TITLE 42

COMMERCIAL FISHING AND FISHERIES

Chapter 506. Application, Administration and Enforcement of Commercial Fishing Laws
507. Compacts with Other States
508. Licenses
509. General Protective Regulations
511. Local and Special Regulations
513. Packing Fish and Manufacture of Fish Products

Chapter 506

1973 REPLACEMENT PART

Application, Administration and Enforcement of Commercial Fishing Laws

GENERAL PROVISIONS

506.001 Contents of commercial fishing laws
506.006 General definitions
506.011 Types of marine life defined
506.016 "Salmon" defined
506.025 "Unlawful to buy" defined
506.028 "Conservation" defined
506.031 Effect of game laws on commercial fishing laws
506.036 Jurisdiction of fish commission; duty to protect and propagate fish
506.040 Game fish excluded from jurisdiction of commission
506.045 Fishing rights of treaty Indians not affected
506.050 Federal and state fish cultural operations and scientific investigations; commission to propagate fish and to stock waters

FISH COMMISSION OF THE STATE OF OREGON; POWERS AND DUTIES GENERALLY

506.105 Fish Commission of the State of Oregon; creation; membership; confirmation; vacancies; removal of members
506.111 Compensation and expenses of commission members
506.116 Officers of commission; meetings; quorum
506.121 Biennial report of commission activities
506.126 Arbitration of policy conflicts with State Wildlife Commission
506.131 Administrative policies of commission; rules of procedure
506.136 Commission to study and classify food fish and fishing gear
506.141 Commission to regulate taking, possessing and disposing of food fish; rules and licenses for angling
506.146 Scope of rules promulgated by commission
506.151 Rulemaking authority; hearing; notice
506.201 Powers of commission in regard to real property
506.211 Acquisition of fish, eggs and larvae for certain purposes; returning salmon to Rogue River
506.213 Coho and chinook salmon hatchery on Oregon coast
506.215 Maintaining hatcheries in adjoining states
506.220 Erecting markers of closed waters; interference with markers

STATE FISHERIES DIRECTOR

506.255 State Fisheries Director; appointment; salary; bond
506.260 Duties of director
506.265 Delegation of commission authority, powers and duties to director
506.270 Director to appoint commission personnel; compensation; bonds; tenure

COMMERCIAL FISH MONEYS; RECEIPTS AND EXPENDITURES; SEAL FUND

506.306 Collecting moneys under commercial fishing laws; deposit of receipts and fines to credit of General Fund
506.316 Payment of commission expenditures
506.321 Acceptance and use of gifts of money and property to commission
506.331 Petty cash fund; bond of disbursing officer
506.341 Seal control moneys

FEDERAL AID AND PROJECTS

506.405 Powers of commission regarding federal aid for fish and fisheries
506.410 Disposition of federal aid moneys
506.415 Account for maintenance of fisheries stations and for research

COMMERCIAL FISHING LAW ENFORCEMENT

(General Provisions)

506.501 Jurisdiction and authority to enforce commercial fishing laws
506.506 Intent of ORS 506.511 and 506.516
506.511 State Police to enforce commercial fishing laws; selection of deputy fish wardens by State Police
506.516 Employment of deputy fish wardens by commission
506.518 Appointment of special deputy fish wardens
506.521 Enforcement of commercial fishing laws; officers subject to commission or director
506.526 Peace officer powers of director, inspectors and deputies; reporting arrests
506.531 Arrests, searches and seizures made on Sunday
506.535 Jurisdiction of courts over commercial fishing law violations; commencement of prosecutions
506.540 Payment of rewards
506.550 Search by peace officers to enforce commercial fishing laws
506.555 Issuance of search warrants
506.560 Nonliability of peace officers enforcing commercial fishing laws
506.605 Naming place of offense in complaint, information or indictment
506.610 When possession prima facie evidence of taking fish unlawfully
506.620 Inspections by director or his agent
506.625 Compelling testimony in commercial fishing law enforcement proceedings
506.630 Disposition of fines
506.635 Execution for payment of fines and costs

