) The assessment of points against a commercial fishing permit by the
19 commission under AS 16.43.850 - 16.43.895 is in addition to, and not in substitution
20 for, other provisions of this title and is not a substitute for any penalty imposed upon
21 a permit holder by a court.

22 (d) Points assessed or assessable against a commercial fishing permit at the
23 time of a permanent or emergency transfer of the permit are transferred with the
24 permit. Points transferred with a permit must be taken into consideration in
25 accordance with the provisions of AS 16.43.850 - 16.43.895 if points are assessed
26 against the permit following the completion of the transfer.

27 **Sec. 16.43.860. Reduction of points.** Two points shall be deducted from the
28 total points assessed against a commercial fishing permit for a fishery if the permit
29 holder has not been convicted of a violation of commercial fishing laws in the fishery
30 during the 12-month period after the date of the last conviction in the fishery for which
31 points were assessed against the permit.

1 **Sec. 16.43.865. Suspension.** (a) A permit holder whose commercial fishing
2 permit for a fishery is suspended under AS 16.43.850 - 16.43.895 may not obtain an
3 entry permit or interim-use permit for that fishery during the period of the suspension
4 of the privileges. During the period for which the permit holder's privilege to obtain
5 an entry permit or interim-use permit for a fishery is suspended under this section, the
6 commission may not issue a permit card to the permit holder for that fishery.

7 (b) A permit holder whose privilege of obtaining a commercial fishing permit
8 for a fishery is suspended under (a) of this section may engage in the fishery only
9 under a crewmember license.

10 (c) If, during the period for which a permit holder's commercial fishing
11 privileges for a fishery are suspended, the commission establishes a limited entry
12 system for the fishery, the permit holder shall be eligible to obtain an entry permit for
13 that fishery to the extent that the permit holder qualifies for the entry permit under
14 regulations adopted by the commission. If the permit holder qualifies for an entry
15 permit for the fishery, the commission shall withhold issuance of the entry permit until
16 the period of the suspension imposed under AS 16.43.850 - 16.43.895 has expired.

17 **Sec. 16.43.870. Notice and appeal.** The commission shall provide notice of
18 determinations of the commission under AS 16.43.850 - 16.43.895. Respondents may
19 request a hearing under regulations adopted by the commission under AS 16.43.110.

20 **Sec. 16.43.875. Required notice to commission.** (a) A court that convicts
21 a person of a violation of commercial fishing laws under this title or under a regulation
22 adopted under this title shall forward a record of the conviction to the commission
23 within a week after the date of the conviction.

24 (b) A conviction on a plea of nolo contendere accepted by the court or a
25 forfeiture of bail or collateral deposited to secure a defendant's appearance in court
26 that has not been vacated, or as a result of trial, is a conviction for purposes of
27 AS 16.43.850 - 16.43.895.

28 **Sec. 16.43.895. Definitions for AS 16.43.850 - 16.43.895.** In AS 16.43.850 -
29 16.43.895,

30 (1) "commercial fishing law" means a statute or regulation that
31 regulates the conduct of a person engaged in commercial fishing activities by

1 establishing requirements relating to fishing licenses and permits; catch records and
2 reports; size, nature, quantity, or use of fishing vessels, sites, and gear; time, place, or
3 manner of taking fishery resources; possession, transportation, sale, barter, or waste of
4 fishery resources; or other aspects of commercial fishing;

5 (2) "commercial fishing permit" means an entry permit or an interim-
6 use permit issued under this chapter;

7 (3) "commercial fishing privileges" means the privilege of participating
8 in an activity for which a commercial fishing permit is required and the privilege of
9 obtaining a commercial fishing permit;

10 (4) "permit holder" includes the holder of a commercial fishing permit
11 as the result of an emergency transfer, an applicant for a commercial fishing permit
12 if the applicant's commercial fishing permit was suspended under AS 16.43.850 -
13 16.43.895, and a person whose privilege of obtaining a commercial fishing permit for
14 a fishery is suspended under AS 16.43.850 - 16.43.895.

15 * Sec. 2. AS 16.05.723(a) is amended to read:

16 (a) A person who negligently violates AS 16.05.440 - 16.05.690, or a
17 regulation of the Board of Fisheries or the department governing commercial fishing,
18 is guilty of a misdemeanor and in addition to punishment under other provisions in this
19 title, including AS 16.05.195 [AND 16.05.710], is punishable upon conviction by a
20 fine of not more than \$15,000 or by imprisonment for not more than one year, or by
21 both. In addition, the court shall order forfeiture of any fish, or its fair market value,
22 taken or retained as a result of the commission of the violation, and the court may
23 forfeit any vessel and any fishing gear, including any net, pot, tackle, or other device
24 designed or employed to take fish commercially, that was used in or in aid of the
25 violation. Any fish, or its fair market value, forfeited under this subsection may not
26 also be forfeited under AS 16.05.195. For purposes of this subsection, it is a
27 rebuttable presumption that all fish found on board a fishing vessel used in or in aid
28 of a violation, or found at the fishing site, were taken or retained in violation of
29 AS 16.05.440 - 16.05.690 or a commercial fisheries regulation of the Board of
30 Fisheries or the department, and it is the defendant's burden to show by a
31 preponderance of the evidence that fish on board or at the site were lawfully taken and

1 retained.

2 * Sec. 3. AS 16.10.335 is amended by adding a new subsection to read:

3 (g) If a limited entry permit that has been pledged as security under
4 AS 16.10.333 or 16.10.338 is revoked under AS 16.43.970, the debtor's interest in the
5 permit is terminated by operation of law without further notice as of the date that the
6 revocation takes effect.

7 * Sec. 4. AS 16.10.337(a) is amended to read:

8 (a) Upon a foreclosure on an entry permit as provided in AS 16.10.335 or the
9 termination of a debtor's interest in an entry permit under AS 16.10.335(g), the
10 commissioner shall offer the commission a right of first refusal if the permit is subject
11 to a buy-back program under AS 16.43.290 - 16.43.330 at a price equal to the amount
12 outstanding on the note plus any costs the department directly incurred in
13 administering the loan.

14 * Sec. 5. AS 16.43.970(a) is repealed and reenacted to read:

15 (a) A person who violates a provision of this chapter or a regulation adopted
16 under this chapter is, upon conviction, guilty of a class B misdemeanor and is
17 punishable by a fine of not more than \$5,000 for a first conviction, and a fine of not
18 more than \$10,000 for a second or third conviction. Upon a first or second conviction
19 under this subsection, the court may in its discretion also order the commission to
20 suspend the commercial fishing privileges of the person for a period of not more than
21 three years and to revoke one or more or all commercial fishing permits held by the
22 person. Upon a third or subsequent conviction under this subsection, the person is also
23 subject to a loss of commercial fishing privileges as provided under (i) of this section.
24 This subsection does not apply to violations of AS 16.43.140(a).

25 * Sec. 6. AS 16.43.970(b) is amended to read:

26 (b) A person who knowingly makes a false statement to the commission for
27 the purpose of obtaining a benefit, including the issuance, renewal, duplication, or
28 transfer of an entry or interim-use permit or vessel license or a person who assists
29 another by knowingly making a false statement to the commission for the purpose of
30 obtaining a benefit for another, is guilty of the crime of unsworn falsification as set
31 out in AS 11.56.210. Upon conviction, the person is also subject to suspension of

1 commercial fishing privileges and revocation of commercial fishing permits under
2 (i) of this section [(1) SHALL FORFEIT TO THE COMMISSION ALL INTERIM-
3 USE PERMITS AND ENTRY PERMITS AND (2) LOSES ELIGIBILITY FOR
4 INTERIM-USE PERMITS AND FOR ENTRY PERMITS FOR A PERIOD OF
5 THREE YEARS].

6 * Sec. 7. AS 16.43.970(f) is amended to read:

7 (f) A commercial fishing [AN ENTRY] permit revoked [FORFEITED] under
8 this section that is pledged [TAKEN] as security for a loan under AS 16.10.333, or
9 16.10.338, or AS 44.81.231 shall be reassigned as provided in AS 16.10.337 or
10 AS 44.81.250.

11 * Sec. 8. AS 16.43.970(g) is amended to read:

12 (g) A person who violates the provisions of AS 16.43.140(a) is

13 (1) upon a first conviction, guilty of a class B misdemeanor and may
14 be sentenced to a definite term of imprisonment of not more than 90 days, or forfeiture
15 of the person's fishing vessel, or both, and shall be sentenced to a fine of not less than
16 \$5,000 nor more than \$10,000 and loss of commercial fishing privileges under (i) of
17 this section [FOR A PERIOD OF ONE YEAR AFTER THE DATE OF
18 CONVICTION];

19 (2) upon a second conviction, guilty of a class A misdemeanor and may
20 be sentenced to a definite term of imprisonment of not more than one year, and shall
21 be sentenced to a fine of not less than \$10,000 nor more than \$20,000, forfeiture of
22 the person's fishing vessel, and loss of commercial fishing privileges under (i) of this
23 section [FOR A PERIOD OF TWO YEARS AFTER THE DATE OF CONVICTION];

24 (3) upon a third or subsequent conviction, guilty of a class A
25 misdemeanor and may be sentenced to a definite term of imprisonment of not more
26 than one year, and shall be sentenced to a fine of not less than \$20,000 nor more than
27 \$50,000, forfeiture of the person's fishing vessel, and loss of commercial fishing
28 privileges under (i) of this section [FOR A PERIOD OF FIVE YEARS AFTER THE
29 DATE OF CONVICTION].

30 * Sec. 9. AS 16.43.970 is amended by adding new subsections to read:

31 (i) Upon the conviction of a person for an offense described under (a), (b), or

1 (g) of this section, the court shall immediately notify the commission of the conviction.
2 The notice provided by the court shall be accompanied by an order suspending
3 commercial fishing privileges and revoking commercial fishing permits under (a) of
4 this section, as appropriate. The commission shall, upon receipt of

5 (1) an order from the court under (a) of this section, suspend the
6 commercial fishing privileges of a person for the period set by the court and revoke
7 commercial fishing permits held by the person as directed by the court;

8 (2) a notice from the court that a person has been convicted of a third
9 or subsequent violation of (a) of this section, suspend all commercial fishing privileges
10 of the person for a period of three years from the date of conviction and revoke all
11 commercial fishing permits held by the person;

12 (3) a notice from the court that a person has been convicted of a
13 violation described under (b) of this section, suspend all commercial fishing privileges
14 of the person for a period of three years from the date of conviction and revoke all
15 commercial fishing permits held by the person;

16 (4) a notice from the court that a person has been convicted of a
17 violation described under (g)(1) of this section, suspend all commercial fishing
18 privileges of the person for a period of one year from the date of conviction;

19 (5) a notice from the court that a person has been convicted of a
20 violation described under (g)(2) of this section, suspend all commercial fishing
21 privileges of the person for a period of two years from the date of conviction;

22 (6) a notice from the court that a person has been convicted of a
23 violation described under (g)(3) of this section, suspend all commercial fishing
24 privileges of the person for a period of five years from the date of conviction.

25 (j) In this section, "commercial fishing permit" and "commercial fishing
26 privileges" have the meanings given in AS 16.43.895.

27 * Sec. 10. AS 44.81.247 is amended by adding a new subsection to read:

28 (b) If a limited entry permit that has been pledged as security under
29 AS 44.81.231 is revoked under AS 16.43.970, the debtor's interest in the permit is
30 terminated by operation of law without further notice as of the date that the revocation
31 takes effect.

1 * Sec. 11. AS 44.81.250(a) is amended to read:

2 (a) Upon foreclosure of a pledge of an entry permit under AS 44.81.241 -
3 44.81.249 or the termination of a debtor's interest in an entry permit under
4 AS 44.81.247(b), the bank shall determine if the permit is subject to a buy-back
5 program under AS 16.43.290 - 16.43.330 and, if it is subject to a buy-back program,
6 shall offer the permit to the commission at a price equal to the outstanding
7 indebtedness on the loan.

8 * Sec. 12. AS 16.05.710(a) and 16.05.710(d)(1) are repealed.

9 * Sec. 13. APPLICABILITY. This Act applies to violations of commercial fishing laws
10 that occur on or after the effective date of this Act.

11 * Sec. 14. This Act takes effect immediately under AS 01.10.070(c).

Alaska State House of Representatives
House District 39



Session

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Representative Ivan M. Ivan

SECTIONAL ANALYSIS - CSHB 285 (RES) am

Section 1: Adds new sections to AS 16.43, Regulation of Entry into Alaska Commercial Fisheries.

Sec 16.43.850. Point System.

- (a) Establishes assignment of demerit points for convictions of violations of commercial fishing laws. The Commercial Fisheries Entry Commission will adopt regulations establishing a uniform system for the suspension of a commercial fishing permit. The Commission will also assess demerit points against a permit holder for each violation of commercial fishing laws consistent with the demerit point scheduled outlined in subsection (b) and (c) of this section.
- (b) Establishes a schedule of demerit points for violations of commercial fishing laws which are already established under Title 16.
- (c) One-half the of the points will be assessed for a conviction of a violation of commercial fishing laws under AS 16.05.722.
- (d) Requires the Commercial Fisheries Entry Commission to suspend a limited entry or interim use permit based on an aggregate number of accumulated points within a specified period of time.

Sec. 16.43.855. Assessment of Points.

- (a) Requires that notice be given to the permit holder when points are assessed. The Commission must also notify a permit holder before the expiration of a suspension that subsequent violations of commercial fishing laws may result in further suspension of the permit.
- (b) Points will be assessed against the permit holder based on the date of the conviction.

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CSHB 285 (RES)

- (c) States that the assessment of points against a permit holder is in addition to and not a substitute for other provisions of Title 16 nor is it a substitute for any penalty imposed by a court.
- (d) Points assessed against a permit holder who holds a permit under a permanent or emergency transfer will also be assessed against the transferor of the permit.

Sec. 16.43.860. Reduction of Points. Requires the deduction of two points from the total points assessed if the permit holder has not been convicted of commercial fishing laws in a fishery for which the permit was issued during a 12 month period after the date of the last conviction.

Sec. 16.43.865. Suspension.

