

WAC 16-228-1010 What are the definitions that apply to this chapter? The definitions in this section apply throughout this chapter, unless the context requires otherwise:

(1) "Agricultural commodity" means any plant, or part of a plant, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by people or animals.

(2) "Authorized agent" is any individual who is authorized to act on behalf of a certified applicator for the purpose of purchasing pesticides.

(3) "Bait box" for rodenticides is a box constructed of durable metal, wood, plastic, or other treated material. It shall be designed to hold rodent bait securely, allow rodents to enter and leave, and prevent unauthorized individuals and nonpest domestic animals from gaining access to the bait. Baits placed in industrial, commercial or other areas that are accessible to the public shall be contained in tamper resistant bait boxes. Fragile materials are unacceptable.

(4) "Bait station" may be any location where baits are placed to allow target pests to gain access to the bait.

(5) "Blossoming plants" means:

(a) When there are five or more open blooms per square yard on average in a given field; or

(b) When there are one or more open blooms per tree or vine in an orchard or vineyard; or

(c) When there are five or more open weed blooms per square yard on average for the area being measured for groundcover in orchards or vineyards, fence lines, ditch banks, or field, vineyard or orchard edges. This definition shall not apply to plants that are not attractive to bees (e.g., lentils, hops, peas (*Pisum sp.*), pears (second bloom) and potatoes). For the purposes of this definition, "bloom" means a flower head, raceme or spike with one or more open flowers.

(6) "Bulk fertilizer" is a commercial fertilizer, agricultural mineral, or lime, distributed in nonpackaged form.

(7) "Certified applicator" means any individual who is licensed as a commercial pesticide applicator, commercial pesticide operator, public operator, private-commercial applicator, demonstration and research applicator, or certified private applicator, or any other individual who is certified by the director to use or supervise the use of any pesticide which is classified by the EPA as a restricted use pesticide or by the state as restricted to use by certified applicators only.

(8) "Chemigation" means the application of any substance or combination of substances intended as a pesticide, plant or crop protectant or a system maintenance compound applied with irrigation water.

(9) A "complainant" is defined as a person who has requested an inspection of an area in which a pesticide violation is believed to have occurred.

(10) "Complete wood destroying organism inspection" means inspection for the purpose of determining evidence of infestation, damage, or conducive conditions as part of the transfer, exchange, or refinancing of any structure in Washington state. Complete wood destroying organism inspections must also include any wood destroying organism inspection that is conducted as the result of telephone solicitation by an inspector, pest control, or other business, even if the inspection would fall within the definition of a specific wood destroying organism inspection.

(11) "Controlled disposal site" means any place where solid or liquid waste is disposed of: Provided that the area has been designated as a disposal site for waste materials by the appropriate jurisdictional agency. The site must be fenced, barricaded or otherwise enclosed or attended by some person in charge to control the access of domestic animals, pets, and unauthorized persons.

(12) "Department" means the Washington state department of agriculture.

(13) "Diluent" means a material, liquid or solid, serving to dilute the pesticide product to the application rate for adequate coverage (such as water).

(14) "Director" means the director of the department or a duly authorized representative.

(15) "Dry pesticide" is any granular, pelleted, dust or wettable powder pesticide.

(16) "EPA" means the United States Environmental Protection Agency.

(17) "EPA restricted use pesticide" means any pesticide classified for restricted use by the administrator, EPA.

(18) "Fertilizer" as included in this chapter means any liquid or dry mixed fertilizer, fertilizer material, specialty fertilizer, agricultural mineral, or lime.

(19) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act as amended (61 stat. 163, 7 U.S.C. Sec. 136 et seq.).

(20) "Floor level" means the floor upon which people normally walk -- not shelves, ledges, overhead beams, tops of stacked materials, surfaces of equipment, or similar places.

(21) "Food service establishment" means any fixed or mobile restaurant; coffee shop; cafeteria; short order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; nightclub; roadside stand; industrial-feeding establishment; retail grocery; retail food market; retail meat market; retail bakery; private, public, or nonprofit organization routinely serving food; catering kitchen; commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

(22) "Fumigant" means any substance or combination of substances that produce gas, fumes, vapors, or smoke, and is used to kill pests in some kind of enclosure.

(23) "Highly toxic pesticide" for the purpose of this chapter, means any pesticide that conforms to the criteria in 40 C.F.R. Sec. 156.10 for toxicity Category I due to oral, inhalation or dermal toxicity.

(24) "Landscape application" means an application by a certified applicator of any EPA registered pesticide to any exterior landscape plants found around residential property, commercial properties such as apartments or shopping centers, parks, golf courses, schools including nursery schools and licensed day cares, or cemeteries or similar areas. This definition shall not apply to: (a) Applications made by certified private applicators; (b) mosquito abatement, gypsy moth eradication, or similar wide-area pest control programs sponsored by governmental entities; and (c) commercial pesticide applicators making structural applications.

