

# Chapter 220-370 WAC

## AQUACULTURE

**WAC**

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**WAC 220-370-010 Aquaculture.** It shall be unlawful for any person, firm, or corporation to cultivate food fish, shellfish, or other aquatic animals for commercial purposes except as follows in chapter 220-370 WAC.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-370-010, filed 2/15/17, effective 3/18/17; Order 980, § 220-76-001, filed 2/3/72.]

**WAC 220-370-020 Aquaculture—Intent.** The intent of this chapter is to establish rules that promote the health, productivity and well-being of aquaculture products and the wild stock fisheries. These rules will identify the conditions that will be required for transfer and importation of live aquaculture products and the circumstances when action will be taken to control disease. These rules have been developed jointly by the department and the department of agriculture.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-370-020, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 02-02-013 (Order 01-281), § 220-77-010, filed 12/21/01, effective 1/21/02. Statutory Authority: RCW 75.58.010. WSR 87-08-033 (Order 87-20), § 220-77-010, filed 3/27/87.]

**WAC 220-370-030 Aquaculture districts.** (1) **Area 41A** shall include all waters of Budd Inlet south of a line between Dofflemeyer Point to Cooper Point.

(2) **Area 41B** shall include all waters of Carr Inlet north and west of a line between Gibson Point on Fox Island and Hyde Point on McNeil Island and a line crossing Pitt Passage

southwest from Signal Tower No. 5, and all waters of Hale Passage west of a line from Point Fosdick and Fox Point on Fox Island.

(3) **Area 41C** shall include all waters of Case Inlet between Harstene Island and the Longbranch Peninsula between an east-west line from the extreme north shore of Herron Island, and an east-west line from Johnson Point.

(4) **Area 41D** shall include all waters of Case Inlet north of Area 41C and west of a line running north from Dougall Point.

(5) **Area 41E** shall include all waters of Eld Inlet south of a line across the entrance of Eld Inlet projected from Dofflemeyer Point through Cooper Point.

(6) **Area 41F** shall include all waters surrounding Anderson Island south of Area 41B and 41C and a southwest-erly line from Gibson Point on Fox Island to Sunset Beach.

(7) **Area 41G** shall include all waters of Hammersley Inlet and Oakland Bay west of a line between Hungerford Point and Arcadia and the entrance of Hammersley Inlet.

(8) **Area 41H** shall include all waters of Totten and Skookum Inlets southwest of a line from Arcadia to Hunter Point.

(9) **Area 41J** shall include all waters of Pickering Passage and Peale Passage bounded by Areas 41A, 41C, 41H, 41G, 41D, and a line running south from Brisco Point on Harstene Island.

(10) **Area 41K** shall include all waters of Henderson Inlet and Dana Passage east of Area 41J and south of Area 41C.

(11) **Area 41L** shall include all waters of The Narrows, Dalco Passage, and Commencement Bay north and west of Areas 41F and 41B and south of a line from the Gig Harbor entrance marker to Neill Point on Vashon Island to Browns Point.

(12) **Area 41M** shall include all waters of East Passage north and east of Area 41L and south of a line from Point Vashon to Brace Point.

(13) **Area 41N** shall include all waters of Colvos Passage north of Area 41L and south of a line from Point Southworth to Point Vashon.

(14) **Area 42A** shall include all waters of Dyes Inlet, the Washington Narrows, and Sinclair Inlet west of a southeast line from the north shore of the Washington Narrows entrance.

(15) **Area 42B** shall include all waters of Discovery Bay south of a line between Diamond Point and Cape George.

(16) **Area 42C** shall include all waters of all waters of Hood Canal south of the Hood Canal Floating Bridge and north of a line between Quatsap Point and the entrance of Stavis Bay.

(17) **Area 42D** shall include all waters of Hood Canal south of Area 42C and north of a line between Lilliwaup Creek and the south entrance of Dewatto Bay.

(18) **Area 42E** shall include all waters of Hood Canal south of Area 42D.

(19) **Area 42F** shall include all waters of Oak Bay west of a line from Liplip Point on Marrowstone Island to Olele Point and east of the bridge connecting Indian Island and the mainland.

(20) **Area 42G** shall include all waters near Port Angeles south of a line between Angeles Point and the northern extremity of Dungeness Spit.

(21) **Area 42H** shall include all waters north of the Hood Canal Bridge and south of a line between Olele Point and Foulweather Bluff.

(22) **Area 42J** shall include all waters of Port Madison east of the Agate Pass Bridge and west of a line between Point Jefferson and Skiff Point on Bainbridge Island.

(23) **Area 42K** shall include all waters of Port Orchard south of an east-west line at Battle Point on Bainbridge Island, west of a line projected from Restoration Point on Bainbridge Island through the westernmost portion of Blake Island to the Mainland in Yukon Harbor, excluding Area 42A.

(24) **Area 42L** shall include all waters of Port Townsend and Kilisut Harbor bounded by the Indian Island Bridge and a line from Marrowstone Point to Point Wilson.

(25) **Area 42M** shall include all waters of Liberty Bay and those contiguous waters north of Area 42K and south of Area 42J.

(26) **Area 42N** shall include all waters of Admiralty Inlet and Puget Sound north of Areas 41N and 41M, east of 42K and 42J, east of Areas 42H, 42F and 42L, south of a line between Point Wilson and Admiralty Head, and west of a line between Possession Point and Picnic Point.

(27) **Area 42P** shall include all waters of Sequim Bay.

(28) **Area 42R** shall include all waters south of a line between the northern extremity of Dungeness Spit and Point Wilson, excluding Areas 42B and 42P.

(29) **Area 43A** shall include all waters of Padilla Bay west of the line from Shannon Point and the closest portion of Guemes Island, and south of a line between Clark Point on Guemes Island and William Point on Samish Island.

(30) **Area 43B** shall include all waters of Lummi Bay and Bellingham Bay east of the line between Sandy Point and Point Migley on Lummi Island, northeast of the line between William Point on Samish Island and Governors Point.

(31) **Area 43C** shall include all waters of Boundary Bay and Crayton Harbor northeast of the line between Point Roberts and Birch Point, and south of the international border.

(32) **Area 43D** shall include all waters of Possession Sound east of Area 42N, and south of a line from Sandy Point on Whidbey Island, to Camano Head, then to south entrance of Tulalip Bay.

