

# Chapter 508

## 1985 REPLACEMENT PART

### Licenses

	<b>GENERAL PROVISIONS</b>	508.450	Contents of license
508 006	Definitions	508 460	Oregon-Washington reciprocity on gillnet licenses
508 011	Activities relating to oysters exempted	508 465	Licenses nontransferable
	<b>WHEN LICENSE REQUIRED</b>	508 470	When licenses expire, renewal
508 025	License required to take or deal in fish	508 475	Failure to renew license for fixed fishing gear constitutes abandonment, exception for Armed Forces
508 030	License required for fishing gear	508 480	Failure to construct or install fishing gear held to be abandonment
508.035	Separate licenses required for certain fishing gear and activities	508.485	Revocation of license for violation of commercial fishing laws or rules
508 040	Unlawful knowingly to buy or receive fish from unlicensed person	508 490	Refusal to issue license within two years after second conviction
508 045	Exemption of retail fish dealers	508 495	Certificate in lieu of lost or destroyed license
	<b>PERMITS AND SPECIAL LICENSES</b>	508 500	Alteration, false application and multiple possession of licenses prohibited
508 106	Permit to take carp or other nongame fish		<b>POUNDAGE FEES</b>
508 111	Permit to take food fish for educational and scientific purposes	508.505	Additional fees on poundage, by whom paid, computation of weights, exemptions
508 116	Permit to take animals living intertidally on bottom	508 507	Additional poundage fee for fish bait dealers
508 121	Juvenile jig line license	508 510	Place where fish caught is immaterial, exceptions, special fee
	<b>LICENSES AND REGULATION OF LICENSEES</b>	508 515	Time of paying fees; report, interest on overdue fees, waiver or extension of payment
508 235	Commercial fishing license	508 520	Determination of disputes
508.240	Acts by commercial fishing licensee prohibited	508.525	Lien for unpaid fee; foreclosure, jurisdiction of courts
508 260	Boat license, plates, decals	508 530	Rules, reports, violation or falsification
508.265	Boat licensing constitutes registration for purposes of federal laws	508 535	Keeping record of food fish received and bought; inspection
508 270	Fishing, boat license fees in lieu of other taxes and licenses on crab pots, reports to county assessor	508 540	Failure to keep or submit records or to pay fee
508.285	License fees	508 550	Sale of albacore tuna, halibut and dungeness crab by holder of commercial fishing license, permit, payment of poundage fees
508.300	Albacore tuna landing license in lieu of other licenses		<b>SALMON HATCHERY PERMITS</b>
508 306	Fish bait dealer license, authority of commission to designate fish or shellfish bait	508 700	Permits for salmon hatcheries; fees
508 312	Commercial bait fishing license, license in lieu of commercial fishing and boat licenses	508 705	Hearing for permits
	<b>ISSUANCE, APPLICATION, CONTENTS, WHERE VALID, TRANSFERRING, TERM, LOCATION ABANDONMENT, FORFEITURE</b>	508.710	Grounds for denial of permit
508.406	Director or agent to issue and renew licenses	508 715	Conditions of permits
508 410	Contents of license applications	508 720	Altering terms of permits, findings, hearing, restoration of fish population
508 415	Bond, deposit for poundage fees		
508 445	Certificate evidence as to license issuance		

## COMMERCIAL FISHING AND FISHERIES

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- 508 725 Released fish as state property; consideration by commission of adverse economic impact on hatcheries
- 508 730 Disposal of salmon products
- 508.735 Application of chapter to taking and sale of salmon
- 508 737 Policy for marketing of salmon products
- 508 740 Authority under ORS 508 700 to 508 745
- 508.745 Disposition of moneys received under ORS 508 700 to 508 745

### RESTRICTED PARTICIPATION SYSTEMS

- 508 800 Roe-herring limited participation, terms, conditions, fees, procedure

### RESTRICTED VESSELL PERMIT SYSTEMS

(Ocean Troll Salmon Fishery)

(Temporary provisions relating to Ocean Troll Salmon Fishery, Ocean Pink Shrimp Fishery, Columbia River Gillnet Fishery and Ocean Scallop Fishery are compiled as notes following ORS 508 800 )

### CROSS REFERENCES

- Commercial fishing laws  
Definitions, 506 006 to 506 028

Generally, Chs 506 to 509, 511, 513  
Offense procedure, 153 705 to 153 765  
Penalty for violation, 506 991

Special permits

Lamprey eels, 509 600

Placing explosives and poisons in water, 509 130, 509 140

Specimens for educational and scientific purposes, 506 211

Water resources policy, state, compliance required, 536 300 to 536 400

### 508.011

Regulation of oysters and oyster beds, 509 505, 509 510, 622 210 to 622 300 and 622 320 to 622 350

### 508.025

Fishing rights of treaty Indians not affected, 506 045

### 508.475

"War veteran" defined, 174 105

### 508.700 to 508.745

Public report of fish hatchery activities, 506 231

Salmon and trout enhancement, limitation in regard to permittees, 496 455

Use of electric shock for capturing adult salmonids prohibited, 506 226

**GENERAL PROVISIONS**

**508.005** [Repealed by 1965 c 570 §152]

**508.006 Definitions.** The definitions prescribed by ORS 506 001 to 506 025 apply to this chapter [1965 c 570 §58]

**508 010** [Repealed by 1965 c 570 §152]

**508.011 Activities relating to oysters exempted.** This chapter does not apply to oysters or to any activity of any person relating to oysters. [1965 c 570 §59b]

**508 015** [Amended by 1963 c 246 §3, repealed by 1965 c 570 §152]

**508 020** [Amended by 1953 c 656 §6, 1961 c 374 §1, repealed by 1963 c 246 §4 (508 021 enacted in lieu of 508 020)]

**508 021** [1963 c 246 §5 (enacted in lieu of 508 020), repealed by 1965 c 570 §152]

**WHEN LICENSE REQUIRED**

**508.025 License required to take or deal in fish.** (1) It is unlawful for any person, without first procuring a license from the commission, to:

(a) Take food fish in any of the waters of this state for commercial purposes or land food fish in this state for commercial purposes.

(b) Buy, sell or otherwise deal in food fish for commercial purposes

(c) Process or can food fish for commercial purposes

(2) In a prosecution under this section, it is no defense that a person did take the person's own food fish for commercial purposes [1965 c 570 §60]

**508.030 License required for fishing gear.** It is unlawful for any individual to operate, or leave in a condition to take food fish in any of the waters of this state, any fishing gear used in taking food fish, without first obtaining from the director or the authorized agent of the director such license as may be prescribed by this chapter. The license must be in the possession of such individual at the time the fishing gear is being used [1965 c 570 §61]

**508.035 Separate licenses required for certain fishing gear and activities.** (1) Separate licenses are required for each:

(a) Person other than an employe operating as a canner of food fish

(b) Person other than an employe operating as a wholesale fish dealer, for each separate place of business.

(c) Individual acting or engaged as a fish buyer by a person licensed under paragraph (a) or (b) of this subsection

(d) Person licensed under paragraph (a) or (b) of this subsection, for each permanent site or location operated by such person as a fish-buying station

(e) Individual taking or assisting in the taking of food fish for commercial purposes as described in ORS 508.235.

(f) Boat, used in taking food fish for commercial purposes, as described in ORS 508 260

(g) Single delivery of food fish from the Pacific Ocean for commercial purposes in the absence of licenses under paragraphs (e) and (f) of this subsection

(h) Person other than an employe operating as a fish bait dealer, for each separate place of business

(1) Individual taking or assisting in the taking of food fish for sale to a fish bait dealer

(2) The commission shall classify and define the various licenses provided for in this section and shall direct the director to issue licenses accordingly and the classification shall be final [1965 c 570 §62, 1969 c 172 §1, 1971 c 540 §4, 1973 c 768 §19]

**508.040 Unlawful knowingly to buy or receive fish from unlicensed person.** It is unlawful for a wholesaler, canner or buyer to buy or receive food fish from a person who the wholesaler, canner or buyer does not have reasonable cause to believe is licensed as required under ORS 508 035, unless such person is exempt from the requirements of ORS 508 035 [1965 c 570 §62a]

**508.045 Exemption of retail fish dealers.** Notwithstanding ORS 508.025 and 508 035, no license is required to handle or deal in food fish and shellfish for human consumption as a retail fish dealer. [1965 c 570 §63, 1969 c 172 §2, 1971 c 540 §5]

**PERMITS AND SPECIAL LICENSES**

**508 105** [Amended by 1955 c 176 §1, 1963 c 246 §6, repealed by 1965 c 570 §152]

**508.106 Permit to take carp or other nongame fish.** (1) Upon receiving a written application therefor, accompanied by a fee of \$3, the commission may issue to any person a permit to take carp or other nongame fish

