

FARM WORK REFERENCES

The following Washington State RCW and WAC references are provided to assist managers in defining typical Farm Work activities in Agriculture and Aquaculture at Washington State Housing Finance Commission properties.

RCWs and WACs may be viewed at: <http://search.leg.wa.gov/pub/textsearch/default.asp>

EMPLOYMENT – AGRICULTURAL LABOR

RCW 50.04.150 October 23, 2002

Employment -- Agricultural labor.

Except as otherwise provided in RCW 50.04.155, the term "employment" shall not include service performed in agricultural labor by individuals who are enrolled as students and regularly attending classes, or are between two successive academic years or terms, at an elementary school, a secondary school, or an institution of higher education as defined in RCW 50.44.037 and in the case of corporate farms not covered under RCW 50.04.155, the provisions regarding family employment in RCW 50.04.180 shall apply.

Agricultural labor is defined as services performed:

- (1) On a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wild life, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or
- (2) In packing, packaging, grading, storing, or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations. The exclusions from the term "employment" provided in this paragraph shall not be deemed to be applicable with respect to commercial packing houses, commercial storage establishments, commercial canning, commercial freezing, or any other commercial processing or with respect to services performed in connection with the cultivation, raising, harvesting and processing of oysters or raising and harvesting of mushrooms or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

[1989 c 380 § 78; 1977 ex.s. c 292 § 2; 1957 c 264 § 1; 1947 c 215 § 3; 1945 c 35 § 16; Rem. Supp. 1945 § 9998-155. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

NOTES:

Effective date -- 1989 c 380 §§ 78-81: "Sections 78 through 81 of this act shall take effect on January 1, 1990." [1989 c 380 § 91.]

Conflict with federal requirements -- 1989 c 380: "If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [1989 c 380 § 89.]

Severability -- 1989 c 380: See RCW 15.58.942.

Effective dates -- 1977 ex.s. c 292: See note following RCW 50.04.116.

LABOR REGULATIONS – WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT

Definitions.

For the purposes of this chapter:

- (1) The term "agriculture" means farming and includes, but is not limited to:
 - a.) The cultivation and tillage of the soil;
 - b.) Dairying;
 - c.) The production, cultivation, growing, and harvesting of any agricultural or horticultural commodity;
 - d.) The raising of livestock, bees, fur-bearing animals, or poultry; and
 - e.) Any practices performed by a farmer or on a farm, incident to or in connection with such farming operations, including but not limited to preparation for market and delivery to:
 - 1) Storage;
 - 2) Market; or
 - 3) Carriers for transportation to market.

The term "agriculture" does not mean a farmer's processing for sale or handling for sale a commodity or product grown or produced by a person other than the farmer or the farmer's employees.

- (2) The term "director" means the director of the department of labor and industries, or his designated representative.
- (3) The term "department" means the department of labor and industries.
- (4) The term "employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations: PROVIDED, That any person, partnership, or business entity not having employees, and who is covered by the industrial insurance act shall be considered both an employer and an employee.
- (5) The term "employee" means an employee of an employer who is employed in the business of his employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is his personal labor for an employer under this chapter whether by way of manual labor or otherwise.
- (6) The term "person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.
- (7) The term "safety and health standard" means a standard which requires the adoption or use of one or more practices, means, methods, operations, or processes reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

- (8) The term "work place" means any plant, yard, premises, room, or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control, and includes, but is not limited to, all work places covered by industrial insurance under Title 51 RCW, as now or hereafter amended.
- (9) The term "working day" means a calendar day, except Saturdays, Sundays, and all legal holidays as set forth in RCW 1.16.050, as now or hereafter amended, and for the purposes of the computation of time within which an act is to be done under the provisions of this chapter, shall be computed by excluding the first working day and including the last working day.

[1997 c 362 § 2; 1973 c 80 § 2.]

NOTES:

Department of labor and industries: Chapter 43.22 RCW.