(33) **Area 43E** shall include all waters of Port Susan north of Area 43D.

(34) **Area 43F** shall include all waters of Samish Bay southwest of Area 43B.

(35) **Area 43G** shall include all waters of Saratoga Passage between a line from Sandy Point on Whidbey Island and Camano Head, and a line from Polnell Point on Whidbey Island to Rocky Point on Camano Island.

(36) **Area 43H** shall include all waters of Skagit Bay and Similk Bay north of Area 43G, south of the La Conner Bridge, and east of the Deception Pass Bridge.

(37) **Area 43J** shall include all United States waters of the Strait of Georgia, the United States waters surrounding the San Juan Islands, and the United States waters of the Strait of Juan de Fuca east of Angeles Point.

(38) **Area 43K** shall include all United States waters of the Strait of Juan de Fuca west of Angeles Point and east of a line between Tatoosh Island and Bonilla Point.

(39) **Area 44A** shall include all waters of Grays Harbor north of the marked Chehalis River Channel and west of a line between Point Chehalis and the southwestern most point of the Ocean Shores Peninsula.

(40) **Area 44B** shall include all waters of Grays Harbor south of the marked Chehalis River Channel and west of a line between Point Chehalis and the southwestern most point of the Ocean Shores Peninsula.

(41) **Area 45A** shall include all waters of Willapa Bay north of the Willapa River Channel and west of the North River Channel.

(42) **Area 45B** shall include all waters of Willapa Bay north of the Willapa River Channel, west of the North River Channel and west of a line between Cape Shoalwater and Leadbetter Point.

(43) **Area 45C** shall include all waters of Willapa Bay south of the Willapa River Channel and east of Stoney Point.

(44) **Area 45D** shall include all waters of Willapa Bay south of the Willapa River Channel, west of Stoney Point, east of the Nahcotta Channel, and north and east of a line running north from Goose Point to the middle of the Bay Center Channel and then westerly following the Bay Center Channel to the Nahcotta Channel.

(45) **Area 45E** shall include all waters of Willapa Bay east of the Nahcotta Channel, south of Area 45D, and north of a line projected west from Sandy Point.

(46) **Area 45F** shall include all waters of Willapa Bay east of the Nahcotta Channel, south of Area 45E, and north-east of a line following the Nemah River Channel to channel marker "4" then west of the Nahcotta Channel.

(47) **Area 45G** shall include all waters of Willapa Bay west of Diamond Point, southwest of the Nahcotta Channel, south of Area 45F, and north of a line between Paradise Point on Long Island and Sunshine Point.

(48) **Area 45H** shall include all waters of Willapa Bay south of Area 45G and north and west of the ferry crossing to Long Island.

(49) **Area 45J** shall include all waters of Willapa Bay west of the Long Island ferry crossing and south of High Point.

(50) **Area 45K** shall include all waters of Willapa Bay north of High Point, east of the Nahcotta Channel, and south of the line between Diamond Point and the Nahcotta Boat Basin.

(51) **Area 45L** shall include all waters of Willapa Bay north of High Point, west of the Nahcotta Channel and south of the line between Diamond Point and the Nahcotta Boat Basin.

(52) **Area 45M** shall include all waters of Willapa Bay east of the line between Cape Shoalwater and Leadbetter Point, south of Area 45B, west of Areas 45D, 45E, and 45F, and north of latitude 46 degrees, 35 minutes north.

(53) **Area 45N** shall include all waters of Willapa Bay south of Area 45M, east of Areas 45F and 45G, and north of Areas 45K and 45L.

(54) **Area 47A** shall include all freshwater streams, ponds or lakes in Clallam County.

(55) **Area 47B** shall include all freshwater streams, ponds or lakes in Clark County.

(56) **Area 47C** shall include all freshwater streams, ponds or lakes in Cowlitz County.

(57) **Area 47D** shall include all freshwater streams, ponds or lakes in Grays Harbor County.

(58) **Area 47E** shall include all freshwater streams, ponds or lakes in Island County.

(59) **Area 47F** shall include all freshwater streams, ponds or lakes in Jefferson County.

(60) **Area 47G** shall include all freshwater streams, ponds or lakes in King County.

(61) **Area 47H** shall include all freshwater streams, ponds or lakes in Kitsap County.

(62) **Area 47J** shall include all freshwater streams, ponds or lakes in Lewis County.

(63) **Area 47K** shall include all freshwater streams, ponds or lakes in Mason County.

(64) **Area 47L** shall include all freshwater streams, ponds or lakes in Pacific County.

(65) **Area 47M** shall include all freshwater streams, ponds or lakes in Pierce County.

(66) **Area 47N** shall include all freshwater streams, ponds or lakes in San Juan County.

(67) **Area 47O** shall include all freshwater streams, ponds or lakes in Skagit County.

(68) **Area 47P** shall include all freshwater streams, ponds or lakes in Skamania County.

(69) **Area 47Q** shall include all freshwater streams, ponds or lakes in Snohomish County.

(70) **Area 47R** shall include all freshwater streams, ponds or lakes in Thurston County.

(71) **Area 47S** shall include all freshwater streams, ponds or lakes in Wahkiakum County.

(72) **Area 47T** shall include all freshwater streams, ponds or lakes in Whatcom County.

(73) **Area 48A** shall include all freshwater streams, ponds or lakes in Adams County.

(74) **Area 48B** shall include all freshwater streams, ponds or lakes in Asotin County.

(75) **Area 48C** shall include all freshwater streams, ponds or lakes in Benton County.

(76) **Area 48D** shall include all freshwater streams, ponds or lakes in Chelan County.

(77) **Area 48E** shall include all freshwater streams, ponds or lakes in Columbia County.

(78) **Area 48F** shall include all freshwater streams, ponds or lakes in Douglas County.

(79) **Area 48G** shall include all freshwater streams, ponds or lakes in Ferry County.

(80) **Area 48H** shall include all freshwater streams, ponds or lakes in Franklin County.

(81) **Area 48J** shall include all freshwater streams, ponds or lakes in Garfield County.

(82) **Area 48K** shall include all freshwater streams, ponds or lakes in Grant County.

(83) **Area 48L** shall include all freshwater streams, ponds or lakes in Kittitas County.

(84) **Area 48M** shall include all freshwater streams, ponds or lakes in Klickitat County.

