
TITLE 41

WILDLIFE

Chapter 496	Application, Administration and Enforcement of Wildlife Laws
497	Licenses and Permits
498	Hunting, Angling and Trapping Regulations, Miscellaneous Wildlife Protective Measures
501	Refuges and Closures

Chapter 496

1985 REPLACEMENT PART

Application, Administration and Enforcement of Wildlife Laws

	GENERAL PROVISIONS	496 162	Establishing seasons, amounts and manner of taking wildlife
496 002	Short title		
496 004	Definitions		
496 007	"Game bird" defined		
496 009	"Game fish" defined		
496.012	Wildlife policy		
496.016	Applicability of wildlife laws to commercial fishing laws		
	STATE DEPARTMENT OF FISH AND WILDLIFE, COMMISSION, DIRECTOR, DUTIES AND POWERS GENERALLY		
496 080	State Department of Fish and Wildlife		
496.090	State Fish and Wildlife Commission, members, terms, qualifications; compensation and expenses		
496 108	Commission officers, quorum, meetings		
496 112	State Fish and Wildlife Director, term, compensation and expenses, delegation of commission powers to director		
496 118	Duties and powers of director		
496 124	Fish Division; Wildlife Division, authority		
496 128	Reports by commission		
496 132	Budget hearing		
496 138	General duties and powers, rulemaking authority		
496.146	Discretionary powers		
496 154	Limitation on authority to condemn certain farm use property		
496.156	Expenditure priority for anadromous fish management		
			SALMON FOR INDIAN CEREMONIES
		496 201	Department to furnish salmon for ceremonies, amount, source
		496 206	Written request for salmon, contents, time for providing salmon
		496 211	Limitation on amount and use
		496 216	Disposition of salmon remaining after ceremony
		496 221	ORS 496 201 to 496 221 not intended to extend Indian legal or political rights
			FISH HABITAT IMPROVEMENT
		496 260	Project applications, contents, notice of reasons for rejection, approval conditions, limitation on tax credit
		496 265	Limitation on amount eligible for tax credit
			STATE WILDLIFE FUND, RECEIPTS AND EXPENDITURES
		496.300	State Wildlife Fund, sources; uses
		496 311	Limitation on size of revolving fund
		496 340	Payments to counties in lieu of taxes
			NONGAME WILDLIFE
		496 375	"Nongame wildlife" defined
		496 380	Designation of tax refunds to finance program
		496 385	Nongame Wildlife Fund

WILDLIFE

496 390 Control over fund by department, use of moneys

SALMON AND TROUT ENHANCEMENT

- 496 430 "Native stocks" defined
- 496 435 Policy to restore native stocks
- 496 440 Enhancement program to be conducted by commission, objective
- 496.445 Duties of commission
- 496 450 Application for project; subjects for projects, conditions for approval
- 496 455 Use of native stocks for projects, conditions
- 496 460 Salmon and Trout Enhancement Program Advisory Committee; members, duties and powers; travel and expenses

WILDLIFE COOPERATION, FEDERAL WILDLIFE AID

- 496 510 Assent to federal wildlife-restoration statute, duty of commission with regard thereto
- 496.525 Federal fish restoration and management aid, powers of commission with regard thereto

MIGRATORY WATERFOWL STAMP

- 496 550 Migratory waterfowl stamp, design selection; production of stamps and art works
- 496 555 Contract on migratory waterfowl stamp matters

WILDLIFE LAW ENFORCEMENT AND ENFORCEMENT OFFICERS

- 496 605 Enforcement of wildlife laws by State Fish and Wildlife Director, deputies and peace officers
- 496 610 State police to enforce wildlife laws, payment of expenses from wildlife fund, appointment of federal agents
- 496 615 Commission employes to supplement state police
- 496.620 Nonliability of law enforcement officers
- 496 630 District attorneys to prosecute criminal cases, jurisdiction of courts
- 496.640 Service of process by law enforcement personnel
- 496.645 Arrest without warrant of violators, trial
- 496 650 Issuance of citation to violator
- 496.660 Search by law enforcement personnel, institution of proceedings
- 496 665 Issuance of search warrants; places searched; use and disposition of seized property
- 496.670 Arrests and searches made on Sunday
- 496.675 Seizure without warrant by law enforcement personnel
- 496 680 Seizure of unlawful devices and unlawfully taken wildlife, forfeiture and disposition

496 690 Possession of wildlife as evidence of illegal taking

- 496 695 Counseling, aiding or sharing in violation
- 496 700 Investigating violations; summoning witnesses
- 496 705 Damage suits for unlawful killing of wildlife, jurisdiction of courts
- 496 710 Compelling testimony in enforcement proceedings
- 496 715 Disposition of fines and confiscation sale proceeds

PERMIT FOR WATER FOR HYDROELECTRIC PURPOSES

- 496 815 Definitions for ORS 496.815 to 496.825
- 496 820 Permit or license fee
- 496 825 Application fee, exception
- 496.830 Penalty fee
- 496.835 Oregon Fish and Wildlife Hydroelectric Fund

PENALTIES

- 496 992 Penalties

CROSS REFERENCES

- Administrative procedures and rules of state agencies, 183 310 to 183 550
- Court rules for game law violations, 1 520
- Habitat damage, liability, 468 745
- Hunting and fishing in municipal watershed areas, 448 305
- Hydroelectric projects, testing of fish protection measures, 543 265
- Infraction procedures, Ch 153
- Motorboat speed regulations, 488 610 to 488 625
- North Umpqua River, hydroelectric facility, violation of conditions, 541 875
- Oregon Youth Corps, responsibility of certain state agencies for operation of program, 418 687 to 418 697
- Outdoor recreation resources, policy of state, 390 010
- Private lands leased to public corporations for recreational use, owner liability limited, 105 670
- Protection of streams during removals or filling, 541 605 to 541 685
- Public recreational use of land, landowner liability limited, no rights or easements created, 105 655 to 105 680
- Recommendations of department for hydroelectric project
 - Fall Creek, 538 251
 - Mill Creek, 538 220
- Snowmobiles, all-terrain vehicles, hunting from prohibited, 821 260
- Unemployment compensation exclusion, 657 065
- Water resources policy, state, compliance required, 536 300 to 536 400
- Wildlife laws not to affect predatory animal control activities, 610 060

496 009

Chinook salmon designated as official state fish, SJR 26 (1961)

ADMINISTRATION AND ENFORCEMENT OF WILDLIFE LAWS

Jurisdiction of State Fish and Wildlife Commission, 506 036
"Salmon" defined, 506 016

496 016

Game fish laws not to affect commercial fishing laws, 506 031

496 080

Committee on Synthetic Chemicals in the Environment,
membership, 634 352

Public purchasing law applicability, 279 712

496 090

Limitations on expenses of state officers and employes,
292 210 to 292 250

496 112

Director as Natural Heritage Advisory Council member,
273 571

Director as Minor Court Rules Committee member, 1 510

Director member of dredging operations consulting committee,
517 700

Geothermal well drilling applications, 522 125

Merit system for state employes, Ch 240

Travel expenses of state officers and employes, 292 210 to
292 288

Unemployment insurance, 657 065

496 138

Geothermal wells, circulation of application to state agencies,
522 125

Insecticides, oils or poisons, use by counties for public health
vector control not allowed without consent of commission,
452 245

Insecticides, use of by vector control districts not allowed
without consent of State Fish and Wildlife Commission,
452 140

Predatory animals, commission to determine birds exempt
from extermination provisions, 610 002

496 146

Closure of forests, 477 505 to 477 550

Licenses and permits, Ch 497

Special regulation of motor boats by State Marine Board at
request of commission, 488 600

496.154

Title of property acquired by state agency to be taken in name
of state, 279 711

496.300

Predatory Animal, Rabbit and Rodent Control Fund, 610 020

496 430 to 496.460

Water right certificate, permit exemption, 537 142

496.510

Federal fish culture projects in state, 506 050

496 550

Migratory waterfowl stamps, fee, 497 151

496.715

Action by Department of Revenue for delinquent payment of
certain money, 30 830

GENERAL PROVISIONS

496.002 Short title. ORS chapters 496, 497, 498 and 501 may be cited as the wildlife laws [1973 c 723 §2]

496.004 Definitions. As used in the wildlife laws, unless the context requires otherwise

(1) "Angle" means to take or attempt to take a fish for personal use by means involving hook and line

(2) "Commission" means the State Fish and Wildlife Commission created by ORS 496 090

(3) "Director" means the State Fish and Wildlife Director appointed pursuant to ORS 496.112

(4) "Fund" means the State Wildlife Fund created by ORS 496 300

(5) "Fur-bearing mammal" means beaver, bobcat, fisher, marten, mink, muskrat, otter, raccoon, red fox and gray fox

(6) "Game mammal" means antelope, black bear, cougar, deer, elk, moose, mountain goat, mountain sheep and silver gray squirrel.

