

**SHARED FISHERIES BUSINESS TAX / FISHERY
RESOURCE LANDING TAX
AS 29.60.450
3 AAC 134.010 – 134.160**

The Department's Shared Fisheries Business Tax Program was created in 1990 to help municipalities impacted by the effects of the rapidly expanding offshore fish processing industry. A previously existing fish tax sharing program (commonly referred to as the Raw Fish Tax Program), administered by the Department of Revenue, shares back to municipalities half of the state fisheries business tax collected from fish processors operating inside municipal boundaries. The Department's program extends tax sharing to include a sharing of fish taxes collected outside of municipal boundaries, primarily from floating processors.

Program funding is allocated in two stages:

1st Stage:

Nineteen Fisheries Management Areas (FMAs) were established using existing commercial fishing area boundaries. The annual available funding is allocated among these 19 FMAs based on the pounds of fish and shellfish processed in the whole state during the preceding calendar year. For example, if an area processed 10% of all the fish and shellfish processed in the whole state during a calendar year, then that area would receive 10% of the available funding.

2nd Stage:

The funding available within each FMA is then allocated among the municipalities in that area based on the level of fishing industry significant effects suffered by each municipality compared to the level of effects experienced by the other municipalities in that FMA.

If the total funding available for a FMA is less than the *long-form threshold value* (the value determined by multiplying the number of municipalities in an area by \$4,000), one half of the allocation is divided equally among the eligible applicants in that area. The other half of the area allocation is distributed among the eligible applicants proportionate to the populations of all the eligible applicants in the area. This is known as the *short-form method*.

If the total funding available for a FMA is greater than the *long-form threshold value*, municipalities must then choose either the Standard Method or Alternative Method for determining the allocation of funds.

Under the Standard Method, each municipality in the FMA must determine and document the cost of fisheries business impacts experienced by the community in the previous calendar year. These impacts are submitted by each municipality in their applications. The department reviews the applications and determines if the impacts submitted are valid. Once the impacts have been established for each of the municipalities in the FMA, the department calculates the allocation for each municipality using the following formula:

One half of the funding available within a FMA is divided up among participating municipalities on the basis of the relative dollar amount of impact in each municipality. The other half of the funding available to that area is divided equally among all eligible municipalities.

Under the Alternative Method, municipalities within the FMA agree on a distribution formula. The department only approves the use of a proposed alternative method only if all the municipalities in the area agree to use the method, and if the method includes some measure of the relative effects of the fishing industry on the respective municipalities in the area.

The Department's Fishery Resource Landing Tax Program distributes 50% of the taxes collected for fishery resources which were landed in the unorganized borough but not processed. The law provides that the Department apportion the taxes to each FMA based on the ratio of the management area's fishery resource landing tax production value (the unprocessed value of the fishery resource based on the statewide average price paid for the fisheries resource as reported during the calendar year to the Alaska Department of Fish and Game) to the total fishery resource landing tax production value for all of the management areas. The taxes are then distributed to the eligible municipalities located within each fisheries management area on the same basis as the Department's Shared Fisheries Business Tax Program.

Shared Fisheries Business Tax and Fishery Resource Landing Tax payments are issued in March or April of each fiscal year.

SHARED FISHERIES BUSINESS TAX / FISHERY RESOURCE LANDING TAX STATUTES AND REGULATIONS

Alaska Statutes

AS 29.60.450. Fisheries business tax allocation.

Alaska Administrative Code

3 AAC 134.010. Purpose

3 AAC 134.020. Objective

3 AAC 134.030. Delegation of authority

3 AAC 134.040. Eligibility requirements

3 AAC 134.050. Statewide apportionments

3 AAC 134.060. Allocation within areas

3 AAC 134.070. Alternative allocation method within areas

3 AAC 134.080. Municipal population determination

3 AAC 134.090. Application procedures

3 AAC 134.100. Long-form application

3 AAC 134.110. Alternative method application

3 AAC 134.120. Short-form application

3 AAC 134.130. Evaluation of long-form application

3 AAC 134.140. Long-form application appeal procedure

3 AAC 134.150. Allocation calculations

3 AAC 134.160. Definitions

SHARED FISHERIES BUSINESS TAX / FISHERY RESOURCE LANDING TAX STATUTES

Sec. 29.60.450. Fisheries business tax allocation.