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

506.655 Commencement of proceeding to confiscate, condemn and sell unlawful fishing gear or equipment; petition
506.660 Parties
506.665 Summons and answer
506.670 Matter to be determined; judgment and execution
506.675 Nonliability of officers instituting proceeding
506.680 Appeal by state
506.690 Seizure, forfeiture and disposition of fish unlawfully taken
506.695 Seizure, forfeiture and disposition of fishing gear and vehicles unlawfully used; removal of unlawful piling

PENALTIES

506.991 Penalties

CROSS REFERENCES

Coastal zone, comprehensive land use planning, 191.110 to 191.180

Commission to classify state lands suitable for oyster cultivation, 509.429

Compliance with state water resources policy required, 536.300 to 536.400

Conversion of certain oyster plats, rights, claims and plantations to new oyster plats, 509.427, 509.431

Destruction of fish caught in state unlawful, 509.112

Klamath River Basin Compact, 542.620

Oyster cultivation, annual cultivation fees and use taxes, collection by department, disposition of revenue, 509.441, 509.451

Protection of streams during removals or filling, 541.605 to 541.665

Salmon as Oregon's official fish, S.J.R. 26 (1961)

Seafood commodity commission, Ch. 576

Unemployment compensation exclusion, 657.065

Withdrawal of unproductive lands from oyster cultivation, 509.439

506.006

"Mouth" of river defined, 511.011

506.105

Geothermal resources, notification of commission required prior to issuance of permit for well, 522.140

506.111

Subsistence and mileage allowance for state officers and employes, 292.210 to 292.250

506.126

Attorney General to arbitrate disputes, 496.035

506.141

Fishing rights of treaty Indians not affected, 506.045

506.151

Joint hearing with State of Washington authorities on agreement regarding fishing in Columbia River, 507.030

506.211

Title of property acquired by state agency to be taken in name of state, 279.711

506.255

Director to consider applications for lease of:
- Navigable bay and river beds for extraction of minerals, 274.620
- Submerged and tide lands for extraction of oil, gas and sulphur, 274.755

Salary of director, 292.610

506.270

State Merit System Law, Ch. 240

506.306

State Wildlife Fund, use of portion for anadromous fish, 496.325

506.316

Designation of officer of fish commission to approve disbursements, 293.330

506.321

Title of property acquired by state agency to be taken in the name of the state, 279.711

506.331

When allotment required for expenditures, 291.238

506.341

Bounties on seals, payment of by counties, 610.205

506.415

When allotment required for expenditures, 291.238

COMMERCIAL FISHING LAW ENFORCEMENT

Game and commercial fishing law offense procedure, 496.905 to 496.950

506.610

Possession of fish killed by explosive or poison as justifying arrest, 509.155

506.630

Action by Department of Revenue for delinquent payment of certain money, 30.830

506.991

Penalty for violation of ORS 509.436, 509.455, 509.992

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) "Fish commission" or "commission" means the Fish Commission of the State of Oregon.

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

(7) "Fisheries director" or "director" means the State Fisheries Director.

(8) "Fixed fishing gear" includes but is not limited to stationary gear operated at a fixed location.

(9) "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.

(10) "Sell" includes offer or possess for sale, barter, exchange or trade.

(11) "Take" means fish for, hunt, pursue, catch, capture or kill or attempt to fish for, hunt, pursue, catch, capture or kill.

(12) "Transport" means transport by any means, and includes offer or receive for transportation.

(13) "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]

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 (4) of this section.

(3) "Food fish" means any animal over which the commission has jurisdiction pursuant to ORS 506.036.

(4) "Shellfish" includes but is not limited to abalone, clams, crabs, crayfish or crawfish, mussels, oysters, piddocks, scallops and shrimp.
[1965 c.570 §4]

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 tschawytscha, 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 game laws on commercial fishing laws. (1) Nothing in the game 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 506.040 to 506.050, and shall be enforced regardless of any conflicting provisions in the game 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 game laws of this state.
[1965 c.570 §7]

506.035 [Repealed by 1965 c.570 §152]