(7) "Guide" means any person who, for compensation, provides or offers to provide personal services in assisting or guiding any person to locate, angle for, hunt or trap wildlife or who, for compensation, provides or offers to provide transportation of angling, hunting, trapping or camping equipment for persons engaged in locating, angling for, hunting or trapping wildlife

(8) "Hunt" means to take or attempt to take any wildlife by means involving the use of a weapon or with the assistance of any mammal or bird.

(9) "Manage" means to protect, preserve, propagate, promote, utilize and control wildlife.

(10) "Take" means to kill or obtain possession or control of any wildlife

(11) "Trap" means to take or attempt to take any wildlife by means involving the use of a trap, net, snare or other device used for the purpose of capture

(12) "Wildlife" means fish, wild birds, amphibians, reptiles and wild mammals except whales and porpoises [1973 c 723 §3, 1975 c 253 §5, 1977 c 136 §1, 1979 c 399 §1, 1979 c 615 §1a, 1985 c 60 §7]

496.005 [Repealed by 1973 c 723 §130]

496.006 [Formerly 497 505, 1961 c 343 §1, 1967 c 594 §1, 1971 c 658 §1, repealed by 1973 c 723 §130]

496.007 "Game bird" defined. As used in the wildlife laws, unless the context requires otherwise, "game bird" means

(1) Those members of the family Anatidae, commonly known as swans, geese, brant and river and sea ducks.

(2) Those members of the family Columbidae, commonly known as mourning doves and bandtailed pigeons

(3) Those members of the family Tetraonidae, commonly known as grouse, ptarmigan and prairie chickens

(4) Those members of the family Phasianidae, commonly known as pheasants, quail and partridge

(5) Those members of the family Meleagrididae, commonly known as wild turkey

(6) Those members of the family Scolopacidae, commonly known as snipe and woodcock

(7) Those members of the family Gruidae, commonly known as cranes

(8) Those members of the family Rallidae, commonly known as rails, gallinules and coots. [1973 c 723 §4]

496 008 [1957 c 268 §1, repealed by 1973 c 723 §130]

496.009 "Game fish" defined. As used in the wildlife laws, unless the context requires otherwise, "game fish" means

(1) Those members of the family Salmonidae, commonly known as trout, steelhead, char, grayling, Atlantic salmon and whitefish.

(2) Those members of the family Salmonidae, commonly known as salmon, when under 15 inches in length or when taken by angling.

(3) Those members of the family Ictaluridae, commonly known as freshwater catfish

(4) Those members of the family Centrarchidae, commonly known as freshwater bass, sunfish and crappie

(5) Those members of the family Acipenseridae, commonly known as green sturgeon and white sturgeon, when taken by angling

(6) *Perca flavescens*, commonly known as yellow perch.

(7) *Stizostedion vitreum*, commonly known as walleye

(8) *Catostomus luxatus*, commonly known as mullet.

(9) *Morone saxatilis*, commonly known as striped bass

(10) *Alosa sapidissima*, commonly known as American shad, when taken by angling

(11) *Rana catesbeiana*, commonly known as bullfrog [1973 c 723 §§5, 131]

496 010 [Amended by 1953 c 379 §2, 1957 c 250 §1, 1959 c 364 §1, 1963 c 30 §1, repealed by 1973 c 723 §130]

496.012 Wildlife policy. It is the policy of the State of Oregon that wildlife shall be managed to provide the optimum recreational and aesthetic benefits for present and future generations of the citizens of this state. In furtherance of this policy, the goals of wildlife management are

(1) To maintain all species of wildlife at optimum levels and prevent the serious depletion of any indigenous species

(2) To develop and manage the lands and waters of this state in a manner that will enhance the production and public enjoyment of wildlife

(3) To permit an orderly and equitable utilization of available wildlife

(4) To develop and maintain public access to the lands and waters of the state and the wildlife resources thereon

(5) To regulate wildlife populations and the public enjoyment of wildlife in a manner that is compatible with primary uses of the lands and waters of the state and provides optimum public recreational benefits [1973 c 723 §6]

496 015 [Amended by 1959 c 578 §1, repealed by 1973 c 723 §130]

496.016 Applicability of wildlife laws to commercial fishing laws. Nothing in the wildlife laws is intended to affect any of the provisions of the commercial fishing laws. However, nothing in the commercial fishing laws is intended to authorize the taking of game fish in any manner prohibited by the wildlife laws [1973 c 723 §7]

496 020 [Amended by 1957 c 55 §1, 1957 c 471 §1, 1967 c 431 §1, repealed by 1973 c 723 §130]

496 025 [Amended by 1965 c 149 §1, repealed by 1973 c 723 §130]

496 030 [Repealed by 1973 c 723 §130]

496.032 [1971 c 658 §31, repealed by 1973 c 723 §130]

496 035 [Repealed by 1973 c 723 §130]

496.040 [1953 c 184 §1, repealed by 1973 c 723 §130]

496 045 [1953 c 184 §2, repealed by 1973 c 723 §130]

STATE DEPARTMENT OF FISH AND WILDLIFE; COMMISSION; DIRECTOR; DUTIES AND POWERS GENERALLY

496.080 State Department of Fish and Wildlife. The State Department of Fish and

Wildlife is created. The department consists of the State Fish and Wildlife Commission, the State Fish and Wildlife Director, and such other personnel as may be necessary for the efficient performance of the functions of the department [1975 c 253 §7]

496.090 State Fish and Wildlife Commission; members; terms; qualifications; compensation and expenses.

(1) There is established a State Fish and Wildlife Commission consisting of seven members appointed by the Governor

(2) The term of office of each member is four years. Before the expiration of the term of a member, the Governor shall appoint a successor. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term

(3) All appointments of members of the commission by the Governor are subject to confirmation by the Senate pursuant to section 4, Article III, Oregon Constitution

(4) One member of the commission shall be appointed from each of the congressional districts referred to in ORS 188 130 and one member from that portion of the state lying west of the Cascade Mountains, one member from that portion of the state lying east of the Cascade Mountains

(5) No member of the commission may hold any office in any sports fishing organization or commercial fishing organization or have any ownership or other direct interest in a commercial fish processing business

(6) Failure of a member to maintain compliance with the eligibility requirements of subsections (4) and (5) of this section shall vacate membership. Members of the commission may otherwise be removed only for cause

(7) A member of the commission is entitled to compensation and expenses as provided in ORS 292 495 [1975 c 253 §8, 1981 c 545 §11]

496.100 [1973 c 723 §8, 1973 c 792 §20a, repealed by 1975 c 253 §40]

496 105 [Repealed by 1973 c 723 §130]

496.108 Commission officers; quorum; meetings. (1) The commission shall select one of its members as chairman and another as vice chairman, for such terms and with such duties and powers necessary for the performance of the functions of such offices as the commission determines appropriate

(2) A majority of the members of the commission constitutes a quorum for the transaction of business

(3) The commission shall meet at least once every three months at a time and place determined by the commission. The commission shall also meet 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.