(85) **Area 48N** shall include all freshwater streams, ponds or lakes in Lincoln County.

(86) **Area 48O** shall include all freshwater streams, ponds or lakes in Okanogan County.

(87) **Area 48P** shall include all freshwater streams, ponds or lakes in Pend Oreille County.

(88) **Area 48Q** shall include all freshwater streams, ponds or lakes in Spokane County.

(89) **Area 48R** shall include all freshwater streams, ponds or lakes in Stevens County.

(90) **Area 48S** shall include all freshwater streams, ponds or lakes in Walla Walla County.

(91) **Area 48T** shall include all freshwater streams, ponds or lakes in Whitman County.

(92) **Area 48U** shall include all freshwater streams, ponds or lakes in Yakima County.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-370-030, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 75.08.080 and 75.58.040. WSR 86-19-043 (Order 86-102), § 220-22-510, filed 9/12/86.]

**WAC 220-370-040 Aquatic farm—Definition.** An aquatic farm is any facility or tract of land used for private, commercial culture of aquatic products. Each geographically separate facility or tract of land used for commercial culture shall constitute a separate farm site location. In applying for aquatic farm registration for shellfish, the applicant must identify the farm site using the same description used for applying for the department of health harvest site certificate required to harvest shellfish for sale for human consumption.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-370-040, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 06-09-020 (Order 06-70), § 220-76-015, filed 4/11/06, effective 5/12/06. Statutory Authority: RCW 75.08.080 and 75.58.040. WSR 86-19-043 (Order 86-102), § 220-76-015, filed 9/12/86; Order 980, § 220-76-015, filed 2/3/72.]

**WAC 220-370-050 Definitions—Aquaculture disease control.** For purposes of this chapter, the following definitions apply:

(1) "Aquaculture products" are defined as private sector cultured aquatic products propagated, farmed, or cultivated on aquatic farms under the supervision and management of an aquatic farmer, or such products naturally set on lands under the active supervision and management of an aquatic farmer.

(2) "Disease" is defined as infection, contagious disease, parasite, or pest, occurring on or within the aquaculture product, or other shellfish or finfish, or on or within the water or substrate associated with the aquaculture product, shellfish, or finfish, or an occurrence of significant mortality suspected of being of an infectious or contagious nature.

(3) "Finfish" is defined as live fish, fish eggs, or fish gametes, but not to include aquaria species commonly sold in the pet store trade when raised in containers that do not discharge to the water[s] of the state, indigenous marine baitfish, or mosquito fish.

(4) "Shellfish" is defined as all aquatic invertebrates except insects.

(5) "Epizootic" is defined as the occurrence of a specific disease which can be detected in fifty percent of the mortality or moribund individual fish in an affected container or shellfish on an affected bed or within an affected population, and which results in an average daily mortality of at least one-half of one percent of the affected individual fish for five or more days in any thirty-day period.

(6) "Marine plant" is defined as nonvascular plants belonging to the phyla Chlorophyta, Phaeophyta, or Rhodophyta and vascular plants belonging to the family Zosteraceae when growing in marine or estuarine waters, and includes the seeds, spores, or any life-history phase of the plants.

(7) "Working day" is defined as any day other than Saturday, Sunday, or a Washington state holiday.

(8) "Department" is defined as the department of fish and wildlife.

(9) "Quarantine" is defined as isolation of the organism in a department approved facility.

(10) "Pest" is defined as parasite, parasitoid, predator, or fouling agent.

(11) "Established species" is defined as a species that has been propagated through aquaculture for at least ten years in Washington, or a species naturally reproducing within Washington.

(12) "West coast commerce region" is defined as the states of Alaska, California, Oregon, and Washington and the province of British Columbia.

(13) "Kelp" is defined as any species of brown algae of the order Laminariales.

(14) "Class A shellfish disease" is defined as an infectious disease which can cause significant mortality or loss of condition or quality in affected shellfish.

(15) "Class B shellfish disease" is defined as an infectious disease which is not known to cause significant mortality or loss of condition or quality in affected shellfish.

(16) "Market ready shellfish" are defined as aquatic invertebrate species which are intended for immediate human consumption and will not be placed into or come in contact with state waters.

(17) "Authorized finfish inspector" shall be defined as the individual who conducts or supervises testing in an authorized laboratory and attests to the results obtained. This individual signs/cosigns inspection and diagnostic reports and health certificates. The director shall maintain and provide upon request a roster of authorized finfish inspectors. An authorized finfish inspector shall be currently recognized by one of the following entities: The American Fisheries Society, Fish Health Section (either as Fish Health Inspector or Fish Pathologist); United States Fish and Wildlife Service, Title 50 Inspector; Canadian Department of Fisheries and Oceans, Fish Health Official or Inspector; Supervising veterinarian in a laboratory accredited by the American Association of Veterinary Laboratory Diagnosticians (AAVLD).

(18) "Laboratory inspection report" is defined as the written results of testing conducted by an authorized finfish inspector.

(19) "Lot of fish" shall be defined as a group of fish of the same species and age that originated from the same spawning stock and share a common water supply.

(20) "Regulated finfish pathogens" are defined as the following pathogens which, upon initial detection within Washington state, or detection from a site within Washington state that has been pathogen-free for three or more years, require notification within one working day to the fish health unit of the department, who will, in turn, notify the state veterinarian of the detection:

(a) Viruses:

(i) Infectious hematopoietic necrosis virus;

(ii) Infectious pancreatic necrosis virus;

(iii) Viral hemorrhagic septicemia virus;

(iv) Oncorhynchus masou virus; and

(v) Infectious salmon anemia virus.

(b) Parasite: *Myxobolus cerebralis*.

(21) "Terminal quarantine facility" is defined as a department-approved quarantine facility where imported aquatic invertebrates are held for public display or research purposes only, with minimal risk that the organisms will be released or that untreated quarantine facility holding waters will commingle with state waters. The operation plan of the quarantine facility must be approved by the department prior to the introduction of any organisms. At the conclusion of the public display or research, the organisms held in quarantine shall be destroyed and all waters and waste disinfected and disposed of using methods approved by the department.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-370-050, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 02-06-018 (Order 02-35), § 220-77-020, filed 2/22/02, effective 3/25/02; WSR 02-02-013 (Order 01-281), § 220-77-020, filed 12/21/01, effective 1/21/02. Statutory Authority: RCW 75.08.080. WSR 97-08-078 (Order 97-56), § 220-77-020, filed 4/2/97, effective 5/3/97. Statutory Authority: RCW 75.58.010. WSR 87-08-033 (Order 87-20), § 220-77-020, filed 3/27/87.]

