

PACIFIC COAST

COMMERCIAL LICENSING HANDBOOK - 1994

**FISHERIES AND OCEANS
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C O N T E N T S

Chapter 1	INTRODUCTION	PAGE
	Purpose of Handbook	1
	What is a Commercial Fishing Licence?	1
	The Authority	1
	Conditions of Licence	2
	Licence Suspension/Cancellation	3
Chapter 2	LICENSING RULES AND PROCEDURES	
	Commercial Fishing Licences	5
	Licence Categories	5
	General Authorities	6
	Annual Licences	6
	Application for Licences	6
	Vessel Licences	7
	Personal Licences Designated to a Vessel	7
	Personal Licences Without a Vessel	7
	Fisher's Registration Card	8
	Registration of Fishing Vessels	10
	New Requirements for the Identification of Fishing Vessels	11
	New Requirements for the Identification of Fishing Gear	13
	Change of Ownership	13
	Replacement of Vessels	14
	Nomination of New Licence Holders for Licences Issued to Persons	17
	Table 2.1 - Overall Length Conversion Table	18
	Table 2.2 - Fee Schedule	19
	Table 2.3 - Category C Licence - Species and Gear	21
	Table 2.4 - Category Z Licences - Fishing with a Vessel	22
	Table 2.5 - Category Z Licences - Fishing without a Vessel	23
	Table 2.6 - Fisher's Registration Card - Proof of Identity, Citizenship, or Resident Status	24

Chapter 3 APPEAL PROCESS **PAGE**

History25
PRLAB Terms of Reference26

Chapter 4 INDIVIDUAL CATEGORIES - HISTORY AND CONDITIONS OF LICENCE

Category A - Salmon29
Category B - Salmon31
Category N - Salmon32
Category C - Scheduled Species33
Category D - Packing/Transport34
Category E - Abalone35
Category G - Geoduck and Horse Clam37
Category H - Roe Herring39
Category J - Herring Spawn on Kelp42
Category K - Sablefish44
Category L - Halibut48
Category P - Processor51
Category R - Crab52
Category S - Shrimp trawl53
Category T - Groundfish trawl54
Category W - Shrimp by trap55
Category Y - Export56
Category Z - Special fisheries57

CHAPTER 1 INTRODUCTION

PURPOSE OF HANDBOOK

This report is intended to provide the commercial fishing industry and any others who may have interest, with a clear, consistent statement of Fisheries and Oceans' administrative rules and procedures respecting licensing in the commercial fisheries on the Pacific Coast of Canada. The following is a description of the licensing rules and procedures as they exist at the time of printing. It should be used for reference only. Anyone who is uncertain regarding a decision about commercial fishing licences is urged to contact the Pacific licensing office in Vancouver, Nanaimo or Prince Rupert for information or to confirm the current policy. All regulations which may relate to licensing will take precedence over this report.

WHAT IS A COMMERCIAL FISHING LICENCE?

A "fishing licence" is a document or instrument by which the Minister of Fisheries and Oceans, pursuant to his authority under the Fisheries Act, grants permission to a person (an individual or a company) to engage in the harvest of certain species or any other activity related to fishing, subject to certain conditions attached to the licence. A licence is in no sense a permanent authority to fish; the licensee essentially acquires a limited fishing privilege rather than any kind of absolute or permanent right.

THE AUTHORITY

The Constitution Act, 1867 (British North America Act), gives the Federal Government authority to regulate all marine and inland fisheries. With respect to licensing, however, the federal mandate is restricted to tidal waters, except where the purpose of the licence is clearly conservation.

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CONDITIONS OF LICENCE

At present commercial fishing licences may specify any one or more of the following conditions:

- a) the species of fish and quantities thereof that are permitted to be taken or transported;
- b) the age or stage of development and the sex of marine mammals that are permitted to be taken or transported;
- c) the waters in which fishing is permitted to be carried out;
- d) the location from which and to which fish is permitted to be transported;
- e) the vessel from which and to which fish is permitted to be transhipped;
- f) the period during which fishing or transporting fish is permitted to be carried out;
- g) the vessel that is permitted to be used and the persons who are permitted to operate it;
- h) the type, size, and quantity of fishing gear and equipment that is permitted to be used and the manner in which it is permitted to be used;
- i) the specific location at which fishing gear is permitted to be set;
- j) the distance to be maintained between fishing gear;
- k) information that the holder of the licence shall report to the department prior to commencement of a fishing trip with respect to where and when fishing will be carried out, including the method by which, the times at which and the person to whom the report is to be made;
- l) information that the master of the vessel shall report to the department from sea, including the method by which, the times at which and the person to whom the report is to be made;
- m) the location and times at which landing of fish from the vessel is permitted;
- n) verification by an observer of the weight and species of any fish caught and retained;
- o) the method permitted for landing of fish from the vessel and the method by which the weight of the fish is to be determined;
- p) records that the master of the vessel shall keep of any fishing activity carried out under the licence or of the sale or transport of fish caught under the licence, including the manner and form in which the records are to be kept, the times at which and the person to whom the records are to be produced, and the period for which the records are to be retained;
- q) the time within which findings and data obtained as a result of fishing for an experimental or scientific purpose are to be forwarded to the Minister.

LICENCE SUSPENSION/CANCELLATION

The Fisheries Act provides for the suspension or cancellation of any lease or licence issued under the authority of the Act if the Minister has ascertained that the operations under the lease or licence were not conducted in conformity with its provisions; and no legal proceedings under this Act have been commenced with respect to the operations under the lease or licence.

Compliance with the Fisheries Act and all regulations made under authority of the Act is a condition of every fishing licence. This means that a conviction for any offence under the Act could lead to licence suspension or cancellation.

CHAPTER 2 LICENSING RULES AND PROCEDURES

COMMERCIAL FISHING LICENCES

Licence Categories

The categories of commercial fishing licences that may be issued with respect to commercial fishing are: (see Table 2.2 for fee schedule)

- Category A - Salmon
- Category B - Salmon
- Category N - Salmon
- Category C - Fishing for the species of fish listed in Schedule II (see table 2.3)
- Category D - Packing
- Category G - Geoduck and Horse Clam
- Category H - Roe Herring
- Category J - Herring Spawn on Kelp
- Category K - Sablefish
- Category L - Halibut
- Category P - Processor
- Category R - Crab
- Category S - Shrimp trawl
- Category T - Groundfish trawl
- Category W - Shrimp by trap
- Category Y - Export
- Category Z - Special fishery (see Tables 2.4 and 2.5)

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General Authorities

Any registered and licensed commercial fishing vessel may engage in packing.

Any registered commercial fishing vessel, other than a vessel licensed as Packing (D), Processing (P) or Export (Y), or designated to fish under authority of a Roe Herring (H) licence may also fish for C licence species.

Annual Licences

A commercial fishing licence expires on December 31 of the year for which it is issued.

APPLICATION FOR LICENCES

Vessel Licences

A commercial fishing licence and accompanying validation tabs for categories A, B, C, D, G, K, L, P, R, S, T, W or Y may be issued for a commercial fishing vessel, if:

- a) the owner applies on or before December 31 in the year for which the licence is being sought, and pays the applicable fee set out in regulation.
- b) the vessel meets the conditions of the category of licence sought.

Personal Licences Designated to a Vessel

A commercial fishing licence and accompanying validation tabs for Roe Herring (H), Salmon (N) or Z may be issued to a person, if:

- a) that person
 - i) applies in respect of a Salmon (N) or Z, on or before December 31 in that year; or applies in respect of Roe Herring (H), on or before January 15 in that year; and
 - ii) pays the applicable fee set out in regulation, and meets all requirements for the licence category.
- b) the vessel that the person intends to use meets the conditions of the category of licence sought.

All applications for personal licences must be signed by the licence holder of record. No Powers of Attorney will be accepted. Licence holders for Roe Herring (H), Salmon (N), and limited entry Z licences may apply to redesignate the licence to another vessel if the vessel is declared a total loss or is no longer available to the licence holder due to unforeseen circumstances.

Personal Licences Without a Vessel

A commercial fishing licence may be issued to a person for herring spawn-on-kelp or Category Z, if that person:

- a) applies on or before December 31 in the year for which the Z licence is being sought;
- b) pays the applicable fee set out in regulation; and
- c) meets any special requirements for the category of licence sought.

