
HOUSE BILL 2055

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Hansen, Fuhrman, King, Basich, R. Fisher, Sheldon, Ogden, Lemmon and Conway; by request of Governor Lowry

Read first time 02/24/93. Referred to Committee on State Government.

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, 77.04.100, 77.04.111, 77.08.010,
10 77.12.010, 77.12.020, 77.12.040, 77.12.055, 77.12.103, 77.12.325,
11 77.12.440, 77.12.530, 77.12.560, 77.12.570, 77.12.710, 77.12.730,
12 77.12.750, 77.16.060, 77.16.135, 77.16.150, 77.16.170, 77.18.010, and
13 77.32.380; reenacting and amending RCW 75.08.011; adding a new chapter
14 to Title 43 RCW; creating new sections; repealing RCW 77.04.020,
15 77.04.030, 77.04.040, 77.04.055, 77.04.060, 77.04.080, and 77.04.090;
16 and providing an effective date.

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

18 NEW SECTION. **Sec. 1.** Perpetuation of fish and wildlife in
19 Washington requires clear, efficient, streamlined, scientific,

1 management from a single state fish and wildlife agency. Consolidating
2 the existing departments of fisheries and of wildlife into that one
3 unified agency will save money. Such a consolidation will focus
4 existing funds for the greatest protection of species and stocks. It
5 will bring combined resources to bear on securing, managing, and
6 enhancing habitats. It will simplify licensing, amplify research,
7 increase field staff, and magnify enforcement of laws and rules. It
8 will provide all fishers, hunters, and observers of fish and wildlife
9 with a single source of consistent policies, procedures, and access.

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

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

- 22 (1) "Department" means the department of fish and wildlife; and
23 (2) "Director" means the director of fish and wildlife.

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

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

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

- 1 (3) Enter into contracts on behalf of the agency;
- 2 (4) Adopt rules in accordance with chapter 34.05 RCW, the
3 administrative procedure act;
- 4 (5) Delegate powers, duties, and functions as the director deems
5 necessary for efficient administration but the director shall be
6 responsible for the official acts of the officers and employees of the
7 department;
- 8 (6) Appoint advisory committees and undertake studies, research,
9 and analysis necessary to support the activities of the department;
- 10 (7) Accept and expend grants, gifts, or other funds to further the
11 purposes of the department; and
- 12 (8) Perform other duties as are necessary and consistent with law.

13 NEW SECTION. **Sec. 6.** It is the intent of the legislature wherever
14 possible to place the internal affairs of the department under the
15 control of the director in order that the director may institute
16 therein the flexible, alert, and intelligent management of its business
17 that changing contemporary circumstances require. Therefore, whenever
18 the director's authority is not specifically limited by law, the
19 director shall have complete charge and supervisory powers over the
20 department. The director may create such administrative structures as
21 the director considers appropriate, except as otherwise specified by
22 law.

23 NEW SECTION. **Sec. 7.** The director shall appoint such deputy
24 directors, assistant directors, and up to seven special assistants as
25 may be needed to administer the department. These employees are exempt
26 from the provisions of chapter 41.06 RCW.

27 NEW SECTION. **Sec. 8.** (1) A nine-member advisory commission is
28 established to advise the director on matters pertinent to the
29 department.

30 (2) The governor shall appoint members who are representative of
31 the general population of the state to four-year staggered terms.

32 (3) Members of the advisory commission shall be reimbursed for
33 travel expenses as provided in RCW 43.03.050 and 43.03.060.

34 NEW SECTION. **Sec. 9.** The director of fisheries and the director
35 of wildlife shall, by November 15, 1993, jointly submit a plan to the

1 governor for the consolidation and smooth transition of the department
2 of fisheries and the department of wildlife into the department of fish
3 and wildlife so that the department of fish and wildlife will operate
4 as a single entity on July 1, 1994.

5 NEW SECTION. **Sec. 10.** The department of fisheries and the
6 department of wildlife are abolished and their powers, duties, and
7 functions are transferred to the department of fish and wildlife.

8 NEW SECTION. **Sec. 11.** The wildlife commission shall continue in
9 existence until July 1, 1994, at which time it is abolished and its
10 powers, duties, and functions transferred to the department of fish and
11 wildlife. All references in the Revised Code of Washington to wildlife
12 commission shall be construed to mean the department of fish and
13 wildlife.

14 NEW SECTION. **Sec. 12.** All reports, documents, surveys, books,
15 records, files, papers, or written material connected with the powers,
16 duties, and functions transferred in this act shall be delivered to the
17 custody of the department of fish and wildlife. All cabinets,
18 furniture, office equipment, motor vehicles, and other tangible
19 property employed in connection with the powers, duties, and functions
20 transferred shall be made available to the department of fish and
21 wildlife. All funds, credits, or other assets held in connection with
22 the powers, duties, and functions transferred shall be assigned to the
23 department of fish and wildlife.

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

27 Whenever any question arises as to the transfer of any personnel,
28 funds, books, documents, records, papers, files, equipment, or other
29 tangible property used or held in the exercise of the powers and the
30 performance of the duties and functions transferred, or as to the
31 powers, duties, and functions transferred, the director of financial
32 management shall make a determination as to the proper allocation and
33 certify the same to the state agencies concerned.

34 NEW SECTION. **Sec. 13.** All classified employees employed in
35 connection with the powers, duties, and functions transferred are

1 transferred to the jurisdiction of the department of fish and wildlife.
2 All employees classified under chapter 41.06 RCW, the state civil
3 service law, are assigned to the department of fish and wildlife to
4 perform their usual duties upon the same terms as formerly, without any
5 loss of rights, subject to any action that may be appropriate
6 thereafter in accordance with the laws and rules governing state civil
7 service.

8 NEW SECTION. **Sec. 14.** All rules and all pending business before
9 any agency of state government pertaining to the powers, duties, and
10 functions transferred shall be continued and acted upon by the
11 department of fish and wildlife. All existing contracts, obligations,
12 and agreements shall remain in full force and shall be performed by the
13 department of fish and wildlife.

14 NEW SECTION. **Sec. 15.** The transfer of the powers, duties,
15 functions, and personnel shall not affect the validity of any act
16 performed by any employee before the effective date of this section.

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

24 NEW SECTION. **Sec. 17.** Nothing contained in sections 12 through 16
25 of this act may be construed to alter any existing collective
26 bargaining unit or the provisions of any existing collective bargaining
27 agreement until the agreement has expired or until the bargaining unit
28 has been modified by action of the personnel board as provided by law.