506.036 Jurisdiction of fish commission; duty to protect and propagate fish. (1) Except as otherwise provided in ORS 506.040 to 506.050, the 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 duty of protection, preservation, propagation, cultivation, development and promotion of all fishes under its jurisdiction within the waters of this state is delegated to and imposed upon the commission.
[1965 c.570 §8]

506.040 Game fish excluded from jurisdiction of commission. Notwithstanding ORS 506.036 and except as provided in ORS 509.030, the commission has no jurisdiction over game fish, as defined in ORS 496.009.
[1965 c.570 §9; 1969 c.411 §2; 1973 c.723 §120]

506.045 Fishing rights of treaty Indians not affected. There are excluded from the operation of ORS 506.136 to 506.151, 507.030, 508.025, 508.285, subsection (1) of 509.025, ORS 509.206 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]

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 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]

FISH COMMISSION OF THE STATE OF OREGON; POWERS AND DUTIES GENERALLY

506.105 Fish Commission of the State of Oregon; creation; membership; confirmation; vacancies; removal of members. (1) There is created a Fish Commission of the State of Oregon, which shall consist of three members appointed by the Governor, whose terms of office shall begin immediately upon appointment. The term of one commissioner so appointed shall terminate on June 1, 1923. The term of the second commissioner

shall terminate on June 1, 1924. The term of the third commissioner shall terminate on June 1, 1925. As the terms of these commissioners expire, the Governor shall appoint their successors for a term of four years. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(2) The Governor may remove any member of the fish commission for cause only.

(3) The appointment of commissioners shall be subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570.

[Amended by 1973 c.271 §2]

506.110 [Repealed by 1965 c.570 §152]

506.111 Compensation and expenses of commission members. A member of the commission is entitled to compensation and expenses as provided in ORS 292.495.

[1965 c.570 §12; 1967 c.402 §5; 1969 c.314 §60]

506.115 [Repealed by 1965 c.570 §152]

506.116 Officers of commission; meetings; quorum. (1) The commission annually shall select one of its members as chairman, and another as vice chairman, with such powers and duties necessary for the performance of their offices as the commission determines.

(2) The commission shall meet monthly at its headquarters or at such other times and places as are specified by the call of the chairman or of a majority of the members of the commission.

(3) Two members of the commission constitute a quorum to transact business and exercise all rights, duties and powers of the commission.

[1965 c.570 §13]

506.120 [Repealed by 1965 c.570 §152]

506.121 Biennial report of commission activities. The commission shall cause the director to prepare a concise written report of the activities of the commission, the director and his staff during the biennium ending on June 30 of each even-numbered year. The commission, upon approving the report, shall forward copies to the Governor and to the Legislative Assembly.

[1965 c.570 §14a]

506.125 [Repealed by 1965 c.570 §152]

506.126 Arbitration of policy conflicts with State Wildlife Commission. In case of any policy conflict between the commission and the State Wildlife Commission, the Governor or a person designated by him shall act as arbiter.

[1965 c.570 §15]

506.130 [Repealed by 1965 c.570 §152]

506.131 Administrative policies of commission; rules of procedure. The commission shall establish its administrative policies in compliance with the commercial fishing laws. Acting with the director and in compliance with ORS chapter 183, the commission shall promulgate such rules of procedure as are necessary to carry out its policies and to attain maximum efficiency in the administration of the commercial fishing laws.

[1965 c.570 §14]

506.135 [Repealed by 1965 c.570 §152]

506.136 Commission to study and classify food fish and fishing gear. The 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 Commission to regulate taking, possessing and disposing of food fish; rules and licenses for angling. (1) The commission shall, in compliance with ORS chapter 183, promulgate such rules as it finds after investigation and hearing to be convenient or necessary to prevent the taking, possessing, selling or otherwise disposing of food fish at such times or places or in such manner as, in its judgment, will impair the ultimate supply thereof.

(2) Before the commission publicly proposes its intent to adopt a rule regarding the taking of any species or classes of fish within its jurisdiction by angling, the proposed rule must first be officially approved by the State Wildlife Commission. Licenses for such angling may be issued only by the State Wildlife Commission.

