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HOUSE BILL 2399

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State of Washington

56th Legislature

2000 Regular Session

By Representatives Constantine, Esser, Lantz, Barlean, Cairnes and Pflug; by request of Office of the Code Reviser

Read first time 01/12/2000. Referred to Committee on Judiciary.

1 AN ACT Relating to technical corrections to various natural  
2 resource laws; amending RCW 75.08.011, 75.08.206, 75.08.208, 75.08.245,  
3 75.10.160, 75.12.140, 75.20.100, 75.20.103, 75.28.042, 75.28.340,  
4 75.28.700, 75.28.730, 75.28.760, 75.30.050, 75.30.065, 75.30.250,  
5 75.30.290, 75.30.320, 75.30.370, 75.30.420, 75.46.010, 75.46.110,  
6 75.46.160, 75.46.170, 75.46.200, 75.50.110, 75.52.020, 75.52.050,  
7 75.58.010, 75.58.030, 76.01.060, 76.06.020, 76.09.040, 76.09.055,  
8 76.09.065, 76.09.140, 76.09.150, 76.12.090, 76.12.100, 76.12.140,  
9 76.13.010, 76.13.110, 76.13.120, 76.14.010, 76.15.010, 76.36.010,  
10 76.42.020, 76.48.020, 76.48.085, 77.08.010, 77.12.101, 77.12.204,  
11 77.12.250, 77.12.315, 77.12.470, 77.12.480, 77.12.610, 77.12.620,  
12 77.12.630, 77.15.070, 77.15.160, 77.15.400, 77.15.480, 77.15.700,  
13 77.15.730, 77.16.340, 77.16.360, 77.18.010, 77.21.020, 77.21.070,  
14 77.32.014, 77.32.380, 77.44.030, 78.16.070, 78.44.020, 78.44.031,  
15 79.08.275, 79.24.570, 79.71.090, 79.71.100, 79.92.070, 79.92.080,  
16 79.94.070, 79.96.110, 79A.05.155, 79A.05.200, 79A.05.205, 79A.05.250,  
17 79A.05.255, 79A.05.265, 79A.05.300, 79A.05.315, 79A.05.320, 79A.05.405,  
18 79A.05.420, 79A.05.500, 79A.05.520, 79A.05.535, 79A.05.540, 79A.05.610,  
19 79A.05.615, 79A.05.620, 79A.05.625, 79A.05.630, 79A.05.635, 79A.05.640,  
20 79A.05.645, 79A.05.650, 79A.05.655, 79A.05.665, 79A.05.685, 79A.05.693,  
21 79A.05.695, 79A.05.735, 79A.05.750, 79A.05.765, 79A.05.780, 79A.05.793,

1 79A.15.020, 79A.15.030, 79A.15.060, 79A.15.070, 79A.25.020, 79A.25.030,  
2 79A.25.040, 79A.25.060, 79A.25.070, 79A.25.080, 79A.25.100, 79A.25.180,  
3 79A.25.200, 79A.25.240, 79A.25.250, 79A.25.800, 79A.25.820, 79A.25.830,  
4 79A.30.010, 79A.30.020, 79A.30.030, 79A.35.030, 79A.40.020, 79A.40.030,  
5 79A.40.060, 79A.40.080, 79A.45.040, 79A.60.010, 79A.60.030, 79A.60.050,  
6 79A.60.060, 79A.60.070, 79A.60.130, 79A.60.160, 79A.60.170, 79A.60.180,  
7 79A.60.190, 79A.60.200, 79A.60.300, 79A.60.400, 79A.60.410, 79A.60.420,  
8 79A.60.440, 79A.60.470, 79A.60.480, 79A.60.485, 79A.60.490, 79A.60.540,  
9 79A.60.590, 79A.60.620, 79A.65.010, 79A.65.030, and 79A.65.040; and  
10 repealing RCW 75.08.274, 75.25.090, 75.28.012, 76.12.200, 77.16.290,  
11 and 77.32.060.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

13 **Sec. 1.** RCW 75.08.011 and 1998 c 190 s 70 are each amended to read  
14 as follows:

15 As used in this title or Title 77 RCW or rules adopted under those  
16 titles, unless the context clearly requires otherwise:

17 (1) (~~"Commission" means the fish and wildlife commission.~~

18 (2) ~~"Director" means the director of fish and wildlife.~~

19 (3) ~~"Department" means the department of fish and wildlife.~~

20 (4) ~~"Person" means an individual or a public or private entity or  
21 organization. The term "person" includes local, state, and federal  
22 government agencies, and all business organizations, including  
23 corporations and partnerships.~~

24 (5) ~~"Fish and wildlife officer" means a person appointed and  
25 commissioned by the commission, with authority to enforce this title,  
26 rules of the department, and other statutes as prescribed by the  
27 legislature. Fish and wildlife officers are peace officers. Fish and  
28 wildlife officer includes a person commissioned before June 11, 1998,  
29 as a fisheries patrol officer.~~

30 (6) ~~"Ex officio fish and wildlife officer" means a commissioned  
31 officer of a municipal, county, state, or federal agency having as its  
32 primary function the enforcement of criminal laws in general, while the  
33 officer is in the appropriate jurisdiction. The term "ex officio fish  
34 and wildlife officer" also includes special agents of the national  
35 marine fisheries service, United States fish and wildlife special  
36 agents, state parks commissioned officers, department of natural  
37 resources enforcement officers, and United States forest service~~

1 officers, while the agents and officers are within their respective  
2 jurisdictions.

3 (7) "To fish," "to harvest," and "to take" and their derivatives  
4 mean an effort to kill, injure, harass, or catch fish or shellfish.

5 (8) "State waters" means all marine waters and fresh waters within  
6 ordinary high water lines and within the territorial boundaries of the  
7 state.

8 (9) "Offshore waters" means marine waters of the Pacific Ocean  
9 outside the territorial boundaries of the state, including the marine  
10 waters of other states and countries.

11 (10) "Concurrent waters of the Columbia river" means those waters  
12 of the Columbia river that coincide with the Washington Oregon state  
13 boundary.

14 (11) "Resident" means a person who has maintained a permanent place  
15 of abode within the state for at least ninety days immediately  
16 preceding an application for a license, has established by formal  
17 evidence an intent to continue residing within the state, and who is  
18 not licensed to hunt or fish as a resident in another state.

19 (12) "Nonresident" means a person who has not fulfilled the  
20 qualifications of a resident.

21 (13) "Food fish" means those species of the classes Osteichthyes,  
22 Agnatha, and Chondrichthyes that have been classified and that shall  
23 not be fished for except as authorized by rule of the commission. The  
24 term "food fish" includes all stages of development and the bodily  
25 parts of food fish species.

26 (14) "Shellfish" means those species of marine and freshwater  
27 invertebrates that have been classified and that shall not be taken  
28 except as authorized by rule of the commission. The term "shellfish"  
29 includes all stages of development and the bodily parts of shellfish  
30 species.

31 (15) "Salmon" means all species of the genus *Oncorhynchus*, except  
32 those classified as game fish in Title 77 RCW, and includes:

33	Scientific Name	Common Name
34	<i>Oncorhynchus tshawytscha</i>	Chinook salmon
35	<i>Oncorhynchus kisutch</i>	Coho salmon
36	<i>Oncorhynchus keta</i>	Chum salmon
37	<i>Oncorhynchus gorbusecha</i>	Pink salmon
38	<i>Oncorhynchus nerka</i>	Sookeye salmon

1       ~~(16) "Commercial" means related to or connected with buying,~~  
2 ~~selling, or bartering. Fishing for food fish or shellfish with gear~~  
3 ~~unlawful for fishing for personal use, or possessing food fish or~~  
4 ~~shellfish in excess of the limits permitted for personal use are~~  
5 ~~commercial activities.~~

6       ~~(17) "To process" and its derivatives mean preparing or preserving~~  
7 ~~food fish or shellfish.~~

8       ~~(18) "Personal use" means for the private use of the individual~~  
9 ~~taking the food fish or shellfish and not for sale or barter.~~

10       ~~(19)) "Angling gear" means a line attached to a rod and reel~~  
11 ~~capable of being held in hand while landing the fish or a hand-held~~  
12 ~~line operated without rod or reel.~~

13       ~~((20)) (2) "Commercial" means related to or connected with~~  
14 ~~buying, selling, or bartering. Fishing for food fish or shellfish with~~  
15 ~~gear unlawful for fishing for personal use, or possessing food fish or~~  
16 ~~shellfish in excess of the limits permitted for personal use are~~  
17 ~~commercial activities.~~

18       (3) "Commission" means the fish and wildlife commission.

19       (4) "Concurrent waters of the Columbia river" means those waters of  
20 the Columbia river that coincide with the Washington-Oregon state  
21 boundary.

22       (5) "Department" means the department of fish and wildlife.

23       (6) "Director" means the director of fish and wildlife.

24       (7) "Ex officio fish and wildlife officer" means a commissioned  
25 officer of a municipal, county, state, or federal agency having as its  
26 primary function the enforcement of criminal laws in general, while the  
27 officer is in the appropriate jurisdiction. The term "ex officio fish  
28 and wildlife officer" also includes special agents of the national  
29 marine fisheries service, United States fish and wildlife special  
30 agents, state parks commissioned officers, department of natural  
31 resources enforcement officers, and United States forest service  
32 officers, while the agents and officers are within their respective  
33 jurisdictions.

34       (8) "Fish" includes all species classified as game fish or food  
35 fish by statute or rule, as well as all fin fish not currently  
36 classified as food fish or game fish if such species exist in state  
37 waters. The term "fish" includes all stages of development and the  
38 bodily parts of fish species.

1       (9) "Fish and wildlife officer" means a person appointed and  
2 commissioned by the commission, with authority to enforce this title,  
3 rules of the department, and other statutes as prescribed by the  
4 legislature. Fish and wildlife officers are peace officers. Fish and  
5 wildlife officer includes a person commissioned before June 11, 1998,  
6 as a fisheries patrol officer.

7       (10) "Fishery" means the taking of one or more particular species  
8 of food fish or shellfish with particular gear in a particular  
9 geographical area.

10       (11) "Food fish" means those species of the classes Osteichthyes,  
11 Agnatha, and Chondrichthyes that have been classified and that shall  
12 not be fished for except as authorized by rule of the commission. The  
13 term "food fish" includes all stages of development and the bodily  
14 parts of food fish species.

15       (12) "Limited-entry license" means a license subject to a license  
16 limitation program established in chapter 75.30 RCW.

17       (13) "Nonresident" means a person who has not fulfilled the  
18 qualifications of a resident.

19       (14) "Offshore waters" means marine waters of the Pacific Ocean  
20 outside the territorial boundaries of the state, including the marine  
21 waters of other states and countries.

22       (15) "Open season" means those times, manners of taking, and places  
23 or waters established by rule of the commission for the lawful fishing,  
24 taking, or possession of food fish or shellfish. "Open season"  
25 includes the first and last days of the established time.

26       ~~((21) "Fishery" means the taking of one or more particular species~~  
27 ~~of food fish or shellfish with particular gear in a particular~~  
28 ~~geographical area.~~

29       ~~(22) "Limited-entry license" means a license subject to a license~~  
30 ~~limitation program established in chapter 75.30 RCW.~~

31       ~~(23) "Seaweed" means marine aquatic plant species that are~~  
32 ~~dependent upon the marine aquatic or tidal environment, and exist in~~  
33 ~~either an attached or free floating form, and includes but is not~~  
34 ~~limited to marine aquatic plants in the classes Chlorophyta,~~  
35 ~~Phaeophyta, and Rhodophyta.~~

36       ~~(24) "Fish" includes all species classified as game fish or food~~  
37 ~~fish by statute or rule, as well as all fin fish not currently~~  
38 ~~classified as food fish or game fish if such species exist in state~~

1 waters. ~~The term "fish" includes all stages of development and the~~  
2 ~~bodily parts of fish species.)~~)

3 (16) "Person" means an individual or a public or private entity or  
4 organization. The term "person" includes local, state, and federal  
5 government agencies, and all business organizations, including  
6 corporations and partnerships.

7 (17) "Personal use" means for the private use of the individual  
8 taking the food fish or shellfish and not for sale or barter.

9 (18) "Resident" means a person who has maintained a permanent place  
10 of abode within the state for at least ninety days immediately  
11 preceding an application for a license, has established by formal  
12 evidence an intent to continue residing within the state, and who is  
13 not licensed to hunt or fish as a resident in another state.

14 (19) "Salmon" means all species of the genus Oncorhynchus, except  
15 those classified as game fish in Title 77 RCW, and includes:

	<u>Scientific Name</u>	<u>Common Name</u>
16		
17	<u>Oncorhynchus tshawytscha</u>	<u>Chinook salmon</u>
18	<u>Oncorhynchus kisutch</u>	<u>Coho salmon</u>
19	<u>Oncorhynchus keta</u>	<u>Chum salmon</u>
20	<u>Oncorhynchus gorbuscha</u>	<u>Pink salmon</u>
21	<u>Oncorhynchus nerka</u>	<u>Sockeye salmon</u>

22 (20) "Seaweed" means marine aquatic plant species that are  
23 dependent upon the marine aquatic or tidal environment, and exist in  
24 either an attached or free floating form, and includes but is not  
25 limited to marine aquatic plants in the classes Chlorophyta,  
26 Phaeophyta, and Rhodophyta.

27 (21) "Shellfish" means those species of marine and freshwater  
28 invertebrates that have been classified and that shall not be taken  
29 except as authorized by rule of the commission. The term "shellfish"  
30 includes all stages of development and the bodily parts of shellfish  
31 species.

32 (22) "State waters" means all marine waters and fresh waters within  
33 ordinary high water lines and within the territorial boundaries of the  
34 state.

35 (23) "To fish," "to harvest," and "to take" and their derivatives  
36 mean an effort to kill, injure, harass, or catch fish or shellfish.

37 (24) "To process" and its derivatives mean preparing or preserving  
38 food fish or shellfish.

1 EXPLANATORY NOTE

2 Puts twenty-four definitions in alphabetical order.

3 **Sec. 2.** RCW 75.08.206 and 1983 1st ex.s. c 46 s 20 are each  
4 amended to read as follows:

5 The director shall provide compensation insurance for ((~~fisheries~~  
6 ~~patrol~~)) fish and wildlife officers, insuring these employees against  
7 injury or death in the performance of enforcement duties not covered  
8 under the workers' compensation act of the state. The beneficiaries  
9 and the compensation and benefits under the compensation insurance  
10 shall be the same as provided in chapter 51.32 RCW, and the  
11 compensation insurance also shall provide for medical aid and  
12 hospitalization to the extent and amount as provided in RCW 51.36.010  
13 and 51.36.020.

14 EXPLANATORY NOTE

15 "Fisheries patrol officers" were redesignated "fish and  
16 wildlife officers" by 1998 c 190 s 70.

17 **Sec. 3.** RCW 75.08.208 and 1983 1st ex.s. c 46 s 22 are each  
18 amended to read as follows:

19 The director shall relieve from active duty ((~~fisheries patrol~~))  
20 fish and wildlife officers who are injured in the performance of their  
21 official duties to such an extent as to be incapable of active service.  
22 While relieved from active duty, the employees shall receive one-half  
23 of their salary less any compensation received through the provisions  
24 of RCW 41.40.200, 41.40.220, and 75.08.206.

25 EXPLANATORY NOTE

26 "Fisheries patrol officers" were redesignated "fish and  
27 wildlife officers" by 1998 c 190 s 70.

28 **Sec. 4.** RCW 75.08.245 and 1988 c 115 s 1 are each amended to read  
29 as follows:

30 The department may supply, at a reasonable charge, surplus salmon  
31 eggs to a person for use in the cultivation of salmon. The department  
32 shall not intentionally create a surplus of salmon to provide eggs for  
33 sale. The department shall only sell salmon eggs from stocks that are  
34 not suitable for salmon population rehabilitation or enhancement in  
35 state waters in Washington. All sales or transfers shall be consistent  
36 with the department's egg transfer and aquaculture disease control  
37 regulations as now existing or hereafter amended. Prior to department

1 determination that eggs of a salmon stock are surplus and available for  
2 sale, the department shall assess the productivity of each watershed  
3 that is suitable for receiving eggs.

4 ((The salmon enhancement advisory council, created in RCW  
5 75.48.120, shall consider egg sales at each meeting.))

6 EXPLANATORY NOTE

7 RCW 75.48.120 expired December 31, 1989.

8 **Sec. 5.** RCW 75.10.160 and 1989 c 393 s 16 are each amended to read  
9 as follows:

10 ((Fisheries patrol)) Fish and wildlife officers are authorized to  
11 enforce all provisions of chapter 88.02 RCW and any rules adopted  
12 thereunder, and the provisions of RCW ((43.51.400)) 79A.05.310 and any  
13 rules adopted thereunder.

14 EXPLANATORY NOTE

15 "Fisheries patrol officers" were redesignated "fish and  
16 wildlife officers" by 1998 c 190 s 70.

17 **Sec. 6.** RCW 75.12.140 and 1998 c 190 s 79 are each amended to read  
18 as follows:

19 The commission shall not authorize use of reef net fishing gear  
20 except in the reef net areas described in this section.

21 (1) Point Roberts reef net fishing area includes those waters  
22 within 250 feet on each side of a line projected 129½ true from a point  
23 at longitude 123½ 01' 15" W. latitude 48½ 58' 38" N. to a point one  
24 mile distant, as such description is shown upon the United States Coast  
25 and Geodetic Survey map numbered 6300, published September, 1941, in  
26 Washington, D.C., eleventh edition.

27 (2) Cherry Point reef net fishing area includes those waters inland  
28 and inside the 10-fathom line between lines projected 205½ true from  
29 points on the mainland at longitude 122½ 44' 54" latitude 48½ 51' 48"  
30 and longitude 122½ 44' 18" latitude 48½ 51' 33", ((a-[as])) as such  
31 descriptions are shown upon the United States Coast and Geodetic Survey  
32 map numbered 6380, published March, 1947, in Washington, D.C., eighth  
33 edition.

34 (3) Lummi Island reef net fishing area includes those waters inland  
35 and inside a line projected from Village Point 208½ true to a point 900  
36 yards distant, thence 129½ true to the point of intersection with a  
37 line projected 259½ true from the shore of Lummi Island 122½ 40' 42"



1 latitude 48½ 41' 32", as such descriptions are shown upon the United  
2 States Coast and Geodetic Survey map numbered 6380, published March,  
3 1947, in Washington, D.C., eighth edition, revised 11-25-57, save and  
4 except that there shall be excluded therefrom all waters lying inside  
5 of a line projected 259½ true from a point at 122½ 40' 42" latitude 48½  
6 41' 32" to a point 300 yards distant from high tide, thence in a  
7 northerly direction to the United States Coast and Geodetic Survey  
8 reference mark number 2, 1941-1950, located on that point on Lummi  
9 Island known as Lovers Point, as such descriptions are shown upon the  
10 United States Coast and Geodetic Survey map number 6380 as aforesaid.  
11 The term "Village Point" as used herein shall be construed to mean a  
12 point of location on Village Point, Lummi Island, at the mean high tide  
13 line on a true bearing of 43½ 53' a distance of 457 feet to the center  
14 of the chimney of a wood frame house on the east side of the county  
15 road. Said chimney and house being described as Village Point Chimney  
16 on page 612 of the United States Coast and Geodetic Survey list of  
17 geographic positions No. G-5455, Rosario Strait.

18 (4) Sinclair Island reef net fishing area includes those waters  
19 inland and inside a line projected from the northern point of Sinclair  
20 Island to Boulder reef, thence 200½ true to the northwesterly point of  
21 Sinclair Island, as such descriptions are shown upon the United States  
22 Coast and Geodetic Survey map numbered 6380, published March, 1947, in  
23 Washington, D.C., eighth edition.

24 (5) Flat Point reef net fishing area includes those waters within  
25 a radius of 175 feet of a point off Lopez Island located at longitude  
26 122½ 55' 24" latitude 48½ 32' 33", as such description is shown upon  
27 the United States Coast and Geodetic Survey map numbered 6380,  
28 published March, 1947, in Washington, D.C., eighth edition.

29 (6) Lopez Island reef net fishing area includes those waters within  
30 400 yards of shore between lines projected true west from points on the  
31 shore of Lopez Island at longitude 122½ 55' 04" latitude 48½ 31' 59"  
32 and longitude 122½ 55' 54" latitude 48½ 30' 55", as such descriptions  
33 are shown upon the United States Coast and Geodetic Survey map numbered  
34 6380, published March, 1947, in Washington, D.C., eighth edition.

35 (7) Iceberg Point reef net fishing area includes those waters  
36 inland and inside a line projected from Davis Point on Lopez Island to  
37 the west point of Long Island, thence to the southern point of Hall  
38 Island, thence to the eastern point at the entrance to Jones Bay, and  
39 thence to the southern point at the entrance to Mackaye Harbor on Lopez

1 Island; and those waters inland and inside a line projected 320½ from  
2 Iceberg Point light on Lopez Island, a distance of 400 feet, thence  
3 easterly to the point on Lopez Island at longitude 122½ 53' 00"  
4 latitude 48½ 25' 39", as such descriptions are shown upon the United  
5 States Coast and Geodetic Survey map numbered 6380, published March,  
6 1947, in Washington, D.C., eighth edition.

7 (8) Aleck Bay reef net fishing area includes those waters inland  
8 and inside a line projected from the southwestern point at the entrance  
9 to Aleck Bay on Lopez Island at longitude 122½ 51' 11" latitude 48½ 25'  
10 14" southeasterly 800 yards to the submerged rock shown on U.S.G.S. map  
11 number 6380, thence northerly to the cove on Lopez Island at longitude  
12 122½ 50' 49" latitude 48½ 25' 42", as such descriptions are shown upon  
13 the United States Coast and Geodetic Survey map numbered 6380,  
14 published March, 1947, in Washington, D.C., eighth edition.

15 (9) Shaw Island reef net fishing area number 1 includes those  
16 waters within 300 yards of shore between lines projected true south  
17 from points on Shaw Island at longitude 122½ 56' 14" latitude 48½ 33'  
18 28" and longitude 122½ 57' 29" latitude 48½ 32' 58", as such  
19 descriptions are shown upon the United States Coast and Geodetic Survey  
20 map numbered 6380, published March, 1947, in Washington, D.C., eighth  
21 edition.

22 (10) Shaw Island reef net fishing area number 2 includes those  
23 waters inland and inside a line projected from Point George on Shaw  
24 Island to the westerly point of Neck Point on Shaw Island, as such  
25 description is shown upon the United States Coast and Geodetic Survey  
26 map numbered 6380, published March, 1947, in Washington, D.C., eighth  
27 edition.

28 (11) Stuart Island reef net fishing area number 1 includes those  
29 waters within 600 feet of the shore of Stuart Island between lines  
30 projected true east from points at longitude 123½ 10' 47" latitude 48½  
31 39' 47" and longitude 123½ 10' 47" latitude 48½ 39' 33", as such  
32 descriptions are shown upon the United States Coast and Geodetic Survey  
33 map numbered 6380, published March, 1947, in Washington, D.C., eighth  
34 edition.

35 (12) Stuart Island reef net fishing area number 2 includes those  
36 waters within 250 feet of Gossip Island, also known as Happy Island, as  
37 such description is shown upon the United States Coast and Geodetic  
38 Survey map numbered 6380, published March, 1947, in Washington, D.C.,  
39 eighth edition.

1 (13) Johns Island reef net fishing area includes those waters  
2 inland and inside a line projected from the eastern point of Johns  
3 Island to the northwestern point of Little Cactus Island, thence  
4 northwesterly to a point on Johns Island at longitude 123½ 09' 24"  
5 latitude 48½ 39' 59", as such descriptions are shown upon the United  
6 States Coast and Geodetic Survey map numbered 6380, published March,  
7 1947, in Washington, D.C., eighth edition.

8 (14) Battleship Island reef net fishing area includes those waters  
9 lying within 350 feet of Battleship Island, as such description is  
10 shown upon the United States Coast and Geodetic Survey map numbered  
11 6380, published March, 1947, in Washington, D.C., eighth edition.

12 (15) Open Bay reef net fishing area includes those waters lying  
13 within 150 feet of shore between lines projected true east from a point  
14 on Henry Island at longitude 123½ 11' 34 1/2" latitude 48½ 35' 27 1/2"  
15 at a point 250 feet south, as such descriptions are shown upon the  
16 United States Coast and Geodetic Survey map numbered 6380, published  
17 March, 1947, in Washington, D.C., eighth edition.

18 (16) Mitchell Reef net fishing area includes those waters within a  
19 line beginning at the rock shown on U.S.G.S. map number 6380 at  
20 longitude 123½ 10' 56" latitude 48½ 34' 49 1/2", and projected 50 feet  
21 northwesterly, thence southwesterly 250 feet, thence southeasterly 300  
22 feet, thence northeasterly 250 feet, thence to the point of beginning,  
23 as such descriptions are shown upon the United States Coast and  
24 Geodetic Survey map numbered 6380, published March, 1947, in  
25 Washington, D.C., eighth edition.

26 (17) Smugglers Cove reef fishing area includes those waters within  
27 200 feet of shore between lines projected true west from points on the  
28 shore of San Juan Island at longitude 123½ 10' 29" latitude 48½ 33' 50"  
29 and longitude 123½ 10' 31" latitude 48½ 33' 45", as such descriptions  
30 are shown upon the United States Coast and Geodetic Survey map numbered  
31 6380, published March, 1947, in Washington, D.C., eighth edition.

32 (18) Andrews Bay reef net fishing area includes those waters lying  
33 within 300 feet of the shore of San Juan Island between a line  
34 projected true south from a point at the northern entrance of Andrews  
35 Bay at longitude 123½ 09' 53 1/2" latitude 48½ 33' 00" and the cable  
36 crossing sign in Andrews Bay, at longitude 123½ 09' 45" latitude 48½  
37 33' 04", as such descriptions are shown upon the United States Coast  
38 and Geodetic Survey map numbered 6380, published March, 1947, in  
39 Washington, D.C., eighth edition.

1 (19) Orcas Island reef net fishing area includes those waters  
2 inland and inside a line projected true west a distance of 1,000 yards  
3 from the shore of Orcas Island at longitude 122° 57' 40" latitude 48°  
4 41' 06" thence northeasterly to a point 500 feet true west of Point  
5 Doughty, then true east to Point Doughty, as such descriptions are  
6 shown upon the United States Coast and Geodetic Survey map numbered  
7 6380, published March, 1947, in Washington, D.C., eighth edition.

8 EXPLANATORY NOTE

9 Corrects a manifest grammatical error.

10 **Sec. 7.** RCW 75.20.100 and 1998 c 190 s 87 are each amended to read  
11 as follows:

12 (1) In the event that any person or government agency desires to  
13 construct any form of hydraulic project or perform other work that will  
14 use, divert, obstruct, or change the natural flow or bed of any of the  
15 salt or fresh waters of the state, such person or government agency  
16 shall, before commencing construction or work thereon and to ensure the  
17 proper protection of fish life, secure the approval of the department  
18 as to the adequacy of the means proposed for the protection of fish  
19 life. This approval shall not be unreasonably withheld.

20 (2)(a) (~~Except as provided in RCW 75.20.1001,~~) The department  
21 shall grant or deny approval of a standard permit within forty-five  
22 calendar days of the receipt of a complete application and notice of  
23 compliance with any applicable requirements of the state environmental  
24 policy act, made in the manner prescribed in this section.

25 (b) The applicant may document receipt of application by filing in  
26 person or by registered mail. A complete application for approval  
27 shall contain general plans for the overall project, complete plans and  
28 specifications of the proposed construction or work within the mean  
29 higher high water line in salt water or within the ordinary high water  
30 line in fresh water, and complete plans and specifications for the  
31 proper protection of fish life.

32 (c) The forty-five day requirement shall be suspended if:

33 (i) After ten working days of receipt of the application, the  
34 applicant remains unavailable or unable to arrange for a timely field  
35 evaluation of the proposed project;

36 (ii) The site is physically inaccessible for inspection; or

1 (iii) The applicant requests delay. Immediately upon determination  
2 that the forty-five day period is suspended, the department shall  
3 notify the applicant in writing of the reasons for the delay.

4 (d) For purposes of this section, "standard permit" means a written  
5 permit issued by the department when the conditions under subsections  
6 (3) and (5)(b) of this section are not met.

7 (3)(a) The department may issue an expedited written permit in  
8 those instances where normal permit processing would result in  
9 significant hardship for the applicant or unacceptable damage to the  
10 environment. In cases of imminent danger, the department shall issue  
11 an expedited written permit, upon request, for work to repair existing  
12 structures, move obstructions, restore banks, protect property, or  
13 protect fish resources. Expedited permit requests require a complete  
14 written application as provided in subsection (2)(b) of this section  
15 and shall be issued within fifteen calendar days of the receipt of a  
16 complete written application. Approval of an expedited permit is valid  
17 for up to sixty days from the date of issuance.

18 (b) For the purposes of this subsection, "imminent danger" means a  
19 threat by weather, water flow, or other natural conditions that is  
20 likely to occur within sixty days of a request for a permit  
21 application.

22 (c) The department may not require the provisions of the state  
23 environmental policy act, chapter 43.21C RCW, to be met as a condition  
24 of issuing a permit under this subsection.

25 (d) The department or the county legislative authority may  
26 determine if an imminent danger exists. The county legislative  
27 authority shall notify the department, in writing, if it determines  
28 that an imminent danger exists.

29 (4) Approval of a standard permit is valid for a period of up to  
30 five years from date of issuance. The permittee must demonstrate  
31 substantial progress on construction of that portion of the project  
32 relating to the approval within two years of the date of issuance. If  
33 the department denies approval, the department shall provide the  
34 applicant, in writing, a statement of the specific reasons why and how  
35 the proposed project would adversely affect fish life. Protection of  
36 fish life shall be the only ground upon which approval may be denied or  
37 conditioned. Chapter 34.05 RCW applies to any denial of project  
38 approval, conditional approval, or requirements for project  
39 modification upon which approval may be contingent.

1 (5)(a) In case of an emergency arising from weather or stream flow  
2 conditions or other natural conditions, the department, through its  
3 authorized representatives, shall issue immediately, upon request, oral  
4 approval for removing any obstructions, repairing existing structures,  
5 restoring stream banks, or to protect property threatened by the stream  
6 or a change in the stream flow without the necessity of obtaining a  
7 written approval prior to commencing work. Conditions of an oral  
8 approval to protect fish life shall be established by the department  
9 and reduced to writing within thirty days and complied with as provided  
10 for in this section. Oral approval shall be granted immediately, upon  
11 request, for a stream crossing during an emergency situation.

12 (b) For purposes of this section and RCW 75.20.103, "emergency"  
13 means an immediate threat to life, the public, property, or of  
14 environmental degradation.

15 (c) The department or the county legislative authority may declare  
16 and continue an emergency when one or more of the criteria under (b) of  
17 this subsection are met. The county legislative authority shall  
18 immediately notify the department if it declares an emergency under  
19 this subsection.

20 (6) The department shall, at the request of a county, develop five-  
21 year maintenance approval agreements, consistent with comprehensive  
22 flood control management plans adopted under the authority of RCW  
23 86.12.200, or other watershed plan approved by a county legislative  
24 authority, to allow for work on public and private property for bank  
25 stabilization, bridge repair, removal of sand bars and debris, channel  
26 maintenance, and other flood damage repair and reduction activity under  
27 agreed-upon conditions and times without obtaining permits for specific  
28 projects.

29 (7) This section shall not apply to the construction of any form of  
30 hydraulic project or other work which diverts water for agricultural  
31 irrigation or stock watering purposes authorized under or recognized as  
32 being valid by the state's water codes, or when such hydraulic project  
33 or other work is associated with streambank stabilization to protect  
34 farm and agricultural land as defined in RCW 84.34.020. These  
35 irrigation or stock watering diversion and streambank stabilization  
36 projects shall be governed by RCW 75.20.103.

37 A landscape management plan approved by the department and the  
38 department of natural resources under RCW 76.09.350(2), shall serve as

1 a hydraulic project approval for the life of the plan if fish are  
2 selected as one of the public resources for coverage under such a plan.

3 (8) For the purposes of this section and RCW 75.20.103, "bed" means  
4 the land below the ordinary high water lines of state waters. This  
5 definition does not include irrigation ditches, canals, storm water  
6 run-off devices, or other artificial watercourses except where they  
7 exist in a natural watercourse that has been altered by man.

8 (9) The phrase "to construct any form of hydraulic project or  
9 perform other work" does not include the act of driving across an  
10 established ford. Driving across streams or on wetted stream beds at  
11 areas other than established fords requires approval. Work within the  
12 ordinary high water line of state waters to construct or repair a ford  
13 or crossing requires approval.

14 EXPLANATORY NOTE

15 RCW 75.20.1001 was repealed by 1999 c 89 s 1.

16 **Sec. 8.** RCW 75.20.103 and 1998 c 190 s 88 are each amended to read  
17 as follows:

18 In the event that any person or government agency desires to  
19 construct any form of hydraulic project or other work that diverts  
20 water for agricultural irrigation or stock watering purposes, or when  
21 such hydraulic project or other work is associated with streambank  
22 stabilization to protect farm and agricultural land as defined in RCW  
23 84.34.020, and when such diversion or streambank stabilization will  
24 use, divert, obstruct, or change the natural flow or bed of any river  
25 or stream or will utilize any waters of the state or materials from the  
26 stream beds, the person or government agency shall, before commencing  
27 construction or work thereon and to ensure the proper protection of  
28 fish life, secure a written approval from the department as to the  
29 adequacy of the means proposed for the protection of fish life. This  
30 approval shall not be unreasonably withheld. (~~Except as provided in~~  
31 ~~RCW 75.20.1001,~~) The department shall grant or deny the approval  
32 within forty-five calendar days of the receipt of a complete  
33 application and notice of compliance with any applicable requirements  
34 of the state environmental policy act, made in the manner prescribed in  
35 this section. The applicant may document receipt of application by  
36 filing in person or by registered mail. A complete application for an  
37 approval shall contain general plans for the overall project, complete  
38 plans and specifications of the proposed construction or work within

1 ordinary high water line, and complete plans and specifications for the  
2 proper protection of fish life. The forty-five day requirement shall  
3 be suspended if (1) after ten working days of receipt of the  
4 application, the applicant remains unavailable or unable to arrange for  
5 a timely field evaluation of the proposed project; (2) the site is  
6 physically inaccessible for inspection; or (3) the applicant requests  
7 delay.