(2) The kind or kinds of fish, the method to be used and the name and location of the body of water from which the fish are to be taken, shall be specified in the permit

(3) After having obtained a permit as provided for in subsection (1) of this section, and subject to any rules of the commission, any person may take carp or nongame fish from any of the waters of this state described in the permit

(4) It is unlawful to

(a) Retain any fish other than described in the permit in connection with the use of any permit issued under subsection (1) of this section, and any other fish taken shall at once be set free, or

(b) Take any fish for commercial purposes by a permit issued under subsection (1) of this section without first having obtained a license under ORS 508 035 [1965 c 570 §64, 1973 c 768 §12, 1975 c 253 §30]

**508 110** [Amended by 1963 c 246 §7, repealed by 1965 c 570 §152]

**508.111 Permit to take food fish for educational and scientific purposes.** The director may issue to any person a permit to take food fish solely for educational and scientific purposes [1965 c 570 §64a]

**508 115** [Repealed by 1961 c 156 §1]

**508.116 Permit to take animals living intertidally on bottom.** (1) The director may issue to any person a permit to take animals living intertidally on the bottom

(2) It is unlawful to take animals living intertidally on the bottom for commercial purposes by a permit issued under subsection (1) of this section without first having obtained a license under ORS 508 035 [1965 c 570 §64b]

**508.120** [Amended by 1963 c 246 §8, repealed by 1965 c 570 §152]

**508.121 Juvenile jig line license.** (1) Any juvenile may secure from the commission free of charge a juvenile jig line license to take herring, pilchard, perch, anchovies and candlefish by a hand or jig line and to sell such fish so taken by the juvenile to a wholesale fish dealer or a fish bait dealer

(2) As used in this section, "juvenile" means any individual 17 years of age or younger as of January 1 of the year for which the license is issued

(3) The license, for the purposes authorized in this section, is in lieu of the commercial fisherman and boat licenses required under ORS 508 235 and 508 260 [1965 c 103 §2, 1971 c 540 §8]

**508 125** [Amended by 1963 c 246 §9, repealed by 1965 c 570 §152]

**508 130** [Amended by 1959 c 128 §1, repealed by 1963 c 246 §12]

**508 135** [Amended by 1963 c 246 §10, repealed by 1965 c 570 §152]

**508.140** [Repealed by 1963 c 246 §12]

**508 145** [Repealed by 1963 c 246 §12]

**508 147** [1955 c 238 §2, repealed by 1963 c 246 §12]

**508 150** [Repealed by 1963 c 246 §12]

**508 152** [1955 c 238 §3, repealed by 1963 c 246 §12]

**508 155** [Amended by 1953 c 656 §6, repealed by 1963 c 246 §12]

**508.160** [Amended by 1955 c 167 §1, repealed by 1963 c 246 §12]

**508.165** [Repealed by 1963 c 246 §12]

**508.170** [Repealed by 1963 c 246 §12]

**508 175** [Repealed by 1963 c 224 §7]

**508 180** [Amended by 1953 c 656 §6, 1959 c 401 §1, 1961 c 374 §2, 1963 c 224 §1, repealed by 1965 c 570 §152]

**508 185** [Repealed by 1963 c 224 §7]

**508.190** [Amended by 1963 c 224 §2, repealed by 1965 c 570 §152]

**508.195** [Amended by 1953 c 656 §6, repealed by 1961 c 374 §4]

**508 200** [Amended by 1963 c 224 §3, repealed by 1965 c 570 §152]

**508.205** [Repealed by 1963 c 224 §7]

**508 210** [Repealed by 1963 c 224 §7]

**508 215** [Amended by 1963 c 224 §4, repealed by 1965 c 570 §152]

**508 220** [Amended by 1955 c 177 §1, repealed by 1963 c 224 §7]

**508 223** [1963 c 246 §2, repealed by 1965 c 570 §152]

**508.225** [Amended by 1955 c 279 §1, 1957 c 134 §1, repealed by 1965 c 570 §152]

**508 230** [Amended by 1963 c 224 §5, 1965 c 570 §83, renumbered 508 290]

## LICENSES AND REGULATION OF LICENSEES

### 508.235 Commercial fishing license.

(1) A commercial fishing license must be obtained by each individual who, for commercial purposes

(a) Takes or assists in the taking of any food fish from the waters or land of this state,

(b) Operates or assists in the operation of any boat or fishing gear for the taking of food fish in the waters of this state, or

(c) Lands food fish from the waters of the Pacific Ocean at any point in this state.

(2) A commercial fishing license must be in the possession of the licensee, when engaged in the taking or landing of commercial fish, and is

required in addition to any other license under this chapter [1965 c 570 §77]

**508.240 Acts by commercial fishing licensee prohibited.** It is unlawful for any person licensed to take food fish for commercial purposes, as required under ORS 508 035, to

(1) Keep any food fish the person takes under such license for personal use, or

(2) Sell any food fish the person takes under such license to other than a wholesaler, canner, fish bait dealer or buyer licensed as required under ORS 508.035 [1965 c 570 §77a, 1971 c 540 §6]

**508.245** [1965 c 570 §78, repealed by 1973 c 768 §20]

**508 246** [1977 c 245 §2, repealed by 1979 c 679 §13]

**508.250** [1965 c 570 §79, repealed by 1973 c 768 §20]

**508.255** [1965 c 570 §80, repealed by 1973 c 768 §20]

**508 257** [1969 c 172 §7, repealed by 1973 c 768 §20]

**508.260 Boat license; plates; decals.**

(1) A boat license must be obtained by the owner or operator of any boat used in taking food fish or shellfish for commercial purposes except for the taking of clams or crayfish

(2) A pair of decals bearing the last two numbers of the year for which the license is issued shall be included with the license for placement on the licensed boat

(3) In accordance with rules promulgated by it, the commission shall assign a number to each licensed boat and shall designate the size, location and manner of placement of the number and license year decal on the boat [1965 c 570 §81, 1973 c 768 §13, 1975 c 756 §1]

**508.265 Boat licensing constitutes registration for purposes of federal laws.**

The licensing of any boat pursuant to this chapter to take food fish for commercial purposes from the waters of this state or land food fish from the waters of the Pacific Ocean at any point in this state shall constitute registration of such vessel under the laws of this state for the purposes of section 306(a) of the Fishery Conservation and Management Act of 1976 (Act of April 13, 1976, 90 Stat 331) [1977 c 202 §2]

**508.270 Fishing, boat license fees in lieu of other taxes and licenses on crab pots; reports to county assessor.** (1) Either the commercial fishing license required by ORS 508.235 or the boat license required by ORS 508 260 is in lieu of all taxes and licenses on crab pots used by a person so licensed or used in connection with a boat so licensed.

(2) Crab pots shall be reported to the county assessor by each owner and listed for ad valorem

taxation, but if the owner of such crab pots furnishes documentary proof to the assessor, not later than May 15 of each year, that the owner possesses a current commercial fishing license under ORS 508.235 or that the boat of the owner is currently licensed under ORS 508 260, the assessor shall cancel any assessment made by the assessor of crab pots used by such person or used in connection with such person's licensed boat [1969 c 649 §2]

**508.285 License fees.** (1) The fee for each license required by this chapter is as follows

Albacore tuna landing license, \$10

Boat license, \$170

Commercial fishing license, \$40

Commercial fishing license for resident persons 18 years of age or younger, \$25

Commercial bait fishing license, \$25

Fish buyer license, \$50

Fish bait dealer license, \$25

Food fish canner license, \$300

Shellfish canner license, \$200

Single delivery license, \$75

Wholesale fish dealer license, \$100

(2) As used in this section "resident" means an actual bona fide resident of this state for at least one year prior to application for a license [1965 c 570 §82, 1969 c 172 §3, 1971 c 540 §7, 1973 c 768 §14, 1975 c 756 §2, 1977 c 245 §3, 1979 c 679 §11]

**508 290** [Formerly 508 230, 1967 c 322 §2, repealed by 1975 c 130 §2 and 1975 c 253 §40]

**508.300 Albacore tuna landing license in lieu of other licenses.**

Notwithstanding any other provision of this chapter, the only license required for landing albacore tuna from the waters of the Pacific Ocean at any point in this state is an albacore tuna landing license [1973 c 768 §17]

