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**SUBSTITUTE SENATE BILL 5940**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** Senate Committee on Natural Resources (originally sponsored by Senators Owen, Haugen, Spanel, Snyder, Oke, McAuliffe, Sutherland and Franklin; by request of Governor Lowry)

Read first time 03/03/93.

1 AN ACT Relating to the creation of the department of fish and  
2 wildlife; amending RCW 41.06.070, 43.17.010, 43.17.020, 42.17.2401,  
3 43.51.955, 75.08.014, 75.08.035, 75.08.055, 75.08.400, 75.10.010,  
4 75.10.200, 75.12.040, 75.20.005, 75.20.050, 75.20.100, 75.20.1001,  
5 75.20.103, 75.20.104, 75.20.1041, 75.20.106, 75.20.110, 75.20.130,  
6 75.20.300, 75.20.310, 75.24.065, 75.25.005, 75.25.080, 75.25.170,  
7 75.25.180, 75.50.010, 75.50.070, 75.50.080, 75.50.130, 75.52.010,  
8 75.52.020, 75.52.035, 75.52.100, 75.52.110, 75.52.160, 75.58.010,  
9 75.58.020, 75.58.030, 75.58.040, 77.04.020, 77.04.030, 77.04.040,  
10 77.04.055, 77.04.080, 77.04.100, 77.08.010, 77.12.055, 77.12.103,  
11 77.12.440, 77.12.710, 77.12.730, 77.12.750, 77.16.060, 77.16.135,  
12 77.16.170, 77.18.010, and 77.32.380; reenacting and amending RCW  
13 75.08.011; adding a new section to chapter 77.12 RCW; adding a new  
14 chapter to Title 43 RCW; creating new sections; repealing RCW  
15 77.04.080; and providing an effective date.

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

17 NEW SECTION. **Sec. 1.** Perpetuation of fish and wildlife in  
18 Washington requires clear, efficient, streamlined, scientific,  
19 management from a single state fish and wildlife agency. Such a

1 consolidation will focus existing funds for the greatest protection of  
2 species and stocks. It will bring combined resources to bear on  
3 securing, managing, and enhancing habitats. It will simplify  
4 licensing, amplify research, increase field staff, avoid duplication,  
5 and magnify enforcement of laws and rules. It will provide all  
6 fishers, hunters, and observers of fish and wildlife with a single  
7 source of consistent policies, procedures, and access.

8 NEW SECTION. **Sec. 2.** There is hereby created a department of  
9 state government to be known as the department of fish and wildlife.  
10 The department shall be vested with all powers and duties transferred  
11 to it under this chapter and such other powers and duties as may be  
12 authorized by law. All powers, duties, and functions of the department  
13 of fisheries and the department of wildlife are transferred to the  
14 department of fish and wildlife. All references in the Revised Code of  
15 Washington to the director or the department of fisheries or the  
16 director or department of wildlife shall be construed to mean the  
17 director or department of fish and wildlife.

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

- 20 (1) "Department" means the department of fish and wildlife.  
21 (2) "Director" means the director of fish and wildlife.  
22 (3) "Commission" means the fish and wildlife commission.

23 NEW SECTION. **Sec. 4.** The executive head and appointing authority  
24 of the department shall be the director. The director shall be  
25 appointed by the governor, with the consent of the senate, and shall  
26 serve at the pleasure of the governor. The director shall be paid a  
27 salary to be fixed by the governor in accordance with RCW 43.03.040.

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

- 31 (1) Supervise and administer the department in accordance with law;  
32 (2) Appoint personnel and prescribe their duties. Except as  
33 otherwise provided, personnel of the department are subject to chapter  
34 41.06 RCW, the state civil service law;  
35 (3) Enter into contracts on behalf of the agency;

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

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

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

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

11 (8) Perform other duties as are necessary and consistent with law.

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

16 NEW SECTION. **Sec. 7.** The director of fisheries, the director of  
17 wildlife, the food fish and shellfish advisory council, and the fish  
18 and wildlife commission, shall, by November 15, 1993, jointly submit a  
19 plan to the governor for the consolidation and smooth transition of the  
20 department of fisheries and the department of wildlife into the  
21 department of fish and wildlife so that the department of fish and  
22 wildlife will operate as a single entity on July 1, 1994.

23 NEW SECTION. **Sec. 8.** The department of fisheries and the  
24 department of wildlife are abolished and their powers, duties, and  
25 functions are transferred to the department of fish and wildlife.

26 NEW SECTION. **Sec. 9.** All reports, documents, surveys, books,  
27 records, files, papers, or written material connected with the powers,  
28 duties, and functions transferred in this act shall be delivered to the  
29 custody of the department of fish and wildlife. All cabinets,  
30 furniture, office equipment, motor vehicles, and other tangible  
31 property employed in connection with the powers, duties, and functions  
32 transferred shall be made available to the department of fish and  
33 wildlife. All funds, credits, or other assets held in connection with  
34 the powers, duties, and functions transferred shall be assigned to the  
35 department of fish and wildlife.

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

4 Whenever any question arises as to the transfer of any personnel,  
5 funds, books, documents, records, papers, files, equipment, or other  
6 tangible property used or held in the exercise of the powers and the  
7 performance of the duties and functions transferred, or as to the  
8 powers, duties, and functions transferred, the director of financial  
9 management shall make a determination as to the proper allocation and  
10 certify the same to the state agencies concerned.

11 NEW SECTION. **Sec. 10.** All classified employees employed in  
12 connection with the powers, duties, and functions transferred are  
13 transferred to the jurisdiction of the department of fish and wildlife.  
14 All employees classified under chapter 41.06 RCW, the state civil  
15 service law, are assigned to the department of fish and wildlife to  
16 perform their usual duties upon the same terms as formerly, without any  
17 loss of rights, subject to any action that may be appropriate  
18 thereafter in accordance with the laws and rules governing state civil  
19 service.

20 NEW SECTION. **Sec. 11.** All rules and all pending business before  
21 any agency of state government pertaining to the powers, duties, and  
22 functions transferred shall be continued and acted upon by the  
23 department of fish and wildlife. All existing contracts, obligations,  
24 and agreements shall remain in full force and shall be performed by the  
25 department of fish and wildlife.

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

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

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

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

8        The provisions of this chapter do not apply to:

9        (1) The members of the legislature or to any employee of, or  
10 position in, the legislative branch of the state government including  
11 members, officers, and employees of the legislative council,  
12 legislative budget committee, statute law committee, and any interim  
13 committee of the legislature;

14        (2) The justices of the supreme court, judges of the court of  
15 appeals, judges of the superior courts or of the inferior courts, or to  
16 any employee of, or position in the judicial branch of state  
17 government;

18        (3) Officers, academic personnel, and employees of state  
19 institutions of higher education, the state board for community and  
20 technical colleges (~~(education)~~), and the higher education personnel  
21 board;

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

23        (5) Elective officers of the state;

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

25        (7) In the departments of employment security, (~~(fisheries)~~)  
26 social and health services, the director and (~~(his)~~) the director's  
27 confidential secretary; in all other departments, the executive head of  
28 which is an individual appointed by the governor, the director, (~~(his)~~)  
29 the director's confidential secretary, and (~~(his)~~) the director's  
30 statutory assistant directors;

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

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

35        (b) If the members of the board, commission, or committee serve on  
36 a part-time basis and there is a statutory executive officer: (i) The  
37 secretary of the board, commission, or committee; (ii) the chief  
38 executive officer of the board, commission, or committee; and (iii) the

1 confidential secretary of the chief executive officer of the board,  
2 commission, or committee;

3 (c) If the members of the board, commission, or committee serve on  
4 a full-time basis: (i) The chief executive officer or administrative  
5 officer as designated by the board, commission, or committee; and (ii)  
6 a confidential secretary to the chairman of the board, commission, or  
7 committee;

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

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

13 (10) Assistant attorneys general;

