

# OUTLINE OF OPTIONS FOR FLEET CONSOLIDATION IN ALASKA'S SALMON FISHERIES

By the Commercial Fisheries Entry Commission  
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**OUTLINE OF OPTIONS FOR FLEET CONSOLIDATION**  
**IN ALASKA'S SALMON FISHERIES**

**I. INTRODUCTION**

The rise in world salmon production and resulting decline in salmon prices have caused Alaska's salmon industry to suffer a significant loss of earnings. As salmon fishermen struggle financially, many have expressed interest in exploring ways of reducing harvesting costs to make the harvesting sector more viable. In 1997 and 1998, Governor Knowles brought together people from all sectors of the salmon industry, as well as policy-makers from all levels of government, in two Salmon Strategy Forums to discuss the future of the industry. The forums identified exploring ways of reducing harvesting costs as a major goal.

Among a series of recommendations, the 1998 Salmon Forum requested the Commercial Fisheries Entry Commission to look at one aspect of the issue of cost efficiency, the *number of fishermen and vessels participating in the fisheries*, and develop a list of possible options for fleet reduction or consolidation. The recommendation was based on the assumption reducing the fleet could decrease costs and increase the efficiency and economic viability of those remaining in the fishery without affecting allocations between user groups.

In response, we have developed the following outline of options for fleet consolidation in salmon fisheries. While some of the options could be further developed to serve other goals such as enhancement of quality, our focus has been overall fishing effort. Our outline includes a brief discussion of potential benefits as well as legal and practical problems associated with each option. It also identifies practical steps required to pursue each option: for example, whether an option could be undertaken right now under existing statutes or would require a change of law by the Alaska Legislature. Final Section IV of this paper lists additional reading material also referred to by the numbers in parentheses in the footnotes.

We caution none of the options would be a quick fix. We are not aware of any quick fix. Some of these options may be found ineffective or impracticable for Alaska's fisheries. Some may function only if employed in combination with other means. Many are untested and may not stand up to legal challenges.

In addition, our list is not exhaustive: these are options known to the Commission, many of which have been called to our attention by fishermen and processors. Members of the public may have better ideas.

For options requiring a change of law, we caution that legislation is subject to revision as it moves through the legislative process and a bill that finally passes may be very different from what is originally proposed. Additionally, in considering whether to pursue a legislative route it is important to recognize that legislators represent a number of areas and constituencies, some of whose priorities may not be consistent with the best interests of commercial fishermen. For example, last session, the Legislature gave consideration to only one bill concerning buy out of entry permits, and that bill called for taxing fishermen and sport fishermen to buy out entry permits but only when the purchase “would result in a direct and immediate benefit to sport fishermen.”

At this time, the Entry Commission does not advocate any option, but offers this information to facilitate discussion of potential remedies. We stand ready to discuss these matters with interested individuals, organizations, and policy-makers. We believe consideration of remedies would be most useful on a fishery-by-fishery basis.

## **II. PERMIT BUY OUT OPTIONS**

### **A. GENERAL DISCUSSION OF PERMIT BUY OUT: POTENTIAL BENEFITS AND DRAWBACKS**

Buy out could reduce the number of units of gear in a fishery thereby potentially reducing the overall costs of harvest and increasing the harvest available for the remaining fishermen.<sup>1</sup>

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<sup>1</sup> The paper “Buyback of Fishing Rights in the U.S. and Canada: Implications for Alaska” (#26), by Schelle and Muse has descriptions of salmon buy out programs in Oregon, Washington, and British Columbia in the 1970s and early 80s. In recent years buy out programs have been carried out in groundfisheries and salmon fisheries in the United States and Canada. The papers by Breedon (#8), James (#15), the KPMG consulting firm (#17), and Long *et al.* (#18) review recent programs in the U.S. West Coast and British Columbia salmon fisheries. The Fisheries and Oceans Canada, Pacific Region public communications web site contains many news releases and backgrounders providing details on current buy out activity (#9). **Numbers in parentheses in the footnotes refer to sources in the “List of Further Reading” at the end of this report.**

If optimism associated with a buy out program generates substantial additional capital investment by remaining fishermen, beneficial results of buy out could be dissipated over time.<sup>2</sup>

Additionally, under our state constitution, a limited fishery can become too exclusive<sup>3</sup> requiring the state to add more permits back into the fishery to make the limited fishery constitutional.<sup>4</sup> In other words, money could be invested in a buy out program, but a court could, subsequently, require permits to be added back into the fishery. This is a risk for those who would pay for a buy out program. The degree of risk must be assessed on a fishery-by-fishery basis.

