

Routine Program Change

Updating Oregon's Enforceable Policies Regarding the Application, Administration, and Enforcement of Commercial Fishing Laws

O.R.S. §§ 506.001-506.995

July 24, 2014

I. Introduction

The Oregon Coastal Management Program requests that the National Oceanic and Atmospheric Administration (NOAA) Office of Ocean and Coastal Resource Management (OCRM) approve updates to the OCMP to reflect changes to Oregon's statutes regarding the application, administration, and enforcement of the state's commercial fishing laws. Oregon requests concurrence that these updates constitute a Routine Program Change.

Section II.A describes the relevant program in ORS Chapter 506 and identifies changes to the statutes since OCRM's previous approvals. Section II.B identifies those sections that state "enforceable policies" that are used in Oregon's federal consistency review determinations. Section II.C shows that the submitted updates are a Routine Program Change under NOAA regulations and guidelines.

II. Analysis of Routine Program Change

A. Discussion of the Program in Chapter 506

The OCMP was initially approved by NOAA in 1977. The effective OCMP, including ORS Chapter 506, requires compliance with the commercial fishing laws and any rule adopted to carry out the commercial fishing laws. Chapter 506 is administered by the State Fish and Wildlife Commission.

In 1987, OCRM approved a Routine Program Change reflecting changes made to ORS §§ 506.036, 506.109, and 506.755 since 1977. The 1987 Routine Program Change also removed from the program statutory sections that had been repealed since 1977: ORS §§ 506.331 (regarding the petty cash fund), 506.410 (directing the disposition of federal aid money), and 506.415 (regarding funding for fisheries stations and research). In 2002, OCRM approved a Routine Program Change adding ORS §§ 506.006 to 506.031, defining key terms in the chapter and requiring that commercial fishing laws be enforced regardless of conflicting provisions, and ORS §§ 506.450 to 506.460 and ORS § 506.465, regarding developmental fisheries.

The attached table includes the full listing of statutory provisions addressing the application, administration, and enforcement of commercial fishing laws, including those which remain unchanged since prior OCRM approval. This is in order to ensure that the full current program remains part of the OCMP, and establishes the 2013 Edition of the Oregon Revised Statutes as the effective baseline for all of these statutory provisions, should they be further amended in the future. We are also attaching the full current versions of the statutes.

As shown in the attached table, the only changes to many of these sections since their last OCRM approval, whether 1977, 1987, or 2002, were simple grammatical edits. Specifically, “esthetic” became “aesthetic,” “log jams” became one word, “not affected” became “unaffected,” “subsection (1) of 509.025” became “509.025 (1),” “fish” was removed before “commission,” “appropriate” became “appropriated,” “Enforcement of” became “Duty to enforce,” “officers subject to” became “enforcement officers subject to control of,” “subpenas” became “subpoenas,” “unlawfully used” became “used unlawfully,” “promulgated” became “adopted,” “any moneys” became “the clear proceeds,” and masculine pronouns were replaced by gender-neutral language in multiple instances.

Other changes included name clarifications, terminology updates, cross-reference revisions, and subsection reordering. The term “commission” was replaced with “State Fish and Wildlife Commission” and “director” with “State Fish and Wildlife Director” the first time each appeared in many sections. Reference to “district courts” was removed since district courts merged into the circuit courts on January 15, 1998. Reference to the “General Fund” became “Commercial Fisheries Fund” in most cases as the newly created fund became the primary account for commercial fishing law enforcement. References to ORS §§ 509.206, repealed in 1969; 509.216, repealed in 2013; and 506.331, repealed in 1979, were removed. Reference to “ORS 183.310 to 183.500” became “ORS chapter 183.” In ORS § 506.006, the order of the definitions for “fishing gear,” “department,” and “director” was changed.

Other updates are summarized as follows:

General Administration

ORS § 506.011. A few definitions (“black rockfish,” “blue rockfish,” and “nearshore fish”) were added to the list of marine life defined in the section.

ORS §§ 506.124, 506.231. These sections, passed in 1983 and 1981, respectively, concern fish hatcheries. The State Fish and Wildlife Commission must adopt rules governing salmon hatcheries and submit quarterly reports on rule adoption and the impact of hatchery practices. The State Department of Fish and Wildlife must prepare monthly reports of fish hatchery operations.

ORS § 506.226. This section, enacted in 1981, prohibits the State Department of Fish and Wildlife from using electric current when capturing adult salmonids for hatchery purposes.

ORS § 506.241. This section, enacted in 1981, authorizes the State Fish and Wildlife Commission to prescribe a commercial fishing vessel fleet reduction program by rule.

Commercial Fish Moneys; Receipts and Expenditures

ORS § 506.306. Subsections (2) and (3) had identified when, to whom, and subsequently where money paid to the state via commercial fishing laws and for the protection, preservation, propagation, and development of the commercial fishing industry is to be deposited. These subsections were replaced by the simple statement “deposit such monies in the Commercial Fisheries Fund.”

Developmental Fishery

ORS § 506.462. This section, enacted in 2007, authorizes the State Fish and Wildlife Commission to establish a restricted participation or vessel permitting system for recently delisted developmental fisheries, and outlines the procedures for appealing the denial of such a permit or a developmental fisheries permit.

Commercial Fishing Law Enforcement

ORS §§ 506.511, 506.521. These sections concern enforcement officers. Changes since 1977 explicitly require all police officers, including those commissioned by a university, to enforce the commercial fishing laws in their jurisdictions, and authorize the Superintendent of State Police to appoint special agents of the United States Fish and Wildlife Service and National Marine Fisheries Service to enforce the commercial fishing laws. No longer must members of the state police assigned to serve as deputy fish wardens be selected from names suggested by the commission.

ORS §§ 506.655–506.680. These sections, repealed in 1993, identified procedures regarding the adjudication of whether equipment was unlawfully employed, protected officers instituting proceedings from liability, and identified what was to be done with seized equipment. The state requests that these statutes be deleted from the OCMP enforceable policies since they no longer are law in the state.

ORS § 506.690–506.700. These sections concern the seizure and disposition of unlawful equipment and fish unlawfully taken. Change since 1977 allow fish seized due to violation of the commercial fishing laws to be sold or preserved, not just disposed of or used for food. The agency that seizes property used in violation of the commercial fishing laws shall retain custody of it until confiscation is adjudged or the seized property is ordered returned to the owner, and forfeiture of bail no longer is a justification for forfeiting the seized property. The owner of seized property may require the return of the property prior to the entry of judgment by following a specific process.

ORS § 506.720. This section, enacted in 1987, authorizes the commission to institute suit for the recovery of damages for the unlawful taking of food fish that are the property of the state, and requires all such penalties to be paid before obtaining a license, tag, or permit issued by the commission.

Fisheries Conservation Zone

ORS § 506.755. The phrase “Subject to ORS 153.022,” now precedes “any person convicted of violating any rule authorized under the provisions of this section shall be punished by a fine not to exceed \$10,000.” ORS § 153.022 authorizes agencies to specify in rule a lower fine or maximum level of fine or a lower classification of a violation than the classification or maximum fine in the statute. Thus, the added language clarifies that the maximum fine may be less than \$10,000 by rule.

Fish Marketing

ORS § 506.800. This section, enacted in 1979, identifies the species of fish that may be marketed under certain common names, in order to obtain uniformity in fish marketing.

Miscellaneous

ORS § 506.895. This section, enacted in 1981, subjects any person aiding in the violation of a commercial fishing law to the same penalties imposed on the guilty person.

Penalties

ORS §§ 506.991–506.995. These sections establish penalties for violations of any provision of the commercial fishing laws or any rule adopted by the State Fish and Wildlife Commission in carrying out the commercial fishing laws. Changes to the criminal penalties since 1977 have separated the penalty for violating the laws and rules by mental state: a Class A misdemeanor for offenses committed with a culpable mental state (intentionally, knowingly, recklessly or with criminal negligence), a Class A violation without it. The changes also have included a new penalty: a Class C felony for any activity prohibited during closed season undertaken more than 12 hours before or after the season when the total value of the food fish is \$200 or more. In addition, some of the fines have increased, and the law now clearly states that the noted fines are in lieu of those provided in ORS § 161.635. The civil penalty, which is in addition to other sanctions imposed by law, was enacted in 1999 and penalizes a person deriving at least \$5,000 from violating any commercial fishing law or rule twice the amount of the gain.

B. Enforceable Policies

OCRM initially approved Oregon’s Coastal Management Program, including entire state statutes as part of the approved program. Subsequently OCRM has requested that states identify enforceable policies within their statutes as updates are submitted. While Oregon seeks to incorporate the entire updated statutes implementing the program of ORS Chapter 506 into the OCMP, we have identified specific sections that define enforceable policies for federal consistency purposes.

Each of the sections identified specifies a substantive enforceable policy; identifies when a permit is required; or provides enforceable mechanisms for implementation of the substantive provisions. Statutory sections not defined as enforceable are those that are purely procedural, that contain only statements of findings, or that merely grant state officials authority to undertake administrative acts not affecting the potential activities of federal actors or licensees.

Thus, statements of policy, requirements for authorizations, lists of conditions for authorizations, provisions for rules that define regulatory requirements, and definitions that specify the content of obligations and requirements are enforceable policies. The sections in this Routine Program Change stating enforceable policies are: 506.006, 506.011, 506.016, 506.025, 506.028, 506.036, 506.109, 506.119, 506.124, 506.129, 506.220, 506.450, 506.455, 506.460, 506.462, 506.501, 506.526, 506.550, 506.610, 506.620, 506.635, 506.690, 506.695, 506.720, 506.755, 506.895, 506.991, and 506.995. The attached table identifies these with an X and describes the content of each section.

These policies are rendered enforceable by the permits required in 506.460 and 506.462; by the authority of the State Fish and Wildlife Commission to enforce the commercial fishing laws in 506.501 and to protect, preserve, propagate, cultivate, develop and promote all fish under its jurisdiction in 506.036; by the inspection authorities in 506.550 and 506.620; and by prohibited actions in 506.220 and 506.526. Enforcement implementation includes damages under 506.720; fines under 506.755; civil penalties under 506.895 and 506.995; criminal penalties under 506.895 and 506.991; and seizure, forfeiture, and disposition authorities under 506.635, 506.690, and 506.695.

C. Action as Routine Program Change

Pursuant to CZMA §306(e) and 15 C.F.R. §923.84, this section explains why this update to Oregon’s program is a Routine Program Change and does not constitute an amendment. Under 15 C.F.R. §923.80(d), amendments are defined as substantial changes in one or more of five listed coastal management program areas:

- (1) uses subject to management;
- (2) special management areas;
- (3) boundaries;
- (4) authorities and organization; and
- (5) coordination, public involvement and the national interest.

