

APPENDIX C: CHAPTER 46.09 RCW

Chapter 46.09 RCW

OFF-ROAD AND NONHIGHWAY VEHICLES

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46.09.300

Application of chapter — Permission necessary to enter upon private lands.

The provisions of this chapter shall apply to all lands in this state. Nothing in this chapter, RCW [79A.35.040](#), [79A.35.070](#), [79A.35.090](#), [79A.35.110](#), and [79A.35.120](#) shall be deemed to grant to any person the right or authority to enter upon private property without permission of the property owner.

[2005 c 213 § 2; 1972 ex.s. c 153 § 2; 1971 ex.s. c 47 § 6. Formerly RCW [46.09.010](#).]

Notes:

Findings--Construction -- 2005 c 213: "The legislature finds that off-road recreational vehicles (ORVs) provide opportunities for a wide variety of outdoor recreation activities. The legislature further finds that the limited amount of ORV recreation areas presents a challenge for ORV recreational users, natural resource land managers, and private landowners. The legislature further finds that many nonhighway roads provide opportunities for ORV use and that these opportunities may reduce conflicts between users and facilitate responsible ORV recreation. However, restrictions intended for motor vehicles may prevent ORV use on certain roads, including forest service roads. Therefore, the legislature finds that local, state, and federal jurisdictions should be given the flexibility to allow ORV use on nonhighway roads they own and manage or for which they are authorized to allow public ORV use under an easement granted by the owner. Nothing in this act authorizes trespass on private property." [2005 c 213 § 1.]

Effective date -- 2005 c 213: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005." [2005 c 213 § 9.]

Purpose -- 1972 ex.s. c 153: See RCW [67.32.080](#).

46.09.310

Definitions.

*** CHANGE IN 2013 *** (SEE [1883-S.SL](#)) ***

*** CHANGE IN 2013 *** (SEE [1632-S.SL](#)) ***

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

(1) "Advisory committee" means the nonhighway and off-road vehicle activities advisory committee established in RCW [46.09.340](#).

(2) "Board" means the recreation and conservation funding board established in RCW [79A.25.110](#).

(3) "Dealer" means a person, partnership, association, or corporation engaged in the business of selling off-road vehicles at wholesale or retail in this state.

(4) "Highway," for the purpose of this chapter only, means the entire width between the boundary lines of every roadway publicly maintained by the state department of transportation or any county or city with funding from the motor vehicle fund. A highway is generally capable of travel by a conventional two-wheel drive passenger automobile during most of the year and in use by such vehicles.

(5) "Nonhighway road" means any road owned or managed by a public agency or any private road for which the owner has granted an easement for public use for which appropriations from the motor vehicle fund were not used for (a) original construction or reconstruction in the last twenty-five years; or (b) maintenance in the last four years.

(6) "Nonhighway road recreation facilities" means recreational facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonhighway road recreational users.

(7) "Nonhighway road recreational user" means a person whose purpose for consuming fuel on a nonhighway road or off-road is primarily for nonhighway road recreational purposes, including, but not limited to, hunting, fishing, camping, sightseeing, wildlife viewing, picnicking, driving for pleasure, kayaking/canoeing, and gathering berries, firewood, mushrooms, and other natural products.

(8) "Nonhighway vehicle" means any motorized vehicle including an ORV when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain.

Nonhighway vehicle does not include:

(a) Any vehicle designed primarily for travel on, over, or in the water;

(b) Snowmobiles or any military vehicles; or

(c) Any vehicle eligible for a motor vehicle fuel tax exemption or rebate under chapter [82.36](#) RCW while an exemption or rebate is claimed. This exemption includes but is not limited to farm, construction, and logging vehicles.

(9) "Nonmotorized recreational facilities" means recreational trails and facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonmotorized recreational users.

(10) "Nonmotorized recreational user" means a person whose purpose for consuming fuel on a nonhighway road or off-road is primarily for nonmotorized recreational purposes including, but not limited to, walking, hiking, backpacking, climbing, cross-country skiing, snowshoeing, mountain biking, horseback riding, and pack animal activities.

(11) "Organized competitive event" means any competition, advertised in advance through written notice to organized clubs or published in local newspapers, sponsored by recognized clubs, and conducted at a predetermined time and place.

(12) "ORV recreation facilities" include, but are not limited to, ORV trails, trailheads, campgrounds, ORV sports parks, and ORV use areas, designated for ORV use by the managing authority that are intended primarily for ORV recreational users.

(13) "ORV recreational user" means a person whose purpose for consuming fuel on nonhighway roads or off-road is primarily for ORV recreational purposes, including but not limited to riding an all-terrain vehicle, motorcycling, or driving a four-wheel drive vehicle or dune buggy.

(14) "ORV sports park" means a facility designed to accommodate competitive ORV recreational uses including, but not limited to, motocross racing, four-wheel drive competitions, and flat track racing. Use of ORV sports parks can be competitive or noncompetitive in nature.