The Commission can attempt to defend a buy out program by doing an optimum number study on an individual fishery.<sup>5</sup> An optimum number study, however, must be independent and professional, and, therefore, may not satisfy individual fishers' expectations. An optimum number study could take several years, and would have to look at the long-term data from the fishery. It would also likely be intrusive and look at net earnings of individual fishers (to complete an optimum number study in the past, the Commission found it necessary to examine individual income tax returns).

Furthermore, variables examined in an optimum number study (such as fish prices and harvest levels) may change rapidly and significantly. Consequently, the shorter the time period examined by an optimum number study, the greater the risk changes in conditions may outdate the study. By statute, however, an optimum number study is required to address conditions for

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<sup>2</sup> Fish are typically common property as long as they are in the water. Since they are common property, fishermen tend to overcapitalize as they race against each other to catch them. This is an important root of the cost problem in the fisheries - even under limited entry. Over time, this can lead to at least a partial dissipation of the benefits from many of the capacity reduction alternatives in this paper. Wilen's article on "Limited Entry Licensing: A Retrospective Assessment (#36) shows how common property persists under limited entry and continues to contribute to cost problems. See especially pages 316-319.

<sup>3</sup> The Alaska Supreme Court in *Johns v CFEC* (#7) raises the possibility that a fishery could become too exclusive. See page 1266. The implications of *Johns* are described in a letter from the Alaska Commercial Fisheries Entry Commission to Alaska State Senator Dave Donley in 1997 (#2).

<sup>4</sup> Based on this constitutional claim, as recently as 1994, the state faced a lawsuit to eliminate limited entry entirely for the Bristol Bay drift gillnet fishery. Resolution of this particular case did not put the issue to rest.

<sup>5</sup> Alaska's requirements for an "optimum number" can be found in the Alaska Statutes at 16.43.290 (#6). Schelle, Iverson and Muse did an optimum number evaluation under Alaska's statute: see their "Southeastern Alaska Roe Herring Purse Seine Fishery Optimum Number Report" (#27).

“all years.” This required long-term focus makes an optimum number study less likely to address current conditions in a fishery.

Ultimately, an optimum number study is an exercise in interpreting the ambiguous statute defining optimum numbers. Therefore, a completed optimum number study would be subject to a challenge in court, and the court could substitute its own opinion as to what the optimum number for a given fishery should be. In other words, whether an optimum number study could be relied upon would not be known until a court challenge had been finally defeated. Thus, in addition to the time required to produce an optimum number study, a court challenge could take three or more years (including an appeal).

In short, reducing the number of permits in a limited fishery creates a risk for those who pay for the reduction. Money expended could be wasted, if a court later required more permits to be put back in the fishery. This risk cannot be avoided entirely. Generally, the risk is greatest where permanent reductions in fleet size take place. Where reductions are adjustable in response to conditions on a seasonal basis, the risk is reduced.

As a practical consideration, the cost of a buy out program may be prohibitive in some fisheries. In evaluating cost-effectiveness of such a program, one should consider the number of unfished and only marginally fished permits in a given fishery. In some fisheries, it would be possible to buy out a number of permits without having a noticeable effect on the fishing grounds. Nonetheless, buying out an unfished permit does remove potential growth in effort from the fishery by eliminating the opportunity for the permit to be transferred to someone who would fish the permit aggressively.<sup>6</sup>

Buying out a permit is permanent. As stated, subsequent to a successful buy out program, a change in the market or the fishery could cause a constitutional issue to be raised requiring the state to sell additional permits for the fishery, while those eliminated through buy out would still be out. Additionally, reduction in fleet size might have some broad economic impacts, including loss of fishing jobs, loss of opportunities for support businesses such as

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<sup>6</sup> The “Basic Information Tables” of the Alaska Commercial Fisheries Entry Commission show the number of permits that are unfished by fishery and year (#4).

suppliers of fuel, groceries, and fishing gear, as well as boat storage yards, marine and net repair businesses, and other local services.

There is also an issue as to how a permit holder will be taxed for funds received to retire the holder's permit. Correspondence has alerted us there may have been some unpleasant surprises for fishermen in other states, but we do not know the details. A tax professional would need to examine this question with respect to a specific buy out program.

There may be ways to achieve buy out without taxation of fishers, leaving buy out to private transactions in the marketplace. *See* Sections I., B., 1., and III., C., 2. and 4., later in this outline.

