

Ocean Law Memo

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HOW TO GET A SALMON TROLL PERMIT AND HOW TO KEEP IT

A Comparison of Limited Entry Systems in Oregon, Washington, and California

With the passage of laws in Oregon and California in 1979, limited entry to the salmon troll fishery became a fact of life coastwide. Although both Oregon and California laws can be characterized as moratoriums because each is automatically repealed after two years, it is a safe bet that some form of limited entry to the troll fishery will become a permanent feature of salmon management. It is therefore important for fishermen to know who is entitled to permits initially, and how to keep them once they are in hand. This Ocean Law Memo compares some of the features of the new Oregon and California laws and the more well established Washington law. A chart is provided on pages 2 and 3 for easy reference to a summary of the laws.

Requirements For Initial Permits

A basic difference between California and Oregon and Washington laws is that California requires permits for the masters of commercial salmon vessels while the others require permits for vessels themselves. Two other important features of California's law are (1) that there is no deadline for applying for a permit during the next two years, and (2) that only individuals can hold permits; corporations or partnerships do not qualify.

Oregon has an application deadline and allows partnerships and corporations to hold vessel permits. The deadline for applying for a 1980 Oregon permit was March 1, 1980; no permits will be issued after that date except through the permit lottery described later in this Memo.

Washington has had limited entry to the ocean salmon troll fishery since 1974. Originally there was no application deadline for licenses. The law has been changed somewhat; to qualify for a 1980 license a vessel must have been licensed for the 1979 Washington troll fishery and

landed "food fish" in Washington or some other state during 1979. The vessel need not have been used for salmon fishing. The requirement is to have landed "food fish", be that black cod, herring, shrimp or whatever, in any state, not just Washington. Corporations or partnerships may hold a vessel license.

Requirements for 1981 Permits

California permits are good from date of issue until December 31, 1981. For those who have them, no reapplication is necessary. For those who qualify and want one, application can be made. It should be pointed out that the current law expires on January 1, 1982, and is likely to be followed by another and probably more restrictive law. Fishermen who qualify for 1980 and 1981 permits are encouraged to apply for them to maintain their eligibility for future participation in the fishery.

The requirements for a 1981 Washington license are the same as for 1980; the vessel must have been licensed for the 1980 ocean troll fishery and must have landed food fish during 1980 in Washington or some other state.

To be eligible for a 1981 Oregon permit, a vessel must have had a 1980 Oregon permit and landed at least one salmon in Oregon. Further, application for the 1981 permit must be made by March 1, 1981.

Oregon has an additional feature for issuing permits in 1981. There have been approximately 4250 permits issued for 1980. The law provides for a lottery to issue permits in the event that a large number of 1980 permit holders fail to reapply by the 1981 deadline. The law specifies that there will be no lottery unless the number of regularly issued permits falls below 3257, the number of vessels that participated (landed a fish) in the 1978 troll fishery in Oregon. Moreover, the lottery



SUMMARY OF SALMON TROLL LIMITED ENTRY LAWS FOR OREGON, WASHINGTON, AND CALIFORNIA

	CALIFORNIA	OREGON	WASHINGTON
Effective Date of Law	January 1, 1980 (amendments effective April 15, 1980)	January 1, 1980	May 6, 1974 (amendments effective May 28, 1977)
Ending Date of Law	January 1, 1982	December 31, 1981	Permanent
Law Limits Number of	People engaging in Commercial Ocean Salmon Fishery.	Vessels engaging in Commercial Ocean Salmon Fishery.	Vessels engaging in Commercial Ocean Salmon Fishery.
Requirements for Initial Permit	Natural person (not a corporation or partnership) who was licensed and landed and sold at least one salmon during the period 1974-1979 Natural person who was licensed, and acting in capacity of partner, agent, servant, employee, etc., aided another in landing of at least one salmon during the period 1974-1979 Natural person who made a substantial investment towards becoming a troller, such as (1) owned a boat under construction as of 12/16/77, or (2) entered into a contract for purchase or construction as of 12/16/77.	Vessel was licensed, fished, and landed at least one salmon during the period 1974-1978 Vessel was intended for use in troll fishery and was under construction during 1974-1978 Vessel was intended for use in troll fishery and was the subject of a written contract for construction during 1974-1978.	Vessel must have been licensed and can prove by means of a fish ticket that it landed two or more salmon during the period 1/1/70 - 5/6/74 Vessel was under construction as a commercial fishing vessel between 4/16/73 and 5/6/74 Vessel was purchased in good faith as a commercial fishing vessel between 4/16/73 and 5/6/74.
Requirements for Subsequent Permits	Permits valid from date of issue until 12/31/81.	To qualify for a 1981 permit, a vessel must have held a 1980 Oregon permit and landed at least one salmon in Oregon. Application must be made by 3/1/81.	To qualify for a 1980 license, vessel must have held a Washington license during 1979 and must have landed food fish (any, not just salmon) in Washington or some other state. To qualify in 1981, vessel must have had a 1980 Washington license and landed food fish in some state.

