

2 **SHB 2055** - S COMM AMD
3 By Committee on Natural Resources

4 ADOPTED w/amendment #000678 (S-3212.1) 4/12/93

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** Perpetuation of fish and wildlife in
8 Washington requires clear, efficient, streamlined, scientific,
9 management from a single state fish and wildlife agency. Such a
10 consolidation will focus existing funds for the greatest protection of
11 species and stocks. It will bring combined resources to bear on
12 securing, managing, and enhancing habitats. It will simplify
13 licensing, amplify research, increase field staff, avoid duplication,
14 and magnify enforcement of laws and rules. It will provide all
15 fishers, hunters, and observers of fish and wildlife with a single
16 source of consistent policies, procedures, and access.

17 NEW SECTION. **Sec. 2.** There is hereby created a department of
18 state government to be known as the department of fish and wildlife.
19 The department shall be vested with all powers and duties transferred
20 to it under this chapter and such other powers and duties as may be
21 authorized by law. All powers, duties, and functions of the department
22 of fisheries and the department of wildlife are transferred to the
23 department of fish and wildlife. All references in the Revised Code of
24 Washington to the director or the department of fisheries or the
25 director or department of wildlife shall be construed to mean the
26 director or department of fish and wildlife.

27 NEW SECTION. **Sec. 3.** As used in this chapter, unless the context
28 indicates otherwise:

- 29 (1) "Department" means the department of fish and wildlife.
30 (2) "Director" means the director of fish and wildlife.
31 (3) "Commission" means the fish and wildlife commission.

32 NEW SECTION. **Sec. 4.** The executive head and appointing authority
33 of the department shall be the director. The director shall be

1 appointed by the governor, with the consent of the senate, and shall
2 serve at the pleasure of the governor. The director shall be paid a
3 salary to be fixed by the governor in accordance with RCW 43.03.040.

4 NEW SECTION. **Sec. 5.** In addition to other powers and duties
5 granted or transferred to the director, the director shall have the
6 following powers and duties:

7 (1) Supervise and administer the department in accordance with law;

8 (2) Appoint personnel and prescribe their duties. Except as
9 otherwise provided, personnel of the department are subject to chapter
10 41.06 RCW, the state civil service law;

11 (3) Enter into contracts on behalf of the agency;

12 (4) Adopt rules in accordance with chapter 34.05 RCW, the
13 administrative procedure act;

14 (5) Delegate powers, duties, and functions as the director deems
15 necessary for efficient administration but the director shall be
16 responsible for the official acts of the officers and employees of the
17 department;

18 (6) Appoint advisory committees and undertake studies, research,
19 and analysis necessary to support the activities of the department;

20 (7) Accept and expend grants, gifts, or other funds to further the
21 purposes of the department;

22 (8) Carry out basic goals and objectives as prescribed by the fish
23 and wildlife commission pursuant to RCW 77.04.055; and

24 (9) Perform other duties as are necessary and consistent with law.

25 NEW SECTION. **Sec. 6.** The director shall appoint such deputy
26 directors, assistant directors, and up to seven special assistants as
27 may be needed to administer the department. These employees are exempt
28 from the provisions of chapter 41.06 RCW.

29 NEW SECTION. **Sec. 7.** The director of fisheries, the director of
30 wildlife, the food fish and shellfish advisory council, and the fish
31 and wildlife commission, shall, by November 15, 1993, jointly submit a
32 plan to the governor for the consolidation and smooth transition of the
33 department of fisheries and the department of wildlife into the
34 department of fish and wildlife so that the department of fish and
35 wildlife will operate as a single entity on July 1, 1994. The wildlife
36 commission shall review its area of responsibility in the consolidated

1 agency and submit recommendations to the governor on any necessary
2 changes in its statutory authority.

3 NEW SECTION. **Sec. 8.** The department of fisheries and the
4 department of wildlife are abolished and their powers, duties, and
5 functions are transferred to the department of fish and wildlife.

6 NEW SECTION. **Sec. 9.** All reports, documents, surveys, books,
7 records, files, papers, or written material connected with the powers,
8 duties, and functions transferred in this act shall be delivered to the
9 custody of the department of fish and wildlife. All cabinets,
10 furniture, office equipment, motor vehicles, and other tangible
11 property employed in connection with the powers, duties, and functions
12 transferred shall be made available to the department of fish and
13 wildlife. All funds, credits, or other assets held in connection with
14 the powers, duties, and functions transferred shall be assigned to the
15 department of fish and wildlife.

16 Any appropriations made in connection with the powers, duties, and
17 functions transferred shall, on the effective date of this section, be
18 transferred and credited to the department of fish and wildlife.

19 Whenever any question arises as to the transfer of any personnel,
20 funds, books, documents, records, papers, files, equipment, or other
21 tangible property used or held in the exercise of the powers and the
22 performance of the duties and functions transferred, or as to the
23 powers, duties, and functions transferred, the director of financial
24 management shall make a determination as to the proper allocation and
25 certify the same to the state agencies concerned.

26 NEW SECTION. **Sec. 10.** All classified employees employed in
27 connection with the powers, duties, and functions transferred are
28 transferred to the jurisdiction of the department of fish and wildlife.
29 All employees classified under chapter 41.06 RCW, the state civil
30 service law, are assigned to the department of fish and wildlife to
31 perform their usual duties upon the same terms as formerly, without any
32 loss of rights, subject to any action that may be appropriate
33 thereafter in accordance with the laws and rules governing state civil
34 service.

1 NEW SECTION. **Sec. 11.** All rules and all pending business before
2 any agency of state government pertaining to the powers, duties, and
3 functions transferred shall be continued and acted upon by the
4 department of fish and wildlife. All existing contracts, obligations,
5 and agreements shall remain in full force and shall be performed by the
6 department of fish and wildlife.

7 NEW SECTION. **Sec. 12.** The transfer of the powers, duties,
8 functions, and personnel shall not affect the validity of any act
9 performed by any employee before the effective date of this section.

10 NEW SECTION. **Sec. 13.** If apportionments of budgeted funds are
11 required because of the transfers directed by sections 9 through 12 of
12 this act, the director of financial management shall certify the
13 apportionments to the agencies affected, the state auditor, and the
14 state treasurer. Each of these shall make the appropriate transfer and
15 adjustments in funds and appropriation accounts and equipment records
16 in accordance with the certification.

17 NEW SECTION. **Sec. 14.** Nothing contained in sections 9 through 13
18 of this act may be construed to alter any existing collective
19 bargaining unit or the provisions of any existing collective bargaining
20 agreement until the agreement has expired or until the bargaining unit
21 has been modified by action of the personnel board as provided by law.

22 **Sec. 15.** RCW 41.06.070 and 1990 c 60 s 101 are each amended to
23 read as follows:

24 The provisions of this chapter do not apply to:

25 (1) The members of the legislature or to any employee of, or
26 position in, the legislative branch of the state government including
27 members, officers, and employees of the legislative council,
28 legislative budget committee, statute law committee, and any interim
29 committee of the legislature;

30 (2) The justices of the supreme court, judges of the court of
31 appeals, judges of the superior courts or of the inferior courts, or to
32 any employee of, or position in the judicial branch of state
33 government;

34 (3) Officers, academic personnel, and employees of state
35 institutions of higher education, the state board for community and

1 technical colleges (~~(education)~~), and the higher education personnel
2 board;

3 (4) The officers of the Washington state patrol;

4 (5) Elective officers of the state;

5 (6) The chief executive officer of each agency;

6 (7) In the departments of employment security, (~~(fisheries)~~)
7 social and health services, the director and (~~(his)~~) the director's
8 confidential secretary; in all other departments, the executive head of
9 which is an individual appointed by the governor, the director, (~~(his)~~)
10 the director's confidential secretary, and (~~(his)~~) the director's
11 statutory assistant directors;

12 (8) In the case of a multimember board, commission, or committee,
13 whether the members thereof are elected, appointed by the governor or
14 other authority, serve ex officio, or are otherwise chosen:

15 (a) All members of such boards, commissions, or committees;

16 (b) If the members of the board, commission, or committee serve on
17 a part-time basis and there is a statutory executive officer: (i) The
18 secretary of the board, commission, or committee; (ii) the chief
19 executive officer of the board, commission, or committee; and (iii) the
20 confidential secretary of the chief executive officer of the board,
21 commission, or committee;

22 (c) If the members of the board, commission, or committee serve on
23 a full-time basis: (i) The chief executive officer or administrative
24 officer as designated by the board, commission, or committee; and (ii)
25 a confidential secretary to the chairman of the board, commission, or
26 committee;

27 (d) If all members of the board, commission, or committee serve ex
28 officio: (i) The chief executive officer; and (ii) the confidential
29 secretary of such chief executive officer;

30 (9) The confidential secretaries and administrative assistants in
31 the immediate offices of the elective officers of the state;

32 (10) Assistant attorneys general;

33 (11) Commissioned and enlisted personnel in the military service of
34 the state;

35 (12) Inmate, student, part-time, or temporary employees, and part-
36 time professional consultants, as defined by the state personnel board
37 or the board having jurisdiction;

38 (13) The public printer or to any employees of or positions in the
39 state printing plant;

1 (14) Officers and employees of the Washington state fruit
2 commission;

3 (15) Officers and employees of the Washington state apple
4 advertising commission;

5 (16) Officers and employees of the Washington state dairy products
6 commission;

7 (17) Officers and employees of the Washington tree fruit research
8 commission;

9 (18) Officers and employees of the Washington state beef
10 commission;

11 (19) Officers and employees of any commission formed under the
12 provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;

13 (20) Officers and employees of the state wheat commission formed
14 under the provisions of chapter 87, Laws of 1961 (chapter 15.63 RCW);

15 (21) Officers and employees of agricultural commissions formed
16 under the provisions of chapter 256, Laws of 1961 (chapter 15.65 RCW);

17 (22) Officers and employees of the nonprofit corporation formed
18 under chapter 67.40 RCW;

19 (23) Liquor vendors appointed by the Washington state liquor
20 control board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules
21 and regulations adopted by the state personnel board pursuant to RCW
22 41.06.150 regarding the basis for, and procedures to be followed for,
23 the dismissal, suspension, or demotion of an employee, and appeals
24 therefrom shall be fully applicable to liquor vendors except those part
25 time agency vendors employed by the liquor control board when, in
26 addition to the sale of liquor for the state, they sell goods, wares,
27 merchandise, or services as a self-sustaining private retail business;

28 (24) Executive assistants for personnel administration and labor
29 relations in all state agencies employing such executive assistants
30 including but not limited to all departments, offices, commissions,
31 committees, boards, or other bodies subject to the provisions of this
32 chapter and this subsection shall prevail over any provision of law
33 inconsistent herewith unless specific exception is made in such law;

34 (25) In each agency with fifty or more employees: Deputy agency
35 heads, assistant directors or division directors, and not more than
36 three principal policy assistants who report directly to the agency
37 head or deputy agency heads;

38 (26) All employees of the marine employees' commission;

1 (27) Up to a total of five senior staff positions of the western
2 library network under chapter 27.26 RCW responsible for formulating
3 policy or for directing program management of a major administrative
4 unit. This subsection shall expire on June 30, 1997;

5 (28) In addition to the exemptions specifically provided by this
6 chapter, the state personnel board may provide for further exemptions
7 pursuant to the following procedures. The governor or other
8 appropriate elected official may submit requests for exemption to the
9 personnel board stating the reasons for requesting such exemptions.
10 The personnel board shall hold a public hearing, after proper notice,
11 on requests submitted pursuant to this subsection. If the board
12 determines that the position for which exemption is requested is one
13 involving substantial responsibility for the formulation of basic
14 agency or executive policy or one involving directing and controlling
15 program operations of an agency or a major administrative division
16 thereof, the personnel board shall grant the request and such
17 determination shall be final. The total number of additional
18 exemptions permitted under this subsection shall not exceed one hundred
19 eighty-seven for those agencies not directly under the authority of any
20 elected public official other than the governor, and shall not exceed
21 a total of twenty-five for all agencies under the authority of elected
22 public officials other than the governor. The state personnel board
23 shall report to each regular session of the legislature during an odd-
24 numbered year all exemptions granted under subsections (24), (25), and
25 (28) of this section, together with the reasons for such exemptions.

