



**Oregon Administrative Rules
Oregon Department of Fish and Wildlife**

Sardine Fishery

635-004-0012 (New Rule)

Catching Vessel

(1) A catching vessel is defined as a vessel issued a permit pursuant to OAR 635-006-1035 through OAR 635-006-1095 that lawfully deployed purse seine gear during the current year and pumped resultant catch onboard the same vessel for delivery to a port of landing or fish dealer.

(2) Only a catching vessel may pump fish onboard, directly from the pursed seine of another catching vessel, and lawfully land that catch.

(3) Any catching vessel involved in pumping fish from the pursed seine of another catching vessel must have onboard legal seine gear capable of catching sardine including, but not limited to seine net, skiff, and pumping gear. All gear must be in working order.

(4) Any catching vessels involved in pumping fish from a pursed seine with other catching vessels shall document in the logbooks required under OAR 635-006-1110 the vessel that made the set, any other vessel pumping fish from the pursed seine, as well as all appropriate information on catch and location.

(5) No more than 20% of the landings made by a catching vessel may contain fish pumped from pursed seines of other catching vessels.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129

635-004-0016

Harvest Guideline

(1) This rule incorporates, by reference, the sardine management measures for 2009[2006] included in the Pacific Council list of decisions for the November 2008[2005] Pacific Fishery Management Council meeting, and in addition to the extent they are consistent with these rules, Code of Federal Regulations, Title 50 Part 660, as amended to incorporate the standards recommendations of the Pacific Council. Therefore, persons must consult the Federal Regulations in addition to this rule to determine all applicable sardine fishing requirements. Where regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone.

(2) Notwithstanding the management measures in section (1) above, effective 12:01 a.m. February 20, 2009, the directed fishery for Pacific sardines is closed through June 30, 2009.

(3) For the purposes of permit renewal in OAR 635-006-1075 the federal coastwide maximum harvest guideline referenced in section (1) above is 66,932 metric tons.

[Publications: Publications references are available from the agency.]

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 and ORS 506.129

635-004-0017 (New Rule)

Inclusions and Modifications

(1) OAR Chapter 635, Division 004, modifies or is in addition to provisions contained in Code of Federal Regulations, Title 50, Part 660.

(2) The Code of Federal Regulations (CFR), Title 50, Part 660, provides requirements for commercial sardine fishing in the Pacific Ocean. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 and 506.129



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635-006-1015

Requirement for Permit

(1) The following provide general requirements for permits:

(a) Gillnet salmon - see ORS 508.775;

(b) Troll salmon - see ORS 508.801 and 508.828;

(c) Shrimp - see ORS 508.880 and 508.883;

(d) Scallop - see ORS 508.840 and 508.843;

(e) Roe-herring:

(A) It is *unlawful* for an individual to operate a vessel in the Yaquina Bay roe-herring fishery without first obtaining a vessel permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner or buyer to buy or receive roe-herring taken in the Yaquina Bay roe-herring fishery from a vessel for which the permit required by section (1)(e) of this rule has not been issued.

(f) Sea Urchin:

(A) It is *unlawful* for an individual to take or attempt to take sea urchins for commercial purposes without first obtaining a permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner, or buyer to buy or receive sea urchins taken in the sea urchin fishery from a person for which the permit required by section (1)(f) of this rule has not been issued.

(g) Ocean Dungeness crab:

(A) Except as provided under the reciprocity provisions of ORS 508.941(3), it is *unlawful* for an individual to operate a vessel in the ocean Dungeness crab fishery without first obtaining a vessel permit issued pursuant to ORS 508.931 or 508.941. A Dungeness crab vessel permit is not required for vessels that are engaged solely in setting gear for a permitted vessel and which do not retrieve, retain or possess Dungeness crab.

(B) If the Oregon Fish and Wildlife Commission (Commission) establishes a vessel crab pot limitation or allocation system beyond the 2002-03 ocean crab season, August 14, 2001 is the control date for eligibility criteria related to past participation in the ocean fishery.