- (a) A permit holder who has had the permit suspended may not obtain an entry permit or limited use permit for that fishery during the period of suspension.
- (b) A permit holder whose entry permit or interim use permit has been suspended may participate in the fishery only under a crew member license
- (c) If a permit holder's interim use permit is suspended and the commission established a limited entry system for that fishery, the permit holder will be eligible to obtain an entry permit for that fishery, if the permit holder qualifies for the entry permit. However, the commission will withhold issuance of the entry permit until the period of suspension has expired.

Sec. 16.43.870. Notice and Appeal. The commission will provide notice of its' determinations. A permit holder may request a hearing on the determination.

Sec. 16.43.875. Required Notice to Commission.

- (a) The Court System will forward a record of convictions on a weekly basis to the commission.
- (b) A conviction is obtained upon a plea of nolo contendere or a forfeiture of bail or collateral to secure the defendant's appearance in court that has not been vacated.

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Sec. 16.43.895. Definitions for AS 16.43.850-16.43.895. Provides definitions for "commercial fishing law," "commercial fishing permit," "commercial fishing privileges" and "permit holder."

Section 2: Amends AS 16.05.723(a), Misdemeanor commercial fishing penalties. Deletes AS 16.05.710 which gave the court the authority to suspend or revoke a permit. This authority now rests with the Commission after a certain number of points have been accumulated.

Section 3: Adds a new subsection to AS 16.10.335, Loans for purchase of Alaska limited entry permits. This subsection terminates a debtor's interest in a limited entry permit as of the date the Commission revokes the permit. This is to ensure the lending institution (the Division of Investments) is protected and can recoup its loan.

Section 4: Amends AS 16.10.337(a), Deficiencies and transfer of entry permits after foreclosure. This amendment refers to the new subsection found in section 3 of this bill.

Sections 5, 6, 7, 8, 9: AS 16.43.970(a), Penalties. The changes in these five sections do not change the effects of the current statute addressing violations of the Limited Entry Act. Violations in the law may still result in suspension and revocation under this act. However, references to forfeiture of fishing privileges by the court are eliminated in favor of referrals by the court to the Commission for suspension or revocation of fishing privileges as directed. Suspension and revocation of fishing privileges by the Commission is more consistent with the Legislature's determination that fishing privileges administered by the Commission are use privileges and not property under AS 16.43.150(e).

Section 10: Adds a new subsection to AS 44.81.247, Termination of permit interest. This subsection terminates a debtor's interest in a limited entry permit as of the date the Commission revokes the permit. This is to ensure the lending institution (CFAB) is protected and can recoup its loan.

Section 11: Amends AS 44.81.250(a), Transfer of entry permits after foreclosure. This amendment references the new subsection found in Section 10 of this bill.

Section 12: Repeals AS 16.05.710(a) and 16.05.710 (d)(1), Suspension of commercial license and entry permit. Subsection (a) allowed the courts to revoke or suspend a limited entry permit due to Title 16 violations. This authority now rests with the Commission due to points accumulations or violations of the Limited Entry Act.

Page Four
Sectional Analysis
CSHB 285 (RES)

Subsection (d)(1) is the definition of "commercial fishing law." The definition of "commercial fishing law" is now found in Section 1 of this bill.

Section 13: Applicability. This act applies to violations of commercial fishing laws that occur on or after the effective date of this bill.

Section 14: Immediate effective date.

January 26, 1997

Honorable Senator Rick Halford
Juneau, AK

Dear Senator Halford:

Illegal fishing in Bristol Bay is increasing annually. We all hear of commercial fishers fishing over the line, in closed waters during the cover of darkness or fog, before their 48 hour transfer time is up, with extra gear, and before the fishing period is open. These are some examples of what is happening. We need legislation to deter illegal fishing.

With today's illegal fishers it is like the modern day gold rush with no marshal in town. A 12 point system on the permits and boat, plus a monetary fine just like an Alaska drivers' license is recommended. Some fishers feel they do not have to adhere to the rules and regulations and make the statement, "If I get caught fishing over the line it's a \$2500 fine. The cost of doing business. No big thing. I cleared \$7000 before I was caught. I still made money with the fine." The person who fished legally becomes frustrated.

With the point system an illegal fisher would receive 6 points against the permit and 6 points against the boat, plus a monetary fine. Illegal fishers would no longer be saying, "That its the cost of doing business." With this system both the permit and boat are at stake with only 6 more points left on each before being removed from the fishery. Then most cases of illegal fishing would cease because the penalties are too high.

If that permit and boat was put on the market to be sold, points against the permit and boat would be attached. It would drive down the value of the permit and boat giving a person without a permit and boat a chance to buy into a fishery at a lower cost. Also, if there was a permit and boat on the market that had no points attached the value would go up.

A person who had acquired 12 points on the permit and boat within five years the permit and boat would be removed from the fishery forever. The person whose name was on the permit would not be able to fish in the fishery again either as a permit holder or crew person.

A person who had points deducted from the permit and boat and had no more point deductions within five years the permit and boat would resort back to zero points.

The legislation must include the same penalties for fisheries that aren't included under the limited entry program, such as, the herring fishery. The penalties received would be administered under the Limited Entry system.

The points attached to each violation has to be severe enough to deter the person from doing any illegal fishing.

The following are suggested penalties that should be against the boat and permit:

Fishing in Closed Waters-----6 points

Fishing with Extra Gear-----6 points

Selling Subsistence Fish-----6 points

-(with subsistence permit revoked for 5 years)

Fishing Before 48 Hour Transfer Period-----5 points

Boats Fishing with Extra Gear Onboard-----4 points

Fishing Between Set-Net Sites-----4 points

Crew Fishing Without License-----1 point

Boat Fishing Without Necessary Paperwork

-Blue Card Registration-----1 point

Numbers Covered on Boat-----Warning

-next offense-----1 point

Buoy Not Marked-----Warning

-next offense-----1 point

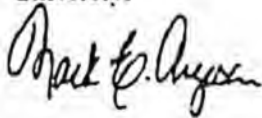
Sites

Fishing more than two 25 Fathom Sites with 1 permit---6 points

Drifting-----6 points

If you agree with this concept, legislation is needed. If you have any questions or need further clarification please call me at 246-7483. Any legal fisher shouldn't disagree with this approach.

Sincerely,



Mark E. Angasan



2550 Denali Street, Suite 1201
Anchorage, Alaska 99503-2737
(907) 276-2007 Fax (907) 279-7913

January 26, 1998

Edward E. Crane
President

VIA FAX 907-465-4589

Representative Ivan Ivan
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Re: HB285

Dear Representative Ivan,

This is to express and discuss some concerns regarding certain provisions of House Bill No. 285. We note that HB285 is scheduled by the House Resources Committee for a first hearing on January 29.

We hope that the following discussion will make clear that CFAB's concerns relate only to the possibility that certain provisions of HB285 as drafted, in some situations, may have unintended consequences and/or result in disadvantage to CFAB and its resident fishing community owners. We take no issue with the apparent philosophies and purposes of HB285, and certainly do not wish to be viewed as "opposed" to the legislation!

CFAB is the only privately-owned lender which makes loans secured by the pledges of limited entry permits, under the statutory authority of AS 44.81.215(7). The State of Alaska, through the Department of Commerce's Division of Investments makes similar loans; however, this letter presents CFAB's perspectives only.

The vast majority of CFAB loans secured by limited entry permit pledges are serviced, and ultimately repaid, in a relatively routine manner. It is in only the small remainder of cases that serious and protracted delinquencies occur. For a variety of reasons, ranging from CFAB's own policies to its recognition of the realities

Alaska Commercial Fishing and Agriculture Bank

of salmon harvesting economics, it is not at all unusual for a serious loan delinquency to be tolerated by CFAB for three years or more, and a perhaps-surprising number of those are ultimately satisfactorily resolved through payments and/or modification of terms. It is again in only a small number of those seriously delinquent situations that the loan is formally declared to be in default. "Default" is a legally-significant status which might be practically viewed as "the beginning of the foreclosure process." Once more we must say that it is in only a very small minority of these default cases that CFAB actually completes the foreclosure process by auctioning the limited entry permit involved. During the past five years, CFAB has sold only five limited entry permits.

The apparently probable reason that the "final solution" comes into play so infrequently is that most borrowers who are in default and who have no foreseeable capacity to cure the defaults realize, after analyses, that it is in their respective financial interest to sell the permits themselves, pay CFAB from the proceeds, and pocket the net difference. Allowing the foreclosure process to run its course almost always results in additional costs which reduce the ultimate net difference available to the borrower/permitholder.

All of the above is to provide background to the following discussion of HB285.

Our understanding of HB285 is that it will, among other effects, place a convicted repeat violator in jeopardy of losing his/her permit by suspension or revocation with only a minimal opportunity for mitigation. More specifically it appears, as an example, that a permitholder could accumulate 16 points during a 72-month period, receive a 2-point reduction as a result of a "clean record" during the 12 months following the latest point assessment, and then go through a period of several years during which the permit would be "tainted" by the decreasingly effective balance of outstanding points.

The latter feature would almost certainly result in financial disadvantage to the offending permitholder in the event of a sale of the permit during the period in which there are points effectively outstanding. For example, a prospective permit purchaser might be willing to pay \$100,000 for a "clean" permit in a particular fishery, but would be willing to pay only \$80,000 for a permit which has had 8 points assessed against it in the past 36 months, reasoning that his or her own violations – inadvertent or otherwise – in the ensuing 12, 24, or 36 months could result in suspension or revocation of the permit. In such a hypothetical situation, the original permitholder would effectively pay a \$20,000 penalty as a result of the point accumulation. Again, if that is among the intents of HB285, we take no issue with it.

Our concern relates to a hypothetical situation such as the above in which the original permitholder owes CFAB \$95,000, say, and has no other assets or sources of repayment. Our analysis of the effects of HB285's proposed Sections 16.43.855.(c). and 16.43.865.(e). is that if CFAB were forced to foreclose its lien on the permit at issue, CFAB would wind up selling the "tainted" permit and would record a \$15,000 loss (\$95,000 loan less \$80,000 proceeds). The borrower/permitholder, though, (again assuming he/she has no other assets CFAB can effectively reach) would have had a \$95,000 obligation extinguished by an asset which he/she could have sold for only \$80,000. Moreover, since CFAB is structured as a cooperative, the \$15,000 loss is not simply "institutional" but is effectively borne by all of its other resident harvester borrowers! We assume that the potential for such a circumstance is an unintended consequence of the provisions of HB285.

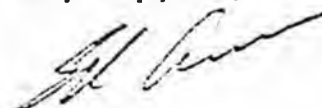
As this matter was discussed internally, one early suggestion was to propose to you a provision in HB285 that points would be "erased" upon foreclosure by CFAB (or DoI). We do not believe that would serve your intent. If there were such a provision, and using the same hypothetical situation, a borrower/permitholder who is in a mood to liquidate his/her fishing operation would simply do nothing and force CFAB to foreclose. CFAB would wind up with a "clean" permit to sell, presumably

Representative Ivan Ivan
January 26, 1998
Page 4

for \$100,000, and would be legally obligated to pay the \$5,000 of net proceeds to the original permitholder. So the latter would receive the full benefit of the \$100,000 permit value rather than the "discounted" value of \$80,000, just because there happened to be a CFAB loan! Again, we do not believe that is consistent with HB285's intents.

We would be able to speak to this issue (by telephone) at the Resources Committee's Hearing on Thursday. We're not sure that is either appropriate or necessary: First, because it is a relatively complex matter to explain and has little to do with the overall substance of HB285; and, Second, because we do not want to be construed as opposing HB285. We would be much more comfortable if we had the opportunity to discuss our concerns by phone within the next day or so with whichever of your aides is responsible for the progress of HB285. It would seem, if we've made our concerns clear and if you are willing to accommodate them, that we can find a mutually acceptable way to address them within the context of your basic purposes.

Very truly yours,



Edward E. Crane
President

cc: Martin Richard, Division of Investments
Cameron Jensen

HB

310

SENATE COMMITTEE REPORT

DATE: 3/10/98

FURTHER: Judiciary

DATE TURNED IN TO OFFICE: 3/26/98

Resources Committee considered CS FOR HOUSE BILL NO. 310(RLS)

"An Act relating to the utilization of groundfish; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Chris V. Taylor</i>	✓	<i>Lynne Orr</i>	✓		
<i>Ann Lynn</i>	✓				
<i>David J. ...</i>	✓				
<i>David D. ...</i>	✓				
CHAIR: <i>Rick Helford</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>F&G</i>	<i>3/23</i>	X	
<i>DPS</i>	<i>3/20</i>	X	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSHB 310(RLS)

Revision Date (Note if correction) _____	Dept. Affected <u>Fish and Game</u>
Title <u>Utilization of groundfish</u>	BRU <u>CFMD</u>
Sponsor <u>Rep. Austerman</u>	Component <u>Fishenes management</u>
Requester <u>Senate Resources</u>	Component Serial No. <u>1941</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by Bob Clasby
 Division Commercial Fisheries Management and Development
 Approved by Commissioner: Frank Rue Frank Rue for
 Agency Fish and Game

Phone 465-6100
 Date 3/23/98
 Date 3/23/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO: CSHB 310(RLS)

Revision Date: 03/20/98
 Title: Utilization of Groundfish
 Sponsor: Representative Austerman
 Requestor: Senate Resources

Dept. Affected: Public Safety
 BRU: Fish & Wildlife Protection
 Component: Detachments
 COMPONENT SERIAL NO. 490

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES () Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 98) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This bill would require all commercial fishers to retain and process for lawful utilization designated groundfish species caught as bycatch during any commercial fishery. This bill is consistent with Department program objectives and will not adversely impact the Division's budget.

Prepared By: Captain Joel Hard Phone: 746-9139
 Division: Fish and Wildlife Protection Date: 03/20/98
 Approved by Commissioner: Ronald P. [Signature] Date: 3/20/98
 Agency: Department of Public Safety

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**Sponsor Statement
CSHB 310 (RLS)**

CSHB 310 extends, to other groundfish species, the current ban in state law regarding the waste of pollock. It enables the Alaska Board of Fisheries to require processors to meet minimal standards for the utilization of other groundfish in addition to pollock, similar to regulations adopted by the Secretary of Commerce for offshore processors. The legislation is necessary because current state law only prohibits the waste of pollock and not other groundfish species, such as Pacific cod, rock sole, and yellowfin sole.