[1965 c.570 §22]

506.145 [Repealed by 1965 c.570 §152]

506.146 Scope of rules promulgated by commission. Except as limited by subsection (2) of ORS 506.141, rules promulgated by the commission shall:

(1) Fix the times when taking and selling any of the species or classes of food fish are permitted.

(2) Specify and define the waters of this state in which the taking of food fish is permitted.

(3) Define, fix and prescribe the kinds of fishing gear, other means by which the taking of food fish is permitted, and specify, fix and prescribe the times, places and manner of using such fishing gear.

(4) Govern the possession, sale or disposition of any food fish within this state, except when canned or otherwise processed.

(5) Fix and prescribe the size, numbers and amounts of any food fish, and the sex of the shellfish, that may be taken or sold within this state.

(6) Require and regulate the landing of any food fish whether taken within or without this state.

[1965 c.570 §23]

506.150 [Repealed by 1965 c.570 §152]

506.151 Rulemaking authority; hearing; notice. (1) The commission may not adopt, amend or repeal any rule under ORS 506.141 until the commission has held a public hearing at its usual place of meeting, after giving notice of its intended action not less than 10 days prior thereto by publication in the bulletin referred to in ORS 183.360. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved and the time, place and manner in which interested persons may present their views thereon. The commission also shall use all reasonable means of communication to inform known agencies, groups, unions, firms, and communities directly interested in commercial fishing in areas affected by the proposal of the date of the hearing and in general terms the nature of the intended action. The hearing shall be for the purpose of determining in each instance whether the ultimate supply of any of the species or classes of fish subject to the rule will be affected injuriously or conserved and enhanced by the effect of the rule or its amendment or repeal.

(2) The commission may adopt only such rules, or amendments or repeals thereof, as it finds to be reasonable, necessary or convenient for the conservation or protection of the ultimate supply of the species or classes of fish subject to the rule.

(3) If the commission finds that action is immediately necessary for the conservation of food fish in the waters of this state or the Pacific Ocean and its failure to act promptly will result in serious damage to the resource or the interest of the parties concerned, it may proceed without prior notice or hearing or if time is available upon any abbreviated notice and hearing that it finds practicable to adopt an emergency rule. An emergency rule may be effective for a period of not longer than 90 days, but the adoption of an identical rule under subsection (1) of this section is not precluded.

(4) All rules shall be:

(a) Adopted, amended, or repealed only by a majority vote of the commission entered and recorded in the minutes of the meeting at which the action is taken.

(b) Filed and take effect as provided in ORS 183.350.

[1965 c.570 §24; 1971 c.187 §1]

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

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 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 log jams; 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 log jams. 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]

Note: Section 2, chapter 278, Oregon Laws 1971, provides:

Sec. 2. (1) Notwithstanding any other provision of law, the Fish Commission of the State of Oregon may sell its Metolius hatchery property located near Camp Sherman in Jefferson County for any public recreational use to any agency of this state or other public agency. In making the sale, the commission shall give first preference to buyers that are agencies of this state, but if the commission finds no such buyer within 90 days after the date of the commission's decision to sell the property, the property may be sold to any other public agency.

(2) All moneys received by the commission under subsection (1) of this section shall be deposited in the Fish Commission Account and may only be used by the commission to purchase property or construct facilities for salmon propagation.

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 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 fish 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 fish commission.
[1967 c.360 §§1, 4]

506.215 Maintaining hatcheries in adjoining states. The fish 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 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]

506.230 [Repealed by 1965 c.570 §152]

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

STATE FISHERIES DIRECTOR

506.255 State Fisheries Director; appointment; salary; bond. (1) The commission shall appoint a director to serve for a term of four years unless sooner removed by the commission.

(2) Unless otherwise provided by ORS 292.505 to 292.780, the director shall receive such salary as may be fixed by the commission. In addition to his salary, subject to applicable law regulating travel and other expenses of state officers, the director shall be reimbursed for his actual and necessary travel and other expenses incurred in the performance of his official duties.

(3) Before entering upon the duties of his office, the director shall give to the state a fidelity bond, with one or more corporate sureties authorized to do business in this state, in a penal sum fixed by the commission. The premium on the bond shall be paid from moneys appropriated for the administration of the commercial fishing laws.
[1965 c.570 §17]

506.260 Duties of director. (1) The director is executive head of the commission, and shall:

(a) Be responsible to the commission for the administration of the commercial fishing laws.