(4) The commission may also meet jointly with authorities of other states or of the United States to consider problems of mutual interest [1973 c 723 §9]

496 110 [Repealed by 1973 c 723 §130]

496.112, State Fish and Wildlife Director; term; compensation and expenses; delegation of commission powers to director. (1) The commission shall appoint a State Fish and Wildlife Director to serve for a term of four years unless sooner removed by the commission.

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

(3) The commission may delegate to the director any of the administrative authority, powers and duties granted to or imposed upon it by law, except to revoke or refuse to issue licenses issued pursuant to the commercial fishing laws [1975 c 253 §9, 1985 c 529 §3]

496 115 [Repealed by 1975 c 253 §40]

496.118. Duties and powers of director.

(1) The director is the executive head of the State Department of Fish and Wildlife, and shall

(a) Be responsible to the commission for administration and enforcement of the wildlife laws

(b) Appoint, supervise and control all commission employees and, under the policy direction of the commission, be responsible for all of the commission's functions and activities.

(c) Establish such sections and divisions as are necessary to properly carry out the work of the commission.

(d) Be responsible for the collection, application and dissemination of information pertinent to the management of the wildlife resources, and to the regulation of the uses of such resources

(2) In times of emergency, the director may exercise the full powers of the commission until such times as the emergency ends or the commission meets in formal session. [1975 c 253 §10]

496 120 [Amended by 1967 c 290 §3, 1969 c 314 §59, repealed by 1973 c 723 §130]

496 122 [1973 c 723 §10, repealed by 1975 c 253 §40]

496.124 Fish Division; Wildlife Division; authority. In addition to such divisions as may be established by the director pursuant to ORS 496 118, there are established within the State Fish and Wildlife Department a Fish Division and a Wildlife Division. The Wildlife Division shall be responsible for the management of all wildlife, except fish and other marine life, over which the commission has regulatory jurisdiction [1975 c 253 §11]

496 125 [Repealed by 1973 c 723 §130]

496.128 Reports by commission. (1) The commission shall report biennially to the Governor and to the Legislative Assembly on the activities of the commission during the preceding biennium. The commission shall make such additional reports as the Governor or the Legislative Assembly may direct.

(2) The reports required by subsection (1) of this section shall be in such form and contain such information as the commission considers appropriate, and shall contain such other information as the Governor and the Legislative Assembly may require [1973 c 723 §11]

496 130 [Amended by 1959 c 371 §1, 1963 c 154 §1, 1965 c 74 §1, repealed by 1973 c 723 §130]

496.132 Budget hearing. Before submitting budget requests or information to the Governor pursuant to ORS 291 202 to 291 222, the commission shall hold a public hearing on proposals for planned expenditures and enhancement packages which the commission intends to recommend to the Governor for inclusion in the Governor's budget. [1985 c 60 §5]

496.135 [Repealed by 1973 c 723 §130]

496.138 General duties and powers; rulemaking authority. (1) The commission has the authority to formulate and implement the policies and programs of this state for the management of wildlife, and may perform all acts necessary to administer and carry out the provisions of the wildlife laws

(2) In accordance with any applicable provision of ORS 183 310 to 183 550, the commission may promulgate rules to carry out the provisions of the wildlife laws [1973 c 723 §12]

496 140 [Repealed by 1973 c 723 §130]

496 145 [Repealed by 1973 c 723 §130]

496.146 Discretionary powers. In addition to any other duties or powers provided by law, the commission:

(1) May accept, from whatever source, appropriations, gifts or grants of money or other prop-

erty for the purposes of wildlife management, and use such money or property for wildlife management purposes

(2) May sell or exchange property owned by the state and used for wildlife management purposes when the commission determines that such sale or exchange would be advantageous to the state wildlife policy and management programs

(3) May acquire, introduce, propagate and stock wildlife species in such manner as the commission determines will carry out the state wildlife policy and management programs

(4) May by rule authorize the issuance of such licenses, tags and permits for angling, hunting and trapping and may prescribe such tagging and sealing procedures as the commission determines necessary to carry out the provisions of the wildlife laws or to obtain information for use in wildlife management. Permits issued pursuant to this subsection may include special hunting permits for a person to hunt on land owned by that person in areas where permits for deer or elk are limited by quota

(5) May by rule prescribe procedures requiring the holder of any license, tag or permit issued pursuant to the wildlife laws to keep records and make reports concerning the time, manner and place of taking wildlife, the quantities taken and such other information as the commission determines necessary for proper enforcement of the wildlife laws or to obtain information for use in wildlife management

(6) May establish special hunting and angling areas or seasons in which only persons less than 18 years of age or over 65 years of age are permitted to hunt or angle

(7) May acquire by purchase, lease, agreement or gift real property and all appropriate interests therein for wildlife management and wildlife-oriented recreation purposes

(8) May acquire by purchase, lease, agreement, gift, exercise of eminent domain or otherwise real property and all interests therein and establish, operate and maintain thereon public hunting areas

(9) May establish and develop wildlife refuge and management areas and prescribe rules governing the use of such areas and the use of wildlife refuge and management areas established and developed pursuant to any other provision of law

(10) May by rule prescribe fees for licenses, tags, permits and applications issued or required pursuant to the wildlife laws, and user charges for angling, hunting or other recreational uses of lands owned or managed by the commission,

unless such fees or user charges are otherwise prescribed by law. Except for licenses issued pursuant to subsection (14) of this section, no fee or user charge prescribed by the commission pursuant to this subsection shall exceed \$10

(11) May enter into contracts with any person or governmental agency for the development and encouragement of wildlife research and management programs and projects

(12) May perform such acts as may be necessary for the establishment and implementation of cooperative wildlife management programs with agencies of the Federal Government

(13) May offer and pay rewards for the arrest and conviction of any person who has violated any of the wildlife laws. No such reward shall exceed \$100 for any one arrest and conviction

(14) May by rule prescribe fees for falconry licenses issued pursuant to the wildlife laws, unless such fees are otherwise prescribed by law. Fees prescribed by the commission pursuant to this subsection shall be based on actual or projected costs of administering falconry regulations and shall not exceed \$250 [1973 c 723 §13, 1977 c 177 §1, 1977 c 668 §1, 1981 c 445 §9]

496 150 [Repealed by 1973 c 723 §130]

496.154 Limitation on authority to condemn certain farm use property. (1) The commission shall not commence any proceeding to exercise the power of eminent domain to acquire any real property, or interest therein, that was devoted to farm use on January 1, 1974, unless the commission first obtains approval therefor from the Joint Committee on Ways and Means, or from the Emergency Board if the Legislative Assembly is not then in session. Upon a change in the use of such land from farm use, the commission may acquire such property, and interests therein, by exercise of the power of eminent domain without first obtaining legislative approval therefor. As used in this section, "farm use" has the meaning for that term provided in ORS 215.203

(2) The commission shall not commence any proceeding as provided in subsection (1) of this section unless the commission has obtained approval of its intended use of such property from the local governmental agencies having land use planning authority over such lands [1973 c 723 §13a, 1975 c 788 §1]

496 155 [Amended by 1967 c 454 §86, repealed by 1973 c 723 §130]

496.156 Expenditure priority for anadromous fish management. (1) In carrying out duties, functions and powers regarding

the propagation of anadromous fish prescribed in the wildlife laws and the commercial fishing laws, the commission shall give high priority to expenditures for propagation assistance by means of transportation of upstream and downstream migrants in those areas where dams and other such obstacles present a passage problem to juvenile or adult salmon

(2) For the purposes of this section, "transportation" means any method of helping anadromous fish to pass dams and other obstacles so as to reduce the mortality associated with passage

(3) Nothing in subsection (1) of this section prevents the cooperation of the commission with the Federal Government in programs financed pursuant to ORS 506 405 [1977 c 653 §2]

496 160 [Amended by 1971 c 658 §2, repealed by 1973 c 723 §130]

496.162 Establishing seasons, amounts and manner of taking wildlife. (1) After investigation of the supply and condition of wildlife, the commission, at appropriate times each year, shall by rule

(a) Prescribe the times, places and manner in which wildlife may be taken by angling, hunting or trapping and the amounts of each of those wildlife species that may be taken and possessed.

