



AGENDA ITEM SUMMARY

BACKGROUND

Longs Seafood Market, LLC (Longs Seafood) holds a 2023 Wholesale Fish Dealer License #106SB issued by the Department in 2023. Since 2021, Longs Seafood Market has been convicted five times for violations of the commercial fishing laws of the State of Oregon.

Oregon administrative rule (OAR) 635-006-0235 states that upon the third conviction within three years of any of the commercial fishing laws of the State of Oregon, the Commission shall initiate contested case proceedings in accordance with the Administrative Procedures Act (ORS Chapter 183) to revoke, or refuse to issue, licenses issued under the commercial fishing laws.

In accordance with ORS 508.485 and OAR 635-006-0235, the Department initiated contested case proceedings by issuing a Notice of Intent to Revoke Commercial Fishing Licenses and Opportunity for a Hearing (Attachment 2). The Notice of Intent, sent to Longs Seafood via certified mail, notified Longs Seafood of the Department's intent, and provided an opportunity for Longs Seafood to request a formal contested case hearing. No request was made to the Department to have a formal contested case hearing, and therefore the Commission may now issue a final order by default (Attachment 3).

PUBLIC INVOLVEMENT

There has been no direct public involvement on this matter.

ISSUES

The Commission's revocation of 2023 commercial fishing licenses held by Longs Seafood and the length of time (up to one year) following issuance of the Final Order by Default that the Commission may refuse issuance of commercial fishing licenses or permits to Longs Seafood.

ANALYSIS

Pursuant to Oregon statute (ORS 509.485), the Commission may revoke Longs Seafood's commercial licenses due to Long Seafood's multiple convictions of violations to commercial fishing laws. However, OAR 635-006-0235 states that the Commission "**shall** initiate contested case proceedings" upon the third conviction of commercial fishing laws within a three-year period. These criteria have been met, as Longs Seafood was convicted of five commercial fishing violations since 2021, and contested case proceedings were initiated by the Department through a Notice of Intent to Revoke Commercial Licenses (Attachment 2). Since no formal request for a contested case hearing was received by the Department, the Commission may issue a default final order (Attachment 3). In this instance where no hearing is requested by the affected party, the Department does not seek the applicable Commercial Fishery Permit Board's review before forwarding that default final order to the Commission.

At this time, the Commission must consider the following factors in determining whether (1) to revoke the commercial fishing licenses or permits of Longs Seafood, and (2) whether to refuse to issue any subsequently applied-for commercial fishing licenses or permits by Longs Seafood and for what period of time (up to one year):

- 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;
- The gravity of the other commercial fishing offenses of which the person has been convicted or forfeited bail;
- 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;
- Whether the person also has been convicted of or forfeited bail for violations of the Wildlife laws of the State of Oregon.

In this case, the Department recommends the Commission revoke the 2023 Wholesale Fish Dealer License #106SB for the remainder of 2023 and to refuse to issue any subsequent commercial fishing licenses or permits for a period of one-year from the date of the Final Order. This recommendation is based upon the Department’s consideration of:

- The most recent offense was “unlawful possession of commercially caught fish/shellfish”. The citation for this offense noted 112 undersized crab, including females and unauthorized species. This violation shows a lack of consideration to the commercial fishing laws and the species they are intended to protect.
- Five violations of commercial fishing laws in less than two years (2/5/21 – 10/10/22) is egregious, especially considering the repeated nature and similarity of offenses. In addition, one of the violations was related to crab traceability, which is an important component for managing domoic acid and food safety. The amount of offenses in a short period of time shows an overall lack of respect for the commercial fishing laws.
- Without Commission intervention, violations are likely to continue to occur, which could directly adversely impact resources of the state through unlawful take of species and indirectly adversely impact fisheries resources by undermining the incentive for businesses that are operating consistent with the commercial fishing laws.

OPTIONS

1. Revoke the 2023 Wholesale Fish Dealer License held by Longs Seafood for the remainder of 2023 and refuse issuance of commercial fishing licenses or permits for a period of one year from the date of issuance of the Final Order.
2. Revoke the 2023 Wholesale Fish Dealer License held by Longs Seafood for the remainder of 2023 and refuse issuance of commercial fishing licenses or permits for * _____ months from the date of issuance of the Final Order.

*Commission to specify a period of time shorter than one year.

3. Take no action.

STAFF RECOMMENDATION

1. Revoke the 2023 Wholesale Fish Dealer License held by Longs Seafood for the remainder of 2023 and refuse issuance of commercial fishing licenses or permits for a period of one year from the date of issuance of the final order.

DRAFT MOTION

1. I move that the Commission revoke the 2023 Wholesale Fish Dealer License #106SB held by Longs Seafood for the remainder of 2023, and to refuse issuance of commercial fishing licenses or permits for a period of one year from the date of issuance of the default final order.

EFFECTIVE DATE: December 15, 2023.