All applications for personal licences must be signed by the licence holder of record. No Powers of Attorney will be accepted.

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FISHER'S REGISTRATION CARD

A person who is 16 years of age or older must hold a Fisher's Registration Card (FRC):

- a) to fish for commercial purposes in tidal waters;
- b) to be on board a commercial fishing vessel that
 - i) is being used in commercial fishing, or
 - ii) leaves a port or place in the Province of B.C. to engage in commercial fishing.

Non-registered crew may NOT board a fishing vessel. However, vessels licensed with only a Packing (D) licence are not considered to be "commercial fishing vessels", therefore individuals on board do not require a fisher's registration card.

A person who is less than 16 years of age may be on board a licensed vessel as crew if accompanied by a person who holds a fisher's registration card. Persons under 16 do need a licence to engage in fishing without a vessel (ie. Z licence for clam harvesting).

An application for a fisher's registration card may be made at any fishery office.

An applicant for a fisher's registration card must:

- a) prove his or her identity and Canadian citizenship or landed immigrant status
 - i) on his or her first application, by submitting a primary and a secondary document as listed in Table 2.6, and
 - ii) on any subsequent application by establishing that he or she held a personal commercial fishing licence or fisher's registration card previously, and by submitting a secondary document as proof of identity; and
- b) pay the fee set out in regulation.

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A person on his or her first application for an annual fisher's registration card may, in lieu of submitting a primary document as listed in Table 2.6, submit a statutory declaration attesting to his or her identity and citizenship.

A fisher's registration card expires:

- a) in respect of an annual registration, on December 31 of the year for which the licence was issued; or
- b) for a five year registration, five years from date of issue.

A temporary fisher's registration card is valid for a specified period.

As a matter of policy, a guest pass, valid for 72 hours, may be issued to persons who will be aboard a commercial fishing vessel as an observer only.

A fisher's registration card must be carried by the holder whenever he or she is engaged in commercial fishing and must be produced on demand.

A person may hold only one fisher's registration card for the same time period.

A fisher's registration card that has been lost or destroyed may be replaced when the person to whom the licence was issued:

- a) submits a declaration to that effect; and
- b) pays the applicable fee set out in regulation.

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REGISTRATION OF FISHING VESSELS

A vessel that is to be used in commercial fishing must first be registered and obtain a vessel registration certificate.

An application to register a fishing vessel must be supported by the following documents:

- a) either the Bill of Sale for the vessel and copy of the vessel's licence, if the vessel is licensed under the Canada Shipping Act, or by a copy of the vessel's Certificate of Registry, if the vessel is registered under the Canada Shipping Act;
- b) a copy of the fish hold inspection report establishing that the vessel meets the requirements of the Fish Inspection Regulations;
- c) a report by a Marine Surveyor, dated after May 01, 1989, stating the overall length, depth and breadth of the vessel with a current side profile photograph of the vessel signed and dated by the owner or marine surveyor ; and
- d) a fee for a vessel registration certificate as set out in regulation.

A vessel registration certificate cannot be issued in respect of a vessel unless the owner or the vessel meets the conditions for a commercial fishing licence for the category in which the vessel will be used; and the vessel is licensed or registered under the Canada Shipping Act.

The vessel registration certificate must be carried on board the vessel at all times it is engaged in commercial fishing, and be produced on request.

Where any of the vessel particulars set out in the vessel registration certificate do not reflect the true particulars of that vessel, then:

- a) the vessel registration certificate is invalid and the vessel is deemed to be no longer registered;
- b) any licences issued naming that vessel are invalid; and
- c) all documents issued to that vessel or to a person designating that vessel, are to be returned to the Crown forthwith.

A commercial fishing vessel which has been modified will for the purpose of this policy, be considered a different vessel and must be relicensed and registered at the new size.

NEW REQUIREMENTS FOR THE IDENTIFICATION OF FISHING VESSELS

This section sets out, for all Canadian fishing vessels, a new method for marking vessels with a registration number. (The registration number that is to be displayed, is the CFV # for the vessel, that is, the plate number currently issued for that vessel by the Department of Fisheries and Oceans.)

The following rules apply:

- a) the number must be legible and unobstructed when viewed from an aircraft in flight, from another vessel or from shore;
- b) solid block Arabic numerals without ornamentation;
- c) white numerals on black background or vice versa; and
- d) aligned horizontally.

The vessel registration number shall be located:

- a) in the case of a vessel with a superstructure, as high as practicable on both sides of the superstructure and on the top of the superstructure with the top of the numerals towards the bow; and
- b) in the case of a vessel without a superstructure, as high as practicable on both sides of the vessel.

The required dimensions of the numerals forming the vessel registration number vary with the overall length (OAL) of the vessel as follows:

OAL of vessel METRES	or FEET	HEIGHT (of numerals)	STROKE WIDTH (of numerals)	SPACED APART Not Less Than & Not More Than		BORDER WIDTH
≥ 25 m	≥ 82	3'3"	7"	7"	10"	7"
< 25 m	< 82'	2'7"	5"	5"	8"	5"
≥ 20 m	≥ 65.61'					
< 20 m	< 65.61'	2'	4"	4"	6"	4"
≥ 15 m	≥ 49.21'					
< 15 m	< 49.21'	1'4"	3"	3"	4"	3"
≥ 12 m	≥ 39.37'					
< 12 m	< 39.37'	1'	2"	2"	3"	2"
≥ 5 m	≥ 16.4'					
< 5 m	< 16.4'	4"	3/5"	3/5"	1"	3/5"

Commercial Licensing Handbook - 1994

Vessel owners are expected to make every effort to meet the guidelines as set out in the regulations. Where it is not practical to meet these guidelines, the following alternatives may be taken:

- Where it is not practical to have the numbers as large as stated in the regulations, the numbers must be as close to the guidelines as possible. A letter from DFO is not required as has been previously announced.
- Where it is not practical to put the number on the sides of the superstructure, the number may be placed on both sides of the bow. Again, the size of the numbers must be as close to the minimum size requirements as possible.
- Where it is not practical to put the numbers on top of the superstructure with the top of the numbers towards the bow, they may be in any direction or location on top of the structure that is practical. Every effort must be made to meet the requirements as close as possible.

Vessel owners that have a problem with the regulatory guidelines as well as the preceding allowances will be required to make a written submission, with a photo of the vessel if one is not already on file with DFO, for review and decision.

Where the superstructure, or the hull if the number will be painted on the hull, is black or white, the number may be painted directly onto the vessel without contrasting background, eg: if the hull is white, black numbers may be painted directly onto the hull rather than having to paint a black background with white numbers. The minimum border width still applies.

Licence tabs are to be placed directly adjacent to the vessel registration number marking. Where this is not practical, particularly with bow numbers, the tabs are to be placed on the superstructure as highly visible a location as possible.

Vessel registration numbers (CFV#) must be correctly marked on the vessel prior to engaging in fishing.

NEW REQUIREMENTS FOR IDENTIFICATION OF FISHING GEAR

There are also new instructions to vessel owners and licence holders on the marking of gear. Specifically, the vessel registration number or the licence holder's name must be marked on gear in:

- a) solid block Arabic numerals or solid block capital letters in Roman characters, without ornamentation,
- b) not less than 75 mm (3") in height, and
- c) in a colour that contrasts with their background.

CHANGE OF OWNERSHIP

The sale of a commercial fishing vessel must be reported in writing by the new owner within 15 days and be supported by the following:

- a) if the vessel is licensed with Department of Transport - a copy of the Bill of Sale for the vessel, or
- b) if the vessel is registered with Department of Transport - a copy of the registered bill of sale, or amended certificate of registry.

All commercial fishing licences are valid for the period for which they are issued notwithstanding the ownership of the vessel may have changed.

Where validation tabs have also been issued, these must remain affixed to that vessel and the licence documents kept aboard the vessel at all times. Registration documents as well as vessel licences and tabs and must remain with the vessel.

