

Routine Program Change

Updating Oregon's Enforceable Policies Regarding Fish Protection Measures

O.R.S. §§ 498.301-498.346

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 fish protection measures. Oregon requests concurrence that these updates constitute a Routine Program Change.

Section II.A describes the relevant program in ORS chapter 498 and identifies changes and additions 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 498

Fish screening and by-pass device provisions for water diversions and obstructions were enacted in 1991 and 1993 as part of ORS chapter 498. These fish screening and by-pass provisions were not previously incorporated by Oregon into its OCMP. These add to the fish screening, fish by-pass, fishway, and other fish protection provisions previously approved by NOAA in 1987 and 2002 as part of Oregon's OCMP (including ORS §§ 496.085, 496.141, 543.017, 543.265, and 509.605-509.630). The ORS chapter 498 provisions organize systematically the requirements to protect fish physically from non-hydroelectric water diversions.

The attached table includes the full listing of statutory provisions in ORS chapter 498 addressing screening and by-pass devices. This is in order to ensure that the full current program is 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 changed in the future. We are also attaching the full current versions of the statutes.

Updates are summarized as follows:

ORS § 498.301. This section identifies the policy of the state to prevent appreciable damage to game fish and sensitive, threatened, or endangered nongame fish as the result of water diversions for non-hydroelectric purposes from any body of water in the state.

ORS § 498.306. This section requires anyone with water diversions meeting identified criteria and selected by the State Department of Fish and Wildlife to install, operate, and maintain fish screening or by-pass devices. It requires the department to establish and publish a priority listing of diversions to be equipped with screens and by-pass devices, and identifies the criteria for determining priorities. This section authorizes the department to inspect screen and bypass devices; install, operate, and maintain them if the responsible party fails to do so; and maintain an action to cover the costs of installation, operation, and maintenance. It also provides greater detail as to financial responsibilities, sets notice requirements, identifies the means by which a water diverter may be excused from compliance, and defines key terms as used in this section. In addition, this section prohibits interfering with, tampering with, damaging, destroying, or removing these screens and by-pass devices in any manner not associated with regular and necessary maintenance.

ORS § 498.316. This section exempts from the screen or by-pass device requirement those water diversions for which the State Fish and Wildlife Commission, by contract or other form of agreement with the person diverting the water, has made other provision to protect the game fish in the body of water from which water is being diverted.

ORS § 498.321. This section sets minimum standards and criteria for actions of the State Fish and Wildlife Commission and the State Department of Fish and Wildlife with regard to fish screening or by-pass devices. It also requires the department to emphasize cooperative effort and mutual understanding with water diverters, to aggressively investigate and encourage the development of new technologies and techniques, and to establish an entity to administer all agency activities related to fish screening and by-pass devices.

ORS § 498.326. This section requires the State Department of Fish and Wildlife to establish guidelines for determining the priority locations for fish screening and by-pass projects.

ORS §§ 498.336, 498.341. These sections concern financial assistance, clarifying that ORS § 498.306 does not limit one's eligibility for support from federal funds or the Water Development Fund, and authorizing the State Department of Fish and Wildlife to provide support for constructing and installing screen or by-pass devices on additional water diversions if sufficient funds are made available in the Fish Screening Subaccount of the Fish and Wildlife Account.

ORS § 498.346. This section authorizes the State Fish and Wildlife Commission to maintain a suit to enjoin any person, including state agencies and political subdivisions, from violating the provisions of ORS 498.306.

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 into the OCMP all statutes of ORS Chapter 498 regarding fish screening and by-pass devices, we have identified specific sections that define enforceable policies for federal consistency purposes.

Each of the sections identified specifies a substantive enforceable policy; establishes duties; 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: 498.301, 498.306, 498.316, 498.326, and 498.346. The attached table identifies these with an X and describes the content of each section.

These policies are rendered enforceable by the requirement in 498.306 that anyone with water diversions meeting identified criteria may be required in accordance with 498.326 to install, operate, and maintain fish screening or by-pass devices; or, alternatively, may under 498.316, contract or otherwise enter agreement with the State Fish and Wildlife Commission regarding other means of protecting fish in the body of water from which water is being diverted. Policies also are enforceable through the prohibition in 498.306 against interfering with, tampering with, damaging, destroying, or removing in any manner not associated with regular maintenance these screens and by-pass devices. Implementation includes the authority of the State Department of Fish and Wildlife to inspect screening and by-pass devices under 498.306; to install, operate, and maintain such devices if the responsible party does not, and to maintain an action under 498.306 to cover any costs so incurred; and to enjoin any person under 498.346 from violating the provisions of 498.306.