(b) Prescribe such other restrictions or procedures regarding the angling, hunting, trapping or possessing of wildlife as the commission determines will carry out the provisions of wildlife 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 wildlife 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 angling, hunting and trapping of any wildlife species when the commission determines such action is necessary to protect the supply of such wildlife

(c) Prescribing regular and special time periods and areas open to the angling, hunting and trapping of any wildlife species, and establishing procedures for regulating the number of persons eligible to participate in such angling, hunting or trapping, when the commission determines such action is necessary to maintain properly the supply of wildlife, alleviate damage to other resources, or to provide a safe and orderly recreational opportunity

(3) Notwithstanding subsections (1) and (2) of this section, except as provided in ORS 498 146 or during those times and at those places prescribed by the commission for the hunting of elk, the commission shall not prescribe limitations on the times, places or amounts for the taking of predatory animals. As used in this subsection, "predatory animal" has the meaning for that term provided in ORS 610.002

(4) In carrying out the provisions of this section, before prescribing the numbers of deer and elk to be taken, the commission shall consider:

(a) The supply and condition of deer and elk herds,

(b) The availability of forage for deer, elk and domestic livestock on public and private range and forest lands,

(c) The recreational opportunities derived from deer and elk populations, and

(d) The effects of deer and elk herds on public and private range and forest lands [1973 c 723 §14, 1975 c 791 §1, 1981 c 218 §1]

496.165 [Repealed by 1973 c 723 §130]

496 170 [Amended by 1971 c 658 §3, repealed by 1973 c 723 §130]

496.175 [Amended by 1971 c 658 §4, repealed by 1973 c 723 §130]

496.180 [Amended by 1971 c 658 §5, repealed by 1973 c 723 §130]

496.185 [Repealed by 1973 c 723 §130]

496 190 [Amended by 1963 c 154 §2, 1965 c 74 §2, repealed by 1973 c 723 §130]

496 195 [Amended by 1959 c 371 §2, 1961 c 343 §2, 1965 c 74 §3, 1967 c 594 §3, repealed by 1973 c 723 §130]

496 200 [Repealed by 1973 c 723 §130]

SALMON FOR INDIAN CEREMONIES

496.201 Department to furnish salmon for ceremonies; amount; source. (1) The State of Oregon shall, through the State Department of Fish and Wildlife, be directed to provide surplus salmon to the Coos, Lower Umpqua and Siuslaw Indian tribes for their historical, traditional and cultural salmon ceremony that takes place in August of each year

(2) The salmon provided by the state shall meet the expressed needs of the Coos, Lower Umpqua and Siuslaw tribes up to 200 pounds total

(3) The salmon provided by the state may be either surplus whole fish or carcasses

(4) Salmon may be taken from hatcheries under either the complete or joint control of the state [1981 c 575 §2]

496.205 [Amended by 1961 c 343 §3, repealed by 1973 c 723 §130]

496.206 Written request for salmon; contents; time for providing salmon. (1) The tribes of Coos, Lower Umpqua and Siuslaw Indians are required to set forth, in writing, their request for salmon. This request shall be submitted no later than 40 days prior to the ceremony and shall include

- (a) The poundage of salmon required,
- (b) The date of the ceremony, and
- (c) A contact person that the state may refer questions to

(2) Prior to any state action, the written request must be received by

- (a) The State Department of Fish and Wildlife,
- (b) The Attorney General, and
- (c) The United States Department of Interior

(3) The salmon shall be provided to the Coos, Lower Umpqua and Siuslaw Indian tribes no later than 30 days after receiving a proper written request therefor [1981 c 575 §3]

496.210 [Repealed by 1973 c 723 §130]

496.211 Limitation on amount and use.

(1) The State of Oregon shall be limited to a once a year provision of salmon for the Coos, Lower Umpqua and Siuslaw Indians' salmon ceremony

(2) If the Coos, Lower Umpqua and Siuslaw Indian tribes use salmon provided by the state for this purpose in any manner other than the historical, traditional and cultural salmon ceremony, they shall pay to the State Department of Fish and Wildlife the prevailing wholesale rate per pound of the entire amount of salmon supplied to that tribe or tribes for that year [1981 c 575 §4]

496.215 [Repealed by 1973 c 723 §130]

496.216 Disposition of salmon remaining after ceremony. Any salmon remaining after the ceremony may be distributed to tribal members without charge for their subsistence consumption only and not for sale, barter or gift to others, or may be donated to a nonprofit institution or agency [1981 c 575 §5]

496.220 [Repealed by 1973 c 723 §130]

496.221 ORS 496.201 to 496.221 not intended to extend Indian legal or political rights. Nothing in ORS 496.201 to 496.221 is intended to extend legal or political recognition to

any Coos, Lower Umpqua or Siuslaw Indians for any purpose other than provided in ORS 496.201 to 496.216 [1981 c 575 §6]

496.225 [Repealed by 1973 c 723 §130]

496.230 [1957 c 119 §2, repealed by 1973 c 723 §130]

496.235 [Repealed by 1973 c 723 §130]

496.240 [Amended by 1959 c 371 §3, 1963 c 154 §3, 1965 c 74 §4, repealed by 1973 c 723 §130]

496.245 [Repealed by 1973 c 723 §130]

496.250 [Repealed by 1971 c 418 §23]

FISH HABITAT IMPROVEMENT

496.260 Project applications; contents; notice of reasons for rejection; approval conditions; limitation on tax credit. (1) Any person may apply to the State Department of Fish and Wildlife for preliminary certification of a fish habitat improvement project. The department shall develop rules and procedures for administering its responsibilities under this section and ORS 316.084, 317.087, 318.080 and 496.265. Such rules shall clarify the criteria used to evaluate fish improvement projects. Applications for preliminary certification shall be made in writing on a form provided by the department and shall contain

(a) A detailed description of the proposed project including a statement of expected benefits,

(b) Blueprints or drawings of the proposed project providing such detail as the department may require,

(c) A detailed estimate of project costs, and

(d) Such other information as the department may require

(2) The department shall act on all applications for preliminary certification before the 120th day after the receipt of such application. At any time during that period the department may request clarification, additional detail or modification of the plans

(3) If the department rejects an application for preliminary certification, the department shall cause written notice of the action, together with a statement of findings and the reasons therefor to the applicant

(4) Preliminary certification of a fish habitat improvement project by the department shall not:

(a) Qualify the applicant for the tax credit provided under ORS 316.084, 317.087 and 318.080

(b) Exempt the project from any state or federal law, or local ordinance

(5) Upon completion of construction or installation of a fish habitat improvement project preliminarily certified by the department under this section, a person may apply to the department for final certification of the project. The application for final certification shall be made in writing on forms provided by the department and shall include:

(a) A detailed statement of project costs, and

(b) Whatever other information the department may require.