14 (11) Commissioned and enlisted personnel in the military service of  
15 the state;

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

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

21 (14) Officers and employees of the Washington state fruit  
22 commission;

23 (15) Officers and employees of the Washington state apple  
24 advertising commission;

25 (16) Officers and employees of the Washington state dairy products  
26 commission;

27 (17) Officers and employees of the Washington tree fruit research  
28 commission;

29 (18) Officers and employees of the Washington state beef  
30 commission;

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

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

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

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

1 (23) Liquor vendors appointed by the Washington state liquor  
2 control board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules  
3 and regulations adopted by the state personnel board pursuant to RCW  
4 41.06.150 regarding the basis for, and procedures to be followed for,  
5 the dismissal, suspension, or demotion of an employee, and appeals  
6 therefrom shall be fully applicable to liquor vendors except those part  
7 time agency vendors employed by the liquor control board when, in  
8 addition to the sale of liquor for the state, they sell goods, wares,  
9 merchandise, or services as a self-sustaining private retail business;

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

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

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

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

25 (28) In addition to the exemptions specifically provided by this  
26 chapter, the state personnel board may provide for further exemptions  
27 pursuant to the following procedures. The governor or other  
28 appropriate elected official may submit requests for exemption to the  
29 personnel board stating the reasons for requesting such exemptions.  
30 The personnel board shall hold a public hearing, after proper notice,  
31 on requests submitted pursuant to this subsection. If the board  
32 determines that the position for which exemption is requested is one  
33 involving substantial responsibility for the formulation of basic  
34 agency or executive policy or one involving directing and controlling  
35 program operations of an agency or a major administrative division  
36 thereof, the personnel board shall grant the request and such  
37 determination shall be final. The total number of additional  
38 exemptions permitted under this subsection shall not exceed one hundred  
39 eighty-seven for those agencies not directly under the authority of any

1 elected public official other than the governor, and shall not exceed  
2 a total of twenty-five for all agencies under the authority of elected  
3 public officials other than the governor. The state personnel board  
4 shall report to each regular session of the legislature during an odd-  
5 numbered year all exemptions granted under subsections (24), (25), and  
6 (28) of this section, together with the reasons for such exemptions.

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

14 Any person holding a classified position subject to the provisions  
15 of this chapter shall, when and if such position is subsequently  
16 exempted from the application of this chapter, be afforded the  
17 following rights: If such person previously held permanent status in  
18 another classified position, such person shall have a right of  
19 reversion to the highest class of position previously held, or to a  
20 position of similar nature and salary.

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

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

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

30 There shall be departments of the state government which shall be  
31 known as (1) the department of social and health services, (2) the  
32 department of ecology, (3) the department of labor and industries, (4)  
33 the department of agriculture, (5) (~~the department of fisheries, (6)~~)  
34 the department of fish and wildlife, (~~(7)~~) (6) the department of  
35 transportation, (~~(8)~~) (7) the department of licensing, (~~(9)~~) (8)  
36 the department of general administration, (~~(10)~~) (9) the department  
37 of trade and economic development, (~~(11)~~) (10) the department of  
38 veterans affairs, (~~(12)~~) (11) the department of revenue, (~~(13)~~)



1 (12) the department of retirement systems, (~~(+14)~~) (13) the department  
2 of corrections, (~~(+15)~~) (14) the department of community development,  
3 and (~~(+16)~~) (15) the department of health, which shall be charged with  
4 the execution, enforcement, and administration of such laws, and  
5 invested with such powers and required to perform such duties, as the  
6 legislature may provide.

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

9 There shall be a chief executive officer of each department to be  
10 known as: (1) The secretary of social and health services, (2) the  
11 director of ecology, (3) the director of labor and industries, (4) the  
12 director of agriculture, (5) ~~((the director of fisheries, (6)))~~ the  
13 director of fish and wildlife, (~~(+7)~~) (6) the secretary of  
14 transportation, (~~(+8)~~) (7) the director of licensing, (~~(+9)~~) (8) the  
15 director of general administration, (~~(+10)~~) (9) the director of trade  
16 and economic development, (~~(+11)~~) (10) the director of veterans  
17 affairs, (~~(+12)~~) (11) the director of revenue, (~~(+13)~~) (12) the  
18 director of retirement systems, (~~(+14)~~) (13) the secretary of  
19 corrections, (~~(+15)~~) (14) the director of community development, and  
20 (~~(+16)~~) (15) the secretary of health.

21 Such officers, except the secretary of transportation, shall be  
22 appointed by the governor, with the consent of the senate, and hold  
23 office at the pleasure of the governor. ~~((The director of wildlife,  
24 however, shall be appointed according to the provisions of RCW  
25 77.04.080. If a vacancy occurs while the senate is not in session, the  
26 governor shall make a temporary appointment until the next meeting of  
27 the senate. A temporary director of wildlife shall not serve more than  
28 one year.))~~ The secretary of transportation shall be appointed by the  
29 transportation commission as prescribed by RCW 47.01.041.

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

32 For the purposes of RCW 42.17.240, the term "executive state  
33 officer" includes:

34 (1) The chief administrative law judge, the director of  
35 agriculture, the administrator of the office of marine safety, the  
36 administrator of the Washington basic health plan, the director of the  
37 department of services for the blind, the director of the state system

1 of community and technical colleges, the director of community  
2 development, the secretary of corrections, the director of ecology, the  
3 commissioner of employment security, the chairman of the energy  
4 facility site evaluation council, the director of the energy office,  
5 the secretary of the state finance committee, the director of financial  
6 management, the director of (~~(fisheries)~~) fish and wildlife, the  
7 executive secretary of the forest practices appeals board, the director  
8 of the gambling commission, the director of general administration, the  
9 secretary of health, the administrator of the Washington state health  
10 care authority, the executive secretary of the health care facilities  
11 authority, the executive secretary of the higher education facilities  
12 authority, the director of the higher education personnel board, the  
13 executive secretary of the horse racing commission, the executive  
14 secretary of the human rights commission, the executive secretary of  
15 the indeterminate sentence review board, the director of the department  
16 of information services, the director of the interagency committee for  
17 outdoor recreation, the executive director of the state investment  
18 board, the director of labor and industries, the director of licensing,  
19 the director of the lottery commission, the director of the office of  
20 minority and women's business enterprises, the director of parks and  
21 recreation, the director of personnel, the executive director of the  
22 public disclosure commission, the director of retirement systems, the  
23 director of revenue, the secretary of social and health services, the  
24 chief of the Washington state patrol, the executive secretary of the  
25 board of tax appeals, the director of trade and economic development,  
26 the secretary of transportation, the secretary of the utilities and  
27 transportation commission, the director of veterans affairs, (~~(the~~  
28 ~~director of wildlife,~~) the president of each of the regional and state  
29 universities and the president of The Evergreen State College, each  
30 district and each campus president of each state community college;

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

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

33 (4) Central Washington University board of trustees, board of  
34 trustees of each community college, each member of the state board for  
35 community and technical colleges (~~(education)~~), state convention and  
36 trade center board of directors, committee for deferred compensation,  
37 Eastern Washington University board of trustees, Washington economic  
38 development finance authority, The Evergreen State College board of  
39 trustees, forest practices appeals board, forest practices board,

1 gambling commission, Washington health care facilities authority,  
2 higher education coordinating board, higher education facilities  
3 authority, higher education personnel board, horse racing commission,  
4 state housing finance commission, human rights commission,  
5 indeterminate sentence review board, board of industrial insurance  
6 appeals, information services board, interagency committee for outdoor  
7 recreation, state investment board, liquor control board, lottery  
8 commission, marine oversight board, oil and gas conservation committee,  
9 Pacific Northwest electric power and conservation planning council,  
10 parks and recreation commission, personnel appeals board, personnel  
11 board, board of pilotage (~~(commissioners)~~) commissioners, pollution  
12 control hearings board, public disclosure commission, public pension  
13 commission, shorelines hearing board, state employees' benefits board,  
14 board of tax appeals, transportation commission, University of  
15 Washington board of regents, utilities and transportation commission,  
16 Washington state maritime commission, Washington public power supply  
17 system executive board, Washington State University board of regents,  
18 Western Washington University board of trustees, and fish and wildlife  
19 commission.