The State of Alaska and the North Pacific Fisheries Management Council are moving in concert to reduce waste in the groundfish fisheries of the Gulf of Alaska and Bering Sea. For several years the North Pacific Fisheries Management Council has been studying ways to reduce the discard of fish caught in the groundfish fisheries of the Bering Sea and Gulf of Alaska. The Council has determined that a large proportion of the fish discarded are discarded for economic reasons; in particular, pollock, Pacific cod, rock sole and yellowfin sole are being discarded at unacceptably high rates.

The council selected pollock and Pacific cod as targets for immediate inclusion in its plan to increase retention and utilization (IR/IU). Yellowfin sole and rock sole are scheduled to be included in the IR/IU program beginning January 1, 2003. The Council plan requires: 1) catcher vessels to retain all fish harvested of the species designated for IR/IU when directed fishing for these species is open, or the Maximum Retainable Bycatch (MRB) when directed fisheries for these species is closed; 2) a product be retained from every fish harvested; 3) processors to produce primary products that utilize at least fifteen percent of the total weight of the harvested species subject to IR/IU rules.

During the Council deliberations on IR/IU, the State of Alaska agreed to adopt a corresponding program for shorebased processors and vessels fishing for groundfish in state waters. The National Marine Fisheries Service has recently implemented a program for improved retention of pollock and Pacific cod for vessels operating in the Gulf of Alaska and Bering Sea exclusive economic zones. The state Board of Fisheries has acted to adopt mirroring regulations for the retention of pollock and Pacific cod by fishing vessels and for the utilization of pollock by processors. However, without this legislation, the board cannot regulate the utilization of Pacific cod by processors.

September 29, 1997

NMFS statement for the record on the implementation of the Improved Retention and Improved Utilization Programs for the Bering Sea/Aleutian Islands (BSAI) and Gulf of Alaska (GOA).

On September 3rd NMFS approved Amendment 49 to implement an IR/TU program for the BSAI. The comment period on Amendment 49 for the Gulf is still open so we have not made a decision to approve or disapprove the IR/TU program for the GOA. However, if approved, the GOA program is also on schedule for a January 1, 1998 implementation. In the letter to the Council announcing approval of Amendment 49 to the BSAI we projected an effective date for the program of January 1, 1998, but indicated that this date would be contingent on action by the State to implement parallel regulations to govern onshore processors. We believe that catcher boat operators could be placed in an untenable position if Federal regulations require full retention of pollock and cod and some processors refuse to accept deliveries of those species. Since then we have received word from the State that a parallel IR/TU program may not be in place before mid-1998 because statutory changes are necessary before the State can proceed with a full IR/TU program. However, the State has indicated that on an interim basis it will be able to regulate onshore retention and utilization of pollock under its existing statutory authority to prohibit roe-stripping and waste of pollock. We believe that the concerns of the catcher boat fleet will be largely addressed if the State is able to regulate onshore processing of pollock as this is the species of greatest concern to the catcher boat fleet. We therefore intend to proceed with the January 1 implementation date for the IR/TU program in the BSAI based on the understanding that the State will implement interim IR/TU regulations to govern onshore processing of pollock AND that the State will proceed with the development of a full IR/TU program for onshore processors to be implemented as soon as possible. And I again just reemphasize that this will apply to the Gulf as well provided that the Secretary does approve that amendment.

value than the target species or for which viable markets do not exist, and damaged fish rendered unsuitable for processing.

Because such discards are counted against the overall total allowable catch (TAC) established for each species, they do not represent a direct biological concern. However, they represent foregone harvest opportunities for other fishing operations that might otherwise target and utilize those fish. Furthermore, the high levels of discards represent an important social policy issue, which the fishing industry and the Council choose to address.

One of the Council's Comprehensive Fishery Management Goals, adopted in 1984, is to "Minimize the catch, mortality, and waste of non-target species, and reduce the adverse impacts of one fishery on another." In adopting this goal, the Council recognized that fish caught as bycatch in one fishery represent an allocation away from any target fishery for the bycatch species. This is especially so when a bycatch species (e.g., pollock), is fully utilized by other sectors of the industry.

In addition, a priority objective of the FMP is to "provide for the rational and optimal use, in a biological and socioeconomic sense, of the region's fisheries resources as a whole."

Consistent with these goals and objectives, many of the management programs passed by the Council and enacted by NMFS are aimed at reducing the bycatch of non-target species and thereby increasing the relative amounts of each species that are taken and utilized by target fisheries. In this context, bycatch is broadly understood to mean the unintended capture or mortality of fish regardless of whether the unwanted bycatch is subsequently discarded.

The issues of bycatch and discards of groundfish resources have been long-term subjects of Council concern. In 1993, the Council began discussion and scoping analyses of specific alternatives aimed at reducing bycatch and discards. A common thread among these alternative programs was to provide incentives to reduce the bycatch of unwanted species and to increase the utilization of those species that are caught. Alternative programs under analysis included: Individual fishing quotas for groundfish species; a "Harvest Priority" program, which would provide for quota set-asides for vessels exhibiting low bycatch rates of non-target species; and mandates for retention and utilization, with the built-in incentives for fishing operations to avoid catch of unwanted species. While other alternatives were discussed,

primary focus was given to these three alternative programs.

After public testimony and debate, the Council decided to further narrow its focus on mandatory retention and utilization requirements as the most expeditious and direct method to address groundfish discards. In addition, the Council believed that a mandatory retention program would provide significant incentives for industry to avoid bycatch in the first place and develop more selective fishing gear and methods.

In 1994, the Council examined bycatch and discard statistics and concluded that two species, pollock and rock sole, were being discarded at unacceptably high rates. The Council initially proposed an IR/IU program that would be limited to discards of pollock and rock sole in the midwater pollock and rock sole fisheries, respectively. An "Implementation Issues Assessment" was completed in March 1995 and presented to the Council's Advisory Panel (AP) and Scientific and Statistical Committee. In September 1995, the Council appointed an industry committee as a sounding board for implementation issues related to the proposed IR/IU program. Subsequently, on advice of the industry committee and the AP, Pacific cod and yellowfin sole were added to the program because discard rates for those species were also determined to be unacceptably high. The Council also extended the program to all groundfish fisheries and gear types because applying IR/IU regulations to specific target fisheries was determined to be unworkable. In December 1995, at the request of the Council, NMFS began preparation of a formal analysis Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) of the proposed IR/IU program.

The analysis determined that pollock, Pacific cod, rock sole, and yellowfin sole represent approximately 76 percent of the total discards of allocated groundfish in the BSAI groundfish fisheries (over the period of the analysis). The Council concluded that by requiring 100 percent retention of these four species, initially pollock and Pacific cod, and subsequently yellowfin and rock sole, the Council's objective of "substantially reducing discards of unprocessed groundfish" in these fisheries could be achieved. The expressed intent of the Council was to implement a program that "would provide an incentive for fishermen to avoid unwanted catch, increase utilization of fish that are taken, and thus reduce discards of whole fish." The following Problem Statement

accompanied the Council's December 1995 action:

In managing the fisheries under its jurisdiction, the North Pacific Fishery Management Council is committed to (1) Assuring the long-term health and productivity of fish stocks and other living marine resources of the North Pacific and Bering Sea ecosystem; and (2) reducing bycatch, minimizing waste, and improving utilization of fish resources in order to provide the maximum benefit to present generations of fishermen, associated fishing industry sectors, communities, consumers, and the nation as a whole. These commitments are also reflected in the Council's CRP [Comprehensive Rationalization Plan] problem statement.

The Council's overriding concern is to maintain the health of the marine ecosystem to ensure the long-term conservation and abundance of the groundfish and crab resources. As a response to this concern, a program to promote improved utilization and effective control/reduction of bycatch and discards in the fisheries off Alaska should address the following problems:

1. Bycatch and discard loss of groundfish, crab, herring, salmon, and other non-target species.
2. Economic loss and waste associated with the discard mortality of target species harvested but not retained for economic reasons.
3. Inability to provide for a long-term, stable fisheries-based economy due to loss of fishery resources through wasteful fishing practices.
4. The need to promote improved retention and utilization of fish resources by reducing waste of target groundfish species to achieve long-term sustainable economic benefits to the nation.

At the April 1996 Council meeting, the IR/IU Industry Working Group and NMFS staff made their respective reports to the AP and Council. In response, again at the urging of the AP, and supported by public testimony, the Council further modified the IR/IU options under consideration. The Council identified two retention options, the no-action or "Status Quo" alternative and a "species-based" approach. The Council also identified three utilization options (in addition to the "Status Quo" alternative), each dictating, to a greater or lesser degree, the form and extent of processing of the retained catch.

The revised proposal would apply only to BSAI groundfish fisheries, extend to all gear types, and require 100 percent retention of pollock, Pacific cod, rock sole, and yellowfin sole. In the case of the two flatfish species, the revised proposal also examined two additional sub-options: (1) Incrementally phasing in 100 percent retention over a period of time, or (2) delaying implementation of the 100 percent retention requirement until a specified date in the future. In

either case, however, the Council indicated its intent to require 100 percent retention of pollock and Pacific cod for all operations beginning January 1, 1998.

In September 1996, after extensive debate and public testimony, the Council took final action on the IR/IU program and adopted it as Amendment 49 to the FMP. The retention option adopted by the Council would require full retention of pollock and Pacific cod beginning January 1, 1998, and full retention of rock sole and yellowfin sole beginning January 1, 2003.

The utilization option adopted by the Council, the least restrictive of the three options under consideration, would allow retained catch of the four groundfish species to be processed into any product form, regardless of whether the resulting product is suitable for direct human consumption. Of present products, only meal, bait, and offal are regarded as not suitable for direct human consumption, with offal considered to be processing waste rather than a product form.

The Council also established a 15-percent minimum utilization rate or aggregate product recovery rate (PRR) by species. NMFS has calculated average PRRs for each species, product combination produced in the groundfish fisheries off Alaska. These standard PRRs are established in regulation at Table 3 of 50 CFR part 679. Because the lowest NMFS PRR for a non-roe, primary product produced from an IR/IU species is 15 percent (for deep skin pollock fillets), the IR/IU Industry Working group concluded that a 15-percent minimum utilization rate was achievable for all sectors of the industry and would allow for variations in actual PRRs by size of fish and season. If, under certain circumstances, a processor falls below 15 percent for a particular primary product, the vessel operator would be able to meet the minimum utilization requirement by retaining sufficient ancillary products to bring the aggregate utilization rate above 15 percent.

On October 11, 1996, the President signed into law the Sustainable Fisheries Act of 1996 (Public Law 104-297) which reauthorized and amended the Magnuson-Stevens Act. Several provisions of the Magnuson-Stevens Act now provide statutory authority for regulatory programs to improve retention and utilization in the groundfish fisheries off Alaska. Section 103(a)(11) of the Magnuson-Stevens Act requires the Council to "establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include

conservation and management measures that, to the extent practicable and in the following priority—(A) minimize bycatch; and (B) minimize the mortality of bycatch which cannot be avoided." In implementing this provision of the Act, the Council is further required under section 313(f) to "submit conservation and management measures to lower, on an annual basis for a period of not less than 4 years, the total amount of economic discards occurring in the fisheries under its jurisdiction." The proposed IR/IU program, submitted by the Council, is intended to meet these statutory requirements.

Elements of the Proposed IR/IU Program

Affected Vessels and Processors

The proposed IR/IU program would apply to all vessels fishing for groundfish in the BSAI and all at-sea processors processing groundfish harvested in the BSAI, regardless of vessel size, gear type, or target fishery. Because the Magnuson-Stevens Act does not authorize NMFS to regulate on-shore processing of fish, the requirements of this proposed rule would not be extended to shore-based processors.

The Council has assumed that the State of Alaska (State) will implement a parallel IR/IU program for shore-based processors. In testimony at the September 1996 and April 1997 Council meetings, the State indicated its intent to implement parallel IR/IU regulations for the shore-based processing sector. Parallel State regulations are especially necessary to address the relationship between the processing plant and the delivering vessel. A shore-based IR/IU program must require a processor to accept all IR/IU species offered for delivery by a vessel fishing for groundfish in the BSAI. Otherwise, rejection of deliveries by a processor would be the equivalent of discarding of IR/IU species by that processor.

IR/IU Species

The proposed IR/IU program would define four groundfish species as IR/IU species: pollock, Pacific cod, rock sole, and yellowfin sole. Retention and utilization requirements would apply to pollock and Pacific cod beginning January 1, 1998. Rock sole and yellowfin sole would be added to the program beginning January 1, 2003. The purpose of the 5-year delay for rock sole and yellowfin sole is to provide industry with sufficient time to develop more selective fishing techniques and/or markets for these fish.

Minimum Retention Requirements

The proposed rule would establish minimum retention requirements by vessel type (catcher vessel, catcher/processor, and mothership), and by the directed fishing status of the IR/IU species (open to directed fishing, closed to directed fishing, and retention prohibited). In general, vessel operators would be required to retain 100 percent of their catch of an IR/IU species unless a closure to directed fishing limits retention of that species. When a closure to directed fishing limits retention of an IR/IU species, the vessel operator would be required to retain all catch of that species up to the maximum retainable bycatch (MRB) amount in effect for that species, and catch in excess of the MRB amount must be discarded. The specific retention requirements by vessel type and directed fishing status are set out in table format at § 679.27(c) of the proposed regulations and are summarized below.

Catcher Vessels

Operators of catcher vessels would be required to retain all IR/IU species brought on board the vessel until the catch is lawfully transferred to an authorized party (e.g., a federally licensed processor or buying station). This requirement applies to all IR/IU species brought on board a vessel, whether harvested by the vessel itself, or transferred from another vessel. When an IR/IU species is closed to directed fishing, vessel operators would be required to retain all fish of that species brought on board the vessel up to the MRB amount in effect for that species, and discard all catch in excess of the MRB amount in effect for that species. When regulations require an IR/IU species to be treated as a prohibited species, retention of that species would be prohibited, and all catch of that species would have to be discarded.