(15) "ORV trail" means a multiple-use corridor designated by the managing authority and maintained for recreational use by motorized vehicles.

[2010 c 161 § 213; 2007 c 241 § 13; 2004 c 105 § 1; 1986 c 206 § 1; 1979 c 158 § 129; 1977 ex.s. c 220 § 1; 1972 ex.s. c 153 § 3; 1971 ex.s. c 47 § 7. Formerly RCW [46.09.020](#).]

Notes:

Effective date -- Intent -- Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session -- 2010 c 161: See notes following RCW [46.04.013](#).

Intent -- Effective date -- 2007 c 241: See notes following RCW [79A.25.005](#).

Effective date -- 1986 c 206: "This act shall take effect on June 30, 1986." [1986 c 206 § 17.]

Purpose -- 1972 ex.s. c 153: See RCW [79A.35.070](#).

46.09.320

Certificates of title.

The department shall issue a certificate of title to the owner of an off-road vehicle. The owner shall pay the fee established under RCW [46.17.100](#). Issuance of the certificate of title does not qualify the vehicle for registration under chapter [46.16A](#) RCW.

[2011 c 171 § 24; 2010 c 161 § 214.]

Notes:

Intent -- Effective date -- 2011 c 171: See notes following RCW [4.24.210](#).

Effective date -- Intent -- Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session -- 2010 c 161: See notes following RCW

[46.04.013.](#)

46.09.330

Off-road vehicle dealers — Licenses — Fee — License plates — Title application upon sale — Violation.

(1) Each dealer of off-road vehicles in this state shall obtain either a miscellaneous vehicle dealer license as defined in RCW [46.70.011](#) or an off-road vehicle dealer license from the department in a manner prescribed by the department. Upon receipt of an application for an off-road vehicle dealer license and the fee described under subsection (2) of this section, the dealer is licensed and an off-road vehicle dealer license number must be assigned.

(2) The annual fee for an off-road vehicle dealer license is twenty-five dollars, which covers all of the off-road vehicles owned by a dealer and not rented. Off-road vehicles rented on a regular, commercial basis by a dealer must have separate registrations.

(3) Upon the issuance of an off-road vehicle dealer license, each dealer may purchase, at a cost to be determined by the department, off-road vehicle dealer license plates of a size and color to be determined by the department. The off-road vehicle dealer license plates must contain the off-road vehicle dealer license number assigned to the dealer. Each off-road vehicle operated by a dealer, dealer representative, or prospective customer for the purposes of testing or demonstration shall display dealer license plates assigned by the department.

(4) A dealer, dealer representative, or prospective customer may only use dealer license plates for the purposes prescribed in subsection (3) of this section.

(5) Off-road vehicle dealer license numbers are nontransferable.

(6) It is unlawful for any dealer to sell any off-road vehicle at wholesale or retail or to test or demonstrate any off-road vehicle within the state unless the dealer has either a miscellaneous vehicle dealer license as defined in RCW [46.70.011](#) or an off-road vehicle dealer license as required under this section.

(7) When an off-road vehicle is sold by a dealer, the dealer shall apply for a certificate of title in the purchaser's name within fifteen days following the sale.

(8) Except as provided in RCW [46.09.420](#), it is unlawful for any dealer to sell at retail an off-road vehicle without registration required in RCW [46.09.440](#).

[2010 c 161 § 220; 2010 c 8 § 9002; 1990 c 250 § 24; 1986 c 206 § 5; 1977 ex.s. c 220 § 7; 1972 ex.s. c 153 § 9; 1971 ex.s. c 47 § 13. Formerly RCW [46.09.080](#).]

Notes:

Reviser's note: RCW [46.09.080](#) was amended twice during the 2010 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW [1.12.025](#).

Effective date -- Intent -- Legislation to reconcile chapter 161, Laws of 2010 and other

amendments made during the 2010 legislative session -- 2010 c 161: See notes following RCW [46.04.013](#).

Severability -- 1990 c 250: See note following RCW [46.18.215](#).

Effective date -- 1986 c 206: See note following RCW [46.09.310](#).

Purpose -- 1972 ex.s. c 153: See RCW [79A.35.070](#).

46.09.340

Nonhighway and off-road vehicle activities advisory committee.

(1) The board shall establish the nonhighway and off-road vehicle activities advisory committee to provide advice regarding the administration of this chapter. The committee consists of governmental representatives, land managers, and a proportional representation of persons with recreational experience in areas identified in the most recent fuel use study, including but not limited to people with off-road vehicle, hiking, equestrian, mountain biking, hunting, fishing, and wildlife viewing experience.

(2) After the advisory committee has made recommendations regarding the expenditure of the fuel tax revenue portion of the nonhighway and off-road vehicle account moneys, the advisory committee's off-road vehicle and mountain biking recreationists, governmental representatives, and land managers will make recommendations regarding the expenditure of funds received under RCW [46.68.045](#).

