

Agenda Item Summary

BACKGROUND

The Commission is being presented with three different issues: 1) adoption of proposed permanent rules for the commercial sale of steelhead trout and walleye purchased outside Oregon, 2) amended rules allowing the use of a dock ticket in lieu of a fish receiving ticket at the time of landing, and 3) amended Chapter 635 rules relating to proposed housekeeping changes.

Since 1975, Oregon regulations have prohibited the purchase of steelhead trout and walleye by the general public. On August 27, 1997, the Columbia River Treaty Indian tribes and the State of Oregon agreed to a stipulated consent order signed by U.S. District Court Judge Malcolm Marsh affirming the rights of Treaty Indians to sell steelhead trout and walleye taken from inside the State of Oregon, even to members of the general public. In recent years, as commercial markets for fresh fish have expanded, the agency has had numerous requests for regulations allowing Oregon licensed wholesale fish dealers, canners, buyers and retailers to import and sell steelhead trout and walleye legally taken from outside the Columbia River Basin. The Oregon Department of Fish and Wildlife (ODFW) and Oregon State Police (OSP) worked together to establish and adopt a temporary rule to allow these sales to occur.

The Fisheries Information Program is currently working on enhancing the collection of commercial catch information from a paper only format to an electronic format to meet the growing needs for more timely data. Wholesale fish dealers will soon have an option to submit Fish Receiving Tickets electronically to ODFW instead of mailing paper fish tickets. Receiving this landing information electronically will allow ODFW fisheries biologists to have access to commercial catch data within 48 hours of landing. The current time to access the data is about two weeks, which includes mailing and processing of the fish tickets. Using electronic data collection will allow staff to have timely access to data for making in-season management decisions.

Since 1992, under Oregon Administrative Rule (OAR) 635-006-0211, ODFW has allowed Oregon licensed wholesale fish dealers purchasing net caught groundfish to record the landing on a dock ticket in lieu of a fish receiving ticket. This dock ticket is used to record the initial landing of groundfish to accommodate any fish that are weighed back due to unmarketable conditions. This document is considered an official document by the agency and is open to inspection at anytime. Due to the increased need for electronic reporting of commercially caught species, the agency is proposing to expand the use of dock tickets to other commercial fisheries. This expanded use will allow those Oregon licensed wholesale dealers who do not have immediate access to an electronic fish ticket system to record the landings until they are able to access the system. Fish dealers will still be required to follow agency rules for timely submissions.

**PUBLIC
INVOLVEMENT**

During the review of the rules it became evident that several rules in Chapter 635, Divisions 004, 005, 006, 041, and 042 had outdated or incorrect rule language. Numerous requests from the public and fishers were made for regulations allowing Oregon licensed wholesale fish dealers, canners, buyers and retailers to import and sell steelhead trout and walleye legally taken from outside the Columbia River Basin.

ISSUE 1

ADOPT THE SALE OF OUT-OF-STATE WALLEYE AND STEELHEAD TROUT PURCHASED BY OREGON WHOLESALE FISH DEALERS AND SOLD TO RETAILERS

ANALYSIS

Commercial harvesters are required to sell their food fish catch to an Oregon-licensed wholesale fish dealer, bait dealer, canner, or buyer (fish dealer). Fish Receiving Tickets (fish tickets) must be immediately completed by the fish dealers upon purchase of fish or shellfish from harvesters. Fish tickets are then required to be submitted to ODFW by the fish dealers. Oregon fish dealers can only purchase fish and shellfish from Oregon commercial fishers or other in-state or out-of-state fish dealers.

Tribal Indian fisheries in the Columbia River routinely catch both walleye and steelhead trout. According to OAR 635-006-0225, walleye and steelhead trout taken by treaty Indians during commercial fishing seasons may be purchased by licensed wholesale fish dealers, canners, or buyers. In the same rule it is unlawful for any wholesale fish dealer, canner, or buyer in possession of legally purchased walleye or steelhead trout to sell or distribute such fish in Oregon except to another wholesale fish dealer, canner, or buyer.

Recently, OSP conducted routine compliance checks of some of Oregon’s fish retail businesses. OSP found that these businesses routinely sold both walleye and steelhead trout which were not allowed under OAR 635-006-0225 for sale to the ultimate consumer. OSP contacted ODFW regarding this practice and after a thorough review, the agency decided to modify current rules to allow the sale of both walleye and steelhead trout from a fish dealer to the ultimate consumer.

OPTIONS

1. Adopt rule amendments to OAR 635-006-0225 and 635-006-0230 as stated in Attachment 4 and proposed by staff.
2. Modify proposed rule amendments.
3. Reject proposed rule amendments.

**STAFF
RECOMMENDATION**

1. Option 1.

ISSUE 2**ADOPT THE USE OF DOCK TICKETS AT TIME OF LANDING IN LIEU OF FISH RECEIVING TICKET****ANALYSIS**

Receiving landing information electronically will allow ODFW fisheries biologists to access commercial catch data within 48 hours of landing. The current time is about two weeks which includes mailing and processing of the fish tickets. Using electronic data collection will allow staff timely access to data for making in-season management decisions.

OAR 635-006-0210 requires the signature of the fisher on the fish ticket at the time of landing. It is not always feasible or practical to have a computer at the dock during landing. At the time of landing, the information collected on a fish ticket would be recorded on a dock ticket. The dock ticket would then be attached to the completed dealer copy of the fish ticket and retained by the wholesale fish dealer at the physical location in Oregon provided to ODFW on the Wholesale Dealer Application.

The current rules do not allow fish dealers to record species other than net caught groundfish on a dock ticket at the time of landing. This restriction makes it difficult for the agency to implement an electronic reporting system since many buyers are very mobile and have limited access to a computer away from their place of business. This change will allow the dealers to continue to purchase commercially caught fish and submit the data to the agency electronically, therefore, reducing the reporting time from two weeks to within 48 hours.

OPTIONS

1. Adopt rule amendments to OAR 635-006-0210 and 635-006-0213 as stated in Attachment 4 and proposed by staff.
2. Modify proposed rule amendments.
3. Reject proposed rule amendments.

**STAFF
RECOMMENDATION**

1. Option 1.

ISSUE 3**HOUSEKEEPING CHANGES****ANALYSIS**

The amended rules perform housekeeping and technical corrections to ensure consistency in the rules for commercial fisheries, licenses and gear. Several rules have become obsolete or inconsistent with current law or rules and are also inconsistent with federal rules. Staff recommends making several housekeeping changes to correct these deficiencies. The housekeeping changes pertain to all rules in Attachment 4 except those relating to the commercial sales of out-of-state steelhead and walleye and the use of a dock ticket in lieu of a fish receiving ticket.

OPTIONS

1. Adopt rule amendments as proposed by staff in Attachment 4.
2. Modify proposed rule amendments.
3. Reject proposed rule amendments.

STAFF

RECOMMENDATION

1. Option 1.

DRAFT MOTION	I move to amend OAR 635-006-0225 and 635-006-0230 to allow Oregon wholesale dealers to sell steelhead trout and walleye purchased out-of-state to retailers; OAR 635-006-0210 and 635-006-0213 to allow a dock ticket to be used in lieu of a Fish Receiving Ticket for wholesale dealers using agency approved electronic fish ticket programs; and housekeeping changes as recommended by staff in OAR 635, Divisions 004, 005, 006, 041 and 042.
EFFECTIVE DATE	Upon Filing.