

**State of Alaska  
FY2003 Governor's Operating Budget**

**Department of Fish and Game  
Commercial Fisheries Entry Commission  
BRU/Component Budget Summary**

## **BRU/Component: Commercial Fisheries Entry Commission**

**(There is only one component in this BRU. To reduce duplicate information, we did not print a separate BRU section.)**

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### **Component Mission**

The mission of the Commercial Fisheries Entry Commission is to limit entry into commercial fisheries for purposes of resource conservation and to prevent economic distress among fishermen and those dependent on them for a livelihood.

### **Component Services Provided**

The Commission performs the following services required by law:

- Establish the maximum number of permits in fisheries to be limited (as governed by statute);
- Establish and implement systems to rank eligible applicants according to the relative hardship they would suffer by not initially receiving an entry permit for a limited fishery;
  - Process and classify entry permit applications and adjudicate claims not resolved by initial classification;
- Issue entry permits in limited fisheries, interim-use permits in unlimited fisheries, licenses for all vessels employed in Alaska's commercial fisheries and vessel permits under vessel moratoria established by law;
  - Process requests for emergency and permanent transfers of entry and interim-use permits and compile and report data on the demographic characteristics of permit holders and prices paid for permits;
- Enforce the Limited Entry Act by regulating permit transfer activities, conducting investigations, and initiating administrative enforcement proceedings;
  - Monitor unlimited fisheries to assess their rate of development and their potential need for limitation;
- Establish moratoria on new entrants to fisheries as necessary;
- Monitor the long-term effects of limited entry;
- Monitor the limited fisheries to obtain information needed for considering optimum numbers in those fisheries, and to determine the need for adjustment to the size of a given fleet;
  - Participate in the development of comprehensive fisheries economic data and research, and make this information available to policy makers and members of the public;
- Work closely with other management agencies to develop and coordinate fisheries policy; and
- Administer the demerit point system for suspending commercial fishing privileges based on convictions of fishing law violations in salmon fisheries.

The commission is the only agency charged with the responsibility for limiting the number of participants in commercial fisheries. To carry out its responsibility, the commission works closely and cooperatively with the Department of Law, Department of Fish and Game, Alaska Board of Fisheries, and other fisheries agencies when making regulatory decisions.

### **Component Goals and Strategies**

To promote the conservation and sustained yield management of Alaska's fisheries resources and the economic health and stability of commercial fishing in Alaska by regulating and controlling entry into the commercial fisheries in the public interest and without unjust discrimination.

### **Key Component Issues for FY2002 – 2003**

- Continue to streamline licensing processes using available technology to make the licensing system easier and more efficient for both the public and the agency.
- Monitor the legislative moratoria on new vessels in the Bering Sea Korean hair crab fishery and the scallop fishery, which will expire on July 1, 2003 and July 1, 2004 respectively. These fisheries will return to open access upon those dates unless the legislature passes a new law to control access or CFEC takes action to limit the fishery. The ability

of CFEC to limit these fisheries effectively depends on passage of legislation within the next year authorizing CFEC to implement a vessel-based limited entry system in fisheries such as these.

Propose and adopt regulations establishing a point system for the Kodiak food and bait herring fishery, and begin an

- application period for permanent limited entry permits in the fishery.
- Continue to monitor the federal government implementation of a new License Limitation Program for groundfish and Bering Sea and Aleutian Islands crab in the Exclusive Economic Zone. This federal action may lead to increased pressures from displaced vessels on groundfish and crab in waters managed under state jurisdiction and to additional demands on CFEC to limit fisheries under increased pressure.
- Continue to fulfill obligations under the Carlson class action lawsuit, which challenges the permit fees Alaska has charged nonresident fishermen. These obligations include creating and maintaining a data base of current mailing addresses for Carlson class members, and calculating any refunds the state may ultimately be found to owe. A 3:1 nonresident to resident permit fee differential was established by law many years ago and was in effect until the 2002 licensing year. If Alaska loses the lawsuit it might result in a judgment requiring the state to pay huge refunds (millions of dollars) to nonresident fishermen. It is imperative that Alaska has the resources to defend the State in court and the ability to respond to whatever judgment is ultimately rendered.
- Complete hearings and issue decisions on pending applications for entry permits in limited fisheries.
- Conduct an optimum number study for the Bristol Bay drift gillnet salmon fishery.
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### **Major Component Accomplishments in 2001**