(3) At least once a year, the board, the department of natural resources, the department of fish and wildlife, and the state parks and recreation commission shall report to the nonhighway and off-road vehicle activities advisory committee on the expenditures of funds received under RCW [46.68.045](#) and [46.09.520](#) and must proactively seek the advisory committee's advice regarding proposed expenditures.

(4) The advisory committee shall advise these agencies regarding the allocation of funds received under RCW [46.09.520](#) to ensure that overall expenditures reflect consideration of the results of the most recent fuel use study.

[2010 c 161 § 224; 2007 c 241 § 19; 2004 c 105 § 8; 2003 c 185 § 1; 1986 c 206 § 13. Formerly RCW [46.09.280](#).]

Notes:

Effective date -- Intent -- Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session -- 2010 c 161: See notes following RCW [46.04.013](#).

Intent -- Effective date -- 2007 c 241: See notes following RCW [79A.25.005](#).

Effective date -- 1986 c 206: See note following RCW [46.09.310](#).

46.09.350

Accident reports.

The operator of any nonhighway vehicle involved in any accident resulting in injury to or death of any person, or property damage to another to an apparent extent equal to or greater than the minimum amount established by rule adopted by the chief of the Washington state patrol in accordance with chapter [46.52](#) RCW, or a person acting for the operator shall submit such reports as are required under chapter [46.52](#) RCW, and the provisions of chapter [46.52](#) RCW applies to the reports when submitted.

[1990 c 250 § 25; 1977 ex.s. c 220 § 12; 1971 ex.s. c 47 § 19. Formerly RCW [46.09.140](#).]

Notes:

Severability -- 1990 c 250: See note following RCW [46.18.215](#).

46.09.360

Regulation by local political subdivisions or state agencies.

***** CHANGE IN 2013 *** (SEE [1632-S.SL](#)) *****

Notwithstanding any of the provisions of this chapter, any city, county, or other political subdivision of this state, or any state agency, may regulate the operation of nonhighway vehicles on public lands, waters, and other properties under its jurisdiction, and on streets, roads, or highways within its boundaries by adopting regulations or ordinances of its governing body, provided such regulations are not less stringent than the provisions of this chapter. However, the legislative body of a city with a population of less than three thousand persons may, by ordinance, designate a street or highway within its boundaries to be suitable for use by off-road vehicles. The legislative body of a county may, by ordinance, designate a road or highway within its boundaries to be suitable for use by off-road vehicles if the road or highway is a direct connection between a city with a population of less than three thousand persons and an off-road vehicle recreation facility.

[2006 c 212 § 4; 1977 ex.s. c 220 § 15; 1971 ex.s. c 47 § 23. Formerly RCW [46.09.180](#).]

46.09.370

Statewide plan.

The board shall maintain a statewide plan which shall be updated at least once every third biennium and shall be used by all participating agencies to guide distribution and expenditure of funds under this chapter.

[2007 c 241 § 18; 1986 c 206 § 11; 1977 ex.s. c 220 § 18. Formerly RCW [46.09.250](#).]

Notes:

Intent -- Effective date -- 2007 c 241: See notes following RCW [79A.25.005](#).

Effective date -- 1986 c 206: See note following RCW [46.09.310](#).

46.09.380 Enforcement.

The provisions of this chapter shall be enforced by all persons having the authority to enforce any of the laws of this state, including, without limitation, officers of the state patrol, county sheriffs and their deputies, all municipal law enforcement officers within their respective jurisdictions, fish and wildlife officers, state park rangers, and those employees of the department of natural resources designated by the commissioner of public lands under RCW *[43.30.310](#), [76.04.035](#), and [76.04.045](#).

[2001 c 253 § 3; 1986 c 100 § 52; 1971 ex.s. c 47 § 25. Formerly RCW [46.09.200](#).]

Notes:

***Reviser's note:** RCW [43.30.310](#) was recodified as RCW [43.12.065](#) pursuant to 2003 c 334 § 127.

46.09.400 Issuance — Decals — Fees.

***** CHANGE IN 2013 *** (SEE [1632-S.SL](#)) *****

The department shall:

- (1) Issue registrations and temporary ORV use permits for off-road vehicles;
- (2) Issue decals for off-road vehicles. The decals serve the same function as license plates for vehicles registered under chapter [46.16A](#) RCW; and
- (3) Charge a fee for each decal covering the actual cost of the decal.

[2011 c 171 § 25; 2010 c 161 § 215; 1990 c 250 § 23; 1986 c 206 § 2; 1977 ex.s. c 220 § 2; 1972 ex.s. c 153 § 4; 1971 ex.s. c 47 § 8. Formerly RCW [46.09.030](#).]

Notes:

Intent -- Effective date -- 2011 c 171: See notes following RCW [4.24.210](#).

Effective date -- Intent -- Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session -- 2010 c 161: See notes following RCW [46.04.013](#).

Severability -- 1990 c 250: See note following RCW [46.18.215](#).

Effective date -- 1986 c 206: See note following RCW [46.09.310](#).