(25) "Person" is defined as any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

(26) A "person aggrieved" by a violation is defined as a person who has reasonable grounds

to believe that he or she has been subjected to harm or an unreasonable risk by such a violation.

(27) "Pollen shedding corn" means that stage of growth when ten percent or more of the corn plants in any one quarter portion of the field are showing spike anthers.

(28) "Positive identification" means a photo identification document issued by a U.S. government agency or affiliated jurisdiction (states, tribes, territories). Acceptable photo identification documents are: A driver's license, a passport, a military ID card or an immigration green card. Exception: Nonphoto identification documents may be allowed for religious groups that prohibit members from having their picture taken. In this case, two forms of identification are required, one of which must be a government issued document with a signature (e.g., Social Security card). Other nonphoto identification must identify the holder by name and address (e.g., utility bill).

(29) "Private applicator" means a certified applicator who uses or is in direct supervision of the use of any pesticide classified by the EPA or the director as a restricted use pesticide for the purposes of producing any agricultural commodity and for any associated noncrop application on land owned or rented by the private applicator or the applicator's employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the land of another person.

(30) "Private-commercial applicator" means a certified applicator who uses or supervises the use of any pesticide classified by the EPA or the director as a restricted use pesticide for purposes other than the production of any agricultural commodity on lands owned or rented by the applicator or the applicator's employer.

(31) "Specific wood destroying organism inspection" means an inspection of a structure for purposes of identifying or verifying evidence of an infestation of wood destroying organisms prior to pest management activities.

(32) "State restricted use pesticide" means any pesticide determined to be a restricted use pesticide by the director under the authority of chapters [17.21](#) and [15.58](#) RCW.

(33) "Structural pest inspector" means any individual who performs the service of conducting a complete wood destroying organism inspection or a specific wood destroying organism inspection.

(34) "Unreasonable adverse effects on the environment" means any unreasonable risk to people or the environment taking into account the economic, social and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

(35) "Waste pesticide" is any pesticide formulation which cannot be used according to label directions in Washington state because of cancellation or suspension of its federal or state registration, or deterioration of the product or its label, and any pesticide formulation whose active ingredients are not clearly identifiable because of label deterioration or because the pesticide is not stored in its original container.

[Statutory Authority: Chapters [17.21](#), [15.58](#), [34.05](#) RCW. 03-22-029, § 16-228-1010, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters [15.58](#), [17.21](#) RCW. 00-22-073, § 16-228-1010, filed 10/30/00, effective 11/30/00. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW. [99-22-002](#), § 16-228-1010, filed 10/20/99, effective 11/20/99.]

WAC 16-228-1020 What are the rights of complainants? If an inspection is conducted by the department of an area in which a pesticide violation is believed to have occurred, a complainant shall:

(1) Be promptly provided by the department, with the department's decision, as set forth in the "notice of intent to assess civil penalty and/or deny, suspend, or revoke a license," or in any document issuing a warning or determination of no action. The department will endeavor to provide notice concurrently with the department's service of the document on the alleged violator.

(2) Be entitled, upon written request to the department, to have his or her name protected from disclosure in any communication with persons outside the department and in any record published, released, or made available pursuant to chapter [17.21](#) RCW: Provided that in any adjudicative proceeding under chapter [34.05](#) RCW the identity of complainant shall be disclosed to the alleged violator upon written request of the alleged violator.

(3) Be otherwise entitled to those rights of persons aggrieved as set forth in WAC [16-228-1030](#) except that the complainant shall be provided, automatically without request, a copy of the final department decision.

[Statutory Authority: Chapters [17.21](#), [15.58](#), [34.05](#) RCW. 03-22-029, § 16-228-1020, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW. 99-22-002, § 16-228-1020, filed 10/20/99, effective 11/20/99.]

16-228-115 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.

16-228-116 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.

16-228-117 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.

16-228-120 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.

16-228-125 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.

16-228-130 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.

16-228-140 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.

16-228-143 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.

16-228-145 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.

16-228-14501 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.

16-228-150 Repealed by Order 1538, filed 7/29/77, effective 9/1/77.

16-228-155 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.

- 16-228-157 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-160 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-161 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-162 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-164 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-165 Repealed by 89-07-006 (Order 1996), filed 3/3/89. Statutory Authority: Chapters [17.21](#) and [15.58](#) RCW.
- 16-228-166 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-168 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-170 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-172 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-180 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-185 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-190 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-195 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-210 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-213 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-214 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-215 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-220 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.

- 16-228-223 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-225 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-227 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-230 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-232 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-233 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-400 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-410 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-420 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-430 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-650 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-655 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.
- 16-228-660 Repealed by 99-22-002, filed 10/20/99, effective 11/20/99. Statutory Authority: Chapters [15.54](#), [15.58](#) and [17.21](#) RCW.