OCRM’s 1996 Program Change guidance states that a “substantial change” is a high threshold requiring case-by-case determination. Statutory changes are identified in the attached table. The table relates each change to Oregon’s authority as previously approved as part of the OCMP in 1977 or in subsequent RPCs (1987 and 2002 in this instance). Each change is described in detail in the right-hand column of the table.

1. Uses subject to management.

This submittal does not identify new uses subject to management.

2. Special management areas.

This submittal does not designate or change special management areas. It does not establish new criteria for special management areas. Details regarding Fisheries Conservation Zones already are provided for in the current program.

3. Boundaries.

This submittal does not change the boundaries of Oregon’s coastal zone.

4. Authorities and organization.

This submittal does not change Oregon’s administration of the OCMP. The same authorities continue to apply these programs.

5. Coordination, public involvement, and the national interest.

This submittal does not change any coordination, public involvement, or national interest provisions of the OCMP.

Accordingly, this submittal is a Routine Program Change, and Oregon requests OCRM concurrence.

Application, Administration and Enforcement of Commercial Fishing Laws

Changes to Statutes in the Program since Last OCRM Approval

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective ¹	Changes Since Last Approval
GENERAL PROVISIONS						
506.001	Contents of commercial fishing laws	Lists the chapters that may be cited as the “commercial fishing laws”: 506, 507, 508, 511, 513		1977		<ul style="list-style-type: none"> • None
506.006	General definitions	Provides definitions for terms as they are used in ORS chapters 506, 507, 508, 509, 511, and 513, collectively called the “commercial fishing laws”	X	2002	2003	<ul style="list-style-type: none"> • Former subsection (6) “fishing gear” renumbered to subsection (8) • Former subsection (7) “Department” renumbered to subsection (6) • Former subsection (8) “Director” renumbered to subsection (7)
506.011	Types of marine life defined	Defines the terms used to describe various classes of marine life as used in the commercial fishing laws (e.g. “anadromous fish,” “food fish,” “nearshore fish,” etc.)	X	2002	2003	<ul style="list-style-type: none"> • Addition of subsection (3) defining black rockfish by its scientific name, “sebastes melanops” • Addition of subsection (4) defining blue rockfish by its scientific name “sebastes mystinus” • Former subsection (3) renumbered to subsection (5) • Addition of subsection (6),

¹ Oregon is seeking to establish the 2013 Edition of the Oregon Revised Statutes and the 2014 Oregon Laws supplement as the effective baseline for the statutory provisions incorporated into the Oregon Coastal Management Program (OCMP). The year in the “updates adopted and effective” column refers to the year(s) during which the Oregon legislature adopted changes to the statutory provisions incorporated into the OCMP.

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective ¹	Changes Since Last Approval
						<p>“Nearshore fish means:”, and subsections (6)(a)-(u) giving the specific species included under the umbrella term “nearshore fish”</p> <ul style="list-style-type: none"> • Former subsection (4) renumbered to subsection (7)
506.016	“Salmon” defined	Defines “salmon” as used in the commercial fishing laws to include 5 different species of salmonid fish	X	2002		<ul style="list-style-type: none"> • None
506.025	“Unlawful to buy” defined	Further clarifies the prohibition in the commercial fishing laws against buying “any food fish, illegally taken” by defining the term to mean that it is unlawful to buy fish when the purchaser knows or has reasonable cause to believe that the fish were illegally taken or transported within, or imported into the state	X	2002		<ul style="list-style-type: none"> • None
506.028	“Conservation” defined	Defines the term “conservation” as used in the commercial fishing laws	X	2002		<ul style="list-style-type: none"> • Changed the second-to-last word from “esthetic” to “aesthetic”
506.031	Effect of wildlife laws on commercial fishing laws	Establishes that the commercial fishing laws apply to food fish except as otherwise provided in ORS 506.045 and 506.050, and are to be enforced regardless of conflicting provisions in the state wildlife laws		2002		<ul style="list-style-type: none"> • None

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective¹	Changes Since Last Approval
506.036	Jurisdiction of commission; duty to protect and propagate fish	Declares that the State Fish and Wildlife Commission has jurisdiction over fish, shellfish, and all other bottom-dwelling, intertidally-living animals within the state, and imposes a duty on the commission to protect, preserve, and ensure the propagation of all such species	X	1987		<ul style="list-style-type: none"> Replaced “commission” with “State Fish and Wildlife Commission” in the first sentence of subsection (1)
506.045	Fishing rights of treaty Indians not affected	Excludes Native American tribes who have fishing rights under treaties from reporting and compliance provisions		1977	1977 2013	<ul style="list-style-type: none"> In title, replaced “not affected” with “unaffected” Replaced “subsection (1) of 509.025” with “509.025 (1)” Removed reference to 509.206, which was repealed in 1969, and 509.216, which was repealed in 2013
506.050	Fish cultural operations and scientific investigations; commission to propagate fish and to stock waters	Grants the US FWS and the State Fish and Wildlife Commission the authority to conduct cultural operations and scientific operations in state waters, and gives the Commission the authority to stock state waters with fish		1977		<ul style="list-style-type: none"> Replaced “commission” with “State Fish and Wildlife Commission” in subsection (1)
506.109	Food fish management policy	Outlines the goals of the food fish management program to maintain food fish at optimum levels and prevent the extinction of any indigenous species, and to develop and manage state land	X	1987		<ul style="list-style-type: none"> None

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		and waters in a manner that will optimize the production, utilization, and public enjoyment of food fish				
506.119	General duties and powers of commission; rulemaking authority	Grants the State Fish and Wildlife Commission the authority to enact policies and programs in order to effectively manage food fish	X	1977		<ul style="list-style-type: none"> Replaced “commission” with “State Fish and Wildlife Commission” in subsection (1) Replaced “ORS 183.310 to 183.500” with “ORS chapter 183”
506.129	Duty to establish seasons, amounts and manner of taking food fish; rules	Directs the State Fish and Wildlife Commission to monitor and manage food fish stocks and commercial fisheries, and grants the commission the rulemaking authority to do so	X	1977		<ul style="list-style-type: none"> In the title, “rules” is added to the end Replaced “commission” with “State Fish and Wildlife Commission” in subsection (1)
506.136	Commission to study and classify food fish and fishing gear	Directs the State and Wildlife Commission to study the habits, supply, and economic uses of, and classify food fish, as well as make the final determination on the classification of all fishing gear		1977		<ul style="list-style-type: none"> Replaced “commission” with “State Fish and Wildlife Commission”
506.142	Authority of Fish Division	Gives the Fish Division of the State Fish and Wildlife Commission the authority to manage fish and marine life under the commission’s regulatory jurisdiction		1977		<ul style="list-style-type: none"> Replaced “commission” with “State Fish and Wildlife Commission”
506.154	Duties of director	Lists the duties of the State Fish and Wildlife Director, who shall		1977		<ul style="list-style-type: none"> Replaced “director” with “State Fish and Wildlife Director”

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		be responsible for the administration and enforcement of commercial fishing laws and for the collection and dissemination of information pertinent to the management and regulation of commercial fishing resources				<ul style="list-style-type: none"> Replaced “commission” with “State Fish and Wildlife Commission” in subsection (1)
506.201	Powers of commission in regard to real property	Describes the State Fish and Wildlife Commission’s power to acquire and dispose of real property when necessary to further the commission’s goals and aid in the execution of its duties		1987		<ul style="list-style-type: none"> Replaced “commission” with “State Fish and Wildlife Commission” in the first phrase Made “log jams” one word in subsections (1)(b) and (2)
506.211	Acquisition of fish, eggs and larvae for certain purposes; returning salmon to Rogue River	Grants the commission the authority to acquire by gift, purchase, or capture fish, eggs, and larvae for management or scientific purposes; requires that at least 40% of the salmon hatched from eggs taken from Rouge River by the commission or those authorized by the commission in order to supply hatcheries within the state be returned to the Rogue River.		1977		<ul style="list-style-type: none"> Replaced “commission” with “State Fish and Wildlife Commission” in subsection (1)
506.213	Coho and chinook salmon hatchery on Oregon coast	Directs the commission to construct and manage a coho and Chinook salmon hatchery on the		1977		<ul style="list-style-type: none"> Replaced “commission” with “State Fish and Wildlife Commission” in subsection (1)

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		state coast to be used at the discretion of the commission				<ul style="list-style-type: none"> Removed “fish” from before “commission” in subsection (2)
506.215	Maintaining hatcheries in adjoining states	Allows the commission to operate hatcheries in adjoining states as long as the hatcheries are constructed on streams whose waters flow into the Columbia River		1977		<ul style="list-style-type: none"> Replaced “commission” with “State Fish and Wildlife Commission”
506.220	Erecting markers of closed waters; interference with markers	Directs the commission to erect markers designation closed waters, and makes it illegal for any person to interfere with the markers	X	1977		<ul style="list-style-type: none"> Replaced “commission” with “State Fish and Wildlife Commission”
COMMERCIAL FISH MONEYS; RECEIPTS AND EXPENDITURES						
506.306	Collecting moneys under commercial fishing laws; deposit into Commercial Fisheries Fund	Directs the commission to collect all moneys arising under the commercial fishing laws and deposit such moneys in the Commercial Fishing Fund		1977	1987 1991 1997 2011	<ul style="list-style-type: none"> In the title, replaced “deposit of receipts and fines to credit of General Fund” with “deposit into Commercial Fisheries Fund” Replaced “commission” with “State Fish and Wildlife Commission” Replaced subsections (2) and (3), regarding when and where the funds are to be paid, with “and deposit such moneys in the Commercial Fisheries Fund” at the end of what had been subsection (1)
506.316	Payment of commission expenditures	Except as otherwise provided in ORS 506.321, all of the commission’s expenditures		1977		<ul style="list-style-type: none"> Removed reference to ORS 506.331, which was repealed in 1979, from after the reference to 506.321

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		pursuant to the commercial fishing laws shall be made from moneys appropriated for the purposes such moneys are used, upon claims presented and warrants drawn pursuant to law				<ul style="list-style-type: none"> Replaced “commission” with “State Fish and Wildlife Commission” Replaced “appropriate” with “appropriated”
506.321	Acceptance and use of gifts of money and property to commission	Allows the commission to accept gifts of money, land, or other property for use towards the protection, preservation, propagation, and development of fishery resources		1977		<ul style="list-style-type: none"> Replaced “commission” with “State Fish and Wildlife Commission”
FEDERAL AID AND PROJECTS						
506.405	Powers of commission regarding federal aid for fish and fisheries	Allows the commission to undertake any action necessary to meet federal requirements for the conservation and preservation of fisheries within the state		1977		<ul style="list-style-type: none"> Replaced “commission” with “State Fish and Wildlife Commission”
DEVELOPMENTAL FISHERY						
506.450	Definitions for ORS 506.450 to 506.465; rules	Defines “developmental fishery” for the purposes of ORS 506.450 to 506.465	X	2002		<ul style="list-style-type: none"> None
506.455	Policy	Establishes a policy to institute a management system for developmental fishery resources	X	2002		<ul style="list-style-type: none"> None
506.460	Developmental fishery species	Describes the duty of the State Fish and Wildlife Commission	X	2002		<ul style="list-style-type: none"> None