Purpose -- 1972 ex.s. c 153: See RCW [79A.35.070](#).

46.09.410

Registrations — Original and renewal application — Requirements — Decals — Out-of-state operators.

***** CHANGE IN 2013 *** (SEE [1632-S.SL](#)) *****

(1) The application for an original ORV registration has the same requirements as described for original vehicle registrations in RCW [46.16A.040](#) and must be accompanied by the annual off-road vehicle license fee required under RCW [46.17.350](#), in addition to any other fees or taxes due for the application.

(2) The application for renewal of an ORV registration has the same requirements as described for the renewal of vehicle registrations in RCW [46.16A.110](#) and must be accompanied by the annual off-road vehicle license fee required under RCW [46.17.350](#), in addition to any other fees or taxes due for the application.

(3) The annual ORV registration is valid for one year and may be renewed each subsequent year as prescribed by the department.

(4) A person who acquires an off-road vehicle that has an ORV registration must:

(a) Apply to the department, county auditor or other agent, or subagent appointed by the director for a transfer of the ORV registration within fifteen days of taking possession of the off-road vehicle; and

(b) Pay the ORV registration transfer fee required under RCW [46.17.410](#), in addition to any other fees or taxes due at the time of application.

(5) The department shall issue an ORV registration, decals, and tabs upon receipt of:

(a) A properly completed application for an original ORV registration; and

(b) The payment of all fees and taxes due at the time of application.

(6) The ORV registration must be carried on the vehicle for which it was issued at all times during its operation in this state.

(7) Off-road vehicle decals must be affixed to the off-road vehicle in a manner prescribed by the department.

(8) Unless exempt under RCW [46.09.420](#), any out-of-state operator of an off-road vehicle, when operating in this state, must comply with this chapter. If an ORV registration is required under this chapter, the out-of-state operator must obtain an ORV registration and decal or a temporary ORV use permit.

[2010 c 161 § 218; 2004 c 106 § 1; 2002 c 352 § 1; 1997 c 241 § 1; 1986 c 206 § 4; 1977 ex.s. c 220 § 6; 1972 ex.s. c 153 § 8; 1971 ex.s. c 47 § 12. Formerly RCW [46.09.070](#).]

Notes:

Effective date -- Intent -- Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session -- 2010 c 161: See notes following RCW [46.04.013](#).

Effective date -- 2004 c 106 § 1: "Section 1 of this act takes effect with registrations that are due or become due November 1, 2004, or later." [2004 c 106 § 2.]

Effective dates -- 2002 c 352: "Sections 7, 9, and 28 of this act are effective with registrations that are due or will become due September 1, 2002, and thereafter. Section 26 of this act takes effect October 1, 2002. The remainder of this act takes effect July 1, 2002." [2002 c 352 § 30.]

Effective date -- 1986 c 206: See note following RCW [46.09.310](#).

Purpose -- 1972 ex.s. c 153: See RCW [79A.35.070](#).

46.09.420

Registrations and decals — Exemptions.

***** CHANGE IN 2013 *** (SEE [1632-S.SL](#)) *****

ORV registrations and decals are required under this chapter except for the following:

(1) Off-road vehicles owned and operated by the United States, another state, or a political subdivision of the United States or another state.

(2) Off-road vehicles owned and operated by this state, a municipality, or a political subdivision of this state or the municipality.

(3) Off-road vehicles operated on agricultural lands owned or leased by the off-road vehicle owner or operator.

(4) Off-road vehicles owned by a resident of another state that have a valid ORV use permit or vehicle registration issued in accordance with the laws of the other state. This exemption applies only to the extent that a similar exemption or privilege is granted under the laws of that state.

(5) Off-road vehicles while being used for search and rescue purposes under the authority or direction of an appropriate search and rescue or law enforcement agency.

(6) Vehicles registered under chapter [46.16A](#) RCW or, in the case of nonresidents, vehicles validly registered for operation over public highways in the jurisdiction of the owner's residence.

[2011 c 171 § 26; 2010 c 161 § 217; 2004 c 105 § 9; 1986 c 206 § 3; 1977 ex.s. c 220 § 4; 1972 ex.s. c 153 § 6; 1971 ex.s. c 47 § 10. Formerly RCW [46.09.050](#).]

Notes:

Intent -- Effective date -- 2011 c 171: See notes following RCW [4.24.210](#).

Effective date -- Intent -- Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session -- 2010 c 161: See notes following RCW [46.04.013](#).

Effective date -- 1986 c 206: See note following RCW [46.09.310](#).

Purpose -- 1972 ex.s. c 153: See RCW [79A.35.070](#).

46.09.430

Use permits — Application requirements.

(1) The application for a temporary ORV use permit must be made by the owner or the owner's authorized representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department. The application must contain:

- (a) The name and address of each owner of the off-road vehicle; and
- (b) Other information that the department may require.

(2) The owner or the owner's authorized representative shall sign the application for a temporary ORV use permit.