8 Immediately upon determination that the forty-five day period is  
9 suspended, the department shall notify the applicant in writing of the  
10 reasons for the delay.

11 An approval shall remain in effect without need for periodic  
12 renewal for projects that divert water for agricultural irrigation or  
13 stock watering purposes and that involve seasonal construction or other  
14 work. Approval for streambank stabilization projects shall remain in  
15 effect without need for periodic renewal if the problem causing the  
16 need for the streambank stabilization occurs on an annual or more  
17 frequent basis. The permittee must notify the appropriate agency  
18 before commencing the construction or other work within the area  
19 covered by the approval.

20 The permittee must demonstrate substantial progress on construction  
21 of that portion of the project relating to the approval within two  
22 years of the date of issuance. If the department denies approval, the  
23 department shall provide the applicant, in writing, a statement of the  
24 specific reasons why and how the proposed project would adversely  
25 affect fish life. Protection of fish life shall be the only ground  
26 upon which approval may be denied or conditioned. Issuance, denial,  
27 conditioning, or modification shall be appealable to the hydraulic  
28 appeals board established in RCW 43.21B.005 within thirty days of the  
29 notice of decision. The burden shall be upon the department to show  
30 that the denial or conditioning of an approval is solely aimed at the  
31 protection of fish life.

32 The department may, after consultation with the permittee, modify  
33 an approval due to changed conditions. The modifications shall become  
34 effective unless appealed to the hydraulic appeals board within thirty  
35 days from the notice of the proposed modification. The burden is on  
36 the department to show that changed conditions warrant the modification  
37 in order to protect fish life.

38 A permittee may request modification of an approval due to changed  
39 conditions. The request shall be processed within forty-five calendar



1 days of receipt of the written request. A decision by the department  
2 may be appealed to the hydraulic appeals board within thirty days of  
3 the notice of the decision. The burden is on the permittee to show  
4 that changed conditions warrant the requested modification and that  
5 such modification will not impair fish life.

6 In case of an emergency arising from weather or stream flow  
7 conditions or other natural conditions, the department, through its  
8 authorized representatives, shall issue immediately upon request oral  
9 approval for removing any obstructions, repairing existing structures,  
10 restoring stream banks, or to protect property threatened by the stream  
11 or a change in the stream flow without the necessity of obtaining a  
12 written approval prior to commencing work. Conditions of an oral  
13 approval shall be reduced to writing within thirty days and complied  
14 with as provided for in this section.

15 For purposes of this chapter, "streambank stabilization" shall  
16 include but not be limited to log and debris removal, bank protection  
17 (including riprap, jetties, and groins), gravel removal and erosion  
18 control.

19 EXPLANATORY NOTE

20 RCW 75.20.1001 was repealed by 1999 c 89 s 1.

21 **Sec. 9.** RCW 75.28.042 and 1997 c 58 s 882 are each amended to read  
22 as follows:

23 (1) The department shall immediately suspend the license of a  
24 person who has been certified pursuant to RCW 74.20A.320 by the  
25 department of social and health services as a person who is not in  
26 compliance with a support order or a residential or visitation order.

27 (2) A listing on the department of licensing's data base that an  
28 individual's license is currently suspended pursuant to RCW  
29 46.20.291(~~(+7)~~) (8) shall be prima facie evidence that the individual  
30 is in noncompliance with a support order or residential or visitation  
31 order. Presentation of a written release issued by the department of  
32 social and health services or a court stating that the person is in  
33 compliance with an order shall serve as proof of compliance.

34 EXPLANATORY NOTE

35 (1) The reference to section 402 of this act is erroneous.  
36 Section 802 of the act, codified as RCW 74.20A.320, was  
37 apparently intended.

38 (2) RCW 46.20.291 was amended by 1998 c 165 s 12, changing  
39 subsection (7) to subsection (8).



1 By July 1, 1994, the department(~~(s of fisheries))~~ of fish and  
2 wildlife (~~(jointly))~~ with the appropriate Indian tribes, shall (~~(each))~~  
3 establish a wild salmonid policy. The policy shall ensure that  
4 department actions and programs are consistent with the goals of  
5 rebuilding wild stock populations to levels that permit commercial and  
6 recreational fishing opportunities.

7 EXPLANATORY NOTE

8 Powers, duties, and functions of the department of fisheries  
9 and the department of wildlife were transferred to the  
10 department of fish and wildlife by 1993 sp.s. c 2, effective  
11 July 1, 1994.

12 **Sec. 14.** RCW 75.30.050 and 1999 c 151 s 1601 are each amended to  
13 read as follows:

14 (1) The director shall appoint three-member advisory review boards  
15 to hear cases as provided in RCW 75.30.060. Members shall be from:

16 (a) The commercial sea urchin and sea cucumber fishery in cases  
17 involving sea urchin and sea cucumber dive fishery licenses; (~~{and}~~)  
18 and

19 (b) The commercial coastal crab fishery in cases involving  
20 Dungeness crab-coastal fishery licenses and Dungeness crab-coastal  
21 class B fishery licenses. The members shall include one person from  
22 the commercial crab processors, one Dungeness crab-coastal fishery  
23 license holder, and one citizen representative of a coastal community.

24 (2) Members shall serve at the discretion of the director and shall  
25 be reimbursed for travel expenses as provided in RCW 43.03.050,  
26 43.03.060, and 43.03.065.

27 EXPLANATORY NOTE

28 Corrects an apparent drafting error.

29 **Sec. 15.** RCW 75.30.065 and 1993 c 340 s 28 are each amended to  
30 read as follows:

31 (1) After May 28, 1977, the director shall issue no new salmon  
32 charter licenses. A person may renew an existing salmon charter  
33 license only if the person held the license sought to be renewed during  
34 the previous year or acquired the license by transfer from someone who  
35 held it during the previous year, and if the person has not  
36 subsequently transferred the license to another person.

1 (2) Salmon charter licenses may be renewed each year. A salmon  
2 charter license which is not renewed each year shall not be renewed  
3 further.

4 (3) (~~Subject to the restrictions in section 11 of this act,~~)  
5 Salmon charter licenses are transferrable from one license holder to  
6 another.

7 EXPLANATORY NOTE

8 Section 11 of this act [1993 c 340 s 11] was repealed by 1993  
9 sp.s. c 17 s 47, effective January 1, 1994.

10 **Sec. 16.** RCW 75.30.250 and 1999 c 126 s 2 are each amended to read  
11 as follows:

12 (1) A sea cucumber dive fishery license is required to take sea  
13 cucumbers for commercial purposes. A sea cucumber dive fishery license  
14 authorizes the use of only one diver in the water at any time during  
15 sea cucumber harvest operations. If the same vessel has been  
16 designated on two sea cucumber dive fishery licenses, two divers may be  
17 in the water. A natural person may not hold more than two sea cucumber  
18 dive fishery licenses.

19 (2) Except as provided in subsection (6) of this section, the  
20 director shall issue no new sea cucumber dive fishery licenses. For  
21 licenses issued for the year 2000 and thereafter, the director shall  
22 renew existing licenses only to a natural person who held the license  
23 at the end of the previous year. If a sea cucumber dive fishery  
24 license is not held by a natural person as of December 31, 1999, it is  
25 not renewable. However, if the license is not held because of  
26 revocation or suspension of licensing privileges, the director shall  
27 renew the license in the name of a natural person at the end of the  
28 revocation or suspension if the license holder applies for renewal of  
29 the license before the end of the year in which the revocation or  
30 suspension ends.

31 (3) Where a licensee failed to obtain the license during either of  
32 the previous two years because of a license suspension by the  
33 department or the court, the licensee may qualify for a license by  
34 establishing that the person held such a license during the last year  
35 in which the person was eligible.

36 (4) Surcharges as provided for in this section shall be collected  
37 and deposited into the sea cucumber dive fishery account hereby created  
38 in the custody of the state treasurer. Only the director or the

1 director's designee may authorize expenditures from the account. The  
2 sea cucumber dive fishery account is subject to allotment procedures  
3 under chapter 43.88 RCW, but no appropriation is required for  
4 expenditures. Expenditures from the account shall only be used to  
5 retire sea cucumber licenses until the number of licenses is reduced to  
6 twenty-five, and thereafter shall only be used for sea cucumber  
7 management and enforcement.

8 (a) A surcharge of one hundred dollars shall be charged with each  
9 sea cucumber dive fishery license renewal for licenses issued in 2000  
10 through 2005.

11 (b) For licenses issued for the year 2000 and thereafter, a  
12 surcharge shall be charged on the sea cucumber dive fishery  
13 (~~{{license}}~~) license for designating an alternate operator. The  
14 surcharge shall be as follows: Five hundred dollars for the first year  
15 or each of the first two consecutive years after 1999 that any  
16 alternate operator is designated and two thousand five hundred dollars  
17 each year thereafter that any alternate operator is designated.

18 (5) Sea cucumber dive fishery licenses are transferable. After  
19 December 31, 1999, there is a surcharge to transfer a sea cucumber dive  
20 fishery license. The surcharge is five hundred dollars for the first  
21 transfer of a license valid for calendar year 2000 and two thousand  
22 five hundred dollars for any subsequent transfer whether occurring in  
23 the year 2000 or thereafter. Notwithstanding this subsection, a one-  
24 time transfer exempt from surcharge applies for a transfer from the  
25 natural person licensed on January 1, 2000, to that person's spouse or  
26 child.

27 (6) If fewer than twenty-five persons are eligible for sea cucumber  
28 dive fishery licenses, the director may accept applications for new  
29 licenses. The additional licenses may not cause more than twenty-five  
30 natural persons to be eligible for a sea cucumber dive fishery license.  
31 New licenses issued under this section shall be distributed according  
32 to rules of the department that recover the value of such licensed  
33 privilege.

34 EXPLANATORY NOTE

35 Corrects a manifest drafting error.

36 **Sec. 17.** RCW 75.30.290 and 1998 c 190 s 107 are each amended to  
37 read as follows:

1 A person shall not commercially deliver into any Washington state  
2 port ocean pink shrimp caught in offshore waters without an ocean pink  
3 shrimp delivery license issued under RCW 75.28.730, or an ocean pink  
4 shrimp single delivery license issued under RCW 75.30.320. An ocean  
5 pink shrimp delivery license shall be issued to a vessel that:

6 (1) Landed a total of at least five thousand pounds of ocean pink  
7 shrimp in Washington in any single calendar year between January 1,  
8 1983, and December 31, 1992, as documented by a valid shellfish  
9 receiving ticket; and

10 (2) Can show continuous participation in the Washington, Oregon, or  
11 California ocean pink shrimp fishery by being eligible to land ocean  
12 pink shrimp in either Washington, Oregon, or California each year since  
13 the landing made under subsection (1) of this section. Evidence of  
14 such eligibility shall be a certified statement from the relevant state  
15 licensing agency that the applicant for a Washington ocean pink shrimp  
16 delivery license held at least one of the following permits:

17 (a) For Washington: Possession of a delivery permit or delivery  
18 license issued under RCW 75.28.125 (~~or a trawl license (other than~~  
19 ~~Puget Sound) issued under RCW 75.28.140~~);

20 (b) For Oregon: Possession of a vessel permit issued under Oregon  
21 Revised Statute 508.880; or

22 (c) For California: A trawl permit issued under California Fish  
23 and Game Code sec. 8842.

24 EXPLANATORY NOTE

25 RCW 75.28.140 was repealed by 1993 c 340 s 56, effective  
26 January 1, 1994.

27 **Sec. 18.** RCW 75.30.320 and 1993 c 376 s 8 are each amended to read  
28 as follows:

29 The owner of an ocean pink shrimp fishing vessel that does not  
30 qualify for an ocean pink shrimp delivery license issued under RCW  
31 75.28.730 shall obtain an ocean pink shrimp single delivery license in  
32 order to make a landing into a state port of ocean pink shrimp taken in  
33 offshore waters. The director shall not issue an ocean pink shrimp  
34 single delivery license unless, as determined by the director, a bona  
35 fide emergency exists. A maximum of six ocean pink shrimp single  
36 delivery licenses may be issued annually to any vessel. (~~Unless~~  
37 ~~adjusted by the director pursuant to the director's authority granted~~

1 in ~~RCW 75.28.065,~~) The fee for an ocean pink shrimp single delivery  
2 license is one hundred dollars.

3 EXPLANATORY NOTE

4 RCW 75.28.065 was repealed by 1993 sp.s. c 17 s 31, effective  
5 January 1, 1994.

6 **Sec. 19.** RCW 75.30.370 and 1994 c 260 s 4 are each amended to read  
7 as follows:

8 A person commercially fishing for Dungeness crab in offshore waters  
9 outside of Washington state jurisdiction shall obtain a Dungeness crab  
10 offshore delivery license from the director if the person does not  
11 possess a valid Dungeness crab-coastal fishery license or a valid  
12 Dungeness crab-coastal class B fishery license and the person wishes to  
13 land Dungeness crab into a place or a port in the state. The annual  
14 fee for a Dungeness crab offshore delivery license is two hundred fifty  
15 dollars. The director may specify restrictions on landings of offshore  
16 Dungeness crab in Washington state as authorized in RCW 75.30.360.

17 Fees from the offshore Dungeness crab delivery license shall be  
18 placed in the (~~coastal~~{~~coastal~~}) coastal crab account created in RCW  
19 75.30.390.

20 EXPLANATORY NOTE

21 Corrects a manifest typographical error.

22 **Sec. 20.** RCW 75.30.420 and 1994 c 260 s 9 are each amended to read  
23 as follows:

24 (1) An Oregon resident who can show historical and continuous  
25 participation in the Washington state coastal crab fishery by having  
26 held a nonresident non-Puget Sound crab pot license issued under RCW  
27 75.28.130 each year from 1990 through 1994, and who has delivered a  
28 minimum of eight landings totaling five thousand pounds of crab into  
29 Oregon during any two of the four qualifying seasons as provided in RCW  
30 75.30.350(~~(+4)~~) (5) as evidenced by valid Oregon fish receiving  
31 tickets, shall be issued a nonresident Dungeness crab-coastal fishery  
32 license valid for fishing in Washington state waters north from the  
33 Oregon-Washington boundary to United States latitude forty-six degrees  
34 thirty minutes north. Such license shall be issued upon application  
35 and submission of proof of delivery.

36 (2) This section shall become effective contingent upon reciprocal  
37 statutory authority in the state of Oregon providing for equal access

1 for Washington state coastal crab fishers to Oregon territorial coastal  
2 waters north of United States latitude forty-five degrees fifty-eight  
3 minutes north, and Oregon waters of the Columbia river.

4 EXPLANATORY NOTE

5 RCW 75.30.350 was amended by 1995 c 252 s 1, changing  
6 subsection (4) to subsection (5).

7 **Sec. 21.** RCW 75.46.010 and 1998 c 246 s 2 are each amended to read  
8 as follows:

9 The definitions in this section apply throughout this chapter  
10 unless the context clearly requires otherwise.

11 (1) "Adaptive management" means reliance on scientific methods to  
12 test the results of actions taken so that the management and related  
13 policy can be changed promptly and appropriately.

14 (2) "Critical pathways methodology" means a project scheduling and  
15 management process for examining interactions between habitat projects  
16 and salmonid species, prioritizing habitat projects, and assuring  
17 positive benefits from habitat projects.

18 (3) "Habitat project list" is the list of projects resulting from  
19 the critical pathways methodology under RCW 75.46.070(2). Each project  
20 on the list must have a written agreement from the landowner on whose  
21 land the project will be implemented. Projects include habitat  
22 restoration projects, habitat protection projects, habitat projects  
23 that improve water quality, habitat projects that protect water  
24 quality, habitat-related mitigation projects, and habitat project  
25 maintenance and monitoring activities.

26 (4) "Habitat work schedule" means those projects from the habitat  
27 project list that will be implemented during the current funding cycle.  
28 The schedule shall also include a list of the entities and individuals  
29 implementing projects, the start date, duration, estimated date of  
30 completion, estimated cost, and funding sources for the projects.

31 (5) "Limiting factors" means conditions that limit the ability of  
32 habitat to fully sustain populations of salmon. These factors are  
33 primarily fish passage barriers and degraded estuarine areas, riparian  
34 corridors, stream channels, and wetlands.

35 (6) "Owner" means the person holding title to the land or the  
36 person under contract with the owner to lease or manage the legal  
37 owner's property.





1 (b) Make and execute all manner of contracts and agreements with  
2 public and private parties as the board deems necessary, consistent  
3 with the purposes of this chapter;

4 (c) Accept any gifts, grants, or loans of funds, property, or  
5 financial or other aid in any form from any other source on any terms  
6 that are not in conflict with this chapter;

7 (d) Adopt rules under chapter 34.05 RCW as necessary to carry out  
8 the purposes of this chapter; and

9 (e) Do all acts and things necessary or convenient to carry out the  
10 powers expressly granted or implied under this chapter.

11 (2) The interagency committee for outdoor recreation shall provide  
12 all necessary grants and loans administration assistance to the board,  
13 and shall distribute funds as provided by the board in RCW 75.46.170.

14 EXPLANATORY NOTE

15 The salmon recovery funding board is created in RCW 75.46.150.  
16 The governor vetoed section 2, chapter 13, Laws of 1999 1st sp.  
17 sess., which defined "board" as the salmon recovery funding  
18 board. This correction clarifies that the "board" is the  
19 salmon recovery funding board.

20 **Sec. 24.** RCW 75.46.170 and 1999 1st sp.s. c 13 s 5 are each  
21 amended to read as follows:

22 (1) The (~~{salmon recovery funding}~~) salmon recovery funding board  
23 shall develop procedures and criteria for allocation of funds for  
24 salmon habitat projects and salmon recovery activities on a state-wide  
25 basis to address the highest priorities for salmon habitat protection  
26 and restoration. To the extent practicable the board shall adopt an  
27 annual allocation of funding. The allocation should address both  
28 protection and restoration of habitat, and should recognize the varying  
29 needs in each area of the state on an equitable basis. The board has  
30 the discretion to partially fund, or to fund in phases, salmon habitat  
31 projects. The board may annually establish a maximum amount of funding  
32 available for any individual project, subject to available funding. No  
33 projects required solely as a mitigation or a condition of permitting  
34 are eligible for funding.

35 (2)(a) In evaluating, ranking, and awarding funds for projects and  
36 activities the board shall give preference to projects that:

37 (i) Are based upon the limiting factors analysis identified under  
38 RCW 75.46.070;

1 (ii) Provide a greater benefit to salmon recovery based upon the  
2 stock status information contained in the department of fish and  
3 wildlife salmonid stock inventory (SASSI), the salmon and steelhead  
4 habitat inventory and assessment project (SSHIAP), and any comparable  
5 science-based assessment when available;

6 (iii) Will benefit listed species and other fish species; and

7 (iv) Will preserve high quality salmonid habitat.

8 (b) In evaluating, ranking, and awarding funds for projects and  
9 activities the board shall also give consideration to projects that:

10 (i) Are the most cost-effective;

11 (ii) Have the greatest matched or in-kind funding; and

12 (iii) Will be implemented by a sponsor with a successful record of  
13 project implementation.

14 (3) The board may reject, but not add, projects from a habitat  
15 project list submitted by a lead entity for funding.

16 (4) For fiscal year 2000, the board may authorize the interagency  
17 review team to evaluate, rank, and make funding decisions for  
18 categories of projects or activities or from funding sources provided  
19 for categories of projects or activities. In delegating such authority  
20 the board shall consider the review team's staff resources, procedures,  
21 and technical capacity to meet the purposes and objectives of this  
22 chapter. The board shall maintain general oversight of the team's  
23 exercise of such authority.

24 (5) The board shall seek the guidance of the technical review team  
25 to ensure that scientific principles and information are incorporated  
26 into the allocation standards and into proposed projects and  
27 activities. If the technical review team determines that a habitat  
28 project list complies with the critical pathways methodology under RCW  
29 75.46.070, it shall provide substantial weight to the list's project  
30 priorities when making determinations among applications for funding of  
31 projects within the area covered by the list.

32 (6) The board shall establish criteria for determining when block  
33 grants may be made to a lead entity or other recognized regional  
34 recovery entity consistent with one or more habitat project lists  
35 developed for that region. Where a lead entity has been established  
36 pursuant to RCW 75.46.060, the board may provide grants to the lead  
37 entity to assist in carrying out lead entity functions under this  
38 chapter, subject to available funding. The board shall determine an

1 equitable minimum amount of funds for each region, and shall distribute  
2 the remainder of funds on a competitive basis.

3 (7) The board may waive or modify portions of the allocation  
4 procedures and standards adopted under this section in the award of  
5 grants or loans to conform to legislative appropriations directing an  
6 alternative award procedure or when the funds to be awarded are from  
7 federal or other sources requiring other allocation procedures or  
8 standards as a condition of the board's receipt of the funds. The  
9 board shall develop an integrated process to manage the allocation of  
10 funding from federal and state sources to minimize delays in the award  
11 of funding while recognizing the differences in state and legislative  
12 appropriation timing.

13 EXPLANATORY NOTE

14 The salmon recovery funding board is created in RCW 75.46.150.  
15 The governor vetoed section 2, chapter 13, Laws of 1999 1st sp.  
16 sess., which defined "board" as the salmon recovery funding  
17 board. This correction clarifies that the "board" is the  
18 salmon recovery funding board.

19 **Sec. 25.** RCW 75.46.200 and 1999 1st sp.s. c 13 s 13 are each  
20 amended to read as follows:

21 State salmon monitoring data provided by lead entities, regional  
22 fisheries enhancement groups, and others shall be included in the data  
23 base of ((SASSI [~~salmon and steelhead stock inventory~~])) the salmon and  
24 steelhead stock inventory and ((SSHIAIP [~~salmon and steelhead habitat~~  
25 ~~inventory assessment project~~])) the salmon and steelhead habitat  
26 inventory assessment project. Information pertaining to habitat  
27 preservation projects funded through the Washington wildlife and  
28 recreation program, the conservation reserve enhancement program, and  
29 other conservancy programs related to salmon habitat shall be included  
30 in the ((SSHIAIP)) salmon and steelhead habitat inventory assessment  
31 project data base.

32 EXPLANATORY NOTE

33 Section 2, chapter 13, Laws of 1999 1st sp. sess., vetoed by  
34 the governor, defined "SASSI" as salmon and steelhead stock  
35 inventory, and "SSHIAIP" as the salmon and steelhead habitat  
36 inventory assessment project.

37 **Sec. 26.** RCW 75.50.110 and 1995 1st sp.s. c 2 s 40 are each  
38 amended to read as follows:

1 (1) A regional fisheries enhancement group advisory board is  
2 established to make recommendations to the commission. The members  
3 shall be appointed by the commission and consist of two commercial  
4 fishing representatives, two recreational fishing representatives, and  
5 three at-large positions. At least two of the advisory board members  
6 shall be members of a regional fisheries enhancement group. Advisory  
7 board members shall serve three-year terms. The advisory board  
8 membership shall include two members serving ex officio to be  
9 nominated, one through the Northwest Indian fisheries commission, and  
10 one through the Columbia river intertribal fish commission. The chair  
11 of the regional fisheries enhancement group advisory board shall be  
12 elected annually by members of the regional fisheries enhancement  
13 (~~(group)~~) group advisory board. The advisory board shall meet at  
14 least quarterly. All meetings of the advisory board shall be open to  
15 the public under the open public meetings act, chapter 42.30 RCW.

16 The department shall invite the advisory board to comment and  
17 provide input into all relevant policy initiatives, including, but not  
18 limited to, wild stock, hatcheries, and habitat restoration efforts.

19 (2) Members shall not be compensated but shall receive  
20 reimbursement for travel expenses in accordance with RCW 43.03.050 and  
21 43.03.060.

22 (3) The department may use account funds to provide agency  
23 assistance to the groups, to provide professional, administrative or  
24 clerical services to the advisory board, or to implement the training  
25 and technical (~~(assistance)~~) assistance services plan as developed by  
26 the advisory board pursuant to RCW 75.50.115. The level of account  
27 funds used by the department shall be determined by the commission  
28 after review of recommendation by the regional fisheries enhancement  
29 group advisory board and shall not exceed twenty percent of annual  
30 contributions to the account.

31 EXPLANATORY NOTE

32 Corrects the references to the regional fisheries enhancement  
33 group advisory board and the training and technical assistance  
34 services plan.

35 **Sec. 27.** RCW 75.52.020 and 1993 sp.s. c 2 s 50 are each amended to  
36 read as follows:

37 Unless the context clearly requires otherwise, the definitions in  
38 this section apply throughout this chapter.



1 (3) The priority of the uses to which eggs, seed, juveniles, or  
2 brood stock are put. Use by cooperative projects shall be second in  
3 priority only to the needs of programs of the department or of other  
4 public agencies within the territorial boundaries of the state. Sales  
5 of eggs, seed, juveniles, or brood stock have a lower priority than use  
6 for cooperative projects.

7 (4) The procedure for notice in writing to a volunteer group of  
8 cause to revoke the agreement for the project and the procedure for  
9 revocation. Revocation shall be documented in writing to the volunteer  
10 group. Cause for revocation may include: (a) The unavailability of  
11 adequate biological or financial resources; (b) the development of  
12 unacceptable biological or resource management conflicts; or (c) a  
13 violation of agreement provisions. Notice of cause to revoke for a  
14 violation of agreement provisions may specify a reasonable period of  
15 time within which the volunteer group must comply with any violated  
16 provisions of the agreement.

17 (5) An appropriate method of distributing among volunteer groups  
18 fish, bird, or animal food or other supplies available for the program.

19 EXPLANATORY NOTE

20 RCW 77.16.150 was repealed by 1998 c 190 s 124.

21 **Sec. 29.** RCW 75.58.010 and 1998 c 190 s 110 are each amended to  
22 read as follows:

23 (1) The director of agriculture and the director shall jointly  
24 develop a program of disease inspection and control for aquatic farmers  
25 as defined in RCW 15.85.020. The program shall be administered by the  
26 department under rules established under this section. The purpose of  
27 the program is to protect the aquaculture industry and wildstock  
28 fisheries from a loss of productivity due to aquatic diseases or  
29 maladies. As used in this section "diseases" means, in addition to its  
30 ordinary meaning, infestations of parasites or pests. The disease  
31 program may include, but is not limited to, the following elements:

- 32 (a) Disease diagnosis;
- 33 (b) Import and transfer requirements;
- 34 (c) Provision for certification of stocks;
- 35 (d) Classification of diseases by severity;
- 36 (e) Provision for treatment of selected high-risk diseases;
- 37 (f) Provision for containment and eradication of high-risk  
38 diseases;

1 (g) Provision for destruction of diseased cultured aquatic  
2 products;

3 (h) Provision for quarantine of diseased cultured aquatic products;

4 (i) Provision for coordination with state and federal agencies;

5 (j) Provision for development of preventative or control measures;

6 (k) Provision for cooperative consultation service to aquatic  
7 farmers; and

8 (l) Provision for disease history records.

9 (2) The commission shall adopt rules implementing this section.

10 However, such rules shall have the prior approval of the director of  
11 agriculture and shall provide therein that the director of agriculture  
12 has provided such approval. The director of agriculture or the  
13 director's designee shall attend the rule-making hearings conducted  
14 under chapter 34.05 RCW and shall assist in conducting those hearings.  
15 The authorities granted the department by these rules and by RCW  
16 (~~75.08.080(1)(g)~~) 75.24.080, 75.24.110, 75.28.125, 75.58.020,  
17 75.58.030, and 75.58.040 constitute the only authorities of the  
18 department to regulate private sector cultured aquatic products and  
19 aquatic farmers as defined in RCW 15.85.020. Except as provided in  
20 subsection (3) of this section, no action may be taken against any  
21 person to enforce these rules unless the department has first provided  
22 the person an opportunity for a hearing. In such a case, if the  
23 hearing is requested, no enforcement action may be taken before the  
24 conclusion of that hearing.

25 (3) The rules adopted under this section shall specify the  
26 emergency enforcement actions that may be taken by the department, and  
27 the circumstances under which they may be taken, without first  
28 providing the affected party with an opportunity for a hearing.  
29 Neither the provisions of this subsection nor the provisions of  
30 subsection (2) of this section shall preclude the department from  
31 requesting the initiation of criminal proceedings for violations of the  
32 disease inspection and control rules.

33 (4) A person shall not violate the rules adopted under subsection  
34 (2) or (3) of this section or violate RCW 75.58.040.

35 (5) In administering the program established under this section,  
36 the department shall use the services of a pathologist licensed to  
37 practice veterinary medicine.

38 (6) The director in administering the program shall not place  
39 constraints on or take enforcement actions in respect to the



1 aquaculture industry that are more rigorous than those placed on the  
2 department or other fish-rearing entities.

3 EXPLANATORY NOTE

4 Rule-making authority under RCW 75.08.080 was transferred from  
5 the director of fisheries to the fish and wildlife commission  
6 by 1995 1st sp.s. c 2 (Referendum Bill No. 45). The  
7 definitions in RCW 75.08.011 reflect this transfer, making an  
8 additional note in this section unnecessary.

9 **Sec. 30.** RCW 75.58.030 and 1993 sp.s. c 2 s 57 are each amended to  
10 read as follows:

11 (1) The director shall consult regarding the disease inspection and  
12 control program established under RCW 75.58.010 with federal agencies  
13 and Indian tribes to assure protection of state, federal, and tribal  
14 aquatic resources and to protect private sector cultured aquatic  
15 products from disease that could originate from waters or facilities  
16 managed by those agencies.

17 (2) With regard to the program, the director may enter into  
18 contracts or interagency agreements for diagnostic field services with  
19 government agencies and institutions of higher education and private  
20 industry.

21 (3) The director shall provide for the creation and distribution of  
22 a roster of biologists having a (~~speciality~~ ~~[specialty]~~) specialty in  
23 the diagnosis or treatment of diseases of fish or shellfish. The  
24 director shall adopt rules specifying the qualifications which a person  
25 must have in order to be placed on the roster.

26 EXPLANATORY NOTE

27 Corrects a manifest grammatical error.

28 **Sec. 31.** RCW 76.01.060 and 1983 c 3 s 194 are each amended to read  
29 as follows:

30 Any authorized assistants, employees, agents, appointees or  
31 representatives of the department of natural resources may, in the  
32 course of their inspection and enforcement duties as provided for in  
33 chapters 76.04, 76.06, 76.09, 76.16, and 76.36 (~~and 76.40~~) RCW, enter  
34 upon any lands, real estate, waters or premises except the dwelling  
35 house or appurtenant buildings in this state whether public or private  
36 and remain thereon while performing such duties. Similar entry by the  
37 department of natural resources may be made for the purpose of making  
38 examinations, locations, surveys and/or appraisals of all lands under

1 the management and jurisdiction of the department of natural resources;  
2 or for making examinations, appraisals and, after five days' written  
3 notice to the landowner, making surveys for the purpose of possible  
4 acquisition of property to provide public access to public lands. In  
5 no event other than an emergency such as fire fighting shall motor  
6 vehicles be used to cross a field customarily cultivated, without prior  
7 consent of the owner. None of the entries herein provided for shall  
8 constitute trespass, but nothing contained herein shall limit or  
9 diminish any liability which would otherwise exist as a result of the  
10 acts or omissions of said department or its representatives.

11 EXPLANATORY NOTE

12 Chapter 76.40 RCW was repealed by 1994 c 163 s 6.

13 **Sec. 32.** RCW 76.06.020 and 1988 c 128 s 15 are each amended to  
14 read as follows:

15 As used in this chapter:

16 (1) "Agent" means the recognized legal representative,  
17 representatives, agent, or agents for any owner;

18 (2) "Department" means the department of natural resources;

19 (3) "Owner" means and includes individuals, partnerships,  
20 corporations, and associations;

21 ~~(( "Agent" means the recognized legal representative,~~  
22 ~~representatives, agent or agents for any owner; ))~~

23 (4) "Timber land" means any land on which there is a sufficient  
24 number of trees, standing or down, to constitute, in the judgment of  
25 the department, a forest insect or forest disease breeding ground of a  
26 nature to constitute a menace, injurious and dangerous to permanent  
27 forest growth in the district under consideration.

28 EXPLANATORY NOTE

29 Numbers the definitions and places them in alphabetical order.

30 **Sec. 33.** RCW 76.09.040 and 1999 1st sp.s. c 4 s 701 are each  
31 amended to read as follows:

32 (1) Where necessary to accomplish the purposes and policies stated  
33 in RCW 76.09.010, and to implement the provisions of this chapter, the  
34 board shall adopt forest practices rules pursuant to chapter 34.05 RCW  
35 and in accordance with the procedures enumerated in this section that:

36 (a) Establish minimum standards for forest practices;

1 (b) Provide procedures for the voluntary development of resource  
2 management plans which may be adopted as an alternative to the minimum  
3 standards in (a) of this subsection if the plan is consistent with the  
4 purposes and policies stated in RCW 76.09.010 and the plan meets or  
5 exceeds the objectives of the minimum standards;

6 (c) Set forth necessary administrative provisions;

7 (d) Establish procedures for the collection and administration of  
8 forest practice fees as set forth by this chapter; and

9 (e) Allow for the development of watershed analyses.

10 Forest practices rules pertaining to water quality protection shall  
11 be adopted by the board after reaching agreement with the director of  
12 the department of ecology or the director's designee on the board with  
13 respect thereto. All other forest practices rules shall be adopted by  
14 the board.

15 Forest practices rules shall be administered and enforced by either  
16 the department or the local governmental entity as provided in this  
17 chapter. Such rules shall be adopted and administered so as to give  
18 consideration to all purposes and policies set forth in RCW 76.09.010.

19 (2) The board shall prepare proposed forest practices rules. In  
20 addition to any forest practices rules relating to water quality  
21 protection proposed by the board, the department of ecology may submit  
22 to the board proposed forest practices rules relating to water quality  
23 protection.

24 Prior to initiating the rule making process, the proposed rules  
25 shall be submitted for review and comments to the department of fish  
26 and wildlife and to the counties of the state. After receipt of the  
27 proposed forest practices rules, the department of fish and wildlife  
28 and the counties of the state shall have thirty days in which to review  
29 and submit comments to the board, and to the department of ecology with  
30 respect to its proposed rules relating to water quality protection.  
31 After the expiration of such thirty day period the board and the  
32 department of ecology shall jointly hold one or more hearings on the  
33 proposed rules pursuant to chapter 34.05 RCW. At such hearing(s) any  
34 county may propose specific forest practices rules relating to problems  
35 existing within such county. The board may adopt and the department of  
36 ecology may approve such proposals if they find the proposals are  
37 consistent with the purposes and policies of this chapter.