**508 305** [Amended by 1957 s s c 9 §1, 1963 c 197 §1, 1965 c 310 §1, renumbered 508 505]

**508.306 Fish bait dealer license; authority of commission to designate fish or shellfish bait.**

(1) Any person may obtain a fish bait dealer license to purchase food fish directly from a commercial fisherman licensed under ORS 508 235 or commercial bait fisherman licensed under ORS 508.312, for retail sale as fish or shellfish bait

(2) The commission by regulation may designate those species of food fish or parts thereof which may not be used for fish or shellfish bait [1971 c 540 §2]

508 310 [Amended by 1965 c 570 §86, renumbered 508 515]

**508.312 Commercial bait fishing license; license in lieu of commercial fishing and boat licenses.** (1) Any individual may obtain a commercial bait fishing license to take food fish for sale to a fish bait dealer licensed under ORS 508 306

(2) The license for the purpose authorized in this section is in lieu of the commercial fishing and boat licenses required under ORS 508 235 and 508 260 [1971 c 540 §3]

508 315 [Repealed by 1965 c 570 §152]

508 320 [Amended by 1963 c 197 §2, 1965 c 310 §2, renumbered 508 510]

508 325 [Renumbered 508 520]

508 330 [Renumbered 508 525]

508.335 [Amended by 1965 c 570 §87, renumbered 508 530]

508 340 [Amended by 1961 c 373 §1, 1963 c 197 §3, 1965 c 570 §88, renumbered 508 535]

508 345 [Amended by 1961 c 373 §2, 1965 c 570 §89, renumbered 508 540]

508 350 [Renumbered 508 545]

508 355 [Repealed by 1963 c 197 §4]

508 360 [Repealed by 1963 c 197 §4]

### ISSUANCE, APPLICATION, CONTENTS, WHERE VALID, TRANSFERRING, TERM, LOCATION ABANDONMENT, FORFEITURE

508 405 [Amended by 1963 c 196 §1, repealed by 1965 c 570 §65 (508 406 enacted in lieu of 508 405)]

**508.406 Director or agent to issue and renew licenses.** The director or the authorized agent of the director shall issue or renew any license required by the commercial fishing laws to a qualified person upon proper application and payment of the license fee required by ORS 508 285 [1965 c 570 §66 (enacted in lieu of 508 405)]

508 407 [Repealed by 1965 c 570 §152]

**508.410 Contents of license applications.** All applications for licenses under ORS 508 406 shall be made on blanks furnished by the director and shall contain such information as the commission determines to be necessary for proper administration and enforcement of the commercial fishing laws [Amended by 1957 c 208 §1, 1963 c 196 §2, 1965 c 570 §67]

508.413 [1963 c 246 §1, repealed by 1965 c 67 §4]

**508.415 Bond, deposit for poundage fees.** (1) In case of license applications by canners or wholesalers, the director, in addition to

license fees provided by law, may exact from the applicant a bond from a corporate surety, authorized to do business in this state, guaranteeing the payment of poundage fees, if the director considers such action is necessary to insure compliance with ORS 508.505 to 508 540

(2) In lieu of any bond that may be required under subsection (1) of this section, any applicant may deposit with the commission, under such terms and conditions as the director may prescribe, a like amount of lawful money of the United States. The commission shall turn over to the State Treasurer for safekeeping all such deposits so received. [Amended by 1963 c 196 §3, 1965 c 570 §68, 1969 c 52 §1]

508 420 [Amended by 1955 c 168 §1, 1963 c 196 §4, repealed by 1965 c 570 §152]

508.425 [Amended by 1961 c 168 §1, repealed by 1965 c 570 §152]

508 430 [Amended by 1963 c 196 §5, repealed by 1965 c 570 §152]

508 435 [Amended by 1961 c 181 §1, repealed by 1965 c 570 §152]

508.440 [Repealed by 1961 c 233 §1]

**508.445 Certificate evidence as to license issuance.** In all prosecutions requiring proof as to the issuance or nonissuance of a license by the director under any of the laws of this state, the certificate of the director as to the issuance or nonissuance of the license by the director shall be sufficient proof on that question to establish the fact This certificate shall be admitted in evidence as to the issuance or nonissuance of the license in any such prosecution

**508.450 Contents of license.** Each license issued under ORS 508 406 shall be numbered and dated by the director or an authorized agent and contain the site or address where the appliance or business is located and the name of the person to whom the license is granted [Amended by 1957 c 132 §1, 1963 c 196 §6]

508 455 [Amended by 1955 c 122 §1, repealed by 1965 c 570 §152]

**508.460 Oregon-Washington reciprocity on gillnet licenses.** All gillnet licenses issued by the States of Oregon and Washington are valid as to the waters of the Columbia River in Oregon and Washington, as though issued by the department of fisheries of either state The department of fisheries of each state or the officials who have charge of issuing licenses shall furnish to each other the names of licensees and the number of the licenses, without cost or expense to either state

**508.465 Licenses nontransferable.** Licenses may not be transferred from one licensee to another.

**508.470 When licenses expire; renewal.** All licenses for which fees are provided for under ORS 508 285 unless otherwise specified in law expire as of midnight, December 31, following the dates of their issuance, and shall be renewed annually thereafter upon application and payment of fees required therefor [Amended by 1959 c 123 §1, 1961 c 374 §3, 1963 c 196 §7, 1965 c 570 §71, 1977 c 245 §4, 1979 c 679 §12]

**508.475 Failure to renew license for fixed fishing gear constitutes abandonment; exception for Armed Forces.**

The failure to renew the license, or make application therefor, for any location for a fixed fishing gear in any of the waters of this state, on January 1 of any year, constitutes abandonment of the location. However, any licensee entering the Armed Forces of the United States during any period which would qualify the licensee under the laws of this state as a war veteran is not deemed to have abandoned such location or gear so licensed, either by reason of absence from the location during such service or by failure to renew the license as required. Such licensee may file application for renewal of the license at any time following the date of release from the Armed Forces of the United States, until January 1 of the following year, and shall have preference over other persons therefor [Amended by 1965 c 570 §72]

**508.480 Failure to construct or install fishing gear held to be abandonment.**

Should the holder of any license neglect to construct or install at the site the fishing gear called for by the license during two consecutive years covered by the license, the location shall be deemed abandoned. [Amended by 1965 c 570 §73]

**508.485 Revocation of license for violation of commercial fishing laws or rules.**

The commission may, in its discretion, revoke for the remainder of the license year any license issued to such person under the authority of the commission or the director, and in its discretion may refuse the issuance of any license issued under the authority of the commission or director during any period not to exceed one year from the date of the conviction or forfeiture of bail

(1) Upon conviction within this state of any person of violation of any of the commercial fishing laws or rules or upon forfeiture of bail on account of one of such offenses,

(2) Upon receiving notice from the agency that regulates commercial fishing in the State of Washington of the conviction of any person in that state of an offense which was a violation of Columbia River commercial fishing rules adopted

pursuant to the Columbia River Compact and which if committed in this state would be grounds for license revocation pursuant to subsection (1) of this section, or

(3) Upon conviction within this state of any person for violation of ORS 498 022, or any rule promulgated pursuant thereto, involving game fish, through the use of a license issued pursuant to the commercial fishing laws, or upon forfeiture of bail in connection with such an offense [Amended by 1965 c 570 §74, 1971 c 569 §1, 1977 c 350 §6]

**508.490 Refusal to issue license within two years after second conviction.**

The commission may, in its discretion, refuse the issuance of any license issued under the authority of the commission or the director during any period not to exceed two years from the date of the most recent conviction

(1) Upon conviction within this state of any person of violation of any of the commercial fishing laws or rules after such person has once been convicted and penalized under ORS 508 485, or

(2) Upon receiving notice from the agency that regulates commercial fishing in the State of Washington of the conviction of any person in that state of an offense which was a violation of Columbia River commercial fishing rules adopted pursuant to the Columbia River Compact and which if committed in this state would be grounds for refusal to issue a license pursuant to subsection (1) of this section. [Amended by 1965 c 570 §75, 1977 c 350 §7]

**508.495 Certificate in lieu of lost or destroyed license.**

Upon the receipt of a fee of \$2 and the filing of an affidavit that a license issued under authority of ORS 508 406 has been lost or destroyed, the director or the authorized agent of the director shall issue a certificate that such license has been issued and has been lost or destroyed. Except as provided in ORS 508 260, the certificate may be used in lieu of the lost or destroyed license [1957 c 140 §1, 1965 c 570 §76, 1973 c 768 §18]

**508.500 Alteration, false application and multiple possession of licenses prohibited.** No person shall

(1) Alter, borrow or loan to any other person any license or permit issued by the department

(2) In applying for a license or permit issued by the department knowingly make any false statement of any information required by the application regarding the person in whose name the license or permit is to be issued.