Commercial Licensing Handbook - 1994

REPLACEMENT OF VESSELS

Categories A, C, G, K, L, R, S, T and W

An application to replace a commercial fishing vessel must be made by the owner(s) of the vessel to be replaced, and must be accompanied

a) in respect of the vessel to be replaced, by the following:

- i) Current year Licence Documents, ie. Registration Certificate, validation tabs, Commercial Fishing Licences(s) and Plastic Vessel Card or a written statement as to why you are unable to return any or all of these documents.
- ii) Confirmation of Ownership - Please submit a current:

Transcript of Registry for vessels registered under the Canada Shipping Act. (Available from the Department of Transport - Port of Registry)

OR

- A Statutory Declaration for vessels licensed under the Canada Shipping Act declaring; true ownership of the vessel and listing all liens and encumbrances against the vessel or stating clear title.
- iii) Written advice from each lien and encumbrance holder stating that they have been notified of the application to transfer.
 - iv) A vessel survey for overall length, width and depth, conducted by a Marine Surveyor dated after May 01, 1989.

Commercial Licensing Handbook - 1994

b) in respect of the replacing vessel, by the following

- i) Approved Vessel Inspection Report (for fish hold) if the vessel has not previously been a commercial fishing vessel.
- ii) Current year licence application(s) and fees if not already paid.
- iii) For vessels not currently registered as a commercial fishing vessel:

A completed application for a vessel registration certificate and the appropriate fee.

For vessels registered under the Canada Shipping Act;
Certificate of Registry or Registered Bill of Sale.

OR

For vessels licensed under the Canada Shipping Act; Bill of Sale
and DOT Certificate.

- iv) A vessel survey for overall length, width and depth, conducted by a Marine Surveyor dated after May 01, 1989.

For the replacement of vessels licensed in all categories except Salmon (A or B), the replacing vessel cannot exceed the overall length of the vessel to be replaced. For vessels licensed with Salmon (A or B), the replacing vessel cannot exceed either the overall length or the net tonnage of the replaced vessel.

Both vessels are required to have a survey conducted by a Marine Surveyor, dated after May 01, 1989 either on record or submitted with the vessel licence transfer application. The survey is for the measured overall length, width and depth and must be accompanied by a signed and dated side profile photograph of the vessel.

If a vessel is eligible for more than one licence category, all licence eligibilities must be transferred to the replacing vessel. If any current year licences have been issued, they must be returned with the transfer application.

Where a vessel is eligible for a Salmon (A) licence, and that licence has been issued for the reduced fee available to Natives, the replacing vessel must be owned by a

Commercial Licensing Handbook - 1994

registered status Indian or licence eligibility ceases.

If the replacing vessel is eligible for a category C licence, the licence must be surrendered to the department or transferred to another vessel prior to the licensing of the vessel in any other category. Where the category C licence has been issued for the current year, the licence documents must be returned with the transfer application.

The holder of a category Z licence which has been designated to the vessel to be replaced may apply to redesignate the licence(s) to the replacing vessel or another eligible vessel.

Geoduck, halibut and sablefish vessels have unique transfer rules. Please contact a Commercial Licence Unit office.

Vessels Lost or Destroyed

Where a commercial fishing vessel is lost or destroyed or determined by the Minister to be a total loss, an application for a temporary transfer may be made. Written confirmation from an insurance company, shipyard or marine engineer explaining why the vessel is inoperative is required.

According to Ministerial policy, two years (ie. to December 31 following the second anniversary of the date of loss) are granted to repair or replace the lost vessel. Only the owner(s) at the time of loss may apply for temporary or permanent transfers of the licence eligibility.

Applications for temporary transfers, where the replacing vessel exceeds the overall length/net tonnage of the vessel to be replaced, may be considered to a maximum increase of 10% of overall length.

Even if temporary transfers are not applied for, the vessel licence must still be applied for and issued annually in order to retain the eligibility.

It should be noted that the following vessel situations do not qualify for temporary transfers:

- vessels that are in disrepair at the time of purchase.
- vessels with engine problems, delays in annual maintenance or rebuilds.

All persons considering submission for a temporary transfer, should contact the Commercial Licence Unit prior to proceeding.

NOMINATION OF NEW LICENCE ELIGIBILITY HOLDERS FOR LICENCES ISSUED TO PERSONS

Licence holders of record may indicate their intention to no longer apply for a licence privilege by completing a nomination form provided by the department for the following licence categories:

- a) Category H - Roe Herring seine
- Roe Herring gillnet
- b) Category ZN - Rockfish by hook and line
- c) Category ZF - Euphausiid

Where such an intention is stated, the Minister may consider issuance of the privilege to another person nominated by the original licence holder of record. All nomination forms must be signed by the licence holder of record.

For nominations in the roe herring fishery, the following rules also apply:

- a) To encourage individual participation in the roe herring fishery, corporate licence holdings will be restricted to the levels indicated by the 1988 survey of Roe Herring (H) licence holdings. Where a licence holder nominates a company to take his/her place, the nomination will be subject to review to ensure that these levels are not exceeded.
- b) Reduced fee Roe Herring (H) licence holders of record (Natives) may also indicate their intention to no longer apply for a licence privilege but the person nominated by the licence holder must also be a registered status Indian.
- c) Nominees must be an individual or a company; joint holdings are not permitted.

TABLE 2.1

OVERALL LENGTH CONVERSION TABLE

under 6.07m = 2.83m ³	(under 19'11" = 1 net ton)
not less than 6.10m but less than 7.29m = 5.66m ³	(20' - 23'11" = 2 net ton)
not less than 7.32 m but less than 8.20m = 8.49m ³ . . .	(24' - 26'11" = 3 net ton)
not less than 8.23m but less than 9.12m = 11.32m ³ . . .	(27' - 29'11" = 4 net ton)
not less than 9.14m but less than 9.73m = 14.15m ³ . . .	(30' - 31'11" = 5 net ton)
not less than 9.75m but less than 10.34m = 16.98m ³ . .	(32' - 33'11" = 6 net ton)
not less than 10.36m but less than 10.95m = 19.81m ³ .	(34' - 35'11" = 7 net ton)
not less than 10.97m but less than 11.56m = 22.64m ³ .	(36' - 37'11" = 8 net ton)
not less than 11.58m but less than 12.17m = 25.47m ³ .	(38' - 39'11" = 9 net ton)
not less than 12.19m but less than 12.78m = 28.30m ³ .	(40' - 41'11" = 10 net ton)
not less than 12.80m but less than 13.39m = 31.13m ³ .	(42' - 43'11" = 11 net ton)
not less than 13.41m but less than 14.30m = 33.96m ³ .	(44' - 46'11" = 12 net ton)
not less than 14.33m but less than 14.91m = 36.79m ³ .	(47' - 48'11" = 13 net ton)
not less than 14.94m but less than 15.22m = 39.62m ³ .	(49' - 49'11" = 14 net ton)

TABLE 2.2

FEE SCHEDULE

Registration/Licences	Fee
I. Registration of Vessel (CFV)	\$10.00
II. Commercial Fishing Licences - Annual	
Category A - Salmon - where the vessel is	
a) less than 9.14 m in overall length	\$400.00
b) not less than 9.14 m in overall length but less than 42.45 m ³	\$800.00
c) not less than 42.45 m ³	\$1,600.00
d) of any length fishing by means of purse seine	\$1,600.00
Category A - Salmon - issued to an Indian or the Northern Native Fishing Corporation if elected under section 19 of the Pacific Fishery Regulations, 1993	\$20.00
Category N - Salmon	\$20.00
Category B - Salmon	\$20.00
Category C - Species listed in Schedule II	\$10.00
Category D - Packing	\$10.00
Category G - Geoduck and Horse Clam	\$10.00
Category H - Roe Herring - operating a	
a) gillnet	\$200.00
b) seine net	\$2,000.00
Category H - Roe Herring - issued to an Indian	\$10.00
Category J - Herring Spawn on Kelp	
a) issued to a non-Indian	\$2,000.00
b) issued to an Indian or Band	\$10.00

Commercial Licensing Handbook - 1994

TABLE 2.2 cont'd

FEE SCHEDULE

Registration/Licences	Fee
Category K - Sablefish	\$10.00
Category L - Halibut	\$250.00
(plus additional quota fee determined annually)	
Category P - Processor	\$10.00
Category R - Crab	\$200.00
Category S - Shrimp Trawl	\$10.00
Category T - Groundfish Trawl	\$10.00
Category W - Shrimp by Trap	\$200.00
Category Y - Export	No Fee
Category Z - Special Fishery	
a) Vessel	\$50.00
b) Person	\$10.00
III. Fisher's Registration Card	
annual	\$10.00
five years	\$40.00
temporary - specified term	\$10.00
IV. Replacement	
validation tab	\$10.00
registration card (annual or five years)	\$10.00
commercial fishing licence	No Fee