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

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

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

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

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

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

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

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

8 (5) "Ex officio fisheries patrol officer" means a commissioned  
9 officer of a municipal, county, state, or federal agency having as its  
10 primary function the enforcement of criminal laws in general, while the  
11 officer is in the appropriate jurisdiction. The term "ex officio  
12 fisheries patrol officer" also includes wildlife agents, special agents  
13 of the national marine fisheries service, United States fish and  
14 wildlife special agents, state parks commissioned officers, department  
15 of natural resources enforcement officers, and United States forest  
16 service officers, while the agents and officers are within their  
17 respective jurisdictions.

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

20 (7) "State waters" means all marine waters and fresh waters within  
21 ordinary high water lines and within the territorial boundaries of the  
22 state.

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

26 (9) "Concurrent waters of the Columbia river" means those waters of  
27 the Columbia river that coincide with the Washington-Oregon state  
28 boundary.

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

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

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

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

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

7	Scientific Name	Common Name
8	<i>Oncorhynchus tshawytscha</i>	Chinook salmon
9	<i>Oncorhynchus kisutch</i>	Coho salmon
10	<i>Oncorhynchus keta</i>	Chum salmon
11	<i>Oncorhynchus gorbuscha</i>	Pink salmon
12	<i>Oncorhynchus nerka</i>	Sockeye salmon

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

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

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

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

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

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

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

36 (b) Which will include, subject to the limitation in (a) of this  
37 subsection, all species harvested for commercial purposes as of June 7,

1 1990, and the future commercial harvest of all other species in the  
2 waters of the state of Washington.

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

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

8 The director (~~(of fisheries)~~) shall supervise the administration  
9 and operation of the department (~~(of fisheries)~~) and perform the duties  
10 prescribed by law. The director may appoint and employ necessary  
11 personnel. The director may delegate, in writing, to department  
12 personnel the duties and powers necessary for efficient operation and  
13 administration of the department.

14 Only persons having general knowledge of the fisheries and wildlife  
15 resources and of the commercial and recreational fishing industry in  
16 this state are eligible for appointment as director. The director  
17 shall not have a financial interest in the fishing industry or a  
18 directly related industry.

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

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

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

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

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

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

3       (1) The director, and the director of wildlife with the concurrence  
4 of the fish and wildlife commission, may enter into agreements with and  
5 receive funds from the United States for the construction, maintenance,  
6 and operation of fish cultural stations, laboratories, and devices in  
7 the Columbia River basin for improvement of feeding and spawning  
8 conditions for fish, for the protection of migratory fish from  
9 irrigation projects and for facilitating free migration of fish over  
10 obstructions.

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

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

17       The legislature finds that:

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

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

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

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

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

28       (1) Fisheries patrol officers and ex officio fisheries patrol  
29 officers within their respective jurisdictions, shall enforce this  
30 title, rules of the director, and other statutes as prescribed by the  
31 legislature.

32       (2) When acting within the scope of subsection (1) of this section  
33 and when an offense occurs in the presence of the fisheries patrol  
34 officer who is not an ex officio fisheries patrol officer, the  
35 fisheries patrol officer may enforce all criminal laws of the state.  
36 The fisheries patrol officer must have successfully completed the basic  
37 law enforcement academy course sponsored by the criminal justice

1 training commission, or a supplemental course in criminal law  
2 enforcement as approved by the department and the criminal justice  
3 training commission and provided by the department or the criminal  
4 justice training commission, prior to enforcing the criminal laws of  
5 the state.

6 (3) Any liability or claim of liability which arises out of the  
7 exercise or alleged exercise of authority by a fisheries patrol officer  
8 rests with the department (~~(of fisheries)~~) unless the fisheries patrol  
9 officer acts under the direction and control of another agency or  
10 unless the liability is otherwise assumed under a written agreement  
11 between the department (~~(of fisheries)~~) and another agency.

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

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

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

18 (1) The following violations are gross misdemeanors and are  
19 punishable under RCW 9.92.020:

20 (a) Violating RCW 75.20.100; and

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

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

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

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

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



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

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

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

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

14 The department of (~~(fisheries, the department of)~~) fish and  
15 wildlife, the department of ecology, and the department of natural  
16 resources shall jointly develop an informational brochure that  
17 describes when permits and any other authorizations are required for  
18 flood damage prevention and reduction projects, and recommends ways to  
19 best proceed through the various regulatory permitting processes.

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

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

25 The director of ecology shall give the director (~~(of fisheries and~~  
26 ~~the director of wildlife)~~) notice of each application for a permit to  
27 divert or store water. The director (~~(of fisheries and director of~~  
28 ~~wildlife have)~~) has thirty days after receiving the notice to state  
29 (~~(their)~~) his or her objections to the application. The permit shall  
30 not be issued until the thirty-day period has elapsed.

31 The director of ecology may refuse to issue a permit if, in the  
32 opinion of the director (~~(of fisheries or director of wildlife)~~),  
33 issuing the permit might result in lowering the flow of water in a  
34 stream below the flow necessary to adequately support food fish and  
35 game fish populations in the stream.

36 The provisions of this section shall in no way affect existing  
37 water rights.

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

3       In the event that any person or government agency desires to  
4 construct any form of hydraulic project or perform other work that will  
5 use, divert, obstruct, or change the natural flow or bed of any of the  
6 salt or fresh waters of the state, such person or government agency  
7 shall, before commencing construction or work thereon and to ensure the  
8 proper protection of fish life, secure the written approval of the  
9 department (~~(of fisheries or the department of wildlife)~~) as to the  
10 adequacy of the means proposed for the protection of fish life. This  
11 approval shall not be unreasonably withheld. Except as provided in RCW  
12 75.20.1001 and 75.20.1002, the department (~~(of fisheries or the~~  
13 ~~department of wildlife)~~) shall grant or deny approval within forty-five  
14 calendar days of the receipt of a complete application and notice of  
15 compliance with any applicable requirements of the state environmental  
16 policy act, made in the manner prescribed in this section. The  
17 applicant may document receipt of application by filing in person or by  
18 registered mail. A complete application for approval shall contain  
19 general plans for the overall project, complete plans and  
20 specifications of the proposed construction or work within the mean  
21 higher high water line in salt water or within the ordinary high water  
22 line in fresh water, and complete plans and specifications for the  
23 proper protection of fish life. The forty-five day requirement shall  
24 be suspended if (1) after ten working days of receipt of the  
25 application, the applicant remains unavailable or unable to arrange for  
26 a timely field evaluation of the proposed project; (2) the site is  
27 physically inaccessible for inspection; or (3) the applicant requests  
28 delay. Immediately upon determination that the forty-five day period  
29 is suspended, the department (~~(of fisheries or the department of~~  
30 ~~wildlife)~~) shall notify the applicant in writing of the reasons for the  
31 delay. Approval is valid for a period of up to five years from date of  
32 issuance. The permittee must demonstrate substantial progress on  
33 construction of that portion of the project relating to the approval  
34 within two years of the date of issuance. If (~~(either)~~) the department  
35 (~~(of fisheries or the department of wildlife)~~) denies approval,  
36 (~~(that)~~) the department shall provide the applicant, in writing, a  
37 statement of the specific reasons why and how the proposed project  
38 would adversely affect fish life. Protection of fish life shall be the  
39 only ground upon which approval may be denied or conditioned. Chapter

1 34.05 RCW applies to any denial of project approval, conditional  
2 approval, or requirements for project modification upon which approval  
3 may be contingent. If any person or government agency commences  
4 construction on any hydraulic works or projects subject to this section  
5 without first having obtained written approval of the department (~~of~~  
6 ~~fisheries or the department of wildlife~~) as to the adequacy of the  
7 means proposed for the protection of fish life, or if any person or  
8 government agency fails to follow or carry out any of the requirements  
9 or conditions as are made a part of such approval, the person or  
10 director of the agency is guilty of a gross misdemeanor. If any such  
11 person or government agency is convicted of violating any of the  
12 provisions of this section and continues construction on any such works  
13 or projects without fully complying with the provisions hereof, such  
14 works or projects are hereby declared a public nuisance and shall be  
15 subject to abatement as such.