(6) Upon receipt of an application for final project certification, the department shall cause the project to be inspected to determine that the project will result in the improvement of riparian or in-stream habitat. If the department determines that the project conforms to the plans approved during the preliminary certification, the department shall provide the applicant with written notice of final certification of the project. The action of the department shall include certification of the actual cost of the project for purposes of the income tax credit relief allowed under ORS 316.084, 317.087 or 318.080. However, in no event shall the department certify an amount for tax credit purposes that is more than 10 percent in excess of the amount approved in the preliminary certificate issued for the project under subsection (2) of this section [1981 c 720 §22]

496.265 Limitation on amount eligible for tax credit. Notwithstanding any provisions of ORS 316.084, 317.087, 318.080 and 496.260 to the contrary, the State Department of Fish and Wildlife shall not preliminarily certify under ORS 496.260 (2), in any one calendar year, as eligible for tax credit under ORS 316.084, 317.087 and 318.080, fish habitat improvement project costs in excess of \$100,000. The department shall not grant preliminary certification for a fish habitat improvement project unless application under ORS 496.260 (1) is filed with the department on or before January 1, 1990 [1981 c 720 §23]

STATE WILDLIFE FUND; RECEIPTS AND EXPENDITURES

496.300 State Wildlife Fund; sources; uses. (1) The State Wildlife Fund is established as an account in the General Fund of the State Treasury. Except as otherwise provided by law, all moneys received by the commission pursuant to the wildlife laws, except such as may be required as a revolving fund for payroll and emergency expenses, shall be paid into the State

Treasury and credited to the account. All moneys in the account are appropriated continuously to the commission to carry out the wildlife laws.

(2) All moneys received by the commission from the sale of migratory waterfowl stamps shall be deposited in the State Wildlife Fund.

(3) All moneys received by the commission from the sale of art works and prints related to the migratory waterfowl stamp shall be deposited in a separate subaccount in the State Wildlife Fund. Moneys in the subaccount may be expended only for activities that promote the propagation, conservation and recreational uses of migratory waterfowl and for activities related to the design, production, issuance and arrangements for sale of the migratory waterfowl stamps and related art works and prints. Expenditures of moneys in the subaccount may be made within this state, in other states or in foreign countries, in such amounts as the commission determines appropriate. Expenditures in other states and foreign countries shall be on such terms and conditions as the commission determines will benefit most directly the migratory waterfowl resources of this state.

(4) The commission shall keep a record of all moneys deposited in the State Wildlife Fund. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged [1973 c 723 §15, 1975 c 118 §1, 1975 c 253 §12, 1983 c 8 §1, 1983 c 801 §6]

Note. Section 5, chapter 594, Oregon Laws 1983, provides

Sec. 5 Notwithstanding any other provision of law, the State Department of Fish and Wildlife may not expend any moneys for acquisition of land along the Lower Deschutes River until

(1) The department determines that adequate funds are available from other sources so that such other funds, together with moneys available for expenditure by the department, will be adequate to complete the entire land acquisition proposed in the project, and

(2) The department has adequate contractual or other legal assurances that title to all such land will vest in the State Department of Fish and Wildlife.

496.305 [Amended by 1959 c 692 §6, 1971 c 446 §1, repealed by 1973 c 723 §130]

496.310 [Amended by 1959 c 692 §7, repealed by 1967 c 451 §32]

496.311 Limitation on size of revolving fund. Notwithstanding any other provision of law, the revolving fund referred to in ORS 496.300 shall not exceed \$40,000 [1975 c 545 §9, 1979 c 461 §7]

496.315 [Amended by 1959 c 692 §8, 1967 c 451 §23, 1971 c 446 §2, repealed by 1973 c 723 §130]

496.320 [Amended by 1959 c 692 §9, 1971 c 446 §3, 1971 c 658 §6, repealed by 1973 c 723 §130]

496.325 [Amended by 1971 c 446 §4, 1971 c 658 §6a, repealed by 1973 c 723 §130]

496.330 [Amended by 1971 c 658 §7, repealed by 1973 c 723 §130]

496.335 [Repealed by 1973 c 723 §130]

496.340 Payments to counties in lieu of taxes. (1) Except as provided in subsection (3) of this section, whenever real property owned by the commission is exempt from taxation on July 1 of any year by reason of its ownership by the state, the commission shall pay to the county in which the property is situated an amount equal to the ad valorem taxes which would have been levied against the property if it had been assessed to a taxable owner as of January 1 of such year as provided in subsection (2) of this section. The county assessor shall determine the value of such property at its value for farm use as provided in ORS 308.370 or for forest land use, whichever is applicable, and shall notify the commission of the determination of the county assessor. Upon request of the commission, the Department of Revenue shall review the determination of value and shall redetermine the value if it concludes the value initially determined was substantially incorrect.

(2)(a) Except as provided in paragraph (b), (c) or (d) of this subsection, the value of the property shall be computed at its value for farm use as provided in ORS 308.370 or for forest land use, whichever is applicable, plus the percentage of the difference between that use and fair market value of the property for each year as listed below

1972	90 percent
1973	80 percent
1974	70 percent
1975	60 percent
1976	50 percent
1977	40 percent
1978	30 percent
1979	20 percent
1980	10 percent
1981 and subsequent years	0 percent

(b) Paragraph (a) of this subsection shall not apply if the difference between farm use as provided in ORS 308.370 or forest land use, whichever is applicable, and the fair market value of the

property for other than farm use or forest land use is \$5,000 or less as of September 9, 1971, for property presently owned, and on the date of acquisition for property which is acquired after September 9, 1971. The property described in this paragraph shall be valued for purposes of this section at its value for farm use as provided in ORS 308.370 or for forest land use, whichever is applicable.

(c) Paragraph (a) or (b) of this subsection shall not apply to any property upon which open field burning takes place. If open field burning takes place on any property described in this section, the property shall be valued at its highest and best use rather than the values authorized in paragraphs (a) and (b) of this subsection on the January 1 following the date of the open field burning. If in the next year, the open field burning is discontinued, paragraph (a) or (b) of this subsection shall apply the next January 1 and each year thereafter as long as no open field burning occurs.

(d) Paragraph (a) of this subsection shall not apply to any property acquired by the commission after September 9, 1971, if such property was valued for ad valorem tax purposes at its value for farm use as provided in ORS 308.370 or for forest land use, at the time the property was acquired by the commission. However, no payments in lieu of taxes made to a county pursuant to this section prior to January 1, 1974, shall be refunded to the commission.

(3) This section does not apply to real property used for bird farms, fish hatcheries, office quarters, fishing access sites or impoundments, capital improvements or real property acquired pursuant to the Act of May 19, 1948 (62 Stat 240) Public Law 80-537.

(4) The amount prescribed in subsection (1) of this section shall be determined annually by the assessor of the county in which the property is situated and certified by the assessor to the county court or the board of county commissioners. A notice of the determination, signed by the county judge or the chairman of the board of county commissioners, shall be mailed to the principal office of the commission not later than October 15. The notice shall contain a statement of the value of the property and a complete explanation of the method used in computing the amount claimed pursuant to subsection (1) of this section. Not later than November 15, the commission shall pay each amount, less a discount equivalent to that which is provided in ORS 311.505. Payment shall be made to the county treasurer who shall distribute the payment to the

taxing districts of the county in accordance with the schedule of percentages computed under ORS 311 390

(5) Notwithstanding any other provision of the wildlife laws, there is appropriated annually from the moneys in the State Wildlife Fund in the State Treasury such amounts as are necessary for the purpose of making the payments to counties required by this section [Amended by 1955 c 729 §1, 1971 c 356 §1, 1971 c 474 §1, 1973 c 723 §16]

496 345 [1959 c 692 §5, 1963 c 481 §1, part renumbered 506 345, repealed by 1971 c 446 §11]

NONGAME WILDLIFE

496.375 "Nongame wildlife" defined.

As used in ORS 496 380 to 496 390 "nongame wildlife" means all wildlife species over which the State Fish and Wildlife Commission has jurisdiction, except game mammals, as defined in ORS 496 004, fur-bearing mammals as defined in ORS 496 004, game birds as defined in ORS 496.007 and game fish as defined in ORS 496 009 [1979 c 566 §1]

496.380 Designation of tax refunds to finance program. (1) Resident individual taxpayers who file an Oregon income tax return and who will receive a tax refund from the Department of Revenue may designate that a contribution be made to the Nongame Wildlife Fund by marking the appropriate box printed on the return pursuant to subsection (2) of this section

(2) The Department of Revenue shall print on the face of the Oregon income tax form for residents a space for taxpayers to designate that a contribution be made to the Nongame Wildlife Fund from their income tax refund. The space for designating the contribution shall provide for checkoff boxes in the amount of \$1, \$5, \$10 or other dollar amount

(3) This section shall apply to taxable years beginning on or after January 1, 1981 [1979 c 566 §2, 1981 c 411 §5]

496.385 Nongame Wildlife Fund. (1) There is established in the General Fund of the State Treasury a Nongame Wildlife Fund consisting of all moneys transferred to it under this section. The Director of the Department of Revenue shall transfer to the fund an amount equal to the total amount designated by individuals to be paid to the fund under ORS 496 380.