(3) Possess any license or permit that has been altered, borrowed or loaned or for which any

false statements were knowingly made in applying therefor [1981 c 365 §20]

### POUNDAGE FEES

**508.505 Additional fees on poundage; by whom paid; computation of weights; exemptions.** (1) Additional fees shall be collected by the director in the amount prescribed by this section, except as provided in ORS 508 510 Every person operating within the state as a canner, buyer or wholesaler of any food fish or shellfish shall pay, in addition to all other licenses or fees provided by law

(a) 5 cents per pound on each species of salmon or incidental catch of steelhead trout except chum salmon,

(b) 0 8 cent per pound on striped bass and sturgeon,

(c) 0 6 cent per pound on chum salmon, crabs and clams gross weight in the shell,

(d) 0 3 cent per pound on shad and smelt,

(e) 0 35 cent per pound on albacore tuna,

(f) 0 5 cent per pound on halibut and shrimp,  
(g) For all other food fish except hake or Pacific whiting, 0 3 cent per pound, and

(h) For all other shellfish, 0 3 cent per pound, received or purchased by such canner, buyer or wholesaler

(2) All weights for computing poundage fees under this section shall be whole or round weights unless otherwise specified

(3) Only fresh or frozen in the round or dressed food fish or shellfish are subject to the poundage fees provided in this section "Dressed" includes but is not limited to beheaded, gutted, filleted, loined or shucked However, frozen food fish or frozen shellfish received in a wrapped package to which a legible label is stamped or printed showing the name, address, brand or trade name of the original processor or wholesale distributor under which the package is marketed and the kind of frozen food fish or frozen shellfish contained therein, for distribution and ultimate sale in the original package are not subject to poundage fees [Formerly 508 305, 1969 c 172 §4, 1971 c 243 §1, 1973 c 768 §15, 1979 c 378 §1]

**508.507 Additional poundage fee for fish bait dealers.** (1) Notwithstanding the provisions of ORS 508 505 (1), an additional fee of one cent per pound shall be paid on all species of food fish received or purchased by a fish bait dealer

(2) The provisions of ORS 508 510, 508 515, 508 520, and 508 525 shall apply to the poundage fee required under subsection (1) of this section [1971 c 540 §10]

**508.510 Place where fish caught is immaterial; exceptions; special fee.** (1) The poundage fee provided for in ORS 508 505 shall be paid irrespective of where the fish were caught However, poundage fees shall not be paid on any food fish or shellfish brought into this state after having been landed

(a) In another state, territory or possession of the United States, and upon or in regard to which a tax or fee has been levied and collected in the other state, territory or possession, or

(b) In another country

(2) Notwithstanding ORS 508 505, there shall be paid a poundage fee of 0 05 cent per pound on all food fish or shellfish brought into this state after having been landed in another state, territory or possession of the United States, and upon or in regard to which a tax or fee has not been levied and collected in the other state, territory or possession [Formerly 508 320]

**508.515 Time of paying fees; report; interest on overdue fees; waiver or extension of payment.** (1) The poundage fee required by ORS 508 505 shall be paid to the director on or before the 20th day of each calendar month for the preceding calendar month

(2) The fee shall be accompanied by a report showing the total number of pounds of all varieties of food fish, stated separately upon blanks furnished by the director

(3) In the event that such poundage fee is not paid within the time for payment provided in subsection (1) of this section, there shall be added as a late payment charge a sum equal to five percent of the unpaid poundage fees or \$5, whichever is greater, and there shall be charged an interest rate of one percent per month until the principal and interest is paid

(4) Notwithstanding subsection (1), (2) or (3) of this section, the commission may waive or extend payment of any poundage fees required by ORS 508 505 or 508 507 amounting to less than \$10 during any calendar year [Formerly 508 310, 1971 c 243 §2, 1981 c 646 §5]

**508.520 Determination of disputes.** It is the intention that only one poundage fee shall be collected for each pound of fish purchased or received, and in order that this end may be accomplished the commission and the director may determine finally any dispute arising out of the operation and enforcement of ORS 508 505. [Formerly 508 325]

**508.525 Lien for unpaid fee; foreclosure; jurisdiction of courts.** The poundage fee required by ORS 508.505 constitutes a first lien upon the cannery, packing plant, scow, boat and its equipment used in the canning, receiving or transporting of the fish. This lien may be foreclosed by the commission in the name of the state by a suit in equity in the circuit court of the county in which the property upon which a lien is given by this section is situated. If situated in two or more counties the court first acquiring jurisdiction of a part of the property shall have jurisdiction of all the property described in such foreclosure suit [Formerly 508 330]

**508.530 Rules; reports; violation or falsification.** (1) The commission may make such rules and require such reports to be made as, in its judgment, are necessary to insure the collection and payment of the poundage fee required by ORS 508 505

(2) It is unlawful for any person to falsify any of the reports or to violate any of the rules made or required by the commission [Formerly 508 335]

**508.535 Keeping record of food fish received and bought; inspection.** (1) Every fish canner, fish buyer, retail fish dealer, fish bait dealer or wholesale fish dealer shall keep a record, of all food fish received and bought, in accordance with rules promulgated by the commission. Such information may be required as is necessary to enable the commission to carry out its duties of conservation, protection, administration or enforcement under the commercial fishing laws without imposing undue hardship on the licensees

(2) At least one copy of this record shall be kept.

(a) On each boat, vessel, scow, pickup boat or other craft, truck, automobile, motor vehicle or other vehicle of any kind whatsoever used in buying, receiving or transporting the fish

(b) By the canner, buyer, retailer, fish bait dealer or wholesaler

(3) This record is subject to inspection by the commissioners, the director, the authorized agent of the director, or any duly authorized police officer. This record shall be transmitted to the office of the director at such times and in such manner as the commission directs

(4) Every person shall always keep open to inspection by the commission or its agent any books, records, papers or memoranda which are pertinent to the administration of ORS 508 505 to 508 540. For the purpose of ascertaining the correctness of any poundage fee record or report

or the number of pounds of fish upon which the additional poundage fee is based or such other information as may be necessary to the administration of ORS 508 505 to 508 540, the commission or its agent may inspect such books, records, papers or memoranda

(5) Restaurants licensed under ORS 624 020 shall keep a record of all fresh or frozen fish received or bought while such fish are in the restaurant's possession. This record shall be subject to inspection by the commissioners, the director, the authorized agent of the director, or any duly authorized police officer. An invoice or receipt shall be adequate for the purposes of this subsection [Formerly 508 340, 1969 c 172 §5, 1971 c 540 §11, 1973 c 437 §1, 1977 c 242 §5]

**508.540 Failure to keep or submit records or to pay fee.** (1) In addition to the penalty prescribed by ORS 506 991, failure on the part of any person to keep the record required by ORS 508.535 or failure of such person to submit the books, records, papers or memoranda of the person for inspection, pursuant to ORS 508 535 (4), to any member of the commission or any of its representatives presenting written authority from the commission is good and sufficient reason for the commission to order the director to suspend or revoke the license granted to such person

(2) Any person failing to pay the poundage fee required shall be denied a renewal of such license or the issuance of any other license which may be issued by the director [Formerly 508 345]

**508 545** [Formerly 508 350, repealed by 1973 c 794 §34]

**508.550 Sale of albacore tuna, halibut and dungeness crab by holder of commercial fishing license; permit; payment of poundage fees.** Notwithstanding any other provision of this chapter, a person who holds a valid Oregon commercial fishing license may sell albacore tuna, halibut and dungeness crab taken in lawful commercial fishing activity directly from the license holder's boat, subject to the following conditions

(1) The person must first obtain from the commission a permit for such sales, the fee for which is \$10

(2) The person must pay the poundage fees required as prescribed in ORS 508 505 to 508 540, or in such other manner as the commission by rule may prescribe

(3) The person must first register with the commission a port and dock location from which such sales are to be conducted [1985 c 533 §2]

508 605 [Repealed by 1961 c 232 §1]

508 610 [Repealed by 1961 c 232 §1]

508 615 [Repealed by 1961 c 232 §1]

508 620 [Repealed by 1961 c 232 §1]

508 625 [Repealed by 1961 c 232 §1]

508 630 [Repealed by 1961 c 232 §1]

508 635 [Amended by 1957 c 462 §1, repealed by 1961 c 232 §1]

508 640 [Repealed by 1961 c 232 §1]

508 645 [Amended by 1957 c 462 §2, repealed by 1961 c 232 §1]

508 650 [Repealed by 1961 c 232 §1]

508 655 [Repealed by 1961 c 232 §1]

### SALMON HATCHERY PERMITS

**508.700 Permits for salmon hatcheries; fees.** (1) The commission may issue a permit, subject to such restrictions and regulations as the commission deems desirable, to any person to construct and operate a hatchery for

(a) Chinook salmon, also known as *Oncorhynchus tshawytscha*, or

(b) Chum salmon, also known as *Oncorhynchus keta* or dog salmon, or

(c) Silver salmon, also known as *Oncorhynchus kisutch* or coho salmon, or

(d) Pink salmon, also known as *Oncorhynchus gorbuscha* or humpback salmon.