Additionally, in consideration of the Salmon Forum's admonition "to safeguard Alaska's resident small boat fleet wherever possible," a successful buy out program will likely lead to higher permit prices. Some individual Alaskans most dependent upon their local fisheries may sell their entry permits through a buy out program. Additionally, following a successful buy out program, higher permit prices may make it more difficult for young people and others with few employment options to enter the fishery.

Finally, this discussion of retiring permits presupposes compensation would be paid to permit holders. However, Alaska limited entry permit holders should be aware the Alaska Legislature reserved the right to modify or revoke any limited entry permit without compensation. AS 16.43.150(e). By implication, the Legislature may have power to reduce the number of limited entry permits without compensation. Additionally, the Alaska Board of Fisheries holds a similar power to eliminate entirely an Alaskan commercial fishery.

**B. BUY OUT OPTIONS PRESENTLY AVAILABLE NOT REQUIRING  
A CHANGE OF LAW OR REGULATION**

**1. Non-State Buy Out of Entry Permits**

a. Description

Some fishermen have asked the Commission whether it is possible to undertake a “private” buy out program. Some processors at the Governor’s Salmon Forum expressed an interest in pooling resources to retire permits. Additionally (subject to certain conditions), federal dollars may be loaned (fishermen pay back) for buy out (*see* our next section III, B., 2.).<sup>7</sup>

We believe such a non-state buy out of entry permits is possible. Under our statute, we believe a permit holder could contract with anyone not to renew the holder’s entry permit and not to seek reinstatement of the entry permit. Under our statute, a nonrenewed permit cannot be fished and, after two years of nonrenewal, the permit is forfeited to the state.

b. Potential Benefits and Drawbacks

Reducing the number of units of gear in a fishery can reduce the overall costs of the harvest and increase the harvest available for the remaining fishermen.

Because no statutory changes are required, this approach could be undertaken immediately. Additionally, a program independent of the state could be more flexible and might be able more quickly to take advantage of favorable market conditions than a state-operated program.

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<sup>7</sup> The Magnuson-Stevens Fishery Conservation and Management Act contains provisions for federal funding of “Fisheries Disaster Relief” and “Fishing Capacity Reduction” programs in its section 312, “Transition to Sustainable Fisheries” (#30). Washington State has conducted buyback programs during the 1990s using funding supplied by the Federal government under the “Interjurisdictional Fisheries Act” (#31) as well as under the Magnuson-Stevens Act.

Such a private buy out program is untried and untested. The constitutional issues identified in the previous Section II., A., would arise. However, a private buy out program might draw less scrutiny than a program administered by the state or federal government.

c. How to Undertake

Fishermen, processors, and anyone who agreed to cooperate could undertake such a program. There may also be an opportunity to identify or create an appropriate entity for a particular fishery to secure and administer available funds for the purpose from other sources. Work with CFEC to explore whether some CFEC regulatory action might help facilitate this option.

2. **Federal Loans (Paid Back by Fishers) for Buy Out**

a. Description

Senator Stevens announced to Bristol Bay fishers that federal money is available through the Magnuson-Stevens Act. The money would be loaned, and fishermen remaining in the fishery would be taxed to repay the loan. Assurances would be required that retired permits would not be returned to the fishery. A vote of the affected fishers would be required to initiate such a program.

Framework regulations for similar programs are currently being developed by the Fisheries Finance Division of the National Marine Fisheries Service (NMFS). We understand proposed regulations are to be published in the Federal Register and the public will have 45 days to comment on them.

b. Potential Benefits and Drawbacks

If federal dollars were made available for buy out in a given fishery, under existing state law described in Section II., B., 1., buy out of entry permits could go forward and retire entry permits. Nonetheless, the constitutional risks associated with a permanent reduction of

participants in a limited fishery would be present even in a federally-funded buy out program. See Section II., A., 2.

The National Marine Fisheries Service (NMFS) Fisheries Finance Division, is presently attempting to gain a security interest in Alaska limited entry permits for loans extended by the federal agency. This additional security interest in Alaska entry permits is not authorized by state law. This could become an issue if federal loans are provided for buy out.

c. How to Undertake

Discuss with our Congressional delegation and federal officials from NMFS to determine availability of funding and the process for creating a specific program. Watch the Federal Register for NMFS' proposed regulations for the program; review the proposed regulations and comment as necessary.