Special Non-
resident
Provisions

Any person authorized to fish for salmon commercially in another state may purchase a special California permit if California fishermen who have a California permit are allowed to fish in that state. (At this time only fishermen who hold an Oregon permit qualify. Since Washington does not have a special provision to allow fishing in state waters, a troller who only holds a Washington permit may not fish in California.)

Non-transferable.

Transfer-
ability

An individual whose vessel does not qualify for a permit may land troll caught salmon in Oregon if he holds a permit to fish in another state and purchases a single-delivery license (\$75). This provision is good only as long as California and Washington treat Oregon similarly

Transferable to a replacement vessel of the permit holder

OR

Transferable to the purchaser of the vessel when the vessel is sold.

Emergency
Transfers

Permit holder may have someone substitute for him for one period not to exceed 15 days in any one year if, upon application, the Director of California Fish & Game finds that permit holder will be unavailable to participate in the fishery.

Permit Review Board may authorize temporary transfer of a permit to any individual designated by the permit holder in case of accident injury or other emergency.

Provisions to
Reduce the
Number of
Permits

No special provisions; however, since permits are non-transferable the total number of permits will decrease as permit holders retire or otherwise leave the fishery.

If all vessels that qualify for 1981 permits (see above) do not apply for them, the unclaimed permits will be made available in a lottery to vessels not otherwise qualifying. However, the lottery will issue permits, if any, only until the total number of permits equals the number of vessels in the troll fishery in 1978. If the number of 1981 permits issued through applications exceeds the 1978 figure, there will be no lottery.

For More
Information
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An individual whose vessel does not otherwise qualify for a permit may land salmon caught outside of three miles with the purchase of a single-delivery permit (\$100). No special allowances are made for fishing in state waters.

Licenses are freely transferable.

Unnecessary; permits are freely transferable.

Washington will purchase a vessel's salmon license, or the vessel itself and salmon license if the vessel or licensee was licensed during any one year of 1974-1977.

Some permits will be lost as fishermen do not reapply for permits or fail to land food fish in Washington or some other state.

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would issue permits only until the total number outstanding again reached 3257. It is unlikely that nearly one thousand 1980 permit holders will fail to reapply and therefore no lottery is anticipated for 1981. However, if the Oregon law in its present form is continued beyond 1981 the lottery would remain a possibility. An additional incentive for permit holders to reapply for their permits is the determination that permit holders who fail to reapply would be ineligible for the lottery, the notion being that others who did not initially qualify should be given the opportunity to obtain a permit.

Special Non-Resident Provisions

Since many trollers follow the bite into the waters of neighbor states, they should be aware of special accommodations made for them. California presently allows Oregon permit holders to purchase a special permit in California even if the fisherman does not qualify for a regular California permit. A fisherman who holds both an Oregon permit and Washington license also qualifies. But a fisherman who holds only a Washington license cannot receive the special permit since the privilege is based on equal treatment for California fishermen in other states.

Washington does not allow commercial trolling within three miles of the coast except by regular permit. Washington does allow delivery of salmon caught outside of three miles with the purchase of a special \$100 single-delivery permit.

Oregon allows delivery of salmon caught in the ocean troll fishery by a non-permit holder if the individual holds a permit or license to fish salmon in another state and purchases a \$75 single-delivery permit for each delivery. Both Washington and California trollers may take advantage of this provision.

A word of warning to those fishermen who qualify for both the special non-resident permit and regular permit in California: It would be wise to apply for the regular permit rather than depend on the special permit. Future modifications of California's law will probably favor those who presently hold regular permits, special permits may be more restricted or unavailable.

Will It Work?

The whole idea behind limited entry is to limit or reduce the amount of gear in the water so that the resource can be conserved and maintained while those engaged in its harvest have the opportunity to make a reasonable living. The achievement of these goals in the North-

west commercial ocean salmon troll fishery is a long-term proposition. Although there is a limit to the number of fishermen or vessels qualifying for permits, none of these programs significantly reduces the number of participants or vessels in the short run.

Oregon relies on attrition through failure of permit holders to maintain active participation in the fishery and permit process. California depends on the passage of time; eventually permit holders will retire and, since the permits are non-transferable, the total number of permits will decrease. Only Washington actively seeks reduction in the amount of salmon troll gear in its waters. Although initially most trollers could not participate in the buyback program, Washington now will purchase a troll license or license and vessel from a fisherman wishing to leave the troll fishery.

All three programs seek to minimize hardship and economic displacement at the cost of short-term success. Another and perhaps greater barrier to short term success is the political reality that a permit denied is a vote lost. The legislatures are unlikely to make drastic immediate cuts in participation in the fishery, especially since there is considerable controversy as to the value of limiting entry.

There are those who claim limited entry benefits the fishermen at the expense of the general public. Others say it will never work, and others say the loss of freedom is too great a price to pay for its benefits. Whatever the reaction, it appears that limited entry is bringing to an end "an era when an ambitious young man with a strong back and only several thousand dollars could try his hand at fishing and make a success of it." (Cole, Limited Entry Comes At High Cost, National Fishermen, Jan. 1977 at 6-A).

Kevin Q. Davis
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