(a) A municipality may receive a fisheries business tax allocation under this section if the municipality demonstrates to the department that the municipality suffered significant effects from fisheries business activities during the base year.

(b) The amount transmitted each fiscal year

(1) Under AS 43.75.137 shall be apportioned by the department to each management area based on the ratio of the management area's production value to the total production value for all of the management areas; the department shall allocate the amount available for each management area to each municipality in that management area based on the demonstrated effects on the municipality of fisheries business activities, the commercial fishing vessel days in that municipality, or both;

(2) under AS 43.77.060 (d) shall be apportioned by the department to each management area based on the ratio of the management area's fishery resource landing tax production value to the total fishery resource landing tax production value for all of the management areas; the department shall allocate the amount available for each management area to each municipality in that management area based on the demonstrated effects on the municipality of fisheries activities that are subject to the tax levied under AS 43.77.

(c) A municipality that receives a tax allocation under this section shall use the tax allocation to help reduce the effect of fisheries business activities on the municipality, which may include the expenses of any municipal service.

(d) At the request of the department, an applicant or a recipient of a tax allocation shall provide the department with the assistance and information available to the municipality that is necessary for the department to carry out the department's duties under this section relating to that municipality.

(e) The department may adopt regulations necessary to carry out the provisions of this section.

(f) In this section,

(1) "base year" means the calendar year that precedes the application deadline for the tax allocation year;

(2) "commercial fishing vessel day" means a day for which a fishing vessel licensed under AS 16.05.490 pays the municipality a moorage, harbor, or docking fee;

(3) "effect" means the result of fisheries business activities on the municipality's

(A) population;

(B) employment;

(C) finances;

(D) air and water quality;

(E) fish and wildlife habitats; and

(F) ability to provide essential public services, including health care, public safety, education, transportation, marine garbage collection and disposal, solid waste disposal, utilities, and government administration;

(4) "fisheries business activity" means activity related to

(A) fishing, including but not limited to the catching and sale of fisheries resources;

(B) vessel moorage and vessel and gear maintenance;

(C) preparing fisheries resources for transportation; and

(D) processing fisheries resources for sale by freezing, icing, cooking, salting, or other method and includes but is not limited to canneries, cold storages, freezer ships, and processing plants;

(5) "fishery resource landing tax production value" has the meaning given the term "value" by AS 43.77.200 ;

(6) "management area" means one of the geographical units designated by the Board of Fisheries by regulation adopted under AS 16.05.251(a)(2) for the management of commercial fisheries of the state;

(7) "production value" means the weight of the fish and shellfish produced by fisheries businesses as that term is defined by AS 43.75.290.

Shared Fisheries Business Tax Program (3 AAC 134.010 - 3 AAC 134.160)

Article 1 General Provisions

3 AAC 134.010. Purpose

3 AAC 134.010 - 3 AAC 134.160 implement, interpret, and make specific AS 29.60.450 , that provides for a shared fisheries business tax allocation to eligible municipalities.

History: Eff. 10/28/93, Register 128

Authority: AS 29.60.450

AS 44.33.020

3 AAC 134.020. Objective

The objective of the shared fisheries business tax program is to allocate a share of state fisheries business tax receipts collected outside municipal boundaries to municipalities that demonstrate they suffered significant effects from fisheries business activity during the program base year.

History: Eff. 10/28/93, Register 128

Authority: AS 29.60.450

AS 44.33.020

3 AAC 134.030. Delegation of authority

The authority of the department to administer the shared fisheries business tax program under AS 29.60.450 is delegated by the commissioner to the division in the department responsible for administering community financial assistance programs.