C. **BUY OUT OPTIONS REQUIRING A CHANGE OF LAW BY THE ALASKA LEGISLATURE**

1. **State-Managed, Fisherman-Financed Buy Out Program**

a. Description

State law provides for a fisherman-financed buy out program, but the statute as written violates the Alaska Constitution and would need to be amended. Funds could be raised by taxing fishermen, but, because of the constitutional prohibition against dedicated funds, the taxes collected would have to go into the state general fund, and it would be up to the Alaska Legislature to reappropriate the money for purposes of buying out entry permits (as it has done with respect to salmon aquaculture assessments).<sup>8</sup>

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<sup>8</sup> The current law on Alaska's buyback program is set out in AS 16.43.290-16.43.330 (#6). Muse and Schelle "Investments in Fleet Reductions: Suggestions for Revisions of Alaska's Buy-back Statute" (#21) looks at implementation issues for Alaska's Buyback program as they appeared in the mid-eighties. Also in 1985, the Alaska Attorney General sent the CFEC a letter indicating that the buyback statutes appeared to violate a state constitutional prohibition against dedicated funds. See the letter by Gorsuch and Knuth (#12).

b. How to Undertake

A change of state law would be required. Discuss proposed legislation with Entry Commission, Department of Fish and Game, members of the Board of Fisheries, the Attorney General, legislative attorneys and legislators. Any legislative proposal would require serious work by interested private individuals.

The same constitutional risks identified above would be present in such a program. A careful examination of the risks on a fishery-by-fishery basis, and, ultimately, an optimum number study would be required to undertake a buy out program.

2. State Right of First Refusal

a. Description

As an alternative, when transfer of a permit is requested, the state could have the right to buy and retire the permit at its selling price.<sup>9</sup> Funds would need to be appropriated by the Legislature for the purpose.

How a right of first refusal would operate in the case of permits transferred by gift between family members and partners would be an issue. An exception for such transfers would create a loophole for those willing to misrepresent the nature of their transfers to the Commission (for example, a vessel and gear package with the permit thrown in “for free”).

b. How to Undertake

A change of state law would be required. Discuss proposed legislation with Entry Commission, Department of Fish and Game, members of the Board of Fisheries, the Attorney General, legislative attorneys and legislators. Any legislative proposal would require serious work by interested private individuals.

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<sup>9</sup> Some have suggested the state could buy out only those permits being offered for sale to non-residents of Alaska. We do not believe this proposal would be constitutional.

The same constitutional risks identified in Section II., A., above would be present in such a program. A careful examination of the risks on a fishery-by-fishery basis, and, ultimately, an optimum number study would be required to undertake a buy out program.

### **III. OPTIONS FOR FLEET CONSOLIDATION OTHER THAN PERMIT BUY OUT**

#### **A. OPTIONS PRESENTLY AVAILABLE NOT REQUIRING A CHANGE OF LAW OR REGULATION**

##### **1. Cooperatives**

###### **a. Description**

By cooperatives, we refer to any group of fishermen who agree to work together for their mutual benefit. Cooperatives can take a variety of forms, and there are existing examples in Alaska as well as some consultants who can advise cooperatives.<sup>10</sup>

###### **b. Potential Benefits**

In theory, cooperatives may help reduce the costs to individual fishing operations by group purchasing of services such as insurance and accounting or supplies such as fuel, food, and fishing gear. Cooperatives may also undertake marketing of their catch.

Additionally, we have observed cooperatives construct vessels as a group in order to reduce the cost of individual vessel construction. We have also seen groups of fishermen cooperate in obtaining entry permits for members of the group. Cooperatives could guarantee loans. Additionally, a member of such a group may pledge his entry permit as additional security for the extension of a loan to another member of the group from one of the two state-

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<sup>10</sup> Muse, "A Survey of Individual Quota Programs" (#23), describes experiences with cooperative herring harvests in the Sitka sac roe fishery and in Oregon's Yaquina Bay. Ostrom's book *Governing the Commons* (#24), and the essays edited by Pinkerton in *Co-operative Management of Local Fisheries* (#25), provide case studies of co-operative management of common property resources by local communities and resource users.

authorized loan programs for the purchase of another permit. Doing so can reduce the cost of the down payment and may allow for an extension of credit where it would not otherwise be available.

Cooperatives could elect to have only a portion of their fleet fish, with costs and profits being shared among all members of the cooperative. Cooperatives could enter exclusive agreements with certain processors specifying both quality and processing standards in order to pursue particular markets.

c. Potential Drawbacks

The costs associated with organizing and running a cooperative may interfere with potential cost saving. We note only a limited number of cooperatives have operated in Alaska. Participating in a cooperative requires surrendering some individual independence.

d. How to Undertake

Locate existing cooperatives and learn from their experience. Consult with potential cooperative members to determine their interest. Consult with a knowledgeable attorney.

