

Chapter 220-77 WAC

AQUACULTURE DISEASE CONTROL

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

220-77-090	Ballast water management and control—Reporting and sampling requirements. [Statutory Authority: RCW 77.12.047. WSR 06-07-006 (Order 06-35), § 220-77-090, filed 3/2/06, effective 4/2/06; WSR 01-17-097 (Order 01-173), § 220-77-090, filed 8/20/01, effective 9/20/01; WSR 00-17-146 (Order 00-163), § 220-77-090, filed 8/22/00, effective 9/22/00.] Repealed by WSR 09-14-052 (Order 09-110), filed 6/25/09, effective 7/26/09. Statutory Authority: RCW 77.12.047, 77.120-030, 77.120.040, and 77.120.070.
220-77-095	Interim ballast water discharge standard approval process. [Statutory Authority: RCW 77.12.047. WSR 02-17-015 (Order 02-185), § 220-77-095, filed 8/9/02, effective 9/9/02; WSR 01-17-097 (Order 01-173), § 220-77-095, filed 8/20/01, effective 9/20/01.] Repealed by WSR 09-14-052 (Order 09-110), filed 6/25/09, effective 7/26/09. Statutory Authority: RCW 77.12.047, 77.120.030, 77.120.040, and 77.120.070.

WAC 220-77-010 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 77.12.047. 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 220-77-020 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 77.12.047. 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 220-77-030 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 220-77-070 (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 suspended 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 77.12.047. 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 220-77-040 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 77.12.047. 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 220-77-050 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.

(5/18/12)

[Statutory Authority: RCW 75.58.010. WSR 87-08-033 (Order 87-20), § 220-77-050, filed 3/27/87.]

WAC 220-77-060 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.

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(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 75.58.010. WSR 87-08-033 (Order 87-20), § 220-77-060, filed 3/27/87.]

WAC 220-77-065 Kelp importation—Permit required. (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 75.08.080. WSR 97-08-078 (Order 97-56), § 220-77-065, filed 4/2/97, effective 5/3/97.]

WAC 220-77-070 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 77.12.047. 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 220-77-080 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)

Collection Fees

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 77.12.047. 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.]

WAC 220-77-081 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 34.05.353 (1)(c) and (e), (2)(c) and (d), and 77.12.047 (1)(o). WSR 12-11-089 (Order 12-61), § 220-77-081, 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.]

WAC 220-77-082 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 77.12.047. WSR 02-02-013 (Order 01-281), § 220-77-082, filed 12/21/01, effective 1/21/02.]