Catcher/Processors and Motherships

Operators of catcher/processors and motherships would be required to retain a primary product from all IR/IU species brought on board the vessel until the product is lawfully transferred or offloaded to an authorized party. Because catcher/processors and motherships process groundfish at sea, discarding of processing waste from IR/IU species would be allowed provided that a primary product is retained from each fish that is brought on board the vessel. No restrictions would exist on the type of primary product produced from each IR/IU species provided that all primary and ancillary products are logged in the vessel's daily cumulative

production logbook (DCPL). Whole fish could be considered a product for the purpose of this program provided that they are logged as whole fish in the vessel's DCPL.

When an IR/IU species is closed to directed fishing, operators of catcher/processors and motherships would have to retain a primary product from all fish of that species brought on board the vessel up to the point that the round-weight equivalent of primary products equals the MRB amount in effect for that species. Catch or production in excess of the MRB amount would have to be discarded. If a closure requires an IR/IU species to be treated as a prohibited species, retention would be prohibited and all catch of that species would have to be discarded.

Retention Requirements Under Directed Fishing Closures

NMFS assesses each groundfish TAC annually to determine how much of a species' TAC is needed as bycatch in other groundfish fisheries. The remainder is made available as a directed fishing allowance. NMFS closes a species or species group to directed fishing when the directed fishing allowance for that species has been reached in order to leave sufficient portions of the TAC to provide for bycatch in other fisheries. However, if TAC is reached, retention of that species becomes prohibited and all catch of the species must be discarded. Under existing regulations, a species or species group may be open to directed fishing, closed to directed fishing, or retention may be prohibited.

Directed fishing is defined in regulations as "any fishing activity that

results in the retention of an amount of a species or species group on board a vessel that is greater than the MRB amount for that species or species group." The MRB amount for a species is calculated as a percentage (by weight) of the species closed to directed fishing relative to the weight of other species that are open for directed fishing and retained on board the vessel. On catcher/processors, which retain product rather than whole fish, the MRB amount is determined using round-weight equivalents, which are calculated using NMFS PRRs established by regulation at Table 3 of 50 CFR part 679. The MRB percentage for each species is established in regulation at Table 11 of 50 CFR part 679. When a species is closed to directed fishing, bycatch amounts of the species may still be retained on board a vessel, up to the MRB amount in effect for that species and catch in excess of the MRB amount must be discarded.

The MRB percentages serve as a management tool to slow down the rate of harvest of a species closed to directed fishing, and to reduce the incentive for fishing vessels to target on that species. In most cases, an MRB of 20 percent is established to slow the harvest rate of a species, yet avoid significant discard amounts of these species to the extent they are taken as bycatch in other open groundfish fisheries. Directed fishing closures are also made when a fishery has reached a prohibited species bycatch allowance, or to prevent overfishing of another groundfish species taken as bycatch.

Under the proposed IR/IU program, if a vessel's bycatch of an IR/IU species exceeds an MRB amount in effect for

that species, all catch in excess of the MRB amount would have to be discarded. Under such a circumstance, monitoring, enforcement, and compliance with the IR/IU program will be complicated. This situation is most likely to occur in trawl fisheries where bycatch of pollock is prevalent. Directed fishing for pollock (by inshore and offshore sectors) typically is closed from late February or early March until release of the second seasonal allowance of pollock on September 1. During this time, pollock may be a prevalent bycatch species in Pacific cod and flatfish fisheries and could comprise more than 20 percent (the MRB percentage for pollock) of total catch by some vessels. If this occurs, a vessel may be required to simultaneously retain and discard portions of the catch of an IR/IU species. The relationship between the proposed IR/IU program and directed fishing closures is illustrated in the two following examples.

Example 1: Simultaneous Compliance With IR/IU and a Directed Fishing Closure on a Catcher Vessel

Table 1 provides an example of a catcher vessel on a hypothetical fishing trip for Pacific cod while pollock is closed to directed fishing. In this example, IR/IU requirements apply only to pollock and Pacific cod as would be the case prior to 2003. The example shows the vessel operator retaining all Pacific cod and retaining pollock up to the 20 percent MRB in effect for pollock. Catch of other groundfish species not governed by the IR/IU program may be retained or discarded subject to other regulations and the discretion of the vessel operator. To simplify the example, all catch of other groundfish species is shown as discarded.

TABLE 1.—HYPOTHETICAL FISHING TRIP FOR A CATCHER VESSEL FISHING FOR PACIFIC COD WHILE DIRECTED FISHING FOR POLLOCK IS CLOSED (CATCH AND DISCARDS SHOWN IN MT)

Haul No.	Haul weight	Pacific cod			Pollock			Other species		
		Total	Ret.	Disc.	Total	Ret.	Disc.	Total	Ret.	Disc.
1	60.0	25.0	25.0	0.0	25.0	5.0	20.0	10.0	0.0	10.0
Subtotal	60.0	25.0	25.0	0.0	25.0	5.0	20.0	10.0	0.0	10.0
2	50.0	40.0	40.0	0.0	5.0	5.0	0.0	5.0	0.0	5.0
Subtotal	110.0	65.0	65.0	0.0	30.0	10.0	20.0	15.0	0.0	15.0
3	55.0	35.0	35.0	0.0	10.0	10.0	0.0	10.0	0.0	10.0
Subtotal	165.0	100.0	100.0	0.0	40.0	20.0	20.0	25.0	0.0	25.0
4	50.0	45.0	45.0	0.0	3.0	3.0	0.0	2.0	0.0	2.0
Total	215.0	145.0	145.0	0.0	43.0	23.0	20.0	27.0	0.0	27.0

Table 1 shows the vessel operator retaining and discarding pollock during a course of the fishing trip to remain in compliance with the proposed IR/IU program and the MRB amount in effect

for pollock. The disposition of pollock in each haul is as follows:

Haul 1. This haul of 60 mt contains 25 mt of Pacific cod, 25 mt of pollock, and 10 mt of other groundfish. The

vessel operator retains all 25 mt of Pacific cod in compliance with IR/IU, at his discretion discards the other groundfish and retains an amount of pollock equal to 20 percent of the

retained catch of species open to directed fishing, or 5 mt (25 mt of retained Pacific cod $\times 0.2 = 5$ mt).

Haul 2. This haul of 50 mt contains 40 mt of Pacific cod, 5 mt of pollock and 5 mt of other groundfish. The vessel operator retains all 40 mt of Pacific cod in compliance with IR/IL, at his discretion discards the 5 mt of other groundfish, and retains all 5 mt of pollock. At this point, the vessel's MRB amount for pollock equals 13 mt (65 mt retained Pacific cod $\times 0.2 = 13$ mt) and the cumulative retained catch of pollock equals 10 mt, therefore all pollock from this haul must be retained.

Haul 3. This haul of 55 mt contains 35 mt of Pacific cod, 10 mt of pollock and 10 mt of other groundfish. The vessel operator retains all 35 mt of Pacific cod in compliance with IR/IL, at his discretion discards the 10 mt of other groundfish, and retains all 10 mt of pollock. At this point, the vessel's MRB amount for pollock equals 20 mt (100 mt retained Pacific cod $\times 0.2 = 20$

mt) and the cumulative retained catch of pollock equals 20 mt.

Haul 4. This haul of 50 mt contains 45 mt of Pacific cod, 3 mt of pollock and 2 mt of other groundfish. The vessel operator retains all 45 mt of Pacific cod in compliance with IR/IL, at his discretion discards the 2 mt of other groundfish and retains all 3 mt of pollock. At this point, the vessel's MRB amount for pollock equals 29 mt (145 mt retained Pacific cod $\times 0.2 = 29$ mt) and the cumulative retained catch of pollock equals 23 mt.

At the time of delivery, the vessel's fish ticket should show landed weights of 145 mt for Pacific cod and 23 mt for pollock and the processor will report 20 mt of pollock discards and 27 mt of other groundfish discards in the NMFS daily cumulative production logbook. In this example, the delivery weight of pollock as a percentage of the delivery weight of Pacific cod is equal to 15.9 percent, which is less than the 20 percent MRB percentage for pollock. In

addition, the vessel's logbook will show 20 mt of pollock discards. Nevertheless, the vessel would be in compliance with the proposed IR/IL regulations because retention of the extra 20 mt of pollock from haul 1 would have exceeded the MRB amount for pollock at the time that haul 1 was brought on board.

Example 2: Simultaneous Compliance With IR/IL and a Directed Fishing Closure on a Catcher/Processor

Tables 2 and 3 provide an example of a catcher/processor beginning a hypothetical rock sole fishing trip during which some species are open to directed fishing and other species are closed to directed fishing. In this example, IR/IL requirements would apply to all four IR/IL species as would be the case after 2003. A hypothetical distribution of catch, retention and discard of 100 mt of groundfish under the existing status quo is displayed on Table 2, and under the proposed IR/IL program with all four IR/IL species on Table 3. Fishery status for all species in the catch is indicated as either open, closed, or retention prohibited.

TABLE 2.—HYPOTHETICAL DISTRIBUTION OF A 100 MT HAUL OF GROUND FISH FOR A CATCHER/PROCESSOR PARTICIPATING IN THE BSAI ROCK SOLE FISHERY, UNDER THE STATUS QUO

Round weight catch and discard				Retained products and round-weight equivalents			
Species	Status of fishery	Round wt. catch	Round wt. discard	Product	NMFS PRR ¹	Product wt.	Round-wt. equivalent
Rock sole	Open	52.0	31.0	H&G w/roe	0.8	16.8	21.0
Yellowfin sole	Open	6.0	4.0	H&G eastern cut	0.65	1.3	2.0
Other flatfish	Open	7.0	4.0	H&G eastern cut	0.65	1.95	3.0
Pacific cod	Open	8.0	5.0	H&G eastern cut	0.47	1.41	3.0
Sablefish	Open	0.1	0.0	H&G western cut	0.68	0.07	0.1
Other groundfish	Open	3.1	3.1	None		0.0	0.0
Subtotal		75.2	47.1				29.1
Pollock	Closed	20.0	18	H&G eastern cut	0.56	1.12	2.0
Greenland turbot	Closed	0.2	0.1	H&G eastern cut	0.65	0.07	0.1
Atka macrurus	Closed	0.7	0.2	H&G eastern cut	0.61	0.31	0.5
Arrowtooth	Closed	2.3	2.3	H&G eastern cut		0.0	0.0
Rockfish	Prohibited	0.5	0.5	None		0.0	0.0
Subtotal		23.8	21.2				2.6
Total		100.0	68.3				31.7

¹ The actual PRR realized by a particular vessel may vary from the NMFS standard PRR due to the size of fish, time of year, and adjustment of processing equipment. However, NMFS standard PRRs are always used when calculating round-weight equivalents for the purpose of determining MRB amounts. As a result, the round-weight equivalent amount for a particular product may not equal the actual round weight of fish used to produce that product.

² Round-weight equivalent of retained groundfish used to calculate MRB amounts for species closed to directed fishing.

TABLE 3.—HYPOTHETICAL DISTRIBUTION OF A 100 MT HAUL OF GROUND FISH FOR A CATCHER/PROCESSOR PARTICIPATING IN THE BSAI ROCK SOLE FISHERY, WITH IR/IL REQUIREMENTS FOR POLLOCK, PACIFIC COD, ROCK SOLE AND YELLOWFIN SOLE

Round weight catch and discard				Retained products and round-weight equivalents			
Species	Status of fishery	Round wt. catch	Round wt. discard	Product	NMFS PRR	Product wt.	Round-wt. equivalent ¹
Rock sole	Open	52.0	0.0	H&G w/roe	0.8	41.6	52.0
Yellowfin sole	Open	6.0	0.0	H&G eastern cut	0.65	3.9	6.0
Other flatfish	Open	7.0	4.0	H&G eastern cut	0.65	1.95	3.0
Pacific cod	Open	8.0	0.0	H&G eastern cut	0.47	3.76	8.0
Sablefish	Open	0.1	0.0	H&G western cut	0.68	0.07	0.1
Other groundfish	Open	3.1	3.1	None		0.0	0.0

TABLE 3.—HYPOTHETICAL DISTRIBUTION OF A 100 MT HAUL OF GROUND FISH FOR A CATCHER/PROCESSOR PARTICIPATING IN THE BSAI ROCK SOLE FISHERY, WITH IR/IU REQUIREMENTS FOR POLLOCK, PACIFIC COD, ROCK SOLE AND YELLOWFIN SOLE—Continued

Species	Status of fishery	Round weight catch and discard		Retained products and round-weight equivalents			
		Round wt. catch	Round wt. discard	Product	NMFS PRR	Product wt.	Round-wt. equivalent ¹
Subtotal		75.2	7.1				69.1 ¹
Pollock	Closed	20.0	6.2 ²	H&G eastern cut	0.56	7.73	13.8
Greenland turbot	Closed	0.2	0.1	H&G eastern cut	0.65	0.07	0.1
Atka mackerel	Closed	0.7	0.2	H&G eastern cut	0.61	0.31	0.5
Arrowtooth	Closed	2.3	2.3	H&G eastern cut		0.0	0.0
Rockfish	Prohibited	0.6	0.6	None		0.0	0.0
Subtotal		23.8	9.4				14.4
Total		100.0	16.5				83.5

¹ Round-weight equivalent of retained groundfish used to calculate MRB amounts for species closed to directed fishing.

² Pollock catch in excess of the MRB amount that must be discarded.

In Table 3, the vessel's hypothetical retained and discarded catch is redistributed from Table 2 to show that:

1. All catch of Pacific cod, yellowfin sole, and rock sole must be retained because the directed fisheries for these species are open.

2. Catch of groundfish open to directed fishing, other than Pacific cod, yellowfin sole, and rock sole, may be retained or discarded subject to other regulations.

3. With the exception of pollock, catch of groundfish closed to directed fishing may be retained up to the MRB amount.

4. Catch of pollock, for which the directed fishery is closed, must be retained up to the MRB. At that point, all additional bycatch of pollock must be discarded. Because the vessel is a catcher/processor, MRB calculations are made using round-weight equivalents of the vessel's retained products. The MRB percentage for pollock is 20 percent. In Table 3, the round-weight equivalent of retained catch of species open to directed fishing is 69.1 mt. Therefore, a round-weight equivalent of primary pollock products equal to 13.8 mt ($69.1 \text{ mt} \times 0.2 = 13.8 \text{ mt}$) must be retained and the remainder of the catch ($20 \text{ mt} - 13.8 \text{ mt} = 6.2 \text{ mt}$) must be discarded.