(2) The application for a permit to construct and operate a chum salmon, chinook salmon, silver salmon, or pink salmon hatchery shall include an application fee of \$100 [1971 c 203 §1, 1973 c 356 §1, 1979 c 556 §1]

**508.705 Hearing for permits.** (1) Prior to issuance of any permit by the commission, a public hearing shall be held. Notice of the hearing shall be published at least once and at least 10 days prior to the hearing in a newspaper of general circulation in each of the counties in which the hearing is to be held, or if no such newspaper is published in that county or counties, then such a newspaper in an adjoining county

(2) The hearing shall be conducted by either the commission or a representative designated by the commission [1971 c 203 §2, 1975 c 253 §31]

**508.710 Grounds for denial of permit.** No permit shall be issued

(1) Which may tend to deplete any natural run of anadromous fish or any population of resident game fish.

(2) Which may result in waste or deterioration of fish

(3) If the proposed operation is to be located on the same stream or river or tributary thereof on which a state or federal fish culture facility is established or is planned to be established

(4) If the proposed operation is not consistent with sound resource management and is not in close proximity to the ocean

(5) If the commission determines the applicant does not have the financial capability to successfully construct and operate the hatchery or may not properly conduct the operation authorized under the permit [1971 c 203 §3]

**508.715 Conditions of permits.** Any permit granted by the commission pursuant to ORS 508 700 to 508 745 shall contain at least the following conditions:

(1) All propagated fish released into state waters shall be marked annually at no less than the level of marking of the same species of fish by hatcheries operated by the commission for the purpose of determining contributions to ocean fisheries

(2) Prior to release into state waters, the fish must be subject to examination by a qualified fish pathologist approved by the commission to determine that they are not diseased or infected with any disease which in the opinion of the commission may be detrimental to the state fishery resources. Cost of such examination shall be paid by the permittee. No fish shall be released without written approval from the commission. The commission may require diseased fish to be destroyed. The commission shall not suffer civil or criminal liability for any fish destroyed under this section

(3) The permittee may be authorized by the commission to divert all fish returning to the stream to an inspection area, the location of such area to be approved by the commission, to examine all fish for the purpose of identifying propagated fish

(4) Notwithstanding the provisions of ORS chapters 509 and 511, the permittee shall have the right to take for commercial purposes, only those fish the commission determines were propagated by the permittee, and the commission's decision is final

(5) It shall be unlawful for the permittee to select stocks of fish or to genetically alter the life history or habits of propagated fish in a way the department determines is inconsistent with the provisions of ORS 496 012 or 506 109.

(6) It shall be unlawful for the permittee to conduct any activity not authorized by the permit or fail to conduct activities required by the permit without approval of the commission

(7) The permittee shall pay all reasonable costs incurred by the commission as a result of the operation of the private hatchery [1971 c 203 §5, 1979 c 556 §5, 1985 c 529 §1]

**508.720 Altering terms of permits; findings; hearing; restoration of fish population.** (1) If the commission finds that the operation described in the permit is not in the best public interest, it may alter the conditions of the permit to mitigate such adverse effects or may cause an orderly termination of the operation under the permit. Proceedings to cause such alteration or termination shall be conducted in accordance with ORS 183 310 to 183 550. An orderly termination shall not exceed a four-year period and shall culminate in the revocation of the permit in its entirety. During this period the permittee may continue to examine and take specified propagated chum salmon, chinook salmon, silver salmon or pink salmon according to the provisions of the permit but may not release additional fish

(2) If the commission finds the operation has caused deterioration of the natural run of anadromous fish or any population of resident game fish in the waters covered by the permit, it may require the permittee to return the fish populations to the same condition that existed prior to issuance of the permit. If the permittee fails to take appropriate action, the commission may take such action and the permittee shall bear any cost incurred by the commission [1971 c 203 §6, 1973 c 356 §2, 1975 c 253 §32, 1979 c 556 §2]

**508.725 Released fish as state property; consideration by commission of adverse economic impact on hatcheries.**

(1) All fish released under ORS 508 700 to 508 745 during the time they are in the wild will be the property of the state and may be taken under angling or commercial fishing laws of this state until they return to the private hatchery

(2) In carrying out the provisions of ORS 496 162 or 506 129, the commission shall not consider evidence of or argument regarding the prospect of adverse economic impact on the activities of hatcheries for which permits have been issued unless the commission determines that it is necessary in order to comply with the policies set forth in ORS 496 012 or 506 109 [1971 c 203 §4, 1979 c 335 §1]

**508.730 Disposal of salmon products.**

The commission, after first assuring all natural and artificial fish production needs of this state have been met, including the needs of the salmon and trout enhancement program and the needs of all federal and other state fish culture facilities located on the Columbia River and its tributaries, may provide at a reasonable fee chum salmon, chinook salmon, silver salmon or pink salmon or the sexual products therefrom to any person granted a permit by the commission pursuant to ORS 508 700 to 508 745 [1971 c 203 §7, 1973 c 356 §3, 1979 c 556 §3, 1981 c 317 §9]

**508.735 Application of chapter to taking and sale of salmon.** The provisions of this chapter shall apply to the taking and sale of chum salmon, chinook salmon, silver salmon or pink salmon artificially reared under any permit granted by the commission pursuant to ORS 508 700 to 508 745 [1971 c 203 §8, 1973 c 356 §4, 1979 c 556 §4]

**508.737 Policy for marketing of salmon products.** It is the policy of the State of Oregon that all holders of permits issued pursuant to ORS 508 700 to 508 745 are encouraged to market salmon products obtained pursuant to permit activities in such manner as to promote the development and growth of locally based industries and to provide the maximum benefit to the economy of this state [1979 c 556 §7]

**508.740 Authority under ORS 508.700 to 508.745.** (1) Nothing in ORS 508 700 to 508 745 is intended to give the permittee any equity in any of the waters or fish of the state

(2) Nothing in ORS 508 700 to 508 745 shall imply an intent to permit commercial fishing in any rivers south of the mouth of the Columbia River except as provided in ORS 508 715 (4) [1971 c 203 §§9, 10]

**508.745 Disposition of moneys received under ORS 508.700 to 508.745.**

All moneys received by the commission under ORS 508.700 to 508.745 except those under ORS 508.735 shall be paid over to the State Treasurer to be held in a suspense account established under ORS 293.445. After the payment of costs of administration incurred by the commission in carrying out the provisions of ORS 508 700 to 508 745, that portion of the balance of the moneys in this suspense account as of the end of each fiscal year shall be deposited to the General Fund for general governmental purposes [1971 c 203 §11]

## RESTRICTED PARTICIPATION SYSTEMS

**508.800 Roe-herring limited participation; terms; conditions; fees; procedure.** (1) Notwithstanding any other provision of the commercial fishing laws, in order to provide a roe-herring commercial fishery with optimum profits to those engaged in the fishery and to prevent a concentration of fishing effort that would deplete the resource, the commission, by rule, shall establish a system for limiting participation in the roe-herring commercial fishing. Any such system may include, but is not limited to, provisions on the following matters:

(a) Establishment of criteria for initial entry into fishery participation and for annual qualification for participation thereafter

(b) Establishment of participation fees, in an amount not to exceed \$1

(c) Establishment of terms and conditions for transferring participation rights

(2) Any determination by the department regarding the eligibility of a person to participate in the roe-herring commercial fishery or to transfer participation rights is subject to review by the Commercial Fishery Permit Board, in accordance with ORS 183 310 to 183 550. Orders issued by the board are not subject to review by the commission, but may be appealed as provided in ORS 183 480 to 183 550 [1983 c 419 §2]

## RESTRICTED VESSEL PERMIT SYSTEMS

### (Ocean Troll Salmon Fishery)

**Note** Sections 1 to 9 and 11, chapter 613, Oregon Laws 1979, provide

**Sec 1** Sections 2 to 11 of this Act are added to and made a part of ORS chapter 508 [1979 c 613 §1]

**Sec 2** (1) Notwithstanding any other provision of the commercial fishing laws, it is unlawful for an individual to operate a vessel in the ocean troll salmon fishery without first obtaining a vessel permit issued pursuant to sections 2 to 11, chapter 613, Oregon Laws 1979