26 The salary and fringe benefits of all positions presently or
27 hereafter exempted except for the chief executive officer of each
28 agency, full-time members of boards and commissions, administrative
29 assistants and confidential secretaries in the immediate office of an
30 elected state official, and the personnel listed in subsections (10)
31 through (22) of this section, shall be determined by the state
32 personnel board.

33 Any person holding a classified position subject to the provisions
34 of this chapter shall, when and if such position is subsequently
35 exempted from the application of this chapter, be afforded the
36 following rights: If such person previously held permanent status in
37 another classified position, such person shall have a right of
38 reversion to the highest class of position previously held, or to a
39 position of similar nature and salary.

1 Any classified employee having civil service status in a classified
2 position who accepts an appointment in an exempt position shall have
3 the right of reversion to the highest class of position previously
4 held, or to a position of similar nature and salary.

5 A person occupying an exempt position who is terminated from the
6 position for gross misconduct or malfeasance does not have the right of
7 reversion to a classified position as provided for in this section.

8 **Sec. 16.** RCW 43.17.010 and 1989 1st ex.s. c 9 s 810 are each
9 amended to read as follows:

10 There shall be departments of the state government which shall be
11 known as (1) the department of social and health services, (2) the
12 department of ecology, (3) the department of labor and industries, (4)
13 the department of agriculture, (5) (~~the department of fisheries, (6)~~)
14 the department of fish and wildlife, (~~(7)~~) (6) the department of
15 transportation, (~~(8)~~) (7) the department of licensing, (~~(9)~~) (8)
16 the department of general administration, (~~(10)~~) (9) the department
17 of trade and economic development, (~~(11)~~) (10) the department of
18 veterans affairs, (~~(12)~~) (11) the department of revenue, (~~(13)~~)
19 (12) the department of retirement systems, (~~(14)~~) (13) the department
20 of corrections, (~~(15)~~) (14) the department of community development,
21 and (~~(16)~~) (15) the department of health, which shall be charged with
22 the execution, enforcement, and administration of such laws, and
23 invested with such powers and required to perform such duties, as the
24 legislature may provide.

25 **Sec. 17.** RCW 43.17.020 and 1989 1st ex.s. c 9 s 811 are each
26 amended to read as follows:

27 There shall be a chief executive officer of each department to be
28 known as: (1) The secretary of social and health services, (2) the
29 director of ecology, (3) the director of labor and industries, (4) the
30 director of agriculture, (5) (~~the director of fisheries, (6)~~) the
31 director of fish and wildlife, (~~(7)~~) (6) the secretary of
32 transportation, (~~(8)~~) (7) the director of licensing, (~~(9)~~) (8) the
33 director of general administration, (~~(10)~~) (9) the director of trade
34 and economic development, (~~(11)~~) (10) the director of veterans
35 affairs, (~~(12)~~) (11) the director of revenue, (~~(13)~~) (12) the
36 director of retirement systems, (~~(14)~~) (13) the secretary of

1 corrections, (~~(+15+)~~) (14) the director of community development, and
2 (~~(+16+)~~) (15) the secretary of health.

3 Such officers, except the secretary of transportation, shall be
4 appointed by the governor, with the consent of the senate, and hold
5 office at the pleasure of the governor. (~~The director of wildlife,~~
6 ~~however, shall be appointed according to the provisions of RCW~~
7 ~~77.04.080. If a vacancy occurs while the senate is not in session, the~~
8 ~~governor shall make a temporary appointment until the next meeting of~~
9 ~~the senate. A temporary director of wildlife shall not serve more than~~
10 ~~one year.)) The secretary of transportation shall be appointed by the~~
11 transportation commission as prescribed by RCW 47.01.041.

12 **Sec. 18.** RCW 42.17.2401 and 1991 c 200 s 404 are each amended to
13 read as follows:

14 For the purposes of RCW 42.17.240, the term "executive state
15 officer" includes:

16 (1) The chief administrative law judge, the director of
17 agriculture, the administrator of the office of marine safety, the
18 administrator of the Washington basic health plan, the director of the
19 department of services for the blind, the director of the state system
20 of community and technical colleges, the director of community
21 development, the secretary of corrections, the director of ecology, the
22 commissioner of employment security, the chairman of the energy
23 facility site evaluation council, the director of the energy office,
24 the secretary of the state finance committee, the director of financial
25 management, the director of (~~(fisheries))~~) fish and wildlife, the
26 executive secretary of the forest practices appeals board, the director
27 of the gambling commission, the director of general administration, the
28 secretary of health, the administrator of the Washington state health
29 care authority, the executive secretary of the health care facilities
30 authority, the executive secretary of the higher education facilities
31 authority, the director of the higher education personnel board, the
32 executive secretary of the horse racing commission, the executive
33 secretary of the human rights commission, the executive secretary of
34 the indeterminate sentence review board, the director of the department
35 of information services, the director of the interagency committee for
36 outdoor recreation, the executive director of the state investment
37 board, the director of labor and industries, the director of licensing,
38 the director of the lottery commission, the director of the office of

1 minority and women's business enterprises, the director of parks and
2 recreation, the director of personnel, the executive director of the
3 public disclosure commission, the director of retirement systems, the
4 director of revenue, the secretary of social and health services, the
5 chief of the Washington state patrol, the executive secretary of the
6 board of tax appeals, the director of trade and economic development,
7 the secretary of transportation, the secretary of the utilities and
8 transportation commission, the director of veterans affairs, (~~the~~
9 ~~director of wildlife,~~) the president of each of the regional and state
10 universities and the president of The Evergreen State College, each
11 district and each campus president of each state community college;

12 (2) Each professional staff member of the office of the governor;

13 (3) Each professional staff member of the legislature; and

14 (4) Central Washington University board of trustees, board of
15 trustees of each community college, each member of the state board for
16 community and technical colleges (~~(education)~~), state convention and
17 trade center board of directors, committee for deferred compensation,
18 Eastern Washington University board of trustees, Washington economic
19 development finance authority, The Evergreen State College board of
20 trustees, forest practices appeals board, forest practices board,
21 gambling commission, Washington health care facilities authority,
22 higher education coordinating board, higher education facilities
23 authority, higher education personnel board, horse racing commission,
24 state housing finance commission, human rights commission,
25 indeterminate sentence review board, board of industrial insurance
26 appeals, information services board, interagency committee for outdoor
27 recreation, state investment board, liquor control board, lottery
28 commission, marine oversight board, oil and gas conservation committee,
29 Pacific Northwest electric power and conservation planning council,
30 parks and recreation commission, personnel appeals board, personnel
31 board, board of pilotage (~~(commissioners)~~) commissioners, pollution
32 control hearings board, public disclosure commission, public pension
33 commission, shorelines hearing board, state employees' benefits board,
34 board of tax appeals, transportation commission, University of
35 Washington board of regents, utilities and transportation commission,
36 Washington state maritime commission, Washington public power supply
37 system executive board, Washington State University board of regents,
38 Western Washington University board of trustees, and fish and wildlife
39 commission.

1 **Sec. 19.** RCW 43.51.955 and 1987 c 506 s 93 are each amended to
2 read as follows:

3 Nothing in RCW 43.51.946 through 43.51.956 shall be construed to
4 interfere with the powers, duties, and authority of the state
5 department of fish and wildlife or the state fish and wildlife
6 commission to regulate, manage, conserve, and provide for the harvest
7 of wildlife within such area: PROVIDED, HOWEVER, That no hunting shall
8 be permitted in any state park.

9 **Sec. 20.** RCW 75.08.011 and 1990 c 63 s 6 and 1990 c 35 s 3 are
10 each reenacted and amended to read as follows:

11 As used in this title or rules of the director, unless the context
12 clearly requires otherwise:

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

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

17 (3) "Person" means an individual or a public or private entity or
18 organization. The term "person" includes local, state, and federal
19 government agencies, and all business organizations.

20 (4) "Fisheries patrol officer" means a person appointed and
21 commissioned by the director, with authority to enforce this title,
22 rules of the director, and other statutes as prescribed by the
23 legislature. Fisheries patrol officers are peace officers.

24 (5) "Ex officio fisheries patrol 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
28 fisheries patrol officer" also includes wildlife agents, special agents
29 of the national marine fisheries service, United States fish and
30 wildlife special agents, state parks commissioned officers, department
31 of natural resources enforcement officers, and United States forest
32 service officers, while the agents and officers are within their
33 respective jurisdictions.

34 (6) "To fish" and "to take" and their derivatives mean an effort to
35 kill, injure, harass, or catch food fish or shellfish.

36 (7) "State waters" means all marine waters and fresh waters within
37 ordinary high water lines and within the territorial boundaries of the
38 state.

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

4 (9) "Concurrent waters of the Columbia river" means those waters of
5 the Columbia river that coincide with the Washington-Oregon state
6 boundary.

7 (10) "Resident" means a person who has for the preceding ninety
8 days maintained a permanent abode within the state, has established by
9 formal evidence an intent to continue residing within the state, and is
10 not licensed to fish as a resident in another state.

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

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

17 (13) "Shellfish" means those species of marine and freshwater
18 invertebrates that shall not be taken except as authorized by rule of
19 the director. The term "shellfish" includes all stages of development
20 and the bodily parts of shellfish species.