(C) In addition to certifying that the vessel is free of crab on November 30 each year, as required by OAR 635-005-0045(1), each vessel operator must declare and certify on the Oregon hold inspection certification form the maximum number of pots that will be used in that season's fishery before fishing.

(D) A single delivery license may not be substituted for an ocean Dungeness crab permit. Once a vessel has obtained an ocean Dungeness crab permit, Dungeness crab may be landed by the vessel using a combination of an ocean Dungeness crab permit and a single delivery permit in lieu of a commercial fishing and boat license. However, crab may not be landed more than twice in any one crab season using single delivery permits.

(E) Effective December 1, 2006, the number of crab pots allocated to a permit required under section (A) above will be determined as follows:

(i) The allocation will be based on documented landings of Ocean Dungeness crab into Oregon, Washington (excluding landings from the Puget Sound Fishery), or California, using valid Oregon fish receiving tickets, or equivalent valid documents from the states of Washington or California, from December 1, 1995 through August 14, 2001;

(ii) The crab pot allocation will be the highest number of pots the vessel qualifies for during the six qualifying seasons, December 1 of one year through September 15 of the next year (except through August 14, in 2001);

(iii) A crab pot allocation of 200 shall be assigned to a permit with landings less than 15,020 pounds in the 1995 to 1996 season, and 4,010 pounds in the 1996 to 1997 season, and 5,170 pounds in the 1997 to 1998 season, and 7,083 pounds in the 1998 to 1999 season, and 13,160 pounds in the 1999 to 2000 season, and 8,940 pounds in the 2000 to 2001 season;

(iv) A crab pot allocation of 300 shall be assigned to a permit with minimum landings of 15,020 pounds in the 1995 to 1996 season, or 4,010 pounds in the 1996 to 1997 season, or 5,170 pounds in the 1997 to 1998 season, or 7,083 pounds in the 1998 to 1999 season, or 13,160 pounds in the 1999 to 2000 season, or 8,940 pounds in the 2000 to 2001 season; and

(v) A crab pot allocation of 500 shall be assigned to a permit with minimum landings of 89,020 pounds in the 1995 to 1996 season, or 35,180 pounds in the 1996 to 1997 season, or 39,350 pounds in the 1997 to 1998 season, or 49,450 pounds in the 1998 to 1999 season, or 78,400 pounds in the 1999 to 2000 season, or 37,030 pounds in the 2000 to 2001 season.

(h) Developmental Fisheries: See ORS 506.450 through ORS 506.465 and OAR 635-006-0800 through 635-006-0950.

(i) July 1, 2001 is the control date to establish eligibility criteria for the purpose of future limited entry programs for the commercial groundfish fishery.

(j) Black rockfish / blue rockfish / nearshore fishery -- see ORS 508.945.



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(k) Brine Shrimp:

(A) It is *unlawful* to take or attempt to take brine shrimp for commercial purposes without first obtaining a brine shrimp fishery permit issued pursuant to OAR 635-006-1035 through OAR 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner, or buyer to buy or receive brine shrimp taken in the brine shrimp fishery from a person for which the permit required by this rule has not been issued.

(C) The Oregon Department of Fish and Wildlife (Department) may issue no more than three permits required by section (1)(k) of this rule.

(l) Bay clam dive fishery:

(A) It is *unlawful*:

(i) To take or attempt to take bay clams, using dive gear, for commercial purposes from subtidal areas in any Oregon estuary without first obtaining a coast-wide bay clam dive fishery permit issued pursuant to OAR 635-006-1025 through OAR 635-006-1095;

(ii) To take or attempt to take bay clams, using dive gear, for commercial purposes from subtidal areas in Oregon estuaries south of Heceta Head without first obtaining a south-coast bay clam dive fishery permit issued pursuant to OAR 635-006-1025 through OAR 635-006-1095;

(iii) For a wholesaler, canner, or buyer to buy or receive bay clams taken in the bay clam dive fishery from a vessel or person not issued the permit required by this rule.