38 (3) The board shall establish by rule a riparian open space program  
39 that includes acquisition of a fee interest in, or at the landowner's

1 option, a conservation easement on lands within unconfined avulsing  
2 channel migration zones. Once acquired, these lands may be held and  
3 managed by the department, transferred to another state agency,  
4 transferred to an appropriate local government agency, or transferred  
5 to a private nonprofit nature (~~conservation~~—[conservancy])  
6 conservancy corporation, as defined in RCW 64.04.130, in fee or  
7 transfer of management obligation. The board shall adopt rules  
8 governing the acquisition by the state or donation to the state of such  
9 interest in lands including the right of refusal if the lands are  
10 subject to unacceptable liabilities. The rules shall include  
11 definitions of qualifying lands, priorities for acquisition, and  
12 provide for the opportunity to transfer such lands with limited  
13 warranties and with a description of boundaries that does not require  
14 full surveys where the cost of securing the surveys would be  
15 unreasonable in relation to the value of the lands conveyed. The rules  
16 shall provide for the management of the lands for ecological protection  
17 or fisheries enhancement. Because there are few, if any, comparable  
18 sales of forest land within unconfined avulsing channel migration  
19 zones, separate from the other lands or assets, these lands are likely  
20 to be extraordinarily difficult to appraise and the cost of a  
21 conventional appraisal often would be unreasonable in relation to the  
22 value of the land involved. Therefore, for the purposes of voluntary  
23 sales under this section, the legislature declares that these lands are  
24 presumed to have a value equal to: (a) The acreage in the sale  
25 multiplied by the average value of commercial forest land in the region  
26 under the land value tables used for property tax purposes under RCW  
27 84.33.120; plus (b) the cruised volume of any timber located within the  
28 channel migration multiplied by the appropriate quality code stumpage  
29 value for timber of the same species shown on the appropriate table  
30 used for timber harvest excise tax purposes under RCW 84.33.091. For  
31 purposes of this section, there shall be an eastside region and a  
32 westside region as defined in the forests and fish report as defined in  
33 RCW 76.09.020.

34 (4) Subject to appropriations sufficient to cover the cost of such  
35 an acquisition program and the related costs of administering the  
36 program, the department is directed to purchase a fee interest or, at  
37 the owner's option, a conservation easement in land that an owner  
38 tenders for purchase; provided that such lands have been taxed as  
39 forest lands and are located within an unconfined avulsing channel

1 migration zone. Lands acquired under this section shall become  
2 riparian open space. These acquisitions shall not be deemed to trigger  
3 the compensating tax of chapters 84.33 and 84.34 RCW.

4 (5) Instead of offering to sell interests in qualifying lands,  
5 owners may elect to donate the interests to the state.

6 (6) Any acquired interest in qualifying lands by the state under  
7 this section shall be managed as riparian open space.

8 EXPLANATORY NOTE

9 Corrects the reference to a nature conservancy corporation.

10 **Sec. 34.** RCW 76.09.055 and 1999 1st sp.s. c 4 s 201 are each  
11 amended to read as follows:

12 (1) The legislature finds that the declines of fish stocks  
13 throughout much of the state (~~(requires [require])~~) require immediate  
14 action to be taken to help restore these fish runs where possible. The  
15 legislature also recognizes that federal and state agencies, tribes,  
16 county representatives, and private timberland owners have spent  
17 considerable effort and time to develop the forests and fish report.  
18 Given the agreement of the parties, the legislature believes that the  
19 immediate adoption of emergency rules is appropriate in this particular  
20 instance. These rules can implement many provisions of the forests and  
21 fish report to protect the economic well-being of the state, and to  
22 minimize the risk to the state and landowners to legal challenges.  
23 This authority is not designed to set any precedents for the forest  
24 practices board in future rule making or set any precedents for other  
25 rule-making bodies of the state.

26 (2) The forest practices board is authorized to adopt emergency  
27 rules amending the forest practices rules with respect to the  
28 protection of aquatic resources, in accordance with RCW 34.05.350,  
29 except: (a) That the rules adopted under this section may remain in  
30 effect until permanent rules are adopted, or until June 30, 2001,  
31 whichever is sooner; (b) notice of the proposed rules must be published  
32 in the Washington State Register as provided in RCW 34.05.320; (c) at  
33 least one public hearing must be conducted with an opportunity to  
34 provide oral and written comments; and (d) a rule-making file must be  
35 maintained as required by RCW 34.05.370. In adopting the emergency  
36 rules, the board is not required to prepare a small business economic  
37 impact statement under chapter 19.85 RCW, prepare a statement  
38 indicating whether the rules constitute a significant legislative rule

1 under RCW 34.05.328, prepare a significant legislative rule analysis  
2 under RCW 34.05.328, or follow the procedural requirements of the state  
3 environmental policy act, chapter 43.21C RCW. The forest practices  
4 board may only adopt recommendations contained in the forests and fish  
5 report as emergency rules under this section.

6 EXPLANATORY NOTE

7 Corrects a manifest grammatical error.

8 **Sec. 35.** RCW 76.09.065 and 1997 c 173 s 4 are each amended to read  
9 as follows:

10 (1) Effective July 1, 1997, an applicant shall pay an application  
11 fee and a recording fee, if applicable, at the time an application or  
12 notification is submitted to the department or to the local  
13 governmental entity as provided in this chapter.

14 (2) For applications and notifications submitted to the department,  
15 the application fee shall be fifty dollars for class II, III, and IV  
16 forest practices applications or notifications relating to the  
17 commercial harvest of timber. However, the fee shall be five hundred  
18 dollars for class IV forest practices applications on lands being  
19 converted to other uses or on lands which are not to be reforested  
20 because of the likelihood of future conversion to urban development or  
21 on lands that are contained within "urban growth areas," designated  
22 pursuant to chapter 36.70A RCW, except the fee shall be fifty dollars  
23 on those lands where the forest landowner provides:

24 (a) A written statement of intent signed by the forest landowner  
25 not to convert to a use other than commercial forest product operations  
26 for ten years, accompanied by either a written forest management plan  
27 acceptable to the department or documentation that the land is enrolled  
28 under the provisions of chapter 84.33 RCW; or

29 (b) A conversion option harvest plan approved by the local  
30 (~~government~~~~[governmental]~~) governmental entity and submitted to the  
31 department as part of the forest practices application.

32 All money collected from fees under this subsection shall be deposited  
33 in the state general fund.

34 (3) For applications submitted to the local governmental entity,  
35 the fee shall be five hundred dollars for class IV forest practices on  
36 lands being converted to other uses or lands that are contained within  
37 "urban growth areas," designated pursuant to chapter 36.70A RCW, except

1 as otherwise provided in this section, unless a different fee is  
2 otherwise provided by the local governmental entity.

3 (4) Recording fees shall be as provided in chapter 36.18 RCW.

4 (5) An application fee under subsection (2) of this section shall  
5 be refunded or credited to the applicant if either the application or  
6 notification is disapproved by the department or the application or  
7 notification is withdrawn by the applicant due to restrictions imposed  
8 by the department.

9 EXPLANATORY NOTE

10 Corrects a manifest grammatical error.

11 **Sec. 36.** RCW 76.09.140 and 1999 1st sp.s. c 4 s 801 are each  
12 amended to read as follows:

13 (1) The department of natural resources may take any necessary  
14 action to enforce any final order or final decision, and may disapprove  
15 any forest practices application or notification submitted by any  
16 person who has failed to comply with a final order or final decision or  
17 has failed to pay any civil penalties as provided in RCW 76.09.170, for  
18 up to one year from the issuance of a notice of intent to disapprove  
19 notifications and applications under this section or until the violator  
20 pays all outstanding civil penalties and complies with all validly  
21 issued and outstanding notices to comply and stop work orders,  
22 whichever is longer. For purposes of chapter 482, Laws of 1993, the  
23 terms "final order" and "final decision" shall mean the same as set  
24 forth in RCW 76.09.080, 76.09.090, and 76.09.110. The department shall  
25 provide written notice of its intent to disapprove an application or  
26 notification under this subsection. The department shall forward  
27 copies of its notice of intent to disapprove to any affected landowner.  
28 The disapproval period shall run from thirty days following the date of  
29 actual notice or when all administrative and judicial appellate  
30 processes, if any, have been exhausted. Any person provided the notice  
31 may seek review from the appeals board by filing a request for review  
32 within thirty days of the date of the notice of intent. While the  
33 notice of intent to disapprove is in effect, the violator may not serve  
34 as a person in charge of, be employed by, manage, or otherwise  
35 participate to any degree in forest practices.

36 (2) On request of the department, the attorney general may take  
37 action necessary to enforce this chapter, including, but not limited  
38 to: Seeking penalties, interest, costs, and attorneys' fees; enforcing

1 final orders or decisions; and seeking civil injunctions, show cause  
2 orders, or contempt orders.

3 (3) A county may bring injunctive, declaratory, or other actions  
4 for enforcement for forest practice activities within its jurisdiction  
5 in the superior court as provided by law against the department, the  
6 forest landowner, timber owner or operator to enforce the forest  
7 (~~practice[s]~~) practices rules or any final order of the department,  
8 or the appeals board. No civil or criminal penalties shall be imposed  
9 for past actions or omissions if such actions or omissions were  
10 conducted pursuant to an approval or directive of the department.  
11 Injunctions, declaratory actions, or other actions for enforcement  
12 under this subsection may not be commenced unless the department fails  
13 to take appropriate action after ten days written notice to the  
14 department by the county of a violation of the forest practices rules  
15 or final orders of the department or the appeals board.

16 (4)(a) The department may require financial assurance prior to the  
17 conduct of any further forest practices from an operator or landowner  
18 who within the preceding three-year period has:

19 (i) Operated without an approved forest practices application,  
20 other than an unintentional operation in connection with an approved  
21 application outside the approved boundary of such an application;

22 (ii) Continued to operate in breach of, or failed to comply with,  
23 the terms of an effective stop work order or notice to comply; or

24 (iii) Failed to pay any civil or criminal penalty.

25 (b) The department may deny any application for failure to submit  
26 financial assurances as required.

27 EXPLANATORY NOTE  
28 Corrects the reference to forest practices.

29 **Sec. 37.** RCW 76.09.150 and 1999 1st sp.s. c 4 s 802 are each  
30 amended to read as follows:

31 (1) The department shall make inspections of forest lands, before,  
32 during and after the conducting of forest practices as necessary for  
33 the purpose of ensuring compliance with this chapter and the forest  
34 practices rules and to ensure that no material damage occurs to the  
35 natural resources of this state as a result of such practices.

36 (2) Any duly authorized representative of the department shall have  
37 the right to enter upon forest land at any reasonable time to enforce  
38 the provisions of this chapter and the forest practices rules.



1 (3) The department or the department of ecology may apply for an  
2 administrative inspection warrant to either Thurston county superior  
3 court, or the superior court in the county in which the property is  
4 located. An administrative inspection warrant may be issued where:

5 (a) The department has attempted an inspection of forest lands  
6 under this chapter to ensure compliance with this chapter and the  
7 forest (~~(practice[s])~~) practices rules or to ensure that no potential  
8 or actual material damage occurs to the natural resources of this  
9 state, and access to all or part of the forest lands has been actually  
10 or constructively denied; or

11 (b) The department has reasonable cause to believe that a violation  
12 of this chapter or of rules adopted under this chapter is occurring or  
13 has occurred.

14 (4) In connection with any watershed analysis, any review of a  
15 pending application by an identification team appointed by the  
16 department, any compliance studies, any effectiveness monitoring, or  
17 other research that has been agreed to by a landowner, the department  
18 may invite representatives of other agencies, tribes, and interest  
19 groups to accompany a department representative and, at the landowner's  
20 election, the landowner, on any such inspections. Reasonable efforts  
21 shall be made by the department to notify the landowner of the persons  
22 being invited onto the property and the purposes for which they are  
23 being invited.

24 EXPLANATORY NOTE

25 Corrects the reference to forest practices.

26 **Sec. 38.** RCW 76.12.090 and 1988 c 128 s 29 are each amended to  
27 read as follows:

28 For the purpose of acquiring and paying for lands for state forests  
29 and reforestation as herein provided the department may issue utility  
30 bonds of the state of Washington, in an amount not to exceed two  
31 hundred thousand dollars in principal, during the biennium expiring  
32 March 31, 1925, and such other amounts as may hereafter be authorized  
33 by the legislature. Said bonds shall bear interest at not to exceed  
34 the rate of two percent per annum which shall be payable annually.  
35 Said bonds shall never be sold or exchanged at less than par and  
36 accrued interest, if any, and shall mature in not less than a period  
37 equal to the time necessary to develop a merchantable forest on the  
38 lands exchanged for said bonds or purchased with money derived from the

1 sale thereof. Said bonds shall be known as state forest utility bonds.  
2 The principal or interest of said bonds shall not be a general  
3 obligation of the state, but shall be payable only from the forest  
4 development account. The department may issue said bonds in exchange  
5 for lands selected by it in accordance with RCW 76.12.020, 76.12.030,  
6 76.12.080, 76.12.090, 76.12.110, 76.12.120, and 76.12.140, (~~and~~  
7 ~~76.12.150,~~) or may sell said bonds in such manner as it deems  
8 advisable, and with the proceeds purchase and acquire such lands. Any  
9 of said bonds issued in exchange and payment for any particular tract  
10 of lands may be made a first and prior lien against the particular land  
11 for which they are exchanged, and upon failure to pay said bonds and  
12 interest thereon according to their terms, the lien of said bonds may  
13 be foreclosed by appropriate court action.

14 EXPLANATORY NOTE

15 RCW 76.12.150 was repealed by 1977 c 75 s 96.

16 **Sec. 39.** RCW 76.12.100 and 1988 c 128 s 30 are each amended to  
17 read as follows:

18 For the purpose of acquiring, seeding, reforestation and  
19 administering land for forests and of carrying out RCW 76.12.020,  
20 76.12.030, 76.12.080, 76.12.090, 76.12.110, 76.12.120, and 76.12.140,  
21 (~~and 76.12.150,~~) the department is authorized to issue and dispose of  
22 utility bonds of the state of Washington in an amount not to exceed one  
23 hundred thousand dollars in principal during the biennium expiring  
24 March 31, 1951: PROVIDED, HOWEVER, That no sum in excess of one dollar  
25 per acre shall ever be paid or allowed either in cash, bonds, or  
26 otherwise, for any lands suitable for forest growth, but devoid of  
27 such, nor shall any sum in excess of three dollars per acre be paid or  
28 allowed either in cash, bonds, or otherwise, for any lands adequately  
29 restocked with young growth.

30 Any utility bonds issued under the provisions of this section may  
31 be retired from time to time, whenever there is sufficient money in the  
32 forest development account, said bonds to be retired at the discretion  
33 of the department either in the order of issuance, or by first retiring  
34 bonds with the highest rate of interest.

35 EXPLANATORY NOTE

36 RCW 76.12.150 was repealed by 1977 c 75 s 96.



1 trees and other flora and fauna associated with a forest ecosystem,  
2 comprised of total individual land ownerships of less than five  
3 thousand acres and not directly associated with wood processing or  
4 handling facilities.

5 ~~((4))~~ (5) "Stewardship" means managing by caring for, promoting,  
6 protecting, renewing, or reestablishing or both, forests and associated  
7 resources for the benefit of the landowner, the natural resources and  
8 the citizens of Washington state, in accordance with each landowner's  
9 objectives, best management practices, and legal requirements.

10 ~~((5) "Cooperating organization" means federal, state, and local  
11 agencies, colleges and universities, landowner assistance  
12 organizations, consultants, forest resource-related industries, and  
13 environmental organizations which promote and maintain programs  
14 designed to provide information and technical assistance services to  
15 nonindustrial forest and woodland owners.))~~

16 EXPLANATORY NOTE

17 Arranges definitions in alphabetical order.

18 **Sec. 42.** RCW 76.13.110 and 1999 1st sp.s. c 4 s 503 are each  
19 amended to read as follows:

20 (1) The department of natural resources shall establish and  
21 maintain a small forest landowner office. The small forest landowner  
22 office shall be a resource and focal point for small forest landowner  
23 concerns and policies, and shall have significant expertise regarding  
24 the management of small forest holdings, governmental programs  
25 applicable to such holdings, and the forestry riparian easement  
26 program.

27 (2) The small forest landowner office shall administer the  
28 provisions of the forestry riparian easement program created under RCW  
29 76.13.120. With respect to that program, the office shall have the  
30 authority to contract with private consultants that the office finds  
31 qualified to perform timber cruises of forestry riparian easements.

32 (3) The small forest landowner office shall assist in the  
33 development of small landowner options through alternate management  
34 plans or alternate harvest restrictions appropriate to small  
35 landowners. The small forest landowner office shall develop criteria  
36 to be adopted by the forest practices board in a manual for alternate  
37 management plans or alternate harvest restrictions. These alternate  
38 plans or alternate harvest restrictions shall meet riparian functions

1 while requiring less costly regulatory prescriptions. At the  
2 landowner's option, alternate plans or alternate harvest restrictions  
3 may be used to further meet riparian functions.

4 The small (~~{forest}~~) forest landowner office shall evaluate the  
5 cumulative impact of such alternate management plans or alternate  
6 harvest restrictions on essential riparian functions at the subbasin or  
7 watershed level. The small forest landowner office shall adjust future  
8 alternate management plans or alternate harvest restrictions in a  
9 manner that will minimize the negative impacts on essential riparian  
10 functions within a subbasin or watershed.

11 (4) An advisory committee is established to assist the small forest  
12 landowner office in developing policy and recommending rules to the  
13 forest practices board. The advisory committee shall consist of seven  
14 members, including a representative from the department of ecology, the  
15 department of fish and wildlife, and a tribal representative. Four  
16 additional committee members shall be small forest landowners who shall  
17 be appointed by the commissioner of public lands from a list of  
18 candidates submitted by the board of directors of the Washington farm  
19 forestry association or its successor organization. The association  
20 shall submit more than one candidate for each position. Appointees  
21 shall serve for a term of four years. The small forest landowner  
22 office shall review draft rules or rule concepts with the committee  
23 prior to recommending such rules to the forest practices board. The  
24 office shall reimburse nongovernmental committee members for reasonable  
25 expenses associated with attending committee meetings as provided in  
26 RCW 43.03.050 and 43.03.060.

27 (5) By December 1, 2000, the small forest landowner office shall  
28 provide a report to the board and the legislature containing:

29 (a) Estimates of the amounts of nonindustrial forests and woodlands  
30 in holdings of twenty acres or less, twenty-one to one hundred acres,  
31 one hundred to one thousand acres, and one thousand to five thousand  
32 acres, in western Washington and eastern Washington, and the number of  
33 persons having total nonindustrial forest and woodland holdings in  
34 those size ranges;

35 (b) Estimates of the number of parcels of nonindustrial forests and  
36 woodlands held in contiguous ownerships of twenty acres or less, and  
37 the percentages of those parcels containing improvements used: (i) As  
38 primary residences for half or more of most years; (ii) as vacation

1 homes or other temporary residences for less than half of most years;  
2 and (iii) for other uses;

3 (c) The watershed administrative units in which significant  
4 portions of the riparian areas or total land area are nonindustrial  
5 forests and woodlands;

6 (d) Estimates of the number of forest practices applications and  
7 notifications filed per year for forest road construction,  
8 silvicultural activities to enhance timber growth, timber harvest not  
9 associated with conversion to nonforest land uses, with estimates of  
10 the number of acres of nonindustrial forests and woodlands on which  
11 forest practices are conducted under those applications and  
12 notifications; and

13 (e) Recommendations on ways the board and the legislature could  
14 provide more effective incentives to encourage continued management of  
15 nonindustrial forests and woodlands for forestry uses in ways that  
16 better protect salmon, other fish and wildlife, water quality, and  
17 other environmental values.

18 (6) By December 1, 2002, and every four years thereafter, the small  
19 forest landowner office shall provide to the board and the legislature  
20 an update of the report described in subsection (5) of this section,  
21 containing more recent information and describing:

22 (a) Trends in the items estimated under subsection (5)(a) through  
23 (d) of this section;

24 (b) Whether, how, and to what extent the forest practices act and  
25 rules contributed to those trends; and

26 (c) Whether, how, and to what extent: (i) The board and  
27 legislature implemented recommendations made in the previous report;  
28 and (ii) implementation of or failure to implement those  
29 recommendations affected those trends.

30 EXPLANATORY NOTE

31 Corrects the reference to the small forest landowner office.

32 **Sec. 43.** RCW 76.13.120 and 1999 1st sp.s. c 4 s 504 are each  
33 amended to read as follows:

34 (1) The legislature finds that the state should acquire easements  
35 along riparian and other sensitive aquatic areas from small forest  
36 landowners willing to sell or donate such easements to the state  
37 provided that the state will not be required to acquire such easements

1 if they are subject to unacceptable liabilities. The legislature  
2 therefore establishes a forestry riparian easement program.

3 (2) The definitions in this subsection apply throughout this  
4 section and RCW 76.13.100 and 76.13.110 unless the context clearly  
5 requires otherwise.

6 (a) "Forestry riparian easement" means an easement covering  
7 qualifying timber granted voluntarily to the state by a small forest  
8 landowner.

9 (b) "Qualifying timber" means those trees covered by a forest  
10 practices application that the small forest landowner is required to  
11 leave unharvested under the rules adopted under RCW 76.09.055 and  
12 76.09.370 or that is made uneconomic to harvest by those rules, and for  
13 which the small landowner is willing to grant the state a forestry  
14 riparian easement. "Qualifying timber" is timber within or bordering  
15 a commercially reasonable harvest unit as determined under rules  
16 adopted by the forest practices board.

17 (c) "Small forest landowner" means a landowner meeting all of the  
18 following characteristics: (i) A forest landowner as defined in RCW  
19 76.09.020 whose interest in the land and timber is in fee or who has  
20 rights to the timber to be included in the forestry riparian easement  
21 that extend at least fifty years from the date the forest practices  
22 application associated with the easement is submitted; (ii) an entity  
23 that has harvested from its own lands in this state during the three  
24 years prior to the year of application an average timber volume that  
25 would qualify the owner as a small timber harvester under RCW  
26 84.33.073(1); and (iii) an entity that certifies at the time of  
27 application that it does not expect to harvest from its own lands more  
28 than the volume allowed by RCW 84.33.073(1) during the ten years  
29 following application. If a landowner's prior three-year average  
30 harvest exceeds the limit of RCW 84.33.073(1), or the landowner expects  
31 to exceed this limit during the ten years following application, and  
32 that landowner establishes to the department of natural resources'  
33 reasonable satisfaction that the harvest limits were or will be  
34 exceeded to raise funds to pay estate taxes or equally compelling and  
35 unexpected obligations such as court-ordered judgments or extraordinary  
36 medical expenses, the landowner shall be deemed to be a small forest  
37 landowner.

38 For purposes of determining whether a person qualifies as a small  
39 forest landowner, the small forest landowner office, created in RCW

1 76.13.110, shall evaluate the landowner under this definition as of the  
2 date that the forest practices application is submitted with which the  
3 forestry riparian easement is associated. A small forest landowner can  
4 include an individual, partnership, corporate, or other nongovernmental  
5 legal entity. If a landowner grants timber rights to another entity  
6 for less than five years, the landowner may still qualify as a small  
7 forest landowner under this section.

8 (d) "Completion of harvest" means that the trees have been  
9 harvested from an area and that further entry into that area by  
10 mechanized logging or slash treating equipment is not expected.

11 (3) The department of natural resources is authorized and directed  
12 to accept and hold in the name of the state of Washington forestry  
13 riparian easements granted by small forest landowners covering  
14 qualifying timber and to pay compensation to such landowners in  
15 accordance with subsections (6) and (7) of this section. The  
16 department of natural resources may not transfer the easements to any  
17 entity other than another state agency.

18 (4) Forestry riparian easements shall be effective for fifty years  
19 from the date the forest practices application associated with the  
20 qualifying timber is submitted to the department of natural resources,  
21 unless the easement is terminated earlier by the department of natural  
22 resources voluntarily, based on a determination that termination is in  
23 the best interest of the state, or under the terms of a termination  
24 clause in the easement.

25 (5) Forestry riparian easements shall be restrictive only, and  
26 shall preserve all lawful uses of the easement premises by the  
27 landowner that are consistent with the terms of the easement and the  
28 requirement to protect riparian functions during the term of the  
29 easement, subject to the restriction that the leave trees required by  
30 the rules to be left on the easement premises may not be cut during the  
31 term of the easement. No right of public access to or across, or any  
32 public use of the easement premises is created by this statute or by  
33 the easement. Forestry riparian easements shall not be deemed to  
34 trigger the compensating tax of or otherwise disqualify land from being  
35 taxed under chapter 84.33 or 84.34 RCW.

36 (6) Upon application of a small forest landowner for a riparian  
37 easement that is associated with a forest practices application and the  
38 landowner's marking of the qualifying timber on the qualifying lands,  
39 the small forest landowner office shall determine the compensation to



1 be offered to the small (~~{forest}~~) forest landowner as provided for  
2 in this section. The legislature recognizes that there is not readily  
3 available market transaction evidence of value for easements of this  
4 nature, and thus establishes the following methodology to ascertain the  
5 value for forestry riparian easements. Values so determined shall not  
6 be considered competent evidence of value for any other purpose.

7 The small forest landowner office shall establish the volume of the  
8 qualifying timber. Based on that volume and using data obtained or  
9 maintained by the department of revenue under RCW 84.33.074 and  
10 84.33.091, the small forest landowner office shall attempt to determine  
11 the fair market value of the qualifying timber as of the date the  
12 forest practices application associated with the qualifying timber was  
13 submitted. If, under the forest practices rules adopted under chapter  
14 4, Laws of 1999 1st sp. sess., some qualifying timber may be removed  
15 prior to the expiration of the fifty-year term of the easement, the  
16 small forest landowner office shall apply a reduced compensation factor  
17 to ascertain the value of those trees based on the proportional  
18 economic value, considering income and growth, lost to the landowner.

19 (7) Except as provided in subsection (8) of this section, the small  
20 forest landowner office shall, subject to available funding, offer  
21 compensation to the small forest landowner in the amount of fifty  
22 percent of the value determined in subsection (6) of this section. If  
23 the landowner accepts the offer, the department of natural resources  
24 shall pay the compensation promptly upon (a) completion of harvest in  
25 the area covered by the forestry riparian easement; (b) verification  
26 that there has been compliance with the rules requiring leave trees in  
27 the easement area; and (c) execution and delivery of the easement to  
28 the department of natural resources. Upon donation or payment of  
29 compensation, the department of natural resources may record the  
30 easement.

31 (8) For approved forest (~~{practice[s]}~~) practices applications  
32 where the regulatory impact is greater than the average percentage  
33 impact for all small landowners as determined by the department of  
34 natural resources analysis under the regulatory fairness act, chapter  
35 19.85 RCW, the compensation offered will be increased to one hundred  
36 percent for that portion of the regulatory impact that is in excess of  
37 the average. Regulatory impact includes trees left in buffers, special  
38 management zones, and those rendered uneconomic to harvest by these  
39 rules. A separate average or high impact regulatory threshold shall be

1 established for western and eastern Washington. Criteria for these  
2 measurements and payments shall be established by the small forest  
3 landowner office.

4 (9) The forest practices board shall adopt rules under the  
5 administrative procedure act, chapter 34.05 RCW, to implement the  
6 forestry riparian easement program, including the following:

7 (a) A standard version or versions of all documents necessary or  
8 advisable to create the forestry riparian easements as provided for in  
9 this section;

10 (b) Standards for descriptions of the easement premises with a  
11 degree of precision that is reasonable in relation to the values  
12 involved;

13 (c) Methods and standards for cruises and valuation of forestry  
14 riparian easements for purposes of establishing the compensation. The  
15 department of natural resources shall perform the timber cruises of  
16 forestry riparian easements required under this chapter and chapter  
17 76.09 RCW. Any rules concerning the methods and standards for  
18 valuations of forestry riparian easements shall apply only to the  
19 department of natural resources, small forest landowners, and the small  
20 forest landowner office;

21 (d) A method to determine that a forest (~~(practice[s])~~) practices  
22 application involves a commercially reasonable harvest;

23 (e) A method to address blowdown of qualified timber falling  
24 outside the easement premises;

25 (f) A formula for sharing of proceeds in relation to the  
26 acquisition of qualified timber covered by an easement through the  
27 exercise or threats of eminent domain by a federal or state agency with  
28 eminent domain authority, based on the present value of the department  
29 of natural resources' and the landowner's relative interests in the  
30 qualified timber;

31 (g) High impact regulatory thresholds;

32 (h) A method to determine timber that is qualifying timber because  
33 it is rendered uneconomic to harvest by the rules adopted under RCW  
34 76.09.055 and 76.09.370; and

35 (i) A method for internal department of natural resources review of  
36 small (~~(forest)~~) forest landowner office compensation decisions under  
37 subsection (7) of this section.

38 EXPLANATORY NOTE

39 Clarifies a reference to the small forest landowner.

1 Also corrects references to forest practices applications and  
2 the small forest landowner office.

3 **Sec. 44.** RCW 76.14.010 and 1988 c 128 s 37 are each amended to  
4 read as follows:

5 As used in this chapter:

6 (1) "Department" means the department of natural resources;

7 (2) "Forest land" means any lands considered best adapted for the  
8 growing of trees; and

9 (3) The term "owner" means and includes individuals, partnerships,  
10 corporations, associations, federal land managing agencies, state of  
11 Washington, counties, municipalities, and other forest landowners((+

12 "Forest land" means any lands considered best adapted for the  
13 growing of trees)).

14 EXPLANATORY NOTE  
15 Arranges definitions in alphabetical order.

16 **Sec. 45.** RCW 76.15.010 and 1991 c 179 s 3 are each amended to read  
17 as follows:

18 Unless the context clearly requires otherwise, the definitions in  
19 this section apply throughout this chapter.

20 ~~(1) ("Department" means the department of natural resources.~~

21 ~~(2) "Person" means an individual, partnership, private or public~~  
22 ~~municipal corporation, Indian tribe, state entity, county or local~~  
23 ~~governmental entity, or association of individuals of whatever nature.~~

24 ~~(3))~~ "Community and urban forest" is that land in and around human  
25 settlements ranging from small communities to metropolitan areas,  
26 occupied or potentially occupied by trees and associated vegetation.  
27 Community and urban forest land may be planted or unplanted, used or  
28 unused, and includes public and private lands, lands along  
29 transportation and utility corridors, and forested watershed lands  
30 within populated areas.

31 ~~((+4))~~ (2) "Community and urban forestry" means the planning,  
32 establishment, protection, care, and management of trees and associated  
33 plants individually, in small groups, or under forest conditions within  
34 municipalities and counties.

35 ~~((+5))~~ (3) "Department" means the department of natural resources.





1       ~~(2) "Native ornamental trees and shrubs" means any trees or shrubs~~  
2 ~~which are not nursery grown and which have been removed from the ground~~  
3 ~~with the roots intact.~~

4       ~~(3) "Cut or picked evergreen foliage," commonly known as brush,~~  
5 ~~means evergreen boughs, huckleberry, salal, fern, Oregon grape,~~  
6 ~~rhododendron, mosses, bear grass, scotch broom (Cytisus scoparius) and~~  
7 ~~other cut or picked evergreen products. "Cut or picked evergreen~~  
8 ~~foliage" does not mean cones or seeds.))~~ "Authorization" means a  
9 properly completed preprinted form authorizing the transportation or  
10 possession of Christmas trees which contains the information required  
11 by RCW 76.48.080, a sample of which is filed before the harvesting  
12 occurs with the sheriff of the county in which the harvesting is to  
13 occur.

14       (2) "Cascara bark" means the bark of a Cascara tree.

15       (3) "Cedar processor" means any person who purchases, takes, or  
16 retains possession of cedar products or cedar salvage for later sale in  
17 the same or modified form following removal and delivery from the land  
18 where harvested.

19       (4) "Cedar products" means cedar shakeboards, shake and shingle  
20 bolts, and rounds one to three feet in length.

21       (5) "Cedar salvage" means cedar chunks, slabs, stumps, and logs  
22 having a volume greater than one cubic foot and being harvested or  
23 transported from areas not associated with the concurrent logging of  
24 timber stands (a) under a forest practices application approved or  
25 notification received by the department of natural resources, or (b)  
26 under a contract or permit issued by an agency of the United States  
27 government.

28       ~~(6) ("Processed cedar products" means cedar shakes, shingles,~~  
29 ~~fence posts, hop poles, pickets, stakes, rails, or rounds less than one~~  
30 ~~foot in length.~~

31       ~~(7) "Cedar processor" means any person who purchases, takes, or~~  
32 ~~retains possession of cedar products or cedar salvage for later sale in~~  
33 ~~the same or modified form following removal and delivery from the land~~  
34 ~~where harvested.~~

35       ~~(8) "Cascara bark" means the bark of a Cascara tree.~~

36       ~~(9) "Wild edible mushrooms" means edible mushrooms not cultivated~~  
37 ~~or propagated by artificial means.~~

38       ~~(10) "Specialized forest products" means Christmas trees, native~~  
39 ~~ornamental trees and shrubs, cut or picked evergreen foliage, cedar~~

1 products, cedar salvage, processed cedar products, wild edible  
2 mushrooms, and Cascara bark.

3 (11) "Person" includes the plural and all corporations, foreign or  
4 domestic, copartnerships, firms, and associations of persons.

5 (12)) "Christmas trees" means any evergreen trees or the top  
6 thereof, commonly known as Christmas trees, with limbs and branches,  
7 with or without roots, including fir, pine, spruce, cedar, and other  
8 coniferous species.

9 (7) "Cut or picked evergreen foliage," commonly known as brush,  
10 means evergreen boughs, huckleberry, salal, fern, Oregon grape,  
11 rhododendron, mosses, bear grass, scotch broom (Cytisus scoparius), and  
12 other cut or picked evergreen products. "Cut or picked evergreen  
13 foliage" does not mean cones or seeds.

14 (8) "Harvest" means to separate, by cutting, prying, picking,  
15 peeling, breaking, pulling, splitting, or otherwise removing, a  
16 specialized forest product (a) from its physical connection or contact  
17 with the land or vegetation upon which it is or was growing or (b) from  
18 the position in which it is lying upon the land.

19 ((13) "Transportation" means the physical conveyance of  
20 specialized forest products outside or off of a harvest site by any  
21 means.