#### **WAC 220-370-060 Aquatic farm registration required.**

(1) It shall be unlawful for any person to cultivate aquatic products (private sector cultured aquatic products as defined under RCW 15.85.020(3)) without the aquatic farmer having first registered the aquatic farm with the department. Any aquatic farm must be registered with the department prior to the commencement of culture activities. The department shall grant registration to qualified persons within seven days of the receipt of a complete aquatic farm registration form.

(2) Aquatic farm registrations are nontransferable. In the event there is a change of ownership of an aquatic fish farm established under chapter 220-370 WAC the aquatic farm registration issued to the previous owner shall be invalid.

(3) Registrations must be renewed annually, prior to December 31 for the succeeding calendar year. Reporting of aquaculture activity (WAC 220-370-160) during the previous calendar year shall constitute renewal for the following year.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-370-060, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 75.08.080 and 75.58.040. WSR 89-10-033 (Order 89-27), § 220-76-010,

filed 4/27/89; WSR 86-19-043 (Order 86-102), § 220-76-010, filed 9/12/86. Statutory Authority: RCW 75.08.080. WSR 84-05-046 (Order 84-11), § 220-76-010, filed 2/21/84; Order 980, § 220-76-010, filed 2/3/72.]

**WAC 220-370-070 Aquatic farm registration form—Required information.** If asked by an aquatic farmer, the department will prepare, print, and distribute an aquatic farm registration form. The following information must be provided by the aquatic farmer:

- (1) The name, mailing address, and telephone number of the individual or company that owns or leases the aquatic farm;
- (2) The name and telephone number of a contact person immediately responsible for operation of the aquatic farm;
- (3) The department of health (DOH) shellfish certification number if DSHS requires a certification number;
- (4) The common name of aquatic species being cultured;
- (5) The method(s) of culture the aquatic farmer is using on the farm;
- (6) If it is a freshwater or onshore aquatic farm, the legal description, street address, county, aquaculture district, and the number of separate tracts or facilities within the district that comprise the aquatic farm(s);
- (7) If it is a marine aquatic farm, the name of bay or inlet, county, and aquaculture district for the farm(s);
- (8) The signature of the company official or owner;
- (9) A site drawing of the aquatic farm and a brief narrative description of the facility and its operation. Freshwater farms must also identify the source of culture water, where the water is discharged, and the watershed where the facility is located;
- (10) Documentation of ownership or present right of possession of the land comprising the aquatic farm.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.150, 77.12.240, 77.12.800, 77.32.090, and 77.32.155. WSR 17-12-105 (Order 17-112), § 220-370-070, filed 6/6/17, effective 7/7/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12-047. WSR 17-05-112 (Order 17-04), recodified as § 220-370-070, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.045, and 77.12.047. WSR 13-02-043 (Order 12-290), § 220-76-020, filed 12/21/12, effective 1/21/13. Statutory Authority: RCW 75.08.080 and 75.58.040. WSR 89-10-033 (Order 89-27), § 220-76-020, filed 4/27/89; WSR 86-19-043 (Order 86-102), § 220-76-020, filed 9/12/86; Order 980, § 220-76-020, filed 2/3/72.]

**WAC 220-370-080 Aquaculture facility inspection authority—Generally.** Authorized department employees shall, at reasonable times and in a reasonable manner, have access to all finfish aquaculture facilities to conduct inspections for the prevention and suppression of aquaculture diseases, including, but not limited to, taking samples for detection of regulated finfish pathogens and other diseases. If the department is denied access, a court of competent jurisdiction may issue a search warrant authorizing access to the facility upon a showing that the facility is engaged in aquaculture production and that access has been denied.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-370-080, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 34.05.353 (1)(c) and (e), (2)(c) and (d), and 77.12.047 (1)(c). WSR 12-11-089 (Order 12-61), § 220-77-081, filed 5/18/12, effective 6/18/12. Statutory Authority: RCW 77.12.047. WSR 02-02-013 (Order 01-281), § 220-77-081, filed 12/21/01, effective 1/21/02.]

(6/6/17)

**WAC 220-370-090 Aquaculture—Recordkeeping.** It is the responsibility of a registered finfish aquatic farmer to maintain records of laboratory inspection reports on the live product of that finfish aquatic farmer issued for the previous twenty-four months. It is the responsibility of a finfish aquatic farmer to maintain records of shipments of all live products to other sites or facilities that occurred during the previous twenty-four months, which shipment reports must contain, at a minimum, the shipping date, species, amount, and name and address of the receiver of the shipment. Laboratory inspection reports and shipping reports must be made available to authorized department employees. Records of a proprietary nature, such as lists and addresses of clients, are not public records and are not available for public inspection.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-370-090, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 02-02-013 (Order 01-281), § 220-77-082, filed 12/21/01, effective 1/21/02.]

**WAC 220-370-100 Marine finfish aquaculture—Approval permit for marine finfish aquaculture.** (1) It is unlawful for any aquatic farmer to possess any species, stock or race of marine finfish, defined as finfish being raised in marine waters, in net pens, cages or other rearing vessels without having first obtained and possessing a valid marine finfish aquaculture permit from the director for that species, stock and race at that specific location of rearing or holding. The director will approve, condition, or deny a permit within sixty days after a completed application containing all requested information is received by the department's aquaculture coordinator. The application must be accompanied by an escape prevention plan and the escape reporting and recapture plan as required by this chapter. A permit may be denied based on the determination by the director of significant genetic, ecological or fish health risks of the proposed fish rearing program on naturally occurring fish and wildlife, their habitat or other existing fish rearing programs. The use of transgenic fish (as defined by the actual transfer of genetic material from one species to another) is prohibited. Each permit application must contain a means mutually agreed to by the department and the aquatic farmer to individually identify to the aquatic farmer all marine finfish in aquaculture hatched after December 31, 2003. A permit will be valid for a period of five years from the date of approval. The department will comply with the procedures of any appropriate federal court order in processing permit applications. Any change in species, stock, or race at a specific location of rearing or holding will require reapproval of the marine finfish rearing operation. In the event of denial, the affected person may appeal the decision to the director. The department will advise the person of the appeals process. Additional appeals may be made through the Administrative Procedure Act (chapter 34.05 RCW).