**2. Partnerships**

a. Description

Fishermen often participate together in partnerships. As a form of business organization, partnerships are governed by state law.

b. Potential Benefits

Partnerships are a way to share costs and risks. Individuals may bring to a partnership skills or resources (for example an entry permit, vessel or marketing skills) other partners do not have.

c. Potential Drawbacks

Expenses and profits are shared according to the partnership agreement. An entry permit must be owned completely by a single individual. However, there are contractual ways a member of a partnership who does not hold an entry permit may achieve some security in the agreement. There have been articles written for fishermen about this opportunity, and some attorneys specialize in helping fishermen form partnerships.

d. How to Undertake

Discuss with potential partners. Talk to a knowledgeable attorney.

**B. OPTIONS REQUIRING (AT LEAST) A CHANGE OF REGULATION**

**1. Exclusive Fishing Group Registration**

a. Description

In a fishery, seek regulations authorizing preseason registration/assignment of CFEC permits into exclusive fishing groups: for example, an A group and a B group. Seek regulations requiring managers to conduct openings at different times for each of the exclusive fishing groups. (For example, groups could be authorized to fish alternate openings.) Additionally, authorize individual permit holders registered in different groups to register one of their permits as the single fishing operation that would be entitled to fish all group openings. In turn, the holder of the unregistered permit in the operation would agree not to fish. This would allow the operation to go forward with only one permit holder and one vessel in place of the two vessels that would otherwise participate.

A variation on this idea would be to authorize registration/assignment of CFEC permits to exclusive areas within a fishery. For example, a Bristol Bay fisherman has suggested preregistration by river system be required allowing managers to adjust gear limits once the number of fishers in a system is determined. Such a plan might also allow for permit holders

coming together to fish a single unit of gear to be authorized to fish an incremental amount of additional gear.<sup>11</sup>

b. Potential Benefits

Registration into groups with separate openings would reduce the amount of gear in the water at a given time. Additionally, to the extent permit holders from the different groups agreed between themselves to register a single permit entitled to fish all group openings, an overall reduction in harvesting costs could be achieved. For the individuals who agreed to register one permit, some reduction in costs could be achieved.

Depending upon the fishery, congestion and safety problems might be reduced. Additionally, opportunities to enhance quality may result.

The number of permits in a given fishery would remain unchanged and thereby some of the constitutional problems associated with permanent buy out could be avoided. Additionally, such a system could respond to changes in a fishery from season to season.

c. Potential Drawbacks

The number of fishing operations (and crew jobs) may decline. The harvest and earnings would likely be distributed among fewer operations.

d. How to Undertake

Seek a regulation from the Alaska Board of Fisheries. It would be necessary to persuade the Board such a regulatory provision would serve management needs and would be authorized under the Board's existing statutory authority.

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<sup>11</sup> MacGillivray "Evaluation of Area Licensing in the British Columbia Roe Herring Fishery: 1981-1985" (#19) describes an "area-based" approach. This method has also been used in the British Columbia salmon fisheries from 1996 to 1998; these efforts are described in press releases and backgrounders in the Fisheries and Oceans Canada, Pacific Region communications branch internet site (#9). See especially the backgrounder "The Pacific Salmon Revitalization Strategy" (#10)

2. **Authorize Additional Gear to be Fished from a Vessel Operated by Two or More Permit Holders**

a. Description

If two or more permit holders came together to operate a single vessel, authorize an incremental amount of additional gear to be fished from the vessel. An additional incentive for such a pooling arrangement would be provided if managers found it necessary to reduce the amount of gear authorized to be fished with a single entry permit. This regulatory tool would be similar to the “sliding gear scale” once employed in the Bristol Bay salmon fisheries.<sup>12</sup>

Additionally, there may be other regulatory incentives that would enhance the quality of the fish caught.

b. Potential Benefits

Provided less than twice the amount of gear from a single vessel were authorized, a net reduction in gear in the fishery could be achieved. Savings may result from operating a single vessel rather than two vessels. There is also some potential for improved safety and fish quality.<sup>13</sup>

c. Potential Drawbacks

Fishermen have warned having two “captains” on the same vessel may be unattractive and impractical. This problem would suggest exploring whether, through registration, one permit holder could be designated to operate the vessel while the other permit holder elected not to fish. *See* Section III., B., 1. There is also a risk varying amounts of authorized gear and other selective regulatory exemptions could make enforcement more difficult.