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

23	Scientific Name	Common Name
24	<i>Oncorhynchus tshawytscha</i>	Chinook salmon
25	<i>Oncorhynchus kisutch</i>	Coho salmon
26	<i>Oncorhynchus keta</i>	Chum salmon
27	<i>Oncorhynchus gorbuscha</i>	Pink salmon
28	<i>Oncorhynchus nerka</i>	Sockeye salmon

29 (15) "Commercial" means related to or connected with buying,
30 selling, or bartering. Fishing for food fish or shellfish with gear
31 unlawful for fishing for personal use, or possessing food fish or
32 shellfish in excess of the limits permitted for personal use are
33 commercial activities.

34 (16) "To process" and its derivatives mean preparing or preserving
35 food fish or shellfish.

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

1 (18) "Angling gear" means a line attached to a rod and reel capable
2 of being held in hand while landing the fish or a hand-held line
3 operated without rod or reel to which are attached no more than two
4 single hooks or one artificial bait with no more than four multiple
5 hooks.

6 (19) "Open season" means those times, manners of taking, and places
7 or waters established by rule of the director for the lawful fishing,
8 taking, or possession of food fish or shellfish. "Open season"
9 includes the first and last days of the established time.

10 (20) "Emerging commercial fishery" means any commercial fishery:

11 (a) For food fish or shellfish so designated by rule of the
12 director, except that no species harvested under a license limitation
13 program contained in chapter 75.30 RCW may be designated as a species
14 in an emerging commercial fishery.

15 (b) Which will include, subject to the limitation in (a) of this
16 subsection, all species harvested for commercial purposes as of June 7,
17 1990, and the future commercial harvest of all other species in the
18 waters of the state of Washington.

19 (21) "Experimental fishery permit" means a permit issued by the
20 director to allow the recipient to engage in an emerging commercial
21 fishery.

22 **Sec. 21.** RCW 75.08.014 and 1983 1st ex.s. c 46 s 6 are each
23 amended to read as follows:

24 The director (~~(of fisheries)~~) shall supervise the administration
25 and operation of the department (~~(of fisheries)~~) and perform the duties
26 prescribed by law. The director may appoint and employ necessary
27 personnel. The director may delegate, in writing, to department
28 personnel the duties and powers necessary for efficient operation and
29 administration of the department.

30 Only persons having general knowledge of the fisheries and wildlife
31 resources and of the commercial and recreational fishing industry in
32 this state are eligible for appointment as director. The director
33 shall not have a financial interest in the fishing industry or a
34 directly related industry.

35 **Sec. 22.** RCW 75.08.035 and 1992 c 63 s 11 are each amended to read
36 as follows:

1 (1) The department (~~(of fisheries)~~) shall have the following powers
2 and duties in carrying out its responsibilities for the senior
3 environmental corps created under RCW 43.63A.247:

4 Appoint a representative to the coordinating council;

5 Develop project proposals;

6 Administer project activities within the agency;

7 Develop appropriate procedures for the use of volunteers;

8 Provide project orientation, technical training, safety training,
9 equipment, and supplies to carry out project activities;

10 Maintain project records and provide project reports;

11 Apply for and accept grants or contributions for corps approved
12 projects; and

13 With the approval of the council, enter into memoranda of
14 understanding and cooperative agreements with federal, state, and local
15 agencies to carry out corps approved projects.

16 (2) The department shall not use corps volunteers to displace
17 currently employed workers.

18 **Sec. 23.** RCW 75.08.055 and 1987 c 506 s 94 are each amended to
19 read as follows:

20 (1) The director, (~~(and the director of wildlife)~~) with the
21 concurrence of the fish and wildlife commission, may enter into
22 agreements with and receive funds from the United States for the
23 construction, maintenance, and operation of fish cultural stations,
24 laboratories, and devices in the Columbia River basin for improvement
25 of feeding and spawning conditions for fish, for the protection of
26 migratory fish from irrigation projects and for facilitating free
27 migration of fish over obstructions.

28 (2) The director and the (~~(wildlife commission)~~) department may
29 acquire by gift, purchase, lease, easement, or condemnation the use of
30 lands where the construction or improvement is to be carried on by the
31 United States.

32 **Sec. 24.** RCW 75.08.400 and 1989 c 336 s 1 are each amended to read
33 as follows:

34 The legislature finds that:

35 (1) The fishery resources of Washington are critical to the social
36 and economic needs of the citizens of the state;

1 (2) Salmon production is dependent on both wild and artificial
2 production;

3 (3) The department (~~(of fisheries)~~) is directed to enhance
4 Washington's salmon runs; and

5 (4) Full utilization of the state's salmon rearing facilities is
6 necessary to enhance commercial and recreational fisheries.

7 **Sec. 25.** RCW 75.10.010 and 1985 c 155 s 1 are each amended to read
8 as follows:

9 (1) Fisheries patrol officers and ex officio fisheries patrol
10 officers within their respective jurisdictions, shall enforce this
11 title, rules of the director, and other statutes as prescribed by the
12 legislature.

13 (2) When acting within the scope of subsection (1) of this section
14 and when an offense occurs in the presence of the fisheries patrol
15 officer who is not an ex officio fisheries patrol officer, the
16 fisheries patrol officer may enforce all criminal laws of the state.
17 The fisheries patrol officer must have successfully completed the basic
18 law enforcement academy course sponsored by the criminal justice
19 training commission, or a supplemental course in criminal law
20 enforcement as approved by the department and the criminal justice
21 training commission and provided by the department or the criminal
22 justice training commission, prior to enforcing the criminal laws of
23 the state.

24 (3) Any liability or claim of liability which arises out of the
25 exercise or alleged exercise of authority by a fisheries patrol officer
26 rests with the department (~~(of fisheries)~~) unless the fisheries patrol
27 officer acts under the direction and control of another agency or
28 unless the liability is otherwise assumed under a written agreement
29 between the department (~~(of fisheries)~~) and another agency.

30 (4) Fisheries patrol officers may serve and execute warrants and
31 processes issued by the courts.

32 **Sec. 26.** RCW 75.10.200 and 1990 c 144 s 3 are each amended to read
33 as follows:

34 Persons who violate this title or the rules of the director shall
35 be subject to the following penalties:

36 (1) The following violations are gross misdemeanors and are
37 punishable under RCW 9.92.020:

1 (a) Violating RCW 75.20.100; and

2 (b) Violating department statutes that require fish screens, fish
3 ladders, and other protective devices for fish.

4 (2) The following violations are a class C felony and are
5 punishable under RCW 9A.20.021(1)(c):

6 (a) Discharging explosives in waters that contain adult salmon or
7 sturgeon: PROVIDED, That lawful discharge of devices for the purpose
8 of frightening or killing marine mammals or for the lawful removal of
9 snags or for actions approved under RCW 75.20.100 or 75.12.070(2) are
10 exempt from this subsection; and

11 (b) To knowingly purchase food fish or shellfish with a wholesale
12 value greater than two hundred fifty dollars that were taken by methods
13 or during times not authorized by department (~~(of fisheries)~~) rules, or
14 were taken by someone who does not have a valid commercial fishing
15 license, a valid fish buyer's license, or a valid wholesale dealer's
16 license, or were taken with fishing gear authorized for personal use.

17 **Sec. 27.** RCW 75.12.040 and 1985 c 147 s 1 are each amended to read
18 as follows:

19 (1) It is unlawful to use, operate, or maintain a gill net which
20 exceeds 250 fathoms in length or a drag seine in the waters of the
21 Columbia river for catching salmon.

22 (2) It is unlawful to construct, install, use, operate, or maintain
23 within state waters a pound net, round haul net, lampara net, fish
24 trap, fish wheel, scow fish wheel, set net, weir, or fixed appliance
25 for catching salmon. The director may authorize the use of this gear
26 for scientific investigations.

27 (3) The department (~~(of fisheries)~~), in coordination with the
28 Oregon department of fish and wildlife, shall adopt rules to regulate
29 the use of monofilament in gill net webbing on the Columbia river.

30 **Sec. 28.** RCW 75.20.005 and 1991 c 322 s 21 are each amended to
31 read as follows:

32 The department of (~~(fisheries, the department of)~~) fish and
33 wildlife, the department of ecology, and the department of natural
34 resources shall jointly develop an informational brochure that
35 describes when permits and any other authorizations are required for
36 flood damage prevention and reduction projects, and recommends ways to
37 best proceed through the various regulatory permitting processes.

1 **Sec. 29.** RCW 75.20.050 and 1988 c 36 s 32 are each amended to read
2 as follows:

3 It is the policy of this state that a flow of water sufficient to
4 support game fish and food fish populations be maintained at all times
5 in the streams of this state.

6 The director of ecology shall give the director (~~(of fisheries and~~
7 ~~the director of wildlife))~~) notice of each application for a permit to
8 divert or store water. The director (~~(of fisheries and director of~~
9 ~~wildlife have))~~) has thirty days after receiving the notice to state
10 (~~(their))~~) his or her objections to the application. The permit shall
11 not be issued until the thirty-day period has elapsed.

12 The director of ecology may refuse to issue a permit if, in the
13 opinion of the director (~~(of fisheries or director of wildlife)),~~
14 issuing the permit might result in lowering the flow of water in a
15 stream below the flow necessary to adequately support food fish and
16 game fish populations in the stream.