5. Catch of Greenland turbot and Atka mackerel do not exceed MRB percentages, so all of this catch may be retained or discarded at the discretion of the operator. Retention of rockfish is prohibited and all catch of rockfish must be discarded.

Note that in Example 2, the vessel is beginning a fishing trip and no other catch or products are retained on board.

the vessel continues the fishing trip, MRB calculations would be made based on all retained catch during the fishing trip as shown in Example 1,

rather than the retained catch from each individual haul.

Examples 1 and 2 illustrate simple cases of one species for which the vessel operator must retain a portion of the catch to meet the proposed retention standards but must simultaneously discard the remainder to comply with a pollock directed fishing closure. As more species are closed to directed fishing, or placed on prohibited status, monitoring the exact quantities of each bycatch species that must be retained and discarded will become more complicated for industry, observers, and enforcement officers.

Additional Retention Requirements

Bleeding Codends and Shaking Longline Gear

The minimum retention requirements outlined above apply to all fish of each IR/IU species that are brought on board a vessel. Any activity intended to cause the discarding of IR/IU species prior to their being brought on board a vessel, such as bleeding codends or shaking fish off longlines, would be prohibited. NMFS recognizes that some escapement of fish from fishing gear does occur in the course of fishing operations. Therefore, incidental escapement of IR/IU species, such as fish squeezing through mesh or dropping off longlines, would not be considered a violation unless the escapement is intentionally caused by action of the vessel operator or crew.

At-Sea Discard of Products

In addition to the retention requirements outlined above, the proposed rule would prohibit the at-sea discard of products from any IR/IU species. This would include any IR/IU product that has been frozen, canned, or reduced to meal.

Discard of Fish or Product Transferred From Other Vessels

The retention requirements of this proposed rule would apply to all IR/IU species brought on board a vessel, whether caught by that vessel or transferred from another vessel. Discard of IR/IU species or products that were transferred from another vessel would be prohibited.

IR/IU Species Used as Bait

IR/IU species could be used as bait provided the bait is physically attached to authorized fishing gear when deployed. Dumping IR/IU species as loose bait (e.g., chumming) would be prohibited. Minimum Utilization Requirements

Beginning January 1, 1998, all catcher/processors and motherships would be required to maintain a 15 percent utilization rate for each IR/IU species. Calculation of a vessel's utilization rate would depend on the type of vessel (catcher/processor or mothership) and directed fishing status of the IR/IU species in question. The minimum utilization requirements by vessel type and directed fishing status are set out in tables at § 679.27(h) of the proposed regulations and are summarized below.

Catcher/Processors

On a catcher/processor, when directed fishing for an IR/IU species is open, the total weight of retained or lawfully transferred products from IR/IU species harvested during a fishing trip would have to equal or exceed 15 percent of the round weight catch of that species during the fishing trip. When directed fishing for an IR/IU species is closed, the weight of retained products would have to equal or exceed either 15 percent of the MRB amount in

effect for that species or 15 percent of the round weight catch of that species, whichever is lower. When retention of an IR/IU species is prohibited, there would be no minimum utilization rate and any retention of fish or products would be prohibited.

Motherships

On a mothership, when directed fishing for an IR/IU species is open, the total weight of retained or lawfully transferred products from an IR/IU species received during a reporting week must equal or exceed 15 percent of the round weight of that species received during the same reporting week. When directed fishing for an IR/IU species is closed, the weight of retained products would have to equal or exceed 15 percent of the MRB amount in effect for that species or 15 percent of the round weight catch of that species, whichever is lower. When retention of an IR/IU species is prohibited, there would be no minimum utilization rate and any retention of fish or products would be prohibited.

Simultaneous Compliance With Retention and Utilization

A vessel operator must simultaneously meet both the minimum retention standard and the minimum utilization standard to be in compliance with the proposed IR/IU program. Compliance with either standard in the absence of the other would be considered a violation.

Recordkeeping Requirements

This proposed rule includes changes to existing recordkeeping requirements to aid the monitoring and enforcement of the IR/IU program. Beginning January 1, 1998, all catcher vessels and catcher/processors that are currently required to maintain NMFS logbooks would be required to log the round weight catch of pollock and Pacific cod in the NMFS catcher vessel daily fishing logbook (DFL) or catcher/processor DCPL on a haul-by-haul or set-by-set basis. Motherships would be required to log the receipt round weight of pollock and Pacific cod in the mothership DCPL on a delivery-by-delivery basis. Beginning January 1, 2003, this requirement would extend to rock sole and yellowfin sole. These changes are necessary to provide vessel operators and enforcement agents with round weight information for each IR/IU species in order to monitor compliance with the IR/IU program.

Technical Changes to Existing Regulations

The definition of "round weight or round-weight equivalent" at § 679.2

would be changed by restricting the definition to "round-weight equivalent". The term "round weight" is already defined by NMFS in regulations appearing at 50 CFR part 600. In addition, regulations at § 679.50(c)(ii), which specify observer coverage requirements for motherships based on "round weight or round-weight equivalent" of groundfish processed, would be revised by removing the term "round weight." Observer coverage requirements for motherships during a calendar month would therefore be based only on the round-weight equivalent of groundfish processed. This change is necessary because the terms "round weight" and "round-weight equivalent" would no longer be synonymous under the proposed rule.

Classification

At this time, NMFS has not determined that Amendment 49 is consistent with the national standards, other provisions of the Magnuson-Stevens Act, and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period, which ends August 4, 1997.

This proposed rule contains a revised collection-of-information requirement subject to the Paperwork Reduction Act (PRA). This collection-of-information requirement has been submitted to OMB for approval. The catcher vessel DFL, catcher/processor DCPL and mothership DCPL would be revised to require that vessel operators log the round weight of each IR/IU species on a haul-by-haul basis for catcher vessels and catcher/processors and a delivery-by-delivery basis for motherships. The estimated current and new public reporting burdens for these collections of information are as follows: For catcher vessels using fixed gear, the estimated burden would increase from 20 minutes to 23 minutes; for catcher vessels using trawl gear, the estimated burden would increase from 17 minutes to 22 minutes; for catcher/processors using fixed gear, the estimated burden would increase from 32 minutes to 35 minutes; for catcher/processors using trawl gear, the estimated burden would increase from 29 minutes to 34 minutes; for motherships, the estimated burden would increase from 28 to 33 minutes. Send comments regarding reporting burden estimates or any other aspect of the data requirements, including suggestions for reducing the burdens to NMFS and OMB (see ADDRESSES).

Public comment is sought regarding whether this proposed collection of

information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number.

An RIR was prepared for this proposed rule that describes the management background, the purpose and need for action, the management action alternatives, and the social impacts of the alternatives. The RIR also estimates the total number of small entities affected by this action and analyzes the economic impact on those small entities.

An IRFA was prepared as part of the RIR, which describes the impact this proposed rule would have on small entities, if adopted. The analysis examines the economic effects of this proposed rule by fishery and gear type and makes the following conclusions: (1) The economic effects of the proposed rule on vessels using longline, jig, and pot gear would not be significant; (2) the economic effects of the proposed rule on trawl catcher vessels and shore-based processors would not be significant; and (3) the economic effects of the proposed rule on trawl catcher/processor operations may or may not be significant depending upon the fishery as well as the size and processing capacity of the vessel in question.

Under the category of trawl catcher/processors, the economic effects on vessels participating in the pollock, sablefish, Greenland turbot, rockfish, and Atka mackerel fisheries would not be significant. However, the economic effects on vessels participating in the Pacific cod, rock sole, yellowfin sole, flathead sole and "other" flatfish fishery would be significant. This is because the bycatch of IR/IU species in these fisheries is substantial. The quantity of additional retained catch that operators in these fisheries would be required to handle under the proposed rule would impose significant operational costs on these fisheries, taken as a whole. This is especially true for products for which markets are limited or undeveloped (e.g., small Pacific cod, male rock sole,

and head-and-gut (H&G) pollock). Current prices for these products may be insufficient to cover the costs of their production.

In general, the impacts on any individual factory trawler operation would vary inversely with the size and configuration of the vessel, hold capacity, processing capability, markets and market access, as well as the specific composition and share of the total catch of the four IR/ILU species. The burden would tend to fall most heavily upon the smallest, least diversified operations among the current fleet. In addition, the groundfish vessel moratorium, proposed license limitation program, and U.S. Coast Guard load-line requirements severely limit reconstruction to increase vessel size and/or processing capacity. These restrictions are expected to further limit the ability of smaller catcher/processors to adapt to the proposed IR/ILU program.

NMFS data indicate that in 1995, 44 at-sea processors participated in the BSAI Pacific cod trawl fishery (4 motherships and 40 catcher/processors); 38 at-sea processors participated in the BSAI rock sole fishery (2 motherships and 36 catcher/processors); 48 at-sea processors participated in the BSAI yellowfin sole fishery (4 motherships and 44 catcher/processors); 19 catcher/processors participated in the flathead sole fishery; and 23 at-sea processors participated in the "other" flatfish fishery (1 mothership and 22 catcher/processors).

The IRFA further concludes that catcher/processors participating in the Pacific cod fishery with the capability to fillet product would face no significant burden in complying with the proposed IR/ILU program. Catcher/processors in the Pacific cod fishery that are limited to H&G product would be significantly disadvantaged because viable markets for H&G pollock do not exist. For this reason, catcher/processors limited to H&G product would be significantly disadvantaged in every fishery where substantial quantities of pollock bycatch occurs.

The physical limitations of the current fleet of catcher/processors that operate in the rock sole, yellowfin sole, flathead sole, and "other" flatfish fisheries could make adaptation to, and compliance with, the proposed IR/ILU program effectively impossible. The result may be that adoption of the proposed rule would create such an operational barrier that the rock sole fishery would be discontinued, or alternatively the small-vessel fleet, which currently comprises this fishing fleet, might be displaced by larger and more operationally diversified fleets of

vessels, (e.g., larger catcher/processors and motherships).

The no action alternative was rejected because, under a continuation of the current regulations, underutilized groundfish catches would result in an unacceptably high level of discards.

The option of requiring retention of rock sole and yellowfin sole to be phased-in beginning with the first year of the program was rejected in favor of postponing retention requirements for these species for 5 years to provide the opportunity for these fisheries to adapt and attempt to come into compliance with the proposed program.

The utilization options requiring all retained catches of the four species to be processed for direct human consumption and limiting the production of fish meal from the four species were rejected as too restrictive.

The RFA requires that the IRFA describe significant alternatives to the proposed rule that accomplish the stated objectives of the applicable statutes and that minimize any significant impact on small entities. Consistent with the stated statutory objectives, the IRFA must discuss significant alternatives to the proposed rule such as (1) establishing different reporting requirements for small entities that take into account the resources available to small entities; (2) consolidation or simplification of reporting requirements; (3) the use of performance rather than design standards; and (4) allowing exemptions from coverage for small entities. The economic impacts imposed by this rule would not be alleviated by modifying reporting requirements for small entities. Where relevant, this proposed rule employs performance standards rather than design standards and allows maximum flexibility in meeting its requirements. The Council also considered and rejected the following alternatives that might have mitigated impacts on small businesses. (1) An alternative that would have allowed exemptions or modified phase-in periods based on vessel size, was rejected because it would have diluted the reductions in bycatch and discards and would have provided an unfair competitive advantage to a certain sector of the industry. (2) A "harvest priority program" that would have rewarded vessels demonstrating low bycatch rates was rejected because it would not reduce discard rates expeditiously enough. (3) A voluntary bycatch and discard reduction program was rejected because it would not have met statutory requirements of the Magnuson-Stevens Act.

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

The Administrator, Alaska Region, NMFS determined that fishing activities conducted under this rule would not affect endangered and threatened species listed or critical habitat designated pursuant to the Endangered Species Act in any manner not considered in prior consultations on the groundfish fisheries of the BSAI.

List of Subjects in 50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements.

Dated: June 19, 1997.

Rolland A. Schmitt, Jr.

Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.2, the definitions of "IR/ILU" and "IR/ILU species" are added in alphabetical order and the heading and the definition of "round weight or round-weight equivalent" are revised to read as follows:

§ 679.2 Definitions.

• • • • •
"IR/ILU" means the improved retention/improved utilization program set out at § 679.27.

"IR/ILU species" means any groundfish species that is regulated by a retention or utilization requirement set out at § 679.27.

• • • • •
"Round-weight equivalent" means the weight of groundfish calculated by dividing the weight of the primary product made from that groundfish by the PRR for that primary product as listed in Table 3 of this part, or, if not listed, the weight of groundfish calculated by dividing the weight of a primary product by the standard PRR as determined using the best available evidence on a case-by-case basis.

3. In § 679.5, paragraphs (c)(3)(ii)(G) and (e)(2)(ii)(F) are added to read as follows:

§ 679.5 Recordkeeping and reporting.

• • • • •
(c) • • •

(3)
 (1)
 (G) The round weight catch of pollock and Pacific cod.

(e)
 (2)
 (ii)
 (F) The receipt round weight of pollock and Pacific cod.

4. Section 679.27 is added to read as follows:

§ 679.27 Improved Retention/Improved Utilization Program.
 (a) *Applicability.* The retention and utilization requirements of this section apply to any vessel fishing for groundfish in the BSAI or processing groundfish harvested in the BSAI.
 (b) *IR/IU species.* The following species are defined as "IR/IU species" for the purposes of this section:
 (1) Pollock
 (2) Pacific cod
 (3) (beginning January 1, 2003) rock sole

(4) (beginning January 1, 2003) yellowfin sole
 (c) *Minimum retention requirements—*(1) *Definition of retain on board.* Notwithstanding definitions at 50 CFR part 600, for this purpose of this section, to retain on board means to be in possession of on board a vessel.
 (2) The following table displays minimum retention requirements by vessel category and directed fishing status:

If you own or operate a	And	You must retain on board until lawful transfer
(i) Catcher vessel	(A) Directed fishing for an IR/IU species is open ...	All fish of that species brought on board the vessel.
	(B) Directed fishing for an IR/IU species is prohibited.	All fish of that species brought on board the vessel up to the MRB amount for that species.
	(C) Retention of an IR/IU species is prohibited	No fish of that species.
(ii) Catcher/ processor	(A) Directed fishing for an IR/IU species is open ...	A primary product from all fish of that species brought on board the vessel.
	(B) Directed fishing for an IR/IU species is prohibited.	A primary product from all fish of that species brought on board the vessel up to the point that the round-weight equivalent of primary products on board equals the MRB amount for that species.
(i) Mothership	(C) Retention of an IR/IU species is prohibited	No fish or product of that species.
	(A) Directed fishing for an IR/IU species is open ...	A primary product from all fish of that species brought on board the vessel.
	(B) Directed fishing for an IR/IU species is prohibited.	A primary product from all fish of that species brought on board the vessel up to the point that the round-weight equivalent of primary products on board equals the MRB amount for that species.
	(C) Retention of an IR/IU species is prohibited	No fish or product of that species.

