

**State of Alaska**  
**FY2004 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 FY2003 – 2004**

- Continue to streamline licensing processes using available technology to make the licensing system easier and more efficient for both the public and the agency.
- Propose limitation of the Weathervane scallop fishery, before the moratorium in that fishery expires July 1, 2004.
- If limitation has been adopted, begin an application period for permanent entry permits in the Bering Sea hair crab fishery.

- Propose and adopt regulations establishing a point system for the Kodiak Tanner crab pot 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.
- Complete an optimum number study for the Bristol Bay drift gillnet salmon fishery.
- Continue to monitor the recent decline in revenue. Revenue has decreased from nearly \$5 million in the late 1990's through FY2000 to \$4.3 million in FY2001 to \$3.8 million in FY2002. CFEC revenue funds the operations of the program as well as a statutory contribution to the Fishermen's Fund, and projects in the Division of Commercial Fisheries.

### **Major Component Accomplishments in 2002**

- Processed limited entry applications for the Kodiak Food and Bait Herring fisheries 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.
- As directed by Superior Court, continued updating the database for tracking current addresses of class members of Carlson v. State class action lawsuit and for calculating potential refunds.
- Worked with Department of Law in its defense of the state in appeal of Carlson to Alaska Supreme Court.
- Worked with the legislature on several pieces of legislation pertaining to limited entry issues and fleet consolidation.
- 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 Economic Development Corporation (BBEDC) "Bristol Bay Salmon Fishery Restructuring Study." 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 Tanner and King crab fisheries.
- Conducted hearings and issued decisions on the emergency transfers of entry permits.
- Issued 103 commission decisions and 81 hearing officer and paralegal decisions in calendar year 2002.
- Continued work to get all correspondence files, commission decisions and court appeals imaged and available electronically to Commission staff.
- Issued 21,625 interim use and entry permits to commercial fishermen for calendar year 2002.
- Issued 14,243 vessel licenses and sport charter vessel licenses for calendar year 2002.
- Completed action on 729 Requests for Emergency Transfer of limited entry permits within a 4-day turnaround time in calendar year 2002.
- Completed action on 839 Requests for Permanent Transfer of limited entry permits within a 5-day turnaround time for calendar year 2002.
- Completed a report on time series changes in the distribution of Alaska's limited entry permits.
- Monitored fisheries for which the commission has been petitioned for limited entry.
- 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 FY2004

### 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 124 SLA 2002(HB 515)

### Alaska's Target & Progress:

The commission is on target to achieve this performance measure for FY03. For calendar year 2002 the commission processed over 93% of all permit and vessel renewals within three days of receipt of a fully completed application.

### 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 124 SLA 2002(HB 515)

### Alaska's Target & Progress:

The commission is on target to achieve this performance measure for FY03. For calendar year 2002 the commission processed 97% of all emergency transfer requests within four days of receipt of a fully completed application.

### 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 124 SLA 2002(HB 515)

### Alaska's Target & Progress:

The commission is on target to achieve this performance measure for FY03. Our licensing staff reported that at least 95% of transfers where applications were complete and all statutory requirements have been met are completed within five working days.

### 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:**

**The commission maintains the number of hearing officer and paralegal decisions issued during the year at 70 or more.**

Sec 75.b.4. Ch 124 SLA 2002(HB 515)

**Alaska's Target & Progress:**

From progress made to date, having completed 55 decisions by March 1, 2003, the commission expects to achieve this performance measure for FY03.

**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.5. Ch 124 SLA 2002(HB 515)

**Alaska's Target & Progress:**

The commission has made substantial progress toward achieving this performance measure for FY03, having completed 75 cases by March 1, 2003, and expects to meet this standard.

**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.6. Ch 124 SLA 2002(HB 515)

**Alaska's Target & Progress:**

From progress to date, the commission fully expects to achieve this measure for FY03. As of March 1, 2003, we have a net decrease of 17 cases.

**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.7. Ch 124 SLA 2002(HB 515)

**Alaska's Target & Progress:**

The commission is on target to achieve this performance measure for FY03, since only three appeals have been filed this fiscal year.

**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 five court challenges are pending.

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

*All dollars in thousands*

	<b>FY2002 Actuals</b>	<b>FY2003 Authorized</b>	<b>FY2004 Governor</b>
<b>Non-Formula Program:</b>			
<b>Component Expenditures:</b>			
71000 Personal Services	2,318.3	2,495.0	2,452.1
72000 Travel	31.0	39.5	31.5
73000 Contractual	342.4	394.3	332.4
74000 Supplies	141.0	41.7	69.7
75000 Equipment	101.5	48.0	20.0
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>2,934.2</b>	<b>3,018.5</b>	<b>2,905.7</b>
<b>Funding Sources:</b>			
1002 Federal Receipts	0.0	111.6	112.4
1004 General Fund Receipts	15.2	0.0	0.0
1007 Inter-Agency Receipts	132.5	50.0	50.4
1156 Receipt Supported Services	2,786.5	2,856.9	2,742.9
<b>Funding Totals</b>	<b>2,934.2</b>	<b>3,018.5</b>	<b>2,905.7</b>

**Commercial Fisheries Entry Commission**

**Proposed Changes in Levels of Service for FY2004**

No changes in services are proposed. Although the effects of the decrement in the proposed FY04 budget cannot be predicted with certainty, the commission will endeavor to continue meeting all of its statutory duties and performance measures.

**Summary of Component Budget Changes**

**From FY2003 Authorized to FY2004 Governor**

*All dollars in thousands*

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
<b>FY2003 Authorized</b>	<b>0.0</b>	<b>111.6</b>	<b>2,906.9</b>	<b>3,018.5</b>
<b>Adjustments which will continue current level of service:</b>				
- \$75 per Month Health Insurance Increase for Non-covered Staff	0.0	0.8	29.2	30.0
<b>Proposed budget decreases:</b>				
- Operating Budget Decrement	0.0	0.0	-142.8	-142.8
<b>FY2004 Governor</b>	<b>0.0</b>	<b>112.4</b>	<b>2,793.3</b>	<b>2,905.7</b>



## Commercial Fisheries Entry Commission

### Personal Services Information

	Authorized Positions		Personal Services Costs	
	<u>FY2003</u> <u>Authorized</u>	<u>FY2004</u> <u>Governor</u>		
Full-time	31	30	Annual Salaries	1,891,559
Part-time	5	6	Premium Pay	0
Nonpermanent	0	0	Annual Benefits	672,491
			<i>Less 4.37% Vacancy Factor</i>	(111,950)
			Lump Sum Premium Pay	0
<b>Totals</b>	<b>36</b>	<b>36</b>	<b>Total Personal Services</b>	<b>2,452,100</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
Fisheries Analyst	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	3	0	3
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>