22 (14) "Landowner" means, with regard to real property, the private  
23 owner, the state of Washington or any political subdivision, the  
24 federal government, or a person who by deed, contract, or lease has  
25 authority to harvest and sell forest products of the property.  
26 "Landowner" does not include the purchaser or successful high bidder at  
27 a public or private timber sale.

28 (15) "Authorization" means a properly completed preprinted form  
29 authorizing the transportation or possession of Christmas trees which  
30 contains the information required by RCW 76.48.080, a sample of which  
31 is filed before the harvesting occurs with the sheriff of the county in  
32 which the harvesting is to occur.

33 (16)) (9) "Harvest site" means each location where one or more  
34 persons are engaged in harvesting specialized forest products close  
35 enough to each other that communication can be conducted with an  
36 investigating law enforcement officer in a normal conversational tone.

37 ((17) "Specialized forest products permit" means a printed  
38 document in a form specified by the department of natural resources, or  
39 true copy thereof, that is signed by a landowner or his or her

1 authorized agent or representative, referred to in this chapter as  
2 "permitters" and validated by the county sheriff and authorizes a  
3 designated person, referred to in this chapter as "permittee", who has  
4 also signed the permit, to harvest and transport a designated  
5 specialized forest product from land owned or controlled and specified  
6 by the permitter and that is located in the county where the permit is  
7 issued.

8 (18)) (10) "Landowner" means, with regard to real property, the  
9 private owner, the state of Washington or any political subdivision,  
10 the federal government, or a person who by deed, contract, or lease has  
11 authority to harvest and sell forest products of the property.  
12 "Landowner" does not include the purchaser or successful high bidder at  
13 a public or private timber sale.

14 (11) "Native ornamental trees and shrubs" means any trees or shrubs  
15 which are not nursery grown and which have been removed from the ground  
16 with the roots intact.

17 (12) "Permit area" means a designated tract of land that may  
18 contain single or multiple harvest sites.

19 (13) "Person" includes the plural and all corporations, foreign or  
20 domestic, copartnerships, firms, and associations of persons.

21 (14) "Processed cedar products" means cedar shakes, shingles, fence  
22 posts, hop poles, pickets, stakes, rails, or rounds less than one foot  
23 in length.

24 (15) "Sheriff" means, for the purpose of validating specialized  
25 forest products permits, the county sheriff, deputy sheriff, or an  
26 authorized employee of the sheriff's office or an agent of the office.

27 (16) "Specialized forest products" means Christmas trees, native  
28 ornamental trees and shrubs, cut or picked evergreen foliage, cedar  
29 products, cedar salvage, processed cedar products, wild edible  
30 mushrooms, and Cascara bark.

31 (17) "Specialized forest products permit" means a printed document  
32 in a form specified by the department of natural resources, or true  
33 copy thereof, that is signed by a landowner or his or her authorized  
34 agent or representative, referred to in this chapter as "permitters"  
35 and validated by the county sheriff and authorizes a designated person,  
36 referred to in this chapter as "permittee," who has also signed the  
37 permit, to harvest and transport a designated specialized forest  
38 product from land owned or controlled and specified by the permitter  
39 and that is located in the county where the permit is issued.





EXPLANATORY NOTE

Corrects a manifest grammatical error.

**Sec. 50.** RCW 77.08.010 and 1998 c 190 s 111 are each amended to read as follows:

As used in this title or Title 75 RCW or rules adopted pursuant to those titles, unless the context clearly requires otherwise:

(1) ~~("Director" means the director of fish and wildlife.~~

(2) ~~"Department" means the department of fish and wildlife.~~

(3) ~~"Commission" means the state fish and wildlife commission.~~

(4) ~~"Person" means and includes an individual, a corporation, or a group of two or more individuals acting with a common purpose whether acting in an individual, representative, or official capacity.~~

(5) ~~"Fish and wildlife officer" means a person appointed and commissioned by the director, with authority to enforce laws and rules adopted pursuant to this title, and other statutes as prescribed by the legislature. Fish and wildlife officer includes a person commissioned before June 11, 1998, as a wildlife agent.~~

(6) ~~"Ex officio fish and wildlife officer" means a commissioned officer of a municipal, county, state, or federal agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio fish and wildlife officer" includes special agents of the national marine fisheries service, state parks commissioned officers, United States fish and wildlife special agents, department of natural resources enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions.~~

(7) ~~"To hunt" and its derivatives means an effort to kill, injure, capture, or harass a wild animal or wild bird.~~

(8) ~~"To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.~~

(9) ~~"To fish" and its derivatives means an effort to kill, injure, harass, or catch a fish.~~

(10) ~~"Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful hunting, fishing, or possession of game animals, game birds, or game fish that conform to the special restrictions or physical descriptions established by rule of the commission or that have otherwise been deemed legal to hunt, fish, or possess by rule of the commission. "Open season" includes the first and last days of the established time.~~

1       (11) "~~Closed season~~" means all times, manners of taking, and places  
2 or waters other than those established by rule of the commission as an  
3 open season. — "~~Closed season~~" also means all hunting, fishing, or  
4 possession of game animals, game birds, or game fish that do not  
5 conform to the special restrictions or physical descriptions  
6 established by rule of the commission as an open season or that have  
7 not otherwise been deemed legal to hunt, fish, or possess by rule of  
8 the commission as an open season.

9       (12) "~~Closed area~~" means a place where the hunting of some species  
10 of wild animals or wild birds is prohibited.

11       (13) "~~Closed waters~~" means all or part of a lake, river, stream, or  
12 other body of water, where fishing for game fish is prohibited.

13       (14) "~~Game reserve~~" means a closed area where hunting for all wild  
14 animals and wild birds is prohibited.

15       (15)) "Bag limit" means the maximum number of game animals, game  
16 birds, or game fish which may be taken, caught, killed, or possessed by  
17 a person, as specified by rule of the commission for a particular  
18 period of time, or as to size, sex, or species.

19       ((16) "~~Wildlife~~" means all species of the animal kingdom whose  
20 members exist in Washington in a wild state. This includes but is not  
21 limited to mammals, birds, reptiles, amphibians, fish, and  
22 invertebrates. The term "wildlife" does not include feral domestic  
23 mammals, the family Muridae of the order Rodentia (old world rats and  
24 mice), or those fish, shellfish, and marine invertebrates classified as  
25 food fish or shellfish by the director. The term "wildlife" includes  
26 all stages of development and the bodily parts of wildlife members.

27       (17) "~~Wild animals~~" means those species of the class Mammalia whose  
28 members exist in Washington in a wild state and the species *Rana*  
29 *catesbeiana* (bullfrog). The term "wild animal" does not include feral  
30 domestic mammals or the family Muridae of the order Rodentia (old world  
31 rats and mice).

32       (18) "~~Wild birds~~" means those species of the class Aves whose  
33 members exist in Washington in a wild state.

34       (19) "~~Protected wildlife~~" means wildlife designated by the  
35 commission that shall not be hunted or fished.

36       (20) "~~Endangered species~~" means wildlife designated by the  
37 commission as seriously threatened with extinction.

38       (21) "~~Game animals~~" means wild animals that shall not be hunted  
39 except as authorized by the commission.

1       ~~(22) "Fur bearing animals" means game animals that shall not be~~  
2 ~~trapped except as authorized by the commission.~~

3       ~~(23) "Game birds" means wild birds that shall not be hunted except~~  
4 ~~as authorized by the commission.~~

5       ~~(24) "Predatory birds" means wild birds that may be hunted~~  
6 ~~throughout the year as authorized by the commission.~~

7       ~~(25))~~ (2) "Closed area" means a place where the hunting of some  
8 species of wild animals or wild birds is prohibited.

9       (3) "Closed season" means all times, manners of taking, and places  
10 or waters other than those established by rule of the commission as an  
11 open season. "Closed season" also means all hunting, fishing, or  
12 possession of game animals, game birds, or game fish that do not  
13 conform to the special restrictions or physical descriptions  
14 established by rule of the commission as an open season or that have  
15 not otherwise been deemed legal to hunt, fish, or possess by rule of  
16 the commission as an open season.

17       (4) "Closed waters" means all or part of a lake, river, stream, or  
18 other body of water, where fishing for game fish is prohibited.

19       (5) "Commission" means the state fish and wildlife commission.

20       (6) "Deleterious exotic wildlife" means species of the animal  
21 kingdom not native to Washington and designated as dangerous to the  
22 environment or wildlife of the state.

23       ~~((26) "Game farm" means property on which wildlife is held or~~  
24 ~~raised for commercial purposes, trade, or gift. The term "game farm"~~  
25 ~~does not include publicly owned facilities.~~

26       ~~(27) "Person of disability" means a permanently disabled person who~~  
27 ~~is not ambulatory without the assistance of a wheelchair, crutches, or~~  
28 ~~similar devices.~~

29       ~~(28))~~ (7) "Department" means the department of fish and wildlife.

30       (8) "Director" means the director of fish and wildlife.

31       (9) "Endangered species" means wildlife designated by the  
32 commission as seriously threatened with extinction.

33       (10) "Ex officio fish and wildlife officer" means a commissioned  
34 officer of a municipal, county, state, or federal agency having as its  
35 primary function the enforcement of criminal laws in general, while the  
36 officer is in the appropriate jurisdiction. The term "ex officio fish  
37 and wildlife officer" includes special agents of the national marine  
38 fisheries service, state parks commissioned officers, United States  
39 fish and wildlife special agents, department of natural resources

1 enforcement officers, and United States forest service officers, while  
2 the agents and officers are within their respective jurisdictions.

3 (11) "Fish" includes all species classified as game fish or food  
4 fish by statute or rule, as well as all fin fish not currently  
5 classified as food fish or game fish if such species exist in state  
6 waters. The term "fish" includes all stages of development and the  
7 bodily parts of fish species.

8 (12) "Fish and wildlife officer" means a person appointed and  
9 commissioned by the director, with authority to enforce laws and rules  
10 adopted pursuant to this title, and other statutes as prescribed by the  
11 legislature. Fish and wildlife officer includes a person commissioned  
12 before June 11, 1998, as a wildlife agent.

13 (13) "Fur-bearing animals" means game animals that shall not be  
14 trapped except as authorized by the commission.

15 (14) "Game animals" means wild animals that shall not be hunted  
16 except as authorized by the commission.

17 (15) "Game birds" means wild birds that shall not be hunted except  
18 as authorized by the commission.

19 (16) "Game farm" means property on which wildlife is held or raised  
20 for commercial purposes, trade, or gift. The term "game farm" does not  
21 include publicly owned facilities.

22 (17) "Game reserve" means a closed area where hunting for all wild  
23 animals and wild birds is prohibited.

24 (18) "Open season" means those times, manners of taking, and places  
25 or waters established by rule of the commission for the lawful hunting,  
26 fishing, or possession of game animals, game birds, or game fish that  
27 conform to the special restrictions or physical descriptions  
28 established by rule of the commission or that have otherwise been  
29 deemed legal to hunt, fish, or possess by rule of the commission.  
30 "Open season" includes the first and last days of the established time.

31 (19) "Person" means and includes an individual, a corporation, or  
32 a group of two or more individuals acting with a common purpose whether  
33 acting in an individual, representative, or official capacity.

34 (20) "Person of disability" means a permanently disabled person who  
35 is not ambulatory without the assistance of a wheelchair, crutches, or  
36 similar devices.

37 (21) "Predatory birds" means wild birds that may be hunted  
38 throughout the year as authorized by the commission.



1 ~~involved in trafficking under RCW 77.16.040 or illegal netting of game~~  
2 ~~fish under RCW 77.16.060~~)). However, agents may not seize any item or  
3 article, other than evidence, from a violator if under the  
4 circumstances it is reasonable to conclude that the violation was  
5 inadvertent. The articles seized shall be forfeited to the state, upon  
6 conviction, plea of guilty, or bail forfeiture. Articles seized may be  
7 recovered by their owner by depositing into court a cash bond equal to  
8 the value of the seized articles. The cash bond is subject to  
9 forfeiture in lieu of the seized articles.

10 (2)(a) In the event of a seizure of an article under subsection (1)  
11 of this section, proceedings for forfeiture shall be deemed commenced  
12 by bail forfeiture, plea of guilty, or upon conviction. The seizing  
13 authority shall serve notice within fifteen days following the seizure  
14 on the owner of the property seized and on any person having any known  
15 right or interest in the property seized. Notice may be served by any  
16 method authorized by law or court rule, including service by certified  
17 mail with return receipt requested, and service by such mail shall be  
18 deemed complete upon mailing within the fifteen-day period following  
19 the seizure.

20 (b) If no person notifies the department in writing of the person's  
21 claim of ownership or right to possession of articles seized pursuant  
22 to subsection (1) of this section within forty-five days of the  
23 seizure, the articles shall be deemed forfeited.

24 (c) If any person notifies the department in writing within forty-  
25 five days of the seizure, the person shall be afforded an opportunity  
26 to be heard as to the claim or right. The hearing shall be before the  
27 director or his designee, or before an administrative law judge  
28 appointed under chapter 34.12 RCW, except that any person asserting a  
29 claim or right may remove the matter to a court of competent  
30 jurisdiction. The department hearing and any appeal therefrom shall be  
31 under Title 34 RCW. The burden of producing evidence shall be upon the  
32 person claiming to be the lawful owner or person claiming lawful right  
33 of possession of the articles seized. The department shall promptly  
34 return the seized articles to the claimant upon a determination by the  
35 director or designee, an administrative law judge, or a court that the  
36 claimant is the present lawful owner or is lawfully entitled to  
37 possession of the articles seized, and that the seized articles were  
38 improperly seized.

1 (d)(i) No conveyance, including vessels, vehicles, or aircraft, is  
2 subject to forfeiture under this section by reason of any act or  
3 omission established by the owner of the conveyance to have been  
4 committed or omitted without his knowledge or consent.

5 (ii) A forfeiture of a conveyance encumbered by a bona fide  
6 security interest is subject to the interest of the secured party if  
7 the secured party neither had knowledge nor consented to the act or  
8 omission.

9 (e) When seized property is forfeited under this section the  
10 department may retain it for official use unless the property is  
11 required to be destroyed, or upon application by any law enforcement  
12 agency of the state, release such property to such agency for the use  
13 of enforcing Title 77 RCW, or sell such property, and deposit the  
14 proceeds to the wildlife fund in the state treasury, as provided for in  
15 RCW 77.12.170.

16 EXPLANATORY NOTE

17 (1) The terms "wildlife agent" and "ex officio wildlife agent"  
18 were changed to "fish and wildlife officer" and "ex officio  
19 fish and wildlife officer" by 1998 c 190 s 111.

20 (2) RCW 77.16.040 and 77.16.060 were repealed by 1998 c 190 s  
21 124.

22 **Sec. 52.** RCW 77.12.204 and 1993 sp.s. c 4 s 6 are each amended to  
23 read as follows:

24 The department of fish and wildlife shall implement practices  
25 necessary to meet the standards developed under RCW 79.01.295 on  
26 agency-owned and managed agricultural and grazing lands. The standards  
27 may be modified on a site-specific basis as necessary and as determined  
28 by the department of (~~fisheries or~~) fish and wildlife, for species  
29 that these agencies respectively manage, to achieve the goals  
30 established under RCW 79.01.295(1). Existing lessees shall be provided  
31 an opportunity to participate in any site-specific field review.  
32 Department agricultural and grazing leases issued after December 31,  
33 1994, shall be subject to practices to achieve the standards that meet  
34 those developed pursuant to RCW 79.01.295.

35 This section shall in no way prevent the department of fish and  
36 wildlife from managing its lands to accomplish its statutory mandate  
37 pursuant to RCW 77.12.010, nor shall it prevent the department from  
38 managing its lands according to the provisions of RCW 77.12.210 or  
39 rules adopted pursuant to this chapter.



1 EXPLANATORY NOTE

2 Powers, duties, and functions of the department of fisheries  
3 and the department of wildlife were transferred to the  
4 department of fish and wildlife by 1993 sp.s. c 2, effective  
5 July 1, 1994.

6 **Sec. 53.** RCW 77.12.250 and 1980 c 78 s 42 are each amended to read  
7 as follows:

8 The director, (~~wildlife agents, ex officio wildlife agents~~) fish  
9 and wildlife officers, ex officio fish and wildlife officers, and  
10 department employees may enter upon lands or waters and remain there  
11 while performing their duties without liability for trespass.

12 EXPLANATORY NOTE

13 The terms "wildlife agent" and "ex officio wildlife agent" were  
14 changed to "fish and wildlife officer" and "ex officio fish and  
15 wildlife officer" by 1998 c 190 s 111.

16 **Sec. 54.** RCW 77.12.315 and 1987 c 506 s 40 are each amended to  
17 read as follows:

18 If the director determines that a severe problem exists in an area  
19 of the state because deer and elk are being pursued, harassed, attacked  
20 or killed by dogs, the director may declare by emergency rule that an  
21 emergency exists and specify the area where it is lawful for (~~wildlife~~  
22 ~~agents~~) fish and wildlife officers to take into custody or destroy the  
23 dogs if necessary. (~~Wildlife agents~~) Fish and wildlife officers who  
24 take into custody or destroy a dog pursuant to this section are immune  
25 from civil or criminal liability arising from their actions.

26 EXPLANATORY NOTE

27 The term "wildlife agent" was changed to "fish and wildlife  
28 officer" by 1998 c 190 s 111.

29 **Sec. 55.** RCW 77.12.470 and 1980 c 78 s 63 are each amended to read  
30 as follows:

31 To enforce RCW 77.12.480 and 77.12.490, courts in the counties  
32 contiguous to the boundary waters, (~~wildlife agents, and ex officio~~  
33 ~~wildlife agents~~) fish and wildlife officers, and ex officio fish and  
34 wildlife officers have jurisdiction over the boundary waters to the  
35 furthest shoreline. This jurisdiction is concurrent with the courts  
36 and law enforcement officers of Idaho.

1 EXPLANATORY NOTE

2 The terms "wildlife agent" and "ex officio wildlife agent" were  
3 changed to "fish and wildlife officer" and "ex officio fish and  
4 wildlife officer" by 1998 c 190 s 111.

5 **Sec. 56.** RCW 77.12.480 and 1980 c 78 s 64 are each amended to read  
6 as follows:

7 The taking of wildlife from the boundary waters or islands of the  
8 Snake river shall be in accordance with the wildlife laws of the  
9 respective states. ((Wildlife agents and ex officio wildlife agents))  
10 Fish and wildlife officers and ex officio fish and wildlife officers  
11 shall honor the license of either state and the right of the holder to  
12 take wildlife from the boundary waters and islands in accordance with  
13 the laws of the state issuing the license.

14 EXPLANATORY NOTE

15 The terms "wildlife agent" and "ex officio wildlife agent" were  
16 changed to "fish and wildlife officer" and "ex officio fish and  
17 wildlife officer" by 1998 c 190 s 111.

18 **Sec. 57.** RCW 77.12.610 and 1982 c 155 s 1 are each amended to read  
19 as follows:

20 The purposes of RCW 77.12.610 through 77.12.630 ((and 77.16.610))  
21 are to facilitate the department's gathering of biological data for  
22 managing wildlife resources of this state and to protect wildlife  
23 resources by assuring compliance with Title 77 RCW, and rules adopted  
24 thereunder, in a manner designed to minimize inconvenience to the  
25 public.

26 EXPLANATORY NOTE

27 RCW 77.16.610 was repealed by 1998 c 190 s 124.

28 **Sec. 58.** RCW 77.12.620 and 1982 c 155 s 2 are each amended to read  
29 as follows:

30 The department is authorized to require hunters and fishermen  
31 occupying a motor vehicle approaching or entering a check station to  
32 stop and produce for inspection: (1) Any wildlife in their possession;  
33 (2) licenses, permits, tags, stamps, or punchcards required under Title  
34 77 RCW, or rules adopted thereunder. For these purposes, the  
35 department is authorized to operate check stations which shall be  
36 plainly marked by signs, operated by at least one uniformed ((wildlife  
37 agent)) fish and wildlife officer, and operated in a safe manner.

1 EXPLANATORY NOTE

2 The term "wildlife agent" was changed to "fish and wildlife  
3 officer" by 1998 c 190 s 111.

4 **Sec. 59.** RCW 77.12.630 and 1982 c 155 s 4 are each amended to read  
5 as follows:

6 The powers conferred by RCW 77.12.610 through 77.12.630 ((and  
7 77.16.610)) are in addition to all other powers conferred by law upon  
8 the department. Nothing in RCW 77.12.610 through 77.12.630 ((and  
9 77.16.610)) shall be construed to prohibit the department from  
10 operating wildlife information stations at which persons shall not be  
11 required to stop and report, or from executing arrests, searches, or  
12 seizures otherwise authorized by law.

13 EXPLANATORY NOTE

14 RCW 77.16.610 was repealed by 1998 c 190 s 124.

15 **Sec. 60.** RCW 77.15.070 and 1998 c 190 s 69 are each amended to  
16 read as follows:

17 (1) Fish and wildlife officers and ex officio fish and wildlife  
18 officers may seize without warrant boats, airplanes, vehicles, gear,  
19 appliances, or other articles they have probable cause to believe have  
20 been used in violation of this chapter. However, fish and wildlife  
21 officers may not seize any item or article, other than for evidence, if  
22 under the circumstances, it is reasonable to conclude that the  
23 violation was inadvertent. The property seized is subject to  
24 forfeiture to the state under this section regardless of ownership.  
25 Property seized may be recovered by its owner by depositing into court  
26 a cash bond equal to the value of the seized property but not more than  
27 twenty-five thousand dollars. Such cash bond is subject to forfeiture  
28 in lieu of the property. Forfeiture of property seized under this  
29 section is a civil forfeiture against property intended to be a  
30 remedial civil sanction.

31 (2) In the event of a seizure of property under this section,  
32 jurisdiction to begin the forfeiture proceedings shall commence upon  
33 seizure. Within fifteen days following the seizure, the seizing  
34 authority shall serve a written notice of intent to forfeit property on  
35 the owner of the property seized and on any person having any known  
36 right or interest in the property seized. Notice may be served by any  
37 method authorized by law or court rule, including service by certified

1 mail with return receipt requested. Service by mail is deemed complete  
2 upon mailing within the fifteen-day period following the seizure.

3 (3) Persons claiming a right of ownership or right to possession of  
4 property are entitled to a hearing to contest forfeiture. Such a claim  
5 shall specify the claim of ownership or possession and shall be made in  
6 writing and served on the director within forty-five days of the  
7 seizure. If the seizing authority has complied with notice  
8 requirements and there is no claim made within forty-five days, then  
9 the property shall be forfeited to the state.

10 (4) If any person timely serves the director with a claim to  
11 property, the person shall be afforded an opportunity to be heard as to  
12 the person's claim or right. The hearing shall be before the director  
13 or director's designee, or before an administrative law judge appointed  
14 under chapter 34.12 RCW, except that a person asserting a claim or  
15 right may remove the matter to a court of competent jurisdiction if the  
16 aggregate value of the property seized is more than five thousand  
17 dollars.

18 (5) The hearing to contest forfeiture and any subsequent appeal  
19 shall be as provided for in Title 34 RCW. The seizing authority has  
20 the burden to demonstrate that it had reason to believe the property  
21 was held with intent to violate or was used in violation of this title  
22 or rule of the commission or director. The person contesting  
23 forfeiture has the burden of production and proof by a preponderance of  
24 evidence that the person owns or has a right to possess the property  
25 and:

26 (a) That the property was not held with intent to violate or used  
27 in violation of this title or Title 75 RCW; or

28 (b) If the property is a boat, airplane, or vehicle, that the  
29 illegal use or planned illegal use of the boat, airplane, or vehicle  
30 occurred without the owner's knowledge or consent, and that the owner  
31 acted reasonably to prevent illegal uses of such boat, airplane, or  
32 vehicle.

33 (6) A forfeiture of a conveyance encumbered by a perfected security  
34 interest is subject to the interest of the secured party if the secured  
35 party neither had knowledge (~~of~~) of nor consented to the act or  
36 omission. No security interest in seized property may be perfected  
37 after seizure.

38 (7) If seized property is forfeited under this section the  
39 department may retain it for official use unless the property is

1 required to be destroyed, or upon application by any law enforcement  
2 agency of the state, release such property to the agency for the use of  
3 enforcing this title, or sell such property, and deposit the proceeds  
4 to the wildlife fund, as provided for in RCW 77.12.170.

5 EXPLANATORY NOTE

6 Corrects a drafting deficiency.

7 **Sec. 61.** RCW 77.15.160 and 1998 c 190 s 17 are each amended to  
8 read as follows:

9 A person is guilty of an infraction, which shall be cited and  
10 punished as provided under chapter 7.84 RCW, if the person:

11 (1) Fails to immediately record a catch of fish or shellfish on a  
12 catch record card required by RCW (~~(75.25.190 or 77.32.050)~~) 77.32.430,  
13 or required by rule of the commission under this title or Title 75 RCW;  
14 or

15 (2) Fishes for personal use using barbed hooks in violation of any  
16 rule; or

17 (3) Violates any other rule of the commission or director that is  
18 designated by rule as an infraction.

19 EXPLANATORY NOTE

20 (1) RCW 75.25.190 was recodified as RCW 77.32.430 pursuant to  
21 1998 c 191 s 42, effective January 1, 1999.

22 (2) RCW 77.32.050 was amended by 1998 c 191 s 10 which removed  
23 any recording requirements from that section.

24 **Sec. 62.** RCW 77.15.400 and 1999 c 258 s 2 are each amended to read  
25 as follows:

26 (1) A person is guilty of unlawful hunting of wild birds in the  
27 second degree if the person:

28 (a) Hunts for, takes, or possesses a wild bird and the person does  
29 not have and possess all licenses, tags, stamps, and permits required  
30 under this title;

31 (b) Maliciously destroys, takes, or harms the eggs or nests of a  
32 (~~game~~ ~~{wild}~~) wild bird except when authorized by permit;

33 (c) Violates any rule of the commission or director regarding  
34 seasons, bag or possession limits but less than two times the bag or  
35 possession limit, closed areas, closed times, or other rule addressing  
36 the manner or method of hunting or possession of wild birds; or

37 (d) Possesses a wild bird taken during a closed season for that  
38 wild bird or taken from a closed area for that wild bird.

1 (2) A person is guilty of unlawful hunting of wild birds in the  
2 first degree if the person takes or possesses two times or more than  
3 the possession or bag limit for (~~game [wild]~~) wild birds allowed by  
4 rule of the commission or director.

5 (3)(a) Unlawful hunting of wild birds in the second degree is a  
6 misdemeanor.

7 (b) Unlawful hunting of wild birds in the first degree is a gross  
8 misdemeanor.

9 EXPLANATORY NOTE

10 Corrects the reference to wild birds.

11 **Sec. 63.** RCW 77.15.480 and 1980 c 78 s 27 are each amended to read  
12 as follows:

13 Articles or devices unlawfully used, possessed, or maintained for  
14 catching, taking, killing, attracting, or decoying wildlife are public  
15 nuisances. If necessary, (~~wildlife agents and ex officio wildlife~~  
16 ~~agents~~) fish and wildlife officers and ex officio fish and wildlife  
17 officers may seize, abate, or destroy these public nuisances without  
18 warrant or process.

19 EXPLANATORY NOTE

20 The terms "wildlife agent" and "ex officio wildlife agent" were  
21 changed to "fish and wildlife officer" and "ex officio fish and  
22 wildlife officer" by 1998 c 190 s 111.

23 **Sec. 64.** RCW 77.15.700 and 1998 c 190 s 66 are each amended to  
24 read as follows:

25 The department shall impose revocation and suspension of privileges  
26 upon conviction in the following circumstances:

27 (1) If directed by statute for an offense;

28 (2) If the department finds that actions of the defendant  
29 demonstrated a willful or wanton disregard for conservation of fish or  
30 wildlife. Such suspension of privileges may be permanent;

31 (3) If a person is convicted twice within ten years for a violation  
32 involving unlawful hunting, killing, or possessing big game, the  
33 department shall order revocation and suspension of all hunting  
34 privileges for two years. RCW 77.16.020 (~~or 77.16.050~~) as it existed  
35 before June 11, 1998, may comprise one of the convictions constituting  
36 the basis for revocation and suspension under this subsection;

37 (4) If a person is convicted three times in ten years of any  
38 violation of recreational hunting or fishing laws or rules, the

1 department shall order a revocation and suspension of all recreational  
2 hunting and fishing privileges for two years;

3 (5) If a person is convicted twice within five years of a gross  
4 misdemeanor or felony involving unlawful commercial fish or shellfish  
5 harvesting, buying, or selling, the department shall impose a  
6 revocation and suspension of the person's commercial fishing privileges  
7 for one year. A commercial fishery license suspended under this  
8 subsection may not be used by an alternate operator or transferred  
9 during the period of suspension.

10 EXPLANATORY NOTE

11 RCW 77.16.050 was repealed by 1998 c 190 s 124. See chapter  
12 77.15 RCW.

13 **Sec. 65.** RCW 77.15.730 and 1994 c 264 s 45 are each amended to  
14 read as follows:

15 (1) Upon receipt of a report of failure to comply with the terms of  
16 a citation issued for a recreational violation from the licensing  
17 authority of a state that is a party to the wildlife violator compact  
18 under RCW 77.17.010, the department shall suspend the violator's  
19 recreational license privileges under this title until (~~{there is}~~)  
20 there is satisfactory evidence of compliance with the terms of the  
21 wildlife citation. The department shall adopt by rule procedures for  
22 the timely notification and administrative review of such suspension of  
23 recreational licensing privileges.

24 (2) Upon receipt of a report of a conviction for a recreational  
25 offense from the licensing authority of a state that is a party to the  
26 wildlife violator compact under RCW 77.17.010, the department shall  
27 enter such conviction in its records and shall treat such conviction as  
28 if it occurred in the state of Washington for the purposes of  
29 suspension, revocation, or forfeiture of recreational license  
30 privileges.

31 EXPLANATORY NOTE

32 Corrects a drafting deficiency.

33 **Sec. 66.** RCW 77.16.340 and 1988 c 265 s 1 are each amended to read  
34 as follows:

35 (1) A person commits the crime of obstructing the taking of fish or  
36 wildlife if the person:

1 (a) Harasses, drives, or disturbs fish or wildlife with the intent  
2 of disrupting lawful pursuit or taking thereof; or

3 (b) Harasses, interferes with, or intimidates an individual engaged  
4 in the lawful taking of fish or wildlife or lawful predator control.

5 (2) Violation of this section is a gross misdemeanor (~~under RCW~~  
6 ~~77.21.010~~) punishable under RCW 9.92.020.

7 (3) It is a defense to any prosecution under subsection (1) of this  
8 section, if the person charged:

9 (a) Interferes with any person engaged in hunting outside legally  
10 established hunting seasons;

11 (b) Is preventing or attempting to prevent the injury or killing of  
12 a protected wildlife species, as defined by this title;

13 (c) Is preventing or attempting to prevent unauthorized trespass on  
14 private property; or

15 (d) Is defending oneself or another person from bodily harm or  
16 property damage by a person attempting to prevent hunting in a legally  
17 established hunting season.

18 EXPLANATORY NOTE

19 RCW 77.21.010 was repealed by 1998 c 190 s 124. Punishment of  
20 gross misdemeanors, if not fixed by statute, is described in  
21 RCW 9.92.020.

22 **Sec. 67.** RCW 77.16.360 and 1997 c 1 s 1 are each amended to read  
23 as follows:

24 (1) Notwithstanding the provisions of RCW 77.12.240 (~~and~~  
25 ~~77.12.265~~) or other provisions of law, it is unlawful to take, hunt,  
26 or attract black bear with the aid of bait.

27 (a) Nothing in this subsection shall be construed to prohibit the  
28 killing of black bear with the aid of bait by employees or agents of  
29 county, state, or federal agencies while acting in their official  
30 capacities for the purpose of protecting livestock, domestic animals,  
31 private property, or the public safety.

32 (b) Nothing in this subsection shall be construed to prevent the  
33 establishment and operation of feeding stations for black bear in order  
34 to prevent damage to commercial timberland.

35 (c) Nothing in this subsection shall be construed to prohibit the  
36 director from issuing a permit or memorandum of understanding to a  
37 public agency, university, or scientific or educational institution for  
38 the use of bait to attract black bear for scientific purposes.



1 (d) As used in this subsection, "bait" means a substance placed,  
2 exposed, deposited, distributed, scattered, or otherwise used for the  
3 purpose of attracting black bears to an area where one or more persons  
4 hunt or intend to hunt them.

5 (2) Notwithstanding RCW 77.12.240 or any other provisions of law,  
6 it is unlawful to hunt or pursue black bear, cougar, bobcat, or lynx  
7 with the aid of a dog or dogs.

8 (a) Nothing in this subsection shall be construed to prohibit the  
9 killing of black bear, cougar, bobcat, or lynx with the aid of a dog or  
10 dogs by employees or agents of county, state, or federal agencies while  
11 acting in their official capacities for the purpose of protecting  
12 livestock, domestic animals, private property, or the public safety.  
13 (~~A dog or dogs may be used by the owner or tenant of real property~~  
14 ~~consistent with a permit issued and conditioned by the director under~~  
15 ~~RCW 77.12.265.))~~

16 (b) Nothing in this subsection shall be construed to prohibit the  
17 director from issuing a permit or memorandum of understanding to a  
18 public agency, university, or scientific or educational institution for  
19 the use of a dog or dogs for the pursuit of black bear, cougar, bobcat,  
20 or lynx for scientific purposes.

21 (3) A person who violates subsection (1) or (2) of this section is  
22 guilty of a gross misdemeanor. In addition to appropriate criminal  
23 penalties, the director shall revoke the hunting license of a person  
24 who violates subsection (1) or (2) of this section and a hunting  
25 license shall not be issued for a period of five years following the  
26 revocation. Following a subsequent violation of subsection (1) or (2)  
27 of this section by the same person, a hunting license shall not be  
28 issued to the person at any time.

29 EXPLANATORY NOTE

30 RCW 77.12.265 was repealed by 1996 c 54 s 12, effective July 1,  
31 1996. See chapter 77.36 RCW.

32 **Sec. 68.** RCW 77.18.010 and 1993 sp.s. c 2 s 76 are each amended to  
33 read as follows:

34 Unless the context clearly requires otherwise, the definitions in  
35 this section apply throughout this chapter.

36 (1) (~~"Department" means the department of fish and wildlife.~~)  
37 "Aquatic farmer" means a private sector person who commercially farms  
38 and manages private sector cultured aquatic products on the person's

1 own land or on land in which the person has a present right of  
2 possession.

