



DATE: October 8, 2014

TO: Washington State Board of Health Members

FROM: Environmental Health Committee
Keith Grellner, Chair

SUBJECT: **REQUEST FOR EMERGENCY RULES AND RULE DELEGATION FOR CHAPTER 246-282-005 WAC, SANITARY CONTROL OF SHELLFISH – NSSP MODEL ORDINANCE**

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. These rules have historically referenced United States Food and Drug Administration (FDA) standards called the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish (the NSSP Guide). The NSSP Guide constitutes a national consensus code developed by the FDA in conjunction with shellfish-producing and receiving states and representatives of the molluscan shellfish industry through the Interstate Shellfish Sanitation Conference. The Board has adopted previous versions of the NSSP Guide by reference in WAC 246-282-005, the last being the 2011 version. In 2011, the law (RCW 69.030.030) changed to specifically require the Board to consider the most recent edition of the national standards when adopting rules.

RCW 34.05.350 allows an agency to enact emergency rules when it finds that immediate adoption is necessary for the preservation of the public health, safety, or general welfare, and that observing time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

On September 30, 2014, the FDA published the 2013 NSSP Guide. The FDA requires Washington State to immediately align our rules with the 2013 NSSP Guide in order to protect public health, prevent disease, and allow interstate commerce of molluscan shellfish from Washington State. The Department of Health is requesting the Board to adopt an emergency rule and delegate rule-making authority to amend WAC 246-282-005. The emergency rule and delegation would be limited to updating the rule to reference the 2013 edition of the NSSP Guide, without changes. It should not be controversial. These conditions meet the criteria set in Board policy 2000-001, Considering Delegation of Rules to the Department of Health.

Kelly Cooper, Environmental Public Health Policy Director, is here to answer any questions about this request to adopt the emergency rule and delegate rule-making authority for the permanent rule. Please refer to materials behind Tab 12 in your packets.

Recommended Board Action:

The Board may wish to consider the following motions:

***Motion:** The Board adopts the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, 2013 edition, and directs the executive director to sign and file the emergency rule making order with the Code Reviser's office.*

***Motion:** The Board delegates to the Department of Health authority to adopt a revision to WAC 246-282-005 for the purpose of referencing the most current version of the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, the 2013 edition.*

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