

Alaska Shellfish Fisheries Enhancement Statutes

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PERMITTING AND PLANNING STATUTES

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PERMITTING AND PLANNING STATUTES

CHAPTER 5. FISH AND GAME CODE AND DEFINITIONS

ARTICLE 1. THE DEPARTMENT OF FISH AND GAME.

AS 16.05.092. Fisheries rehabilitation, enhancement, and development.

The department shall

- (1) develop and continually maintain a comprehensive, coordinated state plan for the orderly present and long-range rehabilitation, enhancement, and development of all aspects of the state's fisheries for the perpetual use, benefit, and enjoyment of all citizens and revise and update this plan annually;
- (2) encourage the investment by private enterprise in the technological development and economic utilization of the fisheries resources;
- (3) through rehabilitation, enhancement, and development programs do all things necessary to ensure perpetual and increasing production and use of the food resources of state waters and continental shelf areas;
- (4) prepare a comprehensive annual report, containing detailed information regarding its accomplishments under this section and proposals of plans and activities for the next fiscal year, and notify the legislature not later than 20 days after the convening of each regular session that the report is available.

CHAPTER 12. SHELLFISH ENHANCEMENT PROJECTS

AS 16.12.010. Permits for shellfish enhancement projects.

- (a) Subject to the restrictions imposed by statute or regulation under this chapter, the commissioner may issue a permit to a nonprofit corporation organized under AS 10.20 for a project to
 - (1) augment the yield and harvest of shellfish indigenous to state water above naturally occurring levels by natural, artificial, or semiartificial production systems;
 - (2) rehabilitate a shellfish stock that is indigenous to state water by restoring it to its natural levels of productivity; or
 - (3) increase the area of productive natural shellfish habitat.
- (b) Each applicant for a permit under this section shall apply in a format prescribed by the department and pay an application fee in the amount determined under (f) of this section.
- (c) A permit issued under this section is nontransferable. If a permit holder sells or leases a facility for which a permit has been issued under this section, the new operator shall apply for a permit under this section.
- (d) The commissioner shall consult with and solicit recommendations from federal and state agencies and technical experts in the relevant area regarding permit stipulations and issuance.

(e) The commissioner may not issue a permit under this section unless the commissioner determines that the action would result in substantial public benefits and would not jeopardize natural stocks.

(f) The department shall establish by regulation an application fee under this section in an amount that provides for the total amount of fees collected under (b) of this section to approximately equal the department's actual costs of processing permit applications under this chapter. The department shall annually review the fee level to determine whether the department's costs of processing permit applications under this chapter are approximately equal to the fees collected. If the review indicates that fees collected and these costs are not approximately equal, the department shall adjust the application fee by regulation. In January of each year, the department shall report the fee level and any revision made for the previous year under this subsection to the office of management and budget.

AS 16.12.020. Hearings before permit issuance.

(a) At least 30 days before the issuance of a permit under AS 16.12.010, the department shall hold a public hearing in a central location in the vicinity of the proposed release of shellfish.

(b) Notice of the hearing shall be published in a newspaper of general circulation once a week for three consecutive weeks, with completion of the notice at least five days before the hearing.

(c) The department shall conduct the hearing. The applicant shall present a plan for the proposed project describing the capacity of the facility and other relevant facts that may be of interest to the department or to the public. The department shall give interested members of the public an opportunity to be heard.

(d) The department shall record and consider objections and recommendations offered by the public at the hearing conducted under this section. The department shall respond in writing, not later than 30 days after the hearing is held, to a specific objection offered by a member of the public at the hearing.

AS 16.12.030. Conditions of a permit.