(2) Moneys contained in the Nongame Wildlife Fund are continuously appropriated for the purposes specified in ORS 496 390 [1979 c 566 §3]

496.390 Control over fund by department; use of moneys. The State

Department of Fish and Wildlife shall have access to and control of the moneys held in the Nongame Wildlife Fund, but shall use such moneys only to protect and preserve nongame wildlife and their habitat [1979 c 566 §4]

496 405 [Amended by 1971 c 658 §7a, repealed by 1973 c 723 §130]

496 410 [Repealed by 1973 c 723 §130]

496.415 [Amended by 1971 c 658 §8, repealed by 1973 c 723 §130]

496 420 [1959 c 146 §1, repealed by 1973 c 723 §130]

SALMON AND TROUT ENHANCEMENT

496.430 "Native stocks" defined. As used in ORS 496 435 to 496 455, "native stocks" means those anadromous fish that naturally propagate in a given watershed [1981 c 317 §2]

496.435 Policy to restore native stocks. Consistent with other provisions of law, it is declared to be a goal of the people of the State of Oregon to restore native stocks of salmon and trout to their historic levels of abundance. In order to achieve this goal in a cost-effective manner, the State of Oregon shall engage in a program to rehabilitate and improve natural habitat and native stocks and insure that the level of harvest does not exceed the capacity of stocks to reproduce themselves [1981 c 317 §3]

496.440 Enhancement program to be conducted by commission; objective. A salmon and trout enhancement program shall be conducted by the commission to benefit all users of the salmon and trout resources in this state. The program shall be conducted in such manner as to provide the greatest possible opportunity for citizen volunteer participation to achieve the goals of the program [1981 c 317 §4]

496.445 Duties of commission. In carrying out the salmon and trout enhancement program, the commission shall

(1) Provide appropriate department personnel to act as community advisors to cooperatively develop enhancement projects with citizen volunteers and to cooperatively evaluate enhancement projects with the citizens responsible for project implementation

(2) Provide technical assistance to citizens responsible for implementation of enhancement projects

(3) Coordinate the implementation of enhancement projects with the activities of department staff and other agencies

(4) Provide educational and informational materials to promote public awareness and

involvement in the salmon and trout enhancement program

(5) Supervise the activities of citizens developing local brood stock for enhancement projects

(6) Grant funds to citizens for the implementation of approved enhancement projects from such moneys as may be available to the commission therefor [1981 c 317 §5]

496.450 Application for project; subjects for projects; conditions for approval. (1) Any citizen or group of citizens may submit to the commission a proposal for a project to be implemented under the salmon and trout enhancement program or may submit a request for advice and assistance in developing such a project.

(2) An enhancement project may include, but is not limited to, habitat improvement, installation and operation of streamside incubators, brood stock development, fish stocking and spawning ground surveys and data collection

(3) The commission shall approve for implementation only those enhancement projects based on sound biological principles and shall use fish stocks most adapted to the project locale. To the greatest extent practicable, a project must be designed to maximize survival, adult returns and genetic diversity while minimizing disease.

(4) Conditions for approval by the commission for implementation of a project include but are not limited to

(a) Provisions satisfactory to the commission for inspection and evaluation of the implementation of a project, and

(b) Provisions satisfactory to the commission for controlling the expenditure of and accounting for any funds granted by the commission for implementation of the project [1981 c 317 §6]

496.455 Use of native stocks for projects; conditions. In carrying out any duties, functions or power under the wildlife laws or the commercial fishing laws, the commission may authorize the taking of native stocks and their sexual products, but may not provide any such native stocks or the sexual products therefrom to any person granted a permit by the commission pursuant to ORS 508.700 to 508.745 unless, at a minimum, sufficient fish are returned to the donor stream to compensate fully for native smolts which might have resulted from eggs removed from the donor stock. When entering into a contract for the taking of native stock with a person granted a permit pursuant to ORS 508.700 to 508.745, the commission shall consider the use of the facilities for the taking of additional

native stock for public management activities, including the salmon and trout enhancement program [1981 c 317 §7]

496.460 Salmon and Trout Enhancement Program Advisory Committee; members; duties and powers; travel and expenses. (1) The Salmon and Trout Enhancement Program Advisory Committee is established as an advisory committee to the State Fish and Wildlife Commission. The committee shall be of such size and have such geographical representation as the commission determines appropriate. Members of the committee shall be appointed by the Governor

(2) The committee shall review the policies of the department and make recommendations to the State Fish and Wildlife Commission and to the department concerning the implementation of salmon and trout enhancement projects

(3) A member of the committee shall receive no compensation for services as a member. However, subject to any applicable law regulating travel and other expenses of state officers and employes, a member shall be reimbursed for actual and necessary travel and other expenses incurred in the performance of official duties from such moneys as may be available to the department therefor [1981 c 317 §8]

WILDLIFE COOPERATION; FEDERAL WILDLIFE AID

496.505 [Formerly 497 505, 1961 c 343 §1, repealed by 1973 c 723 §130]

496.510 Assent to federal wildlife-restoration statute; duty of commission with regard thereto. The State of Oregon assents to the Act of Congress entitled, "An Act to provide that the United States shall aid the states in wildlife-restoration projects, and for other purposes," approved September 2, 1937, Public No 415, 75th Congress (50 Stat 917, 16 U.S.C.A. s 669). The State Fish and Wildlife Commission shall perform such acts as may be necessary to the conduct and establishment of cooperative wildlife-restoration projects, as defined in said Act of Congress, in compliance with said Act and with rules and regulations promulgated by the Secretary of the Interior thereunder.

496 515 [Amended by 1971 c 658 §9, repealed by 1973 c 723 §130]

496 520 [Repealed by 1973 c 723 §130]

496.525 Federal fish restoration and management aid; powers of commission with regard thereto. (1) The State of Oregon

assents to the provisions of the Act of Congress entitled, "An Act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes," approved August 9, 1950, Public Law No 681, 81st Congress (64 Stat 430, 16 U S C A s. 777)

(2) The State Fish and Wildlife Commission shall perform such acts as may be necessary to the conduct and establishment of cooperative fish restoration projects, as defined in said Act of Congress, in compliance with said Act and rules and regulations promulgated thereunder by the Secretary of the Interior

MIGRATORY WATERFOWL STAMP

496.550 Migratory waterfowl stamp; design selection; production of stamps and art works. (1) The State Fish and Wildlife Commission shall arrange, by contest or other appropriate means, for the selection of the design of the annual migratory waterfowl stamp required by ORS 497 151 and for the production and sale of the stamps

(2) The commission may produce stamps in such number as the commission considers appropriate and may make stamps available for the creation of migratory waterfowl art prints and other related art works and may arrange for the sale of stamps, prints and art works to persons desiring to purchase those items [1983 c 801 §5]

496.555 Contract on migratory waterfowl stamp matters. In carrying out its duties, functions and powers with regard to the migratory waterfowl stamp, the State Fish and Wildlife Commission may contract for the performance of those duties, functions and powers. The contract may include, among other matters, provisions for advance payment or reimbursement for services performed pursuant to any such contract. All costs and expenses incurred pursuant to this section shall be paid from the subaccount referred to in ORS 496 300 (3) [1983 c 801 §4]