CENTER FOR SUSTAINING AGRICULTURE AND NATURAL RESOURCES

RCW 15.92.010 October 23, 2002
Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- a) "Agricultural commodity" means any distinctive type of agricultural, horticultural, viticultural, floricultural, vegetable, or animal product, including but not limited to, products qualifying as organic food products under chapter 15.86 RCW, private sector cultured aquatic products as defined in RCW 15.85.020, bees and honey, and Christmas trees but not including timber or timber products.
- b) "Center" means the center for sustaining agriculture and natural resources established at Washington State University.
- c) "Laboratory" means the food and environmental quality laboratory established at Washington State University at Tri-Cities.
- d) "Integrated pest management" is a strategy that uses various combinations of pest control methods, biological, cultural, and chemical, in a compatible manner to achieve satisfactory control and ensure favorable economic and environmental consequences.
- e) "IR-4 program" means interregional research project number four, clearances of chemicals and biologics for minor or special uses, established in 1963 by the cooperative state research service of the United States department of agriculture, the coordinated national program involving land-grant universities and the United States department of agriculture to provide data required for the registration of pesticides needed for the production of minor crops.
- f) "Minor crop" means an agricultural crop considered to be minor in the national context of registering pesticides.
- g) "Minor use" means a pesticide use considered to be minor in the national context of registering pesticides including, but not limited to, a use for a special local need.
- h) "Natural resources" means soil, water, air, forests, wetlands, wildlands, and wildlife.
- i) "Pesticide" means chemical or biologic used to control pests such as insect, rodent, nematode, snail, slug, weed, virus, or any organism the director of agriculture may declare to be a pest.
- j) "Registration" means use of a pesticide approved by the state department of agriculture.
- k) "Sustainable agriculture" means a systems approach to farming, ranching, and natural resource production that builds on and supports the physical, biological, and ecological resource base upon which agriculture depends. The goals of sustainable agriculture are to provide human food and fiber needs in an economically viable manner for the agriculture industry and in a manner which protects the environment and contributes to the overall safety and quality of life.

[1995 c 390 § 4; 1991 c 341 § 2.]

AQUACULTURE MARKETING

RCW 15.85.020 February 13, 2008
Definitions

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- (1) "Aquaculture" means the process of growing, farming, or cultivating private sector cultured aquatic products in marine or freshwaters and includes management by an aquatic farmer.
- (2) "Aquatic farmer" is a private sector person who commercially farms and manages the cultivating of private sector cultured aquatic products on the person's own land or on land in which the person has a present right of possession.
- (3) "Private sector cultured aquatic products" are native, nonnative, or hybrids of marine or freshwater plants and animals that are propagated, farmed, or cultivated on aquatic farms under the supervision and management of a private sector aquatic farmer or that are naturally set on aquatic farms which at the time of setting are under the active supervision and management of a private sector aquatic farmer. When produced under such supervision and management, private sector cultured aquatic products include, but are not limited to, the following plants and animals:

Scientific Name	Common Name
Enteromorpha	green nori
Monostroma	awo-nori
Ulva	sea lettuce
Laminaria	konbu
Nereocystis	bull kelp
Porphyra	nori
Iridaea	
Haliotis	abalone
Zhlamys	pink scallop
Hinnites	rock scallop
Tatinopecten	Japanese or weathervane scallop
Protothaca	native littleneck clam
Tapes	manila clam
Saxidomus	butter clam
Mytilus	mussels
Crassostrea	Pacific oysters
Ostrea	Olympia and European oysters
Pacifasticus	crayfish
Macrobrachium	freshwater prawn
Salmo and Salvelinus	trout, char, and Atlantic salmon
Oncorhynchus	salmon
Ictalurus	catfish
Cyprinus	carp
Acipenseridae	Sturgeon

Private sector cultured aquatic products do not include herring spawn on kelp and other products harvested under a herring spawn on kelp permit issued in accordance with *RCW 77.70.210.

(4) "Department" means the department of agriculture.

(5) "Director" means the director of agriculture.

[2003 c 39 § 7; 1989 c 176 § 3; 1985 c 457 § 2.]

NOTES:

*Reviser's note: RCW 75.28.245 was recodified as RCW 75.30.270 pursuant to 1993 c 340 § 54, effective January 1, 1994. RCW 75.30.270 was subsequently recodified as RCW 77.70.210 pursuant to 2000 c 107 § 132.

DEPARTMENT OF LABOR AND INDUSTRIES

WAC 296-131-005 October 23, 2002
Definitions.