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.

1. Uses subject to management.

This submittal does not identify new uses subject to management. Protection of fish is not a use. Protection of fish has previously been a part of the OCMP, as demonstrated by incorporated sections of

ORS chapters 496, 509, and 543, which, among other things, provide for fish screens, by-pass devices, and fishways.

2. Special management areas.

This submittal does not designate or change special management areas.

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.

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.

Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures

Statutes to Be Incorporated into the Program

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective ¹	Statutory History
SCREENING AND BY-PASS DEVICES FOR WATER DIVERSIONS OR OBSTRUCTIONS						
498.301	Policy	Identifies the policy of the state to prevent appreciable damage to game fish and sensitive, threatened, or endangered nongame fish as the result of water diversions for non-hydroelectric purposes	X		1993	<ul style="list-style-type: none"> • Enacted in 1993
498.306	Screening or by-pass devices for water diversions; fees; costs	Authorizes the State Department of Fish and Wildlife to require anyone with water diversions meeting identified criteria to install, operate, and maintain fish screening or by-pass devices; identifies financial responsibilities; authorizes the department to install, operate, and maintain a screen or by-pass device if the responsible party does not, and authorizes the	X		1991 1993 1995 2005 2007	<ul style="list-style-type: none"> • Enacted in 1991, amended in 1993, 1995, 2005, 2007

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	Statutory History
		<p>department to maintain an action to cover any costs so incurred; authorizes the department to inspect the screens or by-pass devices; prohibits interfering with, tampering with, damaging, destroying, or removing in any manner not associated with regular maintenance these screens and by-pass devices; identifies the means by which a water diverter may be excused from compliance; requires the department to establish and publish a priority listing of diversions to be equipped with screens and by-pass devices, and identifies the criteria for determining priorities; identifies notice requirements; defines key terms of the section</p>				
498.316	Exemption from screening or by-pass devices	<p>Exempts from the screen or by-pass device requirement those water diversions for which the State Fish and Wildlife Commission, by contract or other form of agreement with the person diverting the water, has made other provision to protect the game fish in the body of</p>	X		<p>1973 1987 1995 2007</p>	<ul style="list-style-type: none"> Enacted in 1973 as 498.262, amended in 1987, 1995, renumbered in 1995, amended in 2007

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective ¹	Statutory History
		water from which water is being diverted				
498.321	Screening or by-pass standards	Sets minimum standards and criteria for actions of the State Fish and Wildlife Commission and the State Department of Fish and Wildlife with regard to fish screening or by-pass devices; requires the department to emphasize cooperative effort and mutual understanding with water diverters, aggressively investigate and encourage the development of new technologies and techniques, and establish an entity to administer all agency activities related to fish screening and by-pass devices			1993 2005	<ul style="list-style-type: none"> Enacted in 1993, amended in 2005
498.326	Department guidelines for screening and by-pass projects; expenditure of funds	Requires the State Department of Fish and Wildlife to establish guidelines for determining the priority locations for fish screening and by-pass projects	X		1989 1995	<ul style="list-style-type: none"> Enacted in 1989 as 498.256, amended in 1995, renumbered in 1995
498.336	Statutes not construed to limit ability to acquire funding for screening or by-pass devices	Clarifies that ORS 498.306 and 509.585 are not to be read to limit the eligibility of a person to obtain funding from the Water Development Fund nor to limit the acquisition or acceptance of			1991 1995 2001 2007	<ul style="list-style-type: none"> Enacted in 1991 as 498.276, renumbered in 1995, amended in 2001, 2007

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective ¹	Statutory History
		any federal funds available for the installation, operation, maintenance, improvement, or repair of screening or by-pass devices on water diversions				
498.341	Additional funding	Authorizes the State Department of Fish and Wildlife to provide financial assistance for construction and installation of screening or by-pass devices on additional water diversions if sufficient funds are made available in the Fish Screening Subaccount of the Fish and Wildlife Account			1993 2001 2005 2007	<ul style="list-style-type: none"> Enacted in 1993, amended in 2001, 2005, 2007
498.346	Injunction to require compliance with screening or by-pass requirements	Authorizes the State Fish and Wildlife Commission to maintain a suit to enjoin any person, including state agencies and political subdivisions, from violating the provisions of ORS 498.306; identifies jurisdiction of the suit	X		1973 1987 1995 2001 2007	<ul style="list-style-type: none"> Enacted in 1973 as 498.274, amended in 1987, 1995, renumbered in 1995, amended in 2001, 2007

