

Agenda Item Summary

BACKGROUND

These rules are needed to amend and establish non-Indian commercial and recreational fisheries for sturgeon and smelt in the Columbia River. Additional rules are needed to:

1. Modify rule language describing allowable non-Indian commercial fishing gear.
2. Modify rule language describing allowable Treaty Indian commercial fishing gear.

PUBLIC INVOLVEMENT

Oregon Department of Fish and Wildlife (ODFW) together with the state of Washington, recreational interests and commercial industry participants met December 13, 2007 to develop and forward regulations for the Oregon Fish and Wildlife Commission's (Commission) review and consideration. Additionally, staff conducted the following associated public meetings:

- November 27, 2007 - Meeting with the Columbia River Recreational Advisory Group in Vancouver, Washington
- November 29, 2007 - Meeting with the Columbia River Commercial Advisory Group in Rainier, Oregon
- December 13, 2007 - Public testimony taken at the Columbia River Compact hearing
- February 8, 2008 - Permanent rule adoption by the Oregon Fish and Wildlife Commission

ISSUE 1

WHETHER TO ADOPT RULES TO ESTABLISH: 1) A NON-INDIAN COMMERCIAL FISHERY FOR WHITE STURGEON IN THE MAINSTEM COLUMBIA RIVER, AND 2) RECREATIONAL FISHERIES FOR WHITE STURGEON IN THE MAINSTEM COLUMBIA AND WILLAMETTE RIVERS.

ANALYSIS

Staff, as a member of the Columbia River Compact and through Joint State proceedings, developed regulations for white sturgeon fisheries under the parameters first established by the Commission in 2004 (and renewed in 2006). The regulations are also consistent with parameters in the current Joint State Sturgeon Management Agreement in place for 2006-2008 fisheries. The rules included in Attachment 4 represent the seasons and regulations adopted by the Columbia River Compact and Joint states on December 13, 2007.

OPTIONS

1. Adopt modifications to the permanent rules (OAR 635-017-0095, 635-023-0095 and 635-042-0135) as proposed in Attachment 4 to allow a winter commercial fishery for white sturgeon in Zones 1-5 of the mainstem Columbia River, and recreational fisheries for white sturgeon in the mainstem Columbia and Willamette (downstream of Willamette Falls) rivers.
2. Maintain existing permanent rule.

**STAFF
RECOMMENDATION**

Option 1

ISSUE 2

WHETHER TO CORRECT LANGUAGE IN CURRENT RULES TO RE-ESTABLISH A DECEMBER NON-INDIAN COMMERCIAL SMELT FISHERY IN THE MAINSTEM COLUMBIA RIVER.

ANALYSIS

Since 2001, Oregon and Washington have managed commercial and recreational smelt fisheries in the mainstem Columbia River and tributaries according to the Joint State Eulachon Management Plan. This plan recommends uninterrupted (24 hours/day) commercial fishing opportunity in the mainstem Columbia River (Zones 1-5) during December of each year and three levels of fishing during the January-March timeframe based on 1) parental run strength, 2) juvenile production, and 3) estimates of ocean productivity. Since 2001, the Columbia River Compact (following guidelines of the Joint State Management Plan), has assumed the December component of the commercial smelt fishery has been permitted under permanent rules in each state. Unfortunately, a review of the Oregon commercial fishing rules in 2007 identified that the December fishery was mistakenly omitted from permanent rule beginning in 2003. Because of this omission, the December component of the mainstem Columbia River smelt fishery is not currently permitted by Oregon rule but is allowed under permanent rule in Washington. Even though smelt returns to the Columbia River are variable and currently depressed, Joint State staff does not believe harvest in the December commercial fishery poses a significant risk to the long-term health of the population. Harvest in this fishery is typically very low due to sporadic run timing and limited effort (<15 fishers). The fishery essentially serves as a full-fleet test fishery and provides managers with valuable information on annual smelt run timing and run strength.

OPTIONS

1. Adopt modifications to the permanent rule (OAR 635-042-0130) as proposed in Attachment 4 to allow a commercial fishery for smelt during December in Zones 1-5 of the mainstem Columbia River.
2. Maintain existing permanent rule eliminating the December smelt fisheries in Zones 1-5 of the mainstem Columbia River.

**STAFF
RECOMMENDATION**

Option 1

ISSUE 3

WHETHER TO MODIFY THE CURRENT RULES DESCRIBING ALLOWABLE GEAR FOR COLUMBIA RIVER NON-INDIAN COMMERCIAL FISHERIES

ANALYSIS

In recent years, gear regulations for Columbia River non-Indian commercial fisheries have become increasingly complex. To maximize harvest while remaining within management guidelines, managers modify

gear regulations frequently throughout each fishing season. This adaptive management strategy places a significant burden on commercial fishers who must frequently change nets to remain legal under the current permanent rule. During 2007, staff worked with enforcement personnel and the commercial fishing industry to develop regulations that provide increased flexibility. The revised gear rule allows fishers to have nets that are not authorized for a specific fishery onboard their vessel if properly stored. A properly stored net is defined as being covered with a tarp and ten revolutions of rope. The modified rule was used effectively during 2007, with positive feedback from the commercial industry and from enforcement agencies. The rule modifications presented in Attachment 4 allow for 1) increased management flexibility, 2) ease the burden on commercial fishers to adapt to quickly changing seasons and gear regulations, and 3) maintain consistency between Oregon and Washington.

OPTIONS

1. Adopt modifications to the permanent rule (OAR 635-042-0100) as proposed in Attachment 4 to allow non-Indian commercial fishers participating in mainstem Columbia River and Select Area fisheries to carry nets other than those authorized for a specific fishery onboard their vessel if properly stored.
2. Maintain existing permanent rule.

**STAFF
RECOMMENDATION**

Option 1

ISSUE 4

WHETHER TO MODIFY THE CURRENT RULES DESCRIBING ALLOWABLE GEAR FOR COLUMBIA RIVER TREATY INDIAN COMMERCIAL FISHERIES

ANALYSIS

The current permanent rule describing allowable fishing gear for treaty Indian commercial fisheries in the Zone 6 area (Bonneville to McNary dams) restricts net length to 400 feet, and for set nets only. Several Treaty tribes (Yakama and Umatilla) allow use of drift gillnets up to 800 feet in length by permit only, creating inconsistency between Tribal regulations and the current Oregon rule. Oregon State Police and treaty fishers have requested the current permanent rule be revised for consistency. Staff does not believe the use of 800' long drift gillnets in the Zone 6 area poses any increased biological risk beyond current fishing practices.

OPTIONS

1. Adopt modifications to the permanent rule (OAR 635-041-0050) as proposed in Attachment 4 to allow the use of longer (800 feet maximum length) drift gillnets in addition to set nets in Zone 6 Treaty commercial fisheries.
2. Maintain existing permanent rule.

**STAFF
RECOMMENDATION**

Option 1

DRAFT MOTION

I move to adopt Oregon Administrative Rules 635-017-0095, 635-023-0095, 635-041-0050, 635-042-0010, 635-042-0130, and 635-042-0135, as proposed by staff in Attachment 4.

EFFECTIVE DATE

February 12, 2008