Commercial Licensing Handbook - 1994

TABLE 2.3

**SCHEDULE II
CATEGORY "C" LICENCE**

Species	Gear
Spiny dogfish	hook and line
Skate	hook and line
Flounder and Sole species	hook and line
Lingcod (<i>Ophiodon elongatus</i>)	hook and line
Pacific Cod (<i>Gadus macrocephalus</i>)	hook and line
Tuna	hook and line, purse seine or gillnet
Sturgeon	troll or gillnet
Smelt	gillnet or set net
Eulachon	gillnet or set net

**TABLE 2.4
CATEGORY "Z" LICENCE - FISHING WITH A VESSEL**

Species	Gear
Shellfish (Mollusca, Crustacea, Echinodermata)	
Green Sea Urchin	diving
Red Sea Urchin	diving
Sea Cucumber	diving
Squid Species	seine or hook and line
Euphausiid (Zooplankton)	pelagic trawl
Pink or Spiny Scallop (Chlamys)	diving
Pink or Spiny Scallop (Chlamys)	trawl or dredge
Octopus	trap
Octopus	diving
Fish	
Anchovy	seine
Surf and Pile Perch (F. Embiotocidae)	hook and line or drag seine
Food Herring	seine
Rockfishes (Sebastes species)	hook and line
Six-Gill Sharks (Hexanchus griseus or H. vitulus)	longline

TABLE 2.5

CATEGORY "Z" LICENCE - FISHING WITHOUT A VESSEL

Species	Gear
Shellfish (Mollusca, Crustacea, Echinodermata)	
Clams	hand picking
Goose Barnacle (Policipe)	hand picking
Fish	
Smelt	gillnet, set net
Eulachon	gillnet, set net

TABLE 2.6

**FISHER'S REGISTRATION CARD - PROOF OF
IDENTITY, CITIZENSHIP OR RESIDENT STATUS**

Document	Acceptable Proof	
	Primary	Secondary
Canadian Passport	X	X
Foreign Passport together with Landed Immigrant Papers	X	X
Indian Status Card	X	X
Canadian Seamans Card	X	X
Personal Commercial Fishing Licence - five year		X
Canadian Birth Certificate	X	
Naturalization Certificate	X	
Naturalization Certificate Card	X	X
Canadian Citizenship Certificate	X	
Canadian Citizenship Certificate Card	X	X
Canadian Baptismal Paper	X	
Canadian Armed Forces Identification or Discharge Papers		X
Canadian Police Forces Identification or Discharge Papers		X
B.C. Identification Card		X
Change of Name by Court Order		X
B.C. Driver's Licence		X
Any other Identity Document bearing specimen signature		X

CHAPTER 3
THE APPEAL PROCESS

HISTORY

Since the introduction of entry limitation into the Pacific Coast salmon fishery in 1969 a variety of Licence Appeal Committees have been established. In 1979, The Minister established the Pacific Region Licence Appeal Board (PRLAB) and appointed members. In subsequent years all other forms of appeal to the Minister or his department were eventually discontinued so that the PRLAB is now the only remaining avenue for an appellant wishing to pursue a licensing decision made by departmental staff in the Pacific Region.

The PRLAB is independent of the Department of Fisheries and Oceans, hearing individual appeals and making recommendations directly to the Minister for a decision.

The PRLAB does not make decisions on licence policy, and is strictly an advisory body to the Minister regarding exceptions to licence policy. However, the Board may provide advice to the Minister on policy which the Board feels should be amended.

Commercial Licensing Handbook - 1994

PRLAB TERMS OF REFERENCE

Purpose

Under the Fisheries Act, the Minister of Fisheries and Oceans is authorized to decide upon matters pertaining to the issuance of fishing licences and fishing vessel registrations. The Minister has established the Pacific Region Licence Appeal Board to be the last administrative level of appeal for fishers who are dissatisfied with departmental licensing decisions pertaining to west coast fisheries.

Mandate

To make recommendations to the Minister on the dispositions of licensing decisions rejected by DFO by:

- a) determining if the appellant was treated fairly in accordance with DFO licensing policies, practices and procedures;
- b) determining if extenuating circumstances exist for deviation from established policies, practices and procedures; and
- c) providing a full rationale to the Minister where exceptions to licensing policies, practices and procedures are recommended in individual cases.

To make recommendations to the Minister on changes to licensing practices and procedures where, in the opinion of the Board, they are inappropriate or unfair, and to respond to requests from the Minister to advise on new licence policy developments by:

- a) the Chairman advising the DFO Liaison Officer of the Board's concerns;
- b) addressing such concerns at full Board meetings;
- c) providing a written rationale or justification supporting the recommended change; and
- d) providing a written assessment of perceived implications of proposed change.

Scope

Since December 31, 1989, the scope of PRLAB shall be determined as follows:

- a) the Board will only hear appeals relating to elements of fact and process or involving extenuating circumstances, but not for reasons related to the inappropriateness of licensing policy and criteria;
- b) the Board will not hear requests for new licences in limited entry fisheries where new licences are not being issued;
- c) the Board will have the discretion of refusing to grant an appeal hearing, if the appeal is determined to be made on unwarranted grounds or there is no acceptable reason for non-attendance at a previously scheduled appeal hearing. For non-attendance, recommendations would be made to the Minister based on information at hand;
- d) **the Board will only hear appeals resulting from licensing decisions by the Licence Manager which occurred within the two-years, that is from the time a grievance is alleged to the date a notice of intent to appeal is filed. For licence limitation appeals, the time frame will also be of two years from January 1st of the year following the announcement of the limitation program or management control; and**
- e) the Board has the discretion of granting or denying reappeals.

Composition and Tenure of the Board

Board members are chosen for their knowledge of the fishing industry as well as their ability to provide fair and reasonable consideration to individual appeals.

Board members are appointed by the Minister for a term not exceeding two years.

Commercial Licensing Handbook - 1994

The Board membership is composed of seven members, consisting of the Chair, four regular members and two alternate members. The alternate members should be able to serve for any Board member unable to attend any hearing.

Upon accepting a PRLAB appointment, each Board member is required to complete and return a signed form stating their understanding of and commitment to adhere to Conflict of Interest Guidelines with their acceptance letter.

Schedule of Hearings and Quorum

Hearings are held regularly and average about two days per month. Quorum will be established when four members plus the Chair are in attendance.

Responsibilities of the Appellant

All appellants may be required to submit a statutory declaration under Fishery (General) Regulations Section 8. (1) (b), verifying that the information and documentation provided to the Board is complete, accurate and true. The appellant acknowledges that this information may be disclosed to other DFO enforcement personnel or any other investigative body responsible for enforcing any law of Canada or a province.

All appellants will be required to submit, prior to the scheduling of an appeal hearing, documentation of their presentation, which includes all relevant information pertaining to the case.

CHAPTER 4
HISTORY OF LICENCE CATEGORIES

The following chapter provides summary histories of each licence category and some of the conditions of licence which apply to each category. Conditions of licences may change annually. For a complete list of conditions which apply to a licence for the current year contact the Commercial Licence Unit office in Vancouver, Nanaimo or Prince Rupert.

CATEGORY A - SALMON FISHERY

History

The introduction of entry controls in the salmon fishery in 1969 marked the beginning of licence limitation in Pacific fisheries in Canada. Salmon (A) licences were issued for fishing vessels which had a recorded catch of 10,000 lbs. or more of pink or chum salmon, or equivalent, during 1967 or 1968. A total of 5870 Salmon (A) licences were issued in 1969.

Commercial Licensing Handbook - 1994

The fee for a Salmon (A) licence in 1969 was \$10. Effective for the 1970 salmon season, the licence fee was raised from \$10 to \$100 for Salmon (A) vessels less than 15 net tons in capacity. Vessels larger than this were charged \$200 in annual fees in a rough attempt to make fees proportional to fishing capacity. The stated purpose of the fee increase was to fund a buy back program for the salmon fleet. Effective for the 1971 season these fees were doubled to \$200 and \$400 respectively. (At the same time, another fee category was introduced; vessels under 30 ft. continued to pay a \$100 annual fee.) In 1981, salmon licence fees in each of the three categories were increased again to \$200, \$400 and \$800 respectively. The most recent increase in fees occurred in 1987, when licence fees were increased to \$400, \$800 and \$1,600 respectively. These fees are still in place.