29 **Sec. 18.** RCW 41.06.070 and 1990 c 60 s 101 are each amended to
30 read as follows:

31 The provisions of this chapter do not apply to:

32 (1) The members of the legislature or to any employee of, or
33 position in, the legislative branch of the state government including
34 members, officers, and employees of the legislative council,

1 legislative budget committee, statute law committee, and any interim
2 committee of the legislature;

3 (2) The justices of the supreme court, judges of the court of
4 appeals, judges of the superior courts or of the inferior courts, or to
5 any employee of, or position in the judicial branch of state
6 government;

7 (3) Officers, academic personnel, and employees of state
8 institutions of higher education, the state board for community and
9 technical colleges (~~(education)~~), and the higher education personnel
10 board;

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

12 (5) Elective officers of the state;

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

14 (7) In the departments of employment security, (~~(fisheries)~~)
15 social and health services, the director and (~~(his)~~) the director's
16 confidential secretary; in all other departments, the executive head of
17 which is an individual appointed by the governor, the director, (~~(his)~~)
18 the director's confidential secretary, and (~~(his)~~) the director's
19 statutory assistant directors;

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

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

24 (b) If the members of the board, commission, or committee serve on
25 a part-time basis and there is a statutory executive officer: (i) The
26 secretary of the board, commission, or committee; (ii) the chief
27 executive officer of the board, commission, or committee; and (iii) the
28 confidential secretary of the chief executive officer of the board,
29 commission, or committee;

30 (c) If the members of the board, commission, or committee serve on
31 a full-time basis: (i) The chief executive officer or administrative
32 officer as designated by the board, commission, or committee; and (ii)
33 a confidential secretary to the chairman of the board, commission, or
34 committee;

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

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

1 (10) Assistant attorneys general;

2 (11) Commissioned and enlisted personnel in the military service of
3 the state;

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

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

9 (14) Officers and employees of the Washington state fruit
10 commission;

11 (15) Officers and employees of the Washington state apple
12 advertising commission;

13 (16) Officers and employees of the Washington state dairy products
14 commission;

15 (17) Officers and employees of the Washington tree fruit research
16 commission;

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

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

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

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

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

27 (23) Liquor vendors appointed by the Washington state liquor
28 control board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules
29 and regulations adopted by the state personnel board pursuant to RCW
30 41.06.150 regarding the basis for, and procedures to be followed for,
31 the dismissal, suspension, or demotion of an employee, and appeals
32 therefrom shall be fully applicable to liquor vendors except those part
33 time agency vendors employed by the liquor control board when, in
34 addition to the sale of liquor for the state, they sell goods, wares,
35 merchandise, or services as a self-sustaining private retail business;

36 (24) Executive assistants for personnel administration and labor
37 relations in all state agencies employing such executive assistants
38 including but not limited to all departments, offices, commissions,
39 committees, boards, or other bodies subject to the provisions of this

1 chapter and this subsection shall prevail over any provision of law
2 inconsistent herewith unless specific exception is made in such law;

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

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

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

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

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

1 Any person holding a classified position subject to the provisions
2 of this chapter shall, when and if such position is subsequently
3 exempted from the application of this chapter, be afforded the
4 following rights: If such person previously held permanent status in
5 another classified position, such person shall have a right of
6 reversion to the highest class of position previously held, or to a
7 position of similar nature and salary.

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

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

15 **Sec. 19.** RCW 43.17.010 and 1989 1st ex.s. c 9 s 810 are each
16 amended to read as follows:

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

32 **Sec. 20.** RCW 43.17.020 and 1989 1st ex.s. c 9 s 811 are each
33 amended to read as follows:

34 There shall be a chief executive officer of each department to be
35 known as: (1) The secretary of social and health services, (2) the
36 director of ecology, (3) the director of labor and industries, (4) the
37 director of agriculture, (5) (~~the director of fisheries, (6)~~) the

1 director of fish and wildlife, (~~(7)~~) (6) the secretary of
2 transportation, (~~(8)~~) (7) the director of licensing, (~~(9)~~) (8) the
3 director of general administration, (~~(10)~~) (9) the director of trade
4 and economic development, (~~(11)~~) (10) the director of veterans
5 affairs, (~~(12)~~) (11) the director of revenue, (~~(13)~~) (12) the
6 director of retirement systems, (~~(14)~~) (13) the secretary of
7 corrections, (~~(15)~~) (14) the director of community development, and
8 (~~(16)~~) (15) the secretary of health.

9 Such officers, except the secretary of transportation, shall be
10 appointed by the governor, with the consent of the senate, and hold
11 office at the pleasure of the governor. (~~The director of wildlife,~~
12 ~~however, shall be appointed according to the provisions of RCW~~
13 ~~77.04.080. If a vacancy occurs while the senate is not in session, the~~
14 ~~governor shall make a temporary appointment until the next meeting of~~
15 ~~the senate. A temporary director of wildlife shall not serve more than~~
16 ~~one year.)) The secretary of transportation shall be appointed by the
17 transportation commission as prescribed by RCW 47.01.041.~~

18 **Sec. 21.** RCW 42.17.2401 and 1991 c 200 s 404 are each amended to
19 read as follows:

20 For the purposes of RCW 42.17.240, the term "executive state
21 officer" includes:

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

1 secretary of the human rights commission, the executive secretary of
2 the indeterminate sentence review board, the director of the department
3 of information services, the director of the interagency committee for
4 outdoor recreation, the executive director of the state investment
5 board, the director of labor and industries, the director of licensing,
6 the director of the lottery commission, the director of the office of
7 minority and women's business enterprises, the director of parks and
8 recreation, the director of personnel, the executive director of the
9 public disclosure commission, the director of retirement systems, the
10 director of revenue, the secretary of social and health services, the
11 chief of the Washington state patrol, the executive secretary of the
12 board of tax appeals, the director of trade and economic development,
13 the secretary of transportation, the secretary of the utilities and
14 transportation commission, the director of veterans affairs, (~~the~~
15 ~~director of wildlife,~~) the president of each of the regional and state
16 universities and the president of The Evergreen State College, each
17 district and each campus president of each state community college;

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

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

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

1 board of tax appeals, transportation commission, University of
2 Washington board of regents, utilities and transportation commission,
3 Washington state maritime commission, Washington public power supply
4 system executive board, Washington State University board of regents,
5 and Western Washington University board of trustees(~~(, and wildlife~~
6 ~~commission)~~)).