(b) Devote his attention to the commercial and recreational fishing interests of the state.

(c) See that all laws for the protection, preservation and propagation of food fish are enforced.

(d) Keep records showing applications for all licenses, licenses issued and to whom issued, amounts received and moneys disbursed.

(e) Perform such other duties as the commission may from time to time direct.

(2) The director in time of emergency may exercise the full powers of the commission until such time as the emergency ends or the fish commission meets in formal session. An emergency exists if action is immediately necessary for the preservation or conservation of fish in the waters of this state and two or more commissioners are not available to act in adopting rules under ORS 506.151.

[1965 c.570 §18; 1969 c.234 §1; 1973 c.271 §3]

506.265 Delegation of commission authority, powers and duties to director. The commission may delegate to the director any of the administrative authority, powers and duties granted to or imposed upon it by the commercial fishing laws. The commission shall delegate to the director all such authority, powers and duties necessary fully to accomplish the purposes of ORS 506.255 to 506.270.

[1965 c.570 §19]

506.270 Director to appoint commission personnel; compensation; bonds; tenure. Subject to any applicable provision of the State Merit System Law:

(1) The director shall appoint and employ such personnel as he, with the advice of the commission, considers necessary for the efficient administration of the commercial fishing laws. The director shall prescribe the authority, powers and duties of all employes of the commission. Employes of the commission are subject at all times to the direction, supervision and control of the director.

(2) The director, with the approval of the commission, shall fix the compensation of the employes of the commission.

(3) The director may require any employe of the commission to give to the state a fidelity bond, with one or more corporate sureties authorized to do business in this state, in a penal sum fixed by the director.

(4) Unless otherwise provided by the commission, all its employes hold office at the will of the commission.

[1965 c.570 §20]

COMMERCIAL FISH MONEYS; RECEIPTS AND EXPENDITURES; SEAL FUND

506.305 [Repealed by 1965 c.570 §152]

506.306 Collecting moneys under commercial fishing laws; deposit of receipts and fines to credit of General Fund. (1) The 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.

(2) On or about the first day of the next succeeding calendar month after the receipt of any moneys described in subsection (1) of this section, the commission shall pay the moneys to the State Treasurer, who shall deposit the moneys in the State Treasury to the credit of the General Fund.

(3) Except as provided in ORS 506.630, all fines collected for violation of the commercial fishing laws shall be paid to the State Treasurer, who shall deposit the fines in the State Treasury to the credit of the General Fund.

[1965 c.570 §29]

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, 506.331 and 506.341, all expenditures of the 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 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 Petty cash fund; bond of disbursing officer. (1) The petty cash fund of the commission consists of $5,000 and is for the purpose of providing funds to pay its ordinary and current expenses incurred under the commercial fishing laws where it is necessary to make immediate cash payments. Disbursements from the fund may be made only in payment of claims authorized by law, and approved by a disbursing officer designated in writing by the commission, in the manner prescribed by subsections (3) and (4) of ORS 293.180.

(2) The petty cash fund shall be secured by a surety bond, executed by a surety company authorized to do business in this state, in the penal sum of $5,000 and furnished by the disbursing officer. The premiums on the bond shall be paid by the commission.
[1965 c.570 §32]

506.335 [Repealed by 1965 c.570 §152]

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

506.341 Seal control moneys. (1) Notwithstanding ORS 506.316, all moneys collected under the provisions of ORS 508.290 shall be paid into the State Treasury and credited to the Fish Commission Account and shall be used in any manner it considers best for the purpose of controlling and taking seals in the waters of the Columbia River.

(2) The commission may not enter into an exclusive agreement with any person for the purpose of taking seals.