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	harvest programs; biological surveys; permits; fees	to, in consultation with the Developmental Fisheries Board, establish management plans for developmental fisheries and issue permits for such fisheries				
506.465	Developmental Fisheries Board; members; qualifications; expenses	Establishes the Developmental Fisheries Board within the State Dept. of Fish and Wildlife and describes the necessary appointees, including representatives from the commercial fishery industry and the Depts. Of Fish and Wildlife and Agriculture; limits compensation to actual and necessary travel expenses		2002		<ul style="list-style-type: none"> • None
COMMERCIAL FISHING LAW ENFORCEMENT						
506.501	Jurisdiction and authority to enforce commercial fishing laws	Gives the commission the jurisdiction and authority to enforce the commercial fishing laws, except as provided in ORS 506.506 to 506.516	X	1977		<ul style="list-style-type: none"> • Replaced “commission” with “State Fish and Wildlife Commission”
506.506	Intent of ORS 506.511 and 506.516	States that the intent of ORS 506.511 and 506.516 is to ensure that the duties of enforcing the criminal provisions of the commercial fishing laws are performed by the Department of State Police		1977		<ul style="list-style-type: none"> • Replaced “commission” with “State Fish and Wildlife Commission”

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506.511	State police to enforce commercial fishing laws; appointment of federal agents	Directs the Department of State Police to employ a sufficient number of state police to adequately enforce the criminal provisions of the commercial fishing laws and permits the Superintendent of State Police to appoint NMFS special agents as “special enforcement officers,” endowed with all the powers and authority of a state peace officer when enforcing the commercial fishing laws		1977	1983 2003	<ul style="list-style-type: none"> • In the title, replaced “selection of deputy fish wardens by state police” with “appointment of federal agents” • The first sentence became subsection (1) • Replaced the second two sentences with subsection (2), stating that the Superintendent of State Police may appoint special enforcement officers to enforce the commercial fishing laws, who those individuals must be, and the authorities they will have
506.516	Employment of deputy fish wardens by commission	Allows the commission, with the approval of the Governor and Superintendent, to employ deputy fish wardens “to the extent necessary or expedient”		1977		<ul style="list-style-type: none"> • Replaced “commission” with “State Fish and Wildlife Commission”
506.518	Appointment of special deputy fish wardens	Allows the commission to appoint special deputy fish wardens who will generally serve without compensation		1977		<ul style="list-style-type: none"> • Replaced “commission” with “State Fish and Wildlife Commission”
506.521	Duty to enforce commercial fishing laws; enforcement officers subject to control of commission or director	Directs all law enforcement officers to enforce the commercial fishing laws within their jurisdictions		1977	2001 2011 2013	<ul style="list-style-type: none"> • In the title, replaced “Enforcement of” with “Duty to enforce” and “officers subject to” with “enforcement officers subject to control of” • Replaced “commission” with “State Fish and Wildlife Commission” • Replaced “director” with “State Fish

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						<p>and Wildlife Director”</p> <ul style="list-style-type: none"> Added after “all peace officers of this state or any political subdivision therein” “including police officers commissioned by a university under ORS 352.383 or section 1 of this 2013 Act”
506.526	Peace officer powers of director, inspectors and deputies; reporting arrests	Grants the Director, inspectors, and fish wardens the same powers and authorities granted to peace officers of the state and requires such officers to report any arrests made under the commercial fishing laws to the Director within 30 days	X	1977		<ul style="list-style-type: none"> Replaced “director” with “State Fish and Wildlife Director” in subsection (1) Replaced “him” with “the officer” at the end of subsection (2) Replaced “subpenas” with “subpoenas” in subsection (3)
506.531	Arrests, searches and seizures made on Sunday	Allows arrests, searches, and seizures to be made on Sundays and requires that proceedings against the accused begin on the following weekday		1977		<ul style="list-style-type: none"> None
506.535	Jurisdiction of courts over commercial fishing law violations; commencement of prosecutions	Grants justice courts concurrent original jurisdiction with circuit courts of all offenses under the commercial fishing laws and states the requirements for beginning an action or proceeding under those laws		1977		<ul style="list-style-type: none"> Deleted “and district” after “justice” in subsection (1) Replaced “commission” with “State Fish and Wildlife Commission” in subsection (2)
506.540	Payment of rewards	Allows the commission to offer rewards of no more than \$100 for the arrest and conviction of		1977		<ul style="list-style-type: none"> Replaced “commission” with “State Fish and Wildlife Commission”

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		any person who has violated the commercial fishing laws				
506.550	Search by peace officers to enforce commercial fishing laws	Grants officers mentioned in ORS 506.521 the authority to search and examine places and packages which they have reason to believe contain evidence of violation of the commercial fishing laws	X	1977		<ul style="list-style-type: none"> • None
506.555	Issuance of search warrants	Directs courts with jurisdiction of offenses under the commercial fishing laws to issue search warrants upon receipt of proof or probable cause for believing that food fish have been illegally taken and concealed		1977		<ul style="list-style-type: none"> • None
506.560	Nonliability of peace officers enforcing commercial fishing laws	Immunizes officers described in ORS 506.521 from civil and criminal liability for arrests, searches, and seizures as provided under the commercial fishing laws		1977		<ul style="list-style-type: none"> • None
506.605	Naming place of offense in complaint, information or indictment	States that it is sufficient to state that the waters in which the offense was committed are unknown in a criminal prosecution		1977		<ul style="list-style-type: none"> • None
506.610	When possession prima facie evidence	States that there is a presumption of guilt when a person within	X	1977		<ul style="list-style-type: none"> • None

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	of taking fish unlawfully	state waters is in possession of food fish during the closed season and shifts the burden of proof to the possessor to prove that the fish was lawfully taken				
506.620	Inspections by director or agent	Grants the Director and his agents the authority to enter and inspect all property used in the commercial fishing industry in order to enforce the commercial fishing laws	X	1977		<ul style="list-style-type: none"> • In the title, “his” is removed • Replaced “director” with “State Fish and Wildlife Director” • Removed “his” from before “authorized agent”
506.625	Compelling testimony in commercial fishing law enforcement proceedings enforcement proceedings	States that persons cannot refuse to give testimony on the grounds of self-incrimination, but prohibits such compelled testimony from being used against the person in state criminal proceedings		1977		<ul style="list-style-type: none"> • Replaced “himself” with “the person” • Replaced “his testimony may incriminate him” with “the testimony of the person may incriminate the person” • Replaced “him” with “the person” • Replaced “he” with “the person” twice
506.635	Execution for payment of fines and costs	States that illegal fishing gear is subject to execution for the payment of fines and costs	X	1977		<ul style="list-style-type: none"> • None
506.690	Seizure, forfeiture and disposition of fish unlawfully taken	Directs the commission and its officers to seize and dispose of illegally taken fish and provides for compensation if the seized fish are not subsequently forfeited	X	1977	1977 1999 (2x)	<ul style="list-style-type: none"> • Replaced “commission” with “State Fish and Wildlife Commission” in subsection (1) • In subsection (2), the authorized means of forfeiting the seized fish is more varied, and any money derived from the sale of the forfeited fish is required to be deposited in the

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective ¹	Changes Since Last Approval
						Commercial Fisheries Fund <ul style="list-style-type: none"> Replaced “General Fund” with “Commercial Fisheries Fund” in subsection (4) both times
506.695	Seizure, forfeiture and disposition of fishing gear and vehicles used unlawfully; removal of unlawful piling	Authorizes the seizure and, when deemed appropriate by the court, confiscation and disposal of property used in violation of the commercial fishing laws	X	1977	1977 1987 1993 2009	<ul style="list-style-type: none"> In the title, “used” and “unlawfully” are switched Replaced “commission” with “State Fish and Wildlife Commission” in subsection (1) Added to subsection (1): “The agency that seizes property under this subsection shall retain custody of the seized property until it is ordered returned to the owner or confiscation is adjudged pursuant to this section.” Replaced “or for forfeiture of bail for the violation” with “for a crime” after “passing sentence” in subsection (2) Replaced “any moneys” with “the clear proceeds” and “General Fund in the State Treasury” with “Common School Fund” in subsection (3)
FISHERIES CONSERVATION ZONE						
506.750	Policy for ORS 506.755	Declares that it is in the interest of the State of Oregon to conserve marine fisheries resources to guarantee the well-being of the economy and welfare of the state and its		1987		<ul style="list-style-type: none"> None

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective ¹	Changes Since Last Approval
		people				
506.755	Fisheries Conservation Zone; rules; jurisdiction over zone; penalty; construction	Establishes a Fisheries Conservation Zone that exists 50 statute miles from the coast within which marine commercial fishing activities are subject to the jurisdiction of the State Fish and Wildlife Commission; explicitly states that nothing in the section abrogates a nation's right of free passage of the high seas or international fish management plans	X	1987	1999	<ul style="list-style-type: none"> Added "Subject to ORS 153.022," to the beginning of subsection (6)
PENALTIES						
506.991	Criminal penalties	Except as otherwise provided, violations of the commercial fishing laws and rules of the commission are Class A misdemeanors if committed with a culpable mental state, and Class A violations if committed without a culpable mental state; lists the maximum penalties for the first, second, third, and fourth and subsequent violations	X	1977	1977 (2x) 1983 1993 1999 2013	<ul style="list-style-type: none"> The title is changed from "Penalties" to "Criminal penalties" Replaced "Except as provided in ORS 509.992 or this section" with "Except as otherwise provided by this section or other law" in subsection (1) Replaced "promulgated" with "adopted" Replaced "commission" with "State Fish and Wildlife Commission" in subsection (1) Added to the end of subsection (1): "if the offense is committed with a culpable mental state"

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective ¹	Changes Since Last Approval
						<ul style="list-style-type: none"> • Added as new subsection (2): the violation of the commercial fishing laws or rules adopted by the commission is a Class A violation if committed without a culpable mental state • Subsection (2) is renumbered as subsection (3) • Replaced “Any violation of this section is in addition to prison terms stated in ORS 161.615,” with “In lieu of the fine provided in ORS 161.635, and in addition to the imprisonment provided in ORS 161.615, any violation of subsection (1) of this section is” in the new subsection (3) • The fine in subsection the new (3)(a) is changed from \$1,000 to \$2,500 • The fine in subsection the new (3)(b) is changed from \$2,500 to \$4,000 • Added a new subsection (4): violating ORS 509.011 more than 12 hours before or after a season established under ORS 506.129, and the value of food fish is \$200 or more, is a Class C felony • Subsection (3) is renumbered as subsection (5) and “pursuant to a proceeding authorized by ORS 506.655” is removed from the end

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective ¹	Changes Since Last Approval
						<ul style="list-style-type: none"> The old subsection (4), regarding the seizure and sale of items used in violations, is removed Added a subsection (6), defining “culpable mental state”

Statutes to Be Incorporated into the Program

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective ²	Statutory History
GENERAL PROVISIONS						
506.124	Hatchery practice rules; reports	Directs the State Fish and Wildlife Commission to adopt rules governing public and private salmon hatcheries by July 1, 1984 and to submit quarterly reports to the	X		1983	<ul style="list-style-type: none"> Enacted in 1983

² Oregon is seeking to establish the 2013 Edition of the Oregon Revised Statutes and the 2014 Oregon Laws supplement as the effective baseline for the statutory provisions incorporated into the Oregon Coastal Management Program (OCMP). The year in the “updates adopted and effective” column refers to the year(s) during which the Oregon legislature adopted changes to the statutory provisions incorporated into the OCMP.