7 **Sec. 22.** RCW 43.51.955 and 1987 c 506 s 93 are each amended to
8 read as follows:

9 Nothing in RCW 43.51.946 through 43.51.956 shall be construed to
10 interfere with the powers, duties, and authority of the state
11 department of fish and wildlife (~~(or the state wildlife commission)~~) to
12 regulate, manage, conserve, and provide for the harvest of wildlife
13 within such area: PROVIDED, HOWEVER, That no hunting shall be
14 permitted in any state park.

15 **Sec. 23.** RCW 75.08.011 and 1990 c 63 s 6 and 1990 c 35 s 3 are
16 each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30	Scientific Name	Common Name
31	<i>Oncorhynchus tshawytscha</i>	Chinook salmon
32	<i>Oncorhynchus kisutch</i>	Coho salmon
33	<i>Oncorhynchus keta</i>	Chum salmon
34	<i>Oncorhynchus gorbuscha</i>	Pink salmon
35	<i>Oncorhynchus nerka</i>	Sockeye salmon

36 (15) "Commercial" means related to or connected with buying,
37 selling, or bartering. Fishing for food fish or shellfish with gear
38 unlawful for fishing for personal use, or possessing food fish or

1 shellfish in excess of the limits permitted for personal use are
2 commercial activities.

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

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

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

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

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

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

21 (b) Which will include, subject to the limitation in (a) of this
22 subsection, all species harvested for commercial purposes as of June 7,
23 1990, and the future commercial harvest of all other species in the
24 waters of the state of Washington.

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

28 **Sec. 24.** RCW 75.08.014 and 1983 1st ex.s. c 46 s 6 are each
29 amended to read as follows:

30 The director (~~(of fisheries)~~) shall supervise the administration
31 and operation of the department (~~(of fisheries)~~) and perform the duties
32 prescribed by law. The director may appoint and employ necessary
33 personnel. The director may delegate, in writing, to department
34 personnel the duties and powers necessary for efficient operation and
35 administration of the department.

36 Only persons having general knowledge of the fisheries and wildlife
37 resources and of the commercial and recreational fishing industry in
38 this state are eligible for appointment as director. The director

1 shall not have a financial interest in the fishing industry or a
2 directly related industry.

3 **Sec. 25.** RCW 75.08.035 and 1992 c 63 s 11 are each amended to read
4 as follows:

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

8 Appoint a representative to the coordinating council;

9 Develop project proposals;

10 Administer project activities within the agency;

11 Develop appropriate procedures for the use of volunteers;

12 Provide project orientation, technical training, safety training,
13 equipment, and supplies to carry out project activities;

14 Maintain project records and provide project reports;

15 Apply for and accept grants or contributions for corps approved
16 projects; and

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

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

22 **Sec. 26.** RCW 75.08.055 and 1987 c 506 s 94 are each amended to
23 read as follows:

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

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

1 **Sec. 27.** RCW 75.08.400 and 1989 c 336 s 1 are each amended to read
2 as follows:

3 The legislature finds that:

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

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

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

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

12 **Sec. 28.** RCW 75.10.010 and 1985 c 155 s 1 are each amended to read
13 as follows:

14 (1) Fisheries patrol officers and ex officio fisheries patrol
15 officers within their respective jurisdictions, shall enforce this
16 title, rules of the director, and other statutes as prescribed by the
17 legislature.

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

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

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

1 **Sec. 29.** RCW 75.10.200 and 1990 c 144 s 3 are each amended to read
2 as follows:

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

5 (1) The following violations are gross misdemeanors and are
6 punishable under RCW 9.92.020:

7 (a) Violating RCW 75.20.100; and

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

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

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

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

23 **Sec. 30.** RCW 75.12.040 and 1985 c 147 s 1 are each amended to read
24 as follows:

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

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

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

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

1 The department of (~~fisheries, the department of~~) fish and
2 wildlife, the department of ecology, and the department of natural
3 resources shall jointly develop an informational brochure that
4 describes when permits and any other authorizations are required for
5 flood damage prevention and reduction projects, and recommends ways to
6 best proceed through the various regulatory permitting processes.

7 **Sec. 32.** RCW 75.20.050 and 1988 c 36 s 32 are each amended to read
8 as follows:

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

12 The director of ecology shall give the director (~~of fisheries and~~
13 ~~the director of wildlife~~) notice of each application for a permit to
14 divert or store water. The director (~~of fisheries and director of~~
15 ~~wildlife have~~) has thirty days after receiving the notice to state
16 (~~their~~) his or her objections to the application. The permit shall
17 not be issued until the thirty-day period has elapsed.

18 The director of ecology may refuse to issue a permit if, in the
19 opinion of the director (~~of fisheries or director of wildlife~~),
20 issuing the permit might result in lowering the flow of water in a
21 stream below the flow necessary to adequately support food fish and
22 game fish populations in the stream.

23 The provisions of this section shall in no way affect existing
24 water rights.

25 **Sec. 33.** RCW 75.20.100 and 1991 c 322 s 30 are each amended to
26 read as follows:

27 In the event that any person or government agency desires to
28 construct any form of hydraulic project or perform other work that will
29 use, divert, obstruct, or change the natural flow or bed of any of the
30 salt or fresh waters of the state, such person or government agency
31 shall, before commencing construction or work thereon and to ensure the
32 proper protection of fish life, secure the written approval of the
33 department (~~of fisheries or the department of wildlife~~) as to the
34 adequacy of the means proposed for the protection of fish life. This
35 approval shall not be unreasonably withheld. Except as provided in RCW
36 75.20.1001 and 75.20.1002, the department (~~of fisheries or the~~
37 ~~department of wildlife~~) shall grant or deny approval within forty-five

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

1 works or projects are hereby declared a public nuisance and shall be
2 subject to abatement as such.

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

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

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

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

36 This section shall not apply to the construction of any form of
37 hydraulic project or other work which diverts water for agricultural
38 irrigation or stock watering purposes authorized under or recognized as
39 being valid by the state's water codes, or when such hydraulic project

1 or other work is associated with streambank stabilization to protect
2 farm and agricultural land as defined in RCW 84.34.020. These
3 irrigation or stock watering diversion and streambank stabilization
4 projects shall be governed by RCW 75.20.103.