(d) *Bleeding codends and shaking longline gear.* Any action intended to discard or release an IR/IU species prior to being brought on board the vessel is prohibited. This includes, but is not limited to bleeding codends and shaking or knocking fish off longline gear.

(e) *At-sea discard of product.* Any product from an IR/IU species that has been frozen, canned, or reduced to meal may not be discarded at sea.

(f) *Discard of fish or product transferred from other vessels.* The retention requirements of this section apply to all IR/IU species brought on board a vessel, whether harvested by that vessel or transferred from another vessel. At-sea discard of IR/IU species or products that were transferred from another vessel is prohibited.

(g) *IR/IU species as bait.* IR/IU species may be used as bait provided that the deployed bait is physically secured to

authorized fishing gear. Dumping of unsecured IR/IU species as bait (chumming) is prohibited.

(h) *Minimum utilization requirements.*

(1) *Catcher/processors.* If you own or operate a catcher/processor, the minimum utilization requirement for an IR/IU species harvested in the BSAI is determined by the directed fishing status for that species according to the following table:

If	Your total weight of retained or lawfully transferred products produced from the catch of that IR/IU species during a fishing trip must
(i) Directed fishing for an IR/IU species is open.	Equal or exceed 15 percent of the round weight catch of that species during the fishing trip.
(ii) Directed fishing for an IR/IU species is prohibited.	Equal or exceed 15 percent of the round weight catch of that species during the fishing trip or 15 percent of the MRB amount for that species, whichever is lower.
(iii) Retention of an IR/IU species is prohibited.	Equal zero.

(2) *Motherships.* If you own or operate a mothership, the minimum utilization requirement for an IR/IU species harvested in the BSAI is determined by the directed fishing status for that species according to the following table:

If	Your weight of retained or lawfully transferred products produced from deliveries of that IR/IU species received during a reporting week must
(i) Directed fishing for an IR/IU species is open.	Equal or exceed 15 percent of the round weight of that species received during the reporting week.

If . . .	Your weight of retained or lawfully transferred products produced from deliveries of that IR/U species received during a reporting week must . . .
(ii) Directed fishing for an IR/U species is prohibited.	Equal or exceed either 15 percent of the round weight of that species received during the reporting week or 15 percent of the MRB amount for that species, whichever is lower.
(iii) Retention of an IR/U species is prohibited.	Equal zero.

5. In § 679.50, paragraphs (c)(1)(i) and (c)(1)(ii) are revised to read as follows:

§ 679.50 Groundfish Observer Program applicable through December 31, 1997.

(c) . . .

(1) . . .

(i) A mothership of any length that processes 1,000 mt or more in round-weight equivalent of groundfish during a calendar month is required to have an observer aboard the vessel each day it receives or processes groundfish during that month.

(ii) A mothership of any length that processes from 500 mt to 1,000 mt in round-weight equivalent of groundfish during a calendar month is required to have an observer aboard the vessel at least 30 percent of the days it receives or processes groundfish during that month.

[FR Doc. 97-16697 Filed 6-25-97; 8:45 am]

BILLING CODE 3510-22-P

HB

370

SENATE COMMITTEE REPORT

DATE: 4/7/98

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 15 APRIL 1998

Resources Committee considered CS FOR HOUSE BILL NO. 370(FIN)

"An Act making appropriations for relief of the 1997 economic disaster in Bristol Bay and on the Kuskokwim River; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

- same title
- new title
- House Bill:**
- same title
- technical title
- new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Arew D. Sevan</i>	✓	<i>John M. Neuman</i>	✓		
<i>Demetrius L. ...</i>	✓	<i>Ben ...</i>	✓		
		<i>... Green</i>	✓		
CHAIR: <i>Paul Halford</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill



Alaska State Legislature

Official Business

State Capitol

Juneau, Alaska 99801-1182

HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

SPONSOR STATEMENT-COMMITTEE SUBSTITUTE FOR HOUSE BILL 370 (FIN)

CSHB 370 (FIN) appropriates \$1.48 million in general funds and over \$390,000 from the commercial fishing revolving loan fund as a match for the \$7 million in Magnuson-Stevens federal funds. These state and federal funds will provide for programs designed to assist communities and fishermen in the Kuskokwim and Bristol Bay regions that were declared economic disaster areas by the administration. This declaration was issued in response to the poor fishing returns that occurred in both areas this past summer.

The total amount of the state share is \$2.3 million. However, with in kind contributions by the communities and the Department of Community and Regional Affairs, the amount actually needed for the state's share is \$1.875 million.

The allocation within the regions is based on input from the Coordinated Response Partnership teams from both areas. The plan to provide relief was adopted after approval was given by the U.S. Department of Commerce. Commerce provided guidelines which the CRP's had to follow in order to receive federal funds for disaster relief under Magnuson-Stevens.

The following programs will be funded from this appropriation:

- Loan program to Bristol Bay, Chignik and Kuskokwim permit holders that are in financial crisis. This program will be administered by the Division of Investments for DCRA. This program is based on need and should be used to pay past or future expenses. At least 51% of earned family income must be derived from commercial fishing in one of the above mentioned fisheries. The loan applicant must provide collateral such as a permanent fund dividend check.

- Community Grant Program for projects that are of direct or indirect benefit to the fisheries, that sustain the economic viability of communities, help diversify the economy or assess the economic or social effects of the commercial fisheries failure. These grants will provide jobs to fishers, benefiting them as well as communities affected by the disaster.
- Economic planning in the Kuskokwim region. These funds will be used to enhance economic planning capability and/or continue economic planning process and procedures.
- Fisheries education, training and research such as smolt outmigration, salmon escapement counts and selected resource management issues. Awards will be made on a competitive basis. DCRA will seek proposals from the two regions and a grant review committee will determine grant awards.

A portion of the funds will be used by the DCRA for administrative costs associated with administering the program.

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF INVESTMENTS

P.O. BOX 34159
3032 VINTAGE BLVD.
JUNEAU, ALASKA 99803-4159
PHONE: (907) 465-2510
FAX: (907) 465-2103
TDD: (907) 465-5437

Dear Applicant:

February 20, 1998

Enclosed is an application package, which may be used to apply for a loan under the Bristol Bay/Kuskokwim Disaster Loan Program. Individuals that held limited entry permits in the Bristol Bay, Kuskokwim or Chignik fisheries as of December 31, 1997, may apply if at least 51% of the income earned by their family was derived from fishing in one of these fisheries. Loans are for \$1,000 and may be used to cover past or future expenses. Each qualified individual is eligible to apply for only one loan. Funding for this program is limited and, as a result, individuals are encouraged to turn in their applications as soon as possible. If there are insufficient funds to cover all requests, applications will be processed on a first come, first served basis. **ALL APPLICATIONS MUST BE RECEIVED BY THE DIVISION OF INVESTMENTS CENTRAL OFFICE AS NOTED ABOVE NO LATER THAN APRIL 15, 1998.**

All loans must be secured by collateral acceptable to the Division of Investments. If you are eligible to receive permanent fund dividends and are willing to pledge a portion of your 1999 and 2000 dividends to repay this loan, your application can be processed quickly without further collateral information and no fees will be required. If you are not eligible to receive permanent fund dividends, have already assigned your dividend for other purposes, or do not want to pledge a portion of your 1999 and 2000 dividends, you will need to complete the Assurance Statements portion of the enclosed application and then contact staff at the Division (NO LATER THAN APRIL 15, 1998) to discuss the documentation and fees necessary to complete the loan.

Please use the checklist on the back of this letter to insure that you have included all of the information necessary to process your loan quickly. If your application is approved, a check will be sent as soon as funds for this Program are received from the U.S. Department of Commerce, which we estimate to be the end of March.

CHECKLIST

Applicants offering **PERMANENT FUND DIVIDENDS** as collateral:

- 1. Fill in all of the information at the top of the Loan Application form, including Social Security Number, Date of Birth, and Phone Number.
- 2. Answer the two questions under the Collateral section.
- 3. Sign, print your name, and date the Assurance Statements at the bottom of the application form.
- 4. Have two witnesses sign, print their names, and date the Assurance Statements at the bottom of the Application form.
- 5. Sign, print your name, and date the Promissory Note on the back of the Application form.
- 6. Fill in the Assigner information (Date of Birth, Social Security Number, Name, Address and Phone Number) at the top of **BOTH** "Assignment of Rights to Alaska Permanent Fund Dividend" forms. Sign and date the forms (Assignor's signature). Have the forms notarized **OR** have two witnesses sign and complete the witness boxes at the bottom of the forms.
- 7. Return the completed Application page/Promissory Note and **BOTH** Permanent Fund Dividend Assignment forms to the Division in the enclosed envelope.

Applicants **NOT** offering Permanent Fund Dividends as collateral:

- 1. Fill in all of the information at the top of the Loan Application form, including Social Security Number, Date of Birth, and Phone Number.
- 2. Answer the two questions under the Collateral section.
- 3. Sign, print your name, and date the Assurance Statements at the bottom of the Application form.
- 4. Have two witnesses sign, print their names, and date the Assurance Statements at the bottom of the Application form.
- 5. Return the completed Application page to the Division in the enclosed envelope.
- 6. Call the Division of Investments at 1-800-478-LOAN (within Alaska) or 1-907-465-2510 to discuss the collateral you want to offer, any fees involved, and the documentation necessary to complete the loan. **YOU MUST CALL THE DIVISION PRIOR TO THE APRIL 15, 1995 DEADLINE.**

**Alaska Division of Investments
1-800-478-LOAN
1-907-465-2510**

Bristol Bay/Kuskokwim Disaster Loan Application

Applicant's Name	Social Security Number
Permanent Mailing Address	Date of Birth
Permit Number	Home Phone Number

Collateral

All loans must be secured by collateral acceptable to the Division of Investments. If you are qualified to receive permanent fund dividends and are willing to pledge a portion of your 1999 and 2000 dividends to repay this loan your application can be processed quickly without additional collateral information and no fees will be required. You simply need to complete this application form and the promissory note on the back; fill out the attached "Assignment of Rights to Alaska Permanent Fund Dividend" forms; have these forms notarized or witnessed by two individuals and return the assignment forms and completed application to the Division.

1. Do you anticipate receiving Alaska Permanent Fund Dividends in 1999 and 2000? Yes ___ No ___
2. Do you want to secure this loan with a portion of these dividends? Yes ___ No ___

If you are not eligible to receive permanent fund dividends, have already assigned your dividend for other purposes, or do not want to pledge a portion of your 1999 and 2000 dividends, you will need to complete and sign the Assurance Statements at the bottom of the page, have these statements witnessed by two individuals, return the completed form (Do not complete the Promissory Note on the back), and contact the Division no later than April 15, 1998, to discuss the documentation and any fees necessary to complete the loan.

Assurance Statements

To qualify for a loan you must agree to the following:

1. I hereby certify that the loan I am requesting is necessary to pay past or future expenses.
2. I hereby certify that at least 51% of the income earned by my family in 1995 and 1996 was derived from fishing in the Bristol Bay, Kuskokwim or Chignik fisheries.
3. I authorize the Division of Investments or its designee to obtain information from, or release any information contained in this application to any State or Federal Agency, and I agree to provide my personal records as needed to verify the assurances contained here.
4. I certify under penalty of perjury that all the information provided in this application and attachments are true, accurate and complete. I am aware that the maximum penalty for perjury, a Class B felony under AS 11 56 200(c), is a fine of up to \$50,000 (AS 12.55.015(b)(2)) and imprisonment for up to 10 years (AS 12.55.125(d)).

Please sign and date below to verify that you agree to the above referenced statements.

Applicant Signature

Witness Signature

Witness Signature

Applicant Printed Name

Witness Printed Name

Witness Printed Name

Date

Date

Date

PROMISSORY NOTE

\$1,000.00

FOR VALUE RECEIVED, the undersigned (hereinafter referred to as the 'Borrower'), severally and jointly promises to pay to the order of the STATE OF ALASKA, DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT, DIVISION OF INVESTMENTS (hereinafter referred to as the 'Lender'), its successors or assigns, the principal sum of *One Thousand Dollars (\$1,000.00)*.

The principal is payable at the office of the Lender at PO Box 31159, Juneau, Alaska 99803-4159, or any other place the holder of this note may designate in writing. Payments are to be made in equal annual installments of \$500.00, principal due on the first day of December, commencing December 1, 1999 and continuing until paid in full.

The final payment is due and payable no later than the first day of December, 2000. Payments under this note will be applied first to costs, expenses, and late fees, due under the terms of the Loan Agreement, this note, modifications to this note, or an instrument securing this note, (hereinafter referred to as 'Loan Documents'), and then to principal.

This note may be prepaid in whole or in part at any time without penalty. A prepayment will be applied as a principal reduction unless otherwise agreed to by the lender. A prepayment will not affect the amount or due date of any subsequent payments due pursuant to the Loan Documents.

If an installment of the note is not paid when due, or in case of failure to perform a covenant or agreement contained in the Loan Documents, then, at the option of the Lender, the entire principal sum due pursuant to the Loan Documents shall become immediately due and payable without notice at the option of the Lender. If a payment is received by the Lender more than fifteen (15) days after the date prescribed above for payment, the Borrower agrees to pay a late charge of five percent (5%) of the payment.

If suit, action, or effort is instituted or undertaken to collect, enforce, or preserve the note, or part of this note, or security for this note, including but not limited to an action or effort arising from bankruptcy or similar proceeding, then the Borrower promises and agrees to pay all expenses and costs, including actual attorney's fees and legal expenses, reasonably incurred by the Lender in such suit, action, proceeding, or endeavor. The Borrower agrees that venue of a suit on this note may, in the Lender's discretion, be in the First Judicial Court of Alaska.