(3) The application for a temporary ORV use permit must be accompanied by the temporary ORV use permit fee required under RCW [46.17.400](#), in addition to any other fees or taxes due for the application.

(4) A temporary ORV use permit:

- (a) Is valid for sixty days; and
- (b) Must be carried on the vehicle for which it was issued at all times during its operation in this state.

[2010 c 161 § 219.]

Notes:

Effective date -- Intent -- Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session -- 2010 c 161: See notes following RCW [46.04.013](#).

46.09.440

Prerequisite to operation.

Except as provided in this chapter, a person shall not operate an off-road vehicle within this state unless the off-road vehicle has been assigned an ORV registration or temporary ORV use permit and displays current decals and tabs as required under this chapter.

[2010 c 161 § 216; 1977 ex.s. c 220 § 3; 1972 ex.s. c 153 § 5; 1971 ex.s. c 47 § 9. Formerly RCW [46.09.040](#).]

Notes:

Effective date -- Intent -- Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session -- 2010 c 161: See notes following RCW [46.04.013](#).

Purpose -- 1972 ex.s. c 153: See RCW [79A.35.070](#).

46.09.450

Authorized and prohibited uses.

***** CHANGE IN 2013 *** (SEE [1632-S.SL](#)) *****

(1) Except as otherwise provided in this section, it is lawful to operate an off-road vehicle upon:

(a) A nonhighway road and in parking areas serving designated off-road vehicle areas if the state, federal, local, or private authority responsible for the management of the nonhighway road authorizes the use of off-road vehicles; and

(b) A street, road, or highway as authorized under RCW [46.09.360](#).

(2) Operations of an off-road vehicle on a nonhighway road, or on a street, road, or highway as authorized under RCW [46.09.360](#), under this section is exempt from registration requirements of chapter [46.16A](#) RCW and vehicle lighting and equipment requirements of chapter [46.37](#) RCW.

(3) It is unlawful to operate an off-road vehicle upon a private nonhighway road if the road owner has not authorized the use of off-road vehicles.

(4) Nothing in this section authorizes trespass on private property.

(5) The provisions of RCW [4.24.210](#)(5) shall apply to public landowners who allow members of the public to use public facilities accessed by a highway, street, or nonhighway road for recreational off-road vehicle use.

[2011 c 171 § 27; 2010 c 161 § 221; 2006 c 212 § 2; 2005 c 213 § 4. Formerly RCW [46.09.115](#).]

Notes:

Intent -- Effective date -- 2011 c 171: See notes following RCW [4.24.210](#).

Effective date -- Intent -- Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session -- 2010 c 161: See notes following RCW [46.04.013](#).

Findings--Construction--Effective date -- 2005 c 213: See notes following RCW [46.09.300](#).

46.09.460

Operation by persons under thirteen.

***** CHANGE IN 2013 *** (SEE [1632-S.SL](#)) *****

(1) Except as specified in subsection (2) of this section, no person under thirteen years of age may operate an off-road vehicle on or across a highway or nonhighway road in this state.

(2) Persons under thirteen years of age may operate an off-road vehicle on a nonhighway road designated for off-road vehicle use under the direct supervision of a person eighteen years of age or older possessing a valid license to operate a motor vehicle under chapter [46.20](#) RCW.

[2005 c 213 § 5. Formerly RCW [46.09.117](#).]

Notes:

Findings--Construction--Effective date -- 2005 c 213: See notes following RCW [46.09.300](#).

46.09.470

Operating violations — Exceptions.

***** CHANGE IN 2013 *** (SEE [1632-S.SL](#)) *****

(1) Except as provided in subsection (4) of this section, it is a traffic infraction for any person to operate any nonhighway vehicle:

- (a) In such a manner as to endanger the property of another;
- (b) On lands not owned by the operator or owner of the nonhighway vehicle without a lighted headlight and taillight between the hours of dusk and dawn, or when otherwise required for the safety of others regardless of ownership;
- (c) On lands not owned by the operator or owner of the nonhighway vehicle without an adequate braking device or when otherwise required for the safety of others regardless of ownership;
- (d) Without a spark arrester approved by the department of natural resources;
- (e) Without an adequate, and operating, muffling device which effectively limits vehicle noise to no more than eighty-six decibels on the "A" scale at fifty feet as measured by the Society of Automotive Engineers (SAE) test procedure J 331a, except that a maximum noise level of one hundred and five decibels on the "A" scale at a distance of twenty inches from the exhaust outlet shall be an acceptable substitute in lieu of the Society of Automotive Engineers test procedure J 331a when measured:
- (i) At a forty-five degree angle at a distance of twenty inches from the exhaust outlet;
- (ii) With the vehicle stationary and the engine running at a steady speed equal to one-half of the manufacturer's maximum allowable ("red line") engine speed or where the manufacturer's maximum allowable engine speed is not known the test speed in revolutions per minute calculated as sixty percent of the speed at which maximum horsepower is developed; and
- (iii) With the microphone placed ten inches from the side of the vehicle, one-half way between the lowest part of the vehicle body and the ground plane, and in the same lateral plane as the rearmost exhaust outlet where the outlet of the exhaust pipe is under the vehicle;
- (f) On lands not owned by the operator or owner of the nonhighway vehicle upon the shoulder or inside bank or slope of any nonhighway road or highway, or upon the median of any divided highway;
- (g) On lands not owned by the operator or owner of the nonhighway vehicle in any area or in such a manner so as to unreasonably expose the underlying soil, or to create an erosion condition, or to injure, damage, or destroy trees, growing crops, or other vegetation;
- (h) On lands not owned by the operator or owner of the nonhighway vehicle or on any nonhighway road or trail, when these are restricted to pedestrian or animal travel;
- (i) On any public lands in violation of rules and regulations of the agency administering such lands; and
- (j) On a private nonhighway road in violation of RCW [46.09.450](#)(3).
- (2) It is a misdemeanor for any person to operate any nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance.
- (3)(a) Except for an off-road vehicle equipped with seat belts and roll bars or an enclosed passenger compartment, it is a traffic infraction for any person to operate or ride an off-road vehicle on a nonhighway road without wearing upon his or her head a motorcycle helmet fastened securely while in motion. For purposes of this section, "motorcycle helmet" has the same meaning as provided