The department shall require, in a permit issued under this chapter, that the permit holder

(1) procure shellfish from the department or a source approved by the department;

(2) place shellfish only in water of the state specifically designated in the permit;

(3) not procure genetically modified shellfish or place genetically modified shellfish into the water of the state;

(4) not resell or transfer shellfish sold to a permit holder by the state or by another party approved by the department;

(5) not release shellfish before approval by the department, and, for purposes of pathological examination and approval, that the permit holder notify the department at least 15 days before the date of the proposed release of shellfish;

(6) destroy diseased shellfish in a specific manner and location designated by the department;

- (7) harvest shellfish only at specific locations and under specific conditions as designated by the department;
- (8) make surplus shellfish available for sale first to the department and then, after inspection and approval by the department, to other permit holders operating under this chapter;
- (9) provide a copy of the sales transaction to the department if surplus shellfish are sold by a permit holder to another permit holder;
- (10) release shellfish in an area where the shellfish will be available to traditional fisheries, subject to the provisions of this chapter and regulations adopted under this chapter.

AS 16.12.040. Alteration, suspension, or revocation of permit.

- (a) If a permit holder fails to comply with the conditions and terms of the permit issued under AS 16.12.010 within a reasonable period after notification by the department of noncompliance, the permit may be suspended or revoked, in the discretion of the commissioner.
- (b) If the commissioner finds that the operation of the permitted activity is not in the best interests of the public, the commissioner may alter the conditions of the permit to mitigate the adverse effects of the operation or, if the adverse effects are irreversible and cannot be mitigated sufficiently, initiate a termination of the operation under the permit over a reasonable period under the circumstances, not to exceed four years. During the period that the operation is being terminated, the permit holder may harvest shellfish under the terms of the permit but may not release additional shellfish.

AS 16.12.050. Regulations relating to released shellfish.

- (a) Shellfish released into the natural water of the state by a permit holder under this chapter are available to the people for common use and are subject to regulation under applicable law in the same way as shellfish occurring in their natural state except when they are in a special location designated by the department for harvest by a permit holder.
- (b) The Board of Fisheries may, after the issuance of a permit by the commissioner, amend by regulation adopted in accordance with AS 44.62 (Administrative Procedure Act) the terms of the permit relating to the source of wild brood stock, the harvest of shellfish by permit holders, and the specific locations designated by the department for harvest. The Board of Fisheries may not adopt a regulation or take an action regarding the issuance or denial of a permit required in this chapter.

AS 16.12.060. Department assistance and cooperation.

- (a) Before and after permit issuance under AS 16.12.010, the department shall make reasonable efforts, within the limits of time and resources, to advise and assist applicants or permit holders, as appropriate, as to projects under AS 16.12.010, including the planning, construction, and operation of facilities.
- (b) Nothing in this section exempts an applicant or permit holder from compliance with this chapter or from compliance with the regulations or restrictions adopted under this chapter.

AS 16.12.070. Broodstock sources.

(a) The department shall approve the source and number of shellfish taken for use as brood stock under this chapter.

(b) Where feasible, a permit holder shall first take shellfish from stocks native to the area in which the shellfish will be released.

AS 16.12.080. Sale of shellfish; use of proceeds; quality and price.

(a) A permit holder that sells shellfish harvested from the natural water of the state, or sells shellfish to another permit holder under this chapter, shall use the funds only for reasonable operating costs, including debt retirement, expanding its facilities, a project permitted under AS 16.12.010, shellfish research, or to assist in meeting the department's costs of managing the affected fisheries for the area in which the shellfish release is located.

(b) A permit holder shall ensure that shellfish harvested and sold for human consumption are of comparable quality to shellfish harvested by commercial fisheries in the area and are sold at prices commensurate with the current market.

AS 16.12.090. Cost recovery fisheries.

(a) A permit holder may harvest shellfish for a project under AS 16.12.010 in a special harvest area through

(1) agents or employees of or persons under contract with the permit holder as provided under a permit from the department or regulations of the Board of Fisheries; or

(2) the common property fishery under this section.