(2) Any person who imports marine finfish into the state for aquaculture or transports marine finfish within the state for aquaculture and who does not have an approved marine finfish aquaculture permit is guilty of unlawfully transporting finfish. Violation of this section shall be enforced under RCW 77.15.290.

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[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-370-100, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 03-02-047 (Order 02-309), § 220-76-100, filed 12/24/02, effective 7/1/03.]

**WAC 220-370-110 Marine finfish aquaculture—**

**Escape prevention plan required.** A fish escape prevention plan is required with each application for a marine finfish aquaculture permit and approval by the department of the fish escape prevention plan is required before issuance of a marine finfish aquaculture permit.

(1) The escape prevention plan must include:

(a) Routine procedures and best management procedures used to minimize the risk of escapement from pens during normal day-to-day operations.

(b) Procedures to minimize escapements in the event the net-pens need to be moved, repaired, or manipulated in any manner, or during stocking or harvesting operations, which could result in a release of fish to state waters. At a minimum, prior to the net-pens being moved, a bathymetric analysis should be made along the intended travel route(s) to ensure adequate depth and the absence of underwater hazards or obstructions.

(c) Procedures for routine training of employees and contractors in escape prevention.

(d) Procedures for routinely determining and tracking the number of fish in each pen lost due to predation and mortality, and the number of fish lost due to escapement.

(e) Procedures for monitoring the implementation of (a) through (d) of this subsection.

(2) For the purpose of meeting the requirements of this section, plans and manuals required by the department of ecology through the National Pollutant Discharge Elimination System (NPDES) permit process may be submitted for approval.

(3) Marine finfish aquaculture farmers are required to implement the provisions of their approved fish escape prevention plan. Failure to implement the provisions of an approved escape prevention plan may result in invalidation of the marine finfish aquaculture permit. A notice of failure to comply with the fish escape prevention plan requirements will be given prior to invalidation of the permit, and the aquaculture farmer will have not less than seven nor more than ninety days to correct the conditions or status that caused the notice to be given. If the marine finfish aquaculture permit is invalidated, any transportation of finfish shall be treated as a violation of RCW 77.15.290.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-370-110, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 03-02-047 (Order 02-309), § 220-76-110, filed 12/24/02, effective 7/1/03.]

**WAC 220-370-120 Marine finfish aquaculture—**

**Escape reporting and recapture plan required.** (1) It is the responsibility of aquatic farmers to report an escape of marine finfish and to attempt to recapture escaped fish. Escaped marine finfish will be treated by the department the same as feral fish, and the department may augment capture and removal of such fish by scheduling recreational or commercial fisheries.

(2) An escape reporting and recapture plan is required with each application for a marine finfish aquaculture permit

and approval by the department of the fish escape reporting and recapture plan is required before issuance of a marine finfish aquaculture permit.

(3) The escape reporting and recapture plan must include:

(a) Reporting procedure. Procedures for determining what constitutes a reportable fish escape. An emergency contact list in the event of a reportable fish escape from the permittee's net-pens, including local government, the department and the Washington department of ecology.

(b) Procedures requiring the permittee to report any reportable fish escape, within twenty-four hours of the permittee having knowledge of that escape, to local government, the department, and ecology. The report shall include the location, number, age class, disease and medication history, and cause of escape.

(c) Procedures to recapture escaped fish. Each marine aquatic farming location shall have a procedure for attempting recapture of escaped fish. The plan may include the use of facilities' skiffs, seines or nets and/or tribal and commercial fishers acting under contract with the aquaculture facility. For all reportable escapes, the permittee shall also submit a follow-up report describing all fish recovery efforts initiated in response to the escape, and effectiveness of the recovery efforts.

(d) Emergency procedures that will be taken to minimize the number of escaped fish.

(e) In the event the escaped fish were being treated with antibiotics or other drugs subject to USFDA withdrawal requirements and the withdrawal periods had not expired at the time of the escape, the permittee shall also include this information in the report required by (b) of this subsection, and shall provide a copy of the report to the Washington state department of health.

(4) For the purpose of meeting the requirements of this section, plans and manuals required by the department of ecology through the National Pollutant Discharge Elimination System (NPDES) permit process may be submitted for approval.

(5) The permittee shall submit, by the last day in February, an annual fish escape report to the department, covering the previous calendar year. The report shall summarize, by month and pen site, the number, age class, disease and medication history, and cause of all fish escapes to waters of the state. The permittee shall summarize the actions taken over the previous year to prevent the escape of fish to state waters.

(6) Marine finfish aquaculture farmers are required to implement the provisions of their approved fish escape reporting and recapture plan. Failure to implement the provisions of an approved escape reporting and recapture plan may result in invalidation of the marine finfish aquaculture permit. A notice of failure to comply with the fish escape recapture and reporting requirements will be given prior to invalidation of the permit, and the aquaculture farmer will have not less than seven nor more than ninety days to correct the conditions or status that caused the notice to be given. If the marine finfish aquaculture permit is invalidated, any transportation of finfish shall be treated as a violation of RCW 77.15.290.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-370-120,

filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 03-02-047 (Order 02-309), § 220-76-120, filed 12/24/02, effective 7/1/03.]

**WAC 220-370-130 Aquaculture facility inspection authority—Marine finfish aquaculture.** Authorized department employees shall, at reasonable times and in a reasonable manner, have access to marine aquatic farming locations to conduct inspections to determine conformity with the law and the rules of the department relating to preventing escaped finfish and/or the recapture of escaped finfish. The department shall conduct at least annual inspections of marine finfish aquaculture facilities of the state.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-370-130, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 34.05.353 (1)(c) and (e), (2)(c) and (d), and 77.12.047 (1)(o). WSR 12-11-089 (Order 12-61), § 220-76-130, filed 5/18/12, effective 6/18/12. Statutory Authority: RCW 77.12.047. WSR 03-02-047 (Order 02-309), § 220-76-130, filed 12/24/02, effective 7/1/03.]

