

Agenda Item Summary

BACKGROUND

The Commission is authorized to delegate to the Director many of its powers and duties under ORS 496.112(3), and has implicitly, and in some cases expressly, delegated many of those tasks. The Commercial Fisheries Permit Board was established within the Department of Fish and Wildlife by the Legislature in 1979. Oregon Revised Statute 508.755. The Board consists of members appointed by the Fish and Wildlife Commission as follows:

Two members to represent the public at large.

Three members to represent each of the following limited entry fisheries:

Columbia River Gillnet Salmon Fishing Industry

Ocean Troll Salmon Fishing Industry

Ocean Pink Shrimp and Scallop Fishing Industry

Yaquina Bay Roe-Herring Fishing Industry

Sea Urchin Commercial Fishery

Ocean Dungeness Crab Fishing Industry

Blue & Black Rockfish and Nearshore Fishing Industries (added by the 2003 Legislature.)

Sardine Fishing Industry (added by the Commission in 2007)

Bay Clam Dive Fishing Industry (added by the Commission in 2007)

Brine Shrimp Fishing Industry (added by the Commission in 2007)

The Commission adopted rules in 1996 (OAR 635-006-1200) further describing the Board and its members. Board members must be in good standing within the community; serve staggered three year terms; not serve more than two consecutive three year terms; and serve at the pleasure of the Commission. Members representing the commercial fisheries must hold a valid permit or license for the fishery they represent. When issues are pending before the Board, the Board is required to meet not less frequently than once every calendar quarter to review those issues. The Department provides an Administrative Hearings Officer through the Hearings Officer Panel of the Oregon Employment Department to conduct contested case proceedings on behalf of the department and prepare Proposed Orders.

The purpose of the Board is to review the contested case proceedings and Proposed Orders in cases where limited entry permit applicants have requested a hearing because they were denied a permit or transfer of a permit by the department. The Board may ask the department to modify the Proposed Order. However, if the modification is in any substantial manner, i.e., when the effect of the modification is to change the outcome or the basis for the order, the Board must identify modifications and explain why they are asking the department to make them.

PUBLIC INVOLVEMENT

The public was not involved in this question, because the allocation of authority between the Director and the Commission does not substantially affect the rights of the public, and this delegation is instead an internal management directive establishing the internal mechanisms to appoint Commercial Fishery Permit Board members.

ISSUE 1

WHETHER TO DELEGATE AUTHORITY TO APPOINT COMMERCIAL FISHERY PERMIT BOARD MEMBERS TO THE DIRECTOR

ANALYSIS

Staff has drafted a delegation of authority to the Director for the Commission's consideration as provided in Attachment 2. Authorizing the Director to appoint Commercial Fishery Permit Board members could save substantial periods of time in cases that are pending the Board's review and issuance of a final order.

OPTIONS

1. Approve the delegation to the Director as shown in Attachment 2.
2. Deny the delegation of authority to the Director.

STAFF RECOMMENDATION

Option 1

DRAFT MOTION	I move to delegate authority to the Director to Appoint Commercial Fishery Permit Board members, as described in Attachment 2, and direct the Chair to sign the delegation on the Commission's behalf.
EFFECTIVE DATE	When signed.