

Who signs the permit renewal or transfer forms if the permit holder is deceased?

The surviving spouse or next of kin can sign on behalf of the estate unless a personal representative has been appointed in which case he or she should be completing all paperwork related to the permit.

If the permit holder leaves a will naming someone to inherit the permit, can the permit automatically be transferred if the Commission receives a copy of the will?

The estate would need to be probated before the permit could be permanently transferred from the estate to an heir.

How does the "Designation of Permit Recipient" form work?

The holder of a transferable limited entry permit may complete this form to name a person to receive the permit in the event of the holder's death. The form must be signed by the permit holder before a notary public, postmaster, judge, or witnessed by two competent persons. The Commission acknowledges receipt of the form and maintains the original copy in the permit holder's file. When the Commission is notified that the permit holder has passed, it must verify that there have been no substantive changes which would void the designation, such as marriage of the permit holder or a will written which designates someone else to receive the permit. After 90 days have elapsed, the permit may be transferred to the named recipient.

Can a permit be placed in a trust?

Under Alaska law, a limited entry permit or interim-use permit can only be held by an individual person. Person, as defined under the Limited Entry Act, means a natural person and does not include a corporation, company, partnership, firm, association, organization, business trust, or society.

How long can a permit be held in a deceased permit holder's estate?

Generally, probate proceedings must be commenced within three years from the date of the permit holder's death. If the permit has not been

finally disposed of as part of the deceased holder's estate, the personal representative can emergency transfer the permit annually until the estate can be closed.

What about estates valued at less than \$50,000?

Under Alaska law, estates valued at less than \$50,000 may be settled without going through probate by using an *Affidavit for Collection of Personal Property*. Most permits are valued in excess of \$50,000, so this provision does not apply to many fisheries. If the estate is less than \$50,000, you may wish to consult an attorney regarding the use of an *Affidavit for Collection of Personal Property* in transferring the permit from the estate.

What happens if no individual heir is named to receive the permit and more than one heir is entitled to inherit the estate?

A permit can only be held by one individual. In the case of multiple heirs, generally an agreement must be reached by the heirs for one of them to hold the permit. Absent an agreement, the permit could be sold and the proceeds divided. An attorney may be helpful in the process.

What happens if a minor child, under the age limit, inherits a permit?

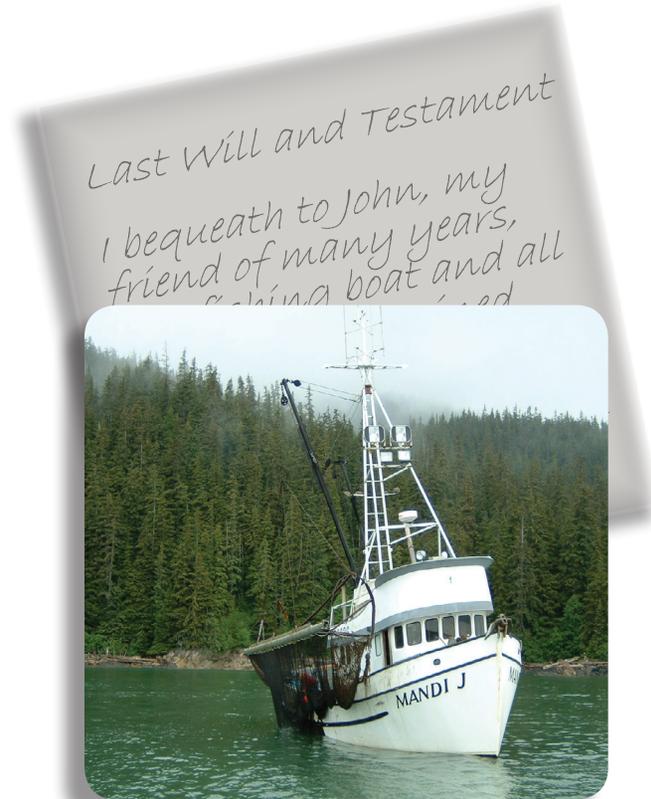
The permit can be permanently transferred into the minor's name, and the minor's legal guardian may annually request emergency transfers of the permit until the minor reaches the age of presumptive ability to participate in the fishery. For set net fisheries, that age is ten (10) years; for most other fisheries, it is sixteen (16) years.