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

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

27 (~~For each application, the department of fisheries and the~~  
28 ~~department of wildlife shall mutually agree on whether the department~~  
29 ~~of fisheries or the department of wildlife shall administer the~~  
30 ~~provisions of this section, in order to avoid duplication of effort.~~  
31 ~~The department designated to act shall cooperate with the other~~  
32 ~~department in order to protect all species of fish life found at the~~  
33 ~~project site. If the department of fisheries or the department of~~  
34 ~~wildlife receives an application concerning a site not in its~~  
35 ~~jurisdiction, it shall transmit the application to the other department~~  
36 ~~within three days and notify the applicant.))~~

37 In case of an emergency arising from weather or stream flow  
38 conditions or other natural conditions, the department (~~of fisheries~~  
39 ~~or department of wildlife~~), through ((~~their~~)) its authorized

1 representatives, shall issue immediately upon request oral approval for  
2 removing any obstructions, repairing existing structures, restoring  
3 stream banks, or to protect property threatened by the stream or a  
4 change in the stream flow without the necessity of obtaining a written  
5 approval prior to commencing work. Conditions of an oral approval  
6 shall be reduced to writing within thirty days and complied with as  
7 provided for in this section. Oral approval shall be granted  
8 immediately upon request, for a stream crossing during an emergency  
9 situation.

10 This section shall not apply to the construction of any form of  
11 hydraulic project or other work which diverts water for agricultural  
12 irrigation or stock watering purposes authorized under or recognized as  
13 being valid by the state's water codes, or when such hydraulic project  
14 or other work is associated with streambank stabilization to protect  
15 farm and agricultural land as defined in RCW 84.34.020. These  
16 irrigation or stock watering diversion and streambank stabilization  
17 projects shall be governed by RCW 75.20.103.

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

20 The department (~~of fisheries and the department of wildlife~~)  
21 shall process hydraulic project applications submitted under RCW  
22 75.20.100 or 75.20.103 within thirty days of receipt of the  
23 application. This requirement is only applicable for the repair and  
24 reconstruction of legally constructed dikes, seawalls, and other flood  
25 control structures damaged as a result of flooding or windstorms that  
26 occurred in November and December 1990.

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

29 In the event that any person or government agency desires to  
30 construct any form of hydraulic project or other work that diverts  
31 water for agricultural irrigation or stock watering purposes, or when  
32 such hydraulic project or other work is associated with streambank  
33 stabilization to protect farm and agricultural land as defined in RCW  
34 84.34.020, and when such diversion or streambank stabilization will  
35 use, divert, obstruct, or change the natural flow or bed of any river  
36 or stream or will utilize any waters of the state or materials from the  
37 stream beds, the person or government agency shall, before commencing

1 construction or work thereon and to ensure the proper protection of  
2 fish life, secure a written approval from the department (~~(of fisheries~~  
3 ~~or the department of wildlife)~~) as to the adequacy of the means  
4 proposed for the protection of fish life. This approval shall not be  
5 unreasonably withheld. Except as provided in RCW 75.20.1001 and  
6 75.20.1002, the department (~~(of fisheries or the department of~~  
7 ~~wildlife)~~) shall grant or deny the approval within forty-five calendar  
8 days of the receipt of a complete application and notice of compliance  
9 with any applicable requirements of the state environmental policy act,  
10 made in the manner prescribed in this section. The applicant may  
11 document receipt of application by filing in person or by registered  
12 mail. A complete application for an approval shall contain general  
13 plans for the overall project, complete plans and specifications of the  
14 proposed construction or work within ordinary high water line, and  
15 complete plans and specifications for the proper protection of fish  
16 life. The forty-five day requirement shall be suspended if (1) after  
17 ten working days of receipt of the application, the applicant remains  
18 unavailable or unable to arrange for a timely field evaluation of the  
19 proposed project; (2) the site is physically inaccessible for  
20 inspection; or (3) the applicant requests delay.

21 Immediately upon determination that the forty-five day period is  
22 suspended, the department (~~(of fisheries or the department of~~  
23 ~~wildlife)~~) shall notify the applicant in writing of the reasons for the  
24 delay.

25 An approval shall remain in effect without need for periodic  
26 renewal for projects that divert water for agricultural irrigation or  
27 stock watering purposes and that involve seasonal construction or other  
28 work. Approval for streambank stabilization projects shall remain in  
29 effect without need for periodic renewal if the problem causing the  
30 need for the streambank stabilization occurs on an annual or more  
31 frequent basis. The permittee must notify the appropriate agency  
32 before commencing the construction or other work within the area  
33 covered by the approval.

34 The permittee must demonstrate substantial progress on construction  
35 of that portion of the project relating to the approval within two  
36 years of the date of issuance. If (~~(either)~~) the department (~~(of~~  
37 ~~fisheries or the department of wildlife)~~) denies approval, (~~(that)~~) the  
38 department shall provide the applicant, in writing, a statement of the  
39 specific reasons why and how the proposed project would adversely

1 affect fish life. Protection of fish life shall be the only ground  
2 upon which approval may be denied or conditioned. Issuance, denial,  
3 conditioning, or modification shall be appealable to the hydraulic  
4 appeals board established in RCW 43.21B.005 within thirty days of the  
5 notice of decision. The burden shall be upon the department (~~of~~  
6 ~~fisheries or the department of wildlife~~) to show that the denial or  
7 conditioning of an approval is solely aimed at the protection of fish  
8 life.

9 The department (~~granting approval~~) may, after consultation with  
10 the permittee, modify an approval due to changed conditions. The  
11 modifications shall become effective unless appealed to the hydraulic  
12 appeals board within thirty days from the notice of the proposed  
13 modification. The burden is on the department (~~issuing the approval~~)  
14 to show that changed conditions warrant the modification in order to  
15 protect fish life.

16 A permittee may request modification of an approval due to changed  
17 conditions. The request shall be processed within forty-five calendar  
18 days of receipt of the written request. A decision by the department  
19 (~~that issued the approval~~) may be appealed to the hydraulic appeals  
20 board within thirty days of the notice of the decision. The burden is  
21 on the permittee to show that changed conditions warrant the requested  
22 modification and that such modification will not impair fish life.

23 If any person or government agency commences construction on any  
24 hydraulic works or projects subject to this section without first  
25 having obtained written approval of the department (~~of fisheries or~~  
26 ~~the department of wildlife~~) as to the adequacy of the means proposed  
27 for the protection of fish life, or if any person or government agency  
28 fails to follow or carry out any of the requirements or conditions as  
29 are made a part of such approval, the person or director of the agency  
30 is guilty of a gross misdemeanor. If any such person or government  
31 agency is convicted of violating any of the provisions of this section  
32 and continues construction on any such works or projects without fully  
33 complying with the provisions hereof, such works or projects are hereby  
34 declared a public nuisance and shall be subject to abatement as such.

35 (~~For each application, the department of fisheries and the~~  
36 ~~department of wildlife shall mutually agree on whether the department~~  
37 ~~of fisheries or the department of wildlife shall administer the~~  
38 ~~provisions of this section, in order to avoid duplication of effort.~~  
39 ~~The department designated to act shall cooperate with the other~~

1 department in order to protect all species of fish life found at the  
2 project site. If the department of fisheries or the department of  
3 wildlife receives an application concerning a site not in its  
4 jurisdiction, it shall transmit the application to the other department  
5 within three days and notify the applicant.))