**WAC 220-370-140 Marine finfish aquaculture—Atlantic salmon watch program established.** Contingent on funding, the director shall develop and implement an Atlantic salmon watch program which will include the following elements:

(1) Establish an Atlantic salmon watch coordinator position whose responsibilities include providing a focal point for consolidation of scientific information and implementation of subsections (2) through (5) of this section.

(2) Develop and maintain a system to record and report observations and catch of Atlantic salmon in waters of the state, including modification of the recreational catch data reporting system, the commercial fish ticket reporting system, education of volunteers to identify and report spawning sites, and monitoring of selected watersheds to detect spawning Atlantic salmon.

(3) Model the impact of Atlantic salmon on naturally produced and cultured finfish stocks by estimates of identification of Atlantic salmon standing crop or populations in the wild, detailed life history requirements, and estimates of niche overlap.

(4) Coordination with marine finfish aquatic farmers under WAC 220-370-110 for the reporting of escapes of Atlantic salmon from marine aquatic farming locations, and adjustment of escape prevention plans filed with the department under WAC 220-370-100 to prevent future escapes.

(5) Provide public information on recreational opportunity in the event of an escape, assist the public in understanding the effect of Atlantic salmon escapes on native populations, and provide a public contact for all department efforts regarding Atlantic salmon.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-370-140, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 03-02-047 (Order 02-309), § 220-76-140, filed 12/24/02, effective 7/1/03.]

**WAC 220-370-150 Marine finfish aquaculture—Educational program for marine finfish aquatic farmers.** Contingent on funding, the director shall develop and implement an educational program with marine aquatic farmers which will include the following elements:

(1) WDFW will notify aquatic farmers of upcoming WDFW hatchery workshops, meetings or tours with regard to hatchery disease control procedures and prevention, feeding and waste control at hatcheries and programs investigating raising marine finfish species.

(2) Annual "workshop" co-hosted by the industry, WDFW and other interested parties reviewing new containment technologies, or other environmental developments affecting the aquaculture industry.

(3) Information sharing by WDFW from any regional or international symposiums attended by WDFW staff covering aspects of marine finfish aquaculture.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-370-150, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 03-02-047 (Order 02-309), § 220-76-150, filed 12/24/02, effective 7/1/03.]

**WAC 220-370-160 Duties of aquatic farmers.** (1) It is unlawful for an aquatic farmer shipping out-of-state or selling private sector cultured aquatic products to fail to:

(a) Keep complete and accurate records showing the quantity of products sold and the location of the aquatic farm where products were grown; and

(b) Completely, accurately, and legibly prepare an aquatic farm production report.

(2) An aquatic farm production report must document each aquatic farm's monthly production and contain the information required in WAC 220-370-170 (1)(a) through (g). Aquatic farmers must submit aquatic farm production reports for each quarter to the department within thirty days of the end of each quarter for which production is reported.

(3) The aquatic farmer must retain copies of quarterly production reports for one year and make the reports available for inspection upon request by authorized department personnel.

(4) Violation of this section is a misdemeanor, punishable under RCW 77.15.350, Inspection and disease control of aquatic farms—Rules violation—Penalty.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-370-160, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.045, and 77.12.047. WSR 14-02-013 (Order 13-304), § 220-69-243, filed 12/19/13, effective 1/19/14. Statutory Authority: RCW 77.12.047. WSR 04-17-096 (Order 04-210), § 220-69-243, filed 8/17/04, effective 9/17/04. Statutory Authority: RCW 75.08.080 and 75.58.040. WSR 86-19-043 (Order 86-102), § 220-69-243, filed 9/12/86.]

**WAC 220-370-170 Description of aquatic farm production report.** (1) There is hereby created an aquaculture production report form to be prepared, printed and distributed on request by the department. The aquatic farmer shall provide the following information:

(a) Firm name: Name of aquaculture firm and telephone number.

(b) Firm address: Address of aquaculture firm.

(c) Aquatic farm numbers: Department assigned aquatic farm registration number and location number.

(d) Species: Common name of species grown at aquatic farm site.

(e) Quantity harvested for sale: Quantity, in production units, of each species harvested for sale. The production may be shown in pounds, dozens, gallons, bushels or bags.

(f) Unit value: Value per production unit.

(g) Signature: Signature of firm executive or authorized representative and date signed.

(2) The aquaculture production report shall be used for reporting of aquaculture production as specified in WAC 220-370-160.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-370-170, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 04-17-096 (Order 04-210), § 220-69-23402, filed 8/17/04, effective 9/17/04. Statutory Authority: RCW 75.08.080. WSR 00-01-145 (Order 99-221), § 220-69-23402, filed 12/20/99, effective 1/20/00. Statutory Authority: RCW 75.08.080 and 75.58.040. WSR 86-19-043 (Order 86-102), § 220-69-23402, filed 9/12/86. Statutory Authority: RCW 75.08.080. WSR 81-03-032 (Order 81-6), § 220-69-23402, filed 1/13/81.]

#### **WAC 220-370-180 Aquaculture—Disease—Control.**

Outbreaks of disease affecting food fish, shellfish, and aquatic animals in fish farm facilities shall be reported immediately to the department. If such outbreaks represent a serious threat to fisheries resources of the state, the director may immediately order such actions as deemed necessary to protect the fisheries resource of the state such as, but not limited to, quarantining, destruction of stock, sterilization of facilities and disposal of mortalities.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-370-180, filed 2/15/17, effective 3/18/17; Order 980, § 220-76-030, filed 2/3/72.]

#### **WAC 220-370-190 Finfish aquaculture disease control.**

(1) It is unlawful for any person to import into or transport within the state of Washington finfish aquaculture products without first having obtained a permit to do so issued by the department. A copy of the transport permit shall accompany the finfish aquaculture products at all times within the state of Washington, and must be presented upon request to authorized department employees.

(2) The director may impose conditions on a transport permit as necessary to ensure the protection of aquaculture products and native finfish from disease when the director concludes that there is a reasonable risk of disease transmission associated with the finfish aquaculture products.

(3) Upon the initial detection of a regulated pathogen, the department's fish health unit must be notified by the end of the following working day after diagnosis is made. The department will confirm or deny the presence of the regulated pathogen. Pending confirmation the department may take action under WAC 220-370-240 (1)(a) or (b).

(4) The director will issue, upon request, copies of the rules and policies dealing with finfish disease control.

(5) The director will issue or deny a transport permit within thirty days after a completed application containing all requested information is received by the department's fish health unit.