3 (2) "Contract" means an agreement setting at a minimum, price,  
4 quantity of fish to be delivered, time of delivery, and fish health  
5 requirements.

6 (3) "Department" means the department of fish and wildlife.

7 (4) "Fish health requirements" means those site specific fish  
8 health and genetic requirements actually used by the department of fish  
9 and wildlife in fish stocking.

10 (~~((4) "Aquatic farmer" means a private sector person who~~  
11 ~~commercially farms and manages private sector cultured aquatic products~~  
12 ~~on the person's own land or on land in which the person has a present~~  
13 ~~right of possession.))~~)

14 (5) "Person" means a natural person, corporation, trust, or other  
15 legal entity.

16 EXPLANATORY NOTE  
17 Arranges definitions in alphabetical order.

18 **Sec. 69.** RCW 77.21.020 and 1998 c 191 s 35 are each amended to  
19 read as follows:

20 (~~(In addition to other penalties provided by law, the director~~  
21 ~~shall revoke all hunting licenses of a person who is convicted of a~~  
22 ~~violation of RCW 77.16.020 involving big game or RCW 77.16.050.~~  
23 ~~Forfeiture of bail twice during a five-year period for these violations~~  
24 ~~constitutes the basis for a revocation under this section.))~~)

25 No hunting license may be issued to the person for two years from  
26 the revocation.

27 A person who has had a license revoked or has been denied issuance  
28 pursuant to this section or RCW 77.21.030, may appeal the decision as  
29 provided in chapter 34.05 RCW.

30 EXPLANATORY NOTE  
31 (1) RCW 77.16.020 was amended by 1998 c 190 s 119 and no longer  
32 refers to big game violations. See chapter 77.15 RCW.  
33 (2) RCW 77.16.050 was repealed by 1998 c 190 s 124. For later  
34 enactment, see chapter 77.15 RCW.

35 **Sec. 70.** RCW 77.21.070 and 1997 c 226 s 2 are each amended to read  
36 as follows:

37 (1) Whenever a person is convicted of illegal killing or possession  
38 of wildlife listed in this subsection, the convicting court shall order

1 the person to pay restitution to the state in the following amounts for  
2 each animal killed or possessed:

- 3 (a) Moose, mountain sheep, mountain goat, and all wildlife species  
4 classified as endangered by rule of the commission, except for  
5 mountain caribou and grizzly bear as listed under (d) of this  
6 subsection . . . . . \$4,000.00
- 7 (b) Elk, deer, black bear, and cougar . . . . . \$2,000.00
- 8 (c) Trophy animal elk and deer . . . . . \$6,000.00
- 9 (d) Mountain caribou, grizzly bear, (~~{and}~~) and  
10 trophy animal mountain sheep . . . . . \$12,000.00

11 (2) For the purpose of this section, the term "convicted" includes  
12 a plea of guilty, a finding of guilt regardless of whether the  
13 imposition of the sentence is deferred or any part of the penalty is  
14 suspended, and the payment of a fine. No court may establish bail for  
15 illegal possession of wildlife listed in subsection (1) of this section  
16 in an amount less than the bail established for hunting during the  
17 closed season plus the restitution value of wildlife set forth in  
18 subsection (1) of this section.

- 19 (3) For the purpose of this section a "trophy animal" is:
- 20 (a) A buck deer with four or more antler points on either side;
  - 21 (b) A bull elk with five or more antler points on either side; or
  - 22 (c) A mountain sheep with a horn curl of three-quarter curl or  
23 greater.

24 (4) If two or more persons are convicted of illegally possessing  
25 wildlife listed in this section, the restitution amount shall be  
26 imposed upon them jointly and severally.

27 (5) The restitution amount provided in this section shall be  
28 imposed in addition to and regardless of any penalty, including fines,  
29 or costs, that is provided for violating any provision of Title 77 RCW.  
30 The restitution required by this section shall be included by the court  
31 in any pronouncement of sentence and may not be suspended, waived,  
32 modified, or deferred in any respect. Nothing in this section may be  
33 construed to abridge or alter alternative rights of action or remedies  
34 in equity or under common law or statutory law, criminal or civil.

35 (6) A defaulted restitution or any installment payment thereof may  
36 be collected by any means authorized by law for the enforcement of  
37 orders of the court or collection of a fine or costs, including  
38 vacation of a deferral of sentencing or of a suspension of sentence.

1 (7) A person assessed a restitution under this section shall have  
2 his or her hunting license revoked and all hunting privileges suspended  
3 until the restitution is paid through the registry of the court in  
4 which the restitution was assessed.

5 EXPLANATORY NOTE  
6 Corrects a drafting deficiency.

7 **Sec. 71.** RCW 77.32.014 and 1998 c 191 s 8 are each amended to read  
8 as follows:

9 (1) Licenses, tags, and stamps issued pursuant to this chapter  
10 shall be invalid for any period in which a person is certified by the  
11 department of social and health services or a court of competent  
12 jurisdiction as a person in noncompliance with a support order. Fish  
13 and wildlife officers and ex officio fish and wildlife officers shall  
14 enforce this section through checks of the department of licensing's  
15 computer data base. A listing on the department of licensing's data  
16 base that an individual's license is currently suspended pursuant to  
17 RCW 46.20.291(~~(+7)~~) (8) shall be prima facie evidence that the  
18 individual is in noncompliance with a support order. Presentation of  
19 a written release issued by the department of social and health  
20 services stating that the person is in compliance with an order shall  
21 serve as prima facie proof of compliance with a support order.

22 (2) It is unlawful to purchase, obtain, or possess a license  
23 required by this chapter during any period in which a license is  
24 suspended.

25 EXPLANATORY NOTE  
26 RCW 46.20.291 was amended by 1998 c 165 s 12, changing  
27 subsection (7) to subsection (8).

28 **Sec. 72.** RCW 77.32.380 and 1998 c 87 s 1 are each amended to read  
29 as follows:

30 (1) Persons who enter upon or use clearly identified department  
31 improved access facilities with a motor vehicle may be required to  
32 display a current annual fish and wildlife lands vehicle use permit on  
33 the motor vehicle while within or while using an improved access  
34 facility. An "improved access facility" is a clearly identified area  
35 specifically created for motor vehicle parking, and includes any boat  
36 launch or boat ramp associated with the parking area, but does not  
37 include the department parking facilities at the Gorge Concert Center

1 near George, Washington. The vehicle use permit is issued in the form  
2 of a decal. One decal shall be issued at no charge with each annual  
3 saltwater, freshwater, combination, small game hunting, big game  
4 hunting, and trapping license issued by the department. The annual fee  
5 for a fish and wildlife lands vehicle use permit, if purchased  
6 separately, is ten dollars. A person to whom the department has issued  
7 a decal or who has purchased a vehicle use permit separately may  
8 purchase a decal from the department for each additional vehicle owned  
9 by the person at a cost of five dollars per decal upon a showing of  
10 proof to the department that the person owns the additional vehicle or  
11 vehicles. Revenue derived from the sale of fish and wildlife lands  
12 vehicle use permits shall be used solely for the stewardship and  
13 maintenance of department improved access facilities. ((Revenue  
14 derived from the sale of fish and wildlife lands vehicle use permits  
15 shall be used solely for the stewardship and maintenance of department  
16 improved access facilities.))

17 Youth groups may use department improved access facilities without  
18 possessing a vehicle use permit when accompanied by a vehicle use  
19 permit holder.

20 The department may accept contributions into the state wildlife  
21 fund for the sound stewardship of fish and wildlife. Contributors  
22 shall be known as "conservation patrons" and, for contributions of  
23 twenty dollars or more, shall receive a fish and wildlife lands vehicle  
24 use permit free of charge.

25 (2) The decal must be affixed in a permanent manner to the motor  
26 vehicle before entering upon or using the motor vehicle on a department  
27 improved access facility, and must be displayed on the rear window of  
28 the motor vehicle, or, if the motor vehicle does not have a rear  
29 window, on the rear of the motor vehicle.

30 (3) Failure to display the fish and wildlife lands vehicle use  
31 permit if required by this section is an infraction under chapter 7.84  
32 RCW, and department employees are authorized to issue a notice of  
33 infraction to the registered owner of any motor vehicle entering upon  
34 or using a department improved access facility without such a decal.  
35 The penalty for failure to display or improper display of the decal is  
36 sixty-six dollars.

37 EXPLANATORY NOTE  
38 Due to a drafting error, this sentence was repeated. The  
39 language in the deleted sentence is identical to that of the  
40 previous sentence.



1 (1) Provide that the usefulness, productivity, and scenic values of  
2 all lands and waters involved in surface mining within the state will  
3 receive the greatest practical degree of protection and reclamation at  
4 the earliest opportunity following completion of surface mining;

5 (2) Provide for the greatest practical degree of state-wide  
6 consistency in the regulation of surface mines;

7 (3) Apportion regulatory authority between state and local  
8 governments in order to minimize redundant regulation of mining; and

9 (4) Ensure that reclamation is consistent with local land use  
10 plans(~~and~~

11 ~~(5) Ensure the power of local government to regulate land use and~~  
12 ~~operations pursuant to section 16 of this act)).~~

13 EXPLANATORY NOTE

14 1993 c 518 s 16 was vetoed by the governor.

15 **Sec. 76.** RCW 78.44.031 and 1999 c 252 s 1 are each amended to read  
16 as follows:

17 Unless the context clearly indicates otherwise, the definitions in  
18 this section apply throughout this chapter.

19 (1) "Approved subsequent use" means the post surface-mining land  
20 use contained in an approved reclamation plan and approved by the local  
21 land use authority.

22 (2) "Completion of surface mining" means the cessation of mining  
23 and directly related activities in any segment of a surface mine that  
24 occurs when essentially all minerals that can be taken under the terms  
25 of the reclamation permit have been depleted except minerals required  
26 to accomplish reclamation according to the approved reclamation plan.

27 (3) "Department" means the department of natural resources.

28 (4) "Determination" means any action by the department including  
29 permit issuance, reporting, reclamation plan approval or modification,  
30 permit transfers, orders, fines, or refusal to issue permits.

31 (5) "Disturbed area" means any place where activities clearly in  
32 preparation for, or during, surface mining have physically disrupted,  
33 covered, compacted, moved, or otherwise altered the characteristics of  
34 soil, bedrock, vegetation, or topography that existed prior to such  
35 activity. Disturbed areas may include but are not limited to: Working  
36 faces, water bodies created by mine-related excavation, pit floors, the  
37 land beneath processing plant and stock pile sites, spoil pile sites,  
38 and equipment staging areas. Disturbed areas shall also include

1 aboveground waste rock sites and tailing facilities, and other surface  
2 manifestations of underground mines.

3 Disturbed areas do not include:

4 (a) Surface mine access roads unless these have characteristics of  
5 topography, drainage, slope stability, or ownership that, in the  
6 opinion of the department, make reclamation necessary;

7 (b) Lands that have been reclaimed to all standards outlined in  
8 this chapter, rules of the department, any applicable SEPA document,  
9 and the approved reclamation plan; and

10 (c) Subsurface aspects of underground mines, such as portals,  
11 tunnels, shafts, pillars, and stopes.

12 (6) "Miner" means any person or persons, any partnership, limited  
13 partnership, or corporation, or any association of persons, including  
14 every public or governmental agency engaged in surface mining.

15 (7) "Minerals" means clay, coal, gravel, industrial minerals,  
16 metallic substances, peat, sand, stone, topsoil, and any other similar  
17 solid material or substance to be excavated from natural deposits on or  
18 in the earth for commercial, industrial, or construction use.

19 (8) "Operations" means all mine-related activities, exclusive of  
20 reclamation, that include, but are not limited to activities that  
21 affect noise generation, air quality, surface and ground water quality,  
22 quantity, and flow, glare, pollution, traffic safety, ground  
23 vibrations, and/or significant or substantial impacts commonly  
24 regulated under provisions of land use or other permits of local  
25 government and local ordinances, or other state laws.

26 Operations specifically include:

27 (a) The mining or extraction of rock, stone, gravel, sand, earth,  
28 and other minerals;

29 (b) Blasting, equipment maintenance, sorting, crushing, and  
30 loading;

31 (c) On-site mineral processing including asphalt or concrete  
32 batching, concrete recycling, and other aggregate recycling;

33 (d) Transporting minerals to and from the mine, on site road  
34 maintenance, road maintenance for roads used extensively for surface  
35 mining activities, traffic safety, and traffic control.

36 (9) "Overburden" means the earth, rock, soil, and topsoil that lie  
37 above mineral deposits.

38 (10) "Permit holder" means any person or persons, any partnership,  
39 limited partnership, or corporation, or any association of persons,



1 either natural or artificial, including every public or governmental  
2 agency engaged in surface mining and/or the operation of surface mines,  
3 whether individually, jointly, or through subsidiaries, agents,  
4 employees, operators, or contractors who holds a state reclamation  
5 permit.

6 (11) "Reclamation" means rehabilitation for the appropriate future  
7 use of disturbed areas resulting from surface mining including areas  
8 under associated mineral processing equipment, areas under stockpiled  
9 materials, and aboveground waste rock and tailing facilities, and all  
10 other surface disturbances associated with underground mines. Although  
11 both the need for and the practicability of reclamation will control  
12 the type and degree of reclamation in any specific surface mine, the  
13 basic objective shall be to reestablish on a perpetual basis the  
14 vegetative cover, soil stability, and water conditions appropriate to  
15 the approved subsequent use of the surface mine and to prevent or  
16 mitigate future environmental degradation.

17 (12) "Reclamation setbacks" include those lands along the margins  
18 of surface mines wherein minerals and overburden shall be preserved in  
19 sufficient volumes to accomplish reclamation according to the approved  
20 plan and the minimum reclamation standards. Maintenance of reclamation  
21 setbacks may not preclude other mine-related activities within the  
22 reclamation setback.

23 (13) "Recycling" means the reuse of minerals or rock products.

24 (14) "Screening" consists of vegetation, berms or other topography,  
25 fencing, and/or other screens that may be required to mitigate impacts  
26 of surface mining on adjacent properties and/or the environment.

27 (15) "Segment" means any portion of the surface mine that, in the  
28 opinion of the department:

29 (a) Has characteristics of topography, drainage, slope stability,  
30 ownership, mining development, or mineral distribution, that make  
31 reclamation necessary;

32 (b) Is not in use as part of surface mining and/or related  
33 activities; and

34 (c) Is larger than seven acres and has more than five hundred  
35 linear feet of working face except as provided in a segmental  
36 reclamation agreement approved by the department.

37 (16) "SEPA" means the state environmental policy act, chapter  
38 43.21C RCW and rules adopted thereunder.

1 (17)(a) "Surface mine" means any area or areas in close proximity  
2 to each other, as determined by the department, where extraction of  
3 minerals results in:

4 (i) More than three acres of disturbed area;

5 (ii) Surface mined slopes greater than thirty feet high and steeper  
6 than 1.0 foot horizontal to 1.0 foot vertical; or

7 (iii) More than one acre of disturbed area within an eight acre  
8 area, when the disturbed area results from mineral prospecting or  
9 exploration activities.

10 (b) Surface mines include areas where mineral extraction from the  
11 surface or subsurface occurs by the auger method or by reworking mine  
12 refuse or tailings, when the disturbed area exceeds the size or height  
13 thresholds listed in (a) of this subsection.

14 (c) Surface mining occurs when operations have created or are  
15 intended to create a surface mine as defined by this subsection.

16 (d) Surface mining shall exclude excavations or grading used:

17 (i) Primarily for on-site construction, on-site road maintenance,  
18 or on-site landfill construction;

19 (ii) For the purpose of public safety or restoring the land  
20 following a natural disaster;

21 (iii) For the purpose of removing stockpiles;

22 (iv) For forest or farm road construction or maintenance on site or  
23 on contiguous lands;

24 (v) Primarily for public works projects if the mines are owned or  
25 primarily operated by counties with 1993 populations of less than  
26 twenty thousand persons, and if each mine has less than seven acres of  
27 disturbed area; and

28 (vi) For sand authorized by RCW ((43.51.685)) 79A.05.630.

29 (18) "Topsoil" means the naturally occurring upper part of a soil  
30 profile, including the soil horizon that is rich in humus and capable  
31 of supporting vegetation together with other sediments within four  
32 vertical feet of the ground surface.

33 EXPLANATORY NOTE

34 RCW 43.51.685 was recodified as RCW 79A.05.630 pursuant to 1999  
35 c 249 s 1601.

36 **Sec. 77.** RCW 79.08.275 and 1996 c 129 s 8 are each amended to read  
37 as follows:

1 Except as provided in RCW ((43.51.1121 and 43.51.113)) 79A.05.120  
2 and 79A.05.125, the portion of the Milwaukee Road corridor from the  
3 west end of the bridge structure over the Columbia river, which point  
4 is located in section 34, township 16 north, range 23 east, W.M., to  
5 the Idaho border purchased by the state shall be under the management  
6 and control of the department of natural resources.

7 EXPLANATORY NOTE

8 RCW 43.51.1121 and 43.51.113 were recodified as RCW 79A.05.120  
9 and 79A.05.125, respectively, pursuant to 1999 c 249 s 1601.

10 **Sec. 78.** RCW 79.24.570 and 1969 ex.s. c 273 s 11 are each amended  
11 to read as follows:

12 All moneys received by the department of general administration  
13 from the management of the east capitol site, excepting (1) funds  
14 otherwise dedicated prior to April 28, 1967, (2) parking and rental  
15 charges and fines which are required to be deposited in other accounts,  
16 and (3) reimbursements of service and other utility charges made to the  
17 department of general administration, shall be deposited in the capitol  
18 purchase and development account of the state general fund ((~~or, in the~~  
19 ~~event that revenue bonds are issued as authorized by RCW 79.24.630~~  
20 ~~through 79.24.647, into the state building bond redemption fund~~  
21 ~~pursuant to RCW 79.24.638~~)).

22 EXPLANATORY NOTE

23 RCW 79.24.630 through 79.24.647 were repealed by 1994 c 219 s  
24 21.

25 **Sec. 79.** RCW 79.71.090 and 1991 sp.s. c 13 s 118 are each amended  
26 to read as follows:

27 There is hereby created the natural resources conservation areas  
28 stewardship account in the state treasury to ensure proper and  
29 continuing management of land acquired or designated pursuant to this  
30 chapter. Funds for the stewardship account shall be derived from  
31 appropriations of state general funds, federal funds, grants,  
32 donations, gifts, bond issue receipts, securities, and other monetary  
33 instruments of value. Income derived from the management of natural  
34 resources conservation areas shall also be deposited in this  
35 stewardship account.

36 Appropriations from this account to the department shall be  
37 expended for no other purpose than the following: (1) To manage the  
38 areas approved by the legislature in fulfilling the purposes of this

1 chapter; (2) to manage property acquired as natural area preserves  
2 under chapter 79.70 RCW; (3) to manage property transferred under the  
3 authority and appropriation provided by the legislature to be managed  
4 under chapter 79.70 RCW or this chapter or acquired under chapter  
5 ((43.98A)) 79A.15 RCW; and (4) to pay for operating expenses for the  
6 natural heritage program under chapter 79.70 RCW.

7 EXPLANATORY NOTE

8 Chapter 43.98A RCW was recodified as chapter 79A.15 RCW  
9 pursuant to 1999 c 249 s 1601.

10 **Sec. 80.** RCW 79.71.100 and 1987 c 472 s 10 are each amended to  
11 read as follows:

12 The legislature hereby designates certain areas as natural  
13 resources conservation areas:

14 (1) The Mt. Si conservation area (King County), RCW ((43.51.940))  
15 79A.05.725, is hereby designated the Mt. Si natural resources  
16 conservation area. The department is directed to continue its  
17 management of this area and to develop a plan for its continued  
18 conservation and use by the public. In accordance with Article XVI of  
19 the Washington state Constitution, any available private lands and  
20 trust lands located within the designated boundaries of the Mt. Si  
21 conservation area shall be leased or acquired in fee from the  
22 appropriate trust at fair market value using funds appropriated for  
23 that purpose.

24 (2) Trust lands and state-owned land on Cypress Island (Skagit  
25 County) are hereby designated as the Cypress Island natural resources  
26 conservation area. Any available private lands necessary to achieve  
27 the purposes of this section shall be acquired by the department of  
28 natural resources using funds appropriated for that purpose. Trust  
29 lands located within the designated boundaries of the Cypress Island  
30 natural resources conservation area shall be leased or acquired in fee  
31 from the appropriate trust at fair market value.

32 (3) Woodard Bay (Thurston County) is hereby designated the Woodard  
33 Bay natural resources conservation area. The department is directed to  
34 acquire property available in Sec. 18, T.19N, R1W using funds  
35 appropriated for that purpose.

36 (4) The area adjacent to the Dishman Hills natural area (Spokane  
37 County) is hereby designated the Dishman Hills natural resources  
38 conservation area. The department is directed to acquire property

1 available in Sec. 19, 29 and 30, T.25N, R44E, using funds appropriated  
2 for that purpose.

3 EXPLANATORY NOTE

4 RCW 43.51.940 was recodified as RCW 79A.05.725 pursuant to 1999  
5 c 249 s 1601.

6 **Sec. 81.** RCW 79.92.070 and 1982 1st ex.s. c 21 s 75 are each  
7 amended to read as follows:

8 If the owner of any harbor area lease upon tidal waters shall  
9 desire to construct thereon any wharf, dock, or other convenience of  
10 navigation or commerce, or to extend, enlarge, or substantially improve  
11 any existing structure used in connection with such harbor area, and  
12 shall deem the required expenditure not warranted by his or her right  
13 to occupy such harbor area during the remainder of the term of his or  
14 her lease, ((he)) the lease owner may make application to the  
15 department of natural resources for a new lease of such harbor area for  
16 a period not exceeding thirty years. Upon the filing of such  
17 application accompanied by such proper plans, drawings or other data,  
18 the department shall forthwith investigate the same and if it shall  
19 determine that the proposed work or improvement is in the public  
20 interest and reasonably adequate for the public needs, it shall by  
21 order fix the terms and conditions and the rate of rental for such new  
22 lease, such rate of rental shall be a fixed percentage, during the term  
23 of such lease, on the true and fair value in money of such harbor area  
24 determined from time to time by the department ((as provided in RCW  
25 79.92.050)). The department may propose modifications of the proposed  
26 wharf, dock, or other convenience or extensions, enlargements, or  
27 improvements thereon. The department shall, within ninety days from  
28 the filing of such application notify the applicant in writing of the  
29 terms and conditions upon which such new lease will be granted, and of  
30 the rental to be paid, and if the applicant shall within ninety days  
31 thereafter elect to accept a new lease of such harbor area upon the  
32 terms and conditions, and at the rental prescribed by the department,  
33 the department shall make a new lease for such harbor area for the term  
34 applied for and the existing lease shall thereupon be surrendered and  
35 canceled.

36 EXPLANATORY NOTE

37 RCW 79.92.050 was repealed by 1984 c 221 s 30, effective  
38 October 1, 1984.  
39 Makes the section gender neutral.



1 of sixty days from the date of service of mailing of said notice. If  
2 at the expiration of sixty days from the service or mailing of the  
3 notice, as above provided, there being no conflicting applications  
4 filed, and the owner of the uplands fronting upon the tide or shore  
5 lands offered for lease, has failed to avail himself or herself of his  
6 or her preference right to apply to lease or to pay to the department  
7 the appraised value for lease of the tide or shore lands described in  
8 said notice, then in that event, said tide or shore lands may be  
9 offered for lease to any person and may be leased in the manner  
10 provided for in the case of lease of state lands.

11 If at the expiration of sixty days two or more claimants asserting  
12 a preference right to lease shall have filed applications to lease any  
13 tract, conflicting with each other, the conflict between the claimants  
14 shall be equitably resolved by the department of natural  
15 (~~resource[s]~~) resources as the best interests of the state require in  
16 accord with the procedures prescribed by chapter 34.05 RCW: PROVIDED,  
17 That any contract purchaser of lands or rights therein, which upland  
18 qualifies the owner for a preference right under this section, shall  
19 have first priority for such preference right.

20 EXPLANATORY NOTE

21 Corrects the reference to the department of natural resources.  
22 Makes the section gender neutral.

23 **Sec. 84.** RCW 79.96.110 and 1994 c 264 s 72 are each amended to  
24 read as follows:

25 In case the director of fish and wildlife approves the vacation of  
26 the whole or any part of said reserve, the department of natural  
27 resources may vacate and offer for lease such parts or all of said  
28 reserve as it deems to be for the best interest of the state, and all  
29 moneys received for the lease of such lands shall be paid to the  
30 department of natural resources (~~(in accordance with RCW 79.94.190)~~):  
31 PROVIDED, That nothing in RCW 79.96.090 through 79.96.110 shall be  
32 construed as authorizing the lease of any tidelands which have  
33 heretofore, or which may hereafter, be set aside as state oyster  
34 reserves in Eld Inlet, Hammersley Inlet, or Totten Inlet, situated in  
35 Mason or Thurston counties: PROVIDED FURTHER, That any portion of Plat  
36 138, Clifton's Oyster Reserve, which has already been vacated, may be  
37 leased by the department.

EXPLANATORY NOTE

RCW 79.94.190 was repealed by 1984 c 221 s 30, effective October 1, 1984.

**Sec. 85.** RCW 79A.05.155 and 1982 c 156 s 4 are each amended to read as follows:

If the commission determines it necessary, the applicant shall execute and file with the secretary of state a bond payable to the state, in such penal sum as the commission shall require, with good and sufficient sureties to be approved by the commission, conditioned that the grantee of the permit will make the improvement in accordance with the plans and specifications contained in the permit, and, in case the improvement is made upon lands withdrawn from sale under the provisions of RCW ((43.51.100)) 79A.05.105, will pay into the state treasury to the credit of the fund to which the proceeds of the sale of such lands would belong, the appraised value of all merchantable timber and material on the land, destroyed, or used in making such improvement.

EXPLANATORY NOTE

RCW 43.51.100 was recodified as RCW 79A.05.105 pursuant to 1999 c 249 s 1601.

**Sec. 86.** RCW 79A.05.200 and 1967 ex.s. c 96 s 1 are each amended to read as follows:

The powers, functions, and duties heretofore exercised by the department of ((fisheries)) fish and wildlife, or its director, respecting the management, control, and operation of the following enumerated tidelands, which are presently suitable for public recreational use, are hereby transferred to the parks and recreation commission which shall also have respecting such tidelands all the powers conferred by this chapter ((43.51-RCW)), as now or hereafter amended, respecting parks and parkways:

Parcel No. 1. (Toandos Peninsula) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 2, and 3, section 5, lots 1, 2, and 3, section 4, and lot 1, section 3, all in township 25 north, range 1 west, W.M., with a frontage of 158.41 lineal chains, more or less.

Parcel No. 2. (Shine) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 2, 3 and that portion of lot 4 lying north of the south 8.35 chains thereof as measured along the government meander line, all



1 in section 35, township 28 north, range 1 east, W.M., with a frontage  
2 of 76.70 lineal chains, more or less.

3 Subject to an easement for right of way for county road granted to  
4 Jefferson county December 8, 1941 under application No. 1731, records  
5 of department of public lands.

6 Parcel No. 3. (Mud Bay - Lopez Island) The tidelands of the second  
7 class, owned by the state of Washington situate in front of, adjacent  
8 to, or abutting upon lots 5, 6 and 7, section 18, lot 5, section 7 and  
9 lots 3, 4, and 5, section 8, all in township 34 north, range 1 west,  
10 W.M., with a frontage of 172.11 lineal chains, more or less.

11 Excepting, however, any tideland of the second class in front of  
12 said lot 3, section 8 conveyed through deeds issued April 14, 1909  
13 pursuant to the provisions of chapter 24, Laws of 1895 under  
14 application No. 4985, records of department of public lands.

15 Parcel No. 4. (Spencer Spit) The tidelands of the second class,  
16 owned by the state of Washington, situate in front of, adjacent to, or  
17 abutting upon lots 1, 3, and 4, section 7, and lot 5, section 18 all in  
18 township 35 north, range 1 west, W.M., with a frontage of 118.80 lineal  
19 chains, more or less.

20 Parcel No. 5. (Lilliwaup) The tidelands of the second class, owned  
21 by the state of Washington, lying easterly of the east line of vacated  
22 state oyster reserve plat No. 133 produced southerly and situate in  
23 front of, adjacent to or abutting upon lot 9, section 30, lot 8,  
24 section 19 and lot 5 and the south 20 acres of lot 4, section 20, all  
25 in township 23 north, range 3 west, W.M., with a frontage of 62.46  
26 lineal chains, more or less.

27 EXPLANATORY NOTE

28 (1) Powers, duties, and functions of the department of  
29 fisheries and the department of wildlife were transferred to  
30 the department of fish and wildlife by 1993 sp.s. c 2,  
31 effective July 1, 1994.

32 (2) Chapter 43.51 RCW was repealed and/or recodified in its  
33 entirety pursuant to 1999 c 249. The remaining sections were  
34 recodified in chapter 79A.05 RCW.

35 **Sec. 87.** RCW 79A.05.205 and 1967 ex.s. c 96 s 2 are each amended  
36 to read as follows:

37 The state parks and recreation commission may take appropriate  
38 action to provide public and private access, including roads and docks,  
39 to and from the tidelands described in RCW (~~(43.51.240)~~) 79A.05.200.

EXPLANATORY NOTE

RCW 43.51.240 was recodified as RCW 79A.05.200 pursuant to 1999 c 249 s 1601.

**Sec. 88.** RCW 79A.05.250 and 1982 c 11 s 5 are each amended to read as follows:

The commission may adopt such rules as are necessary to implement and enforce RCW ((~~43.51.290 through 43.51.320~~)) 79A.05.225 through 79A.05.240 and 46.61.585 after consultation with the winter recreation advisory committee.

EXPLANATORY NOTE

RCW 43.51.290 through 43.51.320 were recodified as RCW 79A.05.225 through 79A.05.240 pursuant to 1999 c 249 s 1601.

**Sec. 89.** RCW 79A.05.255 and 1994 c 264 s 19 are each amended to read as follows:

(1) There is created a winter recreation advisory committee to advise the parks and recreation commission in the administration of this chapter and to assist and advise the commission in the development of winter recreation facilities and programs.

(2) The committee shall consist of:

(a) Six representatives of the nonsnowmobiling winter recreation public appointed by the commission, including a resident of each of the six geographical areas of this state where nonsnowmobiling winter recreation activity occurs, as defined by the commission.

(b) Three representatives of the snowmobiling public appointed by the commission.

(c) One representative of the department of natural resources, one representative of the department of fish and wildlife, and one representative of the Washington state association of counties, each of whom shall be appointed by the director of the particular department or association.

(3) The terms of the members appointed under subsection (2) (a) and (b) of this section shall begin on October 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies for the remainder of the unexpired term: PROVIDED, That the first of these members shall be appointed for terms as follows: Three members shall be appointed for one year, three members shall be appointed for two years, and three members shall be appointed for three years.

1 (4) Members of the committee shall be reimbursed from the winter  
2 recreational program account created by RCW (~~43.51.310~~) 79A.05.235  
3 for travel expenses as provided in RCW 43.03.050 and 43.03.060.

4 (5) The committee shall meet at times and places it determines not  
5 less than twice each year and additionally as required by the committee  
6 chairman or by majority vote of the committee. The chairman of the  
7 committee shall be chosen under procedures adopted by the committee.  
8 The committee shall adopt any other procedures necessary to govern its  
9 proceedings.

10 (6) The director of parks and recreation or the director's designee  
11 shall serve as secretary to the committee and shall be a nonvoting  
12 member.

13 (7) The winter recreation advisory committee and its powers and  
14 duties shall terminate on June 30, 2001.

15 EXPLANATORY NOTE

16 RCW 43.51.310 was recodified as RCW 79A.05.235 pursuant to 1999  
17 c 249 s 1601.

18 **Sec. 90.** RCW 79A.05.265 and 1977 ex.s. c 281 s 1 are each amended  
19 to read as follows:

20 The legislature finds that there is a need for hostels in the state  
21 for the safety and welfare of transient persons with limited resources.  
22 It is the intent of RCW (~~43.51.360 through 43.51.370~~) 79A.05.265  
23 through 79A.05.275 that such facilities be established using locally  
24 donated structures. It is the further intent of RCW (~~43.51.360~~  
25 ~~through 43.51.370~~) 79A.05.265 through 79A.05.275 that the state  
26 dispense any available federal or other moneys for such related  
27 projects and provide assistance where possible.

28 EXPLANATORY NOTE

29 RCW 43.51.360 through 43.51.370 were recodified as RCW  
30 79A.05.265 through 79A.05.275 pursuant to 1999 c 249 s 1601.

31 **Sec. 91.** RCW 79A.05.300 and 1980 c 89 s 4 are each amended to read  
32 as follows:

33 For the reasons specified in RCW (~~43.51.380~~) 79A.25.250, the  
34 state parks and recreation commission shall place a high priority on  
35 the establishment of urban area state parks and shall revise its plan  
36 for future state parks to achieve this priority. This section shall be  
37 implemented by January 1, 1981.

EXPLANATORY NOTE

RCW 43.51.380 was recodified as RCW 79A.25.250 pursuant to 1999 c 249 s 1601.

**Sec. 92.** RCW 79A.05.315 and 1996 c 129 s 7 are each amended to read as follows:

Except as provided in RCW (~~43.51.1121 and 43.51.113~~) 79A.05.120 and 79A.05.125, management control of the portion of the Milwaukee Road corridor, beginning at the western terminus near Easton and concluding at the west end of the bridge structure over the Columbia river, which point is located in section 34, township 16 north, range 23 east, W.M., inclusive of the northerly spur line therefrom, shall be transferred by the department of natural resources to the state parks and recreation commission at no cost to the commission.

EXPLANATORY NOTE

RCW 43.51.1121 and 43.51.113 were recodified as RCW 79A.05.120 and 79A.05.125 pursuant to 1999 c 249 s 1601.

**Sec. 93.** RCW 79A.05.320 and 1987 c 438 s 39 are each amended to read as follows:

The state parks and recreation commission shall do the following with respect to the portion of the Milwaukee Road corridor under its control:

(1) Manage the corridor as a recreational trail except when closed under RCW (~~43.51.409~~) 79A.05.325;

(2) Close the corridor to hunting;

(3) Close the corridor to all motorized vehicles except: (a) Emergency or law enforcement vehicles; (b) vehicles necessary for access to utility lines; and (c) vehicles necessary for maintenance of the corridor, or construction of the trail;

(4) Comply with legally enforceable conditions contained in the deeds for the corridor;

(5) Control weeds under the applicable provisions of chapters 17.04, 17.06, and 17.10 RCW; and

(6) Clean and maintain culverts.