in RCW [46.37.530](#).

(b) Subsection (3)(a) of this section does not apply to an off-road vehicle operator operating on his or her own land.

(c) Subsection (3)(a) of this section does not apply to an off-road vehicle operator operating on agricultural lands owned or leased by the off-road vehicle operator or the operator's employer.

(4) It is not a traffic infraction to operate an off-road vehicle on a street, road, or highway as authorized under RCW [46.09.360](#) or [46.61.705](#).

[2011 c 171 § 28; 2011 c 121 § 4; 2006 c 212 § 3; 2005 c 213 § 3; 2003 c 377 § 1; 1979 ex.s. c 136 § 41; 1977 ex.s. c 220 § 10; 1972 ex.s. c 153 § 12; 1971 ex.s. c 47 § 17. Formerly RCW [46.09.120](#).]

Notes:

Rules of court: Bail in criminal traffic offense cases -- Mandatory appearance -- CrRLJ 3.2.

Reviser's note: This section was amended by 2011 c 121 § 4 and by 2011 c 171 § 28, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW [1.12.025](#)(2). For rule of construction, see RCW [1.12.025](#)(1).

Intent -- Effective date -- 2011 c 171: See notes following RCW [4.24.210](#).

Effective date -- 2011 c 121: See note following RCW [46.04.363](#).

Findings--Construction--Effective date -- 2005 c 213: See notes following RCW [46.09.300](#).

Effective date -- Severability -- 1979 ex.s. c 136: See notes following RCW [46.63.010](#).

Purpose -- 1972 ex.s. c 153: See RCW [79A.35.070](#).

46.09.480

Additional violations — Penalty.

(1) No person may operate a nonhighway vehicle in such a way as to endanger human life.

(2) No person shall operate a nonhighway vehicle in such a way as to run down or harass any wildlife or animal, nor carry, transport, or convey any loaded weapon in or upon, nor hunt from, any nonhighway vehicle except by permit issued by the director of fish and wildlife under RCW [77.32.237](#): PROVIDED, That it shall not be unlawful to carry, transport, or convey a loaded pistol in or upon a nonhighway vehicle if the person complies with the terms and conditions of chapter [9.41](#) RCW.

(3) For the purposes of this section, "hunt" means any effort to kill, injure, capture, or purposely disturb a wild animal or bird.

(4) Violation of this section is a gross misdemeanor.

[2004 c 105 § 4; (2004 c 105 § 3 expired July 1, 2004); 2003 c 53 § 233; 1994 c 264 § 35; 1989 c 297 § 3; 1986 c 206 § 7; 1977 ex.s. c 220 § 11; 1971 ex.s. c 47 § 18. Formerly RCW [46.09.130](#).]

Notes:

Rules of court: Bail in criminal traffic offense cases -- Mandatory appearance -- CrRLJ 3.2.

Expiration dates -- Effective dates -- 2004 c 105 §§ 3-6: "(1) Section 3 of this act expires July 1, 2004.

(2) Section 4 of this act takes effect July 1, 2004.

(3) Section 5 of this act expires June 30, 2005.

(4) Section 6 of this act takes effect June 30, 2005." [2004 c 105 § 11.]

Intent -- Effective date -- 2003 c 53: See notes following RCW [2.48.180](#).

Effective date -- 1986 c 206: See note following RCW [46.09.310](#).

46.09.490

General penalty — Civil liability.

(1) Except as provided in RCW [46.09.470](#)(2) and [46.09.480](#) as now or hereafter amended, violation of the provisions of this chapter is a traffic infraction for which a penalty of not less than twenty-five dollars may be imposed.