(b) A permit holder may, by a majority vote of the membership of the permit holder's board of directors, elect to harvest shellfish in a special harvest area established for a project under AS 16.12.010 through the common property fishery. A permit holder seeking to harvest shellfish in a special harvest area through a common property fishery shall notify the Department of Revenue by July 1 of the year preceding the year for which the harvest is sought. At the request of the permit holder and if the commissioner determines that there are no allocative issues involved, and after reasonable consultation with affected commercial fishermen, the commissioner may adopt regulations governing the harvest of shellfish in a special harvest area through a common property fishery. The regulations must specify the terms, conditions, and rules under which the common property fishery in the special harvest area shall be conducted, including requirements for holding inspections and reporting of harvests and sales of shellfish taken in the special harvest area. Following adoption of regulations by the department, before January 15 of each year, the permit holder's board, by a majority vote of the board's membership, may determine whether the permit holder will operate under the regulations adopted under this subsection during the current calendar year and shall notify the department if the permit holder intends to operate under the regulations adopted under this subsection. The Board of Fisheries may adopt regulations under AS 16.05.251 regarding a fisheries management plan governing operations under this subsection in a special harvest area, including allocation plans. Participation in the fishery must be open to all interim-use permit and entry permit holders who hold permits to operate a type of gear that may be used in the

fishing district in which the special harvest area is located if that type of gear is authorized by regulation to be used in the special harvest area. An interim-use permit holder or an entry permit holder who takes shellfish in a common property fishery in a special harvest area may sell the shellfish to a fish buyer or processor who is licensed to do business in the state.

(c) As a condition of participation in a common property shellfish fishery in a special harvest area under this section, a commercial fisherman who participates in the fishery is subject to the payment of the assessment levied under (d) of this section on the projected value of the shellfish or on the pounds of shellfish harvested. The assessment is levied on the shellfish that the commercial fisherman takes in the special harvest area and sells to a licensed buyer. The buyer of the shellfish must be licensed under AS 43.75, and the buyer shall collect the assessment on shellfish taken in a special harvest area at the time of purchase and remit the assessment to the Department of Revenue in accordance with regulations adopted by the Department of Revenue.

(d) The Department of Revenue may, by regulation, set the assessment levied on shellfish taken in a special harvest area on an annual basis in consultation with the Department of Commerce, Community, and Economic Development, the permit holder, and representatives of affected commercial fishermen. The Department of Revenue shall set an annual assessment under this section not later than January 1 of that year. The assessment must provide sufficient revenue to cover debt service, reasonable operating expenses, reasonable maintenance expenses, and development or maintenance of a reserve fund up to 100 percent of annual operating costs of the permit holder's project under AS 16.12.010. In setting the assessment, the Department of Revenue shall consider the estimated harvest of shellfish in the special harvest area, the projected price to be paid for shellfish in the region, the amount of the existing reserve held by the permit holder, and the amount by which the assessment collected in previous years exceeded or fell short of the amount anticipated to be collected. The assessment may not exceed 50 percent of the value of the shellfish. The Department of Revenue may levy the assessment as a percentage of the projected value of the shellfish harvested in the special harvest area or as a flat rate on each pound of shellfish harvested in the area, to the nearest whole cent.

(e) The Department of Revenue shall deposit the assessments collected under this section in the general fund. The legislature may appropriate the funds collected under this section to the permit holder who is carrying out a project under AS 16.12.010, including the operation of a facility, in the special harvest area in which the assessment was levied. A permit holder shall use funds appropriated under this subsection for the purposes set out under AS 16.12.080(a). The legislature may also appropriate funds collected under this section to the Department of Revenue for costs incurred by the Department of Revenue under this section.

(f) A person who violates a regulation adopted under (b) of this section is guilty of a violation under AS 16.05.722 or a misdemeanor under AS 16.05.723. A person who violates a regulation adopted by the Department of Revenue under (c) of this section is guilty of a class A misdemeanor.