17 The provisions of this section shall in no way affect existing
18 water rights.

19 **Sec. 30.** RCW 75.20.100 and 1991 c 322 s 30 are each amended to
20 read as follows:

21 In the event that any person or government agency desires to
22 construct any form of hydraulic project or perform other work that will
23 use, divert, obstruct, or change the natural flow or bed of any of the
24 salt or fresh waters of the state, such person or government agency
25 shall, before commencing construction or work thereon and to ensure the
26 proper protection of fish life, secure the written approval of the
27 department (~~(of fisheries or the department of wildlife))~~) as to the
28 adequacy of the means proposed for the protection of fish life. This
29 approval shall not be unreasonably withheld. Except as provided in RCW
30 75.20.1001 and 75.20.1002, the department (~~(of fisheries or the~~
31 ~~department of wildlife))~~) shall grant or deny approval within forty-five
32 calendar days of the receipt of a complete application and notice of
33 compliance with any applicable requirements of the state environmental
34 policy act, made in the manner prescribed in this section. The
35 applicant may document receipt of application by filing in person or by
36 registered mail. A complete application for approval shall contain
37 general plans for the overall project, complete plans and
38 specifications of the proposed construction or work within the mean

1 higher high water line in salt water or within the ordinary high water
2 line in fresh water, and complete plans and specifications for the
3 proper protection of fish life. The forty-five day requirement shall
4 be suspended if (1) after ten working days of receipt of the
5 application, the applicant remains unavailable or unable to arrange for
6 a timely field evaluation of the proposed project; (2) the site is
7 physically inaccessible for inspection; or (3) the applicant requests
8 delay. Immediately upon determination that the forty-five day period
9 is suspended, the department (~~(of fisheries or the department of~~
10 ~~wildlife)~~) shall notify the applicant in writing of the reasons for the
11 delay. Approval is valid for a period of up to five years from date of
12 issuance. The permittee must demonstrate substantial progress on
13 construction of that portion of the project relating to the approval
14 within two years of the date of issuance. If (~~(either)~~) the department
15 (~~(of fisheries or the department of wildlife)~~) denies approval,
16 (~~(that)~~) the department shall provide the applicant, in writing, a
17 statement of the specific reasons why and how the proposed project
18 would adversely affect fish life. Protection of fish life shall be the
19 only ground upon which approval may be denied or conditioned. Chapter
20 34.05 RCW applies to any denial of project approval, conditional
21 approval, or requirements for project modification upon which approval
22 may be contingent. If any person or government agency commences
23 construction on any hydraulic works or projects subject to this section
24 without first having obtained written approval of the department (~~(of~~
25 ~~fisheries or the department of wildlife)~~) as to the adequacy of the
26 means proposed for the protection of fish life, or if any person or
27 government agency fails to follow or carry out any of the requirements
28 or conditions as are made a part of such approval, the person or
29 director of the agency is guilty of a gross misdemeanor. If any such
30 person or government agency is convicted of violating any of the
31 provisions of this section and continues construction on any such works
32 or projects without fully complying with the provisions hereof, such
33 works or projects are hereby declared a public nuisance and shall be
34 subject to abatement as such.

35 For the purposes of this section and RCW 75.20.103, "bed" shall
36 mean the land below the ordinary high water lines of state waters.
37 This definition shall not include irrigation ditches, canals, storm
38 water run-off devices, or other artificial watercourses except where
39 they exist in a natural watercourse that has been altered by man.

1 The phrase "to construct any form of hydraulic project or perform
2 other work" shall not include the act of driving across an established
3 ford. Driving across streams or on wetted stream beds at areas other
4 than established fords requires approval. Work within the ordinary
5 high water line of state waters to construct or repair a ford or
6 crossing requires approval.

7 ~~((For each application, the department of fisheries and the
8 department of wildlife shall mutually agree on whether the department
9 of fisheries or the department of wildlife shall administer the
10 provisions of this section, in order to avoid duplication of effort.
11 The department designated to act shall cooperate with the other
12 department in order to protect all species of fish life found at the
13 project site. If the department of fisheries or the department of
14 wildlife receives an application concerning a site not in its
15 jurisdiction, it shall transmit the application to the other department
16 within three days and notify the applicant.))~~

17 In case of an emergency arising from weather or stream flow
18 conditions or other natural conditions, the department ~~((of fisheries
19 or department of wildlife))~~, through ~~((their))~~ its authorized
20 representatives, shall issue immediately upon request oral approval for
21 removing any obstructions, repairing existing structures, restoring
22 stream banks, or to protect property threatened by the stream or a
23 change in the stream flow without the necessity of obtaining a written
24 approval prior to commencing work. Conditions of an oral approval
25 shall be reduced to writing within thirty days and complied with as
26 provided for in this section. Oral approval shall be granted
27 immediately upon request, for a stream crossing during an emergency
28 situation.

29 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 **Sec. 31.** RCW 75.20.1001 and 1991 c 322 s 12 are each amended to
38 read as follows:

1 The department (~~of fisheries and the department of wildlife~~)
2 shall process hydraulic project applications submitted under RCW
3 75.20.100 or 75.20.103 within thirty days of receipt of the
4 application. This requirement is only applicable for the repair and
5 reconstruction of legally constructed dikes, seawalls, and other flood
6 control structures damaged as a result of flooding or windstorms that
7 occurred in November and December 1990.

8 **Sec. 32.** RCW 75.20.103 and 1991 c 322 s 31 are each amended to
9 read as follows:

10 In the event that any person or government agency desires to
11 construct any form of hydraulic project or other work that diverts
12 water for agricultural irrigation or stock watering purposes, or when
13 such hydraulic project or other work is associated with streambank
14 stabilization to protect farm and agricultural land as defined in RCW
15 84.34.020, and when such diversion or streambank stabilization will
16 use, divert, obstruct, or change the natural flow or bed of any river
17 or stream or will utilize any waters of the state or materials from the
18 stream beds, the person or government agency shall, before commencing
19 construction or work thereon and to ensure the proper protection of
20 fish life, secure a written approval from the department (~~of fisheries
21 or the department of wildlife~~) as to the adequacy of the means
22 proposed for the protection of fish life. This approval shall not be
23 unreasonably withheld. Except as provided in RCW 75.20.1001 and
24 75.20.1002, the department (~~of fisheries or the department of
25 wildlife~~) shall grant or deny the approval within forty-five calendar
26 days of the receipt of a complete application and notice of compliance
27 with any applicable requirements of the state environmental policy act,
28 made in the manner prescribed in this section. The applicant may
29 document receipt of application by filing in person or by registered
30 mail. A complete application for an approval shall contain general
31 plans for the overall project, complete plans and specifications of the
32 proposed construction or work within ordinary high water line, and
33 complete plans and specifications for the proper protection of fish
34 life. The forty-five day requirement shall be suspended if (1) after
35 ten working days of receipt of the application, the applicant remains
36 unavailable or unable to arrange for a timely field evaluation of the
37 proposed project; (2) the site is physically inaccessible for
38 inspection; or (3) the applicant requests delay.

1 Immediately upon determination that the forty-five day period is
2 suspended, the department (~~(of fisheries or the department of~~
3 ~~wildlife))~~) shall notify the applicant in writing of the reasons for the
4 delay.

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

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

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

35 A permittee may request modification of an approval due to changed
36 conditions. The request shall be processed within forty-five calendar
37 days of receipt of the written request. A decision by the department
38 (~~(that issued the approval))~~) may be appealed to the hydraulic appeals
39 board within thirty days of the notice of the decision. The burden is

1 on the permittee to show that changed conditions warrant the requested
2 modification and that such modification will not impair fish life.

3 If any person or government agency commences construction on any
4 hydraulic works or projects subject to this section without first
5 having obtained written approval of the department (~~(of fisheries or~~
6 ~~the department of wildlife))~~) as to the adequacy of the means proposed
7 for the protection of fish life, or if any person or government agency
8 fails to follow or carry out any of the requirements or conditions as
9 are made a part of such approval, the person or director of the agency
10 is guilty of a gross misdemeanor. If any such person or government
11 agency is convicted of violating any of the provisions of this section
12 and continues construction on any such works or projects without fully
13 complying with the provisions hereof, such works or projects are hereby
14 declared a public nuisance and shall be subject to abatement as such.

15 (~~For each application, the department of fisheries and the~~
16 ~~department of wildlife shall mutually agree on whether the department~~
17 ~~of fisheries or the department of wildlife shall administer the~~
18 ~~provisions of this section, in order to avoid duplication of effort.~~
19 ~~The department designated to act shall cooperate with the other~~
20 ~~department in order to protect all species of fish life found at the~~
21 ~~project site. If the department of fisheries or the department of~~
22 ~~wildlife receives an application concerning a site not in its~~
23 ~~jurisdiction, it shall transmit the application to the other department~~
24 ~~within three days and notify the applicant.))~~

25 In case of an emergency arising from weather or stream flow
26 conditions or other natural conditions, the department (~~(of fisheries~~
27 ~~or department of wildlife)), through ((their)) its authorized
28 representatives, shall issue immediately upon request oral approval for
29 removing any obstructions, repairing existing structures, restoring
30 stream banks, or to protect property threatened by the stream or a
31 change in the stream flow without the necessity of obtaining a written
32 approval prior to commencing work. Conditions of an oral approval
33 shall be reduced to writing within thirty days and complied with as
34 provided for in this section.~~

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

1 **Sec. 33.** RCW 75.20.104 and 1991 c 322 s 18 are each amended to
2 read as follows:

3 Whenever the placement of woody debris is required as a condition
4 of a hydraulic permit approval issued pursuant to RCW 75.20.100 or
5 75.20.103, the department (~~(of fisheries and the department of~~
6 ~~wildlife)~~), upon request, shall invite comment regarding that placement
7 from the local governmental authority, affected tribes, affected
8 federal and state agencies, and the project applicant.

9 **Sec. 34.** RCW 75.20.1041 and 1991 c 322 s 19 are each amended to
10 read as follows:

11 The department (~~(of fisheries, the department of wildlife,~~) and
12 the department of ecology will work cooperatively with the United
13 States army corps of engineers to develop a memorandum of agreement
14 outlining dike vegetation management guidelines so that dike owners are
15 eligible for coverage under P.L. 84-99, and state requirements
16 established pursuant to RCW 75.20.100 and 75.20.103 are met.

17 **Sec. 35.** RCW 75.20.106 and 1988 c 36 s 35 are each amended to read
18 as follows:

19 The department (~~(of fisheries and the department of wildlife)~~) may
20 (~~each~~) levy civil penalties of up to one hundred dollars per day for
21 violation of any provisions of RCW 75.20.100 or 75.20.103. The penalty
22 provided shall be imposed by notice in writing, either by certified
23 mail or personal service to the person incurring the penalty, from the
24 director (~~(of the appropriate department)~~) or (~~that~~) the director's
25 designee describing the violation. Any person incurring any penalty
26 under this chapter may appeal the same under chapter 34.05 RCW to the
27 director (~~(of the department levying the penalty)~~). Appeals shall be
28 filed within thirty days of receipt of notice imposing any penalty.
29 The penalty imposed shall become due and payable thirty days after
30 receipt of a notice imposing the penalty unless an appeal is filed.
31 Whenever an appeal of any penalty incurred under this chapter is filed,
32 the penalty shall become due and payable only upon completion of all
33 review proceedings and the issuance of a final order confirming the
34 penalty in whole or in part.

35 If the amount of any penalty is not paid within thirty days after
36 it becomes due and payable the attorney general, upon the request of
37 the director (~~(of the department of fisheries or the department of~~

1 wildlife)) shall bring an action in the name of the state of Washington
2 in the superior court of Thurston county or of any county in which such
3 violator may do business, to recover such penalty. In all such actions
4 the procedure and rules of evidence shall be the same as an ordinary
5 civil action. All penalties recovered under this section shall be paid
6 into the state's general fund.

7 **Sec. 36.** RCW 75.20.110 and 1988 c 36 s 36 are each amended to read
8 as follows:

9 (1) Except for the north fork of the Lewis river and the White
10 Salmon river, all streams and rivers tributary to the Columbia river
11 downstream from McNary dam are established as an anadromous fish
12 sanctuary. This sanctuary is created to preserve and develop the food
13 fish and game fish resources in these streams and rivers and to protect
14 them against undue industrial encroachment.

