



FEBRUARY 2023 RULEMAKING MEETING

Office of Environmental Health & Safety

Discussion Topics

- Introductions
- 10-minute discussion from last meeting
- Seed definition - WAC 246-282-010(24)
- Growing area - WAC 246-282-020
- Relay – WAC 246-282-032
- Wild seed - WAC 246-282-034
- Bait - WAC 246-282-036
- Mooring area (new section)
- Questions/Suggestions

January Meeting Discussion

Questions or discussion of any items that were covered in the previous rule making meeting.

Seed definition - WAC 246-282-010(24)

- (24) “Seed” means shellfish that are less than market size for human consumption and have a maximum shell length of:
- (a) Thirteen millimeters ($\frac{1}{2}$ inch) for mussels;
 - (b) Twenty-five millimeters (1 inch) for scallops;
 - (c) Nineteen millimeters ($\frac{3}{4}$ inch) for **all Olympia oysters species**;
 - ~~(d) Nineteen millimeters ($\frac{3}{4}$ inch) for Kumomoto oysters;~~
 - ~~(e) Fifty-one millimeters (2 inches) for other oyster species;~~
 - ~~(f)~~**(d)** Thirty-eight millimeters ($1\frac{1}{2}$ inch) for geoducks; and
 - ~~(g)~~**(e)** Thirteen millimeters ($\frac{1}{2}$ inch) for other clam species.

Seed definition - WAC 246-282-010(24)

Proposed changes:

- Amends the definition of “Seed” by reducing the size of oysters other than Kumomoto and Olympia from 2-inch to $\frac{3}{4}$ -inch.
- Standardizes the seed size of all oysters at $\frac{3}{4}$ -inch.

Growing area - WAC 246-282-020

- (2) The department **will classify** ~~classifies~~ a shellfish growing area as "restricted" or "prohibited" according to provisions of the NSSP Model Ordinance. ~~However, the department considers classifying a harvest site as "restricted" only when the department has received a valid application for a permit for relay or wild seed harvest from the site.~~ **A "restricted" classification will be considered when there is no impact from wastewater treatment plants, marinas, combined sewage overflows, failing on-site septic systems, or other pathogens of human origin and the department has received a valid application for a permit for relay.**
- (3) While a harvest site is in closed status, no person may move shellfish from it to a location outside of the harvest site or above the mean low tide line of the harvest site, unless the department has approved:
- (a) Harvesting shellfish by that person from the site according to provisions of a permit for relay, wild seed harvest, or bait harvest; or
 - (b) Moving shellfish by that person from the site to another site in a natural body of water within the same "conditionally approved" growing area under a written plan of operations.
- (4) Harvesting is prohibited from all unclassified ~~growing areas unclassified by the department~~ **areas except for bait harvest meeting the requirements of 246-282-036.**

Growing area - WAC 246-282-020

Proposed changes:

- Cleans up language in WAC 246-282-020(2) & (4) to make it clearer.
- Memorializes the Restricted area classification by not allowing the classification when the area is impacted by pathogens of human origin.
- Allows harvest in unclassified areas for bait only. Those areas must meet the requirements of WAC 246-282-036 (Bait).

Relay - WAC 246-282-032

(7) A person is exempt from the provisions of subsection (1) (e) of this section for the purpose of relaying shellfish to an approved grow-out site for a minimum of ~~six months~~ **60 days and only microbiological contaminants need to be reduced.**

Relay - WAC 246-282-032

Proposed changes:

- Corrects a long-term issue in the WAC by changing the grow-out time from a minimum of six months to a minimum of 60 days for microbiological contaminants. Conforms with the Model Ordinance

Wild seed - WAC 246-282-034

- (1) **Wild seed may be harvested** ~~The department will issue a wild seed permit to a person to move shellfish from a harvest site in a growing area classified by the department as "approved", "conditionally approved" in closed status or "restricted," or "prohibited," if all of the following conditions are met.~~
- ~~(a) The person possesses a valid shellfish operation license.~~
 - ~~(b) The person possesses a harvest site certificate listing both the initial harvest site for the seed and the grow-out site.~~
 - ~~(c) The original harvest site has acceptable levels of poisonous chemicals, is not in an area known to be a hazardous chemical disposal site, and is not in a closure zone of a wastewater treatment plant or marina.~~
 - ~~(d)~~ (c) The grow-out site is in a natural body of water classified by the department as "approved" or "conditionally approved."
 - ~~(e) The person submits a completed written application and plan of operations approved by the department completely describing the procedures of the wild seed operation, including the size distribution of the seed.~~
 - ~~(f) The person pays the department a wild seed permit application fee or renewal fee as required by this chapter.~~