EXPLANATORY NOTE

RCW 43.51.409 was recodified as RCW 79A.05.325 pursuant to 1999 c 249 s 1601.



1 director's designee shall serve as secretary to the committee and shall  
2 be a nonvoting member.

3 (3) Except as provided in this section, the terms of the public  
4 members appointed by the commission shall begin on January 1st of the  
5 year of appointment and shall be for three years or until a successor  
6 is appointed, except in the case of appointments to fill vacancies for  
7 the remainder of an unexpired term. In making the initial appointments  
8 to the advisory committee, the commission shall appoint two public  
9 members to serve one year, two public members to serve for two years,  
10 and three public members to serve for three years. Public members of  
11 the advisory committee may be reimbursed from the water trail program  
12 account for travel expenses as provided in RCW 43.03.050 and 43.03.060.

13 (4) The committee shall select a chair and adopt rules necessary to  
14 govern its proceedings. The committee shall meet at the times and  
15 places it determines, not less than twice a year, and additionally as  
16 required by the committee chair or by majority vote of the committee.

17 EXPLANATORY NOTE

18 RCW 43.51.440 through 43.51.454 were recodified as RCW  
19 79A.05.380 through 79A.05.415 pursuant to 1999 c 249 s 1601.

20 **Sec. 96.** RCW 79A.05.500 and 1969 ex.s. c 96 s 1 are each amended  
21 to read as follows:

22 The purpose of RCW ((~~43.51.500 through 43.51.570~~)) 79A.05.500  
23 through 79A.05.530 is to provide: (1) The opportunity for healthful  
24 employment of youths in programs of conservation, developing,  
25 improving, and maintaining natural and artificial recreational areas  
26 for the welfare of the general public; (2) the opportunity for our  
27 youths to learn vocational and work skills, develop good work habits  
28 and a sense of responsibility and contribution to society, improvement  
29 in personal physical and moral well being, and an understanding and  
30 appreciation of nature.

31 EXPLANATORY NOTE

32 RCW 43.51.500 through 43.51.570 were recodified as RCW  
33 79A.05.500 through 79A.05.530 pursuant to 1999 c 249 s 1601,  
34 except for RCW 43.51.545 which was repealed by 1999 c 249 s  
35 1701.

36 **Sec. 97.** RCW 79A.05.520 and 1965 c 8 s 43.51.550 are each amended  
37 to read as follows:

1 Existing provisions of law with respect to hours of work, rate of  
2 compensation, sick leave, vacation, civil service and unemployment  
3 compensation shall not be applicable to enrollees or temporary  
4 employees working under the provisions of RCW ((43.51.500 through  
5 43.51.570)) 79A.05.500 through 79A.05.530.

6 EXPLANATORY NOTE

7 RCW 43.51.500 through 43.51.570 were recodified as RCW  
8 79A.05.500 through 79A.05.530 pursuant to 1999 c 249 s 1601,  
9 except for RCW 43.51.545 which was repealed by 1999 c 249 s  
10 1701.

11 **Sec. 98.** RCW 79A.05.535 and 1965 ex.s. c 48 s 1 are each amended  
12 to read as follows:

13 The state parks and recreation commission is authorized to enter  
14 into agreements with and accept grants from the federal government for  
15 the support of any program within the purposes of RCW ((43.51.500  
16 through 43.51.570)) 79A.05.500 through 79A.05.530.

17 EXPLANATORY NOTE

18 RCW 43.51.500 through 43.51.570 were recodified as RCW  
19 79A.05.500 through 79A.05.530 pursuant to 1999 c 249 s 1601,  
20 except for RCW 43.51.545 which was repealed by 1999 c 249 s  
21 1701.

22 **Sec. 99.** RCW 79A.05.540 and 1965 ex.s. c 48 s 2 are each amended  
23 to read as follows:

24 Notwithstanding the provisions of RCW ((43.51.530 and 43.51.540))  
25 79A.05.510 and 79A.05.515, the commission may determine the length of  
26 enrollment and the compensation of enrollees in accordance with the  
27 standards of any federal act or regulation under which an agreement is  
28 made with, or a grant is received from the federal government pursuant  
29 to RCW ((43.51.580)) 79A.05.535.

30 EXPLANATORY NOTE

31 RCW 43.51.530, 43.51.540, and 43.51.580 were recodified as RCW  
32 79A.05.510, 79A.05.515, and 79A.05.535, respectively, pursuant  
33 to 1999 c 249 s 1601.

34 **Sec. 100.** RCW 79A.05.610 and 1969 ex.s. c 55 s 2 are each amended  
35 to read as follows:

36 Except as otherwise provided in RCW ((43.51.650 through 43.51.685))  
37 79A.05.600 through 79A.05.630, the Washington State Seashore  
38 Conservation Area shall be under the jurisdiction of the Washington

1 state parks and recreation commission, which shall administer RCW  
2 (~~43.51.650 through 43.51.685~~) 79A.05.600 through 79A.05.630 in  
3 accordance with the powers granted it herein and under the appropriate  
4 provisions of this chapter (~~43.51 RCW~~).

5 EXPLANATORY NOTE

6 (1) RCW 43.51.650 through 43.51.685 were recodified as RCW  
7 79A.05.600 through 79A.05.630 pursuant to 1999 c 249 s 1601.  
8 (2) Chapter 43.51 RCW was repealed and/or recodified in its  
9 entirety by 1999 c 249. The remaining sections were recodified  
10 in chapter 79A.05 RCW.

11 **Sec. 101.** RCW 79A.05.615 and 1969 ex.s. c 55 s 3 are each amended  
12 to read as follows:

13 The Washington state parks and recreation commission shall  
14 administer the Washington State Seashore Conservation Area in harmony  
15 with the broad principles set forth in RCW (~~43.51.650~~) 79A.05.600.  
16 Where feasible, the area shall be preserved in its present state;  
17 everywhere it shall be maintained in the best possible condition for  
18 public use. All forms of public outdoor recreation shall be permitted  
19 and encouraged in the area, unless specifically excluded or limited by  
20 the commission. While the primary purpose in the establishment of the  
21 area is to preserve the coastal beaches for public recreation, other  
22 uses shall be allowed as provided in RCW (~~43.51.650 through~~  
23 ~~43.51.685~~) 79A.05.600 through 79A.05.630, or when found not  
24 inconsistent with public recreational use by the Washington state parks  
25 and recreation commission.

26 EXPLANATORY NOTE

27 (1) RCW 43.51.650 was recodified as RCW 79A.05.600 pursuant to  
28 1999 c 249 s 1601.  
29 (2) RCW 43.51.650 through 43.51.685 were recodified as RCW  
30 79A.05.600 through 79A.05.630 pursuant to 1999 c 249 s 1601.

31 **Sec. 102.** RCW 79A.05.620 and 1969 ex.s. c 55 s 4 are each amended  
32 to read as follows:

33 In administering the Washington State Seashore Conservation Area,  
34 the Washington state parks and recreation commission shall seek the  
35 cooperation and assistance of federal agencies, other state agencies,  
36 and local political subdivisions. All state agencies, and the  
37 governing officials of each local subdivision shall cooperate with the  
38 commission in carrying out its duties. Except as otherwise provided in  
39 RCW (~~43.51.650 through 43.51.685~~) 79A.05.600 through 79A.05.630, and



1 notwithstanding any other provision of law, other state agencies and  
2 local subdivisions shall perform duties in the Washington State  
3 Seashore Conservation Area which are within their normal jurisdiction,  
4 except when such performance clearly conflicts with the purposes of RCW  
5 (~~43.51.650 through 43.51.685~~) 79A.05.600 through 79A.05.630.

6 EXPLANATORY NOTE

7 RCW 43.51.650 through 43.51.685 were recodified as RCW  
8 79A.05.600 through 79A.05.630 pursuant to 1999 c 249 s 1601.

9 **Sec. 103.** RCW 79A.05.625 and 1994 c 264 s 22 are each amended to  
10 read as follows:

11 Nothing in RCW (~~43.51.650 through 43.51.685~~) 79A.05.600 through  
12 79A.05.630 and (~~43.51.695 through 43.51.765~~) 79A.05.635 through  
13 79A.05.695 shall be construed to interfere with the powers, duties and  
14 authority of the department of fish and wildlife to regulate the  
15 conservation or taking of food fish and shellfish. Nor shall anything  
16 in RCW (~~43.51.650 through 43.51.685~~) 79A.05.600 through 79A.05.630  
17 and (~~43.51.695 through 43.51.765~~) 79A.05.635 through 79A.05.695 be  
18 construed to interfere with the powers, duties and authority of the  
19 department of fish and wildlife to regulate, manage, conserve, and  
20 provide for the harvest of wildlife within such area: PROVIDED,  
21 HOWEVER, That no hunting shall be permitted in any state park.

22 EXPLANATORY NOTE

23 RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765  
24 were recodified as RCW 79A.05.600 through 79A.05.630 and  
25 79A.05.635 through 79A.05.695 pursuant to 1999 c 249 s 1601.

26 **Sec. 104.** RCW 79A.05.630 and 1997 c 137 s 4 are each amended to  
27 read as follows:

28 Lands within the Seashore Conservation Area shall not be sold,  
29 leased, or otherwise disposed of, except as herein provided. The  
30 commission may, under authority granted in RCW (~~43.51.210 and~~  
31 ~~43.51.215~~) 79A.05.175 and 79A.05.180, exchange state park lands in the  
32 Seashore Conservation Area for lands of equal value to be managed by  
33 the commission consistent with this chapter. Only state park lands  
34 lying east of the Seashore Conservation Line, as it is located at the  
35 time of exchange, may be so exchanged. The department of natural  
36 resources may lease the lands within the Washington State Seashore  
37 Conservation Area as well as the accreted lands along the ocean in  
38 state ownership for the exploration and production of oil and gas:

1 PROVIDED, That oil drilling rigs and equipment will not be placed on  
2 the Seashore Conservation Area or state-owned accreted lands.

3 Sale of sand from accretions shall be made to supply the needs of  
4 cranberry growers for cranberry bogs in the vicinity and shall not be  
5 prohibited if found by the commission to be reasonable, and not  
6 generally harmful or destructive to the character of the land:  
7 PROVIDED, That the commission may grant leases and permits for the  
8 removal of sands for construction purposes from any lands within the  
9 Seashore Conservation Area if found by the commission to be reasonable  
10 and not generally harmful or destructive to the character of the land:  
11 PROVIDED FURTHER, That net income from such leases shall be deposited  
12 in the state parks renewal and stewardship account.

13 EXPLANATORY NOTE

14 RCW 43.51.210 and 43.51.215 were recodified as RCW 79A.05.175  
15 and 79A.05.180 pursuant to 1999 c 249 s 1601.

16 **Sec. 105.** RCW 79A.05.635 and 1988 c 75 s 1 are each amended to  
17 read as follows:

18 A cooperative program to provide recreation management plans for  
19 the ocean beaches that comprise the Seashore Conservation Area  
20 established by RCW ((43.51.655)) 79A.05.605 is created.

21 EXPLANATORY NOTE

22 RCW 43.51.655 was recodified as RCW 79A.05.605 pursuant to 1999  
23 c 249 s 1601.

24 **Sec. 106.** RCW 79A.05.640 and 1988 c 75 s 2 are each amended to  
25 read as follows:

26 Unless the context clearly requires otherwise, the definitions in  
27 this section apply to RCW ((43.51.650 through 43.51.685 and 43.51.695  
28 through 43.51.765)) 79A.05.600 through 79A.05.695.

29 (1) "Local government" means a county, city, or town.

30 (2) "Ocean beaches" include the three ocean beaches described in  
31 RCW ((43.51.655)) 79A.05.605.

32 (3) "Pedestrian use" means any use that does not involve a  
33 motorized vehicle.

34 EXPLANATORY NOTE

35 (1) RCW 43.51.650 through 43.51.685 and 43.51.695 through  
36 43.51.765 were recodified as RCW 79A.05.600 through 79A.05.630  
37 and 79A.05.635 through 79A.05.695 pursuant to 1999 c 249 s  
38 1601. These citations have been combined to accurately reflect

1 those sections that relate to the Washington State Seashore  
2 Conservation Area, RCW 79A.05.600 through 79A.05.695.  
3 (2) RCW 43.51.655 was recodified as RCW 79A.05.605 pursuant to  
4 1999 c 249 s 1601.

5 **Sec. 107.** RCW 79A.05.645 and 1988 c 75 s 3 are each amended to  
6 read as follows:

7 Local governments having a portion of the Seashore Conservation  
8 Area within their boundaries may, individually or through an agreement  
9 with other local governments located on the same ocean beach, adopt a  
10 recreation management plan which meets the requirements of RCW  
11 (~~43.51.650 through 43.51.685 and 43.51.695 through 43.51.765~~)  
12 79A.05.600 through 79A.05.695 for that portion of the ocean beach. The  
13 legislature hereby encourages adoption of a single plan for each beach.

14 EXPLANATORY NOTE

15 RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765  
16 were recodified as RCW 79A.05.600 through 79A.05.630 and  
17 79A.05.635 through 79A.05.695 pursuant to 1999 c 249 s 1601.  
18 These citations have been combined to accurately reflect those  
19 sections that relate to the Washington State Seashore  
20 Conservation Area, RCW 79A.05.600 through 79A.05.695.

21 **Sec. 108.** RCW 79A.05.650 and 1988 c 75 s 4 are each amended to  
22 read as follows:

23 (1) Except as provided in RCW (~~43.51.715 and 43.51.720~~)  
24 79A.05.655 and 79A.05.660, a total of forty percent of the length of  
25 the beach subject to the recreation management plan shall be reserved  
26 for pedestrian use under this section and RCW (~~43.51.725~~) 79A.05.665.  
27 Restrictions on motorized traffic under this section shall be from  
28 April 15<sup>th</sup> to the day following Labor day of each year. Local  
29 jurisdictions may adopt provisions within recreation management plans  
30 that exceed the requirements of this section. The commission shall not  
31 require that a plan designate for pedestrian use more than forty  
32 percent of the land subject to the plan.

33 (2) In designating areas to be reserved for pedestrian use, the  
34 plan shall consider the following:

- 35 (a) Public safety;  
36 (b) State-wide interest in recreational use of the ocean beaches;  
37 (c) Protection of shorebird and marine mammal habitats;  
38 (d) Preservation of native beach vegetation;  
39 (e) Protection of sand dune topography;  
40 (f) Prudent management of clam beds;

- 1 (g) Economic impacts to the local community; and  
2 (h) Public access and parking availability.

3 EXPLANATORY NOTE

4 RCW 43.51.715, 43.51.720, and 43.51.725 were recodified as RCW  
5 79A.05.655, 79A.05.660, and 79A.05.665 pursuant to 1999 c 249  
6 s 1601.  
7 Also puts the date reference in standard drafting style.

8 **Sec. 109.** RCW 79A.05.655 and 1988 c 75 s 5 are each amended to  
9 read as follows:

10 Notwithstanding RCW ((~~43.51.710(1)~~)) 79A.05.650(1), recreation  
11 management plans may make provision for vehicular traffic on areas  
12 otherwise reserved for pedestrian use in order to:

13 (1) Facilitate clam digging;

14 (2) Accommodate organized recreational events of not more than  
15 seven consecutive days duration;

16 (3) Provide for removal of wood debris under RCW 4.24.210 and  
17 ((~~43.51.045(5)~~)) 79A.05.035(5); and

18 (4) Accommodate removal of sand located upland from the Seashore  
19 Conservation Area or removal of sand within the Seashore Conservation  
20 Area under the terms of a covenant, easement, or deed.

21 EXPLANATORY NOTE

22 RCW 43.51.710 and 43.51.045 were recodified as RCW 79A.05.650  
23 and 79A.05.035 pursuant to 1999 c 249 s 1601.

24 **Sec. 110.** RCW 79A.05.665 and 1988 c 75 s 7 are each amended to  
25 read as follows:

26 Recreation management plans shall, upon request of the commission,  
27 reserve on a permanent, seasonal, or temporary basis, land adjoining  
28 national wildlife refuges and state parks for pedestrian use. After a  
29 plan is approved, the commission may require local jurisdictions to  
30 adopt amendments to the plan governing driving on land adjoining  
31 wildlife refuges and state parks. Land reserved for pedestrian use  
32 under this section for at least the period from April 15th through the  
33 day following Labor Day of each year shall be included when determining  
34 compliance with the requirements of RCW ((~~43.51.710~~)) 79A.05.650.

35 EXPLANATORY NOTE

36 RCW 43.51.710 was recodified as RCW 79A.05.650 pursuant to 1999  
37 c 249 s 1601.



1 the public as provided in RCW ((43.51.695 through 43.51.765))  
2 79A.05.635 through 79A.05.695.

3 EXPLANATORY NOTE

4 RCW 43.51.695 through 43.51.765 were recodified as RCW  
5 79A.05.635 through 79A.05.695 pursuant to 1999 c 249 s 1601.

6 **Sec. 113.** RCW 79A.05.695 and 1988 c 75 s 15 are each amended to  
7 read as follows:

8 Amendments to the recreation management plan may be adopted jointly  
9 by each local government participating in the plan and submitted to the  
10 commission for approval. The commission shall approve a proposed  
11 amendment if, in the commission's judgment, the amendment adequately  
12 fulfills the requirements of RCW ((43.51.650 through 43.51.685 and  
13 43.51.695 through 43.51.765)) 79A.05.600 through 79A.05.695.

14 After a plan is approved, the commission may require local  
15 jurisdictions to adopt amendments to the plan if the commission finds  
16 that such amendments are necessary to protect public health and safety,  
17 or to protect significant natural resources as determined by the agency  
18 having jurisdiction over the resource.

19 EXPLANATORY NOTE

20 RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765  
21 were recodified as RCW 79A.05.600 through 79A.05.630 and  
22 79A.05.635 through 79A.05.695 pursuant to 1999 c 249 s 1601.  
23 These citations have been combined to accurately reflect those  
24 sections that relate to the Washington State Seashore  
25 Conservation Area, RCW 79A.05.600 through 79A.05.695.

26 **Sec. 114.** RCW 79A.05.735 and 1994 c 264 s 23 are each amended to  
27 read as follows:

28 The state department of natural resources and the state parks and  
29 recreation commission have joined together in excellent cooperation in  
30 the conducting of this study along with the citizen advisory  
31 subcommittee and have joined together in cooperation with the  
32 department of fish and wildlife to accomplish other projects of  
33 multidisciplinary concern, and because it may be in the best interests  
34 of the state to continue such cooperation, the state parks and  
35 recreation commission, the department of natural resources, and the  
36 department of fish and wildlife are hereby directed to consider both  
37 short and long term objectives, the expertise of each agency's staff,  
38 and alternatives such as reasonably may be expected to safeguard the  
39 conservation area's values as described in RCW ((43.51.940)) 79A.05.725

1 giving due regard to efficiency and economy of management: PROVIDED,  
2 That the interests conveyed to or by the state agencies identified in  
3 this section shall be managed by the department of natural resources  
4 until such time as the state parks and recreation commission or other  
5 public agency is managing public recreation areas and facilities  
6 located in such close proximity to the conservation area described in  
7 RCW ((43.51.942)) 79A.05.730 so as to make combined management of those  
8 areas and facilities and transfer of management of the conservation  
9 area more efficient and economical than continued management by the  
10 department of natural resources. At that time the department of  
11 natural resources is directed to negotiate with the appropriate public  
12 agency for the transfer of those management responsibilities for the  
13 interests obtained within the conservation area under RCW ((43.51.940  
14 through 43.51.945)) 79A.05.725 through 79A.05.745: PROVIDED FURTHER,  
15 That the state agencies identified in this section may, by mutual  
16 agreement, undertake management of portions of the conservation area as  
17 they may from time to time determine in accordance with those rules and  
18 regulations established for natural area preserves under chapter 79.70  
19 RCW, for natural and conservation areas under present WAC 352-16-020(3)  
20 and (6), and under chapter 77.12 RCW.

21 EXPLANATORY NOTE  
22 (1) RCW 43.51.940 and 43.51.942 were recodified as RCW  
23 79A.05.725 and 79A.05.730 pursuant to 1999 c 249 s 1601.  
24 (2) RCW 43.51.940 through 43.51.945 were recodified as RCW  
25 79A.05.725 through 79A.05.745 pursuant to 1999 c 249 s 1601.

26 **Sec. 115.** RCW 79A.05.750 and 1977 ex.s. c 75 s 1 are each amended  
27 to read as follows:

28 It is the intent of RCW ((43.51.946 through 43.51.956)) 79A.05.750  
29 through 79A.05.795 to establish and recognize the Yakima river corridor  
30 from Selah Gap (Yakima Ridge) to Union Gap (Rattlesnake Hills) as a  
31 uniquely valuable recreation, conservation, and scenic resource in the  
32 state of Washington.

33 EXPLANATORY NOTE  
34 RCW 43.51.946 through 43.51.956 were recodified as RCW  
35 79A.05.750 through 79A.05.795 pursuant to 1999 c 249 s 1601.

36 **Sec. 116.** RCW 79A.05.765 and 1977 ex.s. c 75 s 4 are each amended  
37 to read as follows:

1 The Yakima county commissioners are authorized to coordinate the  
2 acquisition, development, and operation of the Yakima river  
3 conservation area in accordance with the purposes of RCW ((43.51.946  
4 ~~through 43.51.956~~)) 79A.05.750 through 79A.05.795 and in cooperation  
5 with public parks, conservation and resource managing agencies.

6 EXPLANATORY NOTE

7 RCW 43.51.946 through 43.51.956 were recodified as RCW  
8 79A.05.750 through 79A.05.795 pursuant to 1999 c 249 s 1601.

9 **Sec. 117.** RCW 79A.05.780 and 1977 ex.s. c 75 s 7 are each amended  
10 to read as follows:

11 The Washington state parks and recreation commission is directed to  
12 consult with the Yakima county commissioners in the acquisition,  
13 development, and operation of the Yakima river conservation area in  
14 accordance with the purposes of RCW ((43.51.946 ~~through 43.51.956~~))  
15 79A.05.750 through 79A.05.795 and the Yakima river study authorized in  
16 section 170, chapter 269, Laws of 1975, first extraordinary session.

17 EXPLANATORY NOTE

18 RCW 43.51.946 through 43.51.956 were recodified as RCW  
19 79A.05.750 through 79A.05.795 pursuant to 1999 c 249 s 1601.

20 **Sec. 118.** RCW 79A.05.793 and 1993 sp.s. c 2 s 19 are each amended  
21 to read as follows:

22 Nothing in RCW ((43.51.946 ~~through 43.51.956~~)) 79A.05.750 through  
23 79A.05.795 shall be construed to interfere with the powers, duties, and  
24 authority of the state department of fish and wildlife or the state  
25 fish and wildlife commission to regulate, manage, conserve, and provide  
26 for the harvest of wildlife within such area: PROVIDED, HOWEVER, That  
27 no hunting shall be permitted in any state park.

28 EXPLANATORY NOTE

29 RCW 43.51.946 through 43.51.956 were recodified as RCW  
30 79A.05.750 through 79A.05.795 pursuant to 1999 c 249 s 1601.

31 **Sec. 119.** RCW 79A.15.020 and 1990 1st ex.s. c 14 s 3 are each  
32 amended to read as follows:

33 The habitat conservation account is established in the state  
34 treasury. The committee shall administer the account in accordance  
35 with chapter ((43.99)) 79A.25 RCW and this chapter, and shall hold it  
36 separate and apart from all other money, funds, and accounts of the  
37 committee.



EXPLANATORY NOTE

Chapter 43.99 RCW was recodified as chapter 79A.25 RCW pursuant to 1999 c 249 s 1601.

**Sec. 120.** RCW 79A.15.030 and 1990 1st ex.s. c 14 s 4 are each amended to read as follows:

(1) Moneys appropriated for this chapter shall be divided equally between the habitat conservation and outdoor recreation accounts and shall be used exclusively for the purposes specified in this chapter.

(2) Moneys deposited in these accounts shall be invested as authorized for other state funds, and any earnings on them shall be credited to the respective account.

(3) All moneys deposited in the habitat conservation and outdoor recreation accounts shall be allocated under RCW (~~43.98A.040 and 43.98A.050~~) 79A.15.040 and 79A.15.050 as grants to state or local agencies for acquisition, development, and renovation within the jurisdiction of those agencies, subject to legislative appropriation. The committee may use or permit the use of any funds appropriated for this chapter as matching funds where federal, local, or other funds are made available for projects within the purposes of this chapter.

(4) Projects receiving grants under this chapter that are developed or otherwise accessible for public recreational uses shall be available to the public on a nondiscriminatory basis.

(5) The committee may make grants to an eligible project from both the habitat conservation and outdoor recreation accounts and any one or more of the applicable categories under such accounts described in RCW (~~43.98A.040 and 43.98A.050~~) 79A.15.040 and 79A.15.050.

EXPLANATORY NOTE

RCW 43.98A.040 and 43.98A.050 were recodified as RCW 79A.15.040 and 79A.15.050 pursuant to 1999 c 249 s 1601.

**Sec. 121.** RCW 79A.15.060 and 1999 c 379 s 918 are each amended to read as follows:

(1) The committee may adopt rules establishing acquisition policies and priorities for distributions from the habitat conservation account.

(2) Moneys appropriated for this chapter may not be used by the committee to fund additional staff positions or other overhead expenses, or by a state, regional, or local agency to fund operation and maintenance of areas acquired under this chapter, except that the committee may use moneys appropriated for this chapter for the fiscal

1 biennium ending June 30, 2001, for the administrative costs of  
2 implementing the pilot watershed plan implementation program  
3 established in section 329(6), chapter 235, Laws of 1997, and  
4 developing an inventory of publicly owned lands established in section  
5 329(7), chapter 235, Laws of 1997.

6 (3) Moneys appropriated for this chapter may be used for costs  
7 incidental to acquisition, including, but not limited to, surveying  
8 expenses, fencing, and signing.

9 (4) Except as provided in subsection (5) of this section, the  
10 committee may not approve a local project where the local agency share  
11 is less than the amount to be awarded from the habitat conservation  
12 account.

13 (5) During the fiscal biennium ending June 30, 2001, the committee  
14 may approve a riparian zone habitat protection project established in  
15 section 329(6), chapter 235, Laws of 1997, where the local agency share  
16 is less than the amount to be awarded from the habitat conservation  
17 account.

18 (6) In determining acquisition priorities with respect to the  
19 habitat conservation account, the committee shall consider, at a  
20 minimum, the following criteria:

21 (a) For critical habitat and natural areas proposals:

22 (i) Community support;

23 (ii) Immediacy of threat to the site;

24 (iii) Uniqueness of the site;

25 (iv) Diversity of species using the site;

26 (v) Quality of the habitat;

27 (vi) Long-term viability of the site;

28 (vii) Presence of endangered, threatened, or sensitive species;

29 (viii) Enhancement of existing public property;

30 (ix) Consistency with a local land use plan, or a regional or  
31 state-wide recreational or resource plan; and

32 (x) Educational and scientific value of the site.

33 (b) For urban wildlife habitat proposals, in addition to the  
34 criteria of (a) of this subsection:

35 (i) Population of, and distance from, the nearest urban area;

36 (ii) Proximity to other wildlife habitat;

37 (iii) Potential for public use; and

38 (iv) Potential for use by special needs populations.

1 (7) Before October 1st of each even-numbered year, the committee  
2 shall recommend to the governor a prioritized list of state agency  
3 projects to be funded under RCW ((43.98A.040)) 79A.15.040(1) (a), (b),  
4 and (c). The governor may remove projects from the list recommended by  
5 the committee and shall submit this amended list in the capital budget  
6 request to the legislature. The list shall include, but not be limited  
7 to, a description of each project; and shall describe for each project  
8 any anticipated restrictions upon recreational activities allowed prior  
9 to the project.

10 (8) Before October 1st of each year, the committee shall recommend  
11 to the governor a prioritized list of all local projects to be funded  
12 under RCW ((43.98A.040)) 79A.15.040(1)(c). The governor may remove  
13 projects from the list recommended by the committee and shall submit  
14 this amended list in the capital budget request to the legislature.  
15 The list shall include, but not be limited to, a description of each  
16 project and any particular match requirement, and describe for each  
17 project any anticipated restrictions upon recreational activities  
18 allowed prior to the project.

19 EXPLANATORY NOTE  
20 RCW 43.98A.040 was recodified as RCW 79A.15.040 pursuant to  
21 1999 c 249 s 1601.

22 **Sec. 122.** RCW 79A.15.070 and 1999 c 379 s 919 are each amended to  
23 read as follows:

24 (1) In determining which state parks proposals and local parks  
25 proposals to fund, the committee shall use existing policies and  
26 priorities.

27 (2) Moneys appropriated for this chapter may not be used by the  
28 committee to fund additional staff or other overhead expenses, or by a  
29 state, regional, or local agency to fund operation and maintenance of  
30 areas acquired under this chapter, except that the committee may use  
31 moneys appropriated for this chapter for the fiscal biennium ending  
32 June 30, 2001, for the administrative costs of implementing the pilot  
33 watershed plan implementation program established in section 329(6),  
34 chapter 235, Laws of 1997, and developing an inventory of publicly  
35 owned lands established in section 329(7), chapter 235, Laws of 1997.

36 (3) Moneys appropriated for this chapter may be used for costs  
37 incidental to acquisition, including, but not limited to, surveying  
38 expenses, fencing, and signing.

1 (4) The committee may not approve a project of a local agency where  
2 the share contributed by the local agency is less than the amount to be  
3 awarded from the outdoor recreation account.

4 (5) The committee may adopt rules establishing acquisition policies  
5 and priorities for the acquisition and development of trails and water  
6 access sites to be financed from moneys in the outdoor recreation  
7 account.

8 (6) In determining the acquisition and development priorities, the  
9 committee shall consider, at a minimum, the following criteria:

10 (a) For trails proposals:

11 (i) Community support;

12 (ii) Immediacy of threat to the site;

13 (iii) Linkage between communities;

14 (iv) Linkage between trails;

15 (v) Existing or potential usage;

16 (vi) Consistency with an existing local land use plan or a regional  
17 or state-wide recreational or resource plan;

18 (vii) Availability of water access or views;

19 (viii) Enhancement of wildlife habitat; and

20 (ix) Scenic values of the site.

21 (b) For water access proposals:

22 (i) Community support;

23 (ii) Distance from similar water access opportunities;

24 (iii) Immediacy of threat to the site;

25 (iv) Diversity of possible recreational uses; and

26 (v) Public demand in the area.

27 (7) Before October 1st of each even-numbered year, the committee  
28 shall recommend to the governor a prioritized list of state agency  
29 projects to be funded under RCW ((43.98A.050)) 79A.15.050(1) (a), (c),  
30 and (d). The governor may remove projects from the list recommended by  
31 the committee and shall submit this amended list in the capital budget  
32 request to the legislature. The list shall include, but not be limited  
33 to, a description of each project; and shall describe for each project  
34 any anticipated restrictions upon recreational activities allowed prior  
35 to the project.

36 (8) Before October 1st of each year, the committee shall recommend  
37 to the governor a prioritized list of all local projects to be funded  
38 under RCW ((43.98A.050)) 79A.15.050(1) (b), (c), and (d) of this act.  
39 The governor may remove projects from the list recommended by the

1 committee and shall submit this amended list in the capital budget  
2 request to the legislature. The list shall include, but not be limited  
3 to, a description of each project and any particular match requirement,  
4 and describe for each project any anticipated restrictions upon  
5 recreational activities allowed prior to the project.

6 EXPLANATORY NOTE

7 RCW 43.98A.050 was recodified as RCW 79A.15.050 pursuant to  
8 1999 c 249 s 1601.

9 **Sec. 123.** RCW 79A.25.020 and 1989 c 237 s 4 are each amended to  
10 read as follows:

11 The director shall have the following powers and duties:

12 (1) To supervise the administrative operations of the committee and  
13 its staff;

14 (2) To administer recreation grant-in-aid programs and provide  
15 technical assistance to state and local agencies;

16 (3) To prepare and update a strategic plan for the acquisition,  
17 renovation, and development of recreational resources and the  
18 preservation and conservation of open space. The plan shall be  
19 prepared in coordination with the office of the governor and the office  
20 of financial management, with participation of federal, state, and  
21 local agencies having recreational responsibilities, user groups,  
22 private sector interests, and the general public. The plan shall be  
23 submitted to the committee for review, and the committee shall submit  
24 its recommendations on the plan to the governor. The plan shall  
25 include, but is not limited to: (a) an inventory of current resources;  
26 (b) a forecast of recreational resource demand; (c) identification and  
27 analysis of actual and potential funding sources; (d) a process for  
28 broad scale information gathering; (e) an assessment of the  
29 capabilities and constraints, both internal and external to state  
30 government, that affect the ability of the state to achieve the goals  
31 of the plan; (f) an analysis of strategic options and decisions  
32 available to the state; (g) an implementation strategy that is  
33 coordinated with executive policy and budget priorities; and (h)  
34 elements necessary to qualify for participation in or the receipt of  
35 aid from any federal program for outdoor recreation;

36 (4) To represent and promote the interests of the state on  
37 recreational issues and further the mission of the committee;

1 (5) Upon approval of the committee, to enter into contracts and  
2 agreements with private nonprofit corporations to further state goals  
3 of preserving, conserving, and enhancing recreational resources and  
4 open space for the public benefit and use;

5 (6) To appoint such technical and other committees as may be  
6 necessary to carry out the purposes of this chapter;

7 (7) To create and maintain a repository for data, studies,  
8 research, and other information relating to recreation in the state,  
9 and to encourage the interchange of such information;

10 (8) To encourage and provide opportunities for interagency and  
11 regional coordination and cooperative efforts between public agencies  
12 and between public and private entities involved in the development and  
13 preservation of recreational resources; and

14 (9) To prepare the state trails plan, as required by RCW  
15 ((67.32.050)) 79A.35.040.

