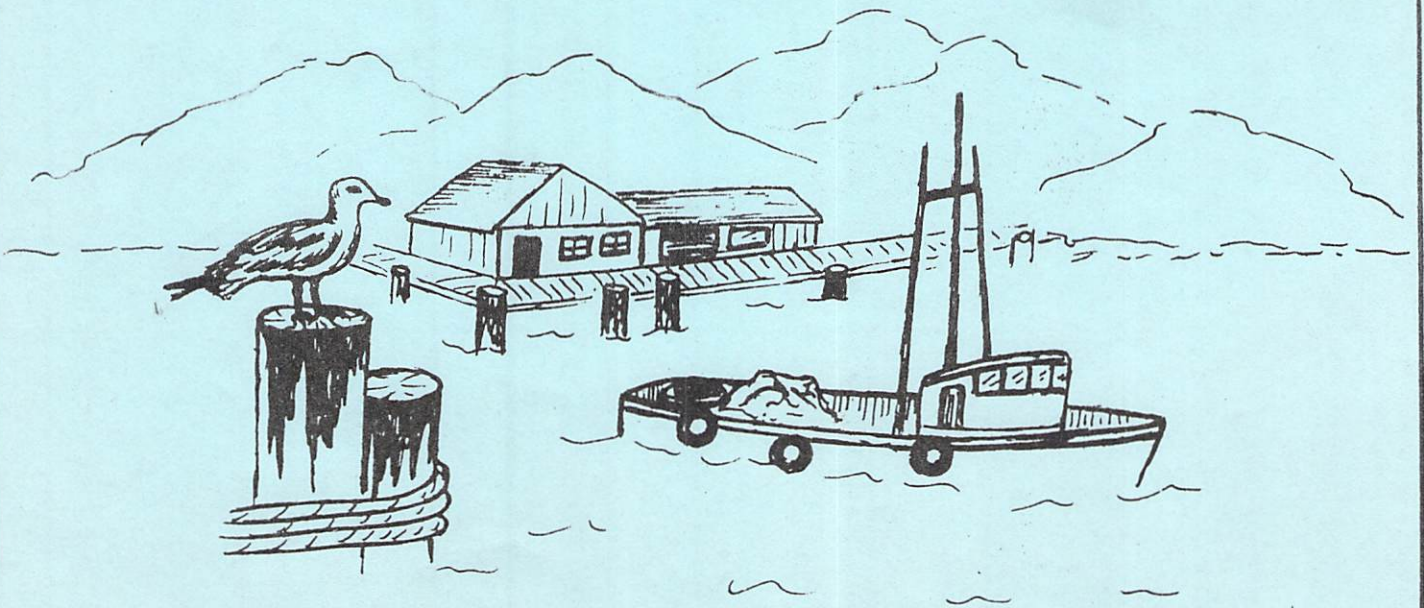


Timothy

1976 Annual Report

**Commercial Fisheries
Entry Commission**



1976 ANNUAL REPORT

COMMERCIAL FISHERIES ENTRY COMMISSION

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CHAIRMAN

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MAY 1977

INTRODUCTION

Three major events took place in 1976 in connection with Alaska's program for limiting entry into its commercial fisheries. The people of Alaska renewed their support for the limited entry concept by voting nearly two to one against an initiative to repeal the limited entry law. The Alaska Supreme Court upheld the law by ruling the limited entry program constitutional in all respects except the cutoff date for application eligibility. Finally the ability of limited entry to protect Alaskan fisheries was demonstrated when it blocked a potentially massive influx of Washington and Oregon fishing vessels affected by court decisions in those states.

The Commission's activities can be classified as those relating to permits and to research--both directed toward regulating entry into Alaska's commercial fisheries. The Commission's permit activity included: renewing permits through a new computerized system; issuing entry permits to Arctic-Yukon-Kuskokwim fishermen; reopening the application process as a result of a court ruling changing the cutoff date; and regulating the transferal of permits according to restrictions outlined in the law. Permit application adjudications and appeal hearings for all fisheries under entry limitation in 1975 neared completion by the end of the year.