For the purpose of these rules:

- (1) A "minor" is a person of either gender, employed in agricultural labor, who is under the age of eighteen years.
- (2) "Agricultural labor" is defined as services performed:
 - (3) On a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, <http://www.wshfc.org/managers/forms\FWReferen> Page 5 October 23, 2002
 - (4) caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or
 - (5) In packing, packaging, grading, storing, or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as incident to ordinary farming operations.
- (6) "Agricultural labor" does not include employment in commercial packing houses, commercial storage establishments, commercial canning, commercial freezing, or any other commercial processing with respect to services performed in connection with the cultivation, raising, harvesting and processing of oysters or raising and harvesting of mushrooms or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.
- (7) "Department" means the department of labor and industries.
- (8) "Director" means the director of the department of labor and industries.
- (9) "Employ" means to engage, suffer, or permit to work in agricultural labor.
- (10) "Employee" means any person employed by an employer, except those who are members of the immediate family of an employer.
- (11) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity that engages in any agricultural activity in this state and employs one or more employees.

[Statutory Authority: RCW [49.30.030](#), 90-14-038, § 296-131-005, filed 6/29/90, effective 11/1/90.]

FARM LABOR CONTRACTING RULES

WAC 296-310-010 October 23, 2002
Definitions.

For the purposes of this chapter:

- (1) "Agricultural employee" means any person who renders personal services to, or under the direction of, an agricultural employer in connection with the employer's agricultural activity.
- (2) "Agricultural employer" means any person engaged in agricultural activity, including the growing, producing, or harvesting of farm or nursery products, or engaged in the forestation or reforestation of lands, which includes but is not limited to the planting, transplanting, tubing, precommercial thinning, and thinning of trees and seedlings, the clearing, piling, and disposal of brush and slash, the harvest of Christmas trees, and other related activities.
- (3) "Bonded contractor" means a contractor who obtained a surety bond in order to comply with RCW 19.30.030(5).
- (4) "Contractor" means a farm labor contractor.
- (5) "Department" means the department of labor and industries.
- (6) "Director" means the director of the department of labor and industries.
- (7) "Employee" means an agricultural employee.
- (8) "Farm labor contractor" means any person, or his or her agent or subcontractor, who, for a fee, performs any farm labor contracting activity.
- (9) "License" means a farm labor contractor license.
- (10) "Secured contractor" means a contractor who assigned a savings account to, or deposited cash or other security with, the department in order to comply with RCW 19.30.030(5).
- (11) "Security" means a savings account assigned to, or cash or other security deposited with, the department.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-010, filed 12/11/85.]

AQUACULTURE IDENTIFICATION REQUIREMENTS

WAC 16-603-010 February 13, 2008

Aquaculture identification requirements.

- (1) Any sale or movement of private sector cultured aquatic products made by an aquatic farmer, other than retail sale for personal use by the purchaser or rendering or unmarketable solid waste disposal, shall:
 - a.) Be accompanied by a shipping document showing:
 - 1.) The aquatic farmer's name;
 - 2.) The aquatic farm mailing address;
 - 3.) The aquatic farm registration number required by RCW 75.58.040;
 - 4.) The date of transfer by the aquatic farmer;
 - 5.) The quantity of each species; and
 - b.) Be labeled, showing the name of the aquatic farmer and the farmer's aquatic farm registration number on each container of cultured aquatic products.
 - c.) The shipping documents and labeling required under this section shall be retained and maintained by the purchaser while the private sector cultured aquatic products are under the purchaser's possession or control.
- (2) The provisions of this section do not apply to shellfish if the shellfish comply with rules enacted under the labeling requirements for the Sanitary Control of Shellfish Act (WAC 246-282-080), or to live finfish or their reproductive tissues, if the finfish comply with rules enacted under the Washington department of fisheries transfer procedure set forth in chapter 220-77 WAC.

[Statutory Authority: Chapters 15.85 and 34.05 RCW. 03-13-005, § 16-603-010, filed 6/4/03, effective 7/5/03. Statutory Authority: RCW 15.85.040 and 15.85.060. 91-13-018 (Order 2086), § 16-603-010, filed 6/10/91, effective 1/1/92.]