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

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

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

22 Whenever the placement of woody debris is required as a condition  
23 of a hydraulic permit approval issued pursuant to RCW 75.20.100 or  
24 75.20.103, the department ((of fisheries and the department of  
25 wildlife)), upon request, shall invite comment regarding that placement  
26 from the local governmental authority, affected tribes, affected  
27 federal and state agencies, and the project applicant.

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

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

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

3       The department (~~((of fisheries and the department of wildlife))~~) may  
4 (~~(each)~~) levy civil penalties of up to one hundred dollars per day for  
5 violation of any provisions of RCW 75.20.100 or 75.20.103. The penalty  
6 provided shall be imposed by notice in writing, either by certified  
7 mail or personal service to the person incurring the penalty, from the  
8 director (~~((of the appropriate department))~~) or (~~(that)~~) the director's  
9 designee describing the violation. Any person incurring any penalty  
10 under this chapter may appeal the same under chapter 34.05 RCW to the  
11 director (~~((of the department levying the penalty))~~). Appeals shall be  
12 filed within thirty days of receipt of notice imposing any penalty.  
13 The penalty imposed shall become due and payable thirty days after  
14 receipt of a notice imposing the penalty unless an appeal is filed.  
15 Whenever an appeal of any penalty incurred under this chapter is filed,  
16 the penalty shall become due and payable only upon completion of all  
17 review proceedings and the issuance of a final order confirming the  
18 penalty in whole or in part.

19       If the amount of any penalty is not paid within thirty days after  
20 it becomes due and payable the attorney general, upon the request of  
21 the director (~~((of the department of fisheries or the department of  
22 wildlife))~~) shall bring an action in the name of the state of Washington  
23 in the superior court of Thurston county or of any county in which such  
24 violator may do business, to recover such penalty. In all such actions  
25 the procedure and rules of evidence shall be the same as an ordinary  
26 civil action. All penalties recovered under this section shall be paid  
27 into the state's general fund.

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

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

36       (2) Within the sanctuary area:

37       (a) It is unlawful to construct a dam greater than twenty-five feet  
38 high within the migration range of anadromous fish as (~~((jointly))~~)



1 determined by the director (~~(of fisheries and the director of~~  
2 ~~wildlife)~~).

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

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

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

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

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

20 (2) The hydraulic appeals board shall consist of three members:  
21 The director of the department of ecology or the director's designee,  
22 the director of the department of agriculture or the director's  
23 designee, and the director or the director's designee of the department  
24 whose action is appealed under subsection (6) of this section. A  
25 decision must be agreed to by at least two members of the board to be  
26 final.

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

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

34 (5) The board has exclusive jurisdiction to hear appeals arising  
35 from the approval, denial, conditioning, or modification of a hydraulic  
36 approval issued by (~~(either)~~) the department (~~(of fisheries or the~~  
37 ~~department of wildlife)~~) under the authority granted in RCW 75.20.103  
38 for the diversion of water for agricultural irrigation or stock

1 watering purposes or when associated with streambank stabilization to  
2 protect farm and agricultural land as defined in RCW 84.34.020.

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

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

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

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

17 (2) The director (~~of fisheries and director of wildlife~~) shall  
18 process hydraulic project applications submitted under RCW 75.20.100  
19 within fifteen working days of receipt of the application. This  
20 requirement is only applicable to flood control and dredging projects  
21 located in the Cowlitz river from mile 22 to the confluence with the  
22 Columbia, and in the Toutle river from the mouth to the North Fork  
23 Toutle sediment dam site at North Fork mile 12, and to river mile 3 on  
24 the South Fork Toutle river, and volcano-affected areas of the Columbia  
25 river.

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

30 (a) Flood fight measures necessary to provide protection during a  
31 flood event; or

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

35 (c) Measures which must be initiated and completed within an  
36 immediate period of time and for which processing of the request  
37 through normal methods would cause a delay to the project and such

1 delay would significantly increase the potential for damages from a  
2 flood event.

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

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

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

9 The legislature recognizes the need to mitigate the effects of  
10 sedimentary build-up and resultant damage to fish population in the  
11 Toutle river resulting from the Mt. St. Helens eruption. The state has  
12 entered into a contractual agreement with the United States army corps  
13 of engineers designed to minimize fish habitat disruption created by  
14 the sediment retention structure on the Toutle river, under which the  
15 corps has agreed to construct a fish collection facility at the  
16 sediment retention structure site conditional upon the state assuming  
17 the maintenance and operation costs of the facility. The department  
18 (~~((of wildlife and the department of fisheries))~~) shall (~~((cooperatively))~~)  
19 operate and maintain a fish collection facility on the Toutle river.  
20 (~~((Each agency shall share in the cost of operating and maintaining the~~  
21 ~~facility.))~~)

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

24 The legislature finds that current environmental and economic  
25 conditions warrant a renewal of the state's historical practice of  
26 actively cultivating and managing its oyster reserves in Puget Sound to  
27 produce the state's native oyster, the Olympia oyster. The department  
28 (~~((of fisheries))~~) shall reestablish dike cultivated production of  
29 Olympia oysters on such reserves on a trial basis as a tool for  
30 planning more comprehensive cultivation by the state.

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

33 The following recreational fishing licenses are administered and  
34 issued by the department (~~((of fisheries))~~) under authority of the  
35 director (~~((of fisheries))~~):

36 (1) Hood Canal shrimp license;

- 1 (2) Razor clam license;
- 2 (3) Personal use fishing license;
- 3 (4) Salmon license; and
- 4 (5) Sturgeon license.

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

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

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

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

15 Fees received for recreational licenses required under this chapter  
16 shall be deposited in the general fund and shall be appropriated for  
17 management, enhancement, research, and enforcement purposes of the  
18 shellfish, salmon, and marine fish programs of the department (~~of~~  
19 ~~fisheries~~)).

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

22 Recreational licenses issued by the department (~~of fisheries~~)  
23 under this chapter are valid for the following periods:

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

26 (a) For life for blind persons;

27 (b) For the period of continued state residency for qualified  
28 disabled veterans;

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

31 (d) For the period of the disability for persons with a  
32 developmental disability;

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

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

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

5 (3) An annual salmon license is valid for a maximum catch of  
6 fifteen salmon, after which another salmon license may be purchased.  
7 A salmon license is valid only for the calendar year for which it is  
8 issued.

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

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

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

16 Currently, many of the salmon stocks of Washington state are  
17 critically reduced from their sustainable level. The best interests of  
18 all fishing groups and the citizens as a whole are served by a stable  
19 and productive salmon resource. Immediate action is needed to reverse  
20 the severe decline of the resource and to insure its very survival.  
21 The legislature finds a state of emergency exists and that immediate  
22 action is required to restore its fishery.

23 Disagreement and strife have dominated the salmon fisheries for  
24 many years. Conflicts among the various fishing interests have only  
25 served to erode the resource. It is time for the state of Washington  
26 to make a major commitment to increasing productivity of the resource  
27 and to move forward with an effective rehabilitation and enhancement  
28 program. The department (~~(of fisheries)~~) is directed to dedicate its  
29 efforts to make increasing the productivity of the salmon resource a  
30 first priority and to seek resolution to the many conflicts that  
31 involve the resource.

32 Success of the enhancement program can only occur if projects  
33 efficiently produce salmon or restore habitat. The expectation of the  
34 program is to optimize the efficient use of funding on projects that  
35 will increase artificially and naturally produced salmon, restore and  
36 improve habitat, or identify ways to increase the survival of salmon.  
37 The full utilization of state resources and cooperative efforts with  
38 interested groups are essential to the success of the program.