WILDLIFE LAW ENFORCEMENT AND ENFORCEMENT OFFICERS

496.605 Enforcement of wildlife laws by State Fish and Wildlife Director, deputies and peace officers. The State Fish and Wildlife Director and any deputies of the director and all other peace officers of this state or any political subdivision thereof have jurisdiction of and may enforce any of the provisions of the wildlife laws [Amended by 1973 c 723 §17]

496.610 State police to enforce wildlife laws; payment of expenses from wildlife fund; appointment of federal agents. (1)

The Department of State Police shall employ a sufficient number of state police to enforce the wildlife laws

(2) The services and expenses of the Department of State Police incurred in the enforcement of the wildlife laws shall be paid from the State Wildlife Fund

(3) The Superintendent of State Police may appoint special enforcement officers authorized to enforce the wildlife laws. Individuals so appointed must be special agents of the United States Fish and Wildlife Service or the National Marine Fishery 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 wildlife laws [Amended by 1971 c 658 §10, 1973 c 723 §18, 1983 c 364 §4]

496.615 Commission employes to supplement state police. The commission, with the approval of the Governor and Superintendent of State Police, may employ such persons as they deem necessary or expedient for the enforcement of the wildlife laws. The services and expenses of these persons are payable out of the State Wildlife Fund. It is the intention of this section and ORS 496 610 that the commission employ only such persons as agreed upon between the commission, the Governor and the Superintendent of State Police, and that the duties of wildlife law enforcement, so far as is economical and practicable, be performed by the Department of State Police [Amended by 1973 c 723 §19]

496.620 Nonliability of law enforcement officers. No person authorized to enforce the wildlife laws shall suffer any civil liability for the enforcement or attempted enforcement of any provisions of the wildlife laws or for the exercise or attempted exercise of any of the duties or privileges granted to or imposed by law upon the commission or such persons [Amended by 1971 c 658 §11, 1973 c 723 §20]

496.625 [Amended by 1971 c 658 §12, repealed by 1973 c 723 §130]

496.630 District attorneys to prosecute criminal cases; jurisdiction of courts. (1) Upon information or complaint of the commission, any person authorized to enforce the wildlife laws or any private person as provided in ORS 153 710, district attorneys shall prosecute every criminal case in which it appears that there has been a violation of the wildlife laws or any rule promulgated pursuant thereto

(2) Unless otherwise specifically provided, justice courts and district courts have concurrent jurisdiction in the first instance with the circuit court of all wildlife law offenses. [Amended by 1959 c 352 §1, 1959 c 692 §10, 1967 c 523 §6, 1973 c 723 §21]

496.635 [Amended by 1971 c 658 §13, repealed by 1973 c 723 §130]

496.640 Service of process by law enforcement personnel. The persons mentioned in ORS 496 645 have all powers and rights of a peace officer in serving warrants, subpoenas or other legal process in the enforcement of the wildlife laws [Amended by 1971 c 658 §14, 1973 c 723 §22]

496.645 Arrest without warrant of violators; trial. Any person authorized to enforce the wildlife laws may, without warrant, arrest any person violating any of the wildlife laws, and take the person before any court having jurisdiction of the offense. The court shall proceed without delay to hear, try and determine the matter and enter judgment according to allegations and proofs [Amended by 1971 c 658 §15, 1973 c 723 §23]

496.650 Issuance of citation to violator. Should any person making an arrest mentioned in ORS 496 645 for the violation of the wildlife laws desire not to forthwith take the person arrested before the justice of the peace or judge having jurisdiction or desire not to immediately take the arrested person into custody, the person making the arrest may issue a citation to the person arrested [Amended by 1973 c 723 §24]

496.655 [Repealed by 1973 c 723 §130]

496.660 Search by law enforcement personnel; institution of proceedings. (1) Any person mentioned in ORS 496 645 may search any person, and examine any boat, automobile, aircraft, conveyance, vehicle, game bag, game coat or other receptacle for wildlife, or cold storage rooms, warehouses, taverns, boarding houses, restaurants, club rooms, outhouses, saloons, depots, hotels and all other places, except private dwelling houses, wherein wildlife may be kept or sold, and examine all packages and boxes held either for storage or shipment which they have reason to believe contain evidence of violations of the wildlife laws

(2) Any hindrance or interference to such search is prima facie evidence of a violation of law by parties who hindered or interfered, or attempted to hinder or interfere, in the search or examination

(3) If upon diligent search or inquiry or both, the person can discover evidence sufficient in the judgment of the person to secure a conviction, or

if the person has cause to believe the person has sufficient evidence to justify it, the person shall at once institute proceedings against the alleged offenders [Amended by 1971 c 658 §16, 1973 c 723 §26]

496.665 Issuance of search warrants; places searched; use and disposition of seized property. (1) Any court having jurisdiction of the offense, upon receiving proof or probable cause for believing in the concealment of any wildlife taken, killed or had in possession, under control, or shipped contrary to the wildlife laws, shall issue a search warrant and cause a search to be made in any place, and to that end cause any building, inclosure, car, automobile, boat, apartment, chest, box, parcel, crate or basket to be opened and the contents examined by any person authorized to enforce the wildlife laws

(2) All wildlife, or parts thereof, thus discovered shall be held by the commission as evidence against any party accused of the crime in connection therewith

(3) Upon conviction of the parties accused, such wildlife, or parts thereof, shall be disposed of by the commission. Any funds arising from the disposal shall become a part of the State Wildlife Fund [Amended by 1971 c 658 §17, 1973 c 723 §27]

496.670 Arrests and searches made on Sunday. The arrests and searches mentioned in ORS 496 645 and 496 660 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 week day following the arrest

496.675 Seizure without warrant by law enforcement personnel. The persons mentioned in ORS 496 645 may at any time, without warrant, seize and take possession of

(1) Any wildlife which has been caught, taken or killed, or had in possession or under control, which have been killed, had in possession or shipped, at any time, in any manner or for any purpose contrary to the wildlife laws

(2) Any guns, boats, fishing or other apparatus used for the purpose of hunting or fishing, at any time, in any manner or for any purpose contrary to the wildlife laws [Amended by 1971 c 658 §18, 1973 c 723 §28]

496.680 Seizure of unlawful devices and unlawfully taken wildlife; forfeiture and disposition. (1) All wildlife taken by, or in the possession of any person in violation of the wildlife laws, and all guns, boats, traps, fishing apparatus and implements used in angling, hunt-

ing or trapping or taking any wildlife in violation of the wildlife laws may be seized by any person authorized to enforce the wildlife laws, and may be forfeited

(2) If forfeited, such property shall be turned over to the commission by order of the court at the time of passing sentence or for forfeiture of bail for the violation

(3) The commission may dispose of such property in any manner it considers proper, but any moneys derived from the sale of any seized guns, boats, traps, fishing apparatus or implements shall be deposited in the State Wildlife Fund. Any wildlife taken in violation of the wildlife laws may be disposed of forthwith or used for food purposes, under rules of the commission, to prevent spoilage. [Amended by 1971 c 658 §19, 1973 c 723 §29]

496.685 [Repealed by 1971 c 743 §432]

496.690 Possession of wildlife as evidence of illegal taking. The fact that any person has any wildlife, or any part thereof, in possession when it is illegal to take or have same is prima facie evidence that such person killed such wildlife illegally. [Amended by 1971 c 658 §20]

496.695 Counseling, aiding or sharing in violation. Any person who counsels, aids or assists in any violation of the wildlife laws, or shares in any of the proceeds of such violation by receiving or possessing any wildlife, shall incur the penalties provided for the person guilty of such violation. [Amended by 1971 c 658 §21, 1973 c 723 §30]

496.700 Investigating violations; summoning witnesses. (1) Where the commission has been furnished information of the violation of any of the wildlife laws, the commission, or one especially authorized by it, may proceed to the place where the offense is said to have been committed and summon and examine under oath witnesses to ascertain the facts and to avoid useless and frivolous indictments or prosecutions

(2) Witnesses shall be paid by the commission from the State Wildlife Fund at the rate of \$5 per day and mileage from their places of residence at the rate of eight cents per mile

(3) No witness so summoned shall refuse to attend or testify under this section. [Amended by 1971 c 658 §22, 1973 c 723 §31]

496.705 Damage suits for unlawful killing of wildlife; jurisdiction of courts.

(1) The commission may institute suit for the recovery of damages for the unlawful taking or killing of any of the wildlife referred to in subsection

(2) of 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) Each game mammal other than mountain sheep, mountain goat, elk or silver gray squirrel, \$400

(b) Each mountain sheep or mountain goat, \$3,500

(c) Each elk, \$750

(d) Each silver gray squirrel, \$10

(e) Each game bird other than wild turkey, \$10

(f) Each wild turkey, \$50

(g) Each game fish other than salmon or steelhead trout, \$5

(h) Each salmon or steelhead trout, \$125

(i) Each fur-bearing mammal other than bobcat or fisher, \$50.