(2) Notwithstanding any other provision of the commercial fishing laws, it is unlawful for a wholesaler, canner or buyer to buy or receive salmon taken in the ocean troll fishery from a vessel for which the permit required by subsection (1) of this section has not been issued

(3) The permit required by subsection (1) of this section is in addition to and not in lieu of the boat license required by ORS 508 260 [1979 c 613 §2, 1981 c 365 §1]

**Sec 3** Except as provided in section 8 of this 1979 Act, an individual is eligible to obtain the vessel permit required by section 2 of this 1979 Act only if

(1) The vessel for which application is made was licensed pursuant to this chapter during at least one year during calendar years 1974-1978 and was used in the ocean troll

salmon fishery during the time licensed to take at least one salmon which was landed in this state, or

(2) The commercial fishing vessel for which application is made was under construction as a commercial fishing vessel designed to be used in the ocean troll fishery or was the subject of a written contract for construction as a commercial fishing vessel designed to be used in the ocean troll fishery during calendar years 1974-1978 [1979 c 613 §3]

**Sec 4** An individual who obtained the permit required by section 2, chapter 613, Oregon Laws 1979, for a particular calendar year is eligible to obtain renewal of the permit in a subsequent calendar year, upon application and payment of the fees therefor, if during the preceding calendar year the vessel for which permit renewal application is made was used in the ocean troll salmon fishery to take at least one salmon which was lawfully landed in this state or in the State of Alaska, Washington or California [1979 c 613 §4, 1981 c 43 §5]

**Sec 5** In making determinations regarding issuance or renewal of the permits required by section 2 of this 1979 Act, the department and the Commercial Fishery Permit Board may consider as evidence of permit qualifications or requirements department records and such receipts, accounts, contracts and other business records of private parties as the department or the board considers reliable evidence of the qualifications or requirements in question [1979 c 613 §5]

**Sec 6** The Commercial Fishery Permit Board may revoke and refuse subsequent issuance of a permit required by section 2 of this 1979 Act in the manner provided in ORS 508 485 and 508 490 [1979 c 613 §6]

**Sec 7** (1) The annual fee for the vessel permit required by section 2, chapter 613, Oregon Laws 1979, is \$1

(2) Applications shall be in such form and contain such information as the department, by rule, may prescribe [1979 c 613 §7, 1981 c 43 §1]

**Sec 8.** If all individuals with vessels meeting the requirements of section 4, chapter 613, Oregon Laws 1979, fail to obtain a permit during a particular calendar year, the department shall in the next succeeding calendar year issue permits by a lottery system for vessels that do not meet such requirements. However, the number of such permits issued in a particular calendar year shall not increase the number of all licenses and permits issued so that the total number issued exceeds the number of boat licenses issued pursuant to ORS 508 260 for boats that participated in the ocean troll salmon fishery during calendar year 1978 [1979 c 613 §8, 1981 c 365 §2]

**Note** Section 4, chapter 797, Oregon Laws 1983, provides

**Sec 4** Notwithstanding section 8, chapter 613, Oregon Laws 1979, a lottery system for the issuance of ocean troll salmon vessel permits shall not be implemented until after January 1, 1988 [1983 c 797 §4]

**Sec 9** (1) The vessel permit required by section 2, chapter 613, Oregon Laws 1979, is transferable

(a) To a replacement vessel of the permit holder

(b) To the purchaser of the vessel when the vessel is sold

(2) Notwithstanding subsection (1) of this section, upon request of a permit holder, the department may authorize

transfer of a permit to a replacement vessel owned by an individual other than the permit holder. However, any transfer of a permit away from a vessel without the written consent of each person holding a security interest in such vessel is void.

(3) Notwithstanding any other provision of this section, a vessel permit is transferable to a vessel of greater capability only if

(a) The individual who owns the vessel to which the permit is transferred was the holder of a vessel permit required by section 2, chapter 613, Oregon Laws 1979, prior to August 8, 1983, and either

(b) The vessel to which the permit is transferred is of new construction and has never been used in any commercial fishery, or

(c) The vessel to which the permit is transferred is one for which a vessel permit required by section 2, chapter 613, Oregon Laws 1979, has been issued prior to August 8, 1983

(4) The Commercial Fishery Permit Board may specify a formula for determining the capability of a vessel using any or all of the following factors

(a) The size of the vessel

(b) The horsepower of the vessel engine

(c) The ability of the vessel to operate in adverse weather

(d) The electronic and other fishing gear with which the vessel is equipped

(e) The fish holding capacity of the vessel [1979 c 613 §9, 1981 c 365 §3, 1983 c 797 §5, 1985 c 159 §1]

**Sec 11** (1) An individual whose application for issuance, renewal or transfer of the permit required by section 2, chapter 613, Oregon Laws 1979, is denied by the department may make written request to the Commercial Fishery Permit Board for review of the denial. The review provided in this subsection is in lieu of any such review by the department or the commission. The request shall be in such form and shall contain such information as the board considers appropriate.

(2) In accordance with any applicable provision of ORS 183 310 to 183 550, the board shall review the eligibility of individuals whose application for permits were denied by the department. Orders issued by the board are not subject to review by the commission, but may be appealed as provided in ORS 183 480 to 183 550. The board may waive eligibility requirements for permits if the board finds that the individual for personal or economic reasons chose to actively commercially fish the permit vessel in some other ocean fishery during the salmon season or if the board finds that the individual fails to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(3) In accordance with any applicable provision of ORS 183 310 to 183 550, the board may promulgate such rules as it considers necessary to carry out its duties, functions and powers.

(4) The board may delegate to the department its authority to waive eligibility requirements for permits.

(5) Notwithstanding any other provision of law, without the prior approval of the Commercial Fishery Permit Board, an ocean troll salmon vessel permit acquired as a result of a

waiver of eligibility pursuant to subsection (2) of this section may not be transferred to another vessel until the vessel for which the permit was issued has been used in the ocean troll salmon fishery for two or more calendar years [1979 c 613 §11, 1981 c 365 §4, 1983 c 797 §6]

**Note** Section 21, chapter 365, Oregon Laws 1981, provides

**Sec. 21** Notwithstanding chapter 613, Oregon Laws 1979, a vessel not having a permit may in an emergency and with the approval of the department land salmon by purchase of a single delivery license [1981 c 365 §21]

**(Ocean Pink Shrimp Fishery)**

**Note** Sections 12 to 25, chapter 613, Oregon Laws 1979, provide

**Sec 12** Sections 13 to 22 of this Act are added to and made a part of ORS chapter 508 [1979 c 613 §12]

**Sec 13** (1) Notwithstanding any other provision of the commercial fishing laws, it is unlawful for an individual to operate a vessel in the ocean pink shrimp fishery without first obtaining a vessel permit issued pursuant to sections 13 to 22, chapter 613, Oregon Laws 1979.

(2) Notwithstanding any other provision of the commercial fishing laws, it is unlawful for a wholesaler, canner or buyer to buy or receive pink shrimp (*Pandalus jordani*) taken in the ocean pink shrimp fishery from a vessel for which the permit required by subsection (1) of this section or the license required by section 14, chapter 613, Oregon Laws 1979, has not been issued.

(3) The permit required by subsection (1) of this section is in addition to and not in lieu of the boat license required by ORS 508 260 [1979 c 613 §13, 1981 c 365 §5]

**Sec 14** Notwithstanding section 13 of this 1979 Act, an individual who holds valid commercial fishing permits required by or issued pursuant to the laws of another state may land pink shrimp in this state that were taken in the ocean pink shrimp fishery without the permit required by section 13 of this 1979 Act if the individual obtains a single delivery license referred to in ORS 508 285 [1979 c 613 §14]

**Sec. 15.** Except as provided in section 20 of this 1979 Act, an individual is eligible to obtain the vessel permit required by section 13 of this 1979 Act only if

(1) The vessel for which application is made was licensed pursuant to this chapter during at least one year during the period January 1, 1974, to June 30, 1979, and was used in the ocean pink shrimp fishery during the time licensed to take at least 5,000 pounds of pink shrimp which were landed in this state, or

(2) The commercial fishing vessel for which application is made was under construction as a commercial fishing vessel designed to be used in the ocean pink shrimp fishery or was the subject of a written contract for purchase or construction as a commercial fishing vessel designed to be used in the ocean pink shrimp fishery during the period January 1, 1978, to June 30, 1979 [1979 c 613 §15]