(g) In this section,

(1) "special harvest area" means an area designated by the commissioner or the Board of Fisheries where shellfish may be harvested by permit holders under this chapter and by the common property fishery;

(2) "value" has the meaning given in AS 43.75.290.

AS 16.12.100. Inspection by the department.

(a) A permit holder shall allow the department to inspect the permit holder's facility for a project under AS 16.12.010 at any time the facility is in operation. The department shall conduct the inspection in a reasonable manner.

(b) The department shall bear the cost of an inspection performed under this section.

AS 16.12.110. Annual report.

A person who holds a permit under this chapter shall submit an annual report not later than December 15 to the department. The report must be made on a form prescribed by the department and contain information pertaining to

- (1) species;
- (2) the brood stock source;
- (3) the number, age, gender, and size of spawners;
- (4) the number of eggs collected and juveniles produced; and
- (5) the number, age, gender, and size of harvested shellfish attributable to releases by the permit holder.

AS 16.12.199. Definitions.

In this chapter,

(1) “facility” means a hatchery as defined in AS 16.40.199, a facility for the release of shellfish into natural water of the state, or a facility for a project under AS 16.12.010;

(2) “genetically modified shellfish” means shellfish whose genetic structure has been altered at the molecular level by recombinant DNA and RNA techniques, cell fusion, gene deletion or doubling, introduction of exogenous genetic material, alteration of the position of a gene, or other similar procedure using artificial processes;

(3) “shellfish” has the meaning given in AS 16.40.199. [(8) “shellfish” means a species of crustacean, mollusk, or other invertebrate, in any stage of its life cycle, that is indigenous to state water or that is authorized to be imported into the state under a permit issued by the commissioner;]

MANAGEMENT AND COMMERCIAL STATUTES

CHAPTER 5. FISH AND GAME CODE AND DEFINITIONS

ARTICLE 5. MANAGEMENT OF FISH AND FISHERIES.

AS. 16.05.730. Management of wild and enhanced stocks of fish.

(a) Fish stocks in the state shall be managed consistent with sustained yield of wild fish stocks and may be managed consistent with sustained yield of enhanced fish stocks.

(b) In allocating enhanced fish stocks, the board shall consider the need of fish enhancement projects to obtain brood stock. The board may direct the department to manage fisheries in the state to achieve an adequate return of fish from enhanced stocks to enhancement projects for brood stock; however, management to achieve an adequate return of fish to enhancement projects for brood stock shall be consistent with sustained yield of wild fish stocks.

(c) The board may

(1) consider the need of enhancement projects authorized under AS 16.10.400 and contractors who operate state-owned enhancement projects under AS 16.10.480 to harvest and sell fish produced by the enhancement project that are not needed for brood stock to obtain funds for the purposes allowed under AS 16.10.450 or 16.10.480(d);

(2) consider the need of projects authorized under AS 16.12.010 to harvest and sell shellfish that are not needed for brood stock to obtain funds for the purposes allowed under AS 16.12.080;

(3) exercise its authority under this title as it considers necessary to direct the department to provide a reasonable harvest of fish, in addition to the fish needed for brood stock, to an enhancement project to obtain funds for the enhancement project if the harvest is consistent with sustained yield of wild fish stocks; and

(4) adopt a fishery management plan to provide fish to an enhancement project to obtain funds for the purposes allowed under AS 16.10.450, 16.10.480(d), or AS 16.12.080.

(d) In this section, “enhancement project” means a project, facility, or hatchery for the enhancement of fishery resources of the state for which the department has issued a permit.

CHAPTER 10. FISHERIES AND FISHING REGULATIONS

ARTICLE 14. MARICULTURE REVOLVING LOAN FUND.

AS 16.10.890. Declaration of policy.

It is the policy of the state, under AS 16.10.890 — 16.10.945, to promote mariculture and the enhancement of the state's shellfish fisheries by means of long-term, low-interest loans.

AS 16.10.900. Mariculture revolving loan fund.