Conducted public hearings and adopted point system for Southeast sea cucumber and geoduck dive fisheries. Held

- application periods for permanent limited entry permits in both fisheries and began issuing permits.
- Processed limited entry applications for the Southeast sea urchin dive fishery and issued permanent limited entry permits to qualified applicants.
- Continued work on a significant upgrading of CFEC computer system to bring equipment and programs up to current state standards and to maximize effective use of technology in keeping up with the ever-increasing workload of the agency.
- Developed and implemented capability to provide fishers with the option of paying for annual renewals of fishing permits and vessel licenses by credit card.
- As directed by Superior Court, mailed written notices to nearly 11,000 class members of Carlson v. State class action lawsuit and posted notice in trade journals; set up computer programs for recording and updating class member address information and for calculating potential refunds.
- Worked with the legislature and Department of Law to draft and secure passage of legislation (HB194) to revise the resident/nonresident permit fee structure to bring the state into compliance with formula ordered by the court in Carlson class action lawsuit, potentially saving the state millions of dollars in additional liability.
- Continued to provide information as requested to assist ongoing discussions among policy makers and fishing industry about fleet consolidation options.
- Issued decisions on pending permit applications for limited fisheries.
- Participated in the Bristol Bay Native Association's Fisheries Committee. Among other issues, the Committee is examining options for fleet and gear reduction and ways to obtain and maintain more limited entry permits in local Bristol Bay communities.
- Continued contact with the IRS to explore means to help permit holders achieve voluntary tax compliance and to eliminate attempted forced sales of limited entry permits. Conducted public hearings on a proposal to limit entry into the Kodiak food and bait herring trawl and combined seine and gillnet fisheries.
- Conducted hearings and issued decisions on the emergency transfers of entry permits.
- Issued 121 commission decisions and 86 hearing officer and paralegal decisions in calendar year 2000
- Continued work to get all case files imaged and available electronically to Commission staff.
- Issued 24,660 interim use and entry permits to commercial fishermen for calendar year 2000.
- Issued 15,843 vessel licenses and sport charter vessel licenses for calendar year 2000.
- Completed action on 771 Requests for Emergency Transfer of limited entry permits within a 4-day turnaround time in calendar year 2000.
- Completed action on 582 Requests for Permanent Transfer of limited entry permits within a 5-day turnaround time for calendar year 2000.
- Completed a report on time series changes in the distribution of Alaska's limited entry permits.
- Monitored fisheries operating under temporary moratoria established by Alaska's legislature and other fisheries for which the commission has been petitioned for limited entry.
- Conducted a public comment period and adopted regulations establishing an optimum number in the Northern Southeast inside sablefish longline fishery.
- Prepared briefing reports for several fisheries in response to petitions for limited entry.

Prepared decisional documents explaining process and rationale for recent fishery limitations.

## Statutory and Regulatory Authority

AS 16.43.010-990  
20 AAC 05.010 - 20 AAC 05.1990

## Key Performance Measures for FY2003

### Measure:

The commission processes 90 percent of all vessel licenses, permit renewals, and requests for duplicates within three days of receipt of a fully completed application.

Sec 75.b.1. Ch 90 SLA 2001(HB 250)

### Alaska's Target & Progress:

The commission is on target to achieve this performance measure for FY02.

### Benchmark Comparisons:

Alaska's commercial fisheries permitting and licensing programs, requirements, and procedures are significantly different from those of other states and do not lend themselves to meaningful comparison.

### Background and Strategies:

The commission seeks to process all license, permit renewal, and duplicate requests as quickly as possible to help applicants avoid lost fishing time. The commission has streamlined procedures and effectively used computer technology to meet this stringent performance standard for processing nearly 40,000 permit and license applications per year by our small staff.

### Measure:

The commission processes 90 percent of all emergency transfer requests within four days of receipt of a fully completed application.

