

Appendix F: CFEC Emergency Transfer Regulations

20 AC 05.1740. Emergency transfers

- a) A holder of an entry permit or interim-use permit in a limited fishery or a fishery subject to a moratorium may apply for an emergency transfer of the entry or interim-use permit to another person by making application to the commission on a form provided by the commission.
- b) The commission will grant an emergency transfer of an entry permit if the proposed transferee is not a permit holder in the fishery and is presently able to participate actively in the fishery, and if it is established that illness, disability, death, required military or government service, or other unavoidable hardship of a temporary, unexpected, and unforeseen nature prevents the transferor from participating in the fishery. If the entry permit is not transferable under AS 16.43.170(e), the emergency transfer will be granted only to allow the continued operation of the transferor's vessel or setnet site and fishing gear or, in the dive fisheries, the transferor's dive fishery operation. Temporary emergency transfer of an interim-use permit issued under AS 16.43.210(b), 16.43.225, or 16.43.227 or of a permit held by an estate will be granted by the commission to alleviate hardship. Temporary emergency transfer of an interim-use permit in an unlimited fishery issued under AS 16.43.210(a), will be granted by the commission if reasonably necessary in order for the fishing operation to continue until another permit may be obtained. The commission may grant a temporary emergency transfer of an entry permit to a proposed permanent transferee to alleviate hardship if the intent to permanently transfer the entry permit cannot presently be fulfilled in spite of substantial and good faith efforts to do so.
- c) Where illness, disability, or death precludes communication by the transferor, the commission will, in its discretion, authorize the emergency transfer of an entry permit or interim-use permit upon application by a person other than the transferor.
- d) Unless otherwise limited by the commission, an emergency transfer is effective until the emergency is over, or until the end of the season, or until the transferor submits a request that the permit be returned, whichever occurs first.
- e) The proposed transferor and transferee of an emergency transfer under this section shall provide information and executed releases for information the commission determines is reasonably necessary to establish the basis upon which the emergency transfer is requested. Sufficient proof to verify the basis of the transfer must be submitted when the transfer request is made.
- f) Repealed 1/29/82.
- g) Where illness, disability or other unavoidable hardship, as described in (c) of this section, began or death occurred within 14 days immediately preceding the mailing date of a properly completed Request for Emergency Transfer of Permit form, the commission or an agent of the commission may certify the application as complete by dating and signing the form. The commission agent will not certify the form as complete unless the form is accompanied by an envelope addressed to the commission with adequate postage. The proposed emergency transferee may fish with the carbon copy of the form for no more than 14 days following the date the form was certified as complete, unless extended by the commission. Upon approval of the request for emergency transfer, the commission will issue a temporary permit card to the emergency transferee. Upon denial of the request, the commission will notify the permit holder and proposed transferee of its decision and of the fact that fishing with the carbon copy of the application form is no longer authorized.

Appendix F: CFEC Emergency Transfer Application

- h) A proposed emergency transferee of a permit may not fish with a carbon copy of a Request for Emergency Transfer of Permit form if the
- (1) form has not been signed and dated by an agent of the commission;
 - (2) request is based on a circumstance, described in (b) of this section, that arose more than 14 days before the form is received by the commission;
 - (3) annual permit renewal form and fee have not been received and processed by the commission.
- i) If the commission grants an emergency transfer and the basis for the emergency transfer continues at the time the transferor applies for an emergency transfer for the following season, the commission will grant an emergency transfer for that following season. For subsequent seasons, the commission will grant an emergency transfer only upon a showing by the permit holder of
- (1) a new unavoidable hardship of an unexpected and unforeseen nature that prevents the permit holder from fishing; or
 - (2) a continuation of the basis for the first emergency transfer in addition to extraordinary circumstances; for purposes of this paragraph, "extraordinary circumstances" are circumstances beyond the control of the permit holder that can be addressed by granting an emergency transfer, such as
 - (A) the failure of a good faith attempt to participate in the fishery;
 - (B) a realistic intent to return to the fishery within a reasonable period of time after the first emergency transfer based upon a high probability of removal of the disability or unavoidable hardship that gave rise to the first emergency transfer; or
 - (C) an intent to permanently transfer the permit that cannot presently be fulfilled in spite of substantial, good faith efforts to do so; "extraordinary circumstances" do not include the effects of economic, biological, or regulatory variable that are normally part of the risk of doing business as a fisherman, such as an economic choice, retirement from the fishery, permanent illness or disability, or lack of a market for the sale of a permit.
- j) The transferor may revoke an emergency transfer at any time by submitting to the commission or an agent of the commission.
- (1) a completed Request for Return of Original Permit Card form provided by the commission; and
 - (2) the permit card.
- k) A permittee may not fish with a copy of the Request for Return of Original Permit Card form unless the form has been submitted to the commission through an agent of the commission, and that agent has certified the application as complete by dating and signing the form. A permittee may submit to the commission an otherwise properly completed Request for Return of Original Permit Card form that is not signed and dated by an agent; however a copy of the form may not be retained for fishing.
- l) For the purposes of receiving and certifying as complete a Request for Emergency Transfer of Permit form and a Request for Return of Original Permit Card form, an employee of the Department of Fish and Game or of the Department of Public Safety, division of fish and wildlife protection, is an agent of the commission.