TITLE 42

COMMERCIAL FISHING AND FISHERIES

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Chapter 506

2003 EDITION

Application, Administration and Enforcement of Commercial Fishing Laws

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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506.005 [Repealed by 1965 c.570 §152]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 esthetic 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 not affected. There are excluded from the operation of ORS 506.129, 506.136, 507.030, 508.025, 508.285, 509.025 (1) and 509.216, 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]

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]

Note: Sections 1 and 2, chapter 472, Oregon Laws 2003, provide:

Sec. 1. The State Fish and Wildlife Commission may by rule establish a pilot program for the sale of fish at locations away from vessels participating in the nontreaty Columbia River fisheries. All sales of fish at locations away from vessels must comply with the State Department of Agriculture licensing and food handling requirements. [2003 c.472 §1]

Sec. 2. Section 1 of this 2003 Act is repealed on January 2, 2008. [2003 c.472 §2]

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; disposition of receipts and fines. (1) 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.

(2) Except as provided in ORS 506.630, all fines collected for violation of the commercial fishing laws shall be credited and distributed under ORS 137.293 and 137.295 as monetary obligations payable to the state. [1965 c.570 §29; 1987 c.905 §26; 1991 c.701 §23; 1997 c.545 §1]

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]

506.465 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 Enforcement of commercial fishing laws; officers subject to 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, 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]

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 Disposition of fines. (1) One-half of all fines imposed in justice courts for the violation of any of the commercial fishing laws and collected in money shall be credited and distributed under ORS 137.293 and 137.295 to the treasurer of the county in which the action or proceeding is commenced, as a monetary obligation payable to the county, for credit to the general fund of the county. One-half of all fines so imposed and collected in justice courts shall be credited and distributed under ORS 137.293 and 137.295, as a monetary obligation payable to the state. The district attorney of the county, upon payment of any judgment, shall satisfy it of record as attorney for the state.

(2) Payment of fines under this section shall be made within the first 20 days of the month following the month in which collected. [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]

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. Following the seizure the boats, gear and vehicles shall be delivered to the sheriff of the county in which the seizure occurred. The sheriff 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]

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 sheriff 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]

(Damages for Unlawful Taking)

506.720 Suit for damages; amount; 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 provided in this section, and subject to ORS 153.022, violation of any provision of the commercial fishing laws, or of any rule promulgated by the State Fish and Wildlife Commission in carrying out the commercial fishing laws, is a Class A misdemeanor.

(2) In lieu of the fine provided in ORS 161.635, and in addition to the imprisonment provided in ORS 161.615, any violation 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.

(3) Violation of any provision of ORS 509.011 which 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.

(4) 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. [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]

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]