History: Eff. 10/28/93, Register 128; am 2/16/2013, Register 205

Authority: AS 29.60.450

AS 44.17.010

AS 44.33.020

Article 2
Program Eligibility

3 AAC 134.040. Eligibility requirements

(a) To be eligible to receive an allocation under the shared fisheries business tax program, a municipality

(1) must apply to the department under the procedures set out in 3 AAC 134.090 - 3 AAC 134.120; and

(2) must have been classified as a municipality under AS 29.04.010 - 29.04.020 during all or part of the program base year.

(b) To be eligible for an allocation within a fisheries management area under 3 AAC 134.060, a municipality must demonstrate to the department that the municipality suffered significant effects from fisheries business activities that occurred in that fisheries management area during the program base year.

History: Eff. 10/28/93, Register 128; am 9/8/94, Register 131

Authority: AS 29.60.450

AS 44.33.020

Article 3
Procedures

3 AAC 134.050. Statewide apportionments

(a) Money available each fiscal year under AS 43.75.137 for the shared fisheries business tax program will be apportioned by the department to the fisheries management areas established in (e) of this section. As provided in AS 29.60.450 , the apportionment will be based on the ratio of the weight of fish and shellfish processed by fisheries businesses in an area to the total weight of the fish and shellfish processed by fisheries businesses for all areas.

(b) For purposes of (a) of this section, the weight of fish and shellfish processed in each area will be determined based on the information from the Alaska fisheries business tax returns filed under AS 43.75.030 with the Department of Revenue as of July 1 of the application year.

(c) Money available each year under AS 43.77.060 (d) for the shared fisheries business tax program will be apportioned by the department to the fisheries management areas established in (e) of this section. As provided in AS 29.60.450 , the apportionment will be based on the ratio of an area's fishery

resource landing tax production value to the total fishery resource landing tax production value for all areas.

(d) For purposes of (c) of this section, the fishery resource landing tax production value for each area will be determined based on the statewide average price paid for fisheries resources during the program base year as reported to the Department of Fish and Game under AS 16.05.690 .

(e) For the purposes of apportioning and allocating the money available for the shared fisheries business tax program, 19 fisheries management areas for the program are established:

(1) Pribilof Islands Area, including the waters around St. Paul and St. George Islands, as described in 5 AAC 34.905(b) ;

(2) Aleutians Islands Area as described in 5 AAC 12.100;

(3) Alaska Peninsula Area as described in 5 AAC 09.100;

(4) Chignik Area as described in 5 AAC 15.100;

(5) Bristol Bay Area as described in 5 AAC 06.100;

(6) Lower Kuskokwim Area, consisting of Districts 1, 4, and 5 as set out in 5 AAC 07.200, and other municipalities outside of those districts, located within the Kuskokwim Area as described in 5 AAC 07.100;

(7) Upper Kuskokwim Area, consisting of Districts 2 and 3 as set out in 5 AAC 07.200, located within the Kuskokwim Area as described in 5 AAC 07.100;

(8) Lower Yukon Area, consisting of Districts 1 - 3 as set out in 5 AAC 05.200, located within the Yukon-Northern Area as described in 5 AAC 05.100;

(9) Middle Yukon Area, consisting of District 4 as set out in 5 AAC 05.200, located within the Yukon-Northern Area as described in 5 AAC 05.100;

(10) Upper Yukon Area, consisting of Districts 5 and 6 as set out in 5 AAC 05.200, located within the Yukon-Northern Area as described in 5 AAC 05.100;

(11) Norton Sound-Point Clarence Area as described in 5 AAC 04.100;

(12) Kotzebue-Northern Area as described in 5 AAC 03.100;

(13) Kodiak Area as described in 5 AAC 18.100;

(14) Cook Inlet Area as described in 5 AAC 21.100;

(15) Prince William Sound Area as described in 5 AAC 24.100;

(16) Yakutat Area as described in 5 AAC 30.100;

(17) Northern Southeastern Area, consisting of Districts 11, 12, and 14 - 16 as set out in 5 AAC 33.200, located within the Southeastern Alaska Area as described in 5 AAC 33.100;

(18) Central Southeastern Area, consisting of Districts 5 - 10 and 13, as set out in 5 AAC 33.200, located within the Southeastern Alaska Area as described in 5 AAC 33.100; and

(19) Southern Southeastern Area, consisting of Districts 1 - 4, and the Dixon Entrance District as set out in 5 AAC 33.200, located within the Southeastern Alaska Area as described in 5 AAC 33.100.