Between 1969 and 1977 there was no restriction on the type of gear (gillnet, seine or troll) which could be used on a salmon licensed vessel. In 1977, a moratorium on the number of vessels allowed to fish with seine gear was implemented. In 1982, salmon vessels with a seine licence privilege were issued distinct salmon validation tabs. Those salmon vessels with a seine licence privilege are currently entitled to fish for salmon with any gear. Those vessels without a seine licence privilege may use either gillnet or troll gear or both.

Indians may elect to pay a lower annual fee for a Salmon (A) licence, but where this election has been made, the lower fee applies in all years thereafter, and the vessel may only be sold to an Indian. If a vessel has been issued a Salmon (A) licence to which this restriction applies is sold to a non-Indian, the licence eligibility ceases. This election and restriction in the Salmon (A) licence also applies to the Northern Native Fishing Corporation (NNFC), a Native Indian owned and operated company (see Salmon (N) licence and Sections 19 and 20 of the Regulations).

Conditions

The owner of a vessel geared for trolling must choose when applying for a Salmon (A) licence, whether this vessel will be used to troll for salmon inside or outside the Strait of Georgia. This is an annual choice and inside trollers may not use net gear anywhere on the coast until after September 30 each year.

CATEGORY B - SALMON FISHERY

History

The Salmon (B) licence was initiated in 1969 with entry limitation and was issued to vessels that had a recorded catch during 1967 or 1968 of less than 10,000 lbs. of pink or chum salmon, or equivalent. It was argued that these vessels traditionally participated in the salmon fishery only during peak runs and that their exclusion from the fishery would detrimentally affect the owners long term income and vessel values. There were 1062 Salmon (B) licences issued originally.

In 1970, a phase-out period for these Salmon (B) licences was announced; they would be issued annually only up to 10 years. The licence fee remained at \$10.00. In 1978, when most of the Salmon (B) licences were set to expire, the Minister extended for an additional five years 103 licences which were still held by the original Salmon (B) vessel owners. The licence fee was doubled in 1981 to \$20.00. At present, there is one Salmon (B) licence still being issued by the Minister.

Conditions

Same as for Salmon (A).

CATEGORY N - SALMON FISHERY

History

In 1982, B.C. Packers Ltd. sold 243 vessels and 252 licences (most of its northern gillnet fleet) to the Northern Native Fishing Corporation (NNFC). The concept behind the NNFC is that the corporation retains the licence privilege even though they may sell the vessels to individual Native fishers. In order to facilitate the corporation's operation, the Minister created a Salmon (N) licence. Salmon (N) licences are personal licences held by the NNFC.

Salmon (N) licences are issued only to the Northern Native Fishing Corporation for vessels designated by the corporation. They were introduced in 1983 upon the relinquishment and retirement of a Salmon (A) licence by the NNFC for each Salmon (N) licence issued.

Conditions

Same as for Salmon (A).

The NNFC may apply annually for the issuance of a Salmon (N) licence for a registered commercial fishing vessel of the same or smaller overall length and registered net tonnage as the vessel to which each relinquished Salmon (A) licence was formerly issued.

Vessels designated to fish under authority of a Salmon (N) licence may also fish for Schedule II species and be designated to fish under authority of category Z licences.

CATEGORY C - GENERAL SPECIES

History

The category C licence was introduced at the time of entry limitation in the salmon fishery in 1968 and originally authorized commercial fishing for all non-salmon species. The C category became subject to entry limitation in 1977. The limitation was based on evidence of landings of at least \$500 value in the preceding two years 1975 and 1976. The requirement that C licensed vessels land \$500 worth of fish at least every second year was maintained until 1982. In 1979, the practice of issuing a C licence to a vessel retired from the salmon fishery was discontinued, hence, no new vessels were able to enter any fishery except as a replacement vessel.

The category C licence is described as a general species licence, because it permits fishing for a number of species of fish using varied types of gear for which no other category of licence is required.

Conditions

Species, gear and area terms and conditions are set out in Schedule II of the regulations.

CATEGORY D - PACKING / TRANSPORT

History

The Packing (D) licence has been issued in respect of commercial vessels as an open entry licence category since 1972. This licence does not enable commercial harvesting of any species, and licences the vessel for only packing or transport of fish caught by commercial fishing vessels. No species or area restrictions apply.

Conditions

The vessel sought to be licensed must be a registered commercial fishing vessel.

All commercial licensed fishing vessels may be used for the packing or transport of fish, whether they were the harvesting vessel or not. For vessels which are licensed in another category, a Packing (D) licence is not required to pack or transport fish.

CATEGORY E - ABALONE

Present Situation

In December, 1990 the Minister of Fisheries and Oceans announced a closure of the Abalone fishery in order to protect the declining stocks. It is not anticipated that this fishery will re-open for at least five years.

In order to protect the active participant in this fishery (those fishing under lease agreements) there is a one time licence nomination process in which the 1990 operator may become the licence holder of record for the purpose of being eligible to apply for the licence when the fishery re-opens.

History

In 1975 and 1976, the number of vessels participating in the abalone fishery increased dramatically. In 1975, twenty-one vessels reported abalone landings and in 1976, forty vessels landed abalone. This fleet size escalation was mainly due to Japanese market demand, and the high price (\$1.50/lb at the time) being paid to the harvesters. In November 1976, a series of public meetings was held in Prince Rupert and Vancouver to obtain recommendations regarding this fishery. While many individuals opposed any commercial harvest of abalone, commercial fishers supported a limited entry scheme.

The Abalone (E) licence has been issued to persons as a limited entry licence since September 7, 1977. Such licences were issued for the first time to any person who had met both of the following requirements:

- a) made a recorded commercial catch of abalone in any year preceding 1977 of a value greater than \$2,000; and

Commercial Licensing Handbook - 1994

- b) produced documents showing that the person earned more than 50% of income from abalone fishing in any one year preceding 1977.

There are 26 licences in this fishery. They are personal and non-transferable, although, as in the Roe Herring (H) category, licence leasing has crept into this fishery.

Individual quotas were introduced into the abalone fishery in 1979, with 50% of the Total Allowable Catch (TAC) divided into equal quotas for each licence holder and 50% of the TAC remaining available to any or all licence holders. Starting in 1980, 100% of the TAC came under individual quota management. The total quota is divided equally into 26 individual quotas. Each landing must be inspected prior to unloading and licences validated prior to each trip.

Conditions

The applicant must designate the vessel to be used to fish the licence. Any vessel which is designated to be fished in an application for an Abalone (E) licence must be registered as a commercial fishing vessel.

CATEGORY G - GEODUCK AND HORSE CLAM FISHERY

History

In 1977, a review of the newly developed commercial geoduck fishery was undertaken. Based on this review, starting July 1, 1977, the harvesting of geoducks for commercial purposes was prohibited except under the terms of a permit issued pursuant to Section 6(6) of the British Columbia Fishery Regulations. At that time the rate of growth of the geoduck fishery was uncertain and limits to entry were not considered necessary. However it was anticipated that a limited entry program would be necessary in future to balance fishing effort with the size of the resource.

The number of vessels landing geoducks increased rapidly from five at the inception of the fishery in 1976, to 72 vessels with landings in 1979 when a moratorium on new permits was issued. Permits for 1981 were restricted to those fishers who landed more than 30,000 pounds in 1978 or 1979 including January 1 to March 31, 1980, depending on when the fisher was first licensed.

The Geoduck and Horse Clam (G) licence was introduced in 1983. Licences were issued to vessels that were authorized by the Pacific Region, Director General of Fisheries and Oceans, to harvest geoduck and horse clams by means of diving from a commercial fishing vessel and had marketed a minimum of 13,500 kg of both species in any combination during the year 1978 or during the period commencing January 1, 1979 and ending December 31, 1980.

In 1989, a pilot project using individual vessel quota management and area licensing was started in the geoduck fishery. This program was extended by the Minister and is currently in effect.

Commercial Licensing Handbook - 1994

Conditions

Since 1989, Geoduck (G) licences specify the quantity of geoduck that may be caught (individual quotas) and the area in which the licence is designated to fish.