Research activities began in two new fisheries. The herring fisheries were analyzed to determine whether they needed limitation and the appropriate regulations were proposed. In the shellfish fisheries statewide, a major bio-economic study was initiated. Another project involved the development of a new program to combine commercial licensing with entry permits in order to simplify the paperwork for both the fishermen and the State. Support for research activities came from the data processing section which continued its development of a statewide fisheries information system.

This annual report to the Legislature reviews the three major events of 1976 which impacted limited entry and the Commission activities mentioned above. The report will conclude with a look at new activities for the coming year and recommendations for legislative changes.

MAJOR EVENTS OF 1976

Election Summary

The most significant event affecting limited entry in 1976 was the November General Election. The initiative to repeal limited entry into Alaska's commercial fisheries was soundly defeated by a margin of nearly two to one. The limited entry issue, Ballot Proposition Number 5, became one of the most controversial Alaskan issues in the election and received more total votes than any other ballot or bonding proposition, even more official votes than the capital site selection measure.

Nearly 62% of the registered voters cast ballots in the election, and of those 93.4% voted either for or against the limited entry proposition. A vote "For" the proposition would have repealed the limited entry statute; a vote "Against" the proposition would have retained the law. A summary of the official election returns by district is given on the following page.

Supreme Court Test

Another major event of 1976 was the Alaska Supreme Court decision in the Isakson v. Rickey case. The case, which was pending most of the year, involved eleven fishermen who entered a fishery as first time gear license holders after 1972. They were originally ineligible to apply for a permit because they had not fished as gear license holders between 1960 and 1972, as required by statute. In January 1975 the plaintiff fishermen filed a complaint challenging the limited entry law. The Superior Court entered a judgment in favor of the Commission in May 1975. The fishermen appealed the decision to the Alaska Supreme Court, and in May 1976 the Supreme Court issued an opinion stating that the plaintiff fishermen should be eligible to apply for permits. In all other respects the limited entry law was upheld. The Supreme Court's opinion was implemented in a judgment from the Superior Court on September 24, 1976. The plaintiff fishermen then filed a motion to amend the judgment, but on November 8, 1976, the Superior Court denied their motion. Before taking the steps necessary to allow application by fishermen affected by the Isakson decision, the Commission waited 30 days to see if any further appeals would be taken. There was no appeal and on December 16, 1976 the Commission adopted a regulation to allow an application period for fishermen made eligible by the Isakson decision.

Boldt and Belloni Decision

Federal court decisions by Judges Boldt and Belloni to allot up to 50% of Washington and Oregon's commercial salmon catch to treaty Indians severely reduced the catch available

BALLOT PROPOSITION NUMBER 5
 INITIATIVE TO REPEAL LIMITED ENTRY
 VOTES BY ELECTION DISTRICT

District Number	"For"	"Against"	District Name
1	1499	3622	Ketchikan-Prince of Wales
2	1041	1534	Wrangell-Petersburg
3	1268	1727	Sitka
4	2420	6350	Juneau-Lynn Canal
5	1408	2135	Cordova-Valdez-Seward
6	1725	2905	Palmer
7	2537	4567	Anchorage Northwest
8	3142	5840	Anchorage Northeast
9	1590	2858	Anchorage Spenard
10	3623	6077	Anchorage East
11	3740	6758	Anchorage South
12	3359	5843	Anchorage West
13	2155	4474	Kenai-Cook Inlet
14	1335	983	Kodiak
15	659	626	Aleutian Chain
16	681	1312	Bristol Bay
17	1044	1233	Bethel
18	871	865	Wade Hampton
19	1501	1900	Yukon-Tanana
20	6510	11615	Fairbanks
21	1133	770	Barrow-Kobuk
22	1063	1131	Nome
TOTAL	44304	75125	