History: Eff. 10/28/93, Register 128; am 9/8/94, Register 131

Authority: AS 29.60.450; AS 44.33.020

3 AAC 134.060. Allocation within areas

(a) Except as provided in (f) of this section, if the total apportionment available for an entire area under 3 AAC 134.050(a) and (c) together is equal to or greater than the long-form threshold value, the department will distribute one-half of the apportionment for that area to eligible applicants in that area. This share of the area's apportionment will be allocated by the department proportionate to the significant effects of fisheries business activity demonstrated by each eligible applicant in that area divided by the total significant effects of fisheries business activity demonstrated by all eligible applicants in that area. The remaining share of one-half of the apportionment for that area will be allocated equally among all eligible applicants in that area.

(b) In calculating the allocations under (a) of this section

(1) the significant effects credited by the department to each eligible applicant will be measured in terms of expenditures during the program base year demonstrated by that applicant and determined by the department to be reasonable and necessary as a result of fisheries business activities; eligible expenditures include

(A) actual expenditures incurred by the applicant for the mitigation of effects of fisheries business activity; or

(B) estimated expenditures documented by the applicant as reasonable and necessary to mitigate effects of fisheries business activity but which the applicant was unable to make during the program base year.

(2) If an applicant occupies more than one of the areas established in 3 AAC 134.050(e) , the applicant's participation in the allocations within those areas will be based on those significant effects on the applicant that are the result of fisheries business activities that occurred within each area.

(c) Except as provided in (f) of this section, if the total apportionment available for an entire area under 3 AAC 134.050(a) and (c) together is less than the long-form threshold value, one-half of the area's apportionment will be allocated equally among all eligible applicants in that area. The remaining share of one-half of the area's apportionment will be allocated to eligible applicants in the area proportionate to the populations of all eligible applicants in the area.

(d) For the purposes of determining the eligibility of an applicant under (c) of this section, the demonstration of significant effects on a municipality from fisheries business activity may be satisfied by submitting to the department a resolution of the municipality's governing body which states the municipality suffered significant effects during the program base year from fisheries business activity.

(e) If the department determines that there is only one eligible applicant within an area, the applicant may receive the entire apportionment under 3 AAC 134.050(a) and (c) together for that area.

(f) If the department determines that allocation to an applicant is \$50 or less, the department will determine that the amount of the effects from fisheries business activities is negligible and the department will not distribute the allocation to the applicant.

History: Eff. 10/28/93, Register 128; am 9/8/94, Register 131; am 7/1/2001, Register 158

Authority: AS 29.60.450

AS 44.33.020

3 AAC 134.070. Alternative allocation method within areas

(a) If all eligible applicants within an area for which the total apportionment under 3 AAC 134.050(a) and (c) together is equal to or greater than the long-form threshold value agree in writing, the department will, in its discretion, allow those applicants to use an allocation method within that area other than

the method provided for under 3 AAC 134.060(a) . Alternative allocation methods under this section must measure the relative significant effect of fisheries business activity on the respective applicants in the area and must comply with AS 29.60.450 .

(b) Repealed 2/16/2013.

History: Eff. 10/28/93, Register 128; am 9/8/94, Register 131; am 2/16/2013, Register 205

Authority: AS 29.60.450

AS 44.33.020

3 AAC 134.080. Municipal population determination

For the purposes of per capita and other population calculations under this chapter, the department will use the municipal population as certified during the fiscal year immediately preceding the application year under 3 AAC 180.050(d) .