**Sec 16** (1) An individual who obtained the permit required by section 13, chapter 613, Oregon Laws 1979, for a particular calendar year is eligible to obtain renewal of the permit in a subsequent calendar year, upon application and

payment of the fees therefor, if during the preceding calendar year the vessel for which permit renewal application is made was used in the ocean pink shrimp fishery to take at least 5,000 pounds of pink shrimp which were lawfully landed in this state

(2) A permit shall be renewed upon application if the vessel is used primarily for educational purposes even though it fails to meet the catch requirement [1979 c 613 §16, 1981 c 365 §6, 1985 c 453 §1]

**Sec 17** In making determinations regarding issuance or renewal of the permits required by section 13 of this 1979 Act, the department and the Commercial Fishery Permit Board may consider as evidence of permit qualifications or requirements department records and such receipts, accounts, contracts and other business records of private parties as the department or the board considers reliable evidence of the qualifications or requirements in question [1979 c 613 §17]

**Sec 18** The Commercial Fishery Permit Board may revoke and refuse subsequent issuance of a permit required by section 13 of this 1979 Act in the manner provided in ORS 508 485 and 508 490 [1979 c 613 §18]

**Sec 19** (1) The annual fee for the vessel permit required by section 13, chapter 613, Oregon Laws 1979, is \$1

(2) Applications shall be in such form and contain such information as the department, by rule, may prescribe [1979 c 613 §19, 1981 c 43 §2]

**Sec 20** If all individuals with vessels meeting the requirements of section 16, chapter 613, Oregon Laws 1979, fail to obtain a permit during a particular calendar year, the department shall issue permits by a lottery system for vessels that do not meet such requirements. However, the number of such permits issued in a particular calendar year shall not increase the number of all licenses and permits issued so that the total number issued exceeds the number of boat licenses issued pursuant to ORS 508 260 for boats that participated in the ocean pink shrimp fishery during calendar year 1978 [1979 c 613 §20, 1981 c 365 §7]

**Sec 21** (1) The vessel permit required by section 13, chapter 613, Oregon Laws 1979, is transferable

(a) To a replacement vessel of the permit holder

(b) To the purchaser of the vessel when the vessel is sold

(2) Notwithstanding subsection (1) of this section, upon request of a permit holder, the department may authorize transfer of a permit to a replacement vessel owned by an individual other than the permit holder. However, any transfer of a permit away from a vessel without the written consent of each person holding a security interest in such vessel is void [1979 c 613 §21, 1981 c 365 §8]

**Sec 22** (1) An individual whose application for issuance or renewal of the permit required by section 13, chapter 613, Oregon Laws 1979, is denied by the department may make written request to the Commercial Fishery Permit Board for review of the denial. The review provided in this subsection is in lieu of any such review by the department or the commission. The request shall be in such form and shall contain such information as the board considers appropriate

(2) In accordance with any applicable provision of ORS 183 310 to 183 550, the board shall review the eligibility of individuals whose application for permits were denied by the

department. Orders issued by the board are not subject to review by the commission, but may be appealed as provided in ORS 183 480 to 183 550. The board may waive eligibility requirements for permits if the board finds that the individual for personal or economic reasons chose to actively commercially fish the permit vessel in some other ocean fishery during the pink shrimp season or if the board finds that the individual fails to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control

(3) In accordance with any applicable provision of ORS 183 310 to 183 550, the board may promulgate such rules as it considers necessary to carry out its duties, functions and powers

(4) The board may delegate to the department its authority to waive eligibility requirements for permits

(5) Notwithstanding any other provision of law, without the prior approval of the Commercial Fishery Permit Board, an ocean pink shrimp vessel permit acquired as a result of a waiver of eligibility pursuant to subsection (2) of this section may not be transferred to another vessel until the vessel for which the permit was issued has been used in the ocean pink shrimp fishery for two or more calendar years [1979 c 613 §22, 1981 c 365 §9]

**Sec 24** This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and sections 10, 11 and 23 of this Act take effect July 1, 1979. Sections 1 to 9 and 12 to 22 of this Act take effect January 1, 1980 [1979 c 613 §24]

**Sec 25** Chapter 613, Oregon Laws 1979, is repealed January 1, 1988 [1979 c 613 §25, 1981 c 365 §10, 1983 c 797 §1]

**Note** Section 22, chapter 365, Oregon Laws 1981, provides

**Sec 22** (1) The Commercial Fishery Permit Board is authorized to receive applications and issue ocean pink shrimp vessel permits for 1982 to trawl vessel owners for those vessels that did not qualify for or receive an ocean pink shrimp permit in 1980, if the board finds that the vessel has been actively engaged in Oregon's groundfish fishing since January 1, 1974, or entered that fishery subsequent to January 1, 1974, but prior to July 1, 1979, and has continued to be actively engaged in that Oregon fishery

(2) Notwithstanding any other provision of law, without the prior approval of the Commercial Fishery Permit Board, an ocean pink shrimp vessel permit acquired pursuant to subsection (1) of this section may not be transferred to another vessel until the vessel for which the permit was issued has been used in the ocean pink shrimp fishery for two or more calendar years [1981 c 365 §22]

### (Columbia River Gillnet Fishery)

**Note** Sections 1 to 10 and 14, chapter 679, Oregon Laws 1979, provide

**Sec 1** Sections 2 to 10 of this Act are added to and made a part of ORS chapter 508 [1979 c 679 §1]

**Sec 2** (1) Notwithstanding any other provision of the commercial fishing laws, it is unlawful for an individual to operate a vessel in the Columbia River gillnet salmon fishery

without first obtaining a vessel permit issued pursuant to sections 2 to 10, chapter 679, Oregon Laws 1979. However, an individual who holds valid commercial fishing licenses and vessel permits required by and issued pursuant to the laws of the State of Washington for commercial salmon fishing in the Columbia River may land salmon in this state that were taken in the Columbia River gillnet salmon fishery without the permit otherwise required by this subsection.

(2) Notwithstanding any other provision of the commercial fishing laws, it is unlawful for a wholesaler, canner or buyer to buy or receive salmon taken in the Columbia River gillnet fishery from an individual who does not have the permit required by subsection (1) of this section.

(3) The permit required by subsection (1) of this section is in addition to and not in lieu of the boat license required by ORS 508 260 [1979 c 679 §2, 1981 c 365 §1].

**Sec 3** An individual is eligible to obtain the vessel permit required by section 2, chapter 679, Oregon Laws 1979, only if

(1) The vessel for which application is made was licensed pursuant to this chapter during at least one year during calendar years 1977-1978 and was used in the Columbia River gillnet salmon fishery during the time licensed to take salmon which were landed in this state, or

(2) The vessel for which application is made was under construction as a commercial fishing vessel designed to be used in the gillnet salmon fishery or there is satisfactory evidence that the vessel was the subject of a contract or agreement for construction as a commercial fishing vessel designed to be used in the gillnet salmon fishery during calendar years 1977-1978 [1979 c 679 §3, 1981 c 365 §40].

**Sec 4** An individual who obtained the permit required by section 2, chapter 679, Oregon Laws 1979, for a particular calendar year is eligible to obtain renewal of the permit in a subsequent calendar year, upon application and payment of the fees therefor, if during the preceding calendar year the vessel for which permit renewal application is made was used in the Columbia River gillnet salmon fishery to take salmon which were lawfully landed in this state or the State of Washington [1979 c 679 §4, 1981 c 365 §12].

**Sec 5** In making determinations regarding issuance or renewal of the permits required by section 2 of this 1979 Act, the department and the Commercial Fishery Permit Board may consider as evidence of permit qualifications or requirements department records and such receipts, accounts, contracts and other business records of private parties as the department or the board consider reliable evidence of the qualifications or requirements in question [1979 c 679 §5].

**Sec 6** The board may revoke and refuse subsequent issuance of a permit required by section 2 of this 1979 Act in the manner provided in ORS 508 485 and 508 490 [1979 c 679 §6].

**Sec 7** (1) The annual fee for the vessel permit required by section 2, chapter 679, Oregon Laws 1979, is \$1.

(2) Applications shall be in such form and contain such information as the department, by rule, may prescribe [1979 c 679 §7, 1981 c 43 §3].

**Sec 9** (1) The vessel permit required by section 2, chapter 679, Oregon Laws 1979, is transferable.

- (a) To a replacement vessel of the permit holder
- (b) To the purchaser of the vessel when the vessel is sold

(2) Notwithstanding subsection (1) of this section, upon request of a permit holder, the department may authorize transfer of a permit to a replacement vessel owned by an individual other than the permit holder. However, any transfer of a permit away from a vessel without the written consent of each person holding a security interest in such vessel is void [1979 c 679 §9, 1981 c 365 §14].