(2) In addition to the penalties provided in subsection (1) of this section, the owner and/or the operator of any nonhighway vehicle shall be liable for any damage to property including damage to trees, shrubs, or growing crops injured as the result of travel by the nonhighway vehicle. The owner of such property may recover from the person responsible three times the amount of damage.

[2011 c 171 § 29; 1979 ex.s. c 136 § 42; 1977 ex.s. c 220 § 16; 1972 ex.s. c 153 § 16; 1971 ex.s. c 47 § 24. Formerly RCW [46.09.190](#).]

Notes:

Rules of court: Monetary penalty schedule -- IRLJ 6.2.

Intent -- Effective date -- 2011 c 171: See notes following RCW [4.24.210](#).

Effective date -- Severability -- 1979 ex.s. c 136: See notes following RCW [46.63.010](#).

Purpose -- 1972 ex.s. c 153: See RCW [79A.35.070](#).

46.09.500

Motor vehicle fuel excise taxes on fuel for nonhighway vehicles not refundable.

Motor vehicle fuel excise taxes paid on fuel used and purchased for providing the motive power for nonhighway vehicles shall not be refundable in accordance with the provisions of RCW [82.36.280](#) as it now exists or is hereafter amended.

[1977 ex.s. c 220 § 13; 1974 ex.s. c 144 § 1; 1972 ex.s. c 153 § 13; 1971 ex.s. c 47 § 20. Formerly RCW [46.09.150](#).]

Notes:

Purpose -- 1972 ex.s. c 153: See RCW [79A.35.070](#).

46.09.510

Nonhighway and off-road vehicle activities program account.

The nonhighway and off-road vehicle activities program account is created in the state treasury. Moneys in this account are subject to legislative appropriation. The recreation and conservation funding board shall administer the account for purposes specified in this chapter and shall hold it separate and apart from all other money, funds, and accounts of the board. Grants, gifts, or other financial assistance, proceeds received from public bodies as administrative cost contributions, and any moneys made available to the state of Washington by the federal government for outdoor recreation may be deposited into the account.

[2007 c 241 § 15; 1995 c 166 § 11. Formerly RCW [46.09.165](#).]

Notes:

Intent -- Effective date -- 2007 c 241: See notes following RCW [79A.25.005](#).

46.09.520

Refunds from motor vehicle fund — Distribution — Use.

***** CHANGE IN 2013 *** (SEE [1883-S.SL](#)) *****

(1) From time to time, but at least once each year, the state treasurer shall refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected under chapter [82.36](#) RCW, based on a tax rate of: (a) Nineteen cents per gallon of motor vehicle fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007; (c) twenty-one cents per gallon of motor vehicle fuel from July 1, 2007, through June 30, 2009; (d) twenty-two cents per gallon of motor vehicle fuel from July 1, 2009, through June 30, 2011; and (e) twenty-three cents per gallon of motor vehicle fuel beginning July 1, 2011, and thereafter, less proper deductions for refunds and costs of collection as provided in RCW [46.68.090](#).

(2) The treasurer shall place these funds in the general fund as follows:

(a) Thirty-six percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of natural resources solely for acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities, and information programs and maintenance of nonhighway roads;

(b) Three and one-half percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of fish and wildlife solely for the acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities and the maintenance of nonhighway roads;

(c) Two percent shall be credited to the ORV and nonhighway vehicle account and administered by the parks and recreation commission solely for the acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities; and

(d) Fifty-eight and one-half percent shall be credited to the nonhighway and off-road vehicle activities program account to be administered by the board for planning, acquisition, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities and for education, information, and law enforcement programs. The funds under this subsection shall be expended in accordance with the following limitations:

(i) Not more than thirty percent may be expended for education, information, and law enforcement programs under this chapter;

(ii) Not less than seventy percent may be expended for ORV, nonmotorized, and nonhighway road recreation facilities. Except as provided in (d)(iii) of this subsection, of this amount:

(A) Not less than thirty percent, together with the funds the board receives under RCW [46.68.045](#), may be expended for ORV recreation facilities;

(B) Not less than thirty percent may be expended for nonmotorized recreation facilities. Funds expended under this subsection (2)(d)(ii)(B) shall be known as Ira Spring outdoor recreation facilities funds; and

(C) Not less than thirty percent may be expended for nonhighway road recreation facilities;

(iii) The board may waive the minimum percentage cited in (d)(ii) of this subsection due to insufficient requests for funds or projects that score low in the board's project evaluation. Funds remaining after such a waiver must be allocated in accordance with board policy.

(3) On a yearly basis an agency may not, except as provided in RCW [46.68.045](#), expend more than ten percent of the funds it receives under this chapter for general administration expenses incurred in carrying out this chapter.