(j) Each bobcat or fisher, \$350

(k) Each specimen of any wildlife species whose survival is specified by the wildlife laws or the laws of the United States as threatened or endangered, \$500.

(L) Each specimen of any wildlife species otherwise protected by the wildlife laws or the laws of the United States, but not otherwise referred to in this subsection, \$25

(3) In any such action, the court shall award to the prevailing party, in addition to costs and disbursements, reasonable attorney fees

(4) Such civil damages shall be in addition to other penalties prescribed by the wildlife laws for the unlawful taking or killing of wildlife

(5) Any district or justice court has jurisdiction to try any case for the recovery of damages for the unlawful taking or killing of any of the wildlife as provided by this section. [Amended by 1961 c 343 §4, 1969 c 302 §1, 1973 c 723 §32, 1981 c 108 §1]

496.710 Compelling testimony in enforcement proceedings. In any action or proceeding for the enforcement of any of the provisions of the wildlife 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 subject 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 1971 c 658 §23, 1973 c 723 §33]

496.715 Disposition of fines and confiscation sale proceeds. (1) One-half of all fines imposed in justice courts as provided in the wildlife 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 One-half of all fines so imposed and collected in justice courts shall be paid to the Department of Revenue, which shall deposit the moneys in the State Wildlife Fund Of the fines so imposed and collected in district courts, one-half shall be deposited in the State Wildlife Fund and one-half shall be deposited in the General Fund 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 collected in justice courts under this section shall be made within the first 20 days of the month following the month in which collected [Amended by 1959 c 530 §8, 1961 c 391 §1, 1971 c 186 §5, 1973 c 723 §34, 1981 s s c 3 §115, 1983 c 763 §50]

PERMIT FOR WATER FOR HYDROELECTRIC PURPOSES

496.815 Definitions for ORS 496.815 to 496.825. As used in ORS 496 815 to 496 825

(1) "Department" means the State Department of Fish and Wildlife

(2) "Director" means the State Fish and Wildlife Director

(3) "Person" means an individual, corporation, association, firm, partnership, joint stock company, municipal corporations and all other political subdivisions of the State of Oregon The Federal Government or any of its agencies are specifically excluded [1985 c 674 §1]

496.820 Permit or license fee. (1) Any person applying for a permit to appropriate water for hydroelectric purposes under ORS 537 150 to 537 250 or any person applying for a preliminary permit or license under ORS 543 010 to 543 620 shall pay an administration fee of \$350 to the State Department of Fish and Wildlife

(2) If a person pays the administration fee under subsection (1) of this section at the time the person applies for a preliminary permit under ORS 543 210, the person shall not also be required to pay the fee when applying for a license

for the same project under ORS 543 010 to 543 620 [1985 c 674 §2]

496.825 Application fee; exception. (1) In addition to any other fee required by law, at the time the person applies to the Water Resources Department for a license to operate a hydroelectric project under ORS 543 010 to 543 620 or for a permit to appropriate water for hydroelectric purposes under ORS 537 150 to 537 230, the person shall pay to the director an application fee the amount of which shall be the greater of

(a) \$1,000, or

(b) Thirty-five cents for each kilowatt of proposed capacity of the project

(2) The director shall postpone the payment of the fee under subsection (1) of this section for a permit to appropriate water under ORS 537 150 to 537 230 until the person submits final plans and specifications for the project to the Water Resources Department under ORS 537 150

(3) Subsection (1) of this section shall not apply to any applicant for a permit or license for a project producing 100 theoretical horsepower or less [1985 c 674 §3]

496.830 Penalty fee. A person who fails to pay the fee required under section 4, chapter 674, Oregon Laws 1985, or the assessment under section 5, chapter 674, Oregon Laws 1985, or ORS 543 265 on the due date shall pay in addition to the assessed amount due, a penalty in the amount of one percent of the fee per month for the period that the fee is past due The director may bring an action to collect an unpaid fee or assessment in the name of the State of Oregon in the Circuit Court of Marion County or the circuit court of the county in which the project is located The director shall be entitled to recover all costs and attorney fees incurred in the legal action [1985 c 674 §7]

496.835 Oregon Fish and Wildlife Hydroelectric Fund. (1) There is created within the State Treasury a revolving fund known as the Oregon Fish and Wildlife Hydroelectric Fund, separate and distinct from the General Fund The moneys in this fund are continuously appropriated for use by the department in its activities related to hydroelectric projects including payment of necessary administrative expenses

(2) The fund created by subsection (1) of this section shall consist of all moneys received under sections 4 and 5, chapter 674, Oregon Laws 1985, ORS 496 820, 496 825 and 543 265

(3) Moneys in the fund may be invested as provided in ORS 293 701 to 293 776 Interest

from any source derived from the investment of the moneys of the fund shall be credited to the fund [1985 c 674 §8]

496.905 [1967 c 604 §1, 1969 c 59 §1, 1971 c 388 §3, 1973 c 723 §35, 1979 c 477 §11, renumbered 153 710]

496.910 [1967 c 604 §2, 1973 c 723 §36, 1979 c 477 §12, renumbered 153 705]

496.915 [1967 c 604 §3, 1973 c 723 §37, renumbered 153 715]

496.920 [1967 c 604 §4, 1973 c 723 §38, 1979 c 477 §13, renumbered 153 720]

496.925 [1967 c 604 §5, renumbered 153 725]

496.927 [1977 c 350 §2, 1979 c 477 §14, renumbered 153 730]

496.930 [1967 c 604 §6, renumbered 153 745]

496.935 [1967 c 604 §7, renumbered 153 750]

496.940 [1967 c 604 §8, renumbered 153 755]

496.945 [1967 c 604 §9, renumbered 153 760]

496.950 [1967 c 604 §10, renumbered 153 765]

PENALTIES

496.990 [Amended by 1967 c 523 §1, repealed by 1973 c 723 §130]

496.992 Penalties. (1) Except as otherwise provided by law, violation of any provision of the wildlife laws, or any rule promulgated pursuant thereto, is a Class A misdemeanor when the offense is committed with a culpable mental state as defined in ORS 161 085. If the defendant is sentenced to pay a fine, failure to pay the fine, or any portion thereof, shall be treated as provided in ORS 161 685.

(2) Except as otherwise provided by law, violation of any provision of the wildlife laws, or any rule promulgated pursuant thereto is punishable as a violation in the manner prescribed in ORS 161 635 when the offense is committed with no culpable mental state as defined in ORS 161 085.

(3) The second and each subsequent conviction within a 10-year period for the taking of game fish with a total value of \$200 or more or the taking of antelope, black bear, cougar, deer, elk, moose, mountain goat or mountain sheep in violation of the wildlife laws or any rule promulgated pursuant thereto which occurs more than one hour prior to or more than one hour subsequent to a season established for the lawful taking of such game mammals or game fish is a Class C felony when the offense is committed with a culpable mental state as defined in ORS 161 085 [1973 c 723 §39, 1975 c 578 §3, 1977 c 350 §3, 1977 c 353 §1, 1983 c 364 §1, 1985 c 372 §1]