Sec 75.b.2. Ch 90 SLA 2001(HB 250)

### Alaska's Target & Progress:

The commission is on target to achieve this performance measure for FY02.

### Benchmark Comparisons:

Alaska's laws and procedures governing emergency permit transfers are unique to Alaska's limited entry program and thus no meaningful comparison with other states can be made regarding transfer processing time.

### Background and Strategies:

The commission seeks to process all emergency transfer requests as quickly as possible to help fishermen avoid lost fishing time and maintain income flow to families of permit holders struck with medical or other circumstances temporarily preventing their participation in the fishery. The commission has streamlined procedures and effectively used computer technology to meet this stringent performance standard for processing nearly a thousand emergency permit transfer requests per year with our small staff.

### Measure:

The commission processes 90 percent of all permanent transfer requests within five days of receipt of a fully completed application.

Sec 75.b.3. Ch 90 SLA 2001(HB 250)

### Alaska's Target & Progress:

The commission is on target to achieve this performance measure for FY02.

### Benchmark Comparisons:

Alaska's laws and procedures governing permanent permit transfers are unique to Alaska's limited entry program and thus no meaningful comparison with programs in other states can be made regarding transfer processing time.

### Background and Strategies:

The commission seeks to process all permanent permit transfer requests as quickly as possible to help applicants avoid lost fishing time. The commission has streamlined procedures and effectively used computer technology to meet this stringent performance standard for processing nearly a thousand permanent permit transfers per year by our small staff.

**Measure:**

By June 30, 2002, the commission provides fishers with the option to renew licenses online.  
Sec 75.b.4. Ch 90 SLA 2001(HB 250)

**Alaska's Target & Progress:**

Contingent upon feasibility of timely acquiring and installing necessary technology, the commission is on target to achieve this performance measure for FY02.

**Benchmark Comparisons:**

Online licensing of crewmember and sport fisheries is now available in Alaska and other states. Provisions of Alaska's Limited Entry Act present some additional requirements and challenges for online licensing of Alaska's commercial fisheries, but the commission is committed to providing this service and has a plan in place and actions underway to achieve this performance measure.

**Background and Strategies:**

Online permit and vessel license renewal will provide the fishing public with more convenient, faster access to CFEC licensing functions and will reduce paper handling by commission staff.

NOTE: Since this measure is to be achieved by the end of FY02, the commission recommends that it be deleted from legislation introduced during the 2002 legislative session setting forth FY03 performance measures.

**Measure:**

The commission maintains the number of hearing officer and paralegal decisions issued during the year at 70 or more.  
Sec 75.b.5. Ch 90 SLA 2001(HB 250)

**Alaska's Target & Progress:**

The commission is on target to achieve this performance measure for FY02.

**Benchmark Comparisons:**

Alaska's laws and procedures governing adjudication of limited entry permit eligibility claims are unique to Alaska's limited entry program. No meaningful comparison with programs in other jurisdictions can be made regarding the rate at which decisions are issued.

**Background and Strategies:**

The commission strives to move all appeals of limited entry permit application decisions through the adjudication process as quickly as possible for the benefit of applicants and all other participants in the fishery. The extensive due process afforded all limited entry permit applicants under Alaska's Limited Entry Act can require investment of significant time and effort by the commission. Under state statute, an applicant with an appeal pending at any stage of the adjudication process is eligible for an interim-use permit allowing their continued participation in the fishery until a final decision is rendered in their case. While care to ensure applicants' rights, render the fairest and best possible decisions that will withstand further challenge is paramount, this performance measure maintains pressure on hearing officers and paralegals to produce decisions and keep appeals moving through the process at a good rate.

**Measure:**

The commission maintains the number of final decisions issued by the commission during the year at 100 or more.  
Sec 75.b.6. Ch 90 SLA 2001(HB 250)

**Alaska's Target & Progress:**

The commission is on target to achieve this performance measure for FY02.

**Benchmark Comparisons:**

Alaska's laws and procedures governing adjudication of limited entry permit eligibility claims are unique to Alaska's limited entry program. No meaningful comparison with programs in other jurisdictions can be made regarding the rate at which decisions are issued.