5 **Sec. 34.** RCW 75.20.1001 and 1991 c 322 s 12 are each amended to
6 read as follows:

7 The department (~~(of fisheries and the department of wildlife)~~)
8 shall process hydraulic project applications submitted under RCW
9 75.20.100 or 75.20.103 within thirty days of receipt of the
10 application. This requirement is only applicable for the repair and
11 reconstruction of legally constructed dikes, seawalls, and other flood
12 control structures damaged as a result of flooding or windstorms that
13 occurred in November and December 1990.

14 **Sec. 35.** RCW 75.20.103 and 1991 c 322 s 31 are each amended to
15 read as follows:

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

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

8 Immediately upon determination that the forty-five day period is
9 suspended, the department (~~(of fisheries or the department of~~
10 ~~wildlife)~~) shall notify the applicant in writing of the reasons for the
11 delay.

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

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

35 The department (~~(granting approval)~~) may, after consultation with
36 the permittee, modify an approval due to changed conditions. The
37 modifications shall become effective unless appealed to the hydraulic
38 appeals board within thirty days from the notice of the proposed
39 modification. The burden is on the department (~~(issuing the approval)~~)

1 to show that changed conditions warrant the modification in order to
2 protect fish life.

3 A permittee may request modification of an approval due to changed
4 conditions. The request shall be processed within forty-five calendar
5 days of receipt of the written request. A decision by the department
6 (~~that issued the approval~~) may be appealed to the hydraulic appeals
7 board within thirty days of the notice of the decision. The burden is
8 on the permittee to show that changed conditions warrant the requested
9 modification and that such modification will not impair fish life.

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

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

32 In case of an emergency arising from weather or stream flow
33 conditions or other natural conditions, the department (~~of fisheries
34 or department of wildlife~~), through (~~their~~) its authorized
35 representatives, shall issue immediately upon request oral approval for
36 removing any obstructions, repairing existing structures, restoring
37 stream banks, or to protect property threatened by the stream or a
38 change in the stream flow without the necessity of obtaining a written
39 approval prior to commencing work. Conditions of an oral approval

1 shall be reduced to writing within thirty days and complied with as
2 provided for in this section.

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

7 **Sec. 36.** RCW 75.20.104 and 1991 c 322 s 18 are each amended to
8 read as follows:

9 Whenever the placement of woody debris is required as a condition
10 of a hydraulic permit approval issued pursuant to RCW 75.20.100 or
11 75.20.103, the department (~~(of fisheries and the department of~~
12 ~~wildlife)~~), upon request, shall invite comment regarding that placement
13 from the local governmental authority, affected tribes, affected
14 federal and state agencies, and the project applicant.

15 **Sec. 37.** RCW 75.20.1041 and 1991 c 322 s 19 are each amended to
16 read as follows:

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

23 **Sec. 38.** RCW 75.20.106 and 1988 c 36 s 35 are each amended to read
24 as follows:

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

1 Whenever an appeal of any penalty incurred under this chapter is filed,
2 the penalty shall become due and payable only upon completion of all
3 review proceedings and the issuance of a final order confirming the
4 penalty in whole or in part.

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

14 **Sec. 39.** RCW 75.20.110 and 1988 c 36 s 36 are each amended to read
15 as follows:

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

22 (2) Within the sanctuary area:

23 (a) It is unlawful to construct a dam greater than twenty-five feet
24 high within the migration range of anadromous fish as (~~(jointly))~~)
25 determined by the director (~~(of fisheries and the director of~~
26 ~~wildlife))~~).

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

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

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

1 **Sec. 40.** RCW 75.20.130 and 1989 c 175 s 160 are each amended to
2 read as follows:

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

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

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

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

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

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

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

35 **Sec. 41.** RCW 75.20.300 and 1989 c 213 s 3 are each amended to read
36 as follows:

37 (1) The legislature intends to expedite flood-control, acquisition
38 of sites for sediment retention, and dredging operations in those

1 rivers affected by the May 1980 eruption of Mt. St. Helens, while
2 continuing to protect the fish resources of these rivers.

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

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

16 (a) Flood fight measures necessary to provide protection during a
17 flood event; or

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

21 (c) Measures which must be initiated and completed within an
22 immediate period of time and for which processing of the request
23 through normal methods would cause a delay to the project and such
24 delay would significantly increase the potential for damages from a
25 flood event.

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

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

30 **Sec. 42.** RCW 75.20.310 and 1988 c 36 s 39 are each amended to read
31 as follows:

32 The legislature recognizes the need to mitigate the effects of
33 sedimentary build-up and resultant damage to fish population in the
34 Toutle river resulting from the Mt. St. Helens eruption. The state has
35 entered into a contractual agreement with the United States army corps
36 of engineers designed to minimize fish habitat disruption created by
37 the sediment retention structure on the Toutle river, under which the
38 corps has agreed to construct a fish collection facility at the

1 sediment retention structure site conditional upon the state assuming
2 the maintenance and operation costs of the facility. The department
3 (~~of wildlife and the department of fisheries~~) shall (~~cooperatively~~)
4 operate and maintain a fish collection facility on the Toutle river.
5 (~~Each agency shall share in the cost of operating and maintaining the~~
6 ~~facility.~~)

7 **Sec. 43.** RCW 75.24.065 and 1985 c 256 s 2 are each amended to read
8 as follows:

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

16 **Sec. 44.** RCW 75.25.005 and 1989 c 305 s 1 are each amended to read
17 as follows:

18 The following recreational fishing licenses are administered and
19 issued by the department (~~of fisheries~~) under authority of the
20 director (~~of fisheries~~):

- 21 (1) Hood Canal shrimp license;
- 22 (2) Razor clam license;
- 23 (3) Personal use fishing license;
- 24 (4) Salmon license; and
- 25 (5) Sturgeon license.

26 **Sec. 45.** RCW 75.25.080 and 1989 c 305 s 4 are each amended to read
27 as follows:

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

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

34 **Sec. 46.** RCW 75.25.170 and 1989 c 305 s 16 are each amended to
35 read as follows:

1 Fees received for recreational licenses required under this chapter
2 shall be deposited in the general fund and shall be appropriated for
3 management, enhancement, research, and enforcement purposes of the
4 shellfish, salmon, and marine fish programs of the department ((of
5 fisheries)).

