

**WAC 16-228-1110 Definitions specific to penalties.** In addition to the definitions set forth in RCW 17.21.020, 15.58.030, and WAC 16-228-1010, the following shall apply to WAC 16-228-1100 through 16-228-1150:

(1) "Adverse effect(s)" means that the alleged activity or mishap actually causes or creates the possibility of damage, injury, or a public health threat to, or endangerment of, humans, animals, plants, property, the environment, or beneficial pollinating insects. This term includes circumstances when a wood destroying organism inspection has been performed in a faulty, careless or negligent manner.

(2) "Beneficial pollinating insects" means those insects commonly considered as pollinators. This term does not include any of the following:

(a) Insects in any life stage that are presenting a current harm to humans, animals, plants, property, or the environment;

(b) Insects in any life stage normally considered to be a pest;

(c) Insects which the director declares to be a pest; and

(d) Any pollinating insect that may be incidentally adversely affected by any properly licensed public health vector control program as a result of that program's normal operations done in compliance with the law and which operates with reasonable care.

(3) "Civil penalty" means a monetary penalty administratively issued by a regulatory agency for noncompliance with state or federal law, or rules. The term does not include any criminal penalty, damage assessment, wages, premiums, or taxes owed, or interest or late fees on any existing obligation.

(4) "Human exposure" means a pesticide exposure to humans caused by a violation of chapter 15.58 or 17.21 RCW, or the rules adopted thereunder.

(5) "Level of violation" means that the alleged violation is a first, second, third, or more violation(s). For purposes of calculating the level of violation, prior incidences will be measured from the date that a final order or stipulated order resolved the prior violation(s), and not from the date that the incident(s) occurred.

(a) "First violation" means the alleged violator has committed no prior incident resulting in a notice of intent within three years of committing the current alleged violation.

(b) "Second violation" means the alleged violator committed one prior incident resulting in a notice of intent within three years of committing the current alleged violation.

(c) "Third violation" means the alleged violator committed two or more prior incidents resulting in a notice of intent within three years of committing the current alleged violation.

(6) "License in good standing" means an unexpired license that is not currently suspended or revoked by the director.

(7) "Not probable" means that the alleged violator's conduct more likely than not did not or would not have caused an adverse effect.

(8) "Notice of correction" means a document issued by the department that describes a condition or conduct that is not in compliance with chapter 15.58 or 17.21 RCW, or the rules adopted thereunder, but that is not subject to civil penalties as provided for in RCW 43.05.110. A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(9) "Notice of intent" means a document issued by the department that alleges specific violations of chapter 15.58 or 17.21 RCW, or the rules adopted thereunder. A notice of intent is a formal enforcement document issued with the intent to assess civil penalties to the al-

leged violator and/or to suspend, deny, or revoke the alleged violator's pesticide license.

(10) "Pesticide exposure" means intentional or unintentional contact with pesticides caused by a violation of chapter 15.58 or 17.21 RCW, or the rules adopted thereunder.

(11) "Probable" means that the alleged violator's conduct more likely than not did or would have caused an adverse effect.

(12) "Revoke" or "revocation" means the termination of a license for violations of chapter 15.58 or 17.21 RCW, or the rules adopted thereunder. The department will not reactivate revoked licenses.

(13) "Suspend" or "suspension" means the abeyance of a license for a specific period of time for violations of chapter 15.58 or 17.21 RCW, or the rules adopted thereunder. The department may reactivate suspended licenses following the period of suspension.

(14) "Unlicensed" means any person or apparatuses that does not hold or has not been issued a license in good standing for an activity where a license is required by chapter 15.58 or 17.21 RCW, or the rules adopted thereunder.

(15) "Violation" means commission of an act or acts prohibited by chapter 15.58 or 17.21 RCW, or the rules adopted thereunder.

[Statutory Authority: RCW 15.58.040 and 17.21.030. WSR 23-04-041, § 16-228-1110, filed 1/26/23, effective 4/1/23. Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. WSR 03-22-029, § 16-228-1110, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 17.21 and 15.58 RCW. WSR 01-01-058, § 16-228-1110, filed 12/12/00, effective 1/12/01. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. WSR 99-22-002, § 16-228-1110, filed 10/20/99, effective 11/20/99.]