**Sec 10** (1) An individual whose application for issuance or renewal of the permit required by section 2, chapter 679, Oregon Laws 1979, is denied by the department may make written request to the Commercial Fishery Permit Board for review of the denial. The review provided in this subsection is in lieu of any such review by the department or the commission. The request shall be in such form and shall contain such information as the board considers appropriate.

(2) In accordance with any applicable provision of ORS 183 310 to 183 550, the board shall review the eligibility of individuals whose application for permits were denied by the department. Orders issued by the board are not subject to review by the commission, but may be appealed as provided in ORS 183 480 to 183 500. The board may waive eligibility requirements for permits if the board finds that the individual for personal or economic reasons chose to actively commercially fish in some other fishery during the Columbia River gillnet salmon seasons or if the board finds that the individual fails to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(3) In accordance with any applicable provision of ORS 183 310 to 183 550, the board may promulgate such rules as it considers necessary to carry out its duties, functions and powers.

(4) The board may delegate to the department its authority to waive eligibility requirements for permits.

(5) Notwithstanding any other provision of law, without the prior approval of the Commercial Fishery Permit Board, a Columbia River gillnet salmon vessel permit acquired as a result of a waiver of eligibility pursuant to subsection (2) of this section may not be transferred to another vessel until the vessel for which the permit was issued has been used in the Columbia River gillnet salmon fishery for two or more calendar years [1979 c 679 §10, 1981 c 365 §15].

**Sec 14** This Act takes effect January 1, 1980 [1979 c 679 §14].

### (Ocean Scallop Fishery)

**Note** Sections 24 to 35, chapter 365, Oregon Laws 1981, provide

**Sec. 24.** Sections 25 to 34 of this Act are added to and made a part of ORS chapter 508 [1981 c 365 §24].

**Sec. 25** (1) Notwithstanding any other provision of the commercial fishing laws, it is unlawful for an individual to operate a vessel in the ocean scallop fishery without first obtaining a vessel permit issued pursuant to sections 25 to 34 of this 1981 Act.

(2) Notwithstanding any other provision of the commercial fishing laws, it is unlawful for a wholesaler, canner or buyer to buy or receive scallops taken in the ocean fishery

from a vessel for which the permit required by subsection (1) of this section has not been issued

(3) The permit required by subsection (1) of this section is in addition to and not in lieu of the boat license required by ORS 508 260 [1981 c 365 §25]

**Sec 26** (1) Notwithstanding section 25 of this 1981 Act, an individual who holds valid commercial fishing permits required by or issued pursuant to the laws of the states of Washington or California may land scallops in this state that were taken in the ocean fishery without the permit required by section 25 of this 1981 Act if the individual obtains a single delivery license referred to in ORS 508 285

(2) This section remains operative only while laws or administrative rules in California and Washington are operative that contain, in substance or effect, provisions similar to the provisions of subsection (1) of section 25 of this 1981 Act [1981 c 365 §26]

**Sec 27** Except as provided in section 32 of this 1981 Act, an individual is eligible to obtain the vessel permit required by section 25 of this 1981 Act only if

(1) The vessel for which application is made was licensed pursuant to this chapter prior to the effective date of this 1981 Act and was used in the ocean fishery during the time licensed to take at least 10 pounds of food fish which were landed in this state, or

(2) The commercial fishing vessel for which application is made was under construction during the calendar year 1981 as a commercial fishing vessel designed to be used in the ocean fishery or was the subject of a written contract for construction during the calendar year 1981 as a commercial fishing vessel designed to be used in the ocean fishery [1981 c 365 §27]

**Sec 28** An individual who obtained the permit required by section 25 of this 1981 Act for calendar year 1981 is eligible to obtain renewal of the permit in a subsequent calendar year, upon application and payment of the fees therefor, if during the preceding calendar year the vessel for which permit renewal application is made was used in the ocean fishery to take at least 10 pounds of food fish which were lawfully landed in this state [1981 c 365 §28]

**Sec 29.** In making determinations regarding issuance or renewal of the permits required by section 25 of this 1981 Act, the department and the Commercial Fishery Permit Board may consider as evidence of permit qualifications or requirements department records and such receipts, accounts, contracts and other business records of private parties as the department or the board considers reliable evidence of the qualifications or requirements in question [1981 c 365 §29]

**Sec 30.** The Commercial Fishery Permit Board may revoke and refuse subsequent issuance of a permit required by section 25 of this 1981 Act in the manner provided in ORS 508 485 and 508 490 [1981 c 365 §30]

**Sec 31** The annual fee for the vessel permit required by section 25 of this 1981 Act is \$1 [1981 c 365 §31]

**Sec. 32** If all individuals with vessels meeting the requirements of section 28 of this 1981 Act fail to obtain a permit during a particular calendar year, the department in the next succeeding calendar year shall issue permits by a lottery system for vessels that do not meet such requirements. However, the number of such permits issued in a particular

calendar year shall not increase the number of all licenses and permits issued so that the total number issued exceeds the number of boat licenses issued pursuant to ORS 508 260 for boats that participated in the ocean scallop fishery during calendar year 1981 [1981 c 365 §32]

**Sec 33** Notwithstanding any other provision of law, without the prior approval of the Commercial Fishery Permit Board, an ocean scallop vessel permit issued pursuant to sections 25 to 34 of this 1981 Act may not be transferred to another vessel until the vessel for which the permit was issued has been used in the ocean scallop fishery for three or more calendar years [1981 c 365 §33]

**Sec 34** (1) Notwithstanding paragraphs (b) and (c) of subsection (6) of section 10 of chapter 613, Oregon Laws 1979, an individual whose application for issuance or renewal of the permit required by section 25 of this 1981 Act is denied by the department may make written request to the Commercial Fishery Permit Board for review of the denial. The review provided in this subsection is in lieu of any such review by the department or the commission. The request shall be in such form and shall contain such information as the board considers appropriate

(2) In accordance with any applicable provision of ORS 183 310 to 183 550, the board shall review the eligibility of individuals whose application for permits were denied by the department. Orders issued by the board are not subject to review by the commission, but may be appealed as provided in ORS 183 480 to 183 550. The board may waive eligibility requirements for permits if the board finds that the individual for personal or economic reasons chooses to actively fish the permit vessel in some other ocean fishery or if the board finds that the individual fails to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control

(3) In accordance with any applicable provision of ORS 183 310 to 183 550, the board may promulgate such rules as it considers necessary to carry out its duties, functions and powers

(4) The board may delegate to the department the authority to waive eligibility requirements for permits [1981 c 365 §34]

**Sec 35** Sections 25 to 34, chapter 365, Oregon Laws 1981, are repealed January 1, 1988 [1981 c 365 §35, 1983 c 797 §2]

### (Commercial Fishery Permit Board)

**Note** Section 10, chapter 613, Oregon Laws 1979, provides

**Sec 10** (1) There is established within the State Department of Fish and Wildlife the Commercial Fishery Permit Board. The board shall consist of members appointed by the commission as follows

(a) Three members shall be chosen to represent the Columbia River gillnet salmon fishing industry

(b) Three members shall be chosen to represent the ocean troll salmon fishing industry

(c) Three members shall be chosen to represent the ocean pink shrimp fishing industry

(d) Three members shall be chosen to represent the Yaquina Bay roe-herring fishing industry

(e) Two members shall be chosen to represent the public

(2) A member of the board shall receive no compensation for services as a member. However, subject to any applicable law regulating travel and other expenses of state officers and employees, a member shall be reimbursed for travel and other expenses incurred in the performance of official duties

(3) The board shall select such officers, for such terms and with such duties and powers as the board considers necessary for the performance of those offices

(4) A majority of the members of the board constitutes a quorum for the transaction of business

(5) The board shall meet at such times and places as may be determined by the chairman or by a majority of the members of the board

(6) Notwithstanding any other provision of law

(a) Members of the board representing the Columbia River gillnet salmon fishing industry shall participate in actions of the board only on matters arising under chapter 679, Oregon Laws 1979

(b) Members of the board representing the ocean troll salmon fishing industry shall participate in actions of the board only on matters arising under sections 2 to 11, chapter 613, Oregon Laws 1979

(c) Members of the board representing the ocean pink shrimp fishing industry shall participate in actions of the board only on matters arising under sections 13 to 22, chapter 613, Oregon Laws 1979

(d) Members of the board representing the Yaquina Bay roe-herring fishing industry shall participate in actions of the board only on matters arising under ORS 508 800 [1979 c 613 §10, 1983 c 419 §3]

**508 990** [Amended by 1961 c 231 §1, repealed by 1965 c 570 §152]

