

WAC 246-282-010 Definitions. The following definitions, as well as those in the NSSP Model Ordinance, apply in the interpretation and the implementation of these rules and regulations.

(1) "Abatement" means an action or series of actions to eliminate a public health hazard or reduce it to a level acceptable to the secretary.

(2) "Approved" means acceptable to the secretary based on the department's determination as to conformance with appropriate standards and good public health practice.

(3) "Approved laboratory" means a laboratory that is in conformance with requirements of the NSSP Model Ordinance.

(4) "Certificate of approval" means a license issued by the department.

(5) "Civil penalty" means a monetary penalty administratively issued by the secretary. It does not include any criminal penalty; damage assessment; wages, premiums, or taxes owed; or interest or late fees on any existing obligation.

(6) "Commercial quantity" means any quantity exceeding:

(a) Forty pounds of mussels;

(b) One hundred oysters;

(c) Fourteen horse clams;

(d) Six geoducks; or

(e) Fifty pounds of other hard or soft shell clams; or

(f) Fifty pounds of scallops.

(7) "Cultch" means any material, other than live shellfish, used for the attachment of seed shellfish.

(8) "Department" means the state department of health.

(9) "Export certificate" means a certificate issued by the department to a licensed shucker-packer or shellstock shipper for use in the foreign export of a lot or shipment of shellfish.

(10) "Harvest" means the act of removing shellstock from a harvest site and its placement on or in a container for transport.

(11) "Harvester" means a shellfish operation with activities limited to growing shellstock, placing shellstock in a container, harvesting shellstock, transporting shellstock within Washington state, and delivering shellstock to a shellfish dealer licensed by the department within four hours of landing it. A harvester does not process shellfish, ship shellfish outside of Washington state, sell shellfish outside of Washington state, sell shellfish to retail outlets, shuck shellfish, repack shellfish, or store shellfish in any location outside of the approved growing area from where the shellfish is harvested.

(12) "Harvest site" means an area of intertidal or subtidal property within a commercial shellfish growing area, that is described by a unique county parcel number, department of fish and wildlife tract number, department of fish and wildlife catch area number, tribal identification number, or other government identification.

(13) "Harvest site certificate" means a type of certificate of approval that designates one or more harvest sites approved for the harvesting of shellfish.

(14) "Hatchery" means an operation where shellfish larvae are produced and grown to the first sessile stage of life.

(15) "Notice of correction" means a document issued by the department that describes a condition or conduct that is not in compliance with chapter 69.30 RCW, this chapter, or the NSSP Model Ordinance and is not subject to civil penalties as provided for in RCW

43.05.110. It is not a formal enforcement action and is not subject to appeal. It is a public record.

(16) "NSSP Model Ordinance" means the U.S. Food and Drug Administration National Shellfish Sanitation Program (NSSP), Guide for the Control of Molluscan Shellfish, as adopted in WAC 246-282-005.

(17) "Nursery" means an operation where shellfish are grown from an early sessile stage of life up to a maximum size meeting the definition of shellfish seed.

(18) "Number of previous violations" means the number of prior violations of the same or a similar nature for which the department has taken a license action or assessed a civil penalty.

(19) "Person" means any individual, firm, corporation, partnership, company, association, or joint stock association, and the legal successor thereof.

(20) "Person in charge" means an individual responsible for the supervision of employees and the management of any shellfish operation.

(21) "Public health threat" is either:

(a) "Low," which means a violation that poses a minor possibility of direct or indirect hazard to public health;

(b) "Intermediate," which means a violation that poses a moderate possibility of direct or indirect hazard to public health; or

(c) "High," which means a violation that poses a known significant hazard or possibility of significant direct or indirect hazard to public health.

(22) "Sale" means to sell; offer for sale; barter; trade; deliver; consign; hold for sale, consignment, barter, trade, or delivery; and/or possess with intent to sell or dispose of in a commercial manner.

(23) "Secretary" means the secretary of the department of health or the secretary's authorized representative.

(24) "Seed" means shellfish that are less than market size for human consumption and have a maximum shell length of:

(a) Thirteen millimeters (1/2 inch) for mussels;

(b) Twenty-five millimeters (1 inch) for scallops;

(c) Nineteen millimeters (3/4 inch) for Olympia oysters;

(d) Nineteen millimeters (3/4 inch) for Kumamoto oysters;

(e) Fifty-one millimeters (2 inches) for other oyster species;

(f) Thirty-eight millimeters (1 and 1/2 inch) for geoducks; and

(g) Thirteen millimeters (1/2 inch) for other clam species.

(25) "Shellfish" means all varieties of fresh or fresh-frozen oysters, clams, scallops or mussels, either shucked or in the shell, and all fresh or fresh-frozen edible products thereof.

(26) "Shellfish dealer" means a person with a shellstock shipper or shucker-packer license.

(27) "Shellfish growing area" means the lands and waters in and upon which shellfish are grown for harvesting in commercial quantities or for sale for human consumption.

(28) "Shellfish operation" means growing, placing in a container, harvesting, transporting, processing, culling, shucking, packing, and repacking, storing, shipping, or reshipping of shellfish in commercial quantities or for sale for human consumption.

(29) "Shellfish operation license" means a type of certificate of approval applying to the overall activities of a shellfish operation.

(30) "Shellstock shipper" means a shellfish operation that does not shuck shellfish or repack shucked shellfish.

(31) "Shucker-packer" means a shellfish operation that may shuck and pack shellfish.

(32) "Technical assistance" means information provided by the department to a person regarding chapter 69.30 RCW; this chapter; technologies or other methods to achieve compliance with these rules; assistance in applying for a departmental license or permit required by these rules; or the goals and objectives of these rules. This is not intended to modify the definition of "technical assistance" as provided in RCW 43.05.010(3).

(33) "Violation" means the commission of an act or acts prohibited by the provisions of chapter 69.30 RCW, these rules, or the NSSP Model Ordinance.

(34) "Wet storage" means the temporary storage of shellstock in containers or floats in natural bodies of water or in tanks containing natural or synthetic seawater.

(35) "Wild seed" means naturally set seed shellfish.

[Statutory Authority: RCW 60.30.030 [69.30.030]. WSR 14-09-003, § 246-282-010, filed 4/3/14, effective 5/4/14. Statutory Authority: RCW 69.30.030 and 43.20.030. WSR 01-04-054, § 246-282-010, filed 2/5/01, effective 3/8/01. Statutory Authority: RCW 69.30.030. WSR 92-02-019 (Order 225B), § 246-282-010, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-282-010, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 69.30.030 and 43.20.050. WSR 85-21-048 (Order 296), § 248-58-005, filed 10/14/85. Statutory Authority: RCW 69.30.030. WSR 78-08-059 (Order 163), § 248-58-005, filed 7/24/78.]