History: Eff. 10/23/93, Register 128; am 2/16/2013, Register 205

Authority: AS 29.60.450

AS 44.33.020

3 AAC 134.090. Application procedures

(a) An application for the program must be made on the forms provided by the department.

(b) Not later than November 15 of each application year, the department will distribute applications to persons who have requested an application and municipalities who the department believes eligible for participation in the program. The department will make application forms also available to the public, upon request.

(c) If an area's total apportionment under 3 AAC 134.050(a) and (c) together is equal to or greater than the long-form threshold value, an applicant in that area must complete a long-form application prescribed in 3 AAC 134.100. If an area's total apportionment under 3 AAC 134.050(a) and (c) together is less than the long-form threshold value, an applicant in that area must complete a short-form application prescribed in 3 AAC 134.120. If an applicant wishes to use an approved alternative method of allocation under 3 AAC 134.070, the applicant must complete an application prescribed in 3 AAC 134.110.

(d) A municipality that occupies more than one area must submit a separate application for each area in which that municipality applies to receive an allocation under this program.

(e) To be eligible for the program, an applicant must submit its applications to the department postmarked no later than February 15 of the fiscal year that the application is being submitted. The commissioner may extend the application deadline for good cause, and upon a finding by the commissioner that a waiver will not unreasonably disrupt the administration of the program.

History: Eff. 10/28/93, Register 128; am 9/8/94, Register 131; am 2/16/2013, Register 205

Authority: AS 29.60.450

AS 44.33.020

3 AAC 134.100. Long-form application

(a) A municipality located in an area and submitting a long-form application shall include in its application a determination of the significant effects suffered by the municipality during the program base year as a result of fisheries business activity that occurred in that area. The statement, along with the remainder of the application, must be adopted by the governing body through resolution as being true and correct to the best of its knowledge. The application must include this resolution.

(b) The significant effects claimed in a municipality's application must be documented in terms of municipal expenditures during the program base year determined to be reasonable and necessary to mitigate effects of fisheries business activities that occurred in the area in which the municipality is located.

(c) If a significant effect claimed reflects actual municipal expenditures, the application must include clear and complete documentation of those expenditures.

(d) If a significant effect claimed in the application reflects estimated expenditures that were determined by the municipality to be reasonable and necessary, but the municipality was unable to make during the program base year, the application must include a finding in a resolution by the municipal governing body that documents and clearly demonstrates the procedures and methods by which the need and the estimates were determined.

(e) If a significant effect claimed in the application represents only a part of the need for a municipal service, the application must include documentation that

explains how the part claimed under the program was determined as a significant effect. Eligible municipal services include health care, public safety, education, transportation, solid waste disposal, utilities, or general government administration.

History: Eff. 10/28/93, Register 128; am 9/8/94, Register 131

Authority: AS 29.60.450

AS 44.33.020

3 AAC 134.110. Alternative method application

An applicant shall include with its alternative method application a resolution adopted by the governing body that clearly describes the alternative allocation method within that area approved by the department under 3 AAC 134.070.

History: Eff. 10/28/93, Register 128

Authority: AS 29.60.450

AS 44.33.020

3 AAC 134.120. Short-form application

An applicant shall include with a short-form application a resolution adopted by the governing body that states that the municipality suffered significant effects during the program base year as a result of fisheries business activity.

History: Eff. 10/28/93, Register 128

Authority: AS 29.60.450

AS 44.33.020

3 AAC 134.130. Evaluation of long-form application

The department will evaluate a long-form application and make a determination on the amount of the significant effects claimed by each applicant that has submitted a long-form application. The department will mail to each applicant a notice of this determination. A determination under this section may be appealed under 3 AAC 134.140.