to other fishermen in those areas and created a strong impetus for those fishermen to move into fisheries off Alaska. Potentially 5,000 Washington fishermen as well as many of the Oregon Columbia River fishermen were prevented from moving into this State's salmon fisheries by Alaska's limited entry law. In July of 1969 the Federal District Court filed a decree that the tribes who had signed the 1857 treaty had the right "of taking fish at all usual and accustomed places" on the Columbia River and its tributaries. The Indians were allotted 50% of the harvest that was destined to reach the tribes' usual accustomed grounds. In 1974 both Washington and Oregon tried to appeal the decision, but it was upheld by Judge Robert C. Belloni of the U. S. Court of Appeals on January 28, 1976. Judge George Boldt of Washington applied the treaty rights throughout Washington, and awarded the 50% allotment to all the treaty tribes. In an already depressed fishery, these decisions made fishing economically unfeasible for many residents. If Alaska's limited entry law had not been in effect, it is quite likely that many of these displaced fishermen would have entered this State's fishery.

PERMIT ACTIVITY

In 1976 permit activity consisted of five separate functions. These were: 1) permit renewal; 2) Arctic-Yukon-Kuskokwim permit issuance; 3) salmon application period reopening; 4) permit transfers; and 5) hearings and adjudication of appeals.

A new permit renewal system using pre-printed computer cards was implemented in 1976. These cards were mailed to the fishermen to be reviewed, signed, and returned with the specified fee. This system proved to be accurate and efficient for the Commission and easy and time-saving for the fisherman. Further steps were taken by the Data Processing Section in 1976 to make permit issuance even smoother by mass producing the 1977 plastic permit cards with an automated embossing process. This process eliminates the need to emboss the majority of the cards manually at the time of issuance.

Entry permits made up 42% or 9,166 of the 21,601 permits issued in 1976. These included the issuance of permanent permits to the Arctic-Yukon-Kuskokwim salmon fishermen and the renewal of permits to other salmon fishermen in the State. The table on page 4 shows that in 7 fisheries the maximum number has been slightly exceeded. Permits may be issued above the maximum number only to eligible applicants who would suffer significant economic hardship by exclusion from the fishery. All gear operators in fisheries not under entry limitation were issued interim-use permits. The number of permits issued in 1976 for selected fisheries is

ENTRY PERMIT STATUS IN 1976

	<u>Maximum Number</u>	<u>Entry Permits</u>	<u>Pending Permits*</u>
Southeastern			
Purse Seine	395	409	9
Drift Gill Net	453	449	38
Yakutat			
Set Gill Net	150	156	3
Prince William Sound			
Purse Seine	258	247	35
Drift Gill Net	511	514	25
Set Gill Net	32	28	7
Cook Inlet			
Purse Seine	68	63	16
Drift Gill Net	545	514	82
Set Gill Net	686	706	7
Kodiak			
Purse Seine	368	358	36
Beach Seine	27	23	
Set Gill Net	183	176	11
Chignik			
Purse Seine	80	90	3
Peninsula-Aleutians			
Purse Seine	111	112	2
Drift Gill Net	155	153	2
Set Gill Net	110	106	10
Bristol Bay			
Drift Gill Net	1669	1621	99
Set Gill Net	803	759	5
Kuskokwim			
Gill Net	810	687	489
Kotzebue			
Set Gill Net	214	118	196
Lower Yukon			
Gill Net	671	678	263
Upper Yukon			
Gill Net	63	35	83
Fishwheel	126	80	169
Norton Sound			
Set Gill Net	195	169	141
Statewide			
Power Gurdy Troll	950	916	83

*Interim-use permits issued in limited fisheries to individuals whose applications have not been finalized.

given in the table on page 6. These figures do not include interim-use permits in the limited fisheries issued to those individuals who have not received a final determination on their application for an entry permit.