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective ²	Statutory History
		Emergency Board on matters related to the adoption of said rules and the impact of hatchery practices				
506.226	Use of electric shock to take adult salmonids for private hatchery permittees prohibited	Prohibits the State Department of Fish and Wildlife from using electric shock devices when capturing adult salmonids for persons granted a salmon hatchery permit pursuant to ORS 508.700 to 508.745			1981	<ul style="list-style-type: none"> Enacted in 1981
506.231	Public report of fish hatchery activities	Requires the State Dept. of Fish and Wildlife to prepare a monthly report of fish hatchery operations for public release			1981	<ul style="list-style-type: none"> Enacted in 1981
506.241	Commercial fishing vessel fleet reduction program; rules	Grants the commission the authority to prescribe a vessel fleet reduction program that complies with the Federal Salmon and Steelhead Conservation and Enhancement Act of 1980			1981	<ul style="list-style-type: none"> Enacted in 1981
DEVELOPMENTAL FISHERY						
506.462	Review of denial of applications; removal of fishery from developmental fisheries list; fees; rules	Outlines the procedures for appealing the denial of a developmental fisheries permit or a restricted permit for newly delisted developmental fisheries; grants the Commercial Fishery	X		2007 2009	<ul style="list-style-type: none"> Enacted in 2007, amended in 2009

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective ²	Statutory History
		Permit Board the discretion to waive requirements for renewal of developmental fisheries permits and restricted permits and to delegate this authority to the State Department of Fish and Wildlife; establishes the procedures for establishing a restricted participation and permitting system for recently delisted developmental fisheries				
COMMERCIAL FISHING LAW ENFORCEMENT						
506.700	Return of seized property; undertaking; effect of judgment ordering forfeiture or confiscation	Outlines the procedures by which the owner of seized property may require the return of the property prior to the entry of a judgment pursuant to ORS 506.695			1977 1987 1993 2009	<ul style="list-style-type: none"> Enacted in 1977, amended in 1987, 1993, 2009
506.720	Suit for damages; amount; rules; application for or obtaining license when money due prohibited	Allows the commission to institute suit for the recovery of damages for the unlawful taking of food fish that are the property of the state and requires all such penalties to be paid before a person can obtain a license, tag, or permit issued by the commission	X		1987	<ul style="list-style-type: none"> Enacted in 1987
FISH MARKETING						

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective²	Statutory History
506.800	Names for marketing certain fish and shellfish	Defines the species that may be marketed and sold under certain common names			1979	<ul style="list-style-type: none"> Enacted in 1979
MISCELLANEOUS						
506.895	Person aiding in commercial fishing law violation punishable as principal	States that persons who counsel, aid, or assist others in violations of the commercial fishing laws will be assessed the same penalties provided for the person found guilty of the violation	X		1981	<ul style="list-style-type: none"> Enacted in 1981
PENALTIES						
506.995	Civil penalties	Subjects persons who gain more than \$5000 from violating the commercial fishing laws to a civil penalty equal to twice the amount of the gain	X		1999	<ul style="list-style-type: none"> Enacted in 1999

Statutes that Were in the Program but Have Been Repealed since Last OCRM Approval

ORS Section	Title at Last Approval	Description	Last OCRM Approval	Changes Since Last Approval
COMMERCIAL FISHING LAW ENFORCEMENT				
[506.655]	Commencement of proceeding to confiscate, condemn and sell unlawful fishing gear or equipment; petition	Requires the district attorney to immediately institute an action; outlines the requirements for the petition	1977	<ul style="list-style-type: none"> • Repealed in 1993
[506.660]	Parties	Identifies the State of Oregon as the plaintiff in all such proceedings; requires the owner of the equipment, if known, to be labeled as the defendant	1977	<ul style="list-style-type: none"> • Repealed in 1993
[506.665]	Summons and answer	Outlines the requirements of serving summons, if the defendant is known, or posting notice, if unknown; identifies who may answer	1977	<ul style="list-style-type: none"> • Repealed in 1993
[506.670]	Matter to be determined; judgment and execution	Identifies the matter to be determined as whether the equipment seized was unlawfully employed; requires the sale of the equipment at public auction if rules to have been used to violate the	1977	<ul style="list-style-type: none"> • Repealed in 1993

ORS Section	Title at Last Approval	Description	Last OCRM Approval	Changes Since Last Approval
		commercial fishing laws; identifies where the proceeds are to be deposited		
[506.675]	Nonliability of officers instituting proceeding	Prohibits judgment against or the collection of a fee from the state, etc. regarding prosecutions of actions under ORS 506.655	1977	<ul style="list-style-type: none"> • Repealed in 1993
[506.680]	Appeal by state	Authorizes the state to appeal the court decision	1977	<ul style="list-style-type: none"> • Repealed in 1993

Text of ORS Chapter 506 Statutes Included in the July 24, 2014 RPC
2013 Edition Oregon Revised Statutes

GENERAL PROVISIONS

506.001 Contents of commercial fishing laws. All laws enacted for the protection, propagation and preservation of food fish or for the protection and development of commercial fisheries in this state, including but not limited to ORS chapters 506, 507, 508, 509, 511 and 513, may be cited as the commercial fishing laws. [1965 c.570 §2]

506.005 [Repealed by 1965 c.570 §152]

506.006 General definitions. As used in the commercial fishing laws, unless the context requires otherwise:

(1) “Angling” means fishing for personal use with one line attached to a pole held in hand while landing the fish, or with a hand-operated line without rod or reel, to which may be attached not to exceed three hooks, except on floating bass plugs.

(2) “Boat” means any vessel, any floating craft, powered, towed, rowed or otherwise propelled which is used for landing or taking food fish.

(3) “Buy” includes offer to buy, barter, exchange or trade.

(4) “Commercial purposes” means taking food fish with any gear unlawful for angling, or taking or possessing food fish in excess of the limits permitted for personal use, or taking, fishing for, handling, processing, or otherwise disposing of or dealing in food fish with the intent of disposing of such food fish or parts thereof for profit, or by sale, barter or trade, in commercial channels.

(5) “Commission” means the State Fish and Wildlife Commission created by ORS 496.090.

(6) “Department” means the State Department of Fish and Wildlife.

(7) “Director” means the State Fish and Wildlife Director appointed pursuant to ORS 496.112.

(8) “Fishing gear” means any appliance or device intended for or capable of being used to take food fish except by angling.

(9) “Fixed fishing gear” includes but is not limited to stationary gear operated at a fixed location.

(10) “Personal use” means taking or fishing for food fish by angling or by such other means and with such gear as the commission may authorize for fishing for personal use, or possessing the same for the use of the person fishing for, taking or possessing the same and not for sale or barter.

(11) “Sell” includes offer or possess for sale, barter, exchange or trade.

(12) “Take” means fish for, hunt, pursue, catch, capture or kill or attempt to fish for, hunt, pursue, catch, capture or kill.

(13) “Transport” means transport by any means, and includes offer or receive for transportation.

(14) “Waters of this state” means all waters over which the State of Oregon has jurisdiction, or joint or other jurisdiction with any other state or government, including waters of the Pacific Ocean and all bays, inlets, lakes, rivers and streams within or forming the boundaries of this

state. [1965 c.570 §3; 1975 c.253 §13; 1995 c.602 §1; 2003 c.14 §337]

506.010 [Repealed by 1965 c.570 §152]

506.011 Types of marine life defined. As used in the commercial fishing laws, unless the context requires otherwise:

(1) “Anadromous fish” includes but is not limited to salmon, as defined in ORS 506.016; *roccus saxatilis*, commonly known as striped bass; *alosa sapidissima*, commonly known as shad; *acipenser medirostris* and *acipenser transmontanus*, commonly known as sturgeon; and *thaleichthys pacificus*, commonly known as smelt.

(2) “Animals living intertidally on the bottom” includes but is not limited to starfish, sea urchins, sea cucumbers, snails, bivalves, worms, coelenterates and shore, hermit and other small crabs not included within subsection (1) or (7) of this section.

(3) “Black rockfish” means *sebastes melanops*, commonly known as black rockfish.

(4) “Blue rockfish” means *sebastes mystinus*, commonly known as blue rockfish.

(5) “Food fish” means any animal over which the State Fish and Wildlife Commission has jurisdiction pursuant to ORS 506.036.

(6) “Nearshore fish” means:

- (a) *Enophrys bison*, commonly known as buffalo sculpin;
- (b) *Hemilepidotus hemilepidotus*, commonly known as red Irish lord;
- (c) *Hemilepidotus spinosus*, commonly known as brown Irish lord;
- (d) *Scorpaenichthys marmoratus*, commonly known as cabezon;
- (e) *Hexagrammos decagrammus*, commonly known as kelp greenling;
- (f) *Hexagrammos lagocephalus*, commonly known as rock greenling;
- (g) *Hexagrammos stelleri*, commonly known as whitespotted greenling;
- (h) *Oxylebius pictus*, commonly known as painted greenling;
- (i) *Sebastes atrovirens*, commonly known as kelp rockfish;
- (j) *Sebastes auriculatus*, commonly known as brown rockfish;
- (k) *Sebastes carnatus*, commonly known as gopher rockfish;
- (L) *Sebastes caurinus*, commonly known as copper rockfish;
- (m) *Sebastes chrysomelas*, commonly known as black and yellow rockfish;
- (n) *Sebastes dalli*, commonly known as calico rockfish;
- (o) *Sebastes maliger*, commonly known as quillback rockfish;
- (p) *Sebastes miniatus*, commonly known as vermilion rockfish;
- (q) *Sebastes nebulosus*, commonly known as china rockfish;
- (r) *Sebastes nigrocinctus*, commonly known as tiger rockfish;
- (s) *Sebastes rastrelliger*, commonly known as grass rockfish;
- (t) *Sebastes serranoides*, commonly known as olive rockfish; or
- (u) *Sebastes serriceps*, commonly known as treefish.