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<sup>12</sup> Former Alaska Governor Jay Hammond has recently suggested a return to the “sliding gear scale” in two articles in the *Bristol Bay Times* (#13, #14).

<sup>13</sup> In a letter, Towarak describes how Alaska regulations allowing multiple permit holders on a vessel in the Norton Sound salmon fishery began and how they have affected the fishery (#28). The state regulations allowing this in

d. How to Undertake

Seek a regulation from the Alaska Board of Fisheries. It would be necessary to persuade the Board such a regulatory provision would serve management needs and would be authorized under the Board's existing statutory authority.

3. **Conduct a Lottery to Limit the Number of Participants in a Season**

a. Description

The Board of Game has required lotteries to limit the number of participants in certain hunts. For an upcoming season, if the Board of Fisheries determined there were too many units of gear in a given fishery, the Board could authorize a lottery to reduce the number of permits from season to season.

b. Potential Benefits

Reduced fishing effort.

c. Potential Drawbacks

An individual fisherman could not plan to win such a lottery. Individual planning would be made very difficult.

d. How to Undertake

Seek a regulation from the Board of Fisheries.

#### **4. Authorize an Alternative Gear Type**

##### a. Description

As an example, some purse seiners have occasionally expressed the desire to fish gillnet gear. In the alternative, some gillnetters have discussed joining together to fish a single unit of gear with greater fishing capacity.

##### b. Potential Benefits

Individual cost saving. In some instances may improve efficiency or quality. Additionally, this proposal may serve to reduce overall effort provided alternative gear type represents less overall capacity.

##### c. Potential Drawbacks

In addition to seeking regulations from the Board of Fisheries, regulations may have to be requested from the Entry Commission. If a change of gear created a potential impact on another limited fishery operating on the same resource, CFEC would have to make an independent regulatory decision the change would be consistent with the purposes of the Limited Entry Act. Otherwise the change could not be given effect.

##### d. How to Undertake

Petition the Board of Fisheries and the Commercial Fisheries Entry Commission for a change of regulation.

#### **5. Eliminate Exclusive Registration for some or all Salmon Net Areas**

##### a. Description

Since well before statehood, Alaska has required salmon net fishermen each season to

select one salmon net area, exclusively, in which to fish. The requirement is currently embodied in a Board of Fisheries regulation, and CFEC has adopted complementary regulations. Some fishers have suggested eliminating this requirement thereby allowing an individual who holds entry permits in more than one salmon net area to fish more than one salmon net area in the same season. Some fishers have suggested such a proposal could be limited to affect only specified salmon net areas rather than attempt a statewide repeal of the requirement. Such a limited proposal could be adjusted to regional differences.<sup>14</sup>

b. Potential Benefits

Some individuals will find this an attractive opportunity (particularly those who now hold permits for more than one salmon net area). This action may encourage consolidation of fishing operations, which generally may reduce overhead costs in the salmon fisheries. While the number of operators and amount of effort at the peak of the season in a given area would not likely be reduced, the number of operators fishing at other times may fall.

This proposal does not require any permanent diminution in the overall number of use-privileges to achieve some reduction in costs, although it would provide an incentive for consolidation of use privileges among fewer individuals.

c. Potential Drawbacks

Consistent with the Salmon Forum's admonition "to safeguard Alaska's resident small boat fleet wherever possible," critics of the proposal argue fishing effort would increase at the peak of a fishery, and fisheries would become more intense and less civilized than they are today. Additionally, buyers of additional permits would increase demand for entry permits. Some individual Alaskans most dependent upon their local fisheries may sell their entry permits.

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<sup>14</sup> This proposal is similar to proposals in which a fishery in a single area is divided into multiple areas, permit holders are assigned to each area, and anyone who wants to fish all areas has to purchase a permit for each. As noted in an earlier footnote, the Canadians have done this in their British Columbia salmon fisheries. The Canadian arrangements are described in press releases and backgrounders in the Fisheries and Oceans Canada, Pacific Region, Communications Branch web site (#9). See especially the backgrounder, "The Pacific Salmon Revitalization Strategy" (#10).

Additionally, to the extent those pursuing the benefits of this proposal purchase unfished or only marginally fished permits, the net result could be an overall increase in effort.

We also note, exclusive area registration is one of the Board's long-standing regulatory tools that has been upheld by the Alaska Supreme Court.

d. How to Undertake

Petition Board of Fisheries for a change of regulation.