Wild seed - WAC 246-282-034 *continued*

- ~~(f) Place any live shellfish larger than seed size attached to, or commingled with, the seed in the grow-out site for a minimum of six months after initial harvest;~~
 - ~~(g) Stake or mark the grow-out site to be easily identified by the person for a minimum of six months from the time of moving to the site any seed attached to, or commingled with, shellfish larger than seed size; and~~
 - ~~(h) Keep records for each lot of seed harvested that show a lot identification number; the species, location, date, and quantity moved from the initial harvest site; the grow-out location; and the date of first harvest of any of those shellfish from the grow-out site.~~
- ~~(3) A person's wild seed permit expires on the same date as the person's shellfish operation license.~~
- ~~(4) A person is exempt from the requirements of this section for the activity of harvesting seed attached to containerized empty shellfish shells or other cultch material, provided that the person:~~
- ~~(a) Meets the conditions of subsection (1)(a) through (d) of this section;~~
 - ~~(b) Leaves the seed in the grow-out site for a minimum of six months before final harvest; and~~
 - ~~(c) Fully describes the seed harvest and grow-out activities in a written plan of operations approved by the department for the person's shellfish operation license.~~

Wild seed - WAC 246-282-034 *continued*

- (5) Wild seed harvested from a “conditionally approved” area in closed status or a “restricted” area must follow the relay standards listed in 246-282-032.

Wild seed - WAC 246-282-034

Proposed changes:

- Eliminates the ability to harvest wild seed from Prohibited areas.
- Eliminates wild seed permits.
- Eliminates a wild seed application and plan of operation.
- Eliminates a fee for a wild seed permit.
- Eliminates record keeping for wild seed harvested from Approved and Conditionally Approved areas in Open status.
- Eliminates the requirement for a 180 day grow-out time.
- Requires that wild seed harvested from Conditionally Approved areas in Closed status and Restricted areas meet the requirements for Relay in WAC 246-282-032.

Bait - WAC 246-282-036

(1) The department will approve and issue a bait permit to a person to harvest shellfish from a harvest site in a growing area classified by the department as "prohibited," "restricted," or "conditionally approved" in closed status **or from an unclassified area** if all of the following conditions are met.

(a) The person possesses a valid shellfish operation license.

(b) The person possesses a valid harvest site certificate for the site.

(c) The harvest site is not impacted by biotoxin levels that would cause the department to close it for harvest for human consumption.

(d) The person submits a completed written application and plan of operations approved by the department completely describing the procedures of the bait operation.

(e) The person pays the department a bait permit application fee or renewal fee as required by this chapter.

(2) A person operating under a bait permit must:

(a) Follow all procedures in the plan of operations approved by the department;

(b) Harvest bait from an area classified as "prohibited" **or an unclassified area** only during daylight hours;

(c) Harvest bait from an area classified as "prohibited" **or an unclassified area** only under direct monitoring by a person approved by the department;

Bait - WAC 246-282-036

Proposed changes:

- Allows bait harvest in unclassified areas.
- To harvest in an unclassified area, the harvester must:
 - Be licensed.
 - Harvest from an approved harvest site.
 - Not harvest from areas impacted by biotoxins.
 - Submit a written application and a plan of operations.
 - Pay a fee.
 - Harvest only during daylight hours.
 - Harvest under direct monitoring by an individual approved by the department.

Mooring area (new section)

Definition

Marina means any water area with a structure, including but not limited to docks, basins, floating docks, or mooring buoys used for docking and constructed to provide temporary or permanent docking or buoy moorage space for more than ten (10) boats. **This includes boats that can accommodate a marine toilet.**

Mooring area means any portion of a growing area that is used to provide temporary or permanent anchorage or attachment to mooring buoys for more than ten (10) boats. This includes boats that can accommodate a marine toilet.

Mooring buoy means a floating marker permanently secured to a waterway bed with an anchoring line that can be used by boats instead of a dock.

Mooring area (new section) continued

NEW SECTION

WAC 246-282-017 Mooring areas.

When there are more than ten boats in an area with a density of less than one acre per boat, the department shall conduct a pollution assessment to support the classification of a growing area in accordance with the *National Shellfish Sanitation Program Model Ordinance*. The department may amend the density requirement in this section if the mean water depth in an enclosed bay is less than 12 feet or under certain hydrographic conditions where dilution calculations show the area cannot meet 14 fecal coliform/100ml at the sanitary line.

Mooring area (new section)

Proposed changes:

- Amends the definition of “Marina” by adding that the vessel must be able to accommodate a marine sanitation device to count towards the “more than 10 boat” definition.
- Adds a definition of “Mooring area” and “Mooring Buoy”
- Defines the number of boats needed to classify an area around a “mooring area”. Uses more than 10 boats for the process. The Model Ordinance currently uses more than 20 boats,
- Defines the density of boats for a mooring area as “more than 10 boats with less than one boat per acre”.

Questions?

All meeting agendas, presentations, and information can be found here:

<https://doh.wa.gov/community-and-environment/shellfish/rules/wac-246-282-sanitary-control-shellfish-rule-revision>

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Upcoming Rulemaking Meetings

Next Tribal Rulemaking meeting will be held:

March 28th from 9:30am to 11:30am

Next Non-Tribal Rulemaking meeting will be held:

March 30th from 9:30am to 11:30am



Washington State Department of

Health