6 **Sec. 47.** RCW 75.25.180 and 1989 c 305 s 14 are each amended to
7 read as follows:

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

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

12 (a) For life for blind persons;

13 (b) For the period of continued state residency for qualified
14 disabled veterans;

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

17 (d) For the period of the disability for persons with a
18 developmental disability;

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

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

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

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

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

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

35 **Sec. 48.** RCW 75.50.010 and 1985 c 458 s 1 are each amended to read
36 as follows:

1 Currently, many of the salmon stocks of Washington state are
2 critically reduced from their sustainable level. The best interests of
3 all fishing groups and the citizens as a whole are served by a stable
4 and productive salmon resource. Immediate action is needed to reverse
5 the severe decline of the resource and to insure its very survival.
6 The legislature finds a state of emergency exists and that immediate
7 action is required to restore its fishery.

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

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

24 **Sec. 49.** RCW 75.50.070 and 1989 c 426 s 1 are each amended to read
25 as follows:

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

34 The legislature authorizes the formation of regional fisheries
35 enhancement groups. These groups shall be eligible for state financial
36 support and shall be actively supported by the department (~~(of~~
37 ~~fisheries)~~). The regional groups shall be operated on a strictly
38 nonprofit basis, and shall seek to maximize the efforts of volunteer

1 and private donations to improve the salmon resource for all citizens
2 of the state.

3 **Sec. 50.** RCW 75.50.080 and 1989 c 426 s 4 are each amended to read
4 as follows:

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

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

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

11 (3) Assist the department in achieving the goal to double the
12 state-wide salmon catch by the year 2000 under chapter 214, Laws of
13 1988; and

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

16 **Sec. 51.** RCW 75.50.130 and 1992 c 88 s 1 are each amended to read
17 as follows:

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

26 **Sec. 52.** RCW 75.52.010 and 1988 c 36 s 41 are each amended to read
27 as follows:

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

1 ~~and the department of wildlife each))~~ shall administer a
2 ~~((cooperative))~~ fish and wildlife enhancement program and enter
3 agreements with volunteer groups relating to the operation of
4 ~~((cooperative))~~ projects.

5 **Sec. 53.** RCW 75.52.020 and 1988 c 36 s 42 are each amended to read
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Volunteer group" means any person or group of persons
10 interested in or party to an agreement with the department ~~((of~~
11 ~~fisheries or the department of wildlife))~~ relating to a cooperative
12 fish or ~~((game))~~ wildlife project.

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

20 (3) "Department" means ~~((either))~~ the department of ~~((fisheries or~~
21 ~~the department of))~~ fish and wildlife ~~((, whichever is responsible for~~
22 ~~managing the species of fish or game most affected by the cooperative~~
23 ~~project))~~.

24 **Sec. 54.** RCW 75.52.035 and 1987 c 48 s 1 are each amended to read
25 as follows:

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

32 **Sec. 55.** RCW 75.52.100 and 1989 c 85 s 3 are each amended to read
33 as follows:

34 A salmon spawning channel shall be constructed on the Cedar river
35 with the assistance and cooperation of the ~~((state))~~ department ~~((of~~
36 ~~fisheries))~~. The department shall use existing personnel and the

1 volunteer fisheries enhancement program outlined under chapter 75.52
2 RCW to assist in the planning, construction, and operation of the
3 spawning channel.

4 **Sec. 56.** RCW 75.52.110 and 1989 c 85 s 4 are each amended to read
5 as follows:

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

26 **Sec. 57.** RCW 75.52.160 and 1989 c 85 s 10 are each amended to read
27 as follows:

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

32 **Sec. 58.** RCW 75.58.010 and 1988 c 36 s 43 are each amended to read
33 as follows:

34 (1) The director of agriculture and the director (~~(of fisheries)~~)
35 shall jointly develop a program of disease inspection and control for
36 aquatic farmers as defined in RCW 15.85.020. The program shall be

1 administered by the department (~~(of fisheries)~~) under rules established
2 under this section. The purpose of the program is to protect the
3 aquaculture industry and wildstock fisheries from a loss of
4 productivity due to aquatic diseases or maladies. As used in this
5 section "diseases" means, in addition to its ordinary meaning,
6 infestations of parasites or pests. The disease program may include,
7 but is not limited to, the following elements:

8 (a) Disease diagnosis;

9 (b) Import and transfer requirements;

10 (c) Provision for certification of stocks;

11 (d) Classification of diseases by severity;

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

13 (f) Provision for containment and eradication of high-risk
14 diseases;

15 (g) Provision for destruction of diseased cultured aquatic
16 products;

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

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

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

20 (k) Provision for cooperative consultation service to aquatic
21 farmers; and

22 (l) Provision for disease history records.

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

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

9 (4) It is unlawful for any person to violate the rules adopted
10 under subsection (2) or (3) of this section or to violate RCW
11 75.58.040.

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

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

20 **Sec. 59.** RCW 75.58.020 and 1985 c 457 s 9 are each amended to read
21 as follows:

22 The directors of agriculture and (~~fisheries~~) fish and wildlife
23 shall jointly adopt by rule, in the manner prescribed in RCW
24 75.58.010(2), a schedule of user fees for the disease inspection and
25 control program established under RCW 75.58.010. The fees shall be
26 established such that the program shall be entirely funded by revenues
27 derived from the user fees by the beginning of the 1987-89 biennium.

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

34 **Sec. 60.** RCW 75.58.030 and 1988 c 36 s 44 are each amended to read
35 as follows:

36 (1) The director (~~of fisheries~~) shall consult regarding the
37 disease inspection and control program established under RCW 75.58.010

1 with (~~the department of wildlife,~~) federal agencies(~~(,)~~) and Indian
2 tribes to assure protection of state, federal, and tribal aquatic
3 resources and to protect private sector cultured aquatic products from
4 disease that could originate from waters or facilities managed by those
5 agencies.

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

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

15 **Sec. 61.** RCW 75.58.040 and 1988 c 36 s 45 are each amended to read
16 as follows:

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

23 **Sec. 62.** RCW 77.04.100 and 1985 c 208 s 2 are each amended to read
24 as follows:

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

29 **Sec. 63.** RCW 77.04.111 and 1987 c 506 s 10 are each amended to
30 read as follows:

31 The director shall provide a comprehensive annual report of all
32 departmental operations to the governor, appropriate legislative
33 committees, and the public, on or before October 1 of each year, to
34 reflect the previous fiscal year. The report shall include, but not be
35 limited to, descriptions of all departmental activities, including:
36 Revenues generated, program costs, capital expenditures, personnel,

1 department projects and research including cooperative projects,
2 environmental controls, intergovernmental agreements, outlines of
3 ongoing litigation, concluded litigation, and any major issues with the
4 potential for state liability. The report shall describe the status of
5 the resource and its recreational and tribal utilization.