- (a) The mariculture revolving loan fund is created in the Department of Commerce, Community, and Economic Development to carry out the purposes of AS 16.10.890 — 16.10.945.
- (b) The mariculture revolving loan fund consists of the following:

- (1) money appropriated to, transferred to, or received by gift, grant, devise, bequest, or donation to the fund;

- (2) principal and interest payments or other income earned on loans or investments of the fund; and

- (3) money chargeable to principal or interest that is collected through liquidation by foreclosure or other process on loans made under AS 16.10.890 — 16.10.945.

- (c) Money in the fund may be used by the legislature to make appropriations for costs of administering AS 16.10.890 — 16.10.945.

- (d) Of the total amount available annually to the department to carry out the purposes of AS 16.10.890 — 16.10.945, less any funds appropriated under (c) of this section, 60 percent shall be available solely for making loans under AS 16.10.910(a)(1) and the remainder shall be available solely for making loans under AS 16.10.910(a)(2).

AS 16.10.905. Powers and duties of the department.

The department may

- (1) make loans to eligible applicants under AS 16.10.890 — 16.10.945 for the planning, construction, and operation of a

- (A) mariculture business;

- (B) hatchery that artificially propagates marine aquatic plants or shellfish; or

- (C) a shellfish enhancement project;

- (2) receive, take, hold, and administer any appropriation, transfer, gift, grant, bequest, devise, or donation of money for the fund;

- (3) establish amortization plans for repayment of loans, including extensions of the terms of loans;

- (4) allow an assumption of a loan if

- (A) the applicant meets the requirements established under this section; and

- (B) approval of the assumption would be consistent with the purposes of AS 16.10.890 — 16.10.945;

- (5) establish the rate of interest for loans consistent with law;

- (6) charge and collect fees for services provided under AS 16.10.890 — 16.10.945;

- (7) adopt regulations under AS 44.62 necessary to carry out the provisions of AS 16.10.890 — 16.10.945, including regulations to establish reasonable fees for services provided; and

- (8) designate agents and delegate powers as necessary to the agents.

AS 16.10.910. Eligibility.

(a) For an applicant to be eligible for a loan under AS 16.10.890 — 16.10.945, the applicant shall be

(1) a resident of the state who has

(A) a permitted mariculture farm location in this state; and

(B) experience or training in the mariculture industry; or

(2) a resident of the state or entity organized under the laws of this state that

(A) holds a permit under AS 16.40.100 to operate a hatchery for the purpose of producing aquatic plants or shellfish; or

(B) conducts shellfish enhancement projects.

(b) In addition to the requirements set out in (a) of this section, the applicant

(1) may not be eligible for financing from other recognized commercial lending institutions; or

(2) shall be able to obtain only a portion of the total loan request from a recognized commercial lending institution.

(c) To meet the residency requirements of (a) of this section, an individual applicant

(1) shall physically reside in this state and maintain a domicile in this state during the 24 consecutive months preceding the date of application for the program; and

(2) may not have

(A) declared or established residency in another state; or

(B) received residency or a benefit based on residency from another state.

AS 16.10.915. Limitations on loans.

(a) Except as provided in (b) and (c) of this section, a loan under AS 16.10.890 —16.10.945

(1) may not exceed

(A) \$100,000 a year for an applicant under AS 16.10.910(a)(1); or

(B) \$1,000,000 a year for an applicant under AS 16.10.910(a)(2);

(2) may not, unless extended under AS 16.10.905, exceed a term of

(A) 20 years for an applicant under AS 16.10.910(a)(1); or

(B) 30 years for an applicant under AS 16.10.910(a)(2);

(3) may not bear interest at a rate greater than the prime rate, as defined in AS 44.88.599, plus one percentage point, but which may not be less than five percent a year or more than nine percent a year;

(4) must be secured by a first priority lien on collateral acceptable to the department; and

(5) may not be made to a person who has a past due child support obligation established by

court order or by the child support services agency under AS 25.27.160 — 25.27.220 at the time of application.