This summary information is presented as a courtesy by the Commercial Fisheries Entry Commission but does not modify or replace the agency's statutory requirements in AS 16.43 or regulatory requirements in Chapter 5 of Title 20, Alaska Administrative Code.

Photos courtesy of the Alaska Department of Fish and Game and the Alaska Seafood Marketing Institute.

Revised November 2016

Estates



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What is probate?

Probate is the court process to distribute property from a deceased person's estate to those designated as beneficiaries in a will or to those entitled to the property of the person who passed away without a will.

Does the estate have to be probated in order for the permit to be transferred?

Probate is generally necessary when the permit has been bequeathed in a will or there is not a surviving spouse.

If a permit holder dies during the fishery can the boat and crew continue to fish?

The permit can be transferred to another person on an emergency basis. The spouse or next of kin must complete and sign a *Request for Emergency Transfer of Entry Permit* form and submit documentation of the holder's death. The emergency transfer would be valid for the rest of the fishing season.

Can the permit holder leave the permit to someone in the case of his or her death?

As long as the permit holder has a transferable permit, it may be bequeathed to an heir named in a will. Additionally, an unmarried permit holder may file the *Designation of Permit Recipient Upon Permit Holder's Death* form with the Commission designating the intended recipient of the permit.

What happens to a permit if the permit holder dies without a will?

Under Alaska law, if the permit holder does not leave a will, rights to a transferable permit automatically go to the surviving spouse. If there is no spouse, the permit becomes part of the deceased's estate.

Can a permit be transferred to the spouse if the permit holder dies?

Transferable limited entry permits survive the death of the permit holder. If the permit holder is survived by a spouse and there is no will

specifying that someone other than the spouse is to receive the permit, it may be transferred directly to the spouse by right of survivorship without the estate being probated, provided the surviving spouse does not already hold a permit in the same fishery. However, there is an exception for the salmon fisheries, where a person may hold two salmon permits but may fish only one. The spouse may also wish to consider probate of the estate including the permit.

How is a permit transferred by "right of survivorship"?

The spouse may submit to the Commission the *Request for Permanent Transfer by Right of Survivorship* form along with a copy of the death certificate. If the permit holder left a will, a copy must also be submitted to the Commission.



Does the spouse have to fish the permit if it is received by right of survivorship?

The spouse does not have to be physically able to participate in the fishery to receive the permit by survivorship. At the time of the transfer the spouse must indicate if he/she is able to participate in the fishery and intends to fish the permit.

What happens if the spouse cannot fish the permit?

The surviving spouse is allowed to emergency transfer the permit for three years from the date of death of the permit holder. After that time, the

person who received the permit by right of survivorship can no longer emergency transfer the permit. As with any limited entry permit, the permit does not have to be fished but it does have to be renewed each year.

Can the spouse permanently transfer the permit once it is in his or her name?

The spouse must file a *Notice of Intent to Permanently Transfer Entry Permit* form which must be on file for 60 days before the permit can be transferred. When the spouse is ready to transfer the permit a *Request for Permanent Transfer of Entry Permit* form must be completed by the buyer and seller and submitted to the Commission.

If there is no surviving spouse, what happens to the permit?

If the permit holder is not survived by a spouse, the permit becomes part of the deceased permit holder's estate. In order to transfer the permit to a person someone must be appointed by the court to act as personal representative of the estate. The personal representative has the authority to permanently transfer the permit. If the permit has not been finally disposed of as part of the deceased holder's estate, the personal representative can emergency transfer the permit annually until the estate can be closed.

If the estate isn't settled yet, can an emergency transfer be granted?

If the permit has not been finally disposed of as part of the deceased holder's estate, the personal representative can emergency transfer the permit annually until the estate can be closed. The representative would need to complete the *Request for Emergency Transfer of Entry Permit* form.

What if a personal representative hasn't been appointed yet?

The spouse or the next of kin may make a request for an emergency transfer of the deceased permit holder's permit. The Commission must verify the relationship before the request for emergency transfer can be granted.