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

3       The legislature finds that it is in the best interest of the salmon  
4 resource of the state to encourage the development of regional  
5 fisheries enhancement groups. The accomplishments of one existing  
6 group, the Grays Harbor fisheries enhancement task force, have been  
7 widely recognized as being exemplary. The legislature recognizes the  
8 potential benefits to the state that would occur if each region of the  
9 state had a similar group of dedicated citizens working to enhance the  
10 salmon resource.

11       The legislature authorizes the formation of regional fisheries  
12 enhancement groups. These groups shall be eligible for state financial  
13 support and shall be actively supported by the department (~~of~~  
14 ~~fisheries~~). The regional groups shall be operated on a strictly  
15 nonprofit basis, and shall seek to maximize the efforts of volunteer  
16 and private donations to improve the salmon resource for all citizens  
17 of the state.

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

20       Regional fisheries enhancement groups, consistent with the long-  
21 term regional policy statements developed under RCW 75.50.020, shall  
22 seek to:

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

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

26       (3) Assist the department in achieving the goal to double the  
27 state-wide salmon catch by the year 2000 under chapter 214, Laws of  
28 1988; and

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

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

33       The director (~~of~~ ~~fisheries~~) shall prepare a salmon recovery plan  
34 for the Skagit river. The plan shall include strategies for employing  
35 displaced timber workers to conduct salmon restoration and other tasks  
36 identified in the plan. The plan shall incorporate the best available  
37 technology in order to achieve maximum restoration of depressed salmon

1 stocks. The plan must encourage the restoration of natural spawning  
2 areas and natural rearing of salmon but must not preclude the  
3 development of an active hatchery program.

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

6 The fish and ~~((game))~~ wildlife resources of the state benefit by  
7 the contribution of volunteer recreational and commercial fishing  
8 organizations, schools, and other volunteer groups in cooperative  
9 projects under agreement with the department ~~((of fisheries or the  
10 department of wildlife))~~. These projects provide educational  
11 opportunities, improve the communication between the natural resources  
12 agencies and the public, and increase the fish and game resources of  
13 the state. In an effort to increase these benefits and realize the  
14 full potential of cooperative projects, the department ~~((of fisheries  
15 and the department of wildlife each))~~ shall administer a cooperative  
16 fish and wildlife enhancement program and enter agreements with  
17 volunteer groups relating to the operation of cooperative projects.

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

20 Unless the context clearly requires otherwise, the definitions in  
21 this section apply throughout this chapter.

22 (1) "Volunteer group" means any person or group of persons  
23 interested in or party to an agreement with the department ~~((of  
24 fisheries or the department of wildlife))~~ relating to a cooperative  
25 fish or ~~((game))~~ wildlife project.

26 (2) "Cooperative project" means a project conducted by a volunteer  
27 group that will benefit the fish, shellfish, game bird, nongame  
28 wildlife, or game animal resources of the state and for which the  
29 benefits of the project, including fish and ~~((game))~~ wildlife reared  
30 and released, are available to all citizens of the state. Indian  
31 tribes may elect to participate in cooperative fish and wildlife  
32 projects with the department.

33 (3) "Department" means ~~((either))~~ the department of ~~((fisheries or  
34 the department of))~~ fish and wildlife ~~((, whichever is responsible for  
35 managing the species of fish or game most affected by the cooperative  
36 project))~~.

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

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

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

11       A salmon spawning channel shall be constructed on the Cedar river  
12 with the assistance and cooperation of the (~~((state))~~) department (~~((of~~  
13 ~~fisheries))~~). The department shall use existing personnel and the  
14 volunteer fisheries enhancement program outlined under chapter 75.52  
15 RCW to assist in the planning, construction, and operation of the  
16 spawning channel.

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

19       The department (~~((of fisheries))~~) shall chair a technical committee,  
20 which shall review the preparation of enhancement plans and  
21 construction designs for a Cedar river sockeye spawning channel. The  
22 technical committee shall consist of not more than eight members: One  
23 representative each from the department (~~((of fisheries))~~), national  
24 marine fisheries service, United States fish and wildlife service, and  
25 Muckleshoot Indian tribe; and four representatives from the public  
26 utility described in RCW 75.52.130. The technical committee will be  
27 guided by a policy committee, also to be chaired by the department (~~((of~~  
28 ~~fisheries))~~), which shall consist of not more than six members: One  
29 representative from the department (~~((of fisheries))~~), one from the  
30 Muckleshoot Indian tribe, and one from either the national marine  
31 fisheries service or the United States fish and wildlife service; and  
32 three representatives from the public utility described in RCW  
33 75.52.130. The policy committee shall present a progress report to the  
34 senate and house of representatives natural resources and environment  
35 committees by January 1, 1990, and shall oversee the operation and  
36 evaluation of the spawning channel. The policy committee will continue



1 its oversight until the policy committee concludes that the channel is  
2 meeting the production goals specified in RCW 75.52.120.

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

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

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

11 (1) The director of agriculture and the director (~~(of fisheries)~~)  
12 shall jointly develop a program of disease inspection and control for  
13 aquatic farmers as defined in RCW 15.85.020. The program shall be  
14 administered by the department (~~(of fisheries)~~) under rules established  
15 under this section. The purpose of the program is to protect the  
16 aquaculture industry and wildstock fisheries from a loss of  
17 productivity due to aquatic diseases or maladies. As used in this  
18 section "diseases" means, in addition to its ordinary meaning,  
19 infestations of parasites or pests. The disease program may include,  
20 but is not limited to, the following elements:

- 21 (a) Disease diagnosis;
- 22 (b) Import and transfer requirements;
- 23 (c) Provision for certification of stocks;
- 24 (d) Classification of diseases by severity;
- 25 (e) Provision for treatment of selected high-risk diseases;
- 26 (f) Provision for containment and eradication of high-risk  
27 diseases;
- 28 (g) Provision for destruction of diseased cultured aquatic  
29 products;
- 30 (h) Provision for quarantine of diseased cultured aquatic products;
- 31 (i) Provision for coordination with state and federal agencies;
- 32 (j) Provision for development of preventative or control measures;
- 33 (k) Provision for cooperative consultation service to aquatic  
34 farmers; and

35 (1) Provision for disease history records.

36 (2) The director (~~(of fisheries)~~) shall adopt rules implementing  
37 this section. However, such rules shall have the prior approval of the

1 director of agriculture and shall provide therein that the director of  
2 agriculture has provided such approval. The director of agriculture or  
3 the director's designee shall attend the rule-making hearings conducted  
4 under chapter 34.05 RCW and shall assist in conducting those hearings.  
5 The authorities granted the department (~~(of fisheries)~~) by these rules  
6 and by RCW 75.08.080(1)(g), 75.24.080, 75.24.110, 75.28.125, 75.58.020,  
7 75.58.030, and 75.58.040 constitute the only authorities of the  
8 department (~~(of fisheries)~~) to regulate private sector cultured aquatic  
9 products and aquatic farmers as defined in RCW 15.85.020. Except as  
10 provided in subsection (3) of this section, no action may be taken  
11 against any person to enforce these rules unless the department has  
12 first provided the person an opportunity for a hearing. In such a  
13 case, if the hearing is requested, no enforcement action may be taken  
14 before the conclusion of that hearing.

15 (3) The rules adopted under this section shall specify the  
16 emergency enforcement actions that may be taken by the department (~~(of~~  
17 ~~fisheries)~~), and the circumstances under which they may be taken,  
18 without first providing the affected party with an opportunity for a  
19 hearing. Neither the provisions of this subsection nor the provisions  
20 of subsection (2) of this section shall preclude the department (~~(of~~  
21 ~~fisheries)~~) from requesting the initiation of criminal proceedings for  
22 violations of the disease inspection and control rules.

23 (4) It is unlawful for any person to violate the rules adopted  
24 under subsection (2) or (3) of this section or to violate RCW  
25 75.58.040.