16 EXPLANATORY NOTE

17 RCW 67.32.050 was recodified as RCW 79A.35.040 pursuant to 1999  
18 c 249 s 1601.

19 **Sec. 124.** RCW 79A.25.030 and 1995 c 166 s 1 are each amended to  
20 read as follows:

21 From time to time, but at least once each four years, the director  
22 of licensing shall determine the amount or proportion of moneys paid to  
23 him or her as motor vehicle fuel tax which is tax on marine fuel. The  
24 director shall make or authorize the making of studies, surveys, or  
25 investigations to assist him or her in making such determination, and  
26 shall hold one or more public hearings on the findings of such studies,  
27 surveys, or investigations prior to making his or her determination.  
28 The studies, surveys, or investigations conducted pursuant to this  
29 section shall encompass a period of twelve consecutive months each  
30 time. The final determination by the director shall be implemented as  
31 of the next biennium after the period from which the study data were  
32 collected. The director may delegate his or her duties and authority  
33 under this section to one or more persons of the department of  
34 licensing if he or she finds such delegation necessary and proper to  
35 the efficient performance of these duties. Costs of carrying out the  
36 provisions of this section shall be paid from the marine fuel tax  
37 refund account created in RCW ((43.99.040)) 79A.25.040, upon  
38 legislative appropriation.

EXPLANATORY NOTE

1  
2 RCW 43.99.040 was recodified as RCW 79A.25.040 pursuant to 1999  
3 c 249 s 1601.  
4 Also makes the section gender neutral.

5 **Sec. 125.** RCW 79A.25.040 and 1995 c 166 s 2 are each amended to  
6 read as follows:

7 There is created the marine fuel tax refund account in the state  
8 treasury. The director of licensing shall request the state treasurer  
9 to refund monthly from the motor vehicle fund amounts which have been  
10 determined to be tax on marine fuel. The state treasurer shall refund  
11 such amounts and place them in the marine fuel tax refund account to be  
12 held for those entitled thereto pursuant to chapter 82.36 RCW and RCW  
13 ((43.99.050)) 79A.25.050, except that he or she shall not refund and  
14 place in the marine fuel tax refund account for any period for which a  
15 determination has been made pursuant to RCW ((43.99.030)) 79A.25.030  
16 more than the greater of the following amounts: (1) An amount equal to  
17 two percent of all moneys paid to him or her as motor vehicle fuel tax  
18 for such period, (2) an amount necessary to meet all approved claims  
19 for refund of tax on marine fuel for such period.

EXPLANATORY NOTE

20  
21 RCW 43.99.050 and 43.99.030 were recodified as RCW 79A.25.050  
22 and 79A.25.030 pursuant to 1999 c 249 s 1601.  
23 Also makes the section gender neutral.

24 **Sec. 126.** RCW 79A.25.060 and 1995 c 166 s 3 are each amended to  
25 read as follows:

26 The outdoor recreation account is created in the state treasury.  
27 Moneys in the account are subject to legislative appropriation. The  
28 committee shall administer the account in accordance with chapter  
29 ((43.98A)) 79A.15 RCW and this chapter, and shall hold it separate and  
30 apart from all other money, funds, and accounts of the committee.

31 Grants, gifts, or other financial assistance, proceeds received  
32 from public bodies as administrative cost contributions, and moneys  
33 made available to the state of Washington by the federal government for  
34 outdoor recreation, may be deposited into the account.

EXPLANATORY NOTE

35  
36 Chapter 43.98A RCW was recodified as chapter 79A.15 RCW  
37 pursuant to 1999 c 249 s 1601.





1 subsection (3) of this section, if needed, to maintain or make the  
2 facility more useful. A public body is authorized to use a grant,  
3 together with its own contribution, as matching funds in any case where  
4 federal or other funds are made available for purposes described in (a)  
5 or (b) of this subsection. The committee may prescribe further terms  
6 and conditions for the making of grants in order to carry out the  
7 purposes of this chapter.

8 (3) For the purposes of this section "periodic dredging" is limited  
9 to dredging of materials that have been deposited in a channel due to  
10 unforeseen events. This dredging should extend the expected usefulness  
11 of the facility for at least five years.

12 EXPLANATORY NOTE

13 RCW 43.99.110 was recodified as RCW 79A.25.110 pursuant to 1999  
14 c 249 s 1601.

15 **Sec. 129.** RCW 79A.25.100 and 1965 c 5 s 10 are each amended to  
16 read as follows:

17 Marine recreation land with respect to which money has been  
18 expended under RCW ((43.99.080)) 79A.25.080 shall not, without the  
19 approval of the committee, be converted to uses other than those for  
20 which such expenditure was originally approved. The committee shall  
21 only approve any such conversion upon conditions which will assure the  
22 substitution of other marine recreation land of at least equal fair  
23 market value at the time of conversion and of as nearly as feasible  
24 equivalent usefulness and location.

25 EXPLANATORY NOTE

26 RCW 43.99.080 was recodified as RCW 79A.25.080 pursuant to 1999  
27 c 249 s 1601.

28 **Sec. 130.** RCW 79A.25.180 and 1989 c 237 s 6 are each amended to  
29 read as follows:

30 The director shall periodically review and have updated the guide  
31 authorized by RCW ((43.99.142)) 79A.25.170.

32 EXPLANATORY NOTE

33 RCW 43.99.142 was recodified as RCW 79A.25.170 pursuant to 1999  
34 c 249 s 1601.

35 **Sec. 131.** RCW 79A.25.200 and 1995 c 166 s 10 are each amended to  
36 read as follows:

1 The recreation resource account is created in the state treasury.  
2 Moneys in this account are subject to legislative appropriation. The  
3 committee shall administer the account in accordance with this chapter  
4 and chapter ((67.32)) 79A.35 RCW and shall hold it separate and apart  
5 from all other money, funds, and accounts of the committee. Moneys  
6 received from the marine fuel tax refund account under RCW  
7 ((43.99.070)) 79A.25.070 shall be deposited into the account. Grants,  
8 gifts, or other financial assistance, proceeds received from public  
9 bodies as administrative cost contributions, and moneys made available  
10 to the state of Washington by the federal government for outdoor  
11 recreation may be deposited into the account.

12 EXPLANATORY NOTE

13 (1) Chapter 67.32 RCW was recodified as chapter 79A.35 RCW  
14 pursuant to 1999 c 249 s 1601.  
15 (2) RCW 43.99.070 was recodified as RCW 79A.25.070 pursuant to  
16 1999 c 249 s 1601.

17 **Sec. 132.** RCW 79A.25.240 and 1999 1st sp.s. c 13 s 17 are each  
18 amended to read as follows:

19 The interagency committee for outdoor recreation shall provide  
20 necessary grants and loan administration support to the salmon recovery  
21 funding board as provided in RCW 75.46.160. The committee shall also  
22 be responsible for tracking salmon recovery expenditures under RCW  
23 75.46.180. The committee shall provide all necessary administrative  
24 support to the board, and the board shall be located with the  
25 committee. The committee shall (~~coordinate its activities under this~~  
26 ~~section with the salmon recovery technical review team created in~~  
27 ~~section 7 of this act and~~) provide necessary information to the salmon  
28 recovery office.

29 EXPLANATORY NOTE

30 Section 7, chapter 13, Laws of 1999 1st sp. sess. was vetoed by  
31 the governor.

32 **Sec. 133.** RCW 79A.25.250 and 1980 c 89 s 3 are each amended to  
33 read as follows:

34 Recognizing the fact that the demand for park services is greatest  
35 in our urban areas, that parks should be accessible to all Washington  
36 citizens, that the urban poor cannot afford to travel to remotely  
37 located parks, that few state parks are located in or near urban areas,  
38 that a need exists to conserve energy, and that local governments

1 having jurisdiction in urban areas cannot afford the costs of  
2 maintaining and operating the extensive park systems needed to service  
3 their large populations, the legislature hereby directs the interagency  
4 committee for outdoor recreation to place a high priority on the  
5 acquisition, development, redevelopment, and renovation of parks to be  
6 located in or near urban areas and to be particularly accessible to and  
7 used by the populations of those areas. For purposes of RCW  
8 (~~43.51.380 and 43.51.385~~) 79A.25.250 and 79A.05.300, "urban areas"  
9 means any incorporated city with a population of five thousand persons  
10 or greater or any county with a population density of two hundred fifty  
11 persons per square mile or greater. This section shall be implemented  
12 by January 1, 1981.

13 EXPLANATORY NOTE

14 RCW 43.51.380 and 43.51.385 were recodified as RCW 79A.25.250  
15 and 79A.05.300 pursuant to 1999 c 249 s 1601.

16 **Sec. 134.** RCW 79A.25.800 and 1998 c 264 s 1 are each amended to  
17 read as follows:

18 (1) The legislature recognizes that coordinated funding efforts are  
19 needed to maintain, develop, and improve the state's community outdoor  
20 athletic fields. Rapid population growth and increased urbanization  
21 have caused a decline in suitable outdoor fields for community athletic  
22 activities and has resulted in overcrowding and deterioration of  
23 existing surfaces. Lack of adequate community outdoor athletic fields  
24 directly affects the health and well-being of all citizens of the  
25 state, reduces the state's economic viability, and prevents Washington  
26 from maintaining and achieving the quality of life that it deserves.  
27 Therefore, it is the policy of the state and its agencies to maintain,  
28 develop, fund, and improve youth or community athletic facilities,  
29 including but not limited to community outdoor athletic fields.

30 (2) In carrying out this policy, the legislature intends to promote  
31 the building of new community outdoor athletic fields, the upgrading of  
32 existing community outdoor athletic fields, and the maintenance of  
33 existing community outdoor athletic fields across the state of  
34 Washington. The purpose of RCW (~~43.99.800 through 43.99.830~~)  
35 79A.25.800 through 79A.25.830 is to create an advisory council to  
36 provide information and advice to the interagency committee for outdoor  
37 recreation in the distribution of the funds in the youth athletic  
38 facility grant account established in RCW 43.99N.060(4).

EXPLANATORY NOTE

RCW 43.99.800 through 43.99.830 were recodified as RCW 79A.25.800 through 79A.25.830 pursuant to 1999 c 249 s 1601.

**Sec. 135.** RCW 79A.25.820 and 1998 c 264 s 3 are each amended to read as follows:

Subject to available resources, the interagency committee for outdoor recreation, in consultation with the community outdoor athletic fields advisory council may:

(1) Prepare and update a strategic plan for the development, maintenance, and improvement of community outdoor athletic fields in the state. In the preparation of such plan, the interagency committee for outdoor recreation may use available data from federal, state, and local agencies having community outdoor athletic responsibilities, user groups, private sector interests, and the general public. The plan may include, but is not limited to:

(a) An inventory of current community outdoor athletic fields;

(b) A forecast of demand for these fields;

(c) An identification and analysis of actual and potential funding sources; and

(d) Other information the interagency committee for outdoor recreation deems appropriate to carry out the purposes of RCW ~~((43.99.800 through 43.99.830))~~ 79A.25.800 through 79A.25.830;

(2) Determine the eligibility requirements for cities, counties, and qualified nonprofit organizations to access funding from the youth athletic facility grant account created in RCW 43.99N.060(4);

(3) Encourage and provide opportunities for interagency and regional coordination and cooperative efforts between public agencies and between public entities and nonprofit organizations involved in the maintenance, development, and improvement of community outdoor athletic fields; and

(4) Create and maintain data, studies, research, and other information relating to community outdoor athletic fields in the state, and to encourage the exchange of this information.

EXPLANATORY NOTE

RCW 43.99.800 through 43.99.830 were recodified as RCW 79A.25.800 through 79A.25.830 pursuant to 1999 c 249 s 1601.

**Sec. 136.** RCW 79A.25.830 and 1998 c 264 s 4 are each amended to read as follows:

1 The interagency committee for outdoor recreation may receive gifts,  
2 grants, or endowments from public and private sources that are made  
3 from time to time, in trust or otherwise, for the use and benefit of  
4 the purposes of RCW ((~~43.99.800 through 43.99.830~~)) 79A.25.800 through  
5 79A.25.830 and spend gifts, grants, or endowments or income from the  
6 public or private sources according to their terms, unless the receipt  
7 of the gifts, grants, or endowments violates RCW 42.17.710.

8 EXPLANATORY NOTE

9 RCW 43.99.800 through 43.99.830 were recodified as RCW  
10 79A.25.800 through 79A.25.830 pursuant to 1999 c 249 s 1601.

11 **Sec. 137.** RCW 79A.30.010 and 1995 c 200 s 2 are each amended to  
12 read as follows:

13 Unless the context clearly indicates otherwise, the definitions in  
14 this section apply throughout this chapter.

15 (1) "Authority" means the Washington state horse park authority  
16 authorized to be created in RCW ((~~67.18.030~~)) 79A.30.030.

17 (2) "Commission" means the Washington state parks and recreation  
18 commission.

19 (3) "Horses" includes all domesticated members of the taxonomic  
20 family Equidae, including but not limited to horses, donkeys, and  
21 mules.

22 (4) "State horse park" means the Washington state horse park  
23 established in RCW ((~~67.18.020~~)) 79A.30.020.

24 EXPLANATORY NOTE

25 RCW 67.18.030 and 67.18.020 were recodified as RCW 79A.30.030  
26 and 79A.30.020, respectively, pursuant to 1999 c 249 s 1601.

27 **Sec. 138.** RCW 79A.30.020 and 1995 c 200 s 3 are each amended to  
28 read as follows:

29 (1) The Washington state horse park is hereby established, to be  
30 located at a site approved by the commission. In approving a site for  
31 the state horse park, the commission shall consider areas with large  
32 blocks of land suitable for park development, the distance to various  
33 population centers in the state, the ease of transportation to the site  
34 for large vehicles traveling along either a north-south or an east-west  
35 corridor, and other factors deemed important by the commission.

36 (2) Ownership of land for the state horse park shall be as follows:

37 (a) The commission is vested with and shall retain ownership of  
38 land provided by the state for the state horse park. Any lands

1 acquired by the commission after July 23, 1995, for the state horse  
2 park shall be purchased under chapter ((43.98A)) 79A.15 RCW. The  
3 legislature encourages the commission to provide a long-term lease of  
4 the selected property to the Washington state horse park authority at  
5 a minimal charge. The lease shall contain provisions ensuring public  
6 access to and use of the horse park facilities, and generally  
7 maximizing public recreation opportunities at the horse park, provided  
8 that the facility remains available primarily for horse-related  
9 activities.

10 (b) Land provided for the state horse park by the county in which  
11 the park is located shall remain in the ownership of that county unless  
12 the county determines otherwise. The legislature encourages the county  
13 to provide a long-term lease of selected property to the Washington  
14 state horse park authority at a minimal charge.

15 (c) If the authority acquires additional lands through donations,  
16 grants, or other means, or with funds generated from the operation of  
17 the state horse park, the authority shall retain ownership of those  
18 lands. The authority shall also retain ownership of horse park site  
19 improvements paid for by or through donations or gifts to the  
20 authority.

21 (3) Development, promotion, operation, management, and maintenance  
22 of the state horse park is the responsibility of the authority created  
23 in RCW ((67.18.030)) 79A.30.030.

24 EXPLANATORY NOTE

25 (1) Chapter 43.98A RCW was recodified as chapter 79A.15 RCW  
26 pursuant to 1999 c 249 s 1601.

27 (2) RCW 67.18.030 was recodified as RCW 79A.30.030 pursuant to  
28 1999 c 249 s 1601.

29 **Sec. 139.** RCW 79A.30.030 and 1995 c 200 s 4 are each amended to  
30 read as follows:

31 (1) A nonprofit corporation may be formed under the nonprofit  
32 corporation provisions of chapter 24.03 RCW to carry out the purposes  
33 of this chapter. Except as provided in RCW ((67.18.040)) 79A.30.040,  
34 the corporation shall have all the powers and be subject to the same  
35 restrictions as are permitted or prescribed to nonprofit corporations  
36 and shall exercise those powers only for carrying out the purposes of  
37 this chapter and those purposes necessarily implied therefrom. The  
38 nonprofit corporation shall be known as the Washington state horse park  
39 authority. The articles of incorporation shall provide that it is the

1 responsibility of the authority to develop, promote, operate, manage,  
2 and maintain the Washington state horse park. The articles of  
3 incorporation shall provide for appointment of directors and other  
4 conduct of business consistent with the requirements of this chapter.

5 (2)(a) The articles of incorporation shall provide for a seven-  
6 member board of directors for the authority, all appointed by the  
7 governor. Board members shall serve three-year terms, except that two  
8 of the original appointees shall serve one-year terms, and two of the  
9 original appointees shall serve two-year terms. A board member may  
10 serve consecutive terms.

11 (b) The articles of incorporation shall provide that the governor  
12 appoint board members as follows:

13 (i) One board member shall represent the interests of the  
14 commission. In making this appointment, the governor shall solicit  
15 recommendations from the commission;

16 (ii) One board member shall represent the interests of the county  
17 in which the park is located. In making this appointment, the governor  
18 shall solicit recommendations from the county legislative authority;  
19 and

20 (iii) Five board members shall represent the geographic and sports  
21 discipline diversity of equestrian interests in the state, and at least  
22 one of these members shall have business experience relevant to the  
23 organization of horse shows or operation of a horse show facility. In  
24 making these appointments, the governor shall solicit recommendations  
25 from a variety of active horse-related organizations in the state.

26 (3) The articles of incorporation shall include a policy that  
27 provides for the preferential use of a specific area of the horse park  
28 facilities at nominal cost for horse groups associated with youth  
29 groups and the disabled.

30 (4) The governor shall make appointments to fill board vacancies  
31 for positions authorized under subsection (2) of this section, upon  
32 additional solicitation of recommendations from the board of directors.

33 (5) The board of directors shall perform their duties in the best  
34 interests of the authority, consistent with the standards applicable to  
35 directors of nonprofit corporations under RCW 24.03.127.

36 EXPLANATORY NOTE  
37 RCW 67.18.040 was recodified as RCW 79A.30.040 pursuant to 1999  
38 c 249 s 1601.





1 ((70.88.010)) 79A.40.010, ought reasonably to be provided, or any  
2 repairs or improvements to, or changes in, any theretofore in use ought  
3 reasonably to be made, or any additions or changes in construction  
4 should reasonably be made thereto, in order to promote the security and  
5 safety of the public or employees, it may make and serve an order  
6 directing such repairs, improvements, changes, or additions to be made.

7 (2) If the commission finds that the equipment, or appliances in  
8 connection therewith, or the apparatus, or other structures of the  
9 recreational device set forth in RCW ((70.88.010)) 79A.40.010 are  
10 defective, and that the operation thereof is dangerous to the employees  
11 of the owner or operator of such device or to the public, it shall  
12 immediately give notice to the owner or operator of such device of the  
13 repairs or reconstruction necessary to place the same in a safe  
14 condition, and may prescribe the time within which they shall be made.  
15 If, in its opinion, it is needful or proper, the commission may forbid  
16 the operation of the device until it is repaired and placed in a safe  
17 condition.

18 EXPLANATORY NOTE

19 RCW 70.88.010 was recodified as RCW 79A.40.010 pursuant to 1999  
20 c 249 s 1601.

21 **Sec. 143.** RCW 79A.40.060 and 1959 c 327 s 6 are each amended to  
22 read as follows:

23 The inspector of recreational devices and his or her assistants  
24 shall inspect all equipment and appliances connected with the  
25 recreational devices set forth in RCW ((70.88.010)) 79A.40.010 and make  
26 such reports of his or her inspection to the commission as may be  
27 required. He or she shall, on discovering any defective equipment, or  
28 appliances connected therewith, rendering the use of the equipment  
29 dangerous, immediately report the same to the owner or operator of the  
30 device on which it is found, and in addition report it to the  
31 commission. If in the opinion of the inspector the continued operation  
32 of the defective equipment constitutes an immediate danger to the  
33 safety of the persons operating or being conveyed by such equipment,  
34 the inspector may condemn such equipment and shall immediately notify  
35 the commission of his or her action in this respect: PROVIDED, That  
36 inspection required by this chapter must be conducted at least once  
37 each year.

1 EXPLANATORY NOTE

2 RCW 70.88.010 was recodified as RCW 79A.40.010 pursuant to 1999  
3 c 249 s 1601.  
4 Also makes the section gender neutral.

5 **Sec. 144.** RCW 79A.40.080 and 1991 c 75 s 2 are each amended to  
6 read as follows:

7 Inspections, rules, and orders of the state parks and recreation  
8 commission resulting from the exercise of the provisions of this  
9 chapter and chapter ((70.117)) 79A.45 RCW shall not in any manner be  
10 deemed to impose liability upon the state for any injury or damage  
11 resulting from the operation or signing of the facilities regulated by  
12 this chapter, and all actions of the state parks and recreation  
13 commission and its personnel shall be deemed to be an exercise of the  
14 police power of the state.

15 EXPLANATORY NOTE

16 Chapter 70.117 RCW was recodified as chapter 79A.45 RCW  
17 pursuant to 1999 c 249 s 1601.

18 **Sec. 145.** RCW 79A.45.040 and 1989 c 81 s 5 are each amended to  
19 read as follows:

20 Ski area operators shall place a notice of the provisions of RCW  
21 ((70.117.020(7))) 79A.45.030(7) on their trail maps, at or near the  
22 ticket booth, and at the bottom of each ski lift or similar device.

23 EXPLANATORY NOTE

24 RCW 70.117.020 was recodified as RCW 79A.45.030 pursuant to  
25 1999 c 249 s 1601.

26 **Sec. 146.** RCW 79A.60.010 and 1998 c 219 s 5 are each amended to  
27 read as follows:

28 Unless the context clearly requires otherwise, the definitions in  
29 this section apply throughout this chapter.

30 (1) "Boat wastes" includes, but is not limited to, sewage, garbage,  
31 marine debris, plastics, contaminated bilge water, cleaning solvents,  
32 paint scrapings, or discarded petroleum products associated with the  
33 use of vessels.

34 (2) "Boater" means any person on a vessel on waters of the state of  
35 Washington.

36 (3) "Carrying passengers for hire" means carrying passengers in a  
37 vessel on waters of the state for valuable consideration, whether given  
38 directly or indirectly or received by the owner, agent, operator, or

1 other person having an interest in the vessel. This shall not include  
2 trips where expenses for food, transportation, or incidentals are  
3 shared by participants on an even basis. Anyone receiving compensation  
4 for skills or money for amortization of equipment and carrying  
5 passengers shall be considered to be carrying passengers for hire on  
6 waters of the state.

7 (4) "Commission" means the state parks and recreation commission.

8 (5) "Darkness" means that period between sunset and sunrise.

9 (6) "Environmentally sensitive area" means a restricted body of  
10 water where discharge of untreated sewage from boats is especially  
11 detrimental because of limited flushing, shallow water, commercial or  
12 recreational shellfish, swimming areas, diversity of species, the  
13 absence of other pollution sources, or other characteristics.

14 (7) "Guide" means any individual, including but not limited to  
15 subcontractors and independent contractors, engaged for compensation or  
16 other consideration by a whitewater river outfitter for the purpose of  
17 operating vessels. A person licensed under RCW 77.32.211 or 75.28.780  
18 and acting as a fishing guide is not considered a guide for the  
19 purposes of this chapter.

20 (8) "Marina" means a facility providing boat moorage space, fuel,  
21 or commercial services. Commercial services include but are not  
22 limited to overnight or live-aboard boating accommodations.

23 (9) "Motor driven boats and vessels" means all boats and vessels  
24 which are self propelled.

25 (10) "Muffler" or "muffler system" means a sound suppression device  
26 or system, including an underwater exhaust system, designed and  
27 installed to abate the sound of exhaust gases emitted from an internal  
28 combustion engine and that prevents excessive or unusual noise.

29 (11) "Operate" means to steer, direct, or otherwise have physical  
30 control of a vessel that is underway.

31 (12) "Operator" means an individual who steers, directs, or  
32 otherwise has physical control of a vessel that is underway or  
33 exercises actual authority to control the person at the helm.

34 (13) "Observer" means the individual riding in a vessel who is  
35 responsible for observing a water skier at all times.

36 (14) "Owner" means a person who has a lawful right to possession of  
37 a vessel by purchase, exchange, gift, lease, inheritance, or legal  
38 action whether or not the vessel is subject to a security interest.

1 (15) "Person" means any individual, sole proprietorship,  
2 partnership, corporation, nonprofit corporation or organization,  
3 limited liability company, firm, association, or other legal entity  
4 located within or outside this state.

5 (16) "Personal flotation device" means a buoyancy device, life  
6 preserver, buoyant vest, ring buoy, or buoy cushion that is designed to  
7 float a person in the water and that is approved by the commission.

8 (17) "Personal watercraft" means a vessel of less than sixteen feet  
9 that uses a motor powering a water jet pump, as its primary source of  
10 motive power and that is designed to be operated by a person sitting,  
11 standing, or kneeling on, or being towed behind the vessel, rather than  
12 in the conventional manner of sitting or standing inside the vessel.

13 (18) "Polluted area" means a body of water used by boaters that is  
14 contaminated by boat wastes at unacceptable levels, based on applicable  
15 water quality and shellfish standards.

16 (19) "Public entities" means all elected or appointed bodies,  
17 including tribal governments, responsible for collecting and spending  
18 public funds.

19 (20) "Reckless" or "recklessly" means acting carelessly and  
20 heedlessly in a willful and wanton disregard of the rights, safety, or  
21 property of another.

22 (21) "Sewage pumpout or dump unit" means:

23 (a) A receiving chamber or tank designed to receive vessel sewage  
24 from a "porta-potty" or a portable container; and

25 (b) A stationary or portable mechanical device on land, a dock,  
26 pier, float, barge, vessel, or other location convenient to boaters,  
27 designed to remove sewage waste from holding tanks on vessels.

28 (22) "Underway" means that a vessel is not at anchor, or made fast  
29 to the shore, or aground.

30 (23) "Vessel" includes every description of watercraft on the  
31 water, other than a seaplane, used or capable of being used as a means  
32 of transportation on the water. However, it does not include inner  
33 tubes, air mattresses, sailboards, and small rafts or flotation devices  
34 or toys customarily used by swimmers.

35 (24) "Water skiing" means the physical act of being towed behind a  
36 vessel on, but not limited to, any skis, aquaplane, kneeboard, tube, or  
37 any other similar device.

38 (25) "Waters of the state" means any waters within the territorial  
39 limits of Washington state.

1 (26) "Whitewater river outfitter" means any person who is  
2 advertising to carry or carries passengers for hire on any whitewater  
3 river of the state, but does not include any person whose only service  
4 on a given trip is providing instruction in canoeing or kayaking  
5 skills.

6 (27) "Whitewater rivers of the state" means those rivers and  
7 streams, or parts thereof, within the boundaries of the state as listed  
8 in RCW ((88.12.265)) 79A.60.470 or as designated by the commission  
9 under RCW ((88.12.279)) 79A.60.495.

10 EXPLANATORY NOTE

11 RCW 88.12.265 and 88.12.279 were recodified as RCW 79A.60.470  
12 and 79A.60.495, respectively, pursuant to 1999 c 249 s 1601.

13 **Sec. 147.** RCW 79A.60.030 and 1993 c 244 s 7 are each amended to  
14 read as follows:

15 A person shall not operate a vessel in a negligent manner. For the  
16 purposes of this section, to "operate in a negligent manner" means  
17 operating a vessel in disregard of careful and prudent operation, or in  
18 disregard of careful and prudent rates of speed that are no greater  
19 than is reasonable and proper under the conditions existing at the  
20 point of operation, taking into account the amount and character of  
21 traffic, size of the lake or body of water, freedom from obstruction to  
22 view ahead, effects of vessel wake, and so as not to unduly or  
23 unreasonably endanger life, limb, property or other rights of any  
24 person entitled to the use of such waters. Except as provided in RCW  
25 ((88.12.015)) 79A.60.020, a violation of this section is an infraction  
26 under chapter 7.84 RCW.

27 EXPLANATORY NOTE

28 RCW 88.12.015 was recodified as RCW 79A.60.020 pursuant to 1999  
29 c 249 s 1601.

30 **Sec. 148.** RCW 79A.60.050 and 1998 c 219 s 1 are each amended to  
31 read as follows:

32 (1) When the death of any person ensues within three years as a  
33 proximate result of injury proximately caused by the operating of any  
34 vessel by any person, the operator is guilty of homicide by watercraft  
35 if he or she was operating the vessel:

36 (a) While under the influence of intoxicating liquor or any drug,  
37 as defined by RCW ((88.12.025)) 79A.60.040;

38 (b) In a reckless manner; or

1 (c) With disregard for the safety of others.

2 (2) When the death is caused by a skier towed by a vessel, the  
3 operator of the vessel is not guilty of homicide by watercraft.

4 (3) A violation of this section is punishable as a class A felony  
5 according to chapter 9A.20 RCW.

6 EXPLANATORY NOTE

7 RCW 88.12.025 was recodified as RCW 79A.60.040 pursuant to 1999  
8 c 249 s 1601.

9 **Sec. 149.** RCW 79A.60.060 and 1998 c 219 s 2 are each amended to  
10 read as follows:

11 (1) "Serious bodily injury" means bodily injury which involves a  
12 substantial risk of death, serious permanent disfigurement, or  
13 protracted loss or impairment of the function of any part or organ of  
14 the body.

15 (2) A person is guilty of assault by watercraft if he or she  
16 operates any vessel:

17 (a) In a reckless manner, and this conduct is the proximate cause  
18 of serious bodily injury to another; or

19 (b) While under the influence of intoxicating liquor or any drug,  
20 as defined by RCW ((88.12.025)) 79A.60.040, and this conduct is the  
21 proximate cause of serious bodily injury to another.

22 (3) When the injury is caused by a skier towed by a vessel, the  
23 operator of the vessel is not guilty of assault by watercraft.

24 (4) A violation of this section is punishable as a class B felony  
25 according to chapter 9A.20 RCW.

26 EXPLANATORY NOTE

27 RCW 88.12.025 was recodified as RCW 79A.60.040 pursuant to 1999  
28 c 249 s 1601.

29 **Sec. 150.** RCW 79A.60.070 and 1998 c 219 s 3 are each amended to  
30 read as follows:

31 A person convicted under RCW ((88.12.029 or 88.12.032)) 79A.60.050  
32 or 79A.60.060 shall, as a condition of community ((supervision))  
33 custody imposed under RCW 9.94A.383 or community placement imposed  
34 under RCW 9.94A.120(9), complete a diagnostic evaluation by an alcohol  
35 or drug dependency agency approved by the department of social and  
36 health services or a qualified probation department, defined under RCW  
37 46.61.516, that has been approved by the department of social and  
38 health services. If the person is found to have an alcohol or drug

1 problem that requires treatment, the person shall complete treatment in  
2 a program approved by the department of social and health services  
3 under chapter 70.96A RCW. If the person is found not to have an  
4 alcohol or drug problem that requires treatment, he or she shall  
5 complete a course in an information school approved by the department  
6 of social and health services under chapter 70.96A RCW. The convicted  
7 person shall pay all costs for any evaluation, education, or treatment  
8 required by this section, unless the person is eligible for an existing  
9 program offered or approved by the department of social and health  
10 services. Nothing in chapter 219, Laws of 1998 requires the addition  
11 of new treatment or assessment facilities nor affects the department of  
12 social and health services use of existing programs and facilities  
13 authorized by law.

14 EXPLANATORY NOTE

15 (1) RCW 88.12.029 and 88.12.032 were recodified as RCW  
16 79A.60.050 and 79A.60.060 pursuant to 1999 c 249 s 1601.  
17 (2) RCW 9.94A.383 was amended by 1999 c 196 s 10, changing the  
18 term "community supervision" to "community custody."

19 **Sec. 151.** RCW 79A.60.130 and 1993 c 244 s 39 are each amended to  
20 read as follows:

21 (1) All motor-propelled vessels shall be equipped and maintained  
22 with an effective muffler that is in good working order and in constant  
23 use. For the purpose of this section, an effective muffler or  
24 underwater exhaust system does not produce sound levels in excess of  
25 ninety decibels when subjected to a stationary sound level test that  
26 shall be prescribed by rules adopted by the commission, as of July 25,  
27 1993, and for engines manufactured on or after January 1, 1994, a noise  
28 level of eighty-eight decibels when subjected to a stationary sound  
29 level test that shall be prescribed by rules adopted by the commission.

30 (2) A vessel that does not meet the requirements of subsection (1)  
31 of this section shall not be operated on the waters of this state.

32 (3) No person may operate a vessel on waters of the state in such  
33 a manner as to exceed a noise level of seventy-five decibels measured  
34 from any point on the shoreline of the body of water on which the  
35 vessel is being operated that shall be specified by rules adopted by  
36 the commission, as of July 25, 1993. Such measurement shall not  
37 preclude a stationary sound level test that shall be prescribed by  
38 rules adopted by the commission.

1 (4) This section does not apply to: (a) A vessel tuning up,  
2 testing for, or participating in official trials for speed records or  
3 a sanctioned race conducted pursuant to a permit issued by an  
4 appropriate governmental agency; or (b) a vessel being operated by a  
5 vessel or marine engine manufacturer for the purpose of testing or  
6 development. Nothing in this subsection prevents local governments  
7 from adopting ordinances to control the frequency, duration, and  
8 location of vessel testing, tune-up, and racing.

9 (5) Any officer authorized to enforce this section who has reason  
10 to believe that a vessel is not in compliance with the noise levels  
11 established in this section may direct the operator of the vessel to  
12 submit the vessel to an on-site test to measure noise level, with the  
13 officer on board if the officer chooses, and the operator shall comply  
14 with such request. If the vessel exceeds the decibel levels  
15 established in this section, the officer may direct the operator to  
16 take immediate and reasonable measures to correct the violation.

17 (6) Any officer who conducts vessel sound level tests as provided  
18 in this section shall be qualified in vessel noise testing.  
19 Qualifications shall include but may not be limited to the ability to  
20 select the appropriate measurement site and the calibration and use of  
21 noise testing equipment.

22 (7) A person shall not remove, alter, or otherwise modify in any  
23 way a muffler or muffler system in a manner that will prevent it from  
24 being operated in accordance with this chapter.

25 (8) A person shall not manufacture, sell, or offer for sale any  
26 vessel that is not equipped with a muffler or muffler system that does  
27 not comply with this chapter. This subsection shall not apply to power  
28 vessels designed, manufactured, and sold for the sole purpose of  
29 competing in racing events and for no other purpose. Any such  
30 exemption or exception shall be documented in any and every sale  
31 agreement and shall be formally acknowledged by signature on the part  
32 of both the buyer and the seller. Copies of the agreement shall be  
33 maintained by both parties. A copy shall be kept on board whenever the  
34 vessel is operated.

35 (9) Except as provided in RCW ((88.12.015)) 79A.60.020, a violation  
36 of this section is an infraction under chapter 7.84 RCW.

37 (10) Vessels that are equipped with an engine modified to increase  
38 performance beyond the engine manufacturer's stock configuration shall  
39 have an exhaust system that complies with the standards in this section



1 after January 1, 1994. Until that date, operators or owners, or both,  
2 of such vessels with engines that are out of compliance shall be issued  
3 a warning and be given educational materials about types of muffling  
4 systems available to muffle noise from such high performance engines.