(6) Violation of these rules or the conditions of the transport permit may result in the suspension or revocation of the permit.

(7) In the event of denial, suspension, or revocation of a transport permit, the affected person may appeal the decision to the director. The department will advise the person of the appeals process. Additional appeals may be made through the Administrative Procedure Act (chapter 34.04 RCW). A sus-

pending or revoked transport permit will remain suspended or revoked during the appellate process.

(8) Any person desiring to conduct *in vivo* research using a regulated finfish pathogen is required to first obtain permission in writing from the department prior to beginning the research.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-370-190, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 02-02-013 (Order 01-281), § 220-77-030, filed 12/21/01, effective 1/21/02. Statutory Authority: RCW 75.58.010. WSR 87-08-033 (Order 87-20), § 220-77-030, filed 3/27/87.]

#### **WAC 220-370-200 Shellfish aquaculture disease control.**

(1) It is unlawful for any person to import into Washington or possess live imported aquatic invertebrates, except market ready shellfish, without first obtaining an aquatic invertebrate import permit issued by the department. A copy of the permit shall accompany the aquatic invertebrates at all times within the state of Washington, and must be presented upon request to department employees.

(2) The director shall appoint a seven-member advisory committee consisting of one representative each from the department, the department of agriculture, the aquatic farmers of Washington, the federally recognized treaty tribes, private displayers of aquatic invertebrates, aquatic invertebrate ecologists, and aquatic invertebrate disease control specialists. The committee will advise the department on importation of aquatic invertebrates, make recommendations on classification of shellfish diseases, and review department policy. Recommendations of the committee are not binding on the commission or director.

(3) Established species from existing import areas with current disease free tissue certification from areas of origin free of Class A shellfish diseases are eligible for continued importation.

(a) An additional disease free tissue certification must be submitted every three years. The department will waive the certification requirement if there is sufficient information that the source area is free of Class A shellfish diseases.

(b) Additional disease free certification may be required upon discovery or reports of disease at the geographic source.

(4) Established species from new areas of origin are eligible for import if health history documentation and disease free tissue certification are provided to the department. Import into quarantine is required for imports originating from outside the west coast commerce region.

(a) Conditional importation approval will be initiated by permit application.

(b) Presence of any Class A shellfish disease in the area of origin will result in denial of conditional approval.

(c) At least one additional disease free certification will be required during the first year of importation. In the absence of disease during the first year of importation, established species will be eligible for continued importation, and the provisions of subsection (3) of this section will apply.

(5) Nonestablished species for which a health history documentation and disease free tissue certification have been initiated by permit application are eligible for importation only into quarantine.

A SEPA check list is required for any importation of a new species.

(6) Health history documentation will be based on available documentation over the five years prior to application for an import permit, unless a longer documentation is required for cause, and is required to be provided by the applicant. Disease free tissue certification is required from representative invertebrates proposed for import, and must be certified by a department-approved invertebrate health care professional. Disease-free tissue certification may be waived for aquatic invertebrate species placed into a terminal quarantine facility upon approval of an aquatic invertebrate import permit application.

(7) Department employees may inspect quarantine facilities used for permitted shellfish imports at reasonable times without prior notification.

(8) Importers are required to immediately report to the department any epizootic, significant mortality potentially attributable to an infectious disease or discovery of a Class A shellfish disease in an approved source area. The report is required to be made within 24 hours of the event or discovery. Annual reporting of the presence or absence of Class A or Class B shellfish diseases may be a condition of any permit.

(9) Violation of these rules or the conditions of the permit, confirmation of a Class A shellfish disease at the geographic source, or verification of a substantial shellfish mortality at the geographic source may result in the suspension or revocation of the import permit.

In the event of denial, suspension, or revocation of an import permit, the affected party may appeal through the Administrative Procedure Act. A suspended or revoked permit will remain suspended or revoked during the appeal process.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-370-200, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 02-06-018 (Order 02-35), § 220-77-040, filed 2/22/02, effective 3/25/02. Statutory Authority: RCW 75.08.080. WSR 97-08-078 (Order 97-56), § 220-77-040, filed 4/2/97, effective 5/3/97. Statutory Authority: RCW 75.58.010. WSR 87-08-033 (Order 87-20), § 220-77-040, filed 3/27/87.]

**WAC 220-370-210 Amphibian aquaculture disease control.** (1) It is unlawful to import into the state of Washington amphibian aquaculture products without having first obtained a permit to do so issued by the director.

(2) It is unlawful to possess African clawed frogs for aquaculture.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-370-210, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 75.58.010. WSR 87-08-033 (Order 87-20), § 220-77-050, filed 3/27/87.]

**WAC 220-370-220 Marine plant aquaculture disease control.** (1) It is unlawful for any person to import into the state of Washington marine plant aquaculture products without having first obtained a permit to do so issued by the department. A copy of the permit shall accompany the imported marine plant aquaculture products at all times until the initial point of entry into the marine environment, and must be presented upon request to department employees.

(2) The director may impose permit conditions as necessary to ensure the protection of aquaculture products and native marine plants from disease or pests when the director concludes there is a reasonable risk of disease or pest transmission associated with marine plant aquaculture products.

(3) For *Porphyra yezoensis* and *P. tenera*, the director will issue import and transfer permits if the plants are in the form of:

(a) Unialgal conchocelis culture of free living material; or

(b) Conchocelis-phase culture in shells after the shells and conchocelis have been washed and soaked in fresh water for at least twenty-four hours; or

(c) Blade phase on netting after two weeks at a temperature of minus twenty degrees centigrade or lower.

(4) For import of other species, the department will consider at least the following criteria, which may require the importer to provide a detailed life history and comply with the requirements of SEPA:

(a) The ability of the marine plant aquaculture product to naturally reproduce or interbreed with existing species in state waters.

(b) The ability of the marine plant aquaculture product to compete with existing species.

(5) Importation of marine plant aquaculture products for scientific study in a laboratory or under other controlled conditions is allowed without having obtained a permit when measures are taken to prevent release of the products or release of their gametes, spores, or tissue fragments into state waters. The director may inspect facilities to ensure appropriate control measures.

(6) For purposes of verification of the disease-free status of the marine plant aquaculture product in subsections (3), (4), and (5) of this section, the department may require sufficient samples for evaluation. In event of failure to obtain permit approval, consideration will be given to introduction after laboratory production of a second generation.