CATEGORY H - ROE HERRING FISHERY

History

The Roe Herring (H) licence has been issued as a limited category licence since 1974. Roe Herring (H) licences were issued at that time in 1974 upon application by persons who owned substantial or all shares of a gillnet or seine geared roe herring fishing vessel. All applications were required to be submitted prior to January 15, 1974. Native Indian owners of roe herring fishing vessels, either gillnet or seine equipped, were given three additional years, 1975 to 1977, in which to initially apply for a Roe Herring (H) licence. Native fishers pay a reduced fee for this licence.

The criteria for obtaining a Roe Herring (H) licence in 1974 were:

- a) participation in the 1972 and 1973 roe herring fishery. Fishers were eligible to apply for one licence for each vessel they fished during those years; and
- b) consideration for issuance of one licence, not based on previous landings, per fisher.

Annual licence fees for this fishery were originally set at (and remain) \$2000 for a seine licence and \$200 for a gillnet licence.

Roe Herring (H) licences are personal licences which are issued to both individuals and companies. Until recently, changes in Roe Herring (H) licence holdings were not permitted and in the first few years there was an "owner/operator" restriction.

Therefore, prior to August 1, 1990, people who received licences in 1974 (up to 1977 for Indians) were still recognized by the department as the licence holder of record, with the exception of those whose Ministerial appeals for family-related changes in licence

Commercial Licensing Handbook - 1994

holdings have been granted.

The original intent of this personal, holder-operated, "non-transferable" licence system was to provide some flexibility in the number of licences issued annually. For example, if it was desirable the fleet could be reduced through gradual attrition; as licence holders left the fishery, their licences would be retired. It is interesting to note that it was originally intended that changes in licence holdings were to eventually be allowed once the desirable number of vessels remained in the fishery after attrition.

This attrition did not occur for a number of reasons. Some licences were issued to companies, and effective changes in the holders of these licences occurred through sale of the company. Changes in licence holdings of elderly or deceased fishers to family members were granted through appeals to the Minister.

In 1979, the owner/operator requirement was dropped from the licence because of enforcement difficulties. As a result, some licence holders began to rent their annual fishing opportunity. This practice, later extended to long-term - 99 years - leasing of licences and supported by a Power of Attorney granted by the original applicant, provided a means to avoid the prohibition on licence "transfers". This practice became so popular that it presented a problem for the department in identifying the actual operator. There has also been an enormous cost to those involved as leases involve complex legal and administrative arrangements.

On August 1, 1990, the policy with respect to changes in Roe Herring (H) licence holdings was changed to be as follows:

Prior to licence application each year, licence holders of record may indicate their intention to no longer apply for a licence by completing a nomination form provided by the department. Where such an intention is stated, the Minister may consider issuance of the licence to another person nominated by the previous licence holder.

Commercial Licensing Handbook - 1994

All applications for a Roe Herring (H) licence must be signed by the licence holder of record. Powers of Attorney will not be accepted. To encourage individual participation in the fishery, corporate licence holdings will be restricted to the levels indicated by the 1988 survey of Roe Herring (H) licence holdings. Where a company is nominated by the licence holder as a replacement, the application will be subject to review to ensure that these levels are not exceeded.

Reduced fee Roe Herring (H) licence holders of record (Natives) may also indicate their intention to no longer apply for a licence privilege but the person nominated by the licence holder must be a Status Indian.

Conditions

All Roe Herring (H) licences are issued annually with a restriction as to the use of either seine or gillnet gear. This restriction is a feature of the licence first determined in the year in which the licence was originally issued, and is not subject to change in any year. Roe Herring (H) licences are also restricted as to the area in which the licence can be fished. This is an annual election by the licence holder who is free to choose the area in which the licence is to be fished for that year. For seine licences, the applicant also designates the vessel to fish the licence.

CATEGORY J - HERRING SPAWN-ON-KELP

History

Commercial production of spawn-on-kelp was initiated in 1975. Permits were issued to 13 individuals for six tons of product each. Selection of permit holders was based on remoteness of operation site and experience in catching, holding and handling live herring. Special consideration was given to remote communities and to Native Indians. Individuals who were successful in obtaining a herring spawn-on-kelp permit were not permitted to also hold a herring roe licence, nor to participate in any way in the roe herring fishery either as a vessel skipper or as crew. Permits were not issued to processing companies. Permits were only issued if adequate supplies of herring and kelp were available in the area being considered. The number of permits issued increased to 21 in 1976 and to 24 in 1977. In 1977 the quota per licence was increased to ten tons. An additional five permits were issued in 1978 and at the same time the quota per licence was dropped from ten tons to eight tons. All of these additional permits were issued to Indian Bands. In 1979, one permit holder exchanged a spawn-on-kelp licence for a Roe Herring (H) licence, resulting in a total of 28 permits. In 1983, these limited entry permits formally became category J licences with a fee of \$2,000 per licence and a reduced fee of \$10 per licence for Natives or Indian Bands. These fees were intended to be consistent with the fees for a Roe Herring (H) seine licence. The licence is not transferable. Licence holders are required to operate the licence.

In November 1989, the Minister of Fisheries and Oceans announced that an additional 10 licences would be issued to harvest herring spawn-on-kelp in B.C. The new licences were issued to Indian bands only and each new licence holder is required to render inactive or retire equivalent gillnet or seine privileges from the roe herring fishery. This retirement measure was taken to ensure a sustainable level of roe herring harvest and to provide stability in both the spawn-on-kelp and roe herring fishery sectors. Today, there are 38 licensed participants in this fishery. A 39th licence was issued in 1993 for one

year only under an agreement with the Heiltsuk Indian Band.

Conditions

Spawn-on-Kelp (J) licences are issued for herring ponding operations and catcher vessels are used by some licensees only for the purposes of impounding the live herring and drawing them into an enclosure. Other operations use an open ponding principle and do not actually enclose or drop the herring. The fish are left free to enter and exit the pond during spawning.

Gear restrictions may be applied to the catcher vessel as required. Restrictions may also be included in the licence with respect to the construction, type and number of enclosures and type, marking and dimensions of containers used to pack the product. The date and method of harvest, packing and identification of the herring spawn-on-kelp may also be specified.

The area of operation of the catcher vessel and ponding are specified in the J licence.

Each Spawn-on-Kelp (J) licence is restricted as to the maximum weight of herring spawn-on-kelp which may be taken and processed.

In addition to the above, other restrictions which may apply to the Spawn-on-Kelp (J) licence are the commencement and termination dates of the fishery, dates of operation for the catcher vessel and dates and method of harvest, packing and identification of the spawn-on-kelp, and dates of dismantling the enclosures. The quality of the spawn-on-kelp to be produced, the species of marine plants to be used in the fishery, and the manner of disposing or releasing any captured herring may also be specified. The licence must be kept at the site at all times during the harvesting operation.

A commercial fishing vessel must be designated in the application as the catcher vessel.

Commercial Licensing Handbook - 1994

CATEGORY K - SABLEFISH (BLACK COD)

History

Prior to extended jurisdiction in 1977, Canada had a limited domestic offshore black cod fishery, and an extensive foreign offshore fishery. Canada phased out foreign effort in this fishery by 1980 as Canadians showed interest in this species. The new black cod fleet included a number of Canadian vessels phased out of the Alaska halibut fishery.

On October 4, 1979, the Minister of Fisheries and Oceans announced that the fishery would become a limited entry fishery. The announcement noted that "because black cod is limited to an annual yield of 3500 metric tons, it is necessary to restrict the number of vessels participating in this fishery, to protect the resource" and "the dramatic influx of vessels in recent months threatens to disrupt this fishery." The projected number of eligible vessels at the time of limitation was 16. The final number of licences issued after appeals was 48.

Sablefish (K) licences were first issued in 1981 in respect of commercial fishing vessels if:

- a) the vessel owner produced records showing that, while fishing by means of longline or trap gear in 1978, or up to October 5, 1979, the vessel was used to catch sablefish, and made a recorded commercial catch of sablefish in dressed head-off condition, equal to at least:
 - i) 6800 kg (15,000 lb) in the case of a vessel 18.28 m (60 ft) or less in overall length,
 - or
 - ii) 22,680 kg (60,000 lb) in the case of a vessel more than 18.28 m (60 ft) in overall length,

or

b) a category C licence was issued in respect of that vessel in 1980 and the owner produced records showing expenditures during the period January 1, 1978 to October 5, 1979, for freezing equipment, and longline or trap gear, intended to be used to fish for sablefish, amounting to at least:

i) \$20,000 in the case of a vessel 18.28 m (60 ft) or less in overall length,

or

ii) \$100,000 in the case of a vessel greater than 18.28 m (60 ft) in overall length.

or

c) vessels more than 18.28 m (60 ft) in overall length which fished in the Alaska halibut fishery in 1978 or 1979 but were excluded by the 1979 halibut agreements and were issued 1980 Salmon (A) or Halibut (L) licence tabs.