Text of ORS Chapter 498 Statutes Included in the July 24, 2014 RPC
2013 Edition Oregon Revised Statutes

SCREENING AND BY-PASS DEVICES FOR WATER DIVERSIONS OR OBSTRUCTIONS

498.301 Policy. It is the policy of the State of Oregon to prevent appreciable damage to game fish populations or populations of nongame fish that are classified as sensitive species, threatened species or endangered species by the State Fish and Wildlife Commission as the result of the diversion of water for nonhydroelectric purposes from any body of water in this state.
[1993 c.478 §2]

498.306 Screening or by-pass devices for water diversions; fees; costs. (1) Any person who diverts water from any body of water in this state in which any fish, subject to the State Fish and Wildlife Commission's regulatory jurisdiction, exist may be required to install, operate and maintain screening or by-pass devices to provide adequate protection for fish populations present at the water diversion in accordance with the provisions of this section.

(2)(a) The State Department of Fish and Wildlife shall establish a cost-sharing program to implement the installation of screening or by-pass devices on not less than 150 water diversions or 150 cubic feet per second of diverted water per biennium. The department shall select the water diversions to be screened from the priority listing of diversions established by the department and reviewed by the Fish Screening Task Force. The installation of a screening or by-pass device may be required only if:

(A) The water diversion is 30 cubic feet per second or more;

(B) A new water right is issued for the water diversion;

(C) The point of water diversion is transferred as described in ORS 540.525;

(D) Fewer than 150 persons per biennium volunteer to request such installation on the diversions for which they are responsible; or

(E) The Fish Screening Task Force has reviewed and approved the department's request to require installation of screening or by-pass devices in order to complete the screening of a stream system or stream reach.

(b) The limitations on the number of diversions or cubic feet per second of diverted water to be screened as provided in this section do not prevent the installation of screening and by-pass devices for diversions by persons responsible for diversions who are willing to pay the full cost of installing screening and by-pass devices.

(c) Cost-sharing program funds may not be provided under this subsection for screening or by-pass devices on a water diversion involving water rights issued on or after January 1, 1996, unless the Fish Screening Task Force finds there is good cause to allow an exception. The department shall give preference to diversions of 30 cubic feet per second or less when making cost-sharing program funds available.

(3) When selecting diversions to be equipped with screening or by-pass devices, the department shall attempt to solicit persons who may volunteer to request the installation of such devices on the diversions for which they are responsible. When selecting diversions to be equipped with screening or by-pass devices, the department shall select those diversions that will provide protection to the greatest number of indigenous naturally spawning fish possible.

(4) If the department constructs and installs the screening or by-pass device, a fee shall be

assessed against the person responsible for the diversion in an amount that does not exceed 40 percent of the construction and installation costs of the device. The fee shall be paid into the Fish Screening Subaccount. If the person responsible for the diversion constructs and installs the by-pass or screening device, the person shall be reimbursed from the Fish Screening Subaccount or other state funds in an amount that does not exceed 60 percent of the actual construction and installation costs of the device.

(5) The department's cost of major maintenance and repair of screening or by-pass devices shall be paid from the Fish Screening Subaccount.

(6) The department is responsible for major maintenance and repair of screening or by-pass devices at water diversions of less than 30 cubic feet per second, and if failure by the department to perform major maintenance on or repair such devices results in damage or blockage to the water diversion on which a device has been installed, the person responsible for the water diversion shall give written notice of such damage or blockage to the department. If within seven days of the notice, the department fails to take appropriate action to perform major maintenance on or repair the device, and to repair any damage that has occurred, the person responsible for the water diversion may remove the device. If an emergency exists that will result in immediate damage to livestock or crops, the person responsible for the water diversion may remove the screening or by-pass device. A person required to comply with this section is responsible for minor maintenance and shall, in a timely manner, notify the department of the need for activities associated with major maintenance.

(7) A person who diverts water at a rate of 30 cubic feet per second or more is responsible for all maintenance of an installed screening or by-pass device.

(8) A person required to comply with this section may design, construct and install screening or by-pass devices adequate to prevent fish from leaving the body of water and entering the diversion or may request the department to design, construct and install such devices. However, if a person required to comply with this section fails to comply within 180 days after notice to comply by the department, the department shall design, install, operate and maintain on that person's water diversion appropriate screening or by-pass devices and shall charge and collect from the person the actual costs thereof in an amount not to exceed the average cost for diversions of that size.

(9) If the diversion requiring screening or by-pass devices is located on public property, the department shall obtain from the property owner approval or permits necessary for such devices. Activities of the department pursuant to this section may not interfere with existing rights of way or easements of the person responsible for the diversion.