26 (5) In administering the program established under this section,  
27 the department (~~(of fisheries)~~) shall use the services of a pathologist  
28 licensed to practice veterinary medicine.

29 (6) The director in administering the program shall not place  
30 constraints on or take enforcement actions in respect to the  
31 aquaculture industry that are more rigorous than those placed on the  
32 department (~~(of fisheries, the department of wildlife,)~~) or other fish-  
33 rearing entities.

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

36 The directors of agriculture and (~~(fisheries)~~) fish and wildlife  
37 shall jointly adopt by rule, in the manner prescribed in RCW  
38 75.58.010(2), a schedule of user fees for the disease inspection and

1 control program established under RCW 75.58.010. The fees shall be  
2 established such that the program shall be entirely funded by revenues  
3 derived from the user fees by the beginning of the 1987-89 biennium.

4 There is established in the state treasury an account known as the  
5 aquaculture disease control account which is subject to appropriation.  
6 Proceeds of fees charged under this section shall be deposited in the  
7 account. Moneys from the account shall be used solely for  
8 administering the disease inspection and control program established  
9 under RCW 75.58.010.

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

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

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

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

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

30 All aquatic farmers as defined in RCW 15.85.020 shall register with  
31 the department (~~(of fisheries)~~). The director shall develop and  
32 maintain a registration list of all aquaculture farms. Registered  
33 aquaculture farms shall provide the department production statistical  
34 data. The state veterinarian (~~(and the department of wildlife)~~) shall  
35 be provided with registration and statistical data by the department.

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

3       The department (~~(of wildlife)~~) consists of the state fish and  
4 wildlife commission and the director (~~(of wildlife)~~). The director is  
5 responsible for the administration and operation of the department,  
6 subject to the provisions of this title. The commission may delegate  
7 to the director additional duties and powers necessary and appropriate  
8 to carry out this title. The director shall perform the duties  
9 prescribed by law and shall carry out the basic goals and objectives  
10 prescribed pursuant to RCW 77.04.055.

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

13       The state fish and wildlife commission consists of six registered  
14 voters of the state. In January of each odd-numbered year, the  
15 governor shall appoint with the advice and consent of the senate two  
16 registered voters to the commission to serve for terms of six years  
17 from that January or until their successors are appointed and  
18 qualified. If a vacancy occurs on the commission prior to the  
19 expiration of a term, the governor shall appoint a registered voter  
20 within sixty days to complete the term. Three members shall be  
21 residents of that portion of the state lying east of the summit of the  
22 Cascade mountains, and three shall be residents of that portion of the  
23 state lying west of the summit of the Cascade mountains. No two  
24 members may be residents of the same county. The legal office of the  
25 commission is at the administrative office of the department in  
26 Olympia.

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

29       Persons eligible for appointment as members of the commission shall  
30 have general knowledge of the habits and distribution of game fish and  
31 wildlife and shall not hold another state, county, or municipal  
32 elective or appointive office. In making these appointments, the  
33 governor shall seek to maintain a balance reflecting all aspects of  
34 game fish and wildlife.

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

1 (1) In addition to any other duties and responsibilities, the  
2 commission shall establish, and periodically review with the governor  
3 and the legislature, the department's basic goals and objectives to  
4 preserve, protect, and perpetuate game fish and wildlife, and game fish  
5 and wildlife habitat. The commission shall maximize hunting and  
6 fishing recreational opportunities.

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

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

12 Persons eligible for appointment by the governor as director shall  
13 have practical knowledge of the habits and distribution of fish and  
14 wildlife. The governor shall seek recommendations from the commission  
15 on the qualifications, skills, and experience necessary to discharge  
16 the duties of the position. When considering and selecting the  
17 director, the governor shall consult with and be advised by the  
18 commission. The director shall receive the salary fixed by the  
19 governor under RCW 43.03.040.

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

22 The director may appoint and employ necessary departmental  
23 personnel. The director may delegate to department personnel the  
24 duties and powers necessary for efficient operation and administration  
25 of the department. The department shall provide staff for the  
26 commission.

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

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

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

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

- 1 (1) "Director" means the director of fish and wildlife.
- 2 (2) "Department" means the department of fish and wildlife.
- 3 (3) "Commission" means the state fish and wildlife commission.
- 4 (4) "Person" means and includes an individual, a corporation, or a  
5 group of two or more individuals acting with a common purpose whether  
6 acting in an individual, representative, or official capacity.
- 7 (5) "Wildlife agent" means a person appointed and commissioned by  
8 the director, with authority to enforce laws and rules adopted pursuant  
9 to this title, and other statutes as prescribed by the legislature.
- 10 (6) "Ex officio wildlife agent" means a commissioned officer of a  
11 municipal, county, state, or federal agency having as its primary  
12 function the enforcement of criminal laws in general, while the officer  
13 is in the appropriate jurisdiction. The term "ex officio wildlife  
14 agent" includes fisheries patrol officers, special agents of the  
15 national marine fisheries (~~commission~~) service, state parks  
16 commissioned officers, United States fish and wildlife special agents,  
17 department of natural resources enforcement officers, and United States  
18 forest service officers, while the agents and officers are within their  
19 respective jurisdictions.
- 20 (7) "To hunt" and its derivatives means an effort to kill, injure,  
21 capture, or harass a wild animal or wild bird.
- 22 (8) "To trap" and its derivatives means a method of hunting using  
23 devices to capture wild animals or wild birds.
- 24 (9) "To fish" and its derivatives means an effort to kill, injure,  
25 harass, or catch a game fish.
- 26 (10) "Open season" means those times, manners of taking, and places  
27 or waters established by rule of the commission for the lawful hunting,  
28 fishing, or possession of game animals, game birds, or game fish.  
29 "Open season" includes the first and last days of the established time.
- 30 (11) "Closed season" means all times, manners of taking, and places  
31 or waters other than those established as an open season.
- 32 (12) "Closed area" means a place where the hunting of some species  
33 of wild animals or wild birds is prohibited.
- 34 (13) "Closed waters" means all or part of a lake, river, stream, or  
35 other body of water, where fishing for game fish is prohibited.
- 36 (14) "Game reserve" means a closed area where hunting for all wild  
37 animals and wild birds is prohibited.
- 38 (15) "Bag limit" means the maximum number of game animals, game  
39 birds, or game fish which may be taken, caught, killed, or possessed by

1 a person, as specified by rule of the commission for a particular  
2 period of time, or as to size, sex, or species.

3 (16) "Wildlife" means all species of the animal kingdom whose  
4 members exist in Washington in a wild state. This includes but is not  
5 limited to mammals, birds, reptiles, amphibians, fish, and  
6 invertebrates. The term "wildlife" does not include feral domestic  
7 mammals, the family Muridae of the order Rodentia (old world rats and  
8 mice), or those fish, shellfish, and marine invertebrates classified as as  
9 food fish or shellfish by the director (~~(of fisheries)~~). The term  
10 "wildlife" includes all stages of development and the bodily parts of  
11 wildlife members.

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

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

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

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

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

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

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

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

31 (25) "Deleterious exotic wildlife" means species of the animal  
32 kingdom not native to Washington and designated as dangerous to the  
33 environment or wildlife of the state.

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

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

1       **Sec. 66.** RCW 77.12.055 and 1988 c 36 s 50 are each amended to read  
2 as follows:

3       (1) Jurisdiction and authority granted under RCW 77.12.060,  
4 77.12.070, and 77.12.080 to the director, wildlife agents, and ex  
5 officio wildlife agents is limited to the laws and rules adopted  
6 pursuant to this title pertaining to wildlife or to the management,  
7 operation, maintenance, or use of or conduct on real property used,  
8 owned, leased, or controlled by the department and other statutes as  
9 prescribed by the legislature. However, when acting within the scope  
10 of these duties and when an offense occurs in the presence of the  
11 wildlife agent who is not an ex officio wildlife agent, the wildlife  
12 agent may enforce all criminal laws of the state. The wildlife agent  
13 must have successfully completed the basic law enforcement academy  
14 course sponsored by the criminal justice training commission, or a  
15 supplemental course in criminal law enforcement as approved by the  
16 department and the criminal justice training commission and provided by  
17 the department or the criminal justice training commission, prior to  
18 enforcing the criminal laws of the state.