(3) The commission shall pay as a bounty not less than $5 nor more than $25 to any person who delivers to it, within 60 days of taking, a scalp or such other evidence as the commission shall require, of a seal proven to its satisfaction to have been taken in the waters described in subsection (1) of this section.
[1965 c.570 §31; 1967 c.322 §1]

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 fish 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 Disposition of federal aid moneys. Any funds accepted pursuant to ORS 506.405 by the fish commission shall be deposited in the State Treasury to the credit of a special fund separate and distinct from the General Fund to be designated the Fish Commission Federal Aid Fund. Such funds are appropriated for the purposes of ORS 506.405 and shall not be expended for any other purpose than that for which contributed.

506.415 Account for maintenance of fisheries stations and for research. (1) There is appropriated out of the General Fund in the State Treasury, $124,000 for the purpose of providing funds to pay current expenses in accordance with the terms of agreements entered into by and between any person, municipal corporation, political subdivision or the United States and the State of Oregon acting by and through the fish commission for the conduct of scientific or biological research studies and investigations and the operation and maintenance of fisheries stations or facilities operated and maintained by the fish commission.

(2) The money appropriated by subsection (1) of this section shall be transferred to an account in the General Fund in the State Treasury to be known as the Fish Commission Account.

(3) Notwithstanding ORS 506.410, all reimbursements or repayments by the Federal Government, as provided by agreement or agreements mentioned in subsection (1) of this section, shall, upon receipt, be credited to the Fish Commission Account.

(4) All moneys in such account are appropriated and constituted a continuous appropriation out of the General Fund for the purposes of this section.

(5) Whenever it is determined by the fish commission and the Executive Department that such account is no longer needed for the purposes of this section, the balance thereof shall be returned to the General Fund in the State Treasury.
[Amended by 1959 c.347 §1; 1967 c.322 §3]

506.420 [Repealed by 1965 c.570 §152]

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

COMMERCIAL FISHING LAW ENFORCEMENT
(General Provisions)

506.501 Jurisdiction and authority to enforce commercial fishing laws. The 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 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; selection of deputy fish wardens by State Police. 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. The members of the State Police assigned to perform the duties of deputy fish wardens shall be selected from names suggested by the commission. If the commission fails to submit sufficient qualified nominees for such positions, the Department of State Police shall make its own selections.
[1965 c.570 §36]

506.515 [Repealed by 1965 c.570 §152]

506.516 Employment of deputy fish wardens by commission. The 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 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 commission, the 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]

506.525 [Repealed by 1965 c.570 §152]

506.526 Peace officer powers of director, inspectors and deputies; reporting arrests. (1) The 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 wilfully 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 him.

(3) The officers described in subsection (1) of this section have all the powers and authority of a peace officer in serving warrants, subpenas 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 and district 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 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 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 his agent. The director or his 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 himself on the ground that his testimony may incriminate him. However, such testimony shall not be used against him in any prosecution for any crime or misdemeanor under the laws of the state, nor shall he be subjected to any criminal prosecution or any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he 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 or district courts for the violation of any of the commercial fishing laws and collected in money shall be paid to the treasurer of the county in which the action or proceeding is commenced and credited to the general fund of the county. The district attorney of the county, upon payment of any judgment, shall satisfy it of record as attorney for the state. The other one-half of such moneys shall be paid by the justice or district courts to the Department of Revenue, who shall apply the moneys to the credit of the General Fund.

(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]

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]

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

506.655 Commencement of proceeding to confiscate, condemn and sell unlawful fishing gear or equipment; petition. (1) Immediately upon the seizure mentioned in ORS 506.695 the district attorney for the district in which the gear or equipment is seized shall institute an action in the circuit court for that county to have the gear or equipment confiscated, condemned and sold.

(2) The petition shall:

(a) Contain a true description of the gear or equipment sought to be confiscated, condemned and sold, as nearly as practicable, together with all marks, brands or any special features calculated to designate the gear or equipment from other gear or equipment of like nature, and if a fixed fishing gear, the number.

(b) Allege facts showing that the gear or equipment was used in violation of the commercial fishing laws.