15 (2) Within the sanctuary area:

16 (a) It is unlawful to construct a dam greater than twenty-five feet
17 high within the migration range of anadromous fish as ((jointly))
18 determined by the director ((of fisheries and the director of
19 wildlife)).

20 (b) Except by ((concurrent)) order of the director ((of fisheries
21 and director of wildlife)), it is unlawful to divert water from rivers
22 and streams in quantities that will reduce the respective stream flow
23 below the annual average low flow, based upon data published in United
24 States geological survey reports.

25 (3) The director ((of fisheries and the director of wildlife)) may
26 acquire and abate a dam or other obstruction, or acquire any water
27 right vested on a sanctuary stream or river, which is in conflict with
28 the provisions of subsection (2) of this section.

29 (4) Subsection (2)(a) of this section does not apply to the
30 sediment retention structure to be built on the North Fork Toutle river
31 by the United States army corps of engineers.

32 **Sec. 37.** RCW 75.20.130 and 1989 c 175 s 160 are each amended to
33 read as follows:

34 (1) There is hereby created within the environmental hearings
35 office under RCW 43.21B.005 the hydraulic appeals board of the state of
36 Washington.

1 (2) The hydraulic appeals board shall consist of three members:
2 The director of the department of ecology or the director's designee,
3 the director of the department of agriculture or the director's
4 designee, and the director or the director's designee of the department
5 whose action is appealed under subsection (6) of this section. A
6 decision must be agreed to by at least two members of the board to be
7 final.

8 (3) The board may adopt rules necessary for the conduct of its
9 powers and duties or for transacting other official business.

10 (4) The board shall make findings of fact and prepare a written
11 decision in each case decided by it, and that finding and decision
12 shall be effective upon being signed by two or more board members and
13 upon being filed at the hydraulic appeals board's principal office, and
14 shall be open to public inspection at all reasonable times.

15 (5) The board has exclusive jurisdiction to hear appeals arising
16 from the approval, denial, conditioning, or modification of a hydraulic
17 approval issued by ((either)) the department ((of fisheries or the
18 department of wildlife)) under the authority granted in RCW 75.20.103
19 for the diversion of water for agricultural irrigation or stock
20 watering purposes or when associated with streambank stabilization to
21 protect farm and agricultural land as defined in RCW 84.34.020.

22 (6)(a) Any person aggrieved by the approval, denial, conditioning,
23 or modification of a hydraulic approval pursuant to RCW 75.20.103 may
24 seek review from the board by filing a request for the same within
25 thirty days of notice of the approval, denial, conditioning, or
26 modification of such approval.

27 (b) The review proceedings authorized in (a) of this subsection are
28 subject to the provisions of chapter 34.05 RCW pertaining to procedures
29 in adjudicative proceedings.

30 **Sec. 38.** RCW 75.20.300 and 1989 c 213 s 3 are each amended to read
31 as follows:

32 (1) The legislature intends to expedite flood-control, acquisition
33 of sites for sediment retention, and dredging operations in those
34 rivers affected by the May 1980 eruption of Mt. St. Helens, while
35 continuing to protect the fish resources of these rivers.

36 (2) The director ((of fisheries and director of wildlife)) shall
37 process hydraulic project applications submitted under RCW 75.20.100
38 within fifteen working days of receipt of the application. This

1 requirement is only applicable to flood control and dredging projects
2 located in the Cowlitz river from mile 22 to the confluence with the
3 Columbia, and in the Toutle river from the mouth to the North Fork
4 Toutle sediment dam site at North Fork mile 12, and to river mile 3 on
5 the South Fork Toutle river, and volcano-affected areas of the Columbia
6 river.

7 (3) For the purposes of this section, the emergency provisions of
8 RCW 75.20.100 may be initiated by the county legislative authority if
9 the project is necessary to protect human life or property from flood
10 hazards, including:

11 (a) Flood fight measures necessary to provide protection during a
12 flood event; or

13 (b) Measures necessary to reduce or eliminate a potential flood
14 threat when other alternative measures are not available or cannot be
15 completed prior to the expected flood threat season; or

16 (c) Measures which must be initiated and completed within an
17 immediate period of time and for which processing of the request
18 through normal methods would cause a delay to the project and such
19 delay would significantly increase the potential for damages from a
20 flood event.

21 (4) This section does not apply to the sediment retention structure
22 to be built on the North Fork Toutle river by the United States army
23 corps of engineers.

24 (5) This section expires on June 30, 1995.

25 **Sec. 39.** RCW 75.20.310 and 1988 c 36 s 39 are each amended to read
26 as follows:

27 The legislature recognizes the need to mitigate the effects of
28 sedimentary build-up and resultant damage to fish population in the
29 Toutle river resulting from the Mt. St. Helens eruption. The state has
30 entered into a contractual agreement with the United States army corps
31 of engineers designed to minimize fish habitat disruption created by
32 the sediment retention structure on the Toutle river, under which the
33 corps has agreed to construct a fish collection facility at the
34 sediment retention structure site conditional upon the state assuming
35 the maintenance and operation costs of the facility. The department
36 (~~of wildlife and the department of fisheries~~) shall (~~cooperatively~~)
37 operate and maintain a fish collection facility on the Toutle river.

1 ((Each agency shall share in the cost of operating and maintaining the
2 facility.))

3 **Sec. 40.** RCW 75.24.065 and 1985 c 256 s 2 are each amended to read
4 as follows:

5 The legislature finds that current environmental and economic
6 conditions warrant a renewal of the state's historical practice of
7 actively cultivating and managing its oyster reserves in Puget Sound to
8 produce the state's native oyster, the Olympia oyster. The department
9 ((of fisheries)) shall reestablish dike cultivated production of
10 Olympia oysters on such reserves on a trial basis as a tool for
11 planning more comprehensive cultivation by the state.

12 **Sec. 41.** RCW 75.25.005 and 1989 c 305 s 1 are each amended to read
13 as follows:

14 The following recreational fishing licenses are administered and
15 issued by the department ((of fisheries)) under authority of the
16 director ((of fisheries)):

- 17 (1) Hood Canal shrimp license;
- 18 (2) Razor clam license;
- 19 (3) Personal use fishing license;
- 20 (4) Salmon license; and
- 21 (5) Sturgeon license.

22 **Sec. 42.** RCW 75.25.080 and 1989 c 305 s 4 are each amended to read
23 as follows:

24 (1) It is lawful to dig the personal-use daily bag limit of razor
25 clams for another person if that person has in possession a physical
26 disability permit issued by the director.

27 (2) An application for a physical disability permit must be
28 submitted on a department ((of fisheries)) official form and must be
29 accompanied by a licensed medical doctor's certification of disability.

30 **Sec. 43.** RCW 75.25.170 and 1989 c 305 s 16 are each amended to
31 read as follows:

32 Fees received for recreational licenses required under this chapter
33 shall be deposited in the general fund and shall be appropriated for
34 management, enhancement, research, and enforcement purposes of the

1 shellfish, salmon, and marine fish programs of the department ((of
2 fisheries)).

3 **Sec. 44.** RCW 75.25.180 and 1989 c 305 s 14 are each amended to
4 read as follows:

5 Recreational licenses issued by the department ((of fisheries))
6 under this chapter are valid for the following periods:

7 (1) Recreational licenses issued without charge to persons
8 designated by this chapter are valid:

9 (a) For life for blind persons;

10 (b) For the period of continued state residency for qualified
11 disabled veterans;

12 (c) For the period of continued state residency for persons sixty-
13 five years of age or more;

14 (d) For the period of the disability for persons with a
15 developmental disability;

16 (e) For life for handicapped persons confined to a wheelchair who
17 have been issued a permanent disability card; and

18 (f) Until a child reaches fifteen years of age.

19 (2) Two-consecutive-day personal use licenses expire at midnight on
20 the day following the validation date written on the license by the
21 license dealer, except two-consecutive-day personal use licenses
22 validated for December 31 expire at midnight on that date.

23 (3) An annual salmon license is valid for a maximum catch of
24 fifteen salmon, after which another salmon license may be purchased.
25 A salmon license is valid only for the calendar year for which it is
26 issued.

27 (4) An annual sturgeon license is valid for a maximum catch of
28 fifteen sturgeon. A sturgeon license is valid only for the calendar
29 year for which it is issued.

30 (5) All other recreational licenses are valid for the calendar year
31 for which they are issued.

32 **Sec. 45.** RCW 75.50.010 and 1985 c 458 s 1 are each amended to read
33 as follows:

34 Currently, many of the salmon stocks of Washington state are
35 critically reduced from their sustainable level. The best interests of
36 all fishing groups and the citizens as a whole are served by a stable
37 and productive salmon resource. Immediate action is needed to reverse

1 the severe decline of the resource and to insure its very survival.
2 The legislature finds a state of emergency exists and that immediate
3 action is required to restore its fishery.

4 Disagreement and strife have dominated the salmon fisheries for
5 many years. Conflicts among the various fishing interests have only
6 served to erode the resource. It is time for the state of Washington
7 to make a major commitment to increasing productivity of the resource
8 and to move forward with an effective rehabilitation and enhancement
9 program. The department (~~(of fisheries)~~) is directed to dedicate its
10 efforts to make increasing the productivity of the salmon resource a
11 first priority and to seek resolution to the many conflicts that
12 involve the resource.

13 Success of the enhancement program can only occur if projects
14 efficiently produce salmon or restore habitat. The expectation of the
15 program is to optimize the efficient use of funding on projects that
16 will increase artificially and naturally produced salmon, restore and
17 improve habitat, or identify ways to increase the survival of salmon.
18 The full utilization of state resources and cooperative efforts with
19 interested groups are essential to the success of the program.

20 **Sec. 46.** RCW 75.50.070 and 1989 c 426 s 1 are each amended to read
21 as follows:

22 The legislature finds that it is in the best interest of the salmon
23 resource of the state to encourage the development of regional
24 fisheries enhancement groups. The accomplishments of one existing
25 group, the Grays Harbor fisheries enhancement task force, have been
26 widely recognized as being exemplary. The legislature recognizes the
27 potential benefits to the state that would occur if each region of the
28 state had a similar group of dedicated citizens working to enhance the
29 salmon resource.

30 The legislature authorizes the formation of regional fisheries
31 enhancement groups. These groups shall be eligible for state financial
32 support and shall be actively supported by the department (~~(of~~
33 ~~fisheries)~~). The regional groups shall be operated on a strictly
34 nonprofit basis, and shall seek to maximize the efforts of volunteer
35 and private donations to improve the salmon resource for all citizens
36 of the state.