(b) Subsequent loans may be made to a borrower under

(1) AS 16.10.910(a)(1), if the total of the balances outstanding on the loans received by the borrower does not exceed \$300,000; or

(2) AS 16.10.910(a)(2), if the total of the balances outstanding on the loans received by the borrower does not exceed \$1,000,000.

(c) A loan under AS 16.10.910 may be made for the purchase of boats or vessels determined to be integral to the operation of the farm or hatchery.

(d) For a loan made under AS 16.10.890 — 16.10.945, the department may provide a reduction of the interest rate of not more than two percent if at least 50 percent of the loan proceeds are used by the borrower for purchasing products manufactured or produced in the state. When the department offers a reduction under this subsection, the department shall provide the reduction to all loan applicants who meet the criterion described in this subsection. In this subsection, “manufactured or produced” means processing, developing, or making an item into a new item with a distinct character and use.

(e) The department may not make a loan to an applicant under AS 16.10.910(a)(2) for a hatchery or shellfish enhancement project unless the department determines that the hatchery or enhancement project will

(1) be managed in a financially viable manner that is reasonably expected to result in repayment of the loan; and

(2) provide a significant contribution to common property fisheries or otherwise benefit the public interest.

AS 16.10.920. Repayment of principal of and interest on loans.

The department may not require the repayment of the principal of and interest on a loan made under AS 16.10.910 during the first six years of the loan. However, for a loan made under AS 16.10.910(a)(2), the department may defer repayment of the principal of and interest on the loan for an additional period not to exceed the first 11 years of the loan. The department may provide that interest on the principal of a loan made under AS 16.10.910(a)(1) does not accrue during a period not to exceed the first six years of the loan. For a loan made under AS 16.10.910(a)(2), the department shall provide that interest on the principal of the loan does not accrue during the first six years of the loan, and the department may provide that interest on the principal of the loan does not accrue during an additional period not to exceed the first 11 years of the loan.

AS 16.10.923. Voluntary assessment on sale of shellfish.

(a) An association of persons who hold entry permits under AS 16.43 comprising at least 51 percent of the persons holding entry permits and actively participating in a fishery to be benefited by a hatchery program may levy and collect an assessment from among its members for the purpose of securing and repaying a loan made under AS 16.10.890 — 16.10.945.

(b) Upon satisfactory demonstration to the department that an assessment levied under this section may reasonably be relied on to secure and repay a loan to be made under AS 16.10.890 — 16.10.945, the department may make the loan.

AS 16.10.925. Default.

If the borrower defaults on a note, the department shall notify the borrower of the default and the consequences of default by mailing a notice to the borrower's most recent address provided to the department by the borrower or obtained by the department.

AS 16.10.930. Special account established.

(a) The foreclosure expense account is established as a special account in the mariculture revolving loan fund.

(b) The department may expend money credited to the foreclosure expense account when necessary to protect the state's security interest in collateral on loans granted under AS 16.10.910 or to defray expenses incurred during foreclosure proceedings after an obligor defaults.

AS 16.10.935. Disposal of property acquired after default.

The department shall dispose of property acquired through default of a loan made under AS 16.10.890 — 16.10.945. Disposal must be made in a manner that serves the best interest of the state and may include the amortization of payments over a period of years.

AS 16.10.940. Waiver of confidentiality.

The commissioner may release information about the borrower's loan to any individual if release of the information has been authorized by the borrower.

AS 16.10.945. Definitions.

In AS 16.10.890 — 16.10.945,

(1) “commissioner” means the commissioner of commerce, community, and economic development;

(2) “department” means the Department of Commerce, Community, and Economic Development;

(3) “hatchery” has the meaning given in AS 16.40.199;

(4) “mariculture” means the farming of shellfish and aquatic plants as defined in AS 16.40.199;

(5) “shellfish enhancement project” means a project to

(A) augment the yield or harvest of shellfish above naturally occurring levels using a natural, artificial, or semiartificial production system; or

(B) rehabilitate a shellfish stock by restoring it to its naturally occurring levels of productivity.