C. **OPTIONS REQUIRING A CHANGE OF LAW FROM THE ALASKA LEGISLATURE**<sup>15</sup>

1. **Authorize a Single Individual to hold two or more Entry Permits in the same Fishery and Fish an Incremental amount of Additional Gear.**

a. Description

Seek a change of law from the Legislature to authorize a permit holder in a given fishery to acquire a second permit in that fishery and, thereby, be further authorized to fish an incremental additional amount of gear.

b. Potential Benefits

If the additional amount of gear authorized were less than twice the unit of gear authorized by a single permit, there would be a net overall reduction in gear in the fishery. At the same time, the fishing power of the resulting operation would increase. We could anticipate

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<sup>15</sup>A suggestion is gear groups in particular fisheries could exercise certain options by a vote. Conceivably, the Legislature might be willing to delegate some functions to gear groups. However, please note our warning about risks inherent in the legislative process in the introduction to this outline.

increased catch for the individual remaining permit holder as well as overall reduction in capital costs for the fishery.

This remedy leaves decisions to individuals in the marketplace and does not require public funding nor any substantial increase in bureaucracy.

c. Potential Drawbacks

Buyers of a second permit might increase demand for entry permits. Some individual Alaskans most dependent upon their local fisheries may sell their entry permits. May create enforcement problems, if it is difficult to monitor gear usage.

d. How to Undertake

Discuss proposed legislation with Entry Commission, Department of Fish and Game, Department of Public Safety, members of the Board of Fisheries, the Attorney General, legislative attorneys and legislators. Any legislative proposal would require serious work by interested private individuals.

**2. Permanent Fractional Entry Permits**

a. Description

Authorize the Commercial Fisheries Entry Commission to require fishermen to hold more than one permit in order to fish. The additional permit-holding requirement would be set so as to reach the optimum number of permit holders. If necessary the Commission would allow permits to be divided into “fractions” to facilitate this process.

For example there might be 600 permit holders in a fishery and the optimum number might be 400. The Commission could divide each permit in half and allow each “half-permit” to be sold independently. Thus 600 entry permits would become 1,200 half-permits in the fishery. To reduce the fleet to 400 permit holders, each would be required to hold 3 half-permits after a period, such as two years. Each permit holder who chose to remain in the fishery would already

hold two half-permits and would have to acquire a third half-permit. Persons who valued participation in the fishery highly would tend to buy half-permits from those who did not value them as highly.<sup>16</sup>

Other levels of permit reduction can be brought about with variations in the scheme of “fractions,” for example, permits could be divided into tenths and each permit holder could be required to hold 11 “tenth-permits” in order to fish.

b. Potential Benefits

This would provide an alternative to buy out. The optimum number would be reached through private sector market transactions among permit holders. Instead of being taxed, permit holders who remain in the fishery would pay for additional permit fractions. The overall cost of the program would be lower since there would be minimal state administrative involvement. There would be no administrative costs associated with a taxation program or a buy out program. Under traditional buy out schemes these costs would have been borne by the permit holders. Fishermen could also make their own arrangements at their own pace, instead of reacting to periodic state “offer to sell” solicitation deadlines under a buy out program

c. Potential Drawbacks

Permit holders would have to take the initiative, raise the money, and enter the permit market to buy up additional fractions of permits. This creates additional uncertainty for permit holders. It might be possible to mitigate this uncertainty by giving them a reasonable period, perhaps two years, from the time when the permits are divided to the time when they must have completed their purchases in order to fish. The same constitutional issues arise as in other permanent buy out programs.

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<sup>16</sup> Townsend sets out this idea in his article “A Fractional Licensing Program for Fisheries” (#29).

d. How to Undertake

Discuss proposed legislation with the Entry Commission, Department of Fish and Game, members of the Board of Fisheries, the Attorney General, legislative attorneys and Legislators. Any legislative proposal would require serious work by interested private individuals.

3. **Temporary Fractional Entry Permits**

a. Description

Authorize Board of Fisheries to adopt regulations giving managers the power to respond to changes from season-to-season by requiring more than one permit, as necessary, to fish a single unit of gear. For example, if managers determined in advance of a season a fishery could absorb only a fraction of the existing number of units of gear, the Board could require, for example, a fisher to hold 1.5 permits in order to fish a single unit of gear in the fishery.

b. Potential Benefits

Changes in number of units of gear from season-to-season as necessary. The fact the number of units of gear could be adjusted from season-to-season would avoid some of the constitutional problems associated with a buy out program. Provides flexibility to respond to changed conditions without permanently removing permits.