(7) “Shellfish” includes but is not limited to abalone, clams, crabs, crayfish or crawfish, mussels, oysters, piddocks, scallops and shrimp. [1965 c.570 §4; 2003 c.809 §11]

506.015 [Repealed by 1965 c.570 §152]

506.016 “Salmon” defined. As used in the commercial fishing laws, “salmon” means all anadromous species of salmon, including but not limited to:

- (1) *Oncorhynchus gorbuscha*, commonly known as humpback, humpies or pink salmon.
- (2) *Oncorhynchus keta*, commonly known as chum or dog salmon.
- (3) *Oncorhynchus kisutch*, commonly known as coho or silver salmon.
- (4) *Oncorhynchus nerka*, commonly known as sockeye, red or blueback salmon.
- (5) *Oncorhynchus tshawytscha*, commonly known as chinook salmon. [1965 c.570 §5; 1969 c.411 §1]

506.020 [Repealed by 1965 c.570 §152]

506.025 “Unlawful to buy” defined. Whenever the commercial fishing laws state that it is unlawful to buy any food fish, illegally taken, this prohibition means that it is unlawful to buy, knowing or having reasonable cause to believe that the fish have been illegally taken or transported within this state, or unlawfully imported or otherwise unlawfully brought into this state. [Amended by 1965 c.570 §6]

506.028 “Conservation” defined. As used in the commercial fishing laws, unless the context requires otherwise, “conservation” means providing for the utilization and management of the food fish of Oregon to protect the ultimate supply for present and future generations, preventing waste and implementing a sound management program for sustained economic, recreational and aesthetic benefits. [1971 c.187 §5; 1973 c.271 §1]

506.030 [Repealed by 1965 c.570 §152]

506.031 Effect of wildlife laws on commercial fishing laws. (1) Nothing in the wildlife laws of this state affects the lawful operation of any fishing gear or the lawful taking of any food fish under the commercial fishing laws.

(2) The commercial fishing laws apply to food fish except as otherwise provided in ORS 506.045 and 506.050, and shall be enforced regardless of any conflicting provisions in the wildlife laws of this state. No act lawfully done under the commercial fishing laws is unlawful in the event that such act conflicts with any provision of the wildlife laws of this state. [1965 c.570 §7; 1975 c.545 §10; 1977 c.242 §2]

506.035 [Repealed by 1965 c.570 §152]

506.036 Jurisdiction of commission; duty to protect and propagate fish. (1) Except as otherwise provided in subsection (4) of this section and in ORS 506.045 and 506.050, the State Fish and Wildlife Commission has exclusive jurisdiction over all fish, shellfish, and all other animals living intertidally on the bottom, within the waters of this state. The commission has joint or other jurisdiction with any other state or government over all such fishes within the waters of the Columbia River and its tributaries where such waters form the boundaries of this state.

(2) The commission has jurisdiction over those species of fish, shellfish and all other animals living intertidally on the bottom referred to in subsection (1) of this section transported into or landed in this state which have been taken in waters outside this state.

(3) The duty of protection, preservation, propagation, cultivation, development and promotion of all fishes under its jurisdiction is delegated to and imposed upon the commission.

(4) The commission has no regulatory authority or jurisdiction over the commercial cultivation of oysters in the waters of this state. However, nothing in this subsection is intended to affect the authority of the commission under ORS 509.140. [1965 c.570 §8; 1975 c.253 §20; 1981 c.638 §13; 1983 c.364 §3]

506.040 [1965 c.570 §9; 1969 c.411 §2; 1973 c.723 §120; repealed by 1975 c.253 §40]

506.045 Fishing rights of treaty Indians unaffected. There are excluded from the operation of ORS 506.129, 506.136, 507.030, 508.025, 508.285 and 509.025 (1), any Warm Springs, Umatilla, Yakima, Wasco, Tenino, Wyum and other Columbia River Indians affiliated with these tribes and entitled to enjoy fishing rights, who have not severed their tribal relations, in so far as it would conflict with any rights or privileges granted to such Indians under the terms of the treaties made by the United States with the Warm Springs Indians on June 25, 1855, and with the Umatilla and Yakima Indians on June 9, 1855. [Formerly 506.195; 1975 c.545 §11; 1977 c.242 §3; 2013, c. 672, § 2]

506.050 Federal and state fish cultural operations and scientific investigations; commission to propagate fish and to stock waters. (1) The United States Fish and Wildlife Service, the State Fish and Wildlife Commission and their duly authorized agents may conduct fish cultural operations and scientific investigations in the waters of this state in such manner and at such times as may be considered necessary and proper by the service, the commission or their agents.

(2) The commission shall propagate and stock the waters of this state with such fish as it considers proper. [1965 c.570 §11]

506.105 [Amended by 1973 c.271 §2; repealed by 1975 c.253 §40]

506.109 Food fish management policy. It is the policy of the State of Oregon that food fish shall be managed to provide the optimum economic, commercial, recreational and aesthetic benefits for present and future generations of the citizens of this state. In furtherance of this policy, the goals of food fish management are:

(1) To maintain all species of food fish at optimum levels in all suitable waters of the state and prevent the extinction of any indigenous species.

(2) To develop and manage the lands and waters of this state in a manner that will optimize the production, utilization and public enjoyment of food fish.

(3) To permit an optimum and equitable utilization of available food fish.

(4) To develop and maintain access to the lands and waters of the state and the food fish resources thereon.

(5) To regulate food fish populations and the utilization and public enjoyment of food fish in a manner that is compatible with other uses of the lands and waters of the state and provides optimum commercial and public recreational benefits.

(6) To preserve the economic contribution of the sports and commercial fishing industries in a manner consistent with sound food fish management practices.

(7) To develop and implement a program for optimizing the return of Oregon food fish for Oregon's recreational and commercial fisheries. [1975 c.253 §15; 1985 c.529 §2]

506.110 [Repealed by 1965 c.570 §152]

506.111 [1965 c.570 §12; 1967 c.402 §5; 1969 c.314 §60; repealed by 1975 c.253 §40]

506.115 [Repealed by 1965 c.570 §152]

506.116 [1965 c.570 §13; repealed by 1975 c.253 §40]

506.119 General duties and powers of commission; rulemaking authority. (1) The State Fish and Wildlife Commission has the authority to formulate and implement the policies and programs of this state for the management of food fish, and may perform all acts necessary to administer and carry out the provisions of the commercial fishing laws.

(2) In accordance with any applicable provision of ORS chapter 183, the commission may promulgate rules to carry out the provisions of the commercial fishing laws. [1975 c.253 §17]

506.120 [Repealed by 1965 c.570 §152]

506.121 [1965 c.570 §14a; repealed by 1975 c.253 §40]

506.124 Hatchery practice rules; reports. The State Fish and Wildlife Commission shall adopt rules governing public and private salmon hatchery practices by July 1, 1984. The commission shall also submit quarterly reports to the Emergency Board on matters related to the adoption of rules and the impact of hatchery practices on the salmon resource. [1983 c.797 §8]

506.125 [Repealed by 1965 c.570 §152]

506.126 [1965 c.570 §15; repealed by 1975 c.253 §40]

506.129 Establishing seasons, amounts and manner of taking food fish; rules. (1) After investigation of the supply and condition of food fish, the State Fish and Wildlife Commission, at appropriate times each year, shall by rule:

(a) Prescribe the times, places and manner in which food fish may be taken or sold, except when canned or otherwise processed, and the amount of those food fish species that may be taken or sold.

(b) Prescribe such other restrictions or procedures regarding the taking, selling or possessing of food fish as the commission determines will carry out the provisions of the commercial fishing laws.

(2) In carrying out the provisions of subsection (1) of this section, the power of the commission includes, but is not limited to:

(a) Prescribing the amount of each food fish species that may be taken and possessed in terms of sex, size and other physical characteristics.

(b) Prescribing such regular and special time periods and areas closed to the taking and selling of any food fish species when the commission determines such action is necessary to protect the supply of such food fish.

(c) Prescribing regular and special time periods and areas open to the taking and selling of any food fish species, and prescribing means by which the taking of food fish is permitted. [1975

c.253 §16]

506.130 [Repealed by 1965 c.570 §152]

506.131 [1965 c.570 §14; repealed by 1975 c.253 §40]

506.135 [Repealed by 1965 c.570 §152]

506.136 Commission to study and classify food fish and fishing gear. The State Fish and Wildlife Commission shall:

(1) Investigate the habits, supply and economic uses of, and classify all food fish.

(2) Classify all fishing gear and such classification shall be final. [1965 c.570 §21]

506.140 [Repealed by 1965 c.570 §152]

506.141 [1965 c.570 §22; repealed by 1975 c.253 §40]

506.142 Authority of Fish Division. The Fish Division established pursuant to ORS 496.124 shall be responsible for the management of all fish and other marine life over which the State Fish and Wildlife Commission has regulatory jurisdiction. [1975 c.253 §18]

506.145 [Repealed by 1965 c.570 §152]

506.146 [1965 c.570 §23; repealed by 1975 c.253 §40]

506.150 [Repealed by 1965 c.570 §152]

506.151 [1965 c.570 §24; 1971 c.187 §1; repealed by 1975 c.253 §40]

506.153 [1963 c.259 §1; repealed by 1965 c.570 §152]

506.154 Duties of director. The State Fish and Wildlife Director shall:

(1) Be responsible to the State Fish and Wildlife Commission for the administration and enforcement of the commercial fishing laws.

(2) Be responsible for the collection, application and dissemination of information pertinent to the management of food fish resources and to the regulation of the uses of such resources. [1975 c.253 §19]

506.155 [Amended by 1961 c.275 §1; repealed by 1965 c.570 §152]

506.156 [1965 c.570 §25; repealed by 1971 c.187 §3]

506.160 [Repealed by 1965 c.570 §152]

506.161 [1965 c.570 §26; repealed by 1971 c.187 §3]

506.165 [Repealed by 1965 c.570 §152]

506.170 [Repealed by 1965 c.570 §152]

506.173 [1961 c.463 §1; repealed by 1965 c.570 §152]

506.175 [Repealed by 1965 c.570 §152]

506.180 [Repealed by 1965 c.570 §152]

506.185 [Repealed by 1965 c.570 §152]

506.190 [Repealed by 1965 c.570 §152]

506.192 [1957 c.461 §1; 1959 c.60 §1; repealed by 1965 c.570 §152]

506.195 [Amended by 1965 c.570 §10; renumbered 506.045]

506.200 [Repealed by 1965 c.570 §152]

506.201 Powers of commission in regard to real property. The State Fish and Wildlife Commission may:

(1) Acquire by purchase, lease, gift, agreement or donation, real property, or any right or interest therein, including any easement or right of access, necessary:

(a) To construct or maintain fish hatcheries, fishways or research facilities;

(b) To remove logjams; or

(c) Otherwise to carry out the duties imposed on the commission by law.