6 In addition to the above elements, the (~~commission~~) department
7 shall prepare and submit to the governor, the appropriate legislative
8 committees, and the public its own report and analysis on the condition
9 of recreational hunting and fishing opportunities and wildlife and
10 wildlife resources in the state and on the progress of the department
11 in meeting its goals and objectives (~~set by the commission~~). The
12 (~~commission~~) department shall solicit public input in the preparation
13 of this annual analysis.

14 **Sec. 64.** RCW 77.08.010 and 1989 c 297 s 7 are each amended to read
15 as follows:

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

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

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

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

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

24 (~~(5)~~) (4) "Wildlife agent" means a person appointed and
25 commissioned by the director, with authority to enforce laws and rules
26 adopted pursuant to this title, and other statutes as prescribed by the
27 legislature.

28 (~~(6)~~) (5) "Ex officio wildlife agent" means a commissioned
29 officer of a municipal, county, state, or federal agency having as its
30 primary function the enforcement of criminal laws in general, while the
31 officer is in the appropriate jurisdiction. The term "ex officio
32 wildlife agent" includes fisheries patrol officers, special agents of
33 the national marine fisheries (~~commission~~) service, state parks
34 commissioned officers, United States fish and wildlife special agents,
35 department of natural resources enforcement officers, and United States
36 forest service officers, while the agents and officers are within their
37 respective jurisdictions.

1 (~~(7)~~) (6) "To hunt" and its derivatives means an effort to kill,
2 injure, capture, or harass a wild animal or wild bird.

3 (~~(8)~~) (7) "To trap" and its derivatives means a method of hunting
4 using devices to capture wild animals or wild birds.

5 (~~(9)~~) (8) "To fish" and its derivatives means an effort to kill,
6 injure, harass, or catch a game fish.

7 (~~(10)~~) (9) "Open season" means those times, manners of taking,
8 and places or waters established by rule of the (~~commission~~)
9 department for the lawful hunting, fishing, or possession of game
10 animals, game birds, or game fish. "Open season" includes the first
11 and last days of the established time.

12 (~~(11)~~) (10) "Closed season" means all times, manners of taking,
13 and places or waters other than those established as an open season.

14 (~~(12)~~) (11) "Closed area" means a place where the hunting of some
15 species of wild animals or wild birds is prohibited.

16 (~~(13)~~) (12) "Closed waters" means all or part of a lake, river,
17 stream, or other body of water, where fishing for game fish is
18 prohibited.

19 (~~(14)~~) (13) "Game reserve" means a closed area where hunting for
20 all wild animals and wild birds is prohibited.

21 (~~(15)~~) (14) "Bag limit" means the maximum number of game animals,
22 game birds, or game fish which may be taken, caught, killed, or
23 possessed by a person, as specified by rule of the (~~commission~~)
24 department for a particular period of time, or as to size, sex, or
25 species.

26 (~~(16)~~) (15) "Wildlife" means all species of the animal kingdom
27 whose members exist in Washington in a wild state. This includes but
28 is not limited to mammals, birds, reptiles, amphibians, fish, and
29 invertebrates. The term "wildlife" does not include feral domestic
30 mammals, the family Muridae of the order Rodentia (old world rats and
31 mice), or those fish, shellfish, and marine invertebrates classified as
32 food fish or shellfish by the director (~~of fisheries~~). The term
33 "wildlife" includes all stages of development and the bodily parts of
34 wildlife members.

35 (~~(17)~~) (16) "Wild animals" means those species of the class
36 Mammalia whose members exist in Washington in a wild state and the
37 species Rana catesbeiana (bullfrog). The term "wild animal" does not
38 include feral domestic mammals or the family Muridae of the order
39 Rodentia (old world rats and mice).

1 (~~(18)~~) (17) "Wild birds" means those species of the class Aves
2 whose members exist in Washington in a wild state.

3 (~~(19)~~) (18) "Protected wildlife" means wildlife designated by the
4 (~~(commission)~~) department that shall not be hunted or fished.

5 (~~(20)~~) (19) "Endangered species" means wildlife designated by the
6 (~~(commission)~~) department as seriously threatened with extinction.

7 (~~(21)~~) (20) "Game animals" means wild animals that shall not be
8 hunted except as authorized by the (~~(commission)~~) department.

9 (~~(22)~~) (21) "Fur-bearing animals" means game animals that shall
10 not be trapped except as authorized by the (~~(commission)~~) department.

11 (~~(23)~~) (22) "Game birds" means wild birds that shall not be
12 hunted except as authorized by the (~~(commission)~~) department.

13 (~~(24)~~) (23) "Predatory birds" means wild birds that may be hunted
14 throughout the year as authorized by the (~~(commission)~~) department.

15 (~~(25)~~) (24) "Deleterious exotic wildlife" means species of the
16 animal kingdom not native to Washington and designated as dangerous to
17 the environment or wildlife of the state.

18 (~~(26)~~) (25) "Game farm" means property on which wildlife is held
19 or raised for commercial purposes, trade, or gift. The term "game
20 farm" does not include publicly owned facilities.

21 (~~(27)~~) (26) "Person of disability" means a permanently disabled
22 person who is not ambulatory without the assistance of a wheelchair,
23 crutches, or similar devices.

24 **Sec. 65.** RCW 77.12.010 and 1985 c 438 s 1 are each amended to read
25 as follows:

26 Wildlife is the property of the state. The department shall
27 preserve, protect, and perpetuate wildlife. Game animals, game birds,
28 and game fish may be taken only at times or places, or in manners or
29 quantities as in the judgment of the (~~(commission)~~) department
30 maximizes public recreational opportunities without impairing the
31 supply of wildlife.

32 The (~~(commission)~~) department shall not adopt rules that
33 categorically prohibit fishing with bait or artificial lures in
34 streams, rivers, beaver ponds, and lakes except that the (~~(commission)~~)
35 department may adopt rules (~~(and regulations)~~) restricting fishing
36 methods upon a determination by the director that an individual body of
37 water or part thereof clearly requires a fishing method prohibition to
38 conserve or enhance the fisheries resource or to provide selected

1 fishing alternatives. The ~~((commission))~~ department shall attempt to
2 maximize the public recreational fishing opportunities of all citizens,
3 particularly juvenile, handicapped, and senior citizens.

