

# WASHINGTON STATE BOARD OF HEALTH

**Date:** June 12, 2024

**To:** Washington State Board of Health Members

**From:** Patty Hayes, Board Chair

**Subject:** Rules Briefing—The Sanitary Control of Shellfish, chapter 246-282 WAC. This is not an action item.

## Background and Summary:

The State Board of Health (Board) and the Washington Department of Health (Department) collaborate to regulate the sanitary control of molluscan shellfish. The Board serves as the rulemaking body and the Department serves as the regulatory agency. The Department also serves as the state shellfish authority administering the model ordinance of the National Shellfish Sanitation Program (NSSP).

[RCW 69.30.030](#) authorizes the Board to adopt rules governing shellfish sanitation, shellfish growing areas, and shellfish operations to protect public health and safety. Further, [RCW 43.20.050](#), establishes authority to adopt rules for the prevention and control of infectious and noninfectious disease, including food and vector borne illness.

On February 23, 2022, the Board filed a CR-101, Preproposal Statement of Inquiry, as [WSR 22-06-034](#), to initiate rulemaking to update [chapter 246-282 WAC](#), Sanitary Control of Shellfish. The rulemaking covers miscellaneous technical revisions along with updates to WAC 246-282-006, *Vibrio parahaemolyticus* (Vp) Control Plan and other parts of the rule.

Board staff coordinated with the Department's Office of Environmental Health and Safety to finalize draft proposed changes and gather feedback. An informal public comment period was open from April 12, 2024, to May 24, 2024.

Complementing this update to the chapter, on March 9, 2022, the Board delegated rulemaking authority to the Department to amend the Vp Control Plan in the event heat-wave conditions occurred early in the Vp control season and prior to completion of rulemaking on the chapter. The Department exercised this authority and adopted an emergency rule on May 17, 2023, filed as [WSR 23-11-074](#), to allow enforcement of the strictest Vp time-to-cooling standards for commercial oyster harvesters and dealers.

The Board's shellfish rulemaking authority does not include fee authority. Separate from the Board's rulemaking on other sections of the chapter, the Department recently withdrew proposed updates to the fees section