**Background and Strategies:**

The commission strives to adjudicate all appeals as quickly as possible for the benefit of applicants and all other participants in the fishery. The extensive due process afforded all limited entry permit applicants under Alaska's Limited Entry Act can require investment of significant time and effort by the commission. The commission works very hard to issue the best possible decisions at the rate established by this performance measure. Extra care is particularly critical at the final commission decision level as the next level of appeal is to the Alaska Superior Court.

**Measure:**

By the end of the fiscal year, the commission maintains or decreases the net number of cases pending before hearing officers and the commissioners from the number that are pending at the beginning of the fiscal year.

Sec 75.b.7. Ch 90 SLA 2001(HB 250)

**Alaska's Target & Progress:**

The commission is on target to achieve this measure for FY02.

**Benchmark Comparisons:**

Alaska's laws and procedures governing adjudication of limited entry permit eligibility claims are unique to Alaska's limited entry program. No meaningful comparison with programs in other jurisdictions can be made regarding the rate at which decisions are issued and/or appealed.

**Background and Strategies:**

The number of new, incoming cases added annually to the workload of paralegals, hearing officers, and commissioners is dependent on a number of factors, including the number, size, and complexity of fisheries newly coming under limitation. During the course of a year, it is important to maintain a rate of case resolution equal to or exceeding the rate at which cases are appealed to the commission, or the result would be a ever-increasing backlog. The commission strives to develop straightforward limitation systems, issue decisions of such quality as to minimize further appeals, and maintain a pace of adjudication of cases that will ensure the maintenance or reduction of the net number of pending cases.

**Measure:**

The commission maintains at 20 percent or less the number of appeals from final decisions of the commission that are filed with the superior court during the year.

Sec 75.b.8. Ch 90 SLA 2001(HB 250)

**Alaska's Target & Progress:**

The commission is on target to achieve this performance measure for FY02.

**Benchmark Comparisons:**

Alaska's laws and procedures governing adjudication and appeals of limited entry permit eligibility claims are unique to Alaska's limited entry program. No meaningful comparison with programs in other jurisdictions can be made regarding the rate at which commission decisions are appealed.

**Background and Strategies:**

Under the Limited Entry Act, an applicant who disagrees with a final commission decision may appeal the decision to the Alaska Superior Court, and ultimately to the Alaska Supreme Court. Such appeals consume extensive time and resources of both CFEC and the Department of Law. Additionally, rulings against commission actions or decisions in a single case may be applied retroactively by the court and thus reopen large numbers of previously settled cases, potentially causing great harm to an entire fishery. The commission makes every effort to ensure that all due process and legal issues are meticulously addressed in each of its decisions in order to provide the best possible service to the public and to avoid court appeals. The commission has been very successful in these efforts in recent years. In 1982, more than 150 court challenges to CFEC permit application decisions were pending. Today, even with the commission issuing more than 100 final decisions per year, only four court challenges are pending.

**Commercial Fisheries Entry Commission**  
**Component Financial Summary**

All dollars in thousands

	FY2001 Actuals	FY2002 Authorized	FY2003 Governor
<b>Non-Formula Program:</b>			
<b>Component Expenditures:</b>			
71000 Personal Services	2,133.6	2,384.2	2,495.0
72000 Travel	21.1	38.5	39.5
73000 Contractual	319.4	384.3	394.3
74000 Supplies	15.4	41.7	41.7
75000 Equipment	140.1	48.0	48.0
76000 Land/Buildings	0.0	0.0	0.0
77000 Grants, Claims	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
<b>Expenditure Totals</b>	<b>2,629.6</b>	<b>2,896.7</b>	<b>3,018.5</b>
<b>Funding Sources:</b>			
1002 Federal Receipts	0.4	110.2	111.6
1007 Inter-Agency Receipts	24.8	0.0	50.0
1053 Investment Loss Trust Fund	55.1	0.0	0.0
1156 Receipt Supported Services	2,549.3	2,786.5	2,856.9
<b>Funding Totals</b>	<b>2,629.6</b>	<b>2,896.7</b>	<b>3,018.5</b>

