

Oregon Administrative Rules (OAR)

OAR 635-006-0235 Revocation of and Refusal to Issue Commercial Fishing and Fish Dealer Licenses

(1) Except as provided in section (2) of this rule in accordance with ORS 508.485 (Revocation of license or permit for violation of commercial fishing laws or rules or theft of crab fishing gear) and ORS 508.490 (Refusal to issue license or permit pursuant to commercial fishing laws within two years after revocation), upon the third conviction or third forfeiture of bail within three years for violation of any of the Commercial Fishing Laws of the State of Oregon or for conviction in the State of Washington of an offense which was a violation of Columbia River Commercial fishing rules adopted pursuant to the Columbia River Compact, by any person, the Commission shall initiate contested case proceedings in accordance with the Administrative Procedures Act (ORS Chapter 183 (Administrative Procedures Act)) to revoke, or refuse to issue, licenses issued under the Commercial Fishing Laws (ORS Chapters 506-513).

(2) Convictions or forfeiture of bail for exceeding trip limits in the groundfish trawl fishery, where the trip limit has not been exceeded by more than 15%, shall not be considered as a conviction or forfeiture of bail for purposes of section (1) of this rule.

(3) The Commission shall appoint a hearings officer to conduct the contested case hearing prescribed in section (1) of this rule.

(4)(a) In addition to the hearings officer, the Commission may appoint a three-member License Revocation Board to be present at the hearing and to make advisory recommendations to the Commission concerning revocation or refusal to issue a license to that person. License Revocation Boards shall consist of members representing the following fishing industries:

(A) Troll salmon;

(B) Gillnet salmon;

(C) Groundfish and shrimp;

(D) Crab;

(E) All other commercial fisheries.

(b) Only members from the appropriate License Revocation Board shall participate in hearings related to their subject area. The hearings officer shall notify the appropriate License Revocation Board of the date, time and place of the hearing, and shall provide any other public notice required by ORS Chapter 183 (Administrative Procedures Act);

(c) At the hearing, the License Revocation Board may request the hearings officer call additional witnesses or seek additional evidence;

(d) At the conclusion of the hearing, the License Revocation Board shall prepare written recommendations concerning the disposition of the case, which the License Revocation Board shall serve on all parties and forward to the Commission.

(5) A proposed order in the form prescribed by OAR 137-003-0070 (Final Orders in Contested Cases), including findings of fact and conclusions of law, shall be prepared by the hearings officer, served on all parties, and shall be forwarded to the Commission.

(6) In accordance with ORS Chapter 183 (Administrative Procedures Act), the Commission shall provide an opportunity to all parties to respond in writing within a period set by the Commission to the proposed order of the hearings officer and to the written recommendations submitted by the License Revocation Board.

(7) In deciding whether to revoke or refuse to issue a license, the Commission shall consider:

(a) The recommendation of the License Revocation Board;

(b) The gravity of the most recent offense, including whether the offense was a felony and whether the offense involved a closed season, closed area, or unlawful gear;

(c) The gravity of the other commercial fishing offenses of which the person has been convicted or forfeited bail;

(d) The impact of the offense on the fisheries resources of the state or, where relevant, on the State of Washington, including consideration of the species involved;

(e) Whether the person also has been convicted of or forfeited bail for violations of the Wildlife laws of the State of Oregon.