19       (2) Wildlife agents are peace officers.

20       (3) Any liability or claim of liability which arises out of the  
21 exercise or alleged exercise of authority by a wildlife agent rests  
22 with the department unless the wildlife agent acts under the direction  
23 and control of another agency or unless the liability is otherwise  
24 assumed under a written agreement between the department ((of  
25 wildlife)) and another agency.

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

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

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

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

36       (3) The director ((of wildlife)), the fish and wildlife commission,  
37 or the department ((of wildlife)) may be subject to civil liability for



1 their willful or reckless misconduct in matters involving the seizure  
2 and forfeiture of personal property involved with wildlife offenses.

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

5 The state assents to the act of congress entitled: "An Act to  
6 provide that the United States shall aid the states in fish restoration  
7 and management projects, and for other purposes," (64 Stat. 430; 16  
8 U.S.C. Sec. 777). The department (~~(of wildlife and the department of~~  
9 ~~fisheries)~~) shall establish, conduct, and maintain fish restoration and  
10 management projects, as defined in the act, and shall comply with the  
11 act and related rules adopted by the secretary of the interior.

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

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

31 The plan shall include the following critical elements:

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

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

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

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

3 (5) Methods for increasing the productivity of natural spawning  
4 game fish;

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

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

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

11 (9) Methods for development of trophy game fish fisheries;

12 (10) Elements of coordination with the Pacific Northwest Power  
13 Council programs to ensure maximum Columbia river benefits;

14 (11) The role that should be played by private consulting companies  
15 in developing and implementing the plan;

16 (12) Coordination with federal fish and wildlife agencies, Indian  
17 tribes, and department (~~(of fisheries)~~) fish production programs;

18 (13) Future needs for game fish predator control measures;

19 (14) Development of disease control measures;

20 (15) Methods for obtaining access to waters currently not available  
21 to anglers; and

22 (16) Development of research programs to support game fish  
23 management and enhancement programs.

24 The department (~~(of wildlife)~~), in cooperation with the department  
25 of revenue, shall assess various funding mechanisms and make  
26 recommendations to the legislature in the plan. The department (~~(of~~  
27 ~~wildlife)~~), in cooperation with the department of trade and economic  
28 development, shall prepare an analysis of the economic benefits to the  
29 state that will occur when the game fish production is increased by one  
30 hundred percent in the year 2000.

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

33 (1) A ten-member firearms range advisory committee is hereby  
34 created to provide advice and counsel to the interagency committee for  
35 outdoor recreation. The members shall be appointed by the director of  
36 the interagency committee for outdoor recreation from the following  
37 groups:

38 (a) Law enforcement;

- 1 (b) Washington military department;
- 2 (c) Black powder shooting sports;
- 3 (d) Rifle shooting sports;
- 4 (e) Pistol shooting sports;
- 5 (f) Shotgun shooting sports;
- 6 (g) Archery shooting sports;
- 7 (h) Hunter education;
- 8 (i) Hunters; and
- 9 (j) General public.

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

16 (3) The interagency committee for outdoor recreation shall provide  
17 administrative, operational, and logistical support for the firearms  
18 range advisory committee. Expenses directly incurred for supporting  
19 this program may be charged by the interagency committee for outdoor  
20 recreation against the firearms range account. Expenses shall not  
21 exceed ten percent of the yearly income for the range account.

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

- 24 (a) Develop an application process;
- 25 (b) Develop an audit and accountability program;
- 26 (c) Screen, prioritize, and approve grant applications; and
- 27 (d) Monitor compliance by grant recipients.

28 (5) The department of natural resources, the department of fish and  
29 wildlife, and the Washington military department are encouraged to  
30 provide land, facilitate land exchanges, and support the development of  
31 shooting range facilities.

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

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

- 37 Appoint a representative to the coordinating council;
- 38 Develop project proposals;

1 Administer project activities within the agency;  
2 Develop appropriate procedures for the use of volunteers;  
3 Provide project orientation, technical training, safety training,  
4 equipment, and supplies to carry out project activities;  
5 Maintain project records and provide project reports;  
6 Apply for and accept grants or contributions for corps approved  
7 projects; and  
8 With the approval of the council, enter into memoranda of  
9 understanding and cooperative agreements with federal, state, and local  
10 agencies to carry out corps approved projects.

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

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

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

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

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

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

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

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

30 (2) For the purposes of this section, the definition of assault  
31 includes:

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

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

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

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

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

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

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

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

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

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

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

8 (d) The imposition of a deferred or suspended sentence by the  
9 court.

10 (4) No license described under Title 77 RCW shall be reissued to a  
11 person violating this section for a minimum of ten years, at ((that  
12 [which])) which time a person may petition the director ((of wildlife))  
13 for a reinstatement of his or her license or licenses. The ten-year  
14 period shall be tolled during any time the convicted person is  
15 incarcerated in any state or local correctional or penal institution,  
16 in community supervision, or home detention for an offense under this  
17 section. Upon review by the director, and if all provisions of the  
18 court that imposed sentencing have been completed, the director may  
19 reinstate in whole or in part the licenses and privileges under Title  
20 77 RCW.

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

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

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

32 When an individual presents a trapper identification number to the  
33 department ((of wildlife)) and requests identification of the trapper,  
34 the department ((of wildlife)) shall provide the individual with the  
35 name and address of the trapper. Prior to disclosure of the trapper's  
36 name and address, the department ((of wildlife)) shall obtain the name  
37 and address of the requesting individual in writing and after  
38 disclosing the trapper's name and address to the requesting individual,

1 the requesting individual's name and address shall be disclosed in  
2 writing to the trapper whose name and address was disclosed.

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

5 Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

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

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

12 (3) "Fish health requirements" means those site specific fish  
13 health and genetic requirements actually used by the department of fish  
14 and wildlife in fish stocking.

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

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

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

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

28 The spouse, all children under eighteen years of age, and guests  
29 under eighteen years of age of the holder of a valid conservation  
30 license may use department lands and access facilities when accompanied  
31 by the license holder.

32 Youth groups may use department lands and game access facilities  
33 without possessing a conservation license when accompanied by a license  
34 holder.

35 The conservation license is nontransferable and must be validated  
36 by the signature of the holder. Upon request of a wildlife agent or ex

1 officio wildlife agent a person using clearly identified department  
2 ((of wildlife)) lands shall exhibit the required license.

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

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

8 Commercial non-Indian steelhead fisheries are not authorized.

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

23 All members appointed by the governor shall serve terms of two  
24 years. Vacancies shall be filled in the same manner as original  
25 appointments.

26 Members shall receive reimbursement through the department for  
27 travel expenses incurred in the performance of their duties in  
28 accordance with RCW 43.03.050 and 43.03.060.

29 NEW SECTION. **Sec. 79.** RCW 77.04.080 and 1987 c 506 s 9, 1980 c 78  
30 s 8, & 1955 c 36 s 77.04.080 are each repealed.

31 NEW SECTION. **Sec. 80.** On July 1, 1994, the state treasurer shall  
32 follow the recommendations of the director of financial management on  
33 the disbursement of funds from the state wildlife fund to the  
34 department of fish and wildlife solely for the purposes of funding  
35 programs for wildlife and game fish. Funds from the state wildlife

1 fund shall be used only for the department of fish and wildlife after  
2 June 30, 1994.

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

5 NEW SECTION. **Sec. 82.** Sections 1 through 6, 8 through 77, 79, and  
6 80 of this act shall take effect July 1, 1994.

7 NEW SECTION. **Sec. 83.** If any provision of this act or its  
8 application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected.

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