



STATE OF WASHINGTON
WASHINGTON STATE BOARD OF HEALTH

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March 11, 2009

TO: Washington State Board of Health Members

FROM: Environmental Health Committee, State Board of Health—
Keith Higman, Karen VanDusen, and John Austin

SUBJECT: PROPOSED REVISION OF SHELLFISH RULES:

- **MINIMUM PERFORMANCE STANDARDS, WAC 246-282-005;**
- **VIBRIO PARAHAEMOLYTICUS CONTROL PLAN, WAC 246-282-006**

Background and Summary

The Washington State Board of Health has authority under chapter 69.30 RCW to adopt rules controlling the sanitary growing and distribution of molluscan shellfish. The Board has adopted such rules as chapter 246-282 WAC. These rules have historically referenced standards of the United States Food and Drug Administration (FDA) called the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish. The NSSP standards make up a national consensus code developed by FDA in conjunction with shellfish-producing states and representatives of the molluscan shellfish industry. The Board has adopted past versions of the NSSP standards by reference in WAC 246-282-005. The reference is now outdated.

During the summer of 2006, we experienced the largest outbreak of illness on record in Washington caused by *Vibrio parahaemolyticus* (*Vp*) consumed in shellfish. The state had a history of lesser outbreaks from *Vp* during summer months before that. At its May 2007 meeting, the Board adopted a *Vp* control plan for summer harvesting as an emergency rule, WAC 246-282-006. At its May 2008 meeting, it revised the plan and adopted it as a permanent rule. The Department of Health evaluated how the rule worked during the summer of 2008 and is proposing a revision of the rule to better prevent illnesses from *Vp*.

Maryanne Guichard, Director of the Department's Office of Shellfish and Water Protection, is here to explain the need to update these two shellfish rules. Please see materials behind Tab 06.

Recommended Board Action

The Environmental Health Committee recommends the Board consider the following motions in the order presented:

- ***The Board adopts a revision to WAC 246-282-005 for the purpose of referencing the 2007 version of the National Shellfish Sanitation Program's Guide for the Control of Molluscan Shellfish, as proposed in WSR 09-04-097.***
- ***The Board adopts a revision to WAC 246-282-006 for the purpose of enhancing the state-specific *Vibrio parahaemolyticus* control plan, as proposed in WSR 09-04-096.***

Discussion

A. Updating Reference to Most Current NSSP Guide

The most current version of the NSSP Guide for the Control of Molluscan Shellfish is called the 2007 edition and was published by FDA in 2008. In order to reference this most current version of the NSSP standards, the Department is requesting the Board adopt a revision to WAC 246-282-005. This revision of WAC 246-282-005 would merely update the rule to reference the 2007 edition of the NSSP Guide without changes to those standards. This rule revision is exempt from the requirement for publication of a pre-proposal statement of inquiry (CR-101) and preparation of a significant analysis or small business economic impact analysis. Adoption of the latest version of this consensus code will enable molluscan shellfish growers in Washington State to continue to ship their products in interstate commerce.

B. Revision of *Vibrio parahaemolyticus* Control Plan

Vibrio bacteria are endemic to the marine waters of the Pacific Northwest, where they are taken up by filter feeding shellfish. They tend to present a hazard to consumers only when the weather is warm, they multiply in the shellfish, and the shellfish is eaten without being fully cooked. Primarily oysters are the shellfish eaten undercooked in Washington.

WAC 246-282-006 expands on provisions of the NSSP to require commercial shellfish operations to handle oysters intended to be marketed for raw consumption according to state-specific protocols that minimize bacterial multiplication. During the summer of 2008, the shellfish industry demonstrated the ability to reduce the time between harvest and getting oysters under temperature control as specified by the rule adopted in May 2008. The Department's evaluation of illness cases that occurred during the summer of 2008 indicates the rule might be more successful with some revision and clarification of requirements.

The Department has considered comments from representatives of FDA, tribes, local health agencies, and the shellfish industry to develop a rule revision proposal for the Board's consideration. The proposed rule should better reduce the number of illnesses caused by *Vp*. The proposed revision would require better record keeping about temperature control; a new record keeping requirement for disposition of oysters that exceed temperature control; and more training of harvesters, dealers, and their employees. It would also clarify exemption provisions and harvest plan requirements.