AYK Salmon Permit Issuance

Regulations for limiting the Arctic-Yukon-Kuskokwim commercial salmon fisheries were adopted in February of 1976. The following month 3,200 pre-printed application forms with instruction booklets were mailed to all fishermen of record who participated from 1970 through 1976 in any of the 6 designated salmon fisheries. The fisheries are: Kotzebue Gill Net; Norton Sound Gill Net; Lower Yukon Gill Net; Upper Yukon Gill Net; Upper Yukon Fish Wheels; and Kuskokwim Gill Net.

The Commission went to considerable effort to insure that all fishermen were informed about limited entry and that assistance was available for making application. Qualification points, which the Commission's records could support, were pre-printed on the individual's application. Blank application forms were made available in local areas. Advertisements were put in local newspapers, and radio and television spots were broadcast in English and Yupik. Contracts were signed with four different AYK native organizations for bilingual application assistance services to natives and non-natives alike. The two-month application period was extended an additional month, and a 60-day late application period for good cause was made available. The application returns reflected the comprehensive program of field assistance. Eighty percent of the pre-printed applications were completed and returned to the Commission.

Since it took six months to review and substantiate the majority of applications, determinations about permit issuance could not be made in time for the 1976 fishing season. Therefore any fisherman who was eligible to apply for a permit was allowed to fish in 1976.

Salmon Application Period Reopened

The Supreme Court through the Isakson v. Rickey court case determined that any fisherman who fished in 1973 or 1974 as a gear license holder for the first time would be eligible to apply and be ranked by the point system which ran from 1960 through December 31, 1972. Previously only gear license holders who participated at any time up through December 31, 1972 were eligible to apply.

Application forms and instruction booklets were mailed to the 2,961 individuals on record who fished a salmon gear license for the first time in 1973 or 1974, as well as to the applicants who were determined ineligible to apply

ENTRY AND INTERIM-USE PERMITS ISSUED IN 1976
FOR SELECTED FISHERIES

ENTRY PERMITS		INTERIM-USE PERMITS	
	<u>SALMON</u>		<u>SHELLFISH (by vessel length)</u>
Southeastern		Dungeness	
Purse Seine	404	Statewide	
Drift Gill Net	484	under 50 feet	165
		over 50 feet	35
Yakutat		Tanner	
Set Gill Net	154	Statewide	
Prince William Sound		under 50 feet	229
Purse Seine	280	over 50 feet	288
Drift Gill Net	526		
Set Gill Net	33	King Crab	
Cook Inlet		Southeastern	
Purse Seine	77	under 50 feet	38
Drift Gill Net	581	over 50 feet	8
Set Gill Net	676	Prince William Sound	
Kodiak		under 50 feet	27
Purse Seine	387	over 50 feet	4
Beach Seine	23	Cook Inlet	
Set Gill Net	183	under 50 feet	74
Chignik		over 50 feet	31
Purse Seine	92	Kodiak	
Peninsula-Aleutians		under 50 feet	152
Purse Seine	110	over 50 feet	137
Drift Gill Net	150	Peninsula-Aleutians	
Set Gill Net	110	under 50 feet	36
Bristol Bay		over 50 feet	12
Drift Gill Net	1674	Dutch Harbor	
Set Gill Net	736	under 50 feet	8
Kuskokwim		over 50 feet	149
Gill Net	1175	Bering Sea	
Kotzebue		under 50 feet	5
Set Gill Net	314	over 50 feet	226
Lower Yukon		Adak	
Gill Net	941	over 50 feet	17
Upper Yukon		Western Aleutians	
Gill Net	118	over 50 feet	20
Fishwheel	249	OTHER	
Norton Sound		Halibut Statewide	
Set Gill Net	310	Hand Troll	35
Statewide		Long Line	
Power Gurdy Troll	976	under 26 feet	1079
		over 26 feet	969
		Salmon Statewide	
		Hand Troll	2081

during the original application period. The new application period began on January 15, 1977 and will terminate on June 15, 1977, with an additional 30 day period in which tardy applications can be accepted if good cause is shown.