The annual fee for a Sablefish (K) licence is \$10.

For the years 1981 through to 1989 the sablefish fishery operated with DFO setting the TAC and the number of fishing days for the licensed fleet. The use of this open fishery management strategy lead to consistent overrunning of the TAC, which in turn led to continued reductions in fishing days (from 245 in 1981 to 14 days in 1989) for the following year. Industry became alarmed at the prospect of a further reduction in the number of fishing days for 1990. After the industry had many lengthy discussions on alternate management strategies, the use of an Individual Vessel Quota system in the sablefish fishery for 1990 was recommended to and approved by the Minister of Fisheries and Oceans.

Commercial Licensing Handbook - 1994

In 1990 a two year trial period using individual vessel quota (IVQ) management commenced. Each licence holder has an individual quota which is a percentage of the TAC. The individual quota was calculated for each licence holder based 30% on the vessel's overall length and 70% on historical performance.

The sablefish IVQ's has since been extended. Quota Blocks have been defined as the annual quota for each licence as determined by the set allocation formula defined in the 1990 management plan and shown as a percentage of the sablefish TAC for the Sablefish (K) licensed fleet. Each Quota Block is broken into Quota Shares. For 1994 there were 692 Quota Shares. Of these, 644 Shares were equal to 0.15% of the sablefish TAC for the sablefish licensed fleet. The remaining 48 Quota Shares were each less than 0.15% of the sablefish TAC and represent the remainder of each licence holder's Quota Block.

Quota Transferability

The rules for quota transfers for 1994 are consistent with 1993 and provide for temporary (annual) quota transfers which allow more flexibility in fishing operations. Transfer of quota is limited to complete Quota Shares only. Quota Shares can only be transferred between Sablefish licensed vessels. Application for the transfer of Quota Shares to a vessel not holding a valid Sablefish (K) licence will not be considered. Any sablefish offloaded against a specific Quota Share shall render that Quota Share non-transferable. On December 31 all Quota Shares transferred will automatically revert back to the vessel from which the Quota Shares were initiated.

Temporary transfers of Quota Shares require:

- a) completing a "Request For Temporary Transfer Of Sablefish IVQ Eligibility" form and presenting this form for approval to the Groundfish Coordinator, Department of Fisheries and Oceans, 555 West Hastings Street, Vancouver; and

- b) surrendering to DFO's Licensing Unit any Sablefish (K) licences involved in the Quota Share transfer that have already been issued, for adjustment and re-issuance.

Licence Transfer

The Sablefish (K) vessel licence can be permanently or temporarily separated and transferred from any combination of married licenses as long as it is placed on another commercially licensed fishing vessel, of any length, that is not a Sablefish (K) licensed vessel. If the Sablefish (K) licence is transferred to a vessel which only holds a C licence, then the C licence privilege must be relinquished for the period the Sablefish (K) licence is on the vessel in the case of a temporary transfer or permanently in the case of a permanent transfer. All temporary transfers may not extend beyond the 1994 season.

Vessel Owners wishing to make temporary or permanent Sablefish (K) licence transfers must apply to the Commercial Licensing Unit, DFO, 555 West Hastings Street, Vancouver, B.C. Approval of temporary or permanent transfers will be made by the DFO Licensing Manager.

Conditions

Category K licensed fishing vessels may be used to fish for Sablefish by means of longline or trap gear.

Commercial Licensing Handbook - 1994

CATEGORY L - HALIBUT FISHERY

History

The Halibut (L) licence was first issued as a limited entry category licence in 1979. Qualifying vessels, or those which have replaced them, must have had a recorded commercial catch of 1360 kg (3000 lb) of halibut (dressed head-off weight) during 1977 or 1978.

In addition, 10 special halibut licences were issued to Indians who rented vessels owned by processing companies and who depended on halibut for a major portion of their income. These special Halibut (L) licences were originally personal licences and not transferable. These licences have now been converted to a vessel-based Halibut (L) licence by the Minister.

There is an annual TAC set for the fishery by the International Pacific Halibut Commission.

The Minister of Fisheries and Oceans announced a two year trial of Individual Vessel Quotas for the halibut fishery beginning in the 1991 licence year. An individual quota was set for each vessel based on a combination of recent vessel catch history and vessel length. The program was extended into 1993, however, as a result of extensive consultation with the halibut industry, the plan was altered to allow for limited temporary transfer of quota shares and temporary Halibut (L) licence transfers.

For 1994, the trial program for halibut IVQs was again extended. There were further modifications for 1994. Again, the objective of the changes were to allow more flexibility for the fleet in the area of temporary quota transfers and in the area of permanent Halibut (L) licence transfers. The transfer and stacking of halibut IVQ was allowed on a trial basis for the 1994 halibut fishery as follows:

Commercial Licensing Handbook - 1994

- a) Each initial halibut licence quota has been split into two equal shares. A total of 870 IVQ shares is available among 435 licensed vessels. Each share can then be expressed as a percentage of the halibut TAC and share will vary in size depending on the allocation formula adopted in 1990.
- b) Quota shares can be transferred among halibut licensed vessels only and are not constrained by vessel size. Quota shares can be transferred without transferring the halibut licence. It will be possible for a halibut licence to exist without quota shares attached to it.
- c) A maximum of four shares can be held or fished by a halibut licensed vessel in 1994.
- d) In 1994, the restrictions on the number of quota share transfers has been removed. It has been changed from the maximum of two share transfers per vessel which was permitted in 1993. A quota share transfer is defined as the transfer of one share from a licensed halibut vessel onto a licensed halibut vessel.
- e) All quota share transfers must be approved by DFO prior to fishing those shares.
- f) Once a quota share has had landings validated against it, the remainder of that quota share can not be transferred.
- g) Quota share transfers will only be permitted on a temporary (annual) basis.

The above transferability plan for halibut will be reviewed and changes may be considered prior to the 1995 fishery following consultation with the Halibut Advisory Board.

Commercial Licensing Handbook - 1994

Licence Combinations

New for 1994, a Halibut (L) licence may be separated and transferred from any combination of married licences as long as length restrictions are adhered to and the Halibut (L) licence is placed on another commercially licensed fishing vessel. In cases where the Halibut (L) licence is transferred permanently to a vessel which holds a C licence, then the C licence privilege must be permanently retired. In cases where a vessel owner applies under **DFO's existing temporary transfer policy** to temporarily transfer the Halibut (L) licence to a vessel which holds only a C licence, then the C licence privilege will be held by DFO for the time the Halibut (L) licence is temporarily transferred to that vessel.

Licence Transferability

Halibut (L) licences can be transferred to another vessel of any shorter length or a vessel up to 10 feet longer. Vessel owners must apply to the DFO Licensing Unit when wishing to make a temporary transfer under **DFO's existing temporary transfer policy** or when the vessel owners wish to make a permanent Halibut (L) licence transfer. Approval of temporary or permanent transfers will be made through DFO's Licensing Manager.

Conditions

Halibut (L) licensed fishing vessels may be used to fish for halibut by means of hook and line. There are no area restrictions at the present time.

Vessels without a halibut licence are not permitted to retain incidentally caught halibut.

CATEGORY P - PROCESSOR

The Processor (P) licence is limited to commercial fishing vessels. This licence does not enable fishing for any species, and is only issued to licensed vessels seeking to process commercial quantities of fish subject to all applicable terms and conditions of the Federal and B.C. Provincial Fish Inspection Acts, and accompanying regulations. Species and area restrictions are extensive and all applications are subject to approval by the Fish Inspection Branch, Management Biology Unit and the Commercial Licence Unit.

A vessel is permitted to process only its own catch. The only species currently considered for Processing (P) licences are geoducks, sea cucumbers, skate, and dogfish.

Commercial Licensing Handbook - 1994

CATEGORY R - CRAB FISHERY

History

The Crab (R) licence has been issued to commercial fishing vessels since the beginning of 1990. Prior to 1990, crabs were a schedule II species, fished under authority of any of the following vessel licences: A, B, C, G, K, L, N, S or T. The Crab (R) licence category was not limited for 1990 and an annual fee of \$200 applied.