(iv) To take or attempt to take bay clams where more than two divers operating from any one boat were in the water at the same time or where more than two persons without permits, excluding persons authorized by the Department for the performance of official duties, were on board any boat while harvesting, possessing, or transporting bay clams.

(B) The Department may not issue more than ten coast-wide permits required by section (1)(l)(A)(i) of this rule and five south-coast permits required by (1)(l)(A)(ii) of this rule.

(C) Permits may be issued to individuals or to vessels, designated at the beginning of the year. Designation may not change during the year.

(m) Sardine fishery:

(A) It is *unlawful* for an individual to operate a vessel in the Sardine fishery without first obtaining a vessel permit issued pursuant to OAR 635-006-1035 through OAR 635-006-1095. The sardine fishery permit is not required for vessels to retain sardines as incidental catch in other fisheries.

(B) It is *unlawful* for a wholesaler, canner or buyer to buy or receive sardines taken in the Sardine fishery from a vessel for which the permit required by section (1)(m)(A) of this rule has not been issued.

(C) The Department may issue not more than 26 permits required by section (1)(m)(A) of this rule.

(D) The Sardine Advisory Group as defined under OAR 635-006-1065 may advise the Commission on increasing the number of permits, developing criteria for issuing the new permits, and other regulations concerning the sardine fishery.

(E) By January 1, 2008, vessels permitted under section (1)(m)(A) of this rule shall be operated or owned by the permit holder **if the federal coastwide maximum harvest guideline referenced in OAR 635-004-0016 is greater than 100,000 metric tons.**

(2) The permits required by section (1) of this rule are in addition to and not in lieu of the commercial fishing and boat license required by ORS 508.235 and ORS 508.260.

(3) No vessel may hold more than one vessel permit for a given fishery at any one time.

(4) If permits are issued on an individual basis, no individual may hold more than one permit for a given fishery at any one time.

(5) Unless otherwise provided, permits must be purchased by December 31 of the year the permit is sought for renewal.

(6) No vessel permit may be transferred away from a vessel without the lien holder's written permission.

(7) Applications for permits shall be in such form and contain such information as the Department may prescribe. Proof of length of a vessel may be required at the time of application.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109, 506.129, and 508.921 through 508.941



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635-006-1035

Eligibility Requirements for a Permit

Eligibility for a limited entry permit is as follows:

- (1) Gillnet salmon - see ORS 508.784.
- (2) Troll salmon - see ORS 508.810.
- (3) Shrimp - see ORS 508.886 and 508.895.
- (4) Scallop - see ORS 508.852.
- (5) Roe-herring - The ODFW shall issue a permit as per ORS 508.765:
 - (a) By renewal of previous year's permit;
 - (b) Through the lottery if a lottery is held in accordance with OAR 635-006-1085.
- (6) Sea Urchin - An individual licensed as a commercial fisher under ORS 508.235 is eligible to obtain the permit required by OAR 635-006-1015:
 - (a) By renewal of previous year's permit; or
 - (b) Through the lottery if a lottery is held in accordance with OAR 635-006-1085; or
 - (c) Through a duly authorized medical transfer of an existing permit in accordance with OAR 635-006-1095;
 - (d) By combining three currently renewed permits into one new permit as provided in OAR 635-006-1095.
- (7) Ocean Dungeness crab:
 - (a) See ORS 508.931;
 - (b) For the purposes of eligibility for the Ocean Dungeness Crab Fishery Permit, a boat which received a license waiver issued pursuant to ORS 508.808 shall be considered as having possessed a boat license for that year;
 - (c) ORS 508.931 and ORS 508.941 require that the vessel be previously licensed in accordance with ORS 508.260 for the purposes of initial eligibility for an ocean Dungeness Crab Fishery Permit. A Single Delivery License may not be substituted for a boat license for this purpose.
- (8) Black rockfish / blue rockfish / nearshore fishery - see ORS 508.947.
- (9) Brine Shrimp - A commercial fisher licensed under ORS 508.235 is eligible to obtain the permit required by OAR 635-006-1015:
 - (a) By renewal of previous year's permit; or
 - (b) Through the lottery if a lottery is held in accordance with OAR 635-006-1085.
- (10) Bay clam dive fishery - An individual licensed as a commercial harvester under ORS 508.235 or a vessel is eligible to obtain the permit required by OAR 635-006-1015:
 - (a) For a South Coast Bay Clam Dive Permit for the year 2006, if a South Coast Bay Clam Dive Permit was issued to the individual or vessel under the Developmental Fisheries Program (OAR 635-006-0900) in 2005 and lawfully made five landings consisting of at least 100 pounds each landing or an annual total of 2,500 pounds of bay clams, using dive gear in Oregon in 2005; or
 - (b) For a Coast Wide Bay Clam Dive Permit for the year 2006, if a Coast Wide Bay Clam Dive Permit was issued to the individual or vessel under the Developmental Fisheries Program (OAR 635-006-0900) in 2005 and lawfully made five landings consisting of at least 100 pounds each landing or an annual total of 2,500 pounds of bay clams, using dive gear in Oregon in 2005.
 - (c) After 2006, by renewal of the previous years' permit and satisfaction of the requirements in OAR 635-006-1075(1)(j).
- (11) Sardine fishery:
 - (a) An individual or entity is eligible to obtain the vessel permit required by OAR 635-006-1015:
 - (A) If issued a Sardine Permit under the Developmental Fisheries Program (OAR 635-006-0900) in 2005; and
 - (B) Lawfully made landings of sardines into Oregon in 2003 and 2004; and
 - (C) Lawfully landed:
 - (i) At least 1,500 metric tons or 35 deliveries in any one year from 2000 through 2004; or
 - (ii) A total of 100 deliveries of sardines into Oregon in 2000 through 2004.
 - (b) If the number of permits issued under section (11)(a) of this rule is less than 20, enough permits to reach a total of 20 may be issued under section (11)(c) of this rule to vessels in order of highest total number of deliveries during 2000-2004.
 - (c) An individual or entity is eligible to obtain the vessel permit under section (11)(b) of this rule if the vessel for which applications is made:
 - (A) Was not issued a permit under section (11)(a) of this rule; and
 - (B) Lawfully made landings of sardines into Oregon in 2003 and 2004; and
 - (C) Lawfully landed:
 - (i) At least 1,500 metric tons or 35 deliveries in any one year from 2000 through 2004; or
 - (ii) A total of 100 deliveries of sardines into Oregon in 2000 through 2004.



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(d) In addition to those Sardine Fishery Permits previously issued by the Department in calendar year 2006, the Department shall issue a Sardine Fishery Permit to any individual or entity, if that individual or entity held a legally qualified Oregon Developmental Fisheries Permit for Sardines on August 1, 2005, provided that neither the individual or entity has been previously issued an Oregon Sardine Fishery Permit in 2006.

(e) An individual or entity is eligible to obtain the vessel permit required by OAR 635-006-1015:

(A) By renewal of the previous year's permit as specified in OAR 635-006-1075; or

(B) Through the lottery if a lottery is held in accordance with OAR 635-006-1085.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

635-006-1075

Renewal of Permit

(1) An individual who obtained a limited entry permit may renew the permit as follows:

(a) Gillnet salmon - see ORS 508.781;

(b) Troll salmon - see ORS 508.807;

(c) Shrimp - see ORS 508.892;

(d) Scallop - see ORS 508.849;

(e) Roe-herring permit - Permits may be renewed by submission to the Department of a \$75 fee and a complete application;

(f) Sea Urchin permit:

(A) Permits may be renewed by submission to the Department of a \$75 fee and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought; and

(B) The permittee shall have annually lawfully landed 5,000 pounds of sea urchins in Oregon. If a permittee obtained a permit later than January of the prior year (because the permit was obtained through the lottery, or as a result of the Commercial Fishery Permit Board actions or surrender of a permit by a permit holder), the permittee shall not be required to make the 5,000 pound landing requirement by the following January. Instead, at the next renewal thereafter, the permittee shall be required to demonstrate that the 5,000 pound landing requirement was fulfilled during the first full year (twelve-month period) in which the permit was held.