Transfers

An entry permit may be transferred by selling it, trading it, or giving it away as a gift or inheritance. The Commission must be notified that a transfer is intended and 60 days must elapse from the date of filing notice before the actual transfer may be made.

In 1976, 692 permits were permanently transferred, compared to 553 transfers in 1975, the first year transfers could be made.

The continuing trend has been to transfer permits to Alaskan residents, as can be seen in the following table:

ENTRY PERMIT TRANSFERS

<u>Residency</u>	1975		1976		Total	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
Resident to resident	285	52%	344	50%	629	50%
Nonresident to nonresident	166	30%	212	31%	378	30%
Nonresident to resident	79	14%	81	12%	160	13%
Resident to nonresident	<u>23</u>	<u>4%</u>	<u>55</u>	<u>8%</u>	<u>78</u>	<u>6%</u>
Total	553	100%	692	100%	1245	100%

The price of permits being transferred was noticeably affected by the initiative to repeal the limited entry law. Prior to the election, permit prices generally dropped below previous levels since the purchaser had to assume the risk of the permit losing its value should the limited entry law be defeated. The results of the election, however, assured the continuation of the program and the permit market reflected this with higher permit prices. The table on page 8 gives the number of sales and the average price paid for permits in 1976. The information was obtained from questionnaires sent to the transferees and transferors. Approximately 36% of all transfers involved no exchange of funds because they were made between family members or other special parties, such as skippers and crewmen. The price table does not include these non-monetary transfers.

PERMIT SALES AND PRICES PAID IN 1976

<u>Fishery</u>	<u>Total Number of Sales in 1976</u>	<u>Average Price of Permit in 1976</u>	<u>Average Price Since November 1976 Election</u>
Southeastern Purse Seine	11	\$ 9,000	\$14,071
Southeastern Drift Gill Net	18	9,564	10,500
Yakutat Set Gill Net	7	3,657	
Prince William Sound Purse Seine	13	10,115	
Prince William Sound Drift Gill Net	28	4,562	8,417
Cook Inlet Purse Seine	3	6,666	10,250
Cook Inlet Drift Gill Net	50	5,160	7,265
Cook Inlet Set Gill Net	20	1,720	8,675
Kodiak Purse Seine	20	7,780	12,571
Kodiak Set Gill Net	14	4,621	4,250
Kodiak Beach Seine			5,500
Bristol Bay Drift Gill Net	39	2,484	3,332
Bristol Bay Set Gill Net	20	2,087	1,500
Peninsula-Aleutians Drift Gill Net	6	6,250	10,000
Peninsula-Aleutians Set Gill Net	3	6,666	6,500
Statewide Power Troll	37	4,649	7,313

Hearings

Hearings and adjudications of appeals for the original 19 salmon fisheries which came under limitation in 1975 neared completion in 1976. Approximately 400 hearings have taken place. Most of the hearings occurred in 1975, and approximately 100 of these were resolved prior to adjudication. The majority of the 252 adjudications made were in 1976. There are approximately 70 cases that remain open for resolution in 1977.

In addition to the Commissioners' review and adjudications of administrative appeals, the Commissioners have reconsidered 25 cases to date, and have made more than 100 determinations on late applications and emergency transfers.

RESEARCH

Every action the Commission takes in identifying a fishery in need of limited entry and subsequently implementing a program for limitation is based on specialized research. Each fishery has its own complexities and unique management problems. The Commission generally allows from a few months to more than a year for field investigations, talks with fishermen, and social, economic and biological research prior to limiting a fishery. Advice is requested from Fish and Game personnel who are familiar with the specific problems and management practices of their fisheries.