On August 3, 1990, it was announced that the Crab (R) licence would become a limited entry licence in 1991. Eligibility for a Crab (R) licence was based on the following criteria:

- a) 6804 kg (15,000 lb) cumulative recorded landings continue over the three year period 1987 to 1989 inclusive, and
- b) must have had 1990 Crab (R) licence.

Fishing for the following species of crabs is regulated by the R licence:

- I. Dungeness (*Cancer magister*)
- II. Red Rock Crab (*Cancer productus*)
- III. Graceful Crab (*Cancer gracilis*)
- IV. King Crab, Red and Brown (*Paralithodes camtschatica*)

Conditions

Commercial crab fishing is restricted to the use of trap or ring net gear with specific restrictions. There is an annual election by the vessel owner selecting the restricted area in which the licence is to be fished for that year.

CATEGORY S - SHRIMP TRAWL

History

The licence limitation program for shrimp trawl fishing in British Columbia coastal waters was put into effect in January 1977, with a total of 237 licences issued. The limitation was initiated in response to a rapid expansion of fishing and processing capacity directed at the offshore Tofino shrimp stocks during 1975 and 1976. This increased effort was not sustained beyond a few years, however, as the stock declined to the point where it could not support a large offshore trawl fleet. The reasons for this decline are not known, but do not appear to be linked to the fishing pressure on the stocks.

Since the implementation of shrimp licence limitation, the main area of fishing activity has been the Strait of Georgia. Fishing effort on the northern coast has been low since shrimp licences were introduced. A small-scale fishing effort takes place in Barkley Sound, as well as a few other inlets on the west coast of Vancouver Island.

Conditions

Shrimp Trawl (S) licensed fishing vessels may be used to fish for shrimp by means of trawl gear. No area or quota restrictions apply to licences issued in this category.

Commercial Licensing Handbook - 1994

CATEGORY T - GROUND FISH TRAWL

History

The Groundfish Trawl (T) licence has been issued in respect of commercial fishing vessels as a limited entry category licence since 1976. A number of significant events preceded limitation in this fishery. The trawl fleet doubled in capacity between 1972 and 1974 partly as a result of government ship building subsidies. The number of vessels increased from 44 to 66; of the new entries, nine exceeded 80 feet in length. As well, groundfish markets collapsed in 1974. This precipitated a series of subsidies, deficiency payments to fishers and conditional grants to processors. To ensure that those vessels which were most affected by the market collapse received the assistance, the federal government announced that the deficiency payments would apply only to trawlers having recorded 1973 or 1974 groundfish landings. The resulting review of the existing Groundfish Trawl fleet led to the May 2, 1975 announcement of limited entry trawl licensing. Groundfish Trawl (T) licences were first issued in 1976 where the vessel, or the replacement vessel, had a recorded commercial catch of groundfish by trawl gear in 1973, 1974 or up to April 30, 1975. Appeals were heard and licences were granted in cases where landings criteria were not met but major expenditures directly associated with groundfish trawling had been incurred.

The annual licence fee for this fishery is \$10.

Conditions

Category T licensed fishing vessels may be used for groundfish species by means of trawl gear. No area or quota restrictions apply. However, trip limits may apply to certain species covered under this licence.

CATEGORY W - SHRIMP (PRAWN) BY TRAP LICENCE

History

Licence limitation was introduced into the shrimp by trap fishery in 1990. Prior to 1990, shrimp fishing was authorized by a ZH personal licence designated to a vessel. In 1990 category ZH licences were issued to those commercial fishers who had landed a minimum of 1000 lbs. of shrimps by trap in any two of the 1986, 1987 or 1988 fishing seasons. Landings in 1989 were not considered for licence eligibility, as had been announced prior to the 1989 season. Prior to appeals, 128 licence holders were eligible for a ZH licence using the above criteria. There are currently 276 Shrimp (W) licences. (The additional licences were all issued under appeal.)

In 1993 the limited entry and length restricted ZH licence was converted to a Shrimp by Trap (W) vessel licence with the same length restriction and a fee of \$200.00.

Conditions

Category W licensed fishing vessels may be used to fish for shrimp (prawns) by means of traps.

CATEGORY Y - EXPORT LICENCE

History

The Export (Y) licence was created by amending the Pacific Herring Fishery Regulations and the Pacific Commercial Salmon Fishery Regulations on March 9, 1990.

The Export (Y) licence was created in response to an agreement between Canada and the United States. The agreement provides for the direct export of roe herring and salmon from Canadian fishing grounds to the U.S. for processing. This represents an easing of the 1989 landing requirement that all salmon and roe herring caught in Canada had to be landed in Canada. In order to take fish directly from the fishing grounds to the U.S., the vessel transporting the fish must have an Export (Y) licence.

Conditions

To be eligible for an Export (Y) licence, a Canadian vessel must be licensed as a Packing (D) vessel. Catcher vessels are not eligible for an Export (Y) and therefore cannot export salmon or roe herring directly to the U.S.. The vessel also must be capable of providing sampling sites and accommodation to DFO contractors and/or staff on board the vessel. Samplers/observers must be on board the vessel at all times during loading of product for direct export.

CATEGORY Z - SPECIAL FISHERIES

History

The category Z fishing licence was first issued in 1983 to persons, for particular species of fish, and specified types of gear. A detailed list of all Z licences is contained in Tables 2.4 and 2.5, Chapter 2.

Each licence specifies the species and types of gear which may be fished either with or without a vessel. Area restrictions can also be specified. For example, the Clam Z is restricted to fishing one area and an individual may only hold one Clam Z licence.

Log books must be submitted for all Z licences. The licence fee for a Z licence is \$50 where a vessel must be designated to fish the licence, and \$10 for a licence not requiring fishing with a vessel.

A number of category Z licences are limited entry licences:

Green Sea Urchin became a limited entry Z licence in 1991. Eligibility for licensing in this fishery was determined based on a 9,072 kg (20,000 lb) cumulative landing requirement over the two year period 1988 and 1989.

Red Sea Urchin became a limited entry Z licence in 1991 as well. Eligibility for licensing in this fishery was determined based on:

- a) a 34,020 kg (75,000 lb) cumulative landing requirement over the three year period 1987, 1988 and 1989 or;
- b) 20 days recorded harvest in any year from 1987, 1988, or 1989;

Commercial Licensing Handbook - 1994

- c) 2,268 kg (5,000 lb) landed in any year in the North Coast, Statistical Areas 1 to 10, from 1987, 1988, or 1989.

Sea Cucumber was turned into a limited entry Z licence in 1991. Licence eligibility criteria were:

- a) 22,680 kg (50,000 lb) cumulative landing requirement over the three year period 1987 to 1989 inclusive, or;
- b) 20 days recorded harvest in any year from 1987, 1988, or 1989.

Rockfish by Hook and Line: In March, 1992 the Minister announced a licence limitation program for the Rockfish (ZN) species. This program was implemented in two phases based on area licensing. Rockfish fishing in the inside water of Georgia Strait was limited in the 1992 licence year with the balance of the coast becoming limited on January 1, 1993. A nomination process for allowing changes in licence holdings has been implemented for this fishery.

The criteria to be eligible for this new limited entry licence was 15,000 lbs cumulative landings during the period 1987-1990. As well, the applicant must have held a licence in two of the four qualifying years.

Euphausiid (Krill) licences were limited starting in 1993. Individuals with landings of at least 20,000 lbs. during the 1988, 1989 or 1990 seasons were eligible for a personal licence. The licence is length restricted based on the vessel fished in 1991. A nomination process for allowing changes in licence holdings has been implemented for this fishery.

Commercial Licensing Handbook - 1994

Food Herring Z licences are also restricted to eligible applicants and specify the allowable catch of the licence. Although a limited number of Food Herring (ZM) licences are issued each year, it is not a limited entry fishery. Eligible applicants are chosen by way of an annual lottery draw. There are specific vessel requirements in order to be eligible to enter the draw.

Conditions

Except where the Z licence is a limited entry licence, a licence can be issued to any person who holds a fisher's registration card.

For Z licences requiring a vessel, the licence must be designated to a commercial fishing vessel eligible for a vessel licence category or Salmon (N) licence. The Z licence holder does not have to own the vessel designated to fish the licence.