(7) It is unlawful to transfer marine plant aquaculture products between any of the following geographic areas without having first obtained a transfer permit: Columbia River; Pacific Ocean waters; Willapa Harbor; Grays Harbor; Puget Sound. No transfer permit is necessary for transfer within any of the geographic regions described above. When required, a copy of the transfer permit shall accompany the marine plant aquaculture products at all times until the products are reintroduced into state waters, and the transfer permit must be presented upon request to department employees.

(8) Violation of these rules, or the condition of any permit may result in suspension or revocation of the permit.

(9) In the event of denial, suspension, or revocation of an importation or transfer permit, the affected person may appeal the decision to the director. Additional appeals may be made through the Administrative Procedure Act (chapter 34.04 RCW). A suspended or revoked permit will remain suspended or revoked during the appellate process.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-370-220, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 75.58.010. WSR 87-08-033 (Order 87-20), § 220-77-060, filed 3/27/87.]

**WAC 220-370-230 Kelp importation—Permit required—Disease control.** (1) It is unlawful for any person to import kelp into the state of Washington for use in the herring spawn on kelp fishery without first having obtained a permit to do so issued by the department. A copy of the permit must accompany the imported kelp at all times until the kelp is placed into the marine environment and must be presented upon request to department employees.

(2) The director may impose permit conditions as necessary to ensure protection of aquaculture products and native species from disease when the director concludes that there is a risk of disease transmission associated with the imported kelp.

(3) A kelp import permit is not transferrable.

(4) Violation of these rules or the conditions of a permit may result in suspension or revocation of the kelp import permit. In the event of denial, suspension or revocation of a kelp import permit, the affected party may appeal through the Administrative Procedure Act. A suspended or revoked permit will remain suspended or revoked during the appeal process.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-370-230, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 75.08.080. WSR 97-08-078 (Order 97-56), § 220-77-065, filed 4/2/97, effective 5/3/97.]

**WAC 220-370-240 Aquaculture disease control—Emergency provisions.** (1) The director may take the following emergency enforcement actions when evidence indicates these actions are necessary to protect aquaculture products and native stocks from disease causing severe mortality:

- (a) Deny issuance of an transport permit.
- (b) Quarantine the aquaculture products.
- (c) Confiscate or order the destruction of the aquaculture products.
- (d) Require removal of the aquaculture product from state waters.

(2) For finfish, shellfish, amphibian, and marine plant aquaculture products:

(a) Quarantine may be ordered without a hearing when aquaculture products are transferred without appropriate inspections or permits or transferred in violation of the conditions of a permit.

(b) Quarantine may be ordered without a hearing when evidence demonstrates that aquaculture products, previously imported, may introduce a disease not known to occur in Washington.

(3) For finfish aquaculture products, if an epizootic caused by a regulated finfish pathogen is detected, quarantine may be ordered without a hearing.

(4) For shellfish aquaculture products, an outbreak of serious mortality in which contagious disease is suspected may result in quarantine or require removal of the suspected diseased shellfish aquaculture products from state waters, subject to the aquatic farmer's right to an emergency departmental hearing, if removal from state waters is ordered.

(5) When there is evidence that continued presence of aquaculture products in state waters may cause disease that would harm other aquaculture products or native fauna or flora, the director may order quarantine, confiscation,

destruction, or removal from state waters. Except as provided for in subsection (3) of this section, the aquatic farmer has a right to a departmental hearing. In the event the director has ordered emergency action of confiscation, destruction, or removal from state waters, the director shall give notice to the affected aquatic farmer. At the time of notice of emergency action, the affected aquatic farmer may request an emergency departmental hearing. If requested, the hearing will take place no later than the third working day after notice is received by the aquatic farmer. The hearing will be presided over by a hearing officer appointed by the director, who will consider the severity of the disease outbreak, remedies, and alternate courses of action. The hearing officer shall present a recommendation to the director. The director will then review the emergency action and, if appropriate, order confiscation, destruction, or removal from state waters. If so ordered, the emergency action will take place no sooner than forty-eight hours after service of the order. If no request for an emergency departmental hearing is received, the emergency action of confiscation, destruction, or removal from state waters, may take place immediately after the third working day after the notice is served on the aquatic farmer.

(6) If the department refuses to issue a transport permit, or orders quarantine or isolation of aquaculture products, the aquatic farmer has a right to a hearing under the Administrative Procedure Act (chapter 34.04 RCW).

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-370-240, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 02-02-013 (Order 01-281), § 220-77-070, filed 12/21/01, effective 1/21/02. Statutory Authority: RCW 75.58.010. WSR 87-08-033 (Order 87-20), § 220-77-070, filed 3/27/87.]

**WAC 220-370-250 Aquaculture fee schedule.** (1) The following is a list of the charges to be assessed for tissue samples submitted to the department for pathogen examination, miscellaneous charges, and the finfish transport permit issuance fee. All samples for stock certification must be collected by department personnel or individuals approved by the department.

<u>Virology</u>	
Kidney/spleen or other tissue	\$25/sample
Ovarian fluid	20/sample
<u>Bacteriology</u>	
Bacterial Kidney Disease	
- FAT	\$7/sample
Culture and characterization	10/sample
Gram stain	1/sample
<u>Parasitology</u>	
<u>C. shasta</u>	\$1/fish
<u>M. cerebralis</u>	\$4.00/fish (0-30 grams)
	\$5.00/fish (30-100 grams)
	\$15.00/fish (>100 grams)

<u>Collection Fees</u>	
Collecting samples (includes travel time)	\$35/hour
Mileage	at published OFM rates
Per diem (if applicable)	at published OFM rates

Diagnostic Service

Diagnostic services (includes travel time)	\$35/hour
Mileage	at published OFM rates
Per diem (if applicable)	at published OFM rates
Finfish transport permit	\$50.00

(2) The funds received from the aquatic farmers who use disease inspection, other services provided by department personnel, and finfish transport permit revenues shall be placed into a designated account. Funds from the account shall be used solely for administering the disease inspection and control program.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-370-250, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 02-02-013 (Order 01-281), § 220-77-080, filed 12/21/01, effective 1/21/02. Statutory Authority: RCW 75.58.010. WSR 89-06-031 (Order 89-06), § 220-77-080, filed 2/24/89.]