(4) During the 2009-2011 fiscal biennium, the legislature may appropriate such amounts as reflect the excess fund balance in the NOVA account to the department of natural resources to install consistent off-road vehicle signage at department-managed recreation sites, and to implement the recreation opportunities on department-managed lands in the Reiter block and Ahtanum state forest, and to the state parks and recreation commission. The legislature finds that the appropriation of funds from the NOVA account during the 2009-2011 fiscal biennium for maintenance and operation

of state parks or to improve accessibility for boaters and off-road vehicle users at state parks will benefit boaters and off-road vehicle users and others who use nonhighway and nonmotorized recreational facilities. The appropriations under this subsection are not required to follow the specific distribution specified in subsection (2) of this section.

[2010 1st sp.s. c 37 § 936; 2010 c 161 § 222. Prior: 2009 c 564 § 944; 2009 c 187 § 2; prior: 2007 c 522 § 953; 2007 c 241 § 16; 2004 c 105 § 6; (2004 c 105 § 5 expired June 30, 2005); prior: (2003 1st sp.s. c 26 § 920 expired June 30, 2005); 2003 1st sp.s. c 25 § 922; 2003 c 361 § 407; 1995 c 166 § 9; 1994 c 264 § 36; 1990 c 42 § 115; 1988 c 36 § 25; 1986 c 206 § 8; 1979 c 158 § 130; 1977 ex.s. c 220 § 14; 1975 1st ex.s. c 34 § 1; 1974 ex.s. c 144 § 3; 1972 ex.s. c 153 § 15; 1971 ex.s. c 47 § 22. Formerly RCW [46.09.170](#).]

Notes:

Reviser's note: This section was amended by 2010 c 161 § 222 and by 2010 1st sp.s. c 37 § 936, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW [1.12.025](#)(2). For rule of construction, see RCW [1.12.025](#)(1).

Effective date -- 2010 1st sp.s. c 37: See note following RCW [13.06.050](#).

Effective date -- Intent -- Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session -- 2010 c 161: See notes following RCW [46.04.013](#).

Effective date -- 2009 c 564: See note following RCW [2.68.020](#).

Severability -- Effective date -- 2007 c 522: See notes following RCW [15.64.050](#).

Intent -- Effective date -- 2007 c 241: See notes following RCW [79A.25.005](#).

Expiration dates -- Effective dates -- 2004 c 105 §§ 3-6: See note following RCW [46.09.480](#).

Expiration date -- Severability -- Effective dates -- 2003 1st sp.s. c 26: See notes following RCW [43.135.045](#).

Severability -- Effective date -- 2003 1st sp.s. c 25: See note following RCW [19.28.351](#).

Findings--Part headings not law -- Severability -- 2003 c 361: See notes following RCW [82.36.025](#).

Effective dates -- 2003 c 361: See note following RCW [82.08.020](#).

Purpose -- Headings -- Severability -- Effective dates -- Application -- Implementation -- 1990 c 42: See notes following RCW [82.36.025](#).

Effective date -- 1986 c 206: See note following RCW [46.09.310](#).

Effective date -- 1975 1st ex.s. c 34: "This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975." [1975 1st ex.s. c 34 § 4.]

Purpose -- 1972 ex.s. c 153: See RCW [79A.35.070](#).

46.09.530

Administration and distribution of off-road vehicle moneys.

***** CHANGE IN 2013 *** (SEE [1632-S.SL](#)) *****

(1) After deducting administrative expenses and the expense of any programs conducted under this chapter, the board shall, at least once each year, distribute the funds it receives under RCW [46.68.045](#) and [46.09.520](#) to state agencies, counties, municipalities, federal agencies, nonprofit off-road vehicle organizations, and Indian tribes. Funds distributed under this section to nonprofit off-road vehicle organizations may be spent only on projects or activities that benefit off-road vehicle recreation on lands once publicly owned that come into private ownership in a federally approved land exchange completed between January 1, 1998, and January 1, 2005.

(2) The board shall adopt rules governing applications for funds administered by the recreation and conservation office under this chapter and shall determine the amount of money distributed to each applicant. Agencies receiving funds under this chapter for capital purposes shall consider the possibility of contracting with the state parks and recreation commission, the department of natural resources, or other federal, state, and local agencies to employ the youth development and conservation corps or other youth crews in completing the project.

(3) The board shall require each applicant for acquisition or development funds under this section to comply with the requirements of either the state environmental policy act, chapter [43.21C](#) RCW, or the national environmental policy act (42 U.S.C. Sec. 4321 et seq.).

[2010 c 161 § 223; 2007 c 241 § 17; 2004 c 105 § 7; 1998 c 144 § 1; 1991 c 363 § 122; 1986 c 206 § 9; 1977 ex.s. c 220 § 17. Formerly RCW [46.09.240](#).]

Notes:

Effective date -- Intent -- Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session -- 2010 c 161: See notes following RCW [46.04.013](#).

Intent -- Effective date -- 2007 c 241: See notes following RCW [79A.25.005](#).

Purpose -- Captions not law -- 1991 c 363: See notes following RCW [2.32.180](#).

Effective date -- 1986 c 206: See note following RCW [46.09.310](#).

46.09.900

Severability — 1971 ex.s. c 47.

If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1971 amendatory act, or the application of the provision to other persons or circumstances is not affected.