Overall cost of production in a fishery could be reduced.

c. Potential Drawbacks

In seasons when the regulation applied, individual permit holders would be required to strike an agreement with other permit holders to be able to participate and fish a single unit of gear. Planning could become difficult for individual fishermen.

d. How to Undertake

Discuss proposed legislation with Entry Commission, Department of Fish and Game, members of the Board of Fisheries, the Attorney General, legislative attorneys and Legislators. Any legislative proposal would require serious work by interested private individuals.

4. **Fractional Entry Permits Upon Transfer**

a. Description

To enter a fishery, a person could be required to purchase more than a single entry permit: for example, 1.5 permits. To encourage such transfers, this option could be combined with a “use it or lose it” requirement: for example, an individual who did not fish an entry permit and catch a designated percentage of the average catch would forfeit their fishing privileges.

b. Potential Benefits

Over time this proposal could reduce the number of units of gear in a fishery.

c. Potential Drawbacks

The proposal could take considerable time. Permanent reductions in privileges would raise all of the same constitutional issues as buyout proposals. Additionally, a use it or lose it requirement could generate additional fishing pressure.

d. How to Undertake

Discuss proposed legislation with Entry Commission, Department of Fish and Game, members of the Board of Fisheries, the Attorney General, legislative attorneys and Legislators. Any legislative proposal would require serious work by interested private individuals.

## 5. Individual Fishing Quota

### a. Description

Fisheries managed by quota can be divided so that participants have individual shares of the catch.<sup>17</sup> In contrast, salmon fisheries are generally managed for escapement based on in-season abundance. Quotas have limited application only to a few portions of Alaskan salmon fisheries.<sup>18</sup>

### b. Potential Benefits

Where individual share quota is an appropriate management tool it can help to reduce derby-style fishing and greater than necessary capital investments. It may help spread out catch over time to improve processing, quality, and marketing opportunities, and it may also promote greater safety by allowing fishermen to choose when to fish and take advantage of favorable weather conditions.

### c. Potential Drawbacks

Salmon fisheries are generally managed for escapement and not by quota. Therefore, it is difficult to imagine individual share quota serving as a practical salmon management tool, particularly in a short-term, large scale, terminal salmon fishery managed for escapement.

### d. How to Undertake

First, talk to in-season managers of the fishery to assess the feasibility of an IFQ program for a particular salmon fishery. Then, if feasible, discuss proposed legislation with Entry

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<sup>17</sup> For general surveys of individual quota programs see Muse and Schelle, "Individual Fisherman's Quotas: A Preliminary Review of Some Recent Programs" (#22), and Muse, "Survey of Individual Quota Programs" (#23). Chamberlin and McAlpin have placed a more recent bibliography of individual quota publications on the internet (#11).

<sup>18</sup> Although Vander Lind, and others, have proposed a type of individual quota system for the Bristol Bay drift gill net fishery. See "Tests for Proposed Systems of harvesting Bristol Bay Salmon" (#34), "Quota Share Buyback Program for Harvesting Salmon by Driftnetters in Bristol Bay" (#32) and "Salmon IFQs: A Proposal" (#35).

Commission, Department of Fish and Game, members of the Board of Fisheries, the Attorney General, legislative attorneys and Legislators. Any legislative proposal would require serious work by interested private individuals.

## **6. Seasonal Buy Outs**

### **a. Description**

An industry-funded “seasonal buy out” in which permit holders in a given fishery could opt not to fish in some seasons in return for payments from active permit holders.<sup>19</sup>

### **b. Potential Benefits**

The proposal could lead to reductions in effort and amount of gear in the water at a given time. Such a process undertaken on a seasonal basis would avoid some of the constitutional problems associated with buy out.

### **c. Potential Drawbacks**

This may be very difficult to administer, especially in a manner sufficiently timely as to allow for planning.

### **d. How to Undertake**

Discuss proposed legislation with Entry Commission, Department of Fish and Game, members of the Board of Fisheries, the Attorney General, legislative attorneys and Legislators. Any legislative proposal would require serious work by interested private individuals.

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<sup>19</sup> A similar program was run in the British Columbia salmon fisheries in 1998 although the funding was provided by the Canadian government. See the News Release from Fisheries and Oceans Canada titled “Commercial Salmon Vessel Owners Opt for Voluntary Tie-up.” at their Pacific Region Communications Branch website (#9).

#### IV. LIST OF FURTHER READING

*Many of the sources listed below are available on the internet, from a publishing government agency, at a local university library, or through interlibrary loan. In some cases the sources are unpublished. In these instances we have tried to provide contact information for the authors.*

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