1 **Sec. 47.** RCW 75.50.080 and 1989 c 426 s 4 are each amended to read
2 as follows:

3 Regional fisheries enhancement groups, consistent with the long-
4 term regional policy statements developed under RCW 75.50.020, shall
5 seek to:

6 (1) Enhance the salmon resource of the state;

7 (2) Maximize volunteer efforts and private donations to improve the
8 salmon resource for all citizens;

9 (3) Assist the department in achieving the goal to double the
10 state-wide salmon catch by the year 2000 under chapter 214, Laws of
11 1988; and

12 (4) Develop projects designed to supplement the fishery enhancement
13 capability of the department (~~((of fisheries))~~).

14 **Sec. 48.** RCW 75.50.130 and 1992 c 88 s 1 are each amended to read
15 as follows:

16 The director (~~((of fisheries))~~) shall prepare a salmon recovery plan
17 for the Skagit river. The plan shall include strategies for employing
18 displaced timber workers to conduct salmon restoration and other tasks
19 identified in the plan. The plan shall incorporate the best available
20 technology in order to achieve maximum restoration of depressed salmon
21 stocks. The plan must encourage the restoration of natural spawning
22 areas and natural rearing of salmon but must not preclude the
23 development of an active hatchery program.

24 **Sec. 49.** RCW 75.52.010 and 1988 c 36 s 41 are each amended to read
25 as follows:

26 The fish and (~~((game))~~) wildlife resources of the state benefit by
27 the contribution of volunteer recreational and commercial fishing
28 organizations, schools, and other volunteer groups in cooperative
29 projects under agreement with the department (~~((of fisheries or the
30 department of wildlife))~~). These projects provide educational
31 opportunities, improve the communication between the natural resources
32 agencies and the public, and increase the fish and game resources of
33 the state. In an effort to increase these benefits and realize the
34 full potential of cooperative projects, the department (~~((of fisheries
35 and the department of wildlife each))~~) shall administer a cooperative
36 fish and wildlife enhancement program and enter agreements with
37 volunteer groups relating to the operation of cooperative projects.

1 **Sec. 50.** RCW 75.52.020 and 1988 c 36 s 42 are each amended to read
2 as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Volunteer group" means any person or group of persons
6 interested in or party to an agreement with the department (~~of~~
7 ~~fisheries or the department of wildlife~~) relating to a cooperative
8 fish or (~~game~~) wildlife project.

9 (2) "Cooperative project" means a project conducted by a volunteer
10 group that will benefit the fish, shellfish, game bird, nongame
11 wildlife, or game animal resources of the state and for which the
12 benefits of the project, including fish and (~~game~~) wildlife reared
13 and released, are available to all citizens of the state. Indian
14 tribes may elect to participate in cooperative fish and wildlife
15 projects with the department.

16 (3) "Department" means (~~either~~) the department of (~~fisheries or~~
17 ~~the department of~~) fish and wildlife (~~(, whichever is responsible for~~
18 ~~managing the species of fish or game most affected by the cooperative~~
19 ~~project)~~).

20 **Sec. 51.** RCW 75.52.035 and 1987 c 48 s 1 are each amended to read
21 as follows:

22 The department (~~of fisheries~~) may authorize the sale of surplus
23 salmon eggs and carcasses by permitted cooperative projects for the
24 purposes of defraying the expenses of the cooperative project. In no
25 instance shall the department allow a profit to be realized through
26 such sales. The department shall adopt rules to implement this section
27 pursuant to chapter 34.05 RCW.

28 **Sec. 52.** RCW 75.52.100 and 1989 c 85 s 3 are each amended to read
29 as follows:

30 A salmon spawning channel shall be constructed on the Cedar river
31 with the assistance and cooperation of the (~~state~~) department (~~of~~
32 ~~fisheries~~). The department shall use existing personnel and the
33 volunteer fisheries enhancement program outlined under chapter 75.52
34 RCW to assist in the planning, construction, and operation of the
35 spawning channel.

1 **Sec. 53.** RCW 75.52.110 and 1989 c 85 s 4 are each amended to read
2 as follows:

3 The department (~~(of fisheries)~~) shall chair a technical committee,
4 which shall review the preparation of enhancement plans and
5 construction designs for a Cedar river sockeye spawning channel. The
6 technical committee shall consist of not more than eight members: One
7 representative each from the department (~~(of fisheries)~~), national
8 marine fisheries service, United States fish and wildlife service, and
9 Muckleshoot Indian tribe; and four representatives from the public
10 utility described in RCW 75.52.130. The technical committee will be
11 guided by a policy committee, also to be chaired by the department (~~(of~~
12 ~~fisheries)~~), which shall consist of not more than six members: One
13 representative from the department (~~(of fisheries)~~), one from the
14 Muckleshoot Indian tribe, and one from either the national marine
15 fisheries service or the United States fish and wildlife service; and
16 three representatives from the public utility described in RCW
17 75.52.130. The policy committee shall present a progress report to the
18 senate and house of representatives natural resources and environment
19 committees by January 1, 1990, and shall oversee the operation and
20 evaluation of the spawning channel. The policy committee will continue
21 its oversight until the policy committee concludes that the channel is
22 meeting the production goals specified in RCW 75.52.120.

23 **Sec. 54.** RCW 75.52.160 and 1989 c 85 s 10 are each amended to read
24 as follows:

25 Should the requirements of RCW 75.52.100 through 75.52.160 not be
26 met, the department (~~(of fisheries)~~) shall seek immediate legal
27 clarification of the steps which must be taken to fully mitigate water
28 diversion projects on the Cedar river.

29 **Sec. 55.** RCW 75.58.010 and 1988 c 36 s 43 are each amended to read
30 as follows:

31 (1) The director of agriculture and the director (~~(of fisheries)~~)
32 shall jointly develop a program of disease inspection and control for
33 aquatic farmers as defined in RCW 15.85.020. The program shall be
34 administered by the department (~~(of fisheries)~~) under rules established
35 under this section. The purpose of the program is to protect the
36 aquaculture industry and wildstock fisheries from a loss of
37 productivity due to aquatic diseases or maladies. As used in this

1 section "diseases" means, in addition to its ordinary meaning,
2 infestations of parasites or pests. The disease program may include,
3 but is not limited to, the following elements:

4 (a) Disease diagnosis;

5 (b) Import and transfer requirements;

6 (c) Provision for certification of stocks;

7 (d) Classification of diseases by severity;

8 (e) Provision for treatment of selected high-risk diseases;

9 (f) Provision for containment and eradication of high-risk
10 diseases;

11 (g) Provision for destruction of diseased cultured aquatic
12 products;

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

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

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

16 (k) Provision for cooperative consultation service to aquatic
17 farmers; and

18 (l) Provision for disease history records.

19 (2) The director (~~(of fisheries)~~) shall adopt rules implementing
20 this section. However, such rules shall have the prior approval of the
21 director of agriculture and shall provide therein that the director of
22 agriculture has provided such approval. The director of agriculture or
23 the director's designee shall attend the rule-making hearings conducted
24 under chapter 34.05 RCW and shall assist in conducting those hearings.
25 The authorities granted the department (~~(of fisheries)~~) by these rules
26 and by RCW 75.08.080(1)(g), 75.24.080, 75.24.110, 75.28.125, 75.58.020,
27 75.58.030, and 75.58.040 constitute the only authorities of the
28 department (~~(of fisheries)~~) to regulate private sector cultured aquatic
29 products and aquatic farmers as defined in RCW 15.85.020. Except as
30 provided in subsection (3) of this section, no action may be taken
31 against any person to enforce these rules unless the department has
32 first provided the person an opportunity for a hearing. In such a
33 case, if the hearing is requested, no enforcement action may be taken
34 before the conclusion of that hearing.

35 (3) The rules adopted under this section shall specify the
36 emergency enforcement actions that may be taken by the department (~~(of~~
37 ~~fisheries)~~), and the circumstances under which they may be taken,
38 without first providing the affected party with an opportunity for a
39 hearing. Neither the provisions of this subsection nor the provisions

1 of subsection (2) of this section shall preclude the department ((of
2 fisheries)) from requesting the initiation of criminal proceedings for
3 violations of the disease inspection and control rules.

4 (4) It is unlawful for any person to violate the rules adopted
5 under subsection (2) or (3) of this section or to violate RCW
6 75.58.040.

7 (5) In administering the program established under this section,
8 the department ((of fisheries)) shall use the services of a pathologist
9 licensed to practice veterinary medicine.

10 (6) The director in administering the program shall not place
11 constraints on or take enforcement actions in respect to the
12 aquaculture industry that are more rigorous than those placed on the
13 department ((of fisheries, the department of wildlife,)) or other fish-
14 rearing entities.

15 **Sec. 56.** RCW 75.58.020 and 1985 c 457 s 9 are each amended to read
16 as follows:

17 The directors of agriculture and ((fisheries)) fish and wildlife
18 shall jointly adopt by rule, in the manner prescribed in RCW
19 75.58.010(2), a schedule of user fees for the disease inspection and
20 control program established under RCW 75.58.010. The fees shall be
21 established such that the program shall be entirely funded by revenues
22 derived from the user fees by the beginning of the 1987-89 biennium.

23 There is established in the state treasury an account known as the
24 aquaculture disease control account which is subject to appropriation.
25 Proceeds of fees charged under this section shall be deposited in the
26 account. Moneys from the account shall be used solely for
27 administering the disease inspection and control program established
28 under RCW 75.58.010.

29 **Sec. 57.** RCW 75.58.030 and 1988 c 36 s 44 are each amended to read
30 as follows:

31 (1) The director ((of fisheries)) shall consult regarding the
32 disease inspection and control program established under RCW 75.58.010
33 with ((the department of wildlife,)) federal agencies((,)) and Indian
34 tribes to assure protection of state, federal, and tribal aquatic
35 resources and to protect private sector cultured aquatic products from
36 disease that could originate from waters or facilities managed by those
37 agencies.

1 (2) With regard to the program, the director (~~((of fisheries))~~) may
2 enter into contracts or interagency agreements for diagnostic field
3 services with government agencies and institutions of higher education
4 and private industry.

5 (3) The director (~~((of fisheries))~~) shall provide for the creation
6 and distribution of a roster of biologists having a speciality in the
7 diagnosis or treatment of diseases of fish or shellfish. The director
8 shall adopt rules specifying the qualifications which a person must
9 have in order to be placed on the roster.

10 **Sec. 58.** RCW 75.58.040 and 1988 c 36 s 45 are each amended to read
11 as follows:

12 All aquatic farmers as defined in RCW 15.85.020 shall register with
13 the department (~~((of fisheries))~~). The director shall develop and
14 maintain a registration list of all aquaculture farms. Registered
15 aquaculture farms shall provide the department production statistical
16 data. The state veterinarian (~~((and the department of wildlife))~~) shall
17 be provided with registration and statistical data by the department.