5 (11) Nothing in this section preempts a local government from  
6 exercising any power that it possesses under the laws or Constitution  
7 of the state of Washington to adopt more stringent regulations.

8 EXPLANATORY NOTE

9 RCW 88.12.015 was recodified as RCW 79A.60.020 pursuant to 1999  
10 c 249 s 1601.

11 **Sec. 152.** RCW 79A.60.160 and 1999 c 310 s 1 are each amended to  
12 read as follows:

13 (1) No person may operate or permit the operation of a vessel on  
14 the waters of the state without a personal flotation device on board  
15 for each person on the vessel. Each personal flotation device shall be  
16 in serviceable condition, of an appropriate size, and readily  
17 accessible.

18 (2) Except as provided in RCW (~~(88.12.015)~~) 79A.60.020, a violation  
19 of subsection (1) of this section is an infraction under chapter 7.84  
20 RCW if the vessel is not carrying passengers for hire.

21 (3) A violation of subsection (1) of this section is a misdemeanor  
22 punishable under RCW 9.92.030, if the vessel is carrying passengers for  
23 hire.

24 (4) No person shall operate a vessel under nineteen feet in length  
25 on the waters of this state with a child twelve years old and under,  
26 unless the child is wearing a personal flotation device that meets or  
27 exceeds the United States coast guard approval standards of the  
28 appropriate size, while the vessel is underway. For the purposes of  
29 this section, a personal flotation device is not considered readily  
30 accessible for children twelve years old and under unless the device is  
31 worn by the child while the vessel is underway. The personal flotation  
32 device must be worn at all times by a child twelve years old and under  
33 whenever the vessel is underway and the child is on an open deck or  
34 open cockpit of the vessel. The following circumstances are excepted:

35 (a) While a child is below deck or in the cabin of a boat with an  
36 enclosed cabin;

1 (b) While a child is on a United States coast guard inspected  
2 passenger-carrying vessel operating on the navigable waters of the  
3 United States; or

4 (c) While on board a vessel at a time and place where no person  
5 would reasonably expect a danger of drowning to occur.

6 (5) Except as provided in RCW ((88.12.015)) 79A.60.020, a violation  
7 of subsection (4) of this section is an infraction under chapter 7.84  
8 RCW. Enforcement of subsection (4) of this section by law enforcement  
9 officers may be accomplished as a primary action, and need not be  
10 accompanied by the suspected violation of some other offense.

11 EXPLANATORY NOTE

12 RCW 88.12.015 was recodified as RCW 79A.60.020 pursuant to 1999  
13 c 249 s 1601.

14 **Sec. 153.** RCW 79A.60.170 and 1993 c 244 s 15 are each amended to  
15 read as follows:

16 (1) The purpose of this section is to promote safety in water  
17 skiing on the waters of Washington state, provide a means of ensuring  
18 safe water skiing and promote the enjoyment of water skiing.

19 (2) No vessel operator may tow or attempt to tow a water skier on  
20 any waters of Washington state unless such craft shall be occupied by  
21 at least an operator and an observer. The observer shall continuously  
22 observe the person or persons being towed and shall display a flag  
23 immediately after the towed person or persons fall into the water, and  
24 during the time preparatory to skiing while the person or persons are  
25 still in the water. Such flag shall be a bright red or brilliant  
26 orange color, measuring at least twelve inches square, mounted on a  
27 pole not less than twenty-four inches long and displayed as to be  
28 visible from every direction. This subsection does not apply to a  
29 personal watercraft, the design of which makes no provision for  
30 carrying an operator or any other person on board, and that is actually  
31 operated by the person or persons being towed. Every remote-operated  
32 personal watercraft shall have a flag attached which meets the  
33 requirements of this subsection. Except as provided under RCW  
34 ((88.12.015)) 79A.60.020, a violation of this subsection is an  
35 infraction under chapter 7.84 RCW.

36 (3) The observer and the operator shall not be the same person.  
37 The observer shall be an individual who meets the minimum  
38 qualifications for an observer established by rules of the commission.

1 Except as provided under RCW (~~88.12.015~~) 79A.60.020, a violation of  
2 this subsection is an infraction under chapter 7.84 RCW.

3 (4) No person shall engage or attempt to engage in water skiing  
4 without wearing a personal flotation device. Except as provided under  
5 RCW (~~88.12.015~~) 79A.60.020, a violation of this subsection is an  
6 infraction under chapter 7.84 RCW.

7 (5) No person shall engage or attempt to engage in water skiing, or  
8 operate any vessel to tow a water skier, on the waters of Washington  
9 state during the period from one hour after sunset until one hour prior  
10 to sunrise. A violation of this subsection is a misdemeanor,  
11 punishable as provided under RCW 9.92.030.

12 (6) No person engaged in water skiing either as operator, observer,  
13 or skier, shall conduct himself or herself in a reckless manner that  
14 willfully or wantonly endangers, or is likely to endanger, any person  
15 or property. A violation of this subsection is a misdemeanor as  
16 provided under RCW 9.92.030.

17 (7) The requirements of subsections (2), (3), (4), and (5) of this  
18 section shall not apply to persons engaged in tournaments,  
19 competitions, or exhibitions that have been authorized or otherwise  
20 permitted by the appropriate agency having jurisdiction and authority  
21 to authorize such events.

22 EXPLANATORY NOTE

23 RCW 88.12.015 was recodified as RCW 79A.60.020 pursuant to 1999  
24 c 249 s 1601.

25 **Sec. 154.** RCW 79A.60.180 and 1993 c 244 s 16 are each amended to  
26 read as follows:

27 (1) A person shall not load or permit to be loaded a vessel with  
28 passengers or cargo beyond its safe carrying ability or carry  
29 passengers or cargo in an unsafe manner taking into consideration  
30 weather and other existing operating conditions.

31 (2) A person shall not operate or permit to be operated a vessel  
32 equipped with a motor or other propulsion machinery of a power beyond  
33 the vessel's ability to operate safely, taking into consideration the  
34 vessel's type, use, and construction, the weather conditions, and other  
35 existing operating conditions.

36 (3) A violation of subsection (1) or (2) of this section is an  
37 infraction punishable as provided under chapter 7.84 RCW except as  
38 provided under RCW (~~88.12.015~~) 79A.60.020 or where the overloading or

1 overpowering is reasonably advisable to effect a rescue or for some  
2 similar emergency purpose.

3 (4) If it appears reasonably certain to any law enforcement officer  
4 that a person is operating a vessel clearly loaded or powered beyond  
5 its safe operating ability and in the judgment of that officer the  
6 operation creates an especially hazardous condition, the officer may  
7 direct the operator to take immediate and reasonable steps necessary  
8 for the safety of the individuals on board the vessel, including  
9 directing the operator to return to shore or a mooring and to remain  
10 there until the situation creating the hazard is corrected or ended.  
11 Failure to follow the direction of an officer under this subsection is  
12 a misdemeanor punishable as provided under RCW 9.92.030.

13 EXPLANATORY NOTE

14 RCW 88.12.015 was recodified as RCW 79A.60.020 pursuant to 1999  
15 c 249 s 1601.

16 **Sec. 155.** RCW 79A.60.190 and 1993 c 244 s 17 are each amended to  
17 read as follows:

18 (1) A person shall not operate a personal watercraft unless each  
19 person aboard the personal watercraft is wearing a personal flotation  
20 device approved by the commission. Except as provided for in RCW  
21 (~~88.12.015~~) 79A.60.020, a violation of this subsection is a civil  
22 infraction punishable under RCW 7.84.100.

23 (2) A person operating a personal watercraft equipped by the  
24 manufacturer with a lanyard-type engine cutoff switch shall attach the  
25 lanyard to his or her person, clothing, or personal flotation device as  
26 appropriate for the specific vessel. It is unlawful for any person to  
27 remove or disable a cutoff switch that was installed by the  
28 manufacturer.

29 (3) A person shall not operate a personal watercraft during  
30 darkness.

31 (4) A person under the age of fourteen shall not operate a personal  
32 watercraft on the waters of this state.

33 (5) A person shall not operate a personal watercraft in a reckless  
34 manner, including recklessly weaving through congested vessel traffic,  
35 recklessly jumping the wake of another vessel unreasonably or  
36 unnecessarily close to the vessel or when visibility around the vessel  
37 is obstructed, or recklessly swerving at the last possible moment to  
38 avoid collision.

1 (6) A person shall not lease, hire, or rent a personal watercraft  
2 to a person under the age of sixteen.

3 (7) Subsections (1) through (6) of this section shall not apply to  
4 a performer engaged in a professional exhibition or a person  
5 participating in a regatta, race, marine parade, tournament, or  
6 exhibition authorized or otherwise permitted by the appropriate agency  
7 having jurisdiction and authority to authorize such events.

8 (8) Violations of subsections (2) through (6) of this section  
9 constitute a misdemeanor under RCW 9.92.030.

10 EXPLANATORY NOTE

11 RCW 88.12.015 was recodified as RCW 79A.60.020 pursuant to 1999  
12 c 249 s 1601.

13 **Sec. 156.** RCW 79A.60.200 and 1996 c 36 s 1 are each amended to  
14 read as follows:

15 (1) The operator of a vessel involved in a collision, accident, or  
16 other casualty, to the extent the operator can do so without serious  
17 danger to the operator's own vessel or persons aboard, shall render all  
18 practical and necessary assistance to persons affected by the  
19 collision, accident, or casualty to save them from danger caused by the  
20 incident. Under no circumstances may the rendering of assistance or  
21 other compliance with this section be evidence of the liability of such  
22 operator for the collision, accident, or casualty. The operator shall  
23 also give all pertinent accident information, as specified by rule by  
24 the commission, to the law enforcement agency having jurisdiction:  
25 PROVIDED, That this requirement shall not apply to operators of vessels  
26 when they are participating in an organized competitive event  
27 authorized or otherwise permitted by the appropriate agency having  
28 jurisdiction and authority to authorize such events. These duties are  
29 in addition to any duties otherwise imposed by law. Except as provided  
30 for in RCW ((88.12.015)) 79A.60.020 and subsection (3) of this section,  
31 a violation of this subsection is a civil infraction punishable under  
32 RCW 7.84.100.

33 (2) Any person who complies with subsection (1) of this section or  
34 who gratuitously and in good faith renders assistance at the scene of  
35 a vessel collision, accident, or other casualty, without objection of  
36 the person assisted, shall not be held liable for any civil damages as  
37 a result of the rendering of assistance or for any act or omission in  
38 providing or arranging salvage, towage, medical treatment, or other

1 assistance, where the assisting person acts as any reasonably prudent  
2 person would have acted under the same or similar circumstances.

3 (3) An operator of a vessel is guilty of a class C felony and is  
4 punishable pursuant to RCW 9A.20.021 if the operator: (a) Is involved  
5 in a collision that results in injury to a person; (b) knew or  
6 reasonably should have known that a person was injured in the  
7 collision; and (c) leaves the scene of the collision without rendering  
8 all practical and necessary assistance to the injured person as  
9 required pursuant to subsection (1) of this section, under  
10 circumstances in which the operator could have rendered assistance  
11 without serious danger to the operator's own vessel or persons aboard.  
12 This subsection (3) does not apply to vessels involved in commerce,  
13 including but not limited to tugs, barges, cargo vessels, commercial  
14 passenger vessels, fishing vessels, and processing vessels.

15 EXPLANATORY NOTE

16 RCW 88.12.015 was recodified as RCW 79A.60.020 pursuant to 1999  
17 c 249 s 1601.

18 **Sec. 157.** RCW 79A.60.300 and 1994 c 51 s 8 are each amended to  
19 read as follows:

20 The provisions of RCW ((88.12.185 through 88.12.225)) 79A.60.230  
21 through 79A.60.290 do not apply to vessels secured pursuant to chapter  
22 ((88.27)) 79A.65 RCW.

23 EXPLANATORY NOTE

24 (1) Chapter 88.27 RCW was recodified as chapter 79A.65 RCW  
25 pursuant to 1999 c 249 s 1601.

26 (2) RCW 88.12.185 through 88.12.225 were recodified as RCW  
27 79A.60.230 through 79A.60.290 pursuant to 1999 c 249 s 1601.

28 **Sec. 158.** RCW 79A.60.400 and 1993 c 244 s 26 are each amended to  
29 read as follows:

30 The purpose of RCW ((88.12.250 through 88.12.275)) 79A.60.440  
31 through 79A.60.480 is to further the public interest, welfare, and  
32 safety by providing for the protection and promotion of safety in the  
33 operation of vessels carrying passengers for hire on the whitewater  
34 rivers of this state.

35 EXPLANATORY NOTE

36 RCW 88.12.250 through 88.12.275 were recodified as RCW  
37 79A.60.440 through 79A.60.480 pursuant to 1999 c 249 s 1601.



1 less than the United States coast guard capacity rating for each  
2 vessel. This subsection shall not apply in cases of an unexpected  
3 emergency on the river.

4 (4) Individuals licensed under chapter 77.32 RCW and acting as  
5 fishing guides are exempt from RCW ((88.12.235)) 79A.60.420 and  
6 ((88.12.260 through 88.12.275)) 79A.60.460 through 79A.60.480.

7 EXPLANATORY NOTE

8 (1) RCW 88.12.235 was recodified as RCW 79A.60.420 pursuant to  
9 1999 c 249 s 1601.  
10 (2) RCW 88.12.260 through 88.12.275 were recodified as RCW  
11 79A.60.460 through 79A.60.480 pursuant to 1999 c 249 s 1601.

12 **Sec. 162.** RCW 79A.60.470 and 1997 c 391 s 6 are each amended to  
13 read as follows:

14 Whitewater river sections include but are not limited to:

- 15 (1) Green river above Flaming Geyser state park;  
16 (2) Klickitat river above the confluence with Summit creek;  
17 (3) Methow river below the town of Carlton;  
18 (4) Sauk river above the town of Darrington;  
19 (5) Skagit river above Bacon creek;  
20 (6) Suiattle river;  
21 (7) Tieton river below Rimrock dam;  
22 (8) Skykomish river below Sunset Falls and above the Highway 2  
23 bridge one mile east of the town of Gold Bar;  
24 (9) Wenatchee river above the Wenatchee county park at the town of  
25 Monitor;  
26 (10) White Salmon river; and  
27 (11) Any other section of river designated a "whitewater river  
28 section" by the commission under RCW ((88.12.279)) 79A.60.495.

29 EXPLANATORY NOTE

30 RCW 88.12.279 was recodified as RCW 79A.60.495 pursuant to 1999  
31 c 249 s 1601.

32 **Sec. 163.** RCW 79A.60.480 and 1997 c 391 s 7 are each amended to  
33 read as follows:

34 (1) The department of licensing shall issue a whitewater river  
35 outfitter's license to an applicant who submits a completed  
36 application, pays the required fee, and complies with the requirements  
37 of this section.



1 (2) An applicant for a whitewater river outfitter's license shall  
2 make application upon a form provided by the department of licensing.  
3 The form must be submitted annually and include the following  
4 information:

5 (a) The name, residence address, and residence telephone number,  
6 and the business name, address, and telephone number of the applicant;

7 (b) Certification that all employees, subcontractors, or  
8 independent contractors hired as guides meet training standards under  
9 RCW ((88.12.245(2))) 79A.60.430 before carrying any passengers for  
10 hire;

11 (c) Proof that the applicant has liability insurance for a minimum  
12 of three hundred thousand dollars per claim for occurrences by the  
13 applicant and the applicant's employees that result in bodily injury or  
14 property damage. All guides must be covered by the applicant's  
15 insurance policy;

16 (d) Certification that the applicant will maintain the insurance  
17 for a period of not less than one year from the date of issuance of the  
18 license; and

19 (e) Certification by the applicant that for a period of not less  
20 than twenty-four months immediately preceding the application the  
21 applicant:

22 (i) Has not had a license, permit, or certificate to carry  
23 passengers for hire on a river revoked by another state or by an agency  
24 of the government of the United States due to a conviction for a  
25 violation of safety or insurance coverage requirements no more  
26 stringent than the requirements of this chapter; and

27 (ii) Has not been denied the right to apply for a license, permit,  
28 or certificate to carry passengers for hire on a river by another  
29 state.

30 (3) The department of licensing shall charge a fee for each  
31 application, to be set in accordance with RCW 43.24.086.

32 (4) Any person advertising or representing himself or herself as a  
33 whitewater river outfitter who is not currently licensed is guilty of  
34 a gross misdemeanor.

35 (5) The department of licensing shall submit annually a list of  
36 licensed persons and companies to the department of community, trade,  
37 and economic development, tourism promotion division.

38 (6) If an insurance company cancels or refuses to renew insurance  
39 for a licensee, the insurance company shall notify the department of

1 licensing in writing of the termination of coverage and its effective  
2 date not less than thirty days before the effective date of  
3 termination.

4 (a) Upon receipt of an insurance company termination notice, the  
5 department of licensing shall send written notice to the licensee that  
6 on the effective date of termination the department of licensing will  
7 suspend the license unless proof of insurance as required by this  
8 section is filed with the department of licensing before the effective  
9 date of the termination.

10 (b) If an insurance company fails to give notice of coverage  
11 termination, this failure shall not have the effect of continuing the  
12 coverage.

13 (c) The department of licensing may suspend a license under this  
14 section if the licensee fails to maintain in full force and effect the  
15 insurance required by this section.

16 (7) The state of Washington shall be immune from any civil action  
17 arising from the issuance of a license under this section.

18 EXPLANATORY NOTE

19 RCW 88.12.245 was recodified as RCW 79A.60.430 pursuant to 1999  
20 c 249 s 1601.

21 **Sec. 164.** RCW 79A.60.485 and 1997 c 391 s 9 are each amended to  
22 read as follows:

23 The department of licensing may adopt and enforce such rules,  
24 including the setting of fees, as may be consistent with and necessary  
25 to implement RCW ((88.12.275)) 79A.60.480. The fees must approximate  
26 the cost of administration. The fees must be deposited in the master  
27 license account.

28 EXPLANATORY NOTE

29 RCW 88.12.275 was recodified as RCW 79A.60.480 pursuant to 1999  
30 c 249 s 1601.

31 **Sec. 165.** RCW 79A.60.490 and 1997 c 391 s 8 are each amended to  
32 read as follows:

33 Within five days after conviction for any of the provisions of RCW  
34 ((88.12.245 through 88.12.275)) 79A.60.430 through 79A.60.480, the  
35 court shall forward a copy of the judgment to the department of  
36 licensing. After receiving proof of conviction, the department of  
37 licensing may suspend the license of any whitewater river outfitter for  
38 a period not to exceed one year or until proof of compliance with all

1 licensing requirements and correction of the violation under which the  
2 whitewater river outfitter was convicted.

3 EXPLANATORY NOTE

4 RCW 88.12.245 through 88.12.275 were recodified as RCW  
5 79A.60.430 through 79A.60.480 pursuant to 1999 c 249 s 1601.

6 **Sec. 166.** RCW 79A.60.540 and 1993 c 244 s 33 are each amended to  
7 read as follows:

8 (1) Marinas and boat launches designated as appropriate for  
9 installation of a sewage pumpout or dump unit under RCW ((88.12.315))  
10 79A.60.530 shall be eligible for funding support for installation of  
11 such facilities from funds specified in RCW ((88.12.375)) 79A.60.590.  
12 The commission shall notify owners or operators of all designated  
13 marinas and boat launches of the designation, and of the availability  
14 of funding to support installation of appropriate sewage disposal  
15 facilities. The commission shall encourage the owners and operators to  
16 apply for available funding.

17 (2) The commission shall seek to provide the most cost-efficient  
18 and accessible facilities possible for reducing the amount of boat  
19 waste entering the state's waters. The commission shall consider  
20 providing funding support for portable pumpout facilities in this  
21 effort.

22 (3) The commission shall contract with, or enter into an  
23 interagency agreement with another state agency to contract with,  
24 applicants based on the criteria specified below:

25 (a)(i) Contracts may be awarded to publicly owned, tribal, or  
26 privately owned marinas or boat launches.

27 (ii) Contracts may provide for state reimbursement to cover  
28 eligible costs as deemed reasonable by commission rule. Eligible costs  
29 include purchase, installation, or major renovation of the sewage  
30 pumpout or dump units, including sewer, water, electrical connections,  
31 and those costs attendant to the purchase, installation, and other  
32 necessary appurtenances, such as required pier space, as determined by  
33 the commission.

34 (iii) Ownership of the sewage pumpout or dump unit will be retained  
35 by the state through the commission in privately owned marinas.  
36 Ownership of the sewage pumpout or dump unit in publicly owned marinas  
37 will be held by the public entity.

1 (iv) Operation, normal and expected maintenance, and ongoing  
2 utility costs will be the responsibility of the contract recipient.  
3 The sewage pumpout or dump unit shall be kept in operating condition  
4 and available for public use at all times during operating hours of the  
5 facility, excluding necessary maintenance periods.

6 (v) The contract recipient agrees to allow the installation,  
7 existence and use of the sewage pumpout or dump unit by granting an  
8 irrevocable license for a minimum of ten years at no cost to the  
9 commission.

10 (b) Contracts awarded pursuant to (a) of this subsection shall be  
11 subject, for a period of at least ten years, to the following  
12 conditions:

13 (i) Any contract recipient entering into a contract under this  
14 section must allow the boating public access to the sewage pumpout or  
15 dump unit during operating hours.

16 (ii) The contract recipient must agree to monitor and encourage the  
17 use of the sewage pumpout or dump unit, and to cooperate in any related  
18 boater environmental education program administered or approved by the  
19 commission.

20 (iii) The contract recipient must agree not to charge a fee for the  
21 use of the sewage pumpout or dump unit.

22 (iv) The contract recipient must agree to arrange and pay a  
23 reasonable fee for a periodic inspection of the sewage pumpout or dump  
24 unit by the local health department or appropriate authority.

25 (v) Use of a free sewage pumpout or dump unit by the boating public  
26 shall be deemed to be included in the term "outdoor recreation" for the  
27 purposes of chapter 4.24 RCW.

28 EXPLANATORY NOTE

29 RCW 88.12.315 and 88.12.375 were recodified as RCW 79A.60.530  
30 and 79A.60.590, respectively, pursuant to 1999 c 249 s 1601.

31 **Sec. 167.** RCW 79A.60.590 and 1993 c 244 s 37 are each amended to  
32 read as follows:

33 The amounts allocated in accordance with RCW 82.49.030(3) shall be  
34 expended upon appropriation in accordance with the following  
35 limitations:

36 (1) Thirty percent of the funds shall be appropriated to the  
37 interagency committee for outdoor recreation and be expended for use by  
38 state and local government for public recreational waterway boater

1 access and boater destination sites. Priority shall be given to  
2 critical site acquisition. The interagency committee for outdoor  
3 recreation shall administer such funds as a competitive grants program.  
4 The amounts provided for in this subsection shall be evenly divided  
5 between state and local governments.

6 (2) Thirty percent of the funds shall be expended by the commission  
7 exclusively for sewage pumpout or dump units at publicly and privately  
8 owned marinas as provided for in RCW ((88.12.315 and 88.12.325))  
9 79A.60.530 and 79A.60.540.

10 (3) Twenty-five percent of the funds shall be expended for grants  
11 to state agencies and other public entities to enforce boating safety  
12 and registration laws and to carry out boating safety programs. The  
13 commission shall administer such grant program.

14 (4) Fifteen percent shall be expended for instructional materials,  
15 programs or grants to the public school system, public entities, or  
16 other nonprofit community organizations to support boating safety and  
17 boater environmental education or boat waste management planning. The  
18 commission shall administer this program.

19 EXPLANATORY NOTE

20 RCW 88.12.315 and 88.12.325 were recodified as RCW 79A.60.530  
21 and 79A.60.540 pursuant to 1999 c 249 s 1601.

22 **Sec. 168.** RCW 79A.60.620 and 1991 c 200 s 110 are each amended to  
23 read as follows:

24 (1) The Washington sea grant program, in consultation with the  
25 department ((~~of ecology~~)) of ecology, shall develop and conduct a  
26 voluntary spill prevention education program that targets small spills  
27 from commercial fishing vessels, ferries, cruise ships, ports, and  
28 marinas. Washington sea grant shall coordinate the spill prevention  
29 education program with recreational boater education performed by the  
30 state parks and recreation commission.

31 (2) The spill prevention education program shall illustrate ways to  
32 reduce oil contamination of bilge water, accidental spills of hydraulic  
33 fluid and other hazardous substances during routine maintenance, and  
34 reduce spillage during refueling. The program shall illustrate proper  
35 disposal of oil and hazardous substances and promote strategies to meet  
36 shoreside oil and hazardous substance handling, and disposal needs of  
37 the targeted groups. The program shall include a series of training  
38 workshops and the development of educational materials.

EXPLANATORY NOTE

RCW 90.56.090 was recodified as RCW 79A.60.620 pursuant to 1999 c 249 s 1601. This amendment clarifies that the department referred to is the department of ecology.

**Sec. 169.** RCW 79A.65.010 and 1994 c 51 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Charges" means charges of the commission for moorage and storage, and all other charges related to the vessel and owing to or that become owing to the commission, including but not limited to costs of securing, disposing, or removing vessels, damages to any commission facility, and any costs of sale and related legal expenses for implementing RCW (~~88.27.020 and 88.27.030~~) 79A.65.020 and 79A.65.030.

(2) "Commission" means the Washington state parks and recreation commission.

(3) "Commission facility" means any property or facility owned, leased, operated, managed, or otherwise controlled by the commission or by a person pursuant to a contract with the commission.

(4) "Owner" means a person who has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest, and shall not include the holder of a bona fide security interest.

(5) "Person" means any natural person, firm, partnership, corporation, association, organization, or any other entity.

(6)(a) "Registered owner" means any person that is either: (i) Shown as the owner in a vessel certificate of documentation issued by the secretary of the United States department of transportation under 46 U.S.C. Sec. 12103; or (ii) the registered owner or legal owner of a vessel for which a certificate of title has been issued under chapter 88.02 RCW; or (iii) the owner of a vessel registered under the vessel registration laws of another state under which laws the commission can readily identify the ownership of vessels registered with that state.

(b) "Registered owner" also includes: (i) Any holder of a security interest or lien recorded with the United States department of transportation with respect to a vessel on which a certificate of documentation has been issued; (ii) any holder of a security interest identified in a certificate of title for a vessel registered under chapter 88.02 RCW; or (iii) any holder of a security interest in a

1 vessel where the holder is identified in vessel registration  
2 information of a state with vessel registration laws that fall within  
3 (a)(iii) of this subsection and under which laws the commission can  
4 readily determine the identity of the holder.

5 (c) "Registered owner" does not include any vessel owner or holder  
6 of a lien or security interest in a vessel if the vessel does not have  
7 visible information affixed to it (such as name and hailing port or  
8 registration numbers) that will enable the commission to obtain  
9 ownership information for the vessel without incurring unreasonable  
10 expense.

11 (7) "Registered vessel" means a vessel having a registered owner.

12 (8) "Secured vessel" means any vessel that has been secured by the  
13 commission that remains in the commission's possession and control.

14 (9) "Unauthorized vessel" means a vessel using a commission  
15 facility of any type whose owner has not paid the required moorage fees  
16 or has left the vessel beyond the posted time limits, or a vessel  
17 otherwise present without permission of the commission.

18 (10) "Vessel" means every watercraft or part thereof constructed,  
19 used, or capable of being used as a means of transportation on the  
20 water. It includes any equipment or personal property on the vessel  
21 that is used or capable of being used for the operation, navigation, or  
22 maintenance of the vessel.

23 EXPLANATORY NOTE

24 RCW 88.27.020 and 88.27.030 were recodified as RCW 79A.65.020  
25 and 79A.65.030 pursuant to 1999 c 249 s 1601.

26 **Sec. 170.** RCW 79A.65.030 and 1994 c 51 s 3 are each amended to  
27 read as follows:

28 (1) The commission may provide for the public sale of vessels  
29 considered abandoned under RCW ((88.27.020)) 79A.65.020. At such  
30 sales, the vessels shall be sold for cash to the highest and best  
31 bidder.

32 (2) Before a vessel is sold, the commission shall make a reasonable  
33 effort to provide notice of sale, at least twenty days before the day  
34 of the sale, to each registered owner of a registered vessel and each  
35 owner of an unregistered vessel. The notice shall contain the time and  
36 place of the sale, a reasonable description of the vessel to be sold,  
37 and the amount of charges then owing with respect to the vessel, and a  
38 summary of the rights and procedures under this chapter. A notice of

1 sale shall be published at least once, more than ten but not more than  
2 twenty days before the sale, in a newspaper of general circulation in  
3 the county in which the commission facility is located. This notice  
4 shall include: (a) If known, the name of the vessel and the last owner  
5 and the owner's address; and (b) a reasonable description of the  
6 vessel. The commission may bid all or part of its charges at the sale  
7 and may become a purchaser at the sale.

8 (3) Before a vessel is sold, any person seeking to redeem a secured  
9 vessel may commence a lawsuit in the superior court for the county in  
10 which the vessel was secured to contest the commission's decision to  
11 secure the vessel or the amount of charges owing. This lawsuit shall  
12 be commenced within fifteen days of the date the notification was  
13 posted under RCW (~~(88.27.020(3))~~) 79A.65.020(3), or the right to a  
14 hearing is deemed waived and the owner is liable for any charges owing  
15 the commission. In the event of litigation, the prevailing party is  
16 entitled to reasonable attorneys' fees and costs.

17 (4) The proceeds of a sale under this section shall be applied  
18 first to the payment of the amount of the reasonable charges incurred  
19 by the commission and moorage fees owed to the commission, then to the  
20 owner or to satisfy any liens of record or security interests of record  
21 on the vessel in the order of their priority. If an owner cannot in  
22 the exercise of due diligence be located by the commission within one  
23 year of the date of the sale, any excess funds from the sale, following  
24 the satisfaction of any bona fide security interest, shall revert to  
25 the department of revenue under chapter 63.29 RCW. If the sale is for  
26 a sum less than the applicable charges, the commission is entitled to  
27 assert a claim for the deficiency against the vessel owner. Nothing in  
28 this section prevents any lien holder or secured party from asserting  
29 a claim for any deficiency owed the lien holder or secured party.

30 (5) If no one purchases the vessel at a sale, the commission may  
31 proceed to properly dispose of the vessel in any way the commission  
32 considers appropriate, including, but not limited to, destruction of  
33 the vessel or by negotiated sale. The commission may assert a claim  
34 against the owner for any charges incurred thereby. If the vessel, or  
35 any part of the vessel, or any rights to the vessel, are sold under  
36 this subsection, any proceeds from the sale shall be distributed in the  
37 manner provided in subsection (4) of this section.

38

EXPLANATORY NOTE



1 RCW 88.27.020 was recodified as RCW 79A.65.020 pursuant to 1999  
2 c 249 s 1601.

3 **Sec. 171.** RCW 79A.65.040 and 1994 c 51 s 4 are each amended to  
4 read as follows:

5 If the full amount of all charges due the commission on an  
6 unauthorized vessel is not paid to the commission within thirty days  
7 after the date on which notice is affixed or posted under RCW  
8 (~~(88.27.020(3))~~) 79A.65.020(3), the commission may bring an action in  
9 any court of competent jurisdiction to recover the charges, plus  
10 reasonable attorneys' fees and costs incurred by the commission.

11 EXPLANATORY NOTE

12 RCW 88.27.020 was recodified as RCW 79A.65.020 pursuant to 1999  
13 c 249 s 1601.

14 NEW SECTION. **Sec. 172.** The following acts or parts of acts are  
15 each repealed:

16 (1) RCW 75.08.274 (Taking food fish for propagation or scientific  
17 purposes--Permit authorized by rule) and 1998 c 190 s 72, 1995 1st  
18 sp.s. c 2 s 15, 1983 1st ex.s. c 46 s 28, 1971 c 35 s 1, & 1955 c 12 s  
19 75.16.010;

20 (2) RCW 75.25.090 (Personal use fishing licenses--Fees) and 1993 c  
21 215 s 1, 1989 c 305 s 5, & 1987 c 87 s 1;

22 (3) RCW 75.28.012 (Licensing districts--Created) and 1993 c 20 s 3,  
23 1983 1st ex.s. c 46 s 102, 1971 ex.s. c 283 s 2, & 1957 c 171 s 1;

24 (4) RCW 76.12.200 (Reserved timber--Report to legislature) and 1989  
25 c 424 s 3;

26 (5) RCW 77.16.290 (Law enforcement officers, exemption) and 1994  
27 sp.s. c 7 s 444, 1980 c 78 s 95, & 1955 c 36 s 77.16.290; and

28 (6) RCW 77.32.060 (Licenses, permits, tags, stamps, and raffle  
29 tickets--Amount of fees to be retained by license dealers) and 1998 c  
30 245 s 160, 1996 c 101 s 9, 1995 c 116 s 2, 1987 c 506 s 78, 1985 c 464  
31 s 1, 1981 c 310 s 17, 1980 c 78 s 107, 1979 ex.s. c 3 s 3, 1970 ex.s.  
32 c 29 s 2, 1957 c 176 s 2, & 1955 c 36 s 77.32.060.

33 EXPLANATORY NOTE

34 (1) RCW 75.08.274 was repealed by 1998 c 191 s 46, effective  
35 April 1, 1999, without cognizance of its amendment by 1998 c  
36 190 s 72. Repealing this section removes the decodified  
37 section from the code.

38 (2) RCW 75.25.090 was amended by 1993 c 215 s 1 without  
39 reference to its repeal by 1993 sp.s. c 17 s 31, effective

1 January 1, 1994. Repealing this section removes the decodified  
2 section from the code.  
3 (3) RCW 75.28.012 was amended by 1993 c 20 s 3 without  
4 reference to its repeal by 1993 c 340 s 56, effective January  
5 1, 1994. Repealing this section removes the decodified section  
6 from the code.  
7 (4) RCW 76.12.200 requires reporting pursuant to RCW 76.12.190  
8 which expired June 30, 1994, making this section obsolete.  
9 (5) RCW 77.16.290 refers to exemptions in RCW 77.16.250 and  
10 77.16.260 which were repealed by 1998 c 190 s 124, making this  
11 section obsolete.  
12 (6) RCW 77.32.060 was amended by 1998 c 245 s 160 without  
13 reference to its repeal by 1998 c 191 s 45. Repealing this  
14 section removes the decodified section from the code.

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