(10)(a) The department or its agent has the right of ingress and egress to and from those places where screening or by-pass devices are required, doing no unnecessary injury to the property of the landowner, for the purpose of designing, installing, inspecting, performing major maintenance on or repairing such devices.

(b) If a screening or by-pass device installed by the department must be removed or replaced due to inadequate design or faulty construction, the person responsible for the diversion shall bear no financial responsibility for its replacement or reconstruction.

(c) If a screening or by-pass device installed by the person responsible for the diversion must be removed or replaced due to faulty construction, the person shall bear full financial responsibility for its replacement or reconstruction.

(d) If the person responsible for a diversion on which a screening or by-pass device is installed fails to conduct appropriate inspection and minor maintenance, the department may

perform such activities and charge and collect from the person responsible a fee not to exceed \$150 for each required visit to the location of the screening or by-pass device.

(e) If the department determines that a person must install, operate, maintain, repair or replace a screening or by-pass device under this section, the department shall notify the person, by registered mail, of the specific action the person is required to take. The person may request a contested case hearing before the State Fish and Wildlife Commission, to be conducted as provided in ORS chapter 183.

(11) A person may not interfere with, tamper with, damage, destroy or remove in any manner not associated with regular and necessary maintenance procedures any screening or by-pass devices installed pursuant to this section.

(12) The department may maintain an action to cover any costs incurred by the department when a person who is required to comply with this section fails to comply. Such action shall be brought in the circuit court for the county in which the screening or by-pass device is located.

(13) Upon receiving notice from the department to comply with this section, a person responsible for a water diversion may be excused from compliance if the person demonstrates to the Fish Screening Task Force that:

(a) The installation and operation of screening or by-pass devices would not prevent appreciable damage to the fish populations in the body of water from which water is being diverted.

(b) Installation and operation of screening or by-pass devices would not be technically feasible.

(c) Installation of screening or by-pass devices would result in undue financial hardship.

(14)(a) Not later than January 1, 1996, the department, with the assistance of the Fish Screening Task Force and the Water Resources Department, shall establish and publish an updated priority listing of 3,500 water diversions in the state that should be equipped with screening or by-pass devices. Changes may be made to the list whenever deletions are made for any reason. The priority listing shall include the name and address of the person currently responsible for the water diversion, the location of the diversion, size of the diversion, type of screening or by-pass device required, estimated costs for construction and installation of screening or by-pass devices for the individual diversion and species of fish present in the water body. When developing the priority listing, the department shall base priorities for the installation of screening or by-pass devices on unscreened diversions on the following criteria:

(A) Fish species status.

(B) Fish numbers.

(C) Fish migration.

(D) Diversion size.

(E) Diversion amount.

(F) Any other criteria that the department, in consultation with the Fish Screening Task Force, considers appropriate.

(b) Criteria identified in this subsection shall be given appropriate consideration by the department when updating its priority listing. The priority listing will be updated to give the highest priority to those diversions that save the greatest number of fish and simultaneously protect the greatest number of threatened or endangered fish species.

(c) After the priority listing has been updated, the persons responsible for the diversions on the list shall be notified that their diversions appear on the list. Such persons also shall be furnished a description of the fish screening cost-sharing program.

(d)(A) The department shall notify, by means of registered mail, each person responsible for the first 250 diversions on the priority listing on or before January 1, 1996. The department shall furnish information regarding the fish screening cost-sharing program to each person responsible for a diversion included in the first 250 diversions on the priority listing on or before January 1, 1996. A person may not be required to install a screening or by-pass device unless previously notified by the department of the requirement to install such devices.

(B) On January 1 of each even-numbered year, the department shall notify each person responsible for a diversion included in the first 250 diversions on the priority listing. However, the department is not required to notify in a subsequent year any person previously notified. The department shall include with such notification information regarding the fish screening cost-sharing program.

(C) Before any person is required to install a screening or by-pass device, the department shall confirm the need for the device through a visual, on-site inspection by appropriate staff of the fish screening division of the department, or a district biologist of the department.

(15) As used in this section:

(a) "Behavioral barrier" means a system that utilizes a stimulus to take advantage of natural fish behavior to attract or repel fish. A behavioral barrier does not offer a physical impediment to fish movement, but uses such means as electricity, light, sound or hydraulic disturbance to move or guide fish.

(b) "Body of water" includes but is not limited to irrigation ditches, reservoirs, stock ponds and other artificially created structures or impoundments.

(c) "By-pass device" means any pipe, flume, open channel or other means of conveyance that transports fish back to the body of water from which the fish were diverted but does not include fishways or other passages around a dam.