18 **Sec. 59.** RCW 77.04.020 and 1987 c 506 s 4 are each amended to read
19 as follows:

20 The department (~~((of wildlife))~~) consists of the state fish and
21 wildlife commission and the director (~~((of wildlife))~~). The director is
22 responsible for the administration and operation of the department,
23 subject to the provisions of this title. The commission may delegate
24 to the director additional duties and powers necessary and appropriate
25 to carry out this title. The director shall perform the duties
26 prescribed by law and shall carry out the basic goals and objectives
27 prescribed pursuant to RCW 77.04.055.

28 **Sec. 60.** RCW 77.04.030 and 1987 c 506 s 5 are each amended to read
29 as follows:

30 The state fish and wildlife commission consists of (~~((six))~~) nine
31 registered voters of the state. In January of each odd-numbered year,
32 the governor shall appoint with the advice and consent of the senate
33 two registered voters to the commission to serve for terms of six years
34 from that January or until their successors are appointed and
35 qualified. If a vacancy occurs on the commission prior to the
36 expiration of a term, the governor shall appoint a registered voter

1 within sixty days to complete the term. Three members shall be
2 residents of that portion of the state lying east of the summit of the
3 Cascade mountains, and three shall be residents of that portion of the
4 state lying west of the summit of the Cascade mountains. Three
5 additional members shall be appointed at-large effective July 1, 1993;
6 one of whom shall serve a one and one-half year term to end December
7 31, 1994; one of whom shall serve a three and one-half year term to end
8 December 31, 1996; and one of whom shall serve a five and one-half year
9 term to end December 31, 1998. Thereafter all members are to serve a
10 six-year term. No two members may be residents of the same county.
11 The legal office of the commission is at the administrative office of
12 the department in Olympia.

13 **Sec. 61.** RCW 77.04.040 and 1987 c 506 s 6 are each amended to read
14 as follows:

15 Persons eligible for appointment as members of the commission shall
16 have general knowledge of the habits and distribution of game fish and
17 wildlife and shall not hold another state, county, or municipal
18 elective or appointive office. In making these appointments, the
19 governor shall seek to maintain a balance reflecting all aspects of
20 game fish and wildlife. Persons eligible for appointment as wildlife
21 commissioners shall not have a monetary interest in any private
22 business that is involved with consumptive or nonconsumptive use of
23 game fish or wildlife.

24 **Sec. 62.** RCW 77.04.055 and 1990 c 84 s 2 are each amended to read
25 as follows:

26 (1) In addition to any other duties and responsibilities, the
27 commission shall establish, and periodically review with the governor
28 and the legislature, the department's basic goals and objectives to
29 preserve, protect, and perpetuate game fish and wildlife, and game fish
30 and wildlife habitat. The commission shall maximize hunting and
31 fishing recreational opportunities.

32 (2) The commission shall establish hunting, trapping, and fishing
33 seasons and prescribe the time, place, manner, and methods that may be
34 used to harvest or enjoy game fish and wildlife.

35 **Sec. 63.** RCW 77.04.080 and 1987 c 506 s 9 are each amended to read
36 as follows:

1 Persons eligible for appointment by the governor as director shall
2 have practical knowledge of the habits and distribution of fish and
3 wildlife. The governor shall seek recommendations from the commission
4 on the qualifications, skills, and experience necessary to discharge
5 the duties of the position. When considering and selecting the
6 director, the governor shall consult with and be advised by the
7 commission. The director shall receive the salary fixed by the
8 governor under RCW 43.03.040.

9 The director is the ex officio secretary of the commission and
10 shall attend its meetings and keep a record of its business.

11 The director may appoint and employ necessary departmental
12 personnel. The director may delegate to department personnel the
13 duties and powers necessary for efficient operation and administration
14 of the department. The department shall provide staff for the
15 commission.

16 **Sec. 64.** RCW 77.04.100 and 1985 c 208 s 2 are each amended to read
17 as follows:

18 The director(~~(, in cooperation with the director of fisheries)~~)
19 shall develop proposals to reinstate the natural salmon and steelhead
20 trout fish runs in the Tilton and upper Cowlitz rivers in accordance
21 with RCW 75.08.020(3).

22 **Sec. 65.** RCW 77.08.010 and 1989 c 297 s 7 are each amended to read
23 as follows:

24 As used in this title or rules adopted pursuant to this title,
25 unless the context clearly requires otherwise:

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

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

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

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

32 (5) "Wildlife agent" means a person appointed and commissioned by
33 the director, with authority to enforce laws and rules adopted pursuant
34 to this title, and other statutes as prescribed by the legislature.

35 (6) "Ex officio wildlife agent" means a commissioned officer of a
36 municipal, county, state, or federal agency having as its primary
37 function the enforcement of criminal laws in general, while the officer

1 is in the appropriate jurisdiction. The term "ex officio wildlife
2 agent" includes fisheries patrol officers, special agents of the
3 national marine fisheries (~~commission~~) service, state parks
4 commissioned officers, United States fish and wildlife special agents,
5 department of natural resources enforcement officers, and United States
6 forest service officers, while the agents and officers are within their
7 respective jurisdictions.

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

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

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

14 (10) "Open season" means those times, manners of taking, and places
15 or waters established by rule of the commission for the lawful hunting,
16 fishing, or possession of game animals, game birds, or game fish.
17 "Open season" includes the first and last days of the established time.

18 (11) "Closed season" means all times, manners of taking, and places
19 or waters other than those established as an open season.

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

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

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

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

30 (16) "Wildlife" means all species of the animal kingdom whose
31 members exist in Washington in a wild state. This includes but is not
32 limited to mammals, birds, reptiles, amphibians, fish, and
33 invertebrates. The term "wildlife" does not include feral domestic
34 mammals, the family Muridae of the order Rodentia (old world rats and
35 mice), or those fish, shellfish, and marine invertebrates classified as
36 food fish or shellfish by the director (~~of fisheries~~). The term
37 "wildlife" includes all stages of development and the bodily parts of
38 wildlife members.

1 (17) "Wild animals" means those species of the class Mammalia whose
2 members exist in Washington in a wild state and the species Rana
3 catesbeiana (bullfrog). The term "wild animal" does not include feral
4 domestic mammals or the family Muridae of the order Rodentia (old world
5 rats and mice).

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

8 (19) "Protected wildlife" means wildlife designated by the
9 commission that shall not be hunted or fished.

10 (20) "Endangered species" means wildlife designated by the
11 commission as seriously threatened with extinction.

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

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

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

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

20 (25) "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 raised
24 for commercial purposes, trade, or gift. The term "game farm" does not
25 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 **Sec. 66.** RCW 77.12.055 and 1988 c 36 s 50 are each amended to read
30 as follows:

31 (1) Jurisdiction and authority granted under RCW 77.12.060,
32 77.12.070, and 77.12.080 to the director, wildlife agents, and ex
33 officio wildlife agents is limited to the laws and rules adopted
34 pursuant to this title pertaining to wildlife or to the management,
35 operation, maintenance, or use of or conduct on real property used,
36 owned, leased, or controlled by the department and other statutes as
37 prescribed by the legislature. However, when acting within the scope
38 of these duties and when an offense occurs in the presence of the

1 wildlife agent who is not an ex officio wildlife agent, the wildlife
2 agent may enforce all criminal laws of the state. The wildlife agent
3 must have successfully completed the basic law enforcement academy
4 course sponsored by the criminal justice training commission, or a
5 supplemental course in criminal law enforcement as approved by the
6 department and the criminal justice training commission and provided by
7 the department or the criminal justice training commission, prior to
8 enforcing the criminal laws of the state.

9 (2) Wildlife agents are peace officers.

10 (3) Any liability or claim of liability which arises out of the
11 exercise or alleged exercise of authority by a wildlife agent rests
12 with the department unless the wildlife agent acts under the direction
13 and control of another agency or unless the liability is otherwise
14 assumed under a written agreement between the department (~~of~~
15 ~~wildlife~~) and another agency.

16 (4) Wildlife agents may serve and execute warrants and processes
17 issued by the courts.

18 **Sec. 67.** RCW 77.12.103 and 1989 c 314 s 3 are each amended to read
19 as follows:

20 (1) The burden of proof of any exemption or exception to seizure or
21 forfeiture of personal property involved with wildlife offenses is upon
22 the person claiming it.

23 (2) An authorized state, county, or municipal officer may be
24 subject to civil liability under RCW 77.12.101 for willful misconduct
25 or gross negligence in the performance of his or her duties.

26 (3) The director (~~of wildlife~~), the fish and wildlife commission,
27 or the department (~~of wildlife~~) may be subject to civil liability for
28 their willful or reckless misconduct in matters involving the seizure
29 and forfeiture of personal property involved with wildlife offenses.

30 **Sec. 68.** RCW 77.12.440 and 1987 c 506 s 47 are each amended to
31 read as follows:

32 The state assents to the act of congress entitled: "An Act to
33 provide that the United States shall aid the states in fish restoration
34 and management projects, and for other purposes," (64 Stat. 430; 16
35 U.S.C. Sec. 777). The department (~~of wildlife and the department of~~
36 ~~fisheries~~) shall establish, conduct, and maintain fish restoration and

1 management projects, as defined in the act, and shall comply with the
2 act and related rules adopted by the secretary of the interior.

3 **Sec. 69.** RCW 77.12.710 and 1990 c 110 s 2 are each amended to read
4 as follows:

5 The legislature hereby directs the department (~~(of wildlife)~~) to
6 determine the feasibility and cost of doubling the state-wide game fish
7 production by the year 2000. The department shall seek to equalize the
8 effort and investment expended on anadromous and resident game fish
9 programs. The department (~~(of wildlife)~~) shall provide the legislature
10 with a specific plan for legislative approval that will outline the
11 feasibility of increasing game fish production by one hundred percent
12 over current levels by the year 2000. The plan shall contain specific
13 provisions to increase both hatchery and naturally spawning game fish
14 to a level that will support the production goal established in this
15 section consistent with (~~(wildlife commission)~~) department policies.
16 Steelhead trout, searun cutthroat trout, resident trout, and warmwater
17 fish producing areas of the state shall be included in the plan. The
18 department (~~(of wildlife)~~) shall provide the plan to the house of
19 representatives and senate ways and means, environment and natural
20 resources, environmental affairs, fisheries and wildlife, and natural
21 resources committees by December 31, 1990.