(g) Ocean Dungeness crab permit - see ORS 508.941. A permit which is not renewed by December 31 lapses, and may not be renewed for subsequent years.

(h) Black rockfish / blue rockfish / nearshore fishery - see ORS 508.947.

(i) Brine Shrimp permit:

(A) Permits may be renewed by submission to the Department of a \$75 fee and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought; and

(B) The permittee shall have lawfully landed 5,000 pounds of brine shrimp in Oregon in the prior year.

(j) Bay clam dive fishery:

(A) Permits may be renewed by submitting to the Department a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought and;

(B) The permittee shall have lawfully made five landings consisting of at least 100 pounds each landing or an annual total of 2,500 pounds of bay clams, using dive gear in Oregon in the prior calendar year;

(C) Logbooks required under OAR 635-006-1110 must be turned into an ODFW office by the application deadline for renewal of a permit.

(D) If a permit is transferred under OAR 635-006-1095(10)(d), annual renewal requirements are waived in the year the transfer occurred.

(k) Sardine fishery:

(A) Permits may be renewed for the following year:

(i) by submitting a complete application to the Department date-stamped or postmarked by December 31 of the year the permit is sought for renewal and;

(ii) submitting the logbooks required under OAR 635-006-1110; and

(iii) ~~the permitted vessel must have lawfully landed into Oregon,]if~~ during the year preceding the calendar year for which the permit is sought for renewal, **the federal coastwide maximum harvest guideline referenced in OAR 635-006-0016 was greater than 100,000 metric tons and the permitted vessel lawfully landed into Oregon** either (I) a minimum of 10 landings of sardines of a least 5 metric tons each, or (II) landings of sardines having an aggregate ex-vessel price of at least \$40,000.

(B) The Commercial Fishery Permit Board may waive the landing requirements of section (A)(iii) of this rule if it finds that the failure to meet these requirements is due to the permit holder's illness or injury, or to circumstances



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beyond the control of the permit holder. Final Orders shall be issued by the Commercial Fishery Permit Board and may be appealed as provided in ORS 183.480 through 183.550.

(C) The Commission may, at its discretion, waive the landing requirements of section (A)(iii) of this rule for all Limited Entry Sardine Permit holders due to unusual market conditions.

(2) An application for renewal in any limited entry fishery shall be considered complete if it is legible, has all information requested in the form, and is accompanied by the required fee in full. Any application which is not complete shall be returned, and unless it is thereafter resubmitted and deemed complete by December 31 of the permit year sought, the individual shall not be considered to have applied for renewal in a timely manner.

(3) It is the responsibility of the permittee to ensure that an application is complete and is filed in a timely manner. Failure of the Department to return an application for incompleteness or of an individual to receive a returned application shall not be grounds for treating the application as having been filed in a timely and complete manner.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109, 506.129, and 508.921 through 508.941

635-006-1085

Lottery for Certain Limited Entry Fisheries

(1) A lottery process is provided in all limited entry fisheries except ocean Dungeness crab [and sardines].

(2) A lottery for issuance of permits shall be conducted as follows:

(a) Gillnet salmon - see ORS 508.792;

(b) Troll salmon - see ORS 508.819;

(c) Shrimp - see ORS 508.904;

(d) Scallop - see ORS 508.861. If the number of permits issued in accordance with ORS 508.849 falls below 25, the Department in the next succeeding calendar year may issue permits by a lottery system. However, the total number of permits issued shall not exceed 25;

(e) Roe-herring - If the number of permits issued in accordance with OAR 635-006-1035 falls below six, the Department in the next succeeding calendar year may issue permits by a lottery system. However, as a result of any such lottery, the total number of permits issued shall not exceed six;

(f) Sea Urchin:

(A) If the total number of permits which have been renewed, and/or for which an appeal is pending, with the Commercial Fishery Permit Board and/or awarded through a prior lottery, is less than 30, a lottery shall be held on the 4th Friday in April;

(B) An individual must be 18 years of age or older and furnish proof of age to be eligible for the lottery;

(C) An individual may not already hold a valid urchin permit, however, an individual whose permit is at issue in a pending Sea Urchin Permit Board proceeding or before a court of law may participate in the lottery;

(D) If a permittee whose permit is at issue either before the Sea Urchin Permit Board or a court of law is awarded another permit through the lottery and thereafter prevails before the Board or in court, the permittee shall immediately surrender one of the permits to any Department office, so that only one valid permit is held;

(E) An individual who qualifies to participate in the lottery shall send a complete lottery application to the Department, date-stamped or postmarked no later than April 15 of the year for which the permit is to be issued. An individual shall not submit more than one application to participate in the lottery. For successful applicants, the application fee shall apply toward the permit fee of \$75;

(F) The names of lottery applicants shall be drawn to obtain the available permits. All other names of lottery applicants shall be drawn and placed on an alternate list in the order in which they were drawn, and shall be issued permits during the next 24 months as they may become available through Permit Board actions or surrender of permits by a permit holder;

(G) An individual whose name is drawn in the lottery shall thereafter apply on the prescribed form, to the Department to obtain a permit. Such application must be received by the Department within 30 days of the date the notification was mailed to the successful applicant following the lottery;

(H) Any individual who fails to apply for the lottery permit within 30 days shall forfeit such permit. The permit shall then be made available to the first name on the alternate list, and shall be applied for in accordance with section (G) of this rule;

(I) If all permits are not issued by renewal or through the lottery, permits thereafter may be issued on a first come first served basis up to the total number of permits allowed. All applications shall be mailed to the Department and priority shall be based on postmark or date-stamped date;

(J) The Commission may suspend the lottery for up to two years based upon its assessment of the condition of the resource and recommendations of the Sea Urchin Permit Review Board.



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(g) Black rockfish / blue rockfish / nearshore fishery - see ORS 508.955. If the number of permits issued in accordance with ORS 508.947 falls below 80 for black rockfish and blue rockfish permits or 50 for black rockfish and blue rockfish permits with a nearshore endorsement, the Department in the next succeeding calendar year may issue permits by a lottery system. However, the total number of permits issued shall not exceed 80 for black rockfish and blue rockfish permits or 50 for black rockfish and blue rockfish permits with a nearshore endorsement.

(h) Brine Shrimp - If the number of permits issued in accordance with OAR 635-006-1035 falls below three, the Department in the next succeeding calendar year may issue permits by a lottery system. However, as a result of any such lottery, the total number of permits issued shall not exceed three;

(i) Bay clam dive fishery - If the number of permits issued in accordance with OAR 635-006-1035 falls below ten for coast-wide permits or five for south-coast permits, the Department may issue permits by a lottery system. However, as a result of any such lottery, the total number of permits issued shall not exceed ten for coast-wide permits or five for south-coast permits;

(j) Sardine fishery:

(A) If the number of permits issued in accordance with OAR 635-006-1035 falls below 24, the Department in the next succeeding calendar year may issue permits by a lottery system. However, as a result of such a lottery the total number of permits issued shall not exceed 26.

(3) Each applicant for a permit lottery shall complete the application form prescribed by the Department.

(4) Application for vessel permits shall only be accepted for vessels, which in the judgment of the Department, are capable of operating the gear necessary to legally participate in the fishery. Vessels of a size or design incapable of harvesting the permitted species are not eligible for the lottery.

(5) Only one application per vessel may be submitted for each permit fishery lottery.

(6) Any application which is not legible, has incomplete information, or is postmarked after the deadline will not be entered in the lottery. Applications for all permits will be accepted at the Salem headquarters office of the Department, and shall be postmarked or date stamped no later than **March 31**~~[June 30]~~ of the year for which the permit is issued.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109