(2) Acquire by exercise of the power of eminent domain any easement or right of access necessary to construct or maintain fishways or remove logjams. Proceedings instituted by the commission under this subsection shall be conducted in accordance with ORS chapter 35.

(3) Lease, dispose of or grant easements upon any property owned by the state and used for the protection, propagation or preservation of food fish, which is found to be of no further use or value to the state. The commission shall turn over the proceeds arising from such disposition to the State Treasurer to be credited to the General Fund. [1965 c.570 §16; 1971 c.741 §34]

506.205 [Repealed by 1965 c.570 §152]

506.210 [Repealed by 1965 c.570 §152]

506.211 Acquisition of fish, eggs and larvae for certain purposes; returning salmon to Rogue River. (1) Subject to subsection (2) of this section, the State Fish and Wildlife Commission may acquire by gift or purchase, and may acquire by capture or otherwise in this state, any fish, eggs or larvae thereof for propagation, experimental or scientific purposes.

(2) The commission or any other person authorized by it who takes salmon eggs from the waters of the Rogue River for the purpose of supplying the various hatcheries of this state, shall return at least 40 percent of the fish hatched from the eggs to the Rogue River. [1965 c.570 §28]

506.213 Coho and chinook salmon hatchery on Oregon coast. (1) The State Fish and Wildlife Commission shall cause to be commenced and shall supervise the construction of a fish hatchery on the Oregon coast for the purpose of rearing coho and chinook salmon. The location for the site of the hatchery shall be at the discretion of the commission. Selection of the site shall be based upon the most recent research data available to the commission.

(2) The hatchery constructed pursuant to subsection (1) of this section shall be maintained and operated by the commission. [1967 c.360 §§1,4]

506.215 Maintaining hatcheries in adjoining states. The State Fish and Wildlife Commission may construct, maintain or operate hatcheries in an adjoining state, but no hatchery shall be constructed or operated on any stream in an adjoining state that is not a tributary of the Columbia River, or whose waters do not flow into the Columbia River.

506.220 Erecting markers of closed waters; interference with markers. Whenever deadlines are established on any of the waters of this state, either by legislative enactment or by order of the State Fish and Wildlife Commission, the commission shall, within a reasonable time, erect suitable monuments or markers in the water or on the banks of the water designating the closed portion of the water. It is unlawful to remove, destroy, alter or mutilate any of these monuments or markers. [Amended by 1965 c.570 §27]

506.225 [Repealed by 1965 c.570 §152]

506.226 Use of electric shock to take adult salmonids for private hatchery permittees prohibited. Notwithstanding any other provision of law the State Department of Fish and Wildlife shall not use in any body of water any electric current or electric shock device for the purpose of capturing any adult salmonids for a person granted a permit pursuant to ORS 508.700 to 508.745. [1981 c.646 §2]

506.230 [Repealed by 1965 c.570 §152]

506.231 Public report of fish hatchery activities. The State Department of Fish and Wildlife shall prepare and make available to the public upon request monthly reports of fish hatchery operations. Information in the report shall include, but is not limited to:

(1) The location of each state facility at which salmon eggs were taken and the number of eggs taken.

(2) The number and destination of salmon eggs transferred from one state facility to another.

(3) The number of salmon eggs to be reared at each state facility.

(4) The number of salmon eggs sold from each state facility to any person granted a permit pursuant to ORS 508.700 to 508.745.

(5) The number of salmon eggs from state facilities allocated for volunteer salmonid improvement program activities.

(6) The location and circumstances of each mortality incident involving 10,000 or more salmon eggs at a state facility. [1981 c.646 §3]

506.235 [1957 c.141 §1; renumbered 506.321]

506.236 [1981 c.646 §4; repealed by 1987 c.323 §6]

506.241 Commercial fishing vessel fleet reduction program; rules. The State Fish and Wildlife Commission, by rule, may prescribe a commercial fishing vessel fleet reduction program that complies with the federal Salmon and Steelhead Conservation and Enhancement Act of 1980. [1981 c.365 §38]

506.255 [1965 c.570 §17; repealed by 1975 c.253 §40]

506.260 [1965 c.570 §18; 1969 c.234 §1; 1973 c.271 §3; repealed by 1975 c.253 §40]

506.265 [1965 c.570 §19; repealed by 1975 c.253 §40]

506.270 [1965 c.570 §20; repealed by 1975 c.253 §40]

506.305 [Repealed by 1965 c.570 §152]

COMMERCIAL FISH MONEYS; RECEIPTS AND EXPENDITURES

506.306 Collecting moneys under commercial fishing laws; deposit into Commercial Fisheries Fund. The State Fish and Wildlife Commission shall collect all moneys to be paid to this state for the protection, preservation, propagation and development of the commercial fishing industry and arising under the commercial fishing laws and deposit such moneys in the Commercial Fisheries Fund. [1965 c.570 §29; 1987 c.905 §26; 1991 c.701 §23; 1997 c.545 §1; 2011 c.597 §139]

506.310 [Repealed by 1965 c.570 §152]

506.315 [Repealed by 1965 c.570 §152]

506.316 Payment of commission expenditures. Except as otherwise provided in ORS 506.321, all expenditures of the State Fish and Wildlife Commission pursuant to the commercial fishing laws shall be made from moneys appropriated for the purposes for which such moneys are used, upon claims presented and warrants drawn pursuant to law. [1965 c.570 §30; 1967 c.454 §108]

506.320 [Repealed by 1965 c.570 §152]

506.321 Acceptance and use of gifts of money and property to commission. The State Fish and Wildlife Commission may accept gifts of money, lands or other property and use the same for the protection, preservation, propagation and development of the fishery resource, subject to the terms of the gift. Subject to such terms the gifts may be used or exchanged for the acquisition of other lands, waters, rights, easements or other property. Any moneys received under this section not otherwise appropriated hereby are appropriated for such purposes. [Formerly 506.235]

506.325 [Repealed by 1965 c.570 §152]

506.330 [Repealed by 1965 c.570 §152]

506.331 [1965 c.570 §32; repealed by 1979 c.461 §8]

506.335 [Repealed by 1965 c.570 §152]

506.340 [Amended by 1953 c.83 §2; repealed by 1965 c.570 §152]

506.341 [1965 c.570 §31; 1967 c.322 §1; repealed by 1975 c.130 §2 and 1975 c.253 §40]

506.345 [Formerly part of 496.345; 1971 c.446 §9; repealed by 1973 c.723 §130]

FEDERAL AID AND PROJECTS

506.405 Powers of commission regarding federal aid for fish and fisheries. The State Fish and Wildlife Commission may:

(1) Enter into such contracts, appoint such officers and do any other act or thing necessary fully to meet the requirements of the United States and the officers acting under federal statute in aid of the conservation and preservation of fish and fisheries in this state or concerning any federal project wherein the conservation and preservation of such fish and fisheries are involved.

(2) Accept contributions of funds from the federal government for such purposes.

506.410 [Amended by 1975 c.545 §12; repealed by 1979 c.461 §8]

506.415 [Amended by 1959 c.347 §1; 1967 c.322 §3; 1975 c.545 §13; repealed by 1979 c.461 §8]

506.420 [Repealed by 1965 c.570 §152]

506.430 [1963 c.635 §5; repealed by 1967 c.322 §4]

DEVELOPMENTAL FISHERY

506.450 Definitions for ORS 506.450 to 506.465; rules. As used in ORS 506.450 to 506.465, “developmental fishery” means activity for the development of commercial taking of an underutilized food fish species. The State Fish and Wildlife Commission by rule shall determine those species of food fish that are underutilized. [1993 c.765 §115]

506.455 Policy. It is the policy of the State of Oregon to institute a management system for developmental fishery resources that addresses both long term commercial and biological values and that protects the long term sustainability of those resources through planned commercial development when appropriate. [1993 c.765 §116]

506.460 Developmental fishery species harvest programs; biological surveys; permits; fees. In consultation with the Developmental Fisheries Board, the State Fish and Wildlife Commission shall:

(1) Establish an annual list of food fish species that are considered to be developmental fishery species.

(2) Establish and review commercial harvest programs for developmental fishery species.

(3) Establish methods to obtain biological information necessary to determine the long term sustainability of the resource.

(4) Establish limited entry harvest systems for developmental fisheries. An annual fee of not more than \$100 to participate in a developmental fishery may be charged by the commission.

(5) Issue permits for developmental fisheries within 14 days of receiving a written request for a permit. [1993 c.765 §118]

506.462 Review of denial of applications; removal of fishery from developmental fisheries list; fees; rules. (1) A person whose application for a developmental fisheries permit or a restricted permit established under subsection (6) of this section, or for the renewal or transfer of a developmental fisheries permit or restricted permit, is denied may make written request to the Commercial Fishery Permit Board for review of the denial. The review provided in this subsection is in lieu of any review by the State Department of Fish and Wildlife or the State Fish and Wildlife Commission. The request shall be in such form and shall contain such information as the board considers appropriate. The request shall be accompanied by a nonrefundable fee of \$125. The fee shall apply toward any applicable permit fees resulting from an order of the board in favor of the requesting applicant.

(2) The board shall review a denial as a contested case under ORS chapter 183. Orders issued by the board are not subject to review by the commission, but may be appealed as provided in ORS 183.482.

(3) The board may waive requirements for renewal of a developmental fisheries permit or a restricted permit established under subsection (6) of this section if the board finds that an individual applicant fails to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(4) The board may delegate to the department the board's authority to waive requirements for renewal of developmental fisheries permits or restricted permits established under subsection (6) of this section.

(5) The board may adopt such rules as it determines necessary to carry out its duties, functions and powers under this section.

(6) Once the commission determines that a commercial harvest of a developmental fishery can be sustained, it may remove that fishery from the developmental fisheries list, and may, by rule, establish a restricted participation system or a restricted vessel permit system for that fishery. These restricted permit systems may include, but are not limited to, provisions relating to the following matters:

(a) Establishment of criteria for initial entry into the restricted permit system and criteria for annual qualification for continued participation in the system; and

(b) Establishment of terms and conditions for transferring participation rights. [2007 c.95 §2; 2009 c.832 §18]

506.465 Developmental Fisheries Board; members; qualifications; expenses. (1) The

Developmental Fisheries Board is established in the State Department of Fish and Wildlife. The board shall consist of members appointed by the State Fish and Wildlife Commission after consultation with commercial fishing industry representatives to insure representation on the board of a broad range of fishing interests.

(2) The commission shall appoint:

(a) Two members who are commercial fishermen licensed in this state and who are the operators of commercial fishing vessels that are less than 60 feet in length.