22 The plan shall include the following critical elements:

23 (1) Methods of determining current catch and production, and catch
24 and production in the year 2000;

25 (2) Methods of involving fishing groups, including Indian tribes,
26 in a cooperative manner;

27 (3) Methods for using low capital cost projects to produce game
28 fish as inexpensively as possible;

29 (4) Methods for renovating and modernizing all existing hatcheries
30 and rearing ponds to maximize production capability;

31 (5) Methods for increasing the productivity of natural spawning
32 game fish;

33 (6) Application of new technology to increase hatchery and natural
34 productivity;

35 (7) Analysis of the potential for private contractors to produce
36 game fish for public fisheries;

37 (8) Methods to optimize public volunteer efforts and cooperative
38 projects for maximum efficiency;

- 1 (9) Methods for development of trophy game fish fisheries;
2 (10) Elements of coordination with the Pacific Northwest Power
3 Council programs to ensure maximum Columbia river benefits;
4 (11) The role that should be played by private consulting companies
5 in developing and implementing the plan;
6 (12) Coordination with federal fish and wildlife agencies, Indian
7 tribes, and department (~~(of fisheries)~~) fish production programs;
8 (13) Future needs for game fish predator control measures;
9 (14) Development of disease control measures;
10 (15) Methods for obtaining access to waters currently not available
11 to anglers; and
12 (16) Development of research programs to support game fish
13 management and enhancement programs.

14 The department (~~(of wildlife)~~), in cooperation with the department
15 of revenue, shall assess various funding mechanisms and make
16 recommendations to the legislature in the plan. The department (~~(of~~
17 ~~wildlife)~~), in cooperation with the department of trade and economic
18 development, shall prepare an analysis of the economic benefits to the
19 state that will occur when the game fish production is increased by one
20 hundred percent in the year 2000.

21 **Sec. 70.** RCW 77.12.730 and 1990 c 195 s 3 are each amended to read
22 as follows:

23 (1) A ten-member firearms range advisory committee is hereby
24 created to provide advice and counsel to the interagency committee for
25 outdoor recreation. The members shall be appointed by the director of
26 the interagency committee for outdoor recreation from the following
27 groups:

- 28 (a) Law enforcement;
29 (b) Washington military department;
30 (c) Black powder shooting sports;
31 (d) Rifle shooting sports;
32 (e) Pistol shooting sports;
33 (f) Shotgun shooting sports;
34 (g) Archery shooting sports;
35 (h) Hunter education;
36 (i) Hunters; and
37 (j) General public.

1 (2) The firearms range advisory committee members shall serve two-
2 year terms with five new members being selected each year beginning
3 with the third year of the committee's existence. The firearms range
4 advisory committee members shall not receive compensation from the
5 firearms range account. However, travel and per diem costs shall be
6 paid consistent with regulations for state employees.

7 (3) The interagency committee for outdoor recreation shall provide
8 administrative, operational, and logistical support for the firearms
9 range advisory committee. Expenses directly incurred for supporting
10 this program may be charged by the interagency committee for outdoor
11 recreation against the firearms range account. Expenses shall not
12 exceed ten percent of the yearly income for the range account.

13 (4) The interagency committee for outdoor recreation shall in
14 cooperation with the firearms range advisory committee:

- 15 (a) Develop an application process;
- 16 (b) Develop an audit and accountability program;
- 17 (c) Screen, prioritize, and approve grant applications; and
- 18 (d) Monitor compliance by grant recipients.

19 (5) The department of natural resources, the department of fish and
20 wildlife, and the Washington military department are encouraged to
21 provide land, facilitate land exchanges, and support the development of
22 shooting range facilities.

23 **Sec. 71.** RCW 77.12.750 and 1992 c 63 s 13 are each amended to read
24 as follows:

25 (1) The department (~~(of wildlife)~~) shall have the following powers
26 and duties in carrying out its responsibilities for the senior
27 environmental corps created under RCW 43.63A.247:

- 28 Appoint a representative to the coordinating council;
- 29 Develop project proposals;
- 30 Administer project activities within the agency;
- 31 Develop appropriate procedures for the use of volunteers;
- 32 Provide project orientation, technical training, safety training,
33 equipment, and supplies to carry out project activities;
- 34 Maintain project records and provide project reports;
- 35 Apply for and accept grants or contributions for corps approved
36 projects; and

1 With the approval of the council, enter into memoranda of
2 understanding and cooperative agreements with federal, state, and local
3 agencies to carry out corps approved projects.

4 (2) The department shall not use corps volunteers to displace
5 currently employed workers.

6 **Sec. 72.** RCW 77.16.060 and 1987 c 506 s 61 are each amended to
7 read as follows:

8 It is unlawful to lay, set, or use a net or other device capable of
9 taking game fish in the waters of this state except as authorized by
10 the commission or director (~~(of fisheries)~~). Game fish taken
11 incidental to a lawful season established by the director (~~(of~~
12 ~~fisheries)~~) shall be returned immediately to the water.

13 A landing net may be used to land fish otherwise legally hooked.

14 **Sec. 73.** RCW 77.16.135 and 1991 c 211 s 1 are each amended to read
15 as follows:

16 (1) The director shall revoke all licenses and privileges extended
17 under Title 77 RCW of a person convicted of assault on a state wildlife
18 agent or other law enforcement officer provided that:

19 (a) The wildlife agent or other law enforcement officer was on duty
20 at the time of the assault; and

21 (b) The wildlife agent or other law enforcement officer was
22 enforcing the provisions of Title 77 RCW.

23 (2) For the purposes of this section, the definition of assault
24 includes:

25 (a) RCW 9A.32.030; murder in the first degree;

26 (b) RCW 9A.32.050; murder in the second degree;

27 (c) RCW 9A.32.060; manslaughter in the first degree;

28 (d) RCW 9A.32.070; manslaughter in the second degree;

29 (e) RCW 9A.36.011; assault in the first degree;

30 (f) RCW 9A.36.021; assault in the second degree; and

31 (g) RCW 9A.36.031; assault in the third degree.

32 (3) For the purposes of this section, a conviction includes:

33 (a) A determination of guilt by the court;

34 (b) The entering of a guilty plea to the charge or charges by the
35 accused;

36 (c) A forfeiture of bail or a vacation of bail posted to the court;

37 or

1 (d) The imposition of a deferred or suspended sentence by the
2 court.

3 (4) No license described under Title 77 RCW shall be reissued to a
4 person violating this section for a minimum of ten years, at ~~((that~~
5 ~~{which}))~~ which time a person may petition the director ~~((of wildlife))~~
6 for a reinstatement of his or her license or licenses. The ten-year
7 period shall be tolled during any time the convicted person is
8 incarcerated in any state or local correctional or penal institution,
9 in community supervision, or home detention for an offense under this
10 section. Upon review by the director, and if all provisions of the
11 court that imposed sentencing have been completed, the director may
12 reinstate in whole or in part the licenses and privileges under Title
13 77 RCW.

14 **Sec. 74.** RCW 77.16.170 and 1988 c 36 s 51 are each amended to read
15 as follows:

16 It is unlawful to take a wild animal from another person's trap
17 without permission, or to spring, pull up, damage, possess, or destroy
18 the trap; however, it is not unlawful for a property owner, lessee, or
19 tenant to remove a trap placed on the owner's, lessee's, or tenant's
20 property by a trapper.

21 Trappers shall attach to the chain of their traps or devices a
22 legible metal tag with either the department ~~((of wildlife))~~
23 identification number of the trapper or the name and address of the
24 trapper in English letters not less than one-eighth inch in height.

25 When an individual presents a trapper identification number to the
26 department ~~((of wildlife))~~ and requests identification of the trapper,
27 the department ~~((of wildlife))~~ shall provide the individual with the
28 name and address of the trapper. Prior to disclosure of the trapper's
29 name and address, the department ~~((of wildlife))~~ shall obtain the name
30 and address of the requesting individual in writing and after
31 disclosing the trapper's name and address to the requesting individual,
32 the requesting individual's name and address shall be disclosed in
33 writing to the trapper whose name and address was disclosed.

34 **Sec. 75.** RCW 77.18.010 and 1991 c 253 s 2 are each amended to read
35 as follows:

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

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

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

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

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

15 **Sec. 76.** RCW 77.32.380 and 1991 sp.s. c 7 s 12 are each amended to
16 read as follows:

17 Persons sixteen years of age or older who use clearly identified
18 department lands and access facilities are required to possess a
19 conservation license or a hunting, fishing, trapping, or free license
20 on their person while using the facilities. The fee for this license
21 is ten dollars annually.

22 The spouse, all children under eighteen years of age, and guests
23 under eighteen years of age of the holder of a valid conservation
24 license may use department lands and access facilities when accompanied
25 by the license holder.

26 Youth groups may use department lands and game access facilities
27 without possessing a conservation license when accompanied by a license
28 holder.

29 The conservation license is nontransferable and must be validated
30 by the signature of the holder. Upon request of a wildlife agent or ex
31 officio wildlife agent a person using clearly identified department
32 (~~of wildlife~~) lands shall exhibit the required license.

33 NEW SECTION. **Sec. 77.** A new section is added to chapter 77.12 RCW
34 to read as follows:

35 Steelhead trout shall be managed solely as a recreational fishery
36 for non-Indian fishermen under the rule-setting authority of the fish
37 and wildlife commission.

1 Commercial non-Indian steelhead fisheries are not authorized.

2 NEW SECTION. **Sec. 78.** To aid and advise the department in the
3 performance of its functions with regard to food fish and shellfish, a
4 food fish and shellfish advisory council is created. The advisory
5 council consists of six members appointed by the governor; four
6 legislative ex officio nonvoting members, one appointed by each caucus
7 in both the state senate and the house of representatives; and the
8 director or his or her specifically appointed designee, who shall be
9 the nonvoting chair. Of the members appointed by the governor, two
10 shall represent non-Indian commercial fishers, two shall represent
11 sports fishers, and two shall represent treaty Indian fishers. Of the
12 treaty Indian fishers, one shall be selected from a list provided by
13 the Washington state tribal coordinating body and one shall be selected
14 from a list provided by the Columbia river tribal coordinating body
15 defined in 16 U.S.C. Sec. 3302 (5) and (18).

16 All members appointed by the governor shall serve terms of two
17 years. Vacancies shall be filled in the same manner as original
18 appointments.

19 Members shall receive reimbursement through the department for
20 travel expenses incurred in the performance of their duties in
21 accordance with RCW 43.03.050 and 43.03.060.

22 NEW SECTION. **Sec. 79.** On July 1, 1994, the state treasurer shall
23 follow the recommendations of the director of financial management on
24 the disbursement of funds from the state wildlife fund to the
25 department of fish and wildlife solely for the purposes of funding
26 programs for wildlife and game fish. Funds from the state wildlife
27 fund shall be used only for the department of fish and wildlife after
28 June 30, 1994.

29 NEW SECTION. **Sec. 80.** The following acts or parts of acts are
30 each repealed:

31 (1) RCW 43.131.375 and 1991 c 253 s 5; and

32 (2) RCW 43.131.376 and 1991 c 253 s 6.

33 NEW SECTION. **Sec. 81.** Sections 1 through 6 and 78 of this act
34 shall constitute a new chapter in Title 43 RCW.