**Estimated Revenue Collections**

Description	Master Revenue Account	FY2001 Actuals	FY2002 Authorized	FY2002 Cash Estimate	FY2003 Governor	FY2004 Forecast
<b>Unrestricted Revenues</b>						
Receipt Supported Services	51073	1,730.0	0.0	0.0	0.0	0.0
Unrestricted Fund	68515	0.0	2,003.3	1,801.1	1,730.0	1,730.0
<b>Unrestricted Total</b>		<b>1,730.0</b>	<b>2,003.3</b>	<b>1,801.1</b>	<b>1,730.0</b>	<b>1,730.0</b>
<b>Restricted Revenues</b>						
Federal Receipts	51010	0.4	110.2	110.2	111.6	111.6
Interagency Receipts	51015	24.8	0.0	0.0	50.0	50.0
Receipt Supported Services	51073	2,549.3	2,786.5	2,786.5	2,856.9	2,856.9
Investment Loss Trust Fund	51393	55.1	0.0	0.0	0.0	0.0
<b>Restricted Total</b>		<b>2,629.6</b>	<b>2,896.7</b>	<b>2,896.7</b>	<b>3,018.5</b>	<b>3,018.5</b>
<b>Total Estimated Revenues</b>		<b>4,359.6</b>	<b>4,900.0</b>	<b>4,697.8</b>	<b>4,748.5</b>	<b>4,748.5</b>

**Commercial Fisheries Entry Commission**  
**Proposed Changes in Levels of Service for FY2003**

No service changes.

**Summary of Component Budget Changes**  
**From FY2002 Authorized to FY2003 Governor**

*All dollars in thousands*

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
<b>FY2002 Authorized</b>	<b>0.0</b>	<b>110.2</b>	<b>2,786.5</b>	<b>2,896.7</b>
<b>Adjustments which will continue current level of service:</b>				
-Year 3 Labor Costs - Net Change from FY2002	0.0	1.4	70.4	71.8
<b>Proposed budget increases:</b>				
-Increment for CFEC Permit and Vessel License File Database Development	0.0	0.0	50.0	50.0
<b>FY2003 Governor</b>	<b>0.0</b>	<b>111.6</b>	<b>2,906.9</b>	<b>3,018.5</b>

**Commercial Fisheries Entry Commission**

**Personal Services Information**

	Authorized Positions		Personal Services Costs	
	<u>FY2002</u> <u>Authorized</u>	<u>FY2003</u> <u>Governor</u>		
Full-time	31	31	Annual Salaries	1,869,112
Part-time	5	5	COLA	68,001
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	662,989
			<i>Less 4.04% Vacancy Factor</i>	(105,102)
			Lump Sum Premium Pay	0
<b>Totals</b>	<b>36</b>	<b>36</b>	<b>Total Personal Services</b>	<b>2,495,000</b>

**Position Classification Summary**

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Adjudications Project Leader	0	0	1	0	1
Administrative Officer	0	0	1	0	1
Analyst/Programmer I	0	0	2	0	2
Analyst/Programmer III	0	0	1	0	1
Analyst/Programmer IV	0	0	1	0	1
Analyst/Programmer V	0	0	3	0	3
Comm Fish - Permitting Ck 1	0	0	1	0	1
Comm Fish - Permitting Ck II	0	0	1	0	1
Comm Fish Permit Clerk IV	0	0	1	0	1
Comm Fish Permit Clerk V	0	0	1	0	1
Comm Fish Permitting Ck III	0	0	2	0	2
Commission Secretary	0	0	1	0	1
Commissioner, CFEC	0	0	3	0	3
Data Processing Project Leader	0	0	1	0	1
Economist III	0	0	1	0	1
Hearing Officer II	0	0	3	0	3
Hearing Officer III	0	0	1	0	1
Law Specialist II	0	0	1	0	1
Licensing Project Leader	0	0	1	0	1
Managing Paralegal	0	0	1	0	1
Paralegal II	0	0	1	0	1
Publication Specialist I	0	0	1	0	1
Research Analyst III	0	0	4	0	4
Research&Planning Proj. Leader	0	0	1	0	1
Transfer Officer	0	0	1	0	1
<b>Totals</b>	<b>0</b>	<b>0</b>	<b>36</b>	<b>0</b>	<b>36</b>