(b) Two members who are commercial fishermen licensed in this state and who are the operators of commercial fishing vessels that are 60 feet or more in length.

(c) One member who represents commercial fishing interests in general.

(d) One member who is employed by a fish processor having fewer than 50 employees.

(e) One member who is employed by a fish processor having 50 or more employees.

(f) One member who is an employee of the State Department of Fish and Wildlife.

(g) One member who is an employee of the State Department of Agriculture.

(3) A member of the board shall receive no compensation for services as a member.

However, subject to any applicable law regulating travel and other expenses of state officers and employees, a member shall be reimbursed for actual and necessary travel and other expenses incurred in the performance of duties as a board member. The board shall meet at least once each year. [1993 c.765 §117]

COMMERCIAL FISHING LAW ENFORCEMENT

(General Provisions)

506.501 Jurisdiction and authority to enforce commercial fishing laws. The State Fish and Wildlife Commission has jurisdiction and authority to enforce the commercial fishing laws, except as provided in ORS 506.506 to 506.516. [1965 c.570 §34]

506.505 [Repealed by 1965 c.570 §152]

506.506 Intent of ORS 506.511 and 506.516. It is the intent of ORS 506.511 and 506.516 to permit the State Fish and Wildlife Commission to employ only such deputy fish wardens as are agreed necessary or expedient among the commission, the Governor and the Superintendent of State Police, and that the duties of enforcing criminal provisions of the commercial fishing laws, so far as is economical and practicable, be performed by the Department of State Police. [1965 c.570 §35]

506.510 [Repealed by 1965 c.570 §152]

506.511 State police to enforce commercial fishing laws; appointment of federal agents.

(1) The Department of State Police shall employ a sufficient number of state police to perform the duties required in the enforcement of criminal provisions of the commercial fishing laws.

(2) The Superintendent of State Police may appoint special enforcement officers authorized to enforce the commercial fishing laws. Individuals so appointed must be special agents of the United States Fish and Wildlife Service or the National Marine Fisheries Service, and shall serve at the pleasure of the superintendent without additional compensation. Each such special

enforcement officer shall have all powers and authority of a peace officer of this state in serving warrants, subpoenas and other legal process in enforcement of the commercial fishing laws. [1965 c.570 §36; 1983 c.364 §5; 2003 c.14 §338]

506.515 [Repealed by 1965 c.570 §152]

506.516 Employment of deputy fish wardens by commission. The State Fish and Wildlife Commission, with the approval of the Governor and the Superintendent of State Police, may employ deputy fish wardens to the extent necessary or expedient. [1965 c.570 §37]

506.518 Appointment of special deputy fish wardens. The State Fish and Wildlife Commission may appoint special deputy fish wardens who shall serve without compensation except for what the commission may allow for special services. [Amended by 1965 c.570 §38]

506.520 [Repealed by 1965 c.570 §152]

506.521 Duty to enforce commercial fishing laws; enforcement officers subject to control of commission or director. Each member of the State Fish and Wildlife Commission, the State Fish and Wildlife Director and every inspector, deputy fish warden, special deputy fish warden, and all peace officers of this state or any political subdivision therein, including police officers commissioned by a university under ORS 352.383 or section 1 of this 2013 Act, shall enforce the commercial fishing laws within their respective jurisdictions. In the performance of these duties such officers are subject to the direction and control of the commission or director. [1965 c.570 §39; 2001 c.104 §224; 2011 c.506 §43; 2013 c.180, §47]

506.525 [Repealed by 1965 c.570 §152]

506.526 Peace officer powers of director, inspectors and deputies; reporting arrests. (1) The State Fish and Wildlife Director or any inspector, deputy fish warden or special deputy fish warden may arrest any person the officer has probable cause to believe is in the act of committing a violation of the commercial fishing laws. Such officers are peace officers of the state for this purpose and may execute all criminal process issued for the arrest or detention of any person complained against for violation of the commercial fishing laws. It is unlawful knowingly or willfully to resist or oppose such officers in the discharge of their duties.

(2) Any officer described in subsection (1) of this section who makes an arrest must report it, together with the disposition of the case, to the director within 30 days after the date of the arrest. Failure so to report subjects the officer to removal from office by the authority that appointed the officer.

(3) The officers described in subsection (1) of this section have all the powers and authority of a peace officer in serving warrants, subpoenas and other legal process in the enforcement of the commercial fishing laws. [1965 c.570 §40; 1973 c.836 §356]

506.530 [Repealed by 1965 c.570 §152]

506.531 Arrests, searches and seizures made on Sunday. The arrests, searches and seizures provided for in the commercial fishing laws may be made on Sunday. In this event the

persons arrested shall be taken before any justice of the peace or judge having jurisdiction, who shall bind over the persons arrested to appear and be proceeded against as soon as may be on a week day following the arrest. [1965 c.570 §41]

506.535 Jurisdiction of courts over commercial fishing law violations; commencement of prosecutions. (1) Unless otherwise specifically provided, justice courts have concurrent jurisdiction in the first instance with circuit courts of all offenses under the commercial fishing laws.

(2) Any action or proceedings under the commercial fishing laws shall be commenced on order of the State Fish and Wildlife Commission or a person duly authorized to enforce such laws, or by any district attorney, in the county in which the offense is alleged to have been committed. [Amended by 1965 c.570 §43]

506.540 Payment of rewards. The State Fish and Wildlife Commission may offer and authorize payment of rewards for the arrest and conviction of any person who has violated any of the commercial fishing laws, but no reward of more than \$100 shall be offered or paid for any one arrest or conviction. [Amended by 1965 c.570 §48]

506.545 [Repealed by 1965 c.570 §152]

506.550 Search by peace officers to enforce commercial fishing laws. The officers mentioned in ORS 506.521 may search and examine all places where food fish may be kept, sold or secreted and examine all packages, boxes and bundles held either for storage or shipment which they have reason to believe contain evidence of violation of the commercial fishing laws. [Amended by 1965 c.570 §50]

506.555 Issuance of search warrants. Any court having jurisdiction of any offense against the commercial fishing laws, upon receiving proof or probable cause for believing in the concealment of any food fish taken or possessed contrary to law, shall issue a search warrant and cause a search to be made in any place, and to that end cause any place where concealment may be effected, to be opened and the contents examined by any officer charged with the enforcement of the commercial fishing laws. [Amended by 1965 c.570 §51]

506.560 Nonliability of peace officers enforcing commercial fishing laws. The officers described in ORS 506.521 shall not suffer civil or criminal liability for any arrest, seizure or search as provided under the commercial fishing laws. [Amended by 1965 c.570 §52]

506.565 [Repealed by 1965 c.570 §152]

506.570 [Repealed by 1965 c.570 §152]

506.575 [Amended by 1965 c.570 §54a; renumbered 506.655]

506.580 [Amended by 1965 c.570 §54b; renumbered 506.660]

506.585 [Amended by 1953 c.636 §2; 1965 c.570 §54c; renumbered 506.665]

506.590 [Amended by 1965 c.570 §54d; renumbered 506.670]

506.595 [Renumbered 506.675]

506.600 [Renumbered 506.680]

506.602 [1957 c.298 §1; 1965 c.570 §53; renumbered 506.690]

506.603 [1957 c.298 §2; 1965 c.570 §54; renumbered 506.695]

506.605 Naming place of offense in complaint, information or indictment. In any criminal prosecution under the commercial fishing laws, it is not necessary in the complaint, information or indictment to name the particular waters of the state if they are unknown to the person signing or filing the complaint or information or to the grand jury returning the indictment. It is sufficient if it is stated in such cases in the complaint, information or indictment that the particular waters of the state are to such person, or to the grand jury, unknown. [Amended by 1965 c.570 §44]

506.610 When possession prima facie evidence of taking fish unlawfully. (1) The possession or custody of food fish on, near, adjacent to or in the vicinity of any waters of this state, during the closed season on such waters, is prima facie evidence that such fish were unlawfully taken during the closed season on such waters.

(2) In all cases where such possession or custody by accused persons on, near, adjacent to or in the vicinity of any of such closed waters is proven, the burden of proof is shifted to the persons found having such possession or custody, to establish that the fish were lawfully taken during an open season and from waters from which it was at such time lawful to take such fish. [Amended by 1965 c.570 §45]

506.615 [Repealed by 1965 c.570 §152]

506.620 Inspections by director or agent. The State Fish and Wildlife Director or authorized agent may enter and inspect all canneries, cold storage houses, packing establishments, business places, boats, fishing gear, and all property used in the taking, processing and packing of food fish, for the purpose of enforcing the commercial fishing laws. [Amended by 1965 c.570 §49]

506.625 Compelling testimony in commercial fishing law enforcement proceedings. In any action or proceeding for the enforcement of any of the provisions of the commercial fishing laws, or in any investigation before a grand jury, district attorney or other officer, or any criminal proceeding, no person shall be excused from testifying concerning any offense committed by another or by the person on the ground that the testimony of the person may incriminate the person. However, such testimony shall not be used against the person in any prosecution for any crime or misdemeanor under the laws of the state, nor shall the person be subjected to any criminal prosecution or any penalty or forfeiture for or on account of any transaction, matter or thing concerning which the person has been compelled to testify or to produce evidence,

documentary or otherwise. [Amended by 1965 c.570 §46]

506.630 [Amended by 1961 c.346 §1; 1965 c.570 §47; 1971 c.186 §6; 1981 s.s. c.116 §3; 1983 c.763 §51; 1987 c.905 §27; repealed by 2011 c.597 §118]

506.635 Execution for payment of fines and costs. Any fishing gear used in violation of the commercial fishing laws, including boats or vehicles of any kind and other appliances, is subject to execution for the payment of fines and costs provided for in the commercial fishing laws. [1965 c.570 §55]

506.655 [Formerly 506.575; repealed by 1993 c.699 §30]

506.660 [Formerly 506.580; repealed by 1993 c.699 §30]

506.665 [Formerly 506.585; 1977 c.272 §1; repealed by 1993 c.699 §30]

506.670 [Formerly 506.590; 1977 c.340 §1; 1977 c.652 §1; repealed by 1993 c.699 §30]

506.675 [Formerly 506.595; 1977 c.652 §2; repealed by 1993 c.699 §30]

506.680 [Formerly 506.600; 1977 c.652 §3; repealed by 1993 c.699 §30]

(Seizure and Disposition of Unlawful Equipment and Fish Unlawfully Taken)

506.690 Seizure, forfeiture and disposition of fish unlawfully taken. (1) All fish taken by or in the possession of any person in violation of the commercial fishing laws or the rules of the State Fish and Wildlife Commission shall be seized by any member of the commission or any officer described in ORS 506.521.