This note is secured by assignment of Alaska Permanent Fund Dividend for the years 1999 and 2000. PFD applications must be filed for both of these years. If the dividend is not received by the Division, an equal amount will be due by December 1 of that year.

Borrower Signature

Date

Borrower Name (Print)

Information below to be completed by Division of Investments staff only:

Loan number _____	Document number _____
Approval _____	Date ordered _____
Date approved _____	Certified _____
Loan Closer _____	LOIS/Collateral _____
	Initial _____ Date _____
	Final Review _____
	Initial _____ Date _____

ASSIGNMENT OF RIGHTS TO ALASKA PERMANENT FUND DIVIDEND

SEND TO:
Alaska Department of Revenue
P.O. Box 110453
Juneau, Alaska 99811-0453

**ASSIGNMENTS MAY NOT BE ACCEPTED BY
THE PERMANENT FUND DIVIDEND DIVISION
BEFORE APRIL 1 OF THE DIVIDEND YEAR**

The Above Space is for Office Use Only

IMPORTANT! PLEASE READ

- If you want to assign all or part of your permanent fund dividend, complete this form and send the original to the address shown above. Incomplete Assignment of Rights forms will NOT be processed.
- The department will NOT implement an assignment of a permanent fund dividend unless the assignee named is a federal, state, or municipal agency or a court. (AS 43.23.069)
- The Department of Revenue will NOT implement an assignment of a permanent fund dividend for a credit except for court-ordered restitution, a court-ordered fine or for court-appointed attorney fees. (15 AAC 23.203(b))
- Only one assignment may be made for each dividend. (15 AAC 23.203(c))
- Once an assignment has been submitted to the Department of Revenue, it may NOT be changed or revoked. (15 AAC 23.203(c))
- The Department of Revenue will NOT accept a photocopy of the completed Assignment of Rights form.
- The Department of Revenue will NOT accept an Assignment of Rights form with ANY changes or corrections on the form.

ASSIGNOR'S SIGNATURE REQUIRED

This assignment must be signed in the presence of EITHER a notary public OR two witnesses. In addition, the assignor must identify the obligation to which the assignment relates by checking only one of the following boxes.

This assignment is:

- A. for child support required by court order or a decision of the Child Support Enforcement Division.
- B. for court-ordered restitution under AS 12.55.045 -- 12.65.051 or AS 12.55.100.
- C. to the Alaska Commission on Postsecondary Education.
- D. for a court-ordered fine.
- E. to another State of Alaska agency.
- F. to another federal or municipal government agency or to a court.

In accordance with AS 43.23.069 and 15 AAC 23.203, I hereby assign to the agency named (Assignee), all rights to the current permanent fund dividend to which I may be entitled, limited to the amount stated, and I certify that the assignment is to satisfy an obligation as identified above.

Assignor's Signature	Date
X	

ASSIGNOR (Dividend Applicant)

Your Date of Birth			Your Social Security Number			
Month	Day	Year				
Your First Name		M.I.	Last Name			
Your Mailing Address						
City, State, Zip Code						
Your Home Phone Number				Your Work Telephone Number		

You are not required to provide your social security number. If provided, it will help to identify the correct permanent fund dividend application.

ASSIGNEE (Rights Assigned To)

Current Permanent Fund Dividend Year	Amount to be Assigned (if the amount, write 100%)
1999	\$500
Full Name of the Government Agency to Which You Are Assigning Your Dividend	
Alaska Division of Investments	
Mailing Address	
P.O. Box 34159	
City, State, Zip Code	
Juneau, Alaska 99603-4159	
Daytime Telephone Number (if known)	Case Number (if applicable)
(907) 465-2510	

NOTARY PUBLIC

This assignment was subscribed and sworn

to before me on this _____ day of

_____ 19 _____

at _____

SEAL

Signature of Notary _____

My Commission Expires _____

TWO WITNESSES

The assignor named above has shown me proof of his or her identification. This assignment was executed freely and voluntarily in my presence. I am a disinterested witness who will not benefit from this assignment.

Signature of Witness	Date	Signature of Witness	Date
X		X	
Printed Name of Person Who Signed Above		Printed Name of Person Who Signed Above	
Mailing Address		Mailing Address	
City, State, Zip Code		City, State, Zip Code	
Daytime Telephone Number		Daytime Telephone Number	

**ASSIGNMENTS MAY NOT BE ACCEPTED BY THE PERMANENT FUND DIVIDEND
DIVISION BEFORE APRIL 1 OF THE DIVIDEND YEAR.**

ASSIGNMENT OF RIGHTS TO ALASKA PERMANENT FUND DIVIDEND

SEND TO:
Alaska Department of Revenue
P.O. Box 112453
Juneau, Alaska 99811-0463

**ASSIGNMENTS MAY NOT BE ACCEPTED BY
THE PERMANENT FUND DIVIDEND DIVISION
BEFORE APRIL 1 OF THE DIVIDEND YEAR**

IMPORTANT! PLEASE READ

- If you want to assign all or part of your permanent fund dividend, complete this form and send the original to the address shown above. Incomplete Assignments of Rights forms will NOT be processed.
- The department will NOT implement an assignment of a permanent fund dividend unless the assignee named in a federal, state, or municipal agency or a court. (AS 43.23.063)
- The Department of Revenue will NOT implement an assignment of a permanent fund dividend for a child except for court ordered restitution, a court ordered fine or for court appointed attorney fees. (15 AAC 23.203(b))
- Only one assignment may be made for each dividend. (15 AAC 23.203(c))
- Once an assignment has been submitted to the Department of Revenue, it may NOT be changed or revoked. (15 AAC 23.203(c))
- The Department of Revenue will NOT accept a photocopy of the completed Assignment of Rights form.
- The Department of Revenue will NOT accept an Assignment of Rights form with ANY changes or corrections on the form.

ASSIGNOR'S SIGNATURE REQUIRED

This assignment must be signed in the presence of EITHER a notary public OR two witnesses. In addition, the assignor must identify the obligation to which the assignment relates by checking only one of the following boxes.

This assignment is:

- A. for child support required by court order or a decision of the Child Support Enforcement Division.
- B. for court ordered restitution under AS 12.55.045 -- 12.55.051 or AS 12.55.100.
- C. to the Alaska Commission on Postsecondary Education.
- D. for a court ordered fine.
- E. to another State of Alaska agency.
- F. to another federal or municipal government agency or to a court.

In accordance with AS 43.23.009 and 15 AAC 23.203, I hereby assign to the agency named (Assignee), all rights to the current permanent fund dividend to which I may be entitled, limited to the amount stated, and I certify that the assignment is to satisfy an obligation as identified above.

Assignor's Signature _____ Date _____
X

TWO WITNESSES

The assignor named above has shown me proof of his or her identification. This assignment was executed freely and voluntarily in my presence. I am a disinterested witness who will not benefit from this assignment.

Signature of Witness _____	Date _____
Printed Name of Witness Who Signed Above _____	
Witness Address _____	
City, State, Zip Code _____	
Daytime Telephone Number _____	

ASSIGNMENTS MAY NOT BE ACCEPTED BY THE PERMANENT FUND DIVIDEND DIVISION BEFORE APRIL 1 OF THE DIVIDEND YEAR

DA 400 (Rev. 6/2003)

The Above Space is to Office Use Only

ASSIGNOR (Dividend Applicant)

Your Date of Birth		Year		Your Social Security Number	
Month	Day	Year			
Your First Name			M	Last Name	
Your Mailing Address					
City, State, Zip Code					
Your Home Phone Number			Your Work Telephone Number		

You are not required to provide your social security number. If provided, it will help to identify the correct permanent fund dividend application.

ASSIGNEE (Rights Assigned To)

Current Permanent Fund Dividend Year	Amount to be Assigned (if full amount, enter 100%)
2000	\$500
Full Name of the Government Agency to Which The Are Assigning Your Dividend	
Alaska Division of Investments	
Mailing Address	
P.O. Box 34159	
City, State, Zip Code	
Juneau, Alaska 99803-4159	
Daytime Telephone Number (if known)	Case Number (if applicable)
(907) 465-2610	

NOTARY PUBLIC

This assignment was subscribed and sworn

to before me on this _____ day of

_____ 19 _____

SEAL

Signature of Notary _____
My Commission Expires _____

**STATE OF ALASKA
GRANT APPLICATION
TO THE
U.S. DEPT. OF COMMERCE
NATIONAL OCEANIC & ATMOSPHERIC ADMINISTRATION**

**BRISTOL BAY / KUSKOKWIM RIVER
FISHERIES DISASTER PROJECT**



SUBMITTED BY

**ALASKA
DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS**

GOVERNOR TONY KNOWLES

COMMISSIONER MIKE IRWIN

APPLICATION FOR FEDERAL ASSISTANCE		2. DATE SUBMITTED February 4, 1998	Applicant Identifier
1. TYPE OF SUBMISSION <i>Application</i> <i>Preapplication</i> <input type="checkbox"/> Construction <input type="checkbox"/> Construction <input checked="" type="checkbox"/> Non-Construction <input type="checkbox"/> Non-Construction		3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name: State of Alaska	Organizational Unit: Dept. of Community & Regional
Address (give city, county, state and zip code): 333 West 4 th Ave., Suite 220 Anchorage, AK 99501-2341	Name and telephone number of the person to be contacted on matters involving this application (give area code): James C. Sanders (907) 269-4591
6. EMPLOYER IDENTIFICATION NUMBER (EIN): <u>9 2 - 6 0 0 1 1 8 5</u>	7. TYPE OF APPLICANT: (Enter appropriate letter) <u>A</u> A. State H. Independent School District B. County I. State Controlled Institution of Higher Learning C. Municipal J. Private University D. Township K. Indian Tribe E. Interstate L. Individual F. Intermunicipal M. Profit Organization G. Special District N. Other (Specify): _____
8. TYPE OF APPLICATION <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es): _____ A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration E. Other (specify): _____	
10. Catalog of Federal Domestic Assistance Number: 11-477 TITLE: Magnuson-Stevens Act	9. NAME OF FEDERAL AGENCY: U.S. Department of Commerce National Oceanic and Atmospheric Administration
2. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.): State of Alaska	11. DESCRIPTIVE TITLE OF APPLICANTS PROJECT: Bristol Bay / Kuskokwim River Fisheries Disaster Project

13. PROPOSED PROJECT: | **14. CONGRESSIONAL DISTRICTS OF:**

Start Date March 1, 1998	Ending Date February 28, 2001	a. Applicant Ted Stevens, Senator Frank Murkowski, Senator Don Young, Representative	b. Project Ted Stevens, Senator Frank Murkowski, Senator Don Young, Representative
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15. ESTIMATED FUNDING:	16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. Federal \$7,000,000	a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____
b. Applicant \$2,333,333	b. NO <input checked="" type="checkbox"/> PROGRAM IS NOT COVERED BY E.Q. 12372
c. State \$	____ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
d. Local \$	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
e. Other \$	Yes If "Yes" attach an explanation. <input checked="" type="checkbox"/> No
f. Program Income \$	
g. TOTAL \$9,333,333	

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PRE APPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative Mike Irwin	b. Title: Commissioner, Alaska Department of Community and Regional Affairs	c. Telephone Number (907) 465-4701
. Signature of Authorized Representative		e. Date Signed

KEY CONTACTS

AUTHORIZED REPRESENTATIVE - This is the individual who has the authority to sign the Application for Federal Assistance (SF-424) and execute the Agreement on behalf of the applicant.

NAME: Mike Irwin

TITLE: Commissioner

Alaska Department of Community & Regional Affairs

TELEPHONE: (907) 465- 4701

PROGRAM/PROJECT MANGER - This is the individual who is responsible for the management of the project for the applicant.

NAME: James C. Sanders

TITLE: Regional Offices Manager

TELEPHONE: (907) 269-4591

FINACIAL REPESENTATIVE - This is the individual who has been assigned responsibility for the maintenance of the accounting and financial management system for the applicant.

NAME: Mary Stovall

TITLE: Administrative Manager

TELEPHONE: (908) 269 - 4512

**STATE OF ALASKA
BRISTOL BAY AND KUSKOKWIM
FISHERIES DISASTER PROJECT NARRATIVE**

The Bristol Bay and Kuskokwim Fisheries Disaster Program consist of four project components designed to address the commercial fishery failure declared in the two regions under the Magnuson-Stevens Fishery Conservation and Management Act. There will be; a community grant program; a loan program to Bristol Bay, Kuskokwim and Chignik permit holders; economic planning grants and fisheries' education, training and research grants.

The Department of Community and Regional Affairs will administer the grants funds through sub-grants with local municipalities, tribal councils and non-profit entities in the regions. Mike Irwin, Commissioner of Community and Regional Affairs, will be the principle investigator and responsible for the program.

Total funding available will be \$9,333,333. This figure is derived from \$7 million in federal funds and a required one-for-three match by the State of Alaska. Alaska's matching share will be \$2,333,333. Twenty percent of the \$9,333,333 is set aside for the individual loan program. Of the remaining allocation, the percentage distribution will be as noted below. (The figures cited beside the heading in each grant category reflect these percentages.)

<u>Kuskokwim</u>	<u>Bristol Bay</u>
Grants 84%	Grants 98%
Fisheries Research 10%	Fisheries Research 2%
Economic Studies 6%	

Allocations between the two regions and their communities are based on the number of individuals holding salmon permits and the residents who fished commercially as crew members. A table with the funding allocation is shown below. It is based on 1997 permit holders and the current available crew license data.

PROGRAM COMPONENT	BRISTOL BAY REGION (58%)	KUSKOKWIM REGION (42%)	TOTAL
Loan Program	1,082,667	784,000	1,866,667
Community Grants	4,137,951	2,568,384	6,706,335
Fisheries Research	84,448	305,760	390,208
Economic Planning		183,456	183,456
DCRA Program Support	108,267	78,400	186,667
TOTAL	5,413,333	3,920,000	9,333,333

The table reflects tentative dollar amounts that would be available in the two regions. The programmatic allocation within the regions is based on input from the Coordinated Response Partnership Teams in Bristol Bay and Kuskokwim.