CHAPTER 40. COMMERCIAL USE OF FISH AND GAME

ARTICLE 6. SPECIAL HARVEST AREA ENTRY PERMITS.

AS 16.43.400. Special harvest area entry permits.

(a) In addition to entry permits, interim-use permits, and educational permits, the commission may issue special harvest area entry permits to

(1) holders of private, nonprofit hatchery permits issued by the Department of Fish and Game under AS 16.10.400 — 16.10.475 for salmon; and

(2) nonprofit organizations holding a permit under AS 16.12 for a shellfish enhancement project.

(b) The commission may issue special harvest area entry permits notwithstanding the establishment of maximum or optimum numbers under AS 16.43.240 and 16.43.290.

AS 16.43.410. Term and conditions of special harvest area entry permits.

(a) Special harvest area entry permits may be applied for on an annual basis and shall be issued for a term of one year. A permit is nontransferable.

(b) A special harvest area entry permit may only be issued for the applicable area designated by the Department of Fish and Game as a special harvest area.

(c) The annual fee for a special harvest area entry permit shall be specified by commission regulation under the authority of AS 16.43.160.

AS 16.43.430. Authorized gear.

For the purposes of harvesting salmon or shellfish, a special harvest area entry permit holder may employ any fishing gear designated as legal gear in the applicable special harvest area by the Board of Fisheries.

AS 16.43.440. Adoption of regulations.

(a) Use privileges granted under AS 16.43.400 — 16.43.440 are subject to the regulations of the Board of Fisheries.

(b) The commission, after consultation with the Department of Fish and Game, shall adopt regulations that are reasonably necessary to implement AS 16.43.400 — 16.43.440.

AS 16.43.990. Definitions.

In this chapter,

- (1) “commission” means the Alaska Commercial Fisheries Entry Commission;
- (2) “economically healthy fishery” means a fishery that yields a sufficient rate of economic return to the fishermen participating in it to provide for, among other things, the following:
 - (A) maintenance of vessels and gear in satisfactory and safe operating condition; and
 - (B) ability and opportunity to improve vessels, gear and fishing techniques, including, when permissible, experimentation with new vessels, new gear, and new techniques;
- (3) “entity” means a corporation, company, partnership, firm, association, organization, joint venture, trust, society, or other legal entity other than a natural person;
- (4) “fishery” means the commercial taking of a specific fishery resource in a specific administrative area with a specific type of gear; however, the commission may designate a fishery to include more than one specific administrative area, gear type, or fishery resource;
- (5) “gear” means the specific apparatus used in the commercial harvest of a species, including but not limited to purse seines, drift gill nets, set gill nets, and troll gear;
- (6) “optimum number” includes an optimum range of numbers;
- (7) “person” means a natural person; “person” does not include a corporation, company, partnership, firm, association, organization, joint venture, trust, society, or other legal entity other than a natural person;
- (8) “present ability to actively participate” means the person applying for a permit is physically able to harvest fish in the fishery and has reasonable access to commercial fishing gear of the type utilized in that fishery;
- (9) “priority classification” means the allocation of potential permit applicants into reasonable groupings of similarly situated applicants and the priority ranking of those groupings according to the extent to which they satisfy the standards of preference;
- (10) “type of gear” means a customary and identifiable classification of gear and shall include:
 - (A) those classifications for which separate regulations were adopted by the Board of Fisheries and for which separate gear licenses were required by former AS 16.05.550 — 16.05.630; and
 - (B) distinct subclassifications of gear such as “power” troll gear and “hand” troll gear;
- (11) “unit of gear” means the maximum amount of a specific type of gear that can be fished by a person under regulations established by the Board of Fisheries defining the legal requirements for that type of gear.