(d) "Fish screen" means a screen, bar, rack or other barrier, including related improvements necessary to ensure its effective operation, to provide adequate protection for fish populations present at a water diversion.

(e) "Major maintenance" means all maintenance work done on a screening or by-pass device other than minor maintenance.

(f) "Minor maintenance" means periodic inspection, cleaning and servicing of screening or by-pass devices at such times and in such manner as to ensure proper operation of the screening or by-pass device.

(g) "Person" means any person, partnership, corporation, association, municipal corporation, political subdivision or governmental agency.

(h) "Screening device" means a fish screen or behavioral barrier. [1991 c.858 §2; 1993 c.478 §4; 1995 c.426 §1; 2005 c.22 §370; 2007 c.625 §1]

498.316 Exemption from screening or by-pass devices. ORS 498.306 does not require the installation of screening or by-pass devices in those water diversions for which the State Fish and Wildlife Commission, by contract or other form of agreement with the person diverting the water, has made such other provision as the commission determines is adequate for the protection of the game fish in the body of water from which water is being diverted. [Formerly 498.262; 2007 c.625 §6]

498.321 Screening or by-pass standards. (1) In order to carry out the provisions of ORS 498.301 and 498.306, the following minimum standards and criteria apply to actions of the State

Fish and Wildlife Commission and the State Department of Fish and Wildlife with regard to fish screening or by-pass devices:

(a) Standards and criteria shall address the overall level of protection necessary at a given water diversion and may not favor one technology or technique over another.

(b) Standards and criteria shall take into account at least the following factors relating to the fish populations present at a water diversion:

(A) The source of the population, whether native or introduced and whether hatchery or wild.

(B) The status of the population, whether endangered, threatened or sensitive.

(c) Standards and criteria may take into account the cumulative effects of other water diversions on the fish populations being protected.

(d) Design and engineering recommendations shall consider cost-effectiveness.

(e) Alternative design and installation proposals must be approved if they can be demonstrated to provide an equal level of protection to fish populations as those recommended by the department.

(2) In order to maximize effectiveness and promote consistency relating to the protection of fish at nonhydroelectric water diversions, the department shall establish a single organizational entity to administer all agency activities related to fish screening and by-pass devices.

(3) The department shall emphasize cooperative effort and mutual understanding with those responsible for water diversions that need fish screening or by-pass devices.

(4) The department shall aggressively investigate and encourage the development of new technologies and techniques to provide protection for fish populations at water diversions in order to reduce initial costs, reduce operating costs and improve cost-effectiveness. [1993 c.478 §3; 2005 c.22 §371]

498.326 Department guidelines for screening and by-pass projects; expenditure of funds. (1) The State Department of Fish and Wildlife shall establish guidelines to determine the need for and location of potential fish screening and by-pass projects. The guidelines shall include a plan to be used for determining priorities for and expected costs of installing and maintaining the fish screening and by-pass devices.

(2) Nothing in subsection (1) of this section is intended to prevent the State Department of Fish and Wildlife from expending federal or other funds if such funds become available for the installation and maintenance of fish screening and by-pass projects. [Formerly 498.256]

498.336 Statutes not construed to limit ability to acquire funding for screening or by-pass devices. Nothing in ORS 498.306 or 509.585 shall be construed:

(1) To limit the eligibility of a person required to install and operate screening or by-pass devices to obtain funding from the Water Development Fund pursuant to ORS 541.700 to 541.855.

(2) To limit the acquisition or acceptance of any federal funds available for the installation, operation, maintenance, improvement or repair of screening or by-pass devices on water diversions in this state. [Formerly 498.276; 2001 c.923 §6; 2007 c.625 §9]

498.341 Additional funding. Notwithstanding the limitations imposed by ORS 498.306, if sufficient funds are made available in the Fish Screening Subaccount of the Fish and Wildlife Account, by allocation from the Administrative Services Economic Development Fund or from other sources, the State Department of Fish and Wildlife may provide financial assistance for

construction and installation of screening or by-pass devices on additional water diversions.
[1993 c.478 §8; 2001 c.822 §10; 2005 c.22 §372; 2007 c.625 §7]

498.346 Injunction to require compliance with screening or by-pass requirements. The State Fish and Wildlife Commission may maintain a suit to enjoin any person, including governmental agencies of this state and political subdivisions of this state, from violating the provisions of ORS 498.306. The circuit court for any county in which are situated any waters in which any such violations are threatened has jurisdiction of the suit authorized by this section.
[Formerly 498.274; 2001 c.923 §7; 2007 c.625 §8]