

WAC 246-282-110 Administrative provisions. (1) If the department finds during an inspection that any owner or person working on behalf of a shellfish operation fails to comply with any requirements of chapter 69.30 RCW, this chapter, or the NSSP Model Ordinance, then the department may issue a written statement of deficiencies or notice of correction to the owner, person in charge, or other employee of the operation who is present.

(a) The statement of deficiencies or notice of correction specifies the manner in which the operation fails to comply with chapter 69.30 RCW and these rules. It specifies a reasonable period of time for the owner or person in charge to correct the violation(s).

(b) In the event the owner or person in charge fails to correct the violation(s) specified in the statement of deficiencies, the department may revoke the license and certificate of compliance for that shellfish operation or may initiate any other enforcement proceeding authorized by law.

(2) Any authorized representative of the department, fish and wildlife patrol officer or ex officio patrol officer may, without previously providing a statement of deficiencies, immediately seize shellfish or issue written hold orders prohibiting the disposition or sale of shellfish whenever a commercial quantity of shellfish or any amount of shellfish for sale for human consumption is on the premises of, or in the possession of, any person who:

(a) Fails to display an original or photocopy of a valid shellfish operation license;

(b) Is reasonably expected to have harvested the shellfish and fails to display an original or photocopy of a valid shellfish operation license and a valid harvest site certificate; or

(c) Fails to maintain each container of shellfish properly tagged or labeled as required by chapter 69.30 RCW, these rules, and the NSSP Model Ordinance.

(3) If the department determines during an inspection or investigation that there is reasonable cause to believe that shellfish is potentially unsafe for human consumption, then the department may issue a hold order prohibiting the disposition or sale of the shellfish pending further investigation by the department of the safety of the shellfish.

(a) The department must complete its further investigation within ten days.

(b) At the conclusion of the investigation, the department may release the shellfish for sale or issue a written abatement order regarding the shellfish.

(c) Any person in possession of shellfish for which the department has issued a hold order must store the shellfish in a suitable place prescribed by the department and prevent the shellfish from being offered for human consumption or other use until:

(i) The hold order is lifted by the department or by a court of competent jurisdiction; or

(ii) The person disposes of the shellfish in accordance with an abatement order issued by the department.

(4) Shellfish that the department seizes or places under a hold order and determines are unsafe for human consumption are subject to such abatement as the department considers appropriate. The department may require any one or more of the following measures be taken by a person in possession of shellfish that are the subject of an abatement order:

(a) Permanent prohibition on the disposition of the shellfish for human consumption;

(b) Immediate destruction of the shellfish by measures such as denaturing and placing in a sanitary landfill, witnessed by an authorized representative of the department who provides a record of destruction to the person; or

(c) Temporary prohibition on the disposition of the shellfish for human consumption pending relay to an approved growing area for a sufficient period of time to assure natural purification of the shellfish.

(5) The secretary may issue an abatement order to the owner or person in charge of a shellfish operation whenever the department, after conducting an appropriate investigation, determines that a shellfish operation, or person working on behalf of a shellfish operation, presents a potential risk for transmitting an infectious disease to consumers of shellfish.

(a) The secretary may require any or all of the following measures be taken by the owner or person in charge of a shellfish operation who is issued the abatement order:

(i) Immediate closure of the shellfish operation until, in the opinion of the secretary, no further danger of a disease outbreak exists;

(ii) Immediate exclusion of any person suspected to be infected with a disease agent transmissible through food from all activities with the shellfish operation; and

(iii) Restriction of the activities of any person who is suspected to be infected with a disease agent transmissible through food to some area of the shellfish operation where there would be no danger of the person transmitting disease agents to shellfish consumers.

(b) As an alternative to the abatement order described in this section, the secretary may require the owner, or any person working on behalf of the shellfish operation to submit to adequate medical and laboratory examinations, including examination of their bodily discharges as needed to determine if the person is infected with a microbial agent transmissible through food.

(6) No person may remove or alter a notice or tag constituting a hold order or abatement order placed on shellfish by the department.

(7) No person may relabel, repack, reprocess, alter, dispose of, destroy, or release shellfish or containers of shellfish for which the department has issued a hold order or abatement order without:

(a) Permission of the department; or

(b) An order by a court of competent jurisdiction.

(8) If the owner or person in charge of a shellfish operation fails to comply with a hold order or an abatement order issued according to this section, then the department may revoke the license of the shellfish operation or initiate other legal enforcement proceedings authorized by law.

[Statutory Authority: RCW 69.30.030 and 43.20.030. WSR 01-04-054, § 246-282-110, filed 2/5/01, effective 3/8/01. Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-282-110, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 69.30.030 and 43.20.050. WSR 85-21-048 (Order 296), § 248-58-090, filed 10/14/85. Statutory Authority: RCW 69.30.030. WSR 78-08-059 (Order 163), § 248-58-090, filed 7/24/78; Regulation 58.090, effective 3/11/60.]