(2) Any fish seized under the provisions of subsection (1) of this section may be disposed of, sold, preserved or used for food purposes, under the rules of the commission, to prevent loss or spoilage. At the time the court passes sentence in the criminal prosecution for violation of the commercial fishing laws, the court may order that any fish seized under subsection (1) of this section or the proceeds from the sale of such fish shall be forfeited. Any moneys derived from the sale of any forfeited fish shall be deposited in the Commercial Fisheries Fund.

(3) If the fish seized under subsection (1) of this section are not subsequently forfeited, the commission shall pay to the person from whom the fish were seized an amount equal to the market value of the fish at the time of seizure.

(4) The commission shall approve the amount to be paid under subsection (3) of this section, and the claim shall be paid from the Commercial Fisheries Fund in the manner provided by law for the payment of claims against the state. There is appropriated continuously from the Commercial Fisheries Fund an amount equal to the amounts approved by the commission under this subsection. [Formerly 506.602; 1975 c.253 §27; 1977 c.652 §4; 1999 c.1013 §1; 1999 c.1051 §275]

506.695 Seizure, forfeiture and disposition of fishing gear and vehicles used unlawfully; removal of unlawful piling. (1) All boats, fishing gear and vehicles used in violation of the

commercial fishing laws or the rules of the State Fish and Wildlife Commission may be seized, and piling driven for the sole or primary purposes of violation of such laws may be removed, by any member of the commission or any officer described in ORS 506.521. The agency that seizes property under this subsection shall retain custody of the seized property until it is ordered returned to the owner or confiscation is adjudged pursuant to this section.

(2) Upon the order of the court at the time of passing sentence for a crime, the property seized under subsection (1) of this section may be forfeited. If forfeited, such property shall be turned over to the commission.

(3) The commission may dispose of such forfeited property in any manner it deems proper, but the clear proceeds derived from the sale of any forfeited property shall be deposited with the State Treasury to be placed in the Common School Fund. [Formerly 506.603; 1977 c.652 §5; 1987 c.858 §7; 1993 c.699 §26; 2009 c.835 §10]

506.700 Return of seized property; undertaking; effect of judgment ordering forfeiture or confiscation. (1) At any time after the seizure mentioned in ORS 506.695, but before the entry of judgment pursuant to ORS 506.695, the owner of the seized property may require the return thereof upon giving to the agency that seized the property a written undertaking, executed by sufficient surety, to be approved by the court described in ORS 506.695, to the effect that such surety is bound in double the value of the property as determined by the court, for the delivery thereof to the plaintiff, if such delivery be adjudged, and for the payment to the plaintiff of such sum as may, for any cause, be recovered against the owner. The owner shall file such written undertaking with the clerk of the court for the county in which the seizure occurred and shall serve a true copy thereof upon the district attorney for the same county.

(2) If confiscation or forfeiture of such property is required by a judgment of the court under ORS 506.695, the owner shall return the property to the plaintiff. If the owner fails to return the property, any officer described under ORS 506.521 may maintain an action upon such undertaking, and the clear proceeds shall be deposited with the State Treasury in the Common School Fund. [1977 c.652 §7; 1987 c.858 §8; 1993 c.699 §27; 2009 c.835 §11]

(Damages for Unlawful Taking)

506.720 Suit for damages; amount; rules; application for or obtaining license when money due prohibited. (1) The State Fish and Wildlife Commission may institute suit for the recovery of damages for the unlawful taking, possession or killing of food fish referred to in this section that are the property of the state.

(2) The damages referred to in subsection (1) of this section shall be as follows:

(a) For food fish other than pink shrimp, salmon or steelhead, twice the average market value of the food fish.

(b) For salmon or steelhead taken in waters other than the waters of the Pacific Ocean, \$125 per fish.

(c) For salmon or steelhead taken in the waters of the Pacific Ocean:

(A) For the first violation, twice the average market value of the food fish.

(B) For the second and each subsequent violation within a five-year period, \$125 per fish.

(d) For pink shrimp:

(A) For the first violation, five percent of the average market value of the food fish.

(B) For the second violation within a five-year period, 10 percent of the average market value

of the food fish.

(C) For the third and each subsequent violation within a five-year period, 20 percent of the average market value of the food fish.

(3) The commission shall by rule in January of each year establish the average market value for each species of food fish for the year.

(4) No person shall apply for or obtain any license, tag or permit issued by the commission when civil damages due pursuant to this section, or when moneys due the State Department of Fish and Wildlife from court-ordered restitutions for violations of the commercial fishing laws have not been paid. [1987 c.213 §2]

FISHERIES CONSERVATION ZONE

506.750 Policy for ORS 506.755. The Legislative Assembly finds and declares that:

(1) The preservation of complex interrelationships of marine environment within the continental shelf of the Pacific Ocean off the coast of the State of Oregon is necessary to conserve coastal species of fish and to guarantee the well-being of the economy and welfare of the state and its people.

(2) The uncontrolled use of the marine commercial fisheries to harvest coastal species of fish and other marine fisheries resources by foreign nationals is of public concern and constitutes an immediate threat to the marine environment and its ultimate survival.

(3) The State of Oregon has a special interest in the maintenance of the productivity of the living resources in the area of the high seas adjacent to its territorial sea. [1974 c.3 §1]

Note: 506.750 and 506.755 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 506 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

506.755 Fisheries Conservation Zone; rules; jurisdiction over zone; penalty; construction. (1) The State of Oregon adopts a Fisheries Conservation Zone for the maintenance, preservation and protection of all coastal species of fish and other marine fisheries resources between the mean high water mark of the state and a straight line extension of the lateral boundaries of the state drawn seaward to a distance of 50 statute miles.

(2) Activities of marine commercial fishing within the limits and boundaries of the Fisheries Conservation Zone shall be under the jurisdiction and regulation of the commission.

(3) The commission shall study the fishery within the zone and when appropriate adopt, amend or repeal all rules, according to the provisions of ORS 506.119 and 506.129 necessary for the maintenance, preservation and protection of all coastal species of fish and other marine fisheries resources.

(4) The jurisdiction within the Fisheries Conservation Zone shall include, but not be limited to, provisions for inspection of catch, particularly regarding anadromous fish; rules relating to methods of fishing, size and kind of gear and nets; rules designating seasons, closures and restricted areas.

(5) ORS 506.501 to 506.695 shall provide the authority for enforcing rules adopted by the commission as specified in this section.

(6) Subject to ORS 153.022, any person convicted of violating any rule authorized under the provisions of this section shall be punished by a fine not to exceed \$10,000.

(7) Nothing contained within this section is intended to abrogate a nation's right of free passage or navigation of the high seas.

(8) Nothing contained within this section is intended to abrogate international fish compacts, agreements or treaties providing for the management of anadromous or pelagic fish species. [1974 c.3 §2; 1983 c.740 §204; 1999 c.1051 §313]

Note: See note under 506.750.

FISH MARKETING

506.800 Names for marketing certain fish and shellfish. In order to obtain uniform names to be used for the marketing of fish:

(1) The common names Pacific red snapper, Pacific snapper, Oregon red snapper, Oregon snapper, red snapper and snapper may be used as alternate names for the purpose of marketing the following fish:

- (a) Widow rockfish (*Sebastes entomelas*).
- (b) Yellowtail rockfish (*Sebastes flavidus*).
- (c) Chilipepper (*Sebastes goodei*).
- (d) Cowcod (*Sebastes levis*).
- (e) Black rockfish (*Sebastes melanops*).
- (f) Vermillion rockfish (*Sebastes miniatus*).
- (g) Speckled rockfish (*Sebastes ovalis*).
- (h) Bocaccio (*Sebastes paucispinnis*).
- (i) Canary rockfish (*Sebastes pinniger*).
- (j) Yelloweye rockfish (*Sebastes ruberrimus*).
- (k) Bank rockfish (*Sebastes rufus*).
- (L) Olive rockfish (*Sebastes serranoides*).

(2) The common names butterfish and black cod may be used as alternate names for purposes of marketing sablefish (*Anoplopoma fimbria*).

(3) The common names Pacific ocean shrimp, Pacific shrimp, pink shrimp and Oregon shrimp may be used as alternate names for the purpose of marketing *Pandalus jordani* (shrimp). [1979 c.457 §2]

MISCELLANEOUS

506.895 Person aiding in commercial fishing law violation punishable as principal. Any person who counsels, aids or assists in any violation of the commercial fishing laws shall incur the penalties provided for the person guilty of such violation. [1981 c.365 §18]

PENALTIES

506.990 [Repealed by 1965 c.570 §152]

506.991 Criminal penalties. (1) Except as otherwise provided by this section or other law, violation of any provision of the commercial fishing laws, or of any rule adopted by the State Fish and Wildlife Commission in carrying out the commercial fishing laws, is a Class A

misdemeanor if the offense is committed with a culpable mental state.

(2) Except as otherwise provided by this section or other law, violation of any provision of the commercial fishing laws, or of any rule adopted by the State Fish and Wildlife Commission in carrying out the commercial fishing laws, is a Class A violation if the offense is committed without a culpable mental state.

(3) In lieu of the fine provided in ORS 161.635, and in addition to the imprisonment provided in ORS 161.615, any violation of subsection (1) of this section is punishable as follows:

(a) For the first conviction, a fine not to exceed \$2,500.

(b) For the second conviction within a 10-year period, a fine not to exceed \$4,000.

(c) For the third conviction within a 10-year period, a fine not to exceed \$10,000.

(d) For the fourth and subsequent convictions within a 10-year period, a fine not to exceed \$25,000.

(4) Violation of any provision of ORS 509.011 that occurs more than 12 hours prior to or more than 12 hours subsequent to a season established under ORS 506.129 by the commission for the lawful taking of food fish when the total value of the food fish is \$200 or more is a Class C felony.

(5) In addition to the penalties of this section and notwithstanding the provisions of ORS 506.690, all fish or sexual products therefrom taken by or in the possession of any person sentenced under this section shall be seized and confiscated, condemned, and sold.

(6) As used in this section, "culpable mental state" has the meaning given that term in ORS 161.085. [1965 c.570 §56; 1975 c.517 §1; 1977 c.242 §4; 1977 c.353 §2; 1983 c.364 §2; 1993 c.699 §28; 1999 c.1051 §314; 2013, c. 164, § 7]

506.995 Civil penalties. (1) As used in this section, "gain" means the amount of money and the value of any property derived from the violation.

(2) In addition to any other sanction imposed by law, if a person derives a gain of at least \$5,000 from violating any commercial fishing law or rule promulgated pursuant to such laws, the person shall be subject to a civil penalty that is equal to twice the amount of the gain.

(3) Civil penalties under this section shall be imposed pursuant to ORS 183.745.

(4) Any civil penalty received by the State Department of Fish and Wildlife under this section shall be deposited in the Commercial Fisheries Fund. [1999 c.672 §2]