4 Nothing contained herein shall be construed to infringe on the
5 right of a private property owner to control the owner's private
6 property.

7 **Sec. 66.** RCW 77.12.020 and 1987 c 506 s 13 are each amended to
8 read as follows:

9 (1) The director shall investigate the habits and distribution of
10 the various species of wildlife native to or adaptable to the habitats
11 of the state. The ~~((commission))~~ department shall determine whether a
12 species should be managed by the department and, if so, classify it
13 under this section.

14 (2) The ~~((commission))~~ department may classify by rule wild animals
15 as game animals and game animals as fur-bearing animals.

16 (3) The ~~((commission))~~ department may classify by rule wild birds
17 as game birds or predatory birds. All wild birds not otherwise
18 classified are protected wildlife.

19 (4) In addition to those species listed in RCW 77.08.020, the
20 ~~((commission))~~ department may classify by rule as game fish other
21 species of the class Osteichthyes that are commonly found in fresh
22 water except those classified as food fish by the director ~~((of~~
23 ~~fisheries))~~.

24 (5) The director may recommend ~~((to the commission))~~ that a species
25 of wildlife should not be hunted or fished ~~((The commission))~~ and may
26 designate species of wildlife as protected.

27 (6) If the director determines that a species of wildlife is
28 seriously threatened with extinction in the state of Washington, the
29 ~~((director may request its designation as an endangered species. The~~
30 ~~commission))~~ department may designate it as an endangered species.

31 (7) If the director determines that a species of the animal
32 kingdom, not native to Washington, is dangerous to the environment or
33 wildlife of the state, the ~~((director may request its designation as~~
34 ~~deleterious exotic wildlife. The commission))~~ department may designate
35 it as deleterious exotic wildlife.

36 **Sec. 67.** RCW 77.12.040 and 1987 c 506 s 15 are each amended to
37 read as follows:

1 The ((~~commission~~)) department shall adopt, amend, or repeal, and
2 enforce reasonable rules prohibiting or governing the time, place, and
3 manner of taking or possessing game animals, game birds, or game fish.
4 The ((~~commission~~)) department may specify the quantities, species, sex,
5 and size of game animals, game birds, or game fish that may be taken or
6 possessed. The ((~~commission~~)) department shall regulate the taking,
7 sale, possession, and distribution of wildlife and deleterious exotic
8 wildlife. The director may adopt emergency rules under RCW 77.12.150.

9 The ((~~commission~~)) department may establish by rule game reserves
10 and closed areas where hunting for wild animals or wild birds may be
11 prohibited and closed waters where fishing for game fish may be
12 prohibited.

13 **Sec. 68.** RCW 77.12.055 and 1988 c 36 s 50 are each amended to read
14 as follows:

15 (1) Jurisdiction and authority granted under RCW 77.12.060,
16 77.12.070, and 77.12.080 to the director, wildlife agents, and ex
17 officio wildlife agents is limited to the laws and rules adopted
18 pursuant to this title pertaining to wildlife or to the management,
19 operation, maintenance, or use of or conduct on real property used,
20 owned, leased, or controlled by the department and other statutes as
21 prescribed by the legislature. However, when acting within the scope
22 of these duties and when an offense occurs in the presence of the
23 wildlife agent who is not an ex officio wildlife agent, the wildlife
24 agent may enforce all criminal laws of the state. The wildlife agent
25 must have successfully completed the basic law enforcement academy
26 course sponsored by the criminal justice training commission, or a
27 supplemental course in criminal law enforcement as approved by the
28 department and the criminal justice training commission and provided by
29 the department or the criminal justice training commission, prior to
30 enforcing the criminal laws of the state.

31 (2) Wildlife agents are peace officers.

32 (3) Any liability or claim of liability which arises out of the
33 exercise or alleged exercise of authority by a wildlife agent rests
34 with the department unless the wildlife agent acts under the direction
35 and control of another agency or unless the liability is otherwise
36 assumed under a written agreement between the department ((~~of~~
37 ~~wildlife~~)) and another agency.

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

3 **Sec. 69.** RCW 77.12.103 and 1989 c 314 s 3 are each amended to read
4 as follows:

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

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

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

15 **Sec. 70.** RCW 77.12.325 and 1980 c 78 s 52 are each amended to read
16 as follows:

17 The (~~commission~~) department may cooperate with the Oregon fish
18 and wildlife commission in the adoption of rules to assure an annual
19 yield of wildlife on the Columbia river and to prevent the taking of
20 wildlife at places or times that might endanger wildlife.

21 **Sec. 71.** RCW 77.12.440 and 1987 c 506 s 47 are each amended to
22 read as follows:

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

30 **Sec. 72.** RCW 77.12.530 and 1987 c 506 s 48 are each amended to
31 read as follows:

32 The (~~director~~) department shall (~~administer~~) adopt rules
33 (~~(adopted by the commission)~~) governing the time, place, and manner of
34 holding hunting and fishing contests and competitive field trials
35 involving live wildlife for hunting dogs. The department shall

1 prohibit contests and field trials that are not in the best interests
2 of wildlife.

3 **Sec. 73.** RCW 77.12.560 and 1980 c 78 s 127 are each amended to
4 read as follows:

5 The (~~commission~~) department may adopt rules regarding the use of
6 the tidelands as shooting grounds.

7 **Sec. 74.** RCW 77.12.570 and 1987 c 506 s 49 are each amended to
8 read as follows:

9 The (~~commission~~) department shall establish the qualifications
10 and conditions for issuing a game farm license. The director shall
11 adopt rules governing the operation of game farms. Private sector
12 cultured aquatic products as defined in RCW 15.85.020 are exempt from
13 regulation under this section.

14 **Sec. 75.** RCW 77.12.710 and 1990 c 110 s 2 are each amended to read
15 as follows:

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

33 The plan shall include the following critical elements:

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

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

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

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

7 (5) Methods for increasing the productivity of natural spawning
8 game fish;

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

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

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

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

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

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

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

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

23 (14) Development of disease control measures;

24 (15) Methods for obtaining access to waters currently not available
25 to anglers; and

26 (16) Development of research programs to support game fish
27 management and enhancement programs.

