

Chapter 220-76 WAC

AQUACULTURE

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

220-76-016	Aquaculture—Salmon eggs—Resale. [Order 980, § 220-76-016, filed 2/3/72.] Repealed by WSR 86-19-043 (Order 86-102), filed 9/12/86. Statutory Authority: RCW 75.08.080 and 75.58.040.
220-76-025	Aquaculture—Sale of products—Invoices. [Order 980, § 220-76-025, filed 2/3/72.] Repealed by WSR 86-19-043 (Order 86-102), filed 9/12/86. Statutory Authority: RCW 75.08.080 and 75.58.040.

WAC 220-76-001 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 220-76 WAC.

[Order 980, § 220-76-001, filed 2/3/72.]

WAC 220-76-010 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 220-76 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 220-69-243) during the previous calendar year shall constitute renewal for the following year.

[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.]

(12/21/12)

WAC 220-76-015 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 77.12.047. 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 220-76-020 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 social and health services (DSHS) 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, 77.04.013, 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 220-76-030 Aquaculture—Disease—Control. Outbreaks of disease affecting food fish, shellfish, and aquatic animals in fish farm facilities shall be reported imme-

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diately 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.

[Order 980, § 220-76-030, filed 2/3/72.]

WAC 220-76-100 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.

[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 220-76-110 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.

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(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 77.12.047, WSR 03-02-047 (Order 02-309), § 220-76-110, filed 12/24/02, effective 7/1/03.]

WAC 220-76-120 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 per-

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mittee 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 77.12.047. WSR 03-02-047 (Order 02-309), § 220-76-120, filed 12/24/02, effective 7/1/03.]

WAC 220-76-130 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 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 (12/21/12)

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 220-76-140 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 220-76-110 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 220-76-100 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 77.12.047. WSR 03-02-047 (Order 02-309), § 220-76-140, filed 12/24/02, effective 7/1/03.]

WAC 220-76-150 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 77.12.047. WSR 03-02-047 (Order 02-309), § 220-76-150, filed 12/24/02, effective 7/1/03.]