(c) Be verified by the oath of the director or one of his deputies, or the district attorney or any deputy district attorney.
[Formerly 506.575]

506.660 Parties. In the action commenced as provided in ORS 506.655 the State of Oregon is the plaintiff, and the owner of the gear or equipment, if known, is the defendant. If the owner of the gear or equipment is unknown, he shall be designated as "John Doe," whose true name is unknown.
[Formerly 506.580]

506.665 Summons and answer. (1) Like proceedings shall be had and the action mentioned in ORS 506.655 shall be prosecuted to final determination as in actions at law, except that the summons shall be issued by the clerk of the court, requiring the defendant, if known, to appear and answer within 15 days after the service of the summons upon him, and containing a brief description of the gear or equipment sought to be confiscated.

The summons shall be served upon the defendant, if known personally, in any county in this state. If such defendant is unknown or cannot be found, the district attorney shall file with the court an affidavit to such effect and the clerk of the court shall forthwith post written notices, one in the courthouse and one each in three conspicuous public places in the county, requiring the defendant to appear within four weeks from the date of said notice. Such notice shall contain a brief description of the gear or equipment sought to be forfeited and the date when and the place where such gear or equipment was seized. If the defendant fails to appear and answer, judgment of confiscation shall be entered as prayed for in the petition.

(2) All persons owning or claiming any interest in the fishing gear or equipment sought to be confiscated shall be permitted to answer, setting forth their various interests.

[Formerly 506.585]

506.670 Matter to be determined; judgment and execution. (1) Upon the trial of the cause mentioned in ORS 506.655 the matter to be determined shall be whether or not the gear or equipment seized was unlawfully employed, or suffered or permitted to be unlawfully employed, in violation of the commercial fishing laws, or used or operated without a license or by one not licensed.

(2) If judgment is entered that the gear or equipment was used or employed, or suffered or permitted to be used or employed, in violation of the commercial fishing laws, a judgment shall be rendered confiscating all gear or equipment and ordering it to be sold at public auction to the highest bidder for cash. Execution shall issue upon the judgment as in ordinary actions at law. Like proceedings shall be had under the execution as provided by law. The money arising from the sale of the gear or equipment shall immediately be deposited with the director, and by him deposited with the State Treasurer, and by him deposited in the General Fund in the State Treasury.

[Formerly 506.590]

506.675 Nonliability of officers instituting proceeding. No fee shall be charged or collected from the fish commission, fisheries director, game warden, deputy game warden, district attorney or deputy district attorney at the institution or during the prosecution of the action mentioned in ORS 506.655. No judgment shall be awarded against the fish commission, the State of Oregon, or any of the officers signing the petition mentioned in ORS 506.655 or instituting the proceeding, for costs and disbursements.

[Formerly 506.595]

506.680 Appeal by state. If the fish commission deems itself aggrieved by the decision of the court at any time after the institution of the action mentioned in ORS 506.655, the right of appeal is given the State of Oregon, to be prosecuted in the same manner as appeals in ordinary civil actions, except that no fee shall be charged the state and no bond shall be required on appeal.

[Formerly 506.600]

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 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 forfeited in the same manner as property may be forfeited under subsection (2) of ORS 506.695 but the fish so seized may, immediately upon seizure, be disposed of or used for food purposes, under the rules of the commission, to prevent spoilage.

(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 certify to the Secretary of State the amount required to be paid a person under subsection (3) of this section and the Secretary of State shall audit the claim and draw a warrant on the State Treasurer payable out of the General Fund for the amount so certified payable to the commission who shall immediately pay over the money received to the person. There hereby is appropriated from the General Fund in the State Treasury an amount equal to the amounts certified by the commission under this section.

[Formerly 506.602]

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

rules of the 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.

(2) Upon the order of the court at the time of passing sentence or for forfeiture of bail for the violation, 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 any moneys derived from the sale of any forfeited property shall be deposited with the State Treasurer to be placed in the General Fund in the State Treasury. [Formerly 506.603]

PENALTIES

506.990 [Repealed by 1965 c.570 §152]

506.991 Penalties. Except as provided in ORS 509.991, violation of any provision of the commercial fishing laws, or of any rule promulgated by the commission in carrying out the commercial fishing laws, is punishable, upon conviction, by imprisonment for not more than six months, or by a fine of not less than $25 nor more than $1,000, or both. [1965 c.570 §56]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on November 1, 1973.

Thomas G. Clifford
Legislative Counsel