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

35 **Sec. 76.** RCW 77.12.730 and 1990 c 195 s 3 are each amended to read
36 as follows:

37 (1) A ten-member firearms range advisory committee is hereby
38 created to provide advice and counsel to the interagency committee for

1 outdoor recreation. The members shall be appointed by the director of
2 the interagency committee for outdoor recreation from the following
3 groups:

- 4 (a) Law enforcement;
- 5 (b) Washington military department;
- 6 (c) Black powder shooting sports;
- 7 (d) Rifle shooting sports;
- 8 (e) Pistol shooting sports;
- 9 (f) Shotgun shooting sports;
- 10 (g) Archery shooting sports;
- 11 (h) Hunter education;
- 12 (i) Hunters; and
- 13 (j) General public.

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

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

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

- 28 (a) Develop an application process;
- 29 (b) Develop an audit and accountability program;
- 30 (c) Screen, prioritize, and approve grant applications; and
- 31 (d) Monitor compliance by grant recipients.

32 (5) The department of natural resources, the department of fish and
33 wildlife, and the Washington military department are encouraged to
34 provide land, facilitate land exchanges, and support the development of
35 shooting range facilities.

36 **Sec. 77.** RCW 77.12.750 and 1992 c 63 s 13 are each amended to read
37 as follows:

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

4 Appoint a representative to the coordinating council;

5 Develop project proposals;

6 Administer project activities within the agency;

7 Develop appropriate procedures for the use of volunteers;

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

10 Maintain project records and provide project reports;

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

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

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

18 **Sec. 78.** RCW 77.16.060 and 1987 c 506 s 61 are each amended to
19 read as follows:

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

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

26 **Sec. 79.** RCW 77.16.135 and 1991 c 211 s 1 are each amended to read
27 as follows:

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

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

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

35 (2) For the purposes of this section, the definition of assault
36 includes:

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

- 1 (b) RCW 9A.32.050; murder in the second degree;
2 (c) RCW 9A.32.060; manslaughter in the first degree;
3 (d) RCW 9A.32.070; manslaughter in the second degree;
4 (e) RCW 9A.36.011; assault in the first degree;
5 (f) RCW 9A.36.021; assault in the second degree; and
6 (g) RCW 9A.36.031; assault in the third degree.

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

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

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

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

13 (d) The imposition of a deferred or suspended sentence by the
14 court.

15 (4) No license described under Title 77 RCW shall be reissued to a
16 person violating this section for a minimum of ten years, at ((that
17 [which])) which time a person may petition the director ((of wildlife))
18 for a reinstatement of his or her license or licenses. The ten-year
19 period shall be tolled during any time the convicted person is
20 incarcerated in any state or local correctional or penal institution,
21 in community supervision, or home detention for an offense under this
22 section. Upon review by the director, and if all provisions of the
23 court that imposed sentencing have been completed, the director may
24 reinstate in whole or in part the licenses and privileges under Title
25 77 RCW.

26 **Sec. 80.** RCW 77.16.150 and 1987 c 506 s 66 are each amended to
27 read as follows:

28 Except as authorized by the director, consistent with criteria
29 established by the ((commission)) department, it is unlawful to release
30 wildlife or to plant aquatic plants or their seeds within the state.

31 **Sec. 81.** RCW 77.16.170 and 1988 c 36 s 51 are each amended to read
32 as follows:

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

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

5 When an individual presents a trapper identification number to the
6 department ((~~of wildlife~~)) and requests identification of the trapper,
7 the department ((~~of wildlife~~)) shall provide the individual with the
8 name and address of the trapper. Prior to disclosure of the trapper's
9 name and address, the department ((~~of wildlife~~)) shall obtain the name
10 and address of the requesting individual in writing and after
11 disclosing the trapper's name and address to the requesting individual,
12 the requesting individual's name and address shall be disclosed in
13 writing to the trapper whose name and address was disclosed.

14 **Sec. 82.** RCW 77.18.010 and 1991 c 253 s 2 are each amended to read
15 as follows:

16 Unless the context clearly requires otherwise, the definitions in
17 this section apply throughout this chapter.

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

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

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

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

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

32 **Sec. 83.** RCW 77.32.380 and 1991 sp.s. c 7 s 12 are each amended to
33 read as follows:

34 Persons sixteen years of age or older who use clearly identified
35 department lands and access facilities are required to possess a
36 conservation license or a hunting, fishing, trapping, or free license

1 on their person while using the facilities. The fee for this license
2 is ten dollars annually.

3 The spouse, all children under eighteen years of age, and guests
4 under eighteen years of age of the holder of a valid conservation
5 license may use department lands and access facilities when accompanied
6 by the license holder.

7 Youth groups may use department lands and game access facilities
8 without possessing a conservation license when accompanied by a license
9 holder.

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

14 NEW SECTION. **Sec. 84.** The following acts or parts of acts are
15 each repealed:

16 (1) RCW 77.02.020 and 1987 c 506 s 4, 1980 c 78 s 3, & 1955 c 36 s
17 77.04.020;

18 (2) RCW 77.04.030 and 1987 c 506 s 5, 1981 c 338 s 11, 1980 c 78 s
19 4, & 1955 c 36 s 77.04.030;

20 (3) RCW 77.04.040 and 1987 c 506 s 6, 1980 c 78 s 5, & 1955 c 36 s
21 77.04.040;

22 (4) RCW 77.04.055 and 1990 c 84 s 2 & 1987 c 506 s 7;

23 (5) RCW 77.04.060 and 1987 c 506 s 8, 1987 c 114 s 1, 1984 c 287 s
24 110, 1980 c 78 s 6, 1977 c 75 s 89, 1975-'76 2nd ex.s. c 34 s 175, 1961
25 c 307 s 9, 1955 c 352 s 1, & 1955 c 36 s 77.04.060;

26 (6) RCW 77.04.080 and 1987 c 506 s 9, 1980 c 78 s 8, & 1955 c 36 s
27 77.04.080; and

28 (7) RCW 77.04.090 and 1984 c 240 s 1, 1980 c 78 s 16, & 1955 c 36
29 s 77.12.050.

30 NEW SECTION. **Sec. 85.** Sections 1 through 8 and 11 of this act
31 shall constitute a new chapter in Title 43 RCW.

32 NEW SECTION. **Sec. 86.** Sections 1 through 8 and 10 through 85 of
33 this act shall take effect July 1, 1994.

34 NEW SECTION. **Sec. 87.** If any provision of this act or its
35 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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