COMMUNITY GRANT PROGRAM (\$6,706,335)

The State of Alaska will issue grants for projects that are of direct or indirect benefit to the fisheries, that sustain the economic viability of communities, help diversify the economy, or assess the economic or social effects of the commercial fisheries failure. The community grants will provide jobs to fishers, benefiting them as well as communities affected by the disaster.

There are 54 communities eligible for grants in the declared disaster area. (List attached) Populations range from 20 to 800 and average a few hundred people. Only Dillingham and Bethel exceed 2,000 residents. These are remote communities in southwest Alaska, accessible only by airplane to the major population center of Anchorage or to each other. Mail service is limited and dependent on weather. Mail to and from Anchorage may take two weeks to arrive in a village, one of a number of factors that will affect the timetable of this grant program.

Residents are dependent upon commercial fishing for cash income. Subsistence fishing and hunting is a critical part of the overall economy. A delicate balance of commercial and subsistence fishing has maintained these villages since the early 1900's. After the peak of each salmon season, commercial fishers turn to subsistence activities to provide food for the winter. There is limited tourism based on fishing and hunting but almost all of those working in the industry live outside the region. There is increasing interest in local involvement in tourism. Projects related to tourism and diversification of the economy would be acceptable under the program. Tribal and municipal governments maintain and operate basic services such as water and sewer, electric utilities, landfill, shoreline docking and staging areas, and harbor and boatyard facilities. In these remote communities, facilities serve multiple purposes. The community dock, for example, is used by fishers but is also necessary to off-load food, fuel and supply barges. The sports fishing industry, tourists and subsistence boaters use the boat harbor facilities. Projects that maintain or improve infrastructure are necessary to assist the community affected and prevent another failure.

A Community Disaster Grant application will be sent to eligible Bristol Bay and Kuskokwim communities in the declared disaster area. Communities must have residents with crew licenses or permits to be eligible to apply. The Department of Community and Regional Affairs will advise all communities of their maximum funding allocation. A minimum amount of \$5,000 would be available to all eligible communities. The remaining funds will be allocated to each community based on the number of resident crew license and permit holders. Request for proposals will be mailed to city,

tribal, and borough governments and to community and regional non-profit associations. The government or organization within the community or region best suited or able to design, apply for and administer the grant will be determined locally. In each community, a joint resolution must be submitted that identifies the desired recipient/administrator of any community. Grant applicants will submit a project narrative, budget and timeline. Each proposed project must describe how it meets the goals of the Magnuson-Stevens Disaster Act. A community grant may be one or more projects.

Examples of eligible projects include but are not limited to:

*Projects that diversify or strengthen the economy of the community including development, repairs and/or improvement of public facilities such as sanitation and health care facilities, flood and drainage facilities, fuel and gas storage and distribution systems, washeterias, fuel and watering points, fire protection facilities and landfills. Projects such as docks, harbors, bulkheads, ramps and haul-out areas and beach and airport access are acceptable only if they demonstrate the facilities provide support to community development or economic diversification.

*Community improvements that sustain or improve economic viability such as maintenance of basic infrastructure (roads and trails, access to river fronts, water/sewer, solid waste), or projects that promote or diversify the economy (community owned cooperatives, visitor industry services or facilities, for example).

*Studies or surveys that assess the economic or social effects of the commercial fisheries failure.

Administrative costs reimbursed by the grant are limited to 10 percent. There will be 6.3% required cash or in-kind match. The amount of the match requirement will be provided by the Department of Community and Regional Affairs. All other expenditures must be directly related to the project. Wages will be set according to established community wage rates.

Community Grant applications will be submitted to the Department of Community and Regional Affairs. Applications will be reviewed for eligibility, completeness and assurances that proposed projects meet the established criteria under the Act. Department grants are administered on a cost reimbursement system, though limited advance payments may be provided.

Grantees will be required to submit quarterly narrative and financial reports. Financial reports will include expense receipts or invoices and payroll documentation. DCRA staff will be monitoring progress through these reports and may make on-site visits.

Community Grant Timeline:

Week 1	Verify permit and crew license holders and complete funding allocations by region and community
Week 2	Request for Proposal applications mailed to communities
Week 3-7	Technical assistance to communities
Week 4-12	Review and approval of applications
Week 8+	Notification of proposal acceptance
Week 8+	Grant agreements with communities
Week 9+	Community Projects begin

LOAN PROGRAM (\$1,866,667)

Loans will be available to Bristol Bay, Chignik and Kuskokwim permit holders that are in financial crisis due to the commercial fisheries failure. The State Department of Commerce and Economic Development, Division of Investments will administer the program for the Department of Community and Regional Affairs. The Division currently manages a loan program that provides loans to Alaskan residents for the purchase of boats and permits. Division staff would be reassigned to work on the disaster loan program in an effort to expedite these loans to affected fishermen. Applications will be mailed to all permit holders of the affected fisheries.

The loan program is based on need. The loan should be used to pay past or future expenses. An income criteria will be used that assures,

At least 51% of earned family income is derived from commercial fishing in the Bristol Bay, Kuskokwim or Chignik fisheries.

Permit holders will be informed of the criteria.. Collateral will be required. Applicants will have the option of using their Alaskan Permanent Fund Dividend or any other appropriate collateral.

The program will not attach interest, and loans can be paid back over a maximum of four years. Loan payments will become part of a revolving loan fund for use by Bristol Bay, Chignik and Kuskokwim fishers. The total amount available for loans will be allocated between Bristol Bay and Chignik permit holders and Kuskokwim permit holders based on the number of permits and crew licenses in each region.

Loan funds not used in the region will be reprogrammed into approved project activities occurring in that region based on the Coordinated Response Partnership's allocation.

Loan Program Timelines:

Week 1	Loan application mailing completed
Week 10	Loan application submission deadline
Week 3	Checks dispersed as applications approved

ECONOMIC PLANNING (\$183,456)

Funds will be used for an economic development planning grant in the Kuskokwim area. Assistance under this program enhances economic development planning capability, continues economic development planning processes and procedures. Grant funds may be used for preparing an overall community economic development plan(s). Activities may include collecting data, preparing analyses, preparing plans and identifying actions which will implement plans, conducting marketing and feasibility studies, preparing community land use plans, preparing capital improvement plans; or, conducting updates of any of the above. Planning activities do not include engineering, architectural, and design costs related to a specific project activity. The grant period is twelve months. Eligible applicants include municipal or tribal governments and regional non-profit associations. A joint resolution (city and tribal) must be submitted from each participating community that identifies the desired recipient/administrator of the economic planning grant.

A request for proposal will be distributed, reviewed and approved by the Department of Community and Regional Affairs. A project description, budget, staffing description and timeline will be required. Grantees must submit quarterly narrative and financial reports and the final plan document. Financial reports will include expense receipts or invoices and payroll documentation. Department of Community and Regional Affairs staff will monitor progress through these reports.

The Economic Planning Grant is operated on a cost reimbursement system with limited advance payments if necessary.

Economic Planning Grant Timelines:

Week 1	Request for Proposal mailed
Week 6	Grant applications due
Week 6-7	Review of proposals
Week 8	Notification of Award
Week 9-12	Grant agreement developed

FISHERIES EDUCATION, TRAINING AND RESEARCH (\$390,208)

Funds will be used for fisheries education, training and research such as smolt out-migration, salmon escapement counts, and selected resource management issues. Awards will be made on a competitive basis. The grant review committee will consist of representatives of Department of Community and Regional Affairs, the Alaska Department of Fish and Game. Department of Community and Regional Affairs will solicit proposals from the two regions.

Fisheries Research Grants Timelines:

Week 1	Request for Proposal mailed
Week 6	Grant applications due
Week 6-8	Review of proposals
Week 9	Notification of Award
Week 9-12	Grant agreement developed

DCRA PROGRAM SUPPORT (\$186,667)

The DCRA Program Support cost have been held to 2% of the total grant (\$186,667). Of this total, twenty-five percent is State match (\$46,667). These costs are used to cover the additional expense of setting up the loan program, administering a community grant program for 54 communities, and administering three competitive bid contracts. A budget break down of these cost can be found in the Budget Narrative.

BRISTOL BAY / KUSKOKWIM FISHERIES DISASTER PROJECT

BUDGET SECTION

BUDGET INFORMATION - NON CONSTRUCTION PROGRAM

Bristol Bay / Kuskokwim River Drainage Disaster Assistance Program

SECTION A. BUDGET SUMMARY						
Grant Program (a)	Federal Catalog No (b)	Estimated Unobligated Funds ¹		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
Community Grants	11-477			\$5,029,752	\$1,676,583	\$6,706,335
Fishermen Loan Program	11-477			1,400,000	466,667	1,866,667
Research & Studies	11-477			430,248	143,416	573,664
DCRA Program Costs	11-477			140,000	46,667	186,667
6. TOTALS				\$7,000,000	\$2,333,333	\$9,333,333
SECTION B. BUDGET CATEGORIES						
7. OBJECTIVE CLASS CAT.	Grant Program, Function or Activity					(4) TOTAL
	(1) Federal	(2) State of Alaska	(3)			
a. Personnel	\$ 79,275	\$ 26,425			\$ 105,700	
b. Fringe Benefits	33,975	11,325			45,300	
c. Travel	19,250	6,417			25,667	
d. Equipment	3,750	1,250			5,000	
e. Supplies	700	300			1,000	
f. Contractual	1,833,048	611,283			2,444,331	
g. Construction						
h. Other (Community Grants)	5,029,752	1,676,583			6,706,335	
i. Total Direct						
j. Indirect						
k. TOTALS	\$7,000,000	\$2,333,333			\$9,333,333	
8. Program Income						

SECTION C NON-FEDERAL RESOURCES

Grant Program	(b) Applicant	(c) State	(d) Other Sources		(e) TOTALS
State Cash Match		\$1,875,000			\$1,975,000
State In-Kind Match		46,500			46,500
Community Grants In-Kind			41,833		411,833
TOTALS (Sum of lines 8-11)		\$,1921,500	411,833		\$2,333,333
Federal	Total of 1st Year	1st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
Non-Federal					
TOTAL (Sum of lines 13-14)					

FUTURE FUNDING PERIODS (YEARS)

		(b) First	(c) Second	(d) Third	(e) Fourth
TOTALS (Sum of lines 16-19)					
Direct Charges:		22 Indirect Charges			
Remarks					

BUDGET NARRATIVE

COMMUNITY GRANTS - \$6,706,335

The Community Grant programs will be distributed to each of the communities (53) included in the Governor's July 18th Bristol Bay and Kuskokwim River Drainage Economic Disaster. This following is a budget for this component:

Grant Activity Costs	\$5,613,203
Administrative Costs	670,633
Community In-Kind	<u>422,499</u>
TOTAL	\$6,706,335

Grant Activity Costs - These are the costs of completing the community projects. Such costs can include wages, fringe benefits, materials, transportation, equipment rental, supplies, and contractual expenses.

Administrative Costs - These are the costs that are directly attributable to cost of administering the community projects. Each community will have a 10% maximum administrative costs that can be covered by grant funds (70% federal and 30% state). Administrative costs exceeding 10 will be covered by the community and considered an in-kind contribution.

Community In-kind - Each community will need to identify a minimum of 6.3% in-kind costs. These costs can be identified as grant activity or administrative costs. The aggregate of all community in-kind contributions will be used as a part of the State match to the grant.

CONTRACTUAL COSTS (\$2,444,331)

The contractual costs include the Fisheries loans program, Fisheries Research & Studies and the postage (\$4,000) associated with these programs.

FISHERMEN LOANS - \$1,866,667

The Department of Community & Regional Affairs will have the fishermen loan program administered by the Alaska Department of Commerce & Economic Development, Division of Investments. The entire \$1,860,000 will be made available for loans to Bristol Bay and Kuskokwim River Fishing Permit holders. Administrative costs for this program activity are accounted for in the DCRA Program Support Activity budget.

FISHERIES RESEARCH & STUDIES - \$573,664

These funds will be used for research and studies in the Bristol Bay and Kuskokwim regions. These funds will be expended in 3 separate competitive bid contracts:

Kuskokwim

Fisheries Research	\$305,760
Economic Studies	183,456

Bristol Bay

Fisheries Research/Education	<u>\$84,448</u>
TOTAL	\$573,664

DCRA PROGRAM SUPPORT (186,667)

This costs are associated with general State administration of the grant program activities.

DCRA Staff Program Support

	%	Total Salary	project Salary	total Fringe	Project Fringe	Project Total
Local Government Specialist V (Anch)	55%	67.5	37.1	19.9	10.9	48.1
Local Government Specialist IV (Anch)	20%	57.0	11.4	17.8	3.6	15.0
Local Government Specialist III (Dill)	40%	62.8	25.1	19.0	7.6	32.7
Local Government Specialist III (Beth)	25%	51.2	12.8	15.1	3.8	16.6
Local Government Specialist II (Beth)	30%	46.5	14.0	15.5	4.7	18.6
Local Government Specialist III (Anch)	10%	47.4	4.7	15.7	1.6	6.3
Administrative Manager I (Anch)	12%	39.3	4.7	13.9	1.7	6.4
Secretary I (Anch)	15%	32.7	4.9	12.5	1.9	6.8
Grand Total			114.8		35.6	150.4

FRINGE BENEFITS EXPLANATION

The following is a break down of the State fringe benefits.

- SBS (Supplemental Benefits System - replaces Social Security) .0613 (6.13% of salary)
- PERS (Public Employee Retirement System) .1408
- Term leave Cash In .0216
- Workman's Compensation .0055

Legal and Health costs are actually entered into each employee's record, based on their Bargaining Unit, as follows.

- XE (exempt) employees do not pay Legal; GG (General Government) and SU (Supervisory Unit) pay \$8.50/month (the formula is currently calculating at \$8.00 per month)
- GG employees pay Health at \$425.04/month; SU and XE pay \$420.34/month (the formula is actually calculating \$425.22/month for all bargaining units)

Here are the other "formulas" and conditions that are calculated from the Employee Entry layout

- XE employees do not pay Unemployment Insurance; GG and SU pay .0075 (0.75% of salary)
- If hired on or before 4/1/86, pay no medicare; all others pay .0145 (1.45%)
- SRS Max out is \$61,200/year. Employer SBS % is not paid on salaries over \$5,100 per month.
- Cost of living differences are in place for different regions of the State. Anchorage and Juneau are the base rate.