History: Eff. 10/28/93, Register 128; am 2/16/2013, Register 205

Authority: AS 29.60.450; AS 44.33.020

3 AAC 134.140. Long-form application appeal procedure

An applicant may appeal a determination made under 3 AAC 134.130 to the commissioner. An appeal must be made in writing to the commissioner within 30 days after mailing of the notice of the determination to the applicant's address on record with the program. No later than 20 days after receipt of the appeal, the commissioner or the commissioner's designee will decide the appeal. Written notification of the decision will be mailed to the appealing applicant. This decision represents the final agency action on the appeal.

History: Eff. 10/28/93, Register 128

Authority: AS 29.60.450; AS 44.33.020

3 AAC 134.150. Allocation calculations

(a) In an area subject to the procedures of the long-form application, the department will calculate and distribute one-half of the apportionment for that area equally among all applicants after the department has received and verified the applications required of the applicants in those areas under 3 AAC 134.100 and determined the applicants to be eligible for the program. After the commissioner or the commissioner's designee decides the appeals within an area under 3 AAC 134.140, the department will calculate and distribute the remaining one-half of the apportionment for that area to each applicant within that area subject to the procedures of the long-form application.

(b) In an area subject to the procedures of the short-form application, the department will calculate and distribute the allocations for an applicant within that area after the department has received and verified the applications required of the applicants in those areas under 3 AAC 134.120 and determined the applicants to be eligible for the program.

(c) In an area subject to the procedures of the alternative method application, the department will calculate and distribute the allocations for an applicant within that area after the department has received and verified the applications required of the applicants in those areas under 3 AAC 134.110 and determined the applicants to be eligible for the program.

History: Eff. 10/28/93, Register 128; am 7/1/2001, Register 158

Authority: AS 29.60.450; AS 44.33.020

Article 4 **Definitions**

3 AAC 134.160. Definitions

In this chapter

- (1) "alternative method application" means the application requirements and procedures that are to be followed by applicants located within an area for which an alternative method of allocation under 3 AAC 134.070 has been approved by the department;
- (2) "application year" means the state fiscal year in which a municipality submits an application for funding under this chapter and is the state fiscal year immediately following the program base year;
- (3) "area" means a fisheries management area established under 3 AAC 134.050;
- (4) "commissioner" means the commissioner of the Department of Commerce, Community, and Economic Development;
- (5) "department" means the Department of Commerce, Community, and Economic Development;
- (6) repealed 2/16/2013;
- (7) repealed 2/16/2013;
- (8) "fisheries business activity" means the same as in AS 29.60.450 (f)(4);
- (9) "long-form application" means the application requirements and procedures that are to be followed by applicants located within an area for which the total apportionment under 3 AAC 134.050(a) and (c) together is equal to or greater than the long-form threshold value;
- (10) "program" means the shared fisheries business tax program under AS 29.60.450 ;
- (11) "program base year" means the calendar year that precedes the application year;
- (12) "short-form application" means the application requirements and procedures that are to be followed by applicants located within an area for which the total apportionment under 3 AAC 134.050(a) and (c) together is less than the long-form threshold value;
- (13) "significant effect" means municipal expenditures during the program base year demonstrated by the municipality to the department to be reasonable and necessary that are the result of fisheries business activities on the municipality's

(A) population;

(B) employment;

(C) finances;

(D) air and water quality;

(E) fish and wildlife habitats; and

(F) ability to provide essential public services, including health care, public safety, education, transportation, marine garbage collection and disposal, solid waste disposal, utilities, and government administration;

(14) "fisheries resource landing tax production value" has the meaning given in AS 29.60.450 ;

(15) "long-form threshold value" means the value determined by multiplying the number of municipalities in an area by \$4,000.

History: Eff. 10/28/93, Register 128; am 9/8/94, Register 131; em am 6/25/2003 - 10/22/2003, Register 167; am 2/16/2013, Register 205

Authority: AS 29.60.450

AS 44.33.020

Editor's note: As of Register 171 (October 2004), the regulations attorney made technical revisions under AS 44.62.125 (b)(6) to reflect the name change of the Department of Community and Economic Development to the Department of Commerce, Community, and Economic Development made by ch. 47, SLA 2004 and the corresponding title change of the commissioner of community and economic development.