The Commission's own research efforts were directed mainly at the herring and shellfish fisheries; developing a new program for commercial licensing; and continuing its formation of a statewide fisheries information system.

Herring

Herring research was initiated in response to requests from the Department of Fish and Game and from fishermen, including a petition from 26 fishermen involved in the Southeastern herring sac roe purse seine fishery. The record of these herring fisheries in Southeastern, Prince William Sound, and Cook Inlet indicated that management problems existed in at least two areas. Short seasons, excess fishing capacity, and the large number of fishermen who realize no return for their investment in the herring sac roe fisheries indicated a need for limited entry. In the case of Prince William Sound, 103 boats participated in the 1-hour opening which constituted the 1976 season. Even with such short openings, it is difficult for management personnel to insure that total catches stay within the designated quotas. A table showing the increase of vessels participating in the three herring sac roe fisheries brought under limitation follows:

PURSE SEINE FISHERY FOR HERRING SAC ROE
NUMBER OF VESSELS PARTICIPATING

<u>Southeastern</u>	<u>Prince William Sound</u>	<u>Cook Inlet</u>
1969 - *	1969 - 6	1969 - 11
1970 - *	1970 - 1	1970 - 20
1971 - *	1971 - 14	1971 - 19
1972 - *	1972 - 20	1972 - 6
1973 - 16	1973 - 33	1973 - 22
1974 - 34	1974 - 72	1974 - 40
1975 - 30	1975 - 85	1975 - 40
1976 - 40	1976 - 103	1976 - 70

*Figures were not available to distinguish the sac roe fishery from the bait fishery.

Based on Commission research, proposed regulations were drafted and public hearings were to be held soon after the November 2nd general election. However, aside from one hearing held in Petersburg, the hearing schedule was delayed by the holiday season and by uncertainty regarding the disposition of herring proposals which were to be acted upon by the Board of Fisheries in early December.

At its December meeting the Board of Fisheries requested that the Entry Commission give serious consideration to entry limitation for the Southeastern, Prince William Sound, and Cook Inlet herring purse seine sac roe fisheries. The Board rejected proposals calling for area registration for Cook Inlet and Prince William Sound herring fisheries and indicated a policy of nonexpansion for the herring sac roe fishery in Southeastern Alaska. It also requested that the Entry Commission prepare a status report for presentation to the spring Board meeting in March of 1977.

The Commission determined that it would be both possible and desirable to separate the sac roe and bait fisheries. This meant limiting the purse seine sac roe fishery in Southeastern Alaska, Prince William Sound, and Cook Inlet while leaving the other herring fisheries open to entry. To facilitate this, Southeastern and Prince William Sound were subdivided into sac roe and non-sac roe fishing areas, and entry was limited only to fishing in those areas which were expected to have sac roe fisheries.

Proposed regulations for entry limitation into the Southeastern herring purse seine sac roe fishery were published and distributed in November, followed by proposed regulations for Prince William Sound and Cook Inlet in December. Public hearings were held in Petersburg, Ketchikan, Juneau, Seattle, Cordova, Homer, and Kodiak. In January of 1977 final regulations were adopted and the limited entry application process was begun.

Shellfish

In the fall of 1976, the National Marine Fisheries Service (NMFS) contracted with the Commission for a state-wide analysis of Alaskan shellfish fisheries. Under the contract the Commission will develop bio-economic information so NMFS can provide technical assistance to the North Pacific Fishery Management Council (NPFMC) in assessing and specifying optimum yield. Under the Fishery Conservation and Management Act of 1976 (the 200-mile limit law), the Council is responsible for formulating fishery management plans. It must develop a complete and accurate picture of domestic fishing activity for regulatory purposes and must determine the amounts of fishery resources that are in excess of domestic need under optimum yield and thus available for foreign harvest.

Among other things, the Commission will analyze: shellfish fleet capacity, cost and earnings characteristics, and diversification potential into other fisheries. This information will be developed through a questionnaire to be administered to a representative sample of the State's shellfish fishermen. In addition, Commission staff members are meeting with shellfish fishermen throughout the State to check on the accuracy of the data generated by the questionnaire and to obtain information that cannot be gained from the questionnaire.

NMFS sought the services of the Commission for four reasons: 1) the Commission was beginning its own research into the shellfish fisheries; 2) the Commission has a considerable capacity for generating fisheries information; 3) its staff has experience and expertise in developing bio-economic information on the harvesting sector of Alaska's commercial fisheries; and 4) the Commission has access to information confidential by statute and not available to NMFS. The relationship between the Commission and the Council will change as the Council addresses considerations of limited entry for fisheries within both Council and State jurisdiction.

In 1976 the Commission received approximately 100 requests for fisheries information from State, Federal, and private entities. Examples of outside requests are: lists of area fishermen for a non-profit hatchery organization; a study of the geographic distribution of gross earnings from Alaskan fisheries for the U. S. Department of Commerce; and a list of vessels by length for a State study of boat harbors.

These requests are complied with, subject to confidentiality requirements and freedom of information considerations. Work is done on a time available basis and billings for services were made as appropriate.

New Commercial Licensing Program

In 1976, the Commission, with the cooperation of the Departments of Fish and Game, Revenue, and Public Safety, developed a new program of commercial fisheries licensing. This program was designed to reduce paperwork for the fishermen, save time and money for the State, and increase the accuracy of the licensing data base. The new licensing system will eliminate the gear and commercial licenses, separate the vessel license from an assigned operator, and create a crewmember license similar to the commercial license. A renewed entry permit will be the only requirement for a gear operator in order to participate in a fishery. A vessel used in commercial fishing must be licensed and no indication of who will operate the boat will be needed. People who participate in the fishery as crewmembers will have to obtain a crewmember license only.

Statewide Fisheries Information System

Catch and fleet data collected and recorded by the Department of Fish and Game is the basis for the Commission's statewide fisheries information system. This data base was begun in 1973 when the Commission was formed and has developed into a comprehensive information system on Alaskan fisheries. Among other things, the system can generate reports on distribution of earnings, mobility of vessels, and potential for fleet diversification.

In 1976, the data processing personnel of the research section spent much of its time correcting 1975 and 1976 raw data from the Department of Fish and Game, and applying it to the existing data base. Accurate data is essential since the Commission must address records of individual fishermen and not total fleets as required by Fish and Game and other agencies.

FUTURE

The next few years will see a shift in emphasis of the Commission's functions. In the salmon net fisheries, permit issuance will be reduced to a maintenance level of renewals and transfers, and developing buy back programs for some of these fisheries will become a priority task. Studies of economic and biological optimum numbers for units of gear will be completed so that determinations can be made as to which fisheries require buy back programs. A method will be developed for assessing those fisheries which have more than the optimum level of participants and implementation of the buy back programs will begin.

The Commission will continue to initiate or pursue research into fisheries such as shellfish, halibut, and herring, which have not yet come under limited entry. Numbers of vessels and individuals involved in these fisheries will be analyzed along with catch effort and bio-economic data. In evaluating the need for limited entry, the Commission will determine if effective biological management is in jeopardy and reasonable average rate of return to the fisherman for his time and money invested in a fishery is being provided. If limited entry is needed, the Commission will devise the best system for the fishery under consideration.

Legislative Recommendations

The Commission submitted several legislative changes to the first session of the Tenth Legislature. The recommendation which provides for a new licensing system is outlined on page 12. The other recommendations deal with: 1) controlling permit leasing; 2) tightening criteria for emergency transfers; 3) restricting the transfer of permits belonging to individuals charged with violating the limited entry statute; 4) making the transfer of a permit automatically to the spouse or estate upon the death of a permit holder; 5) repealing the five-year prohibition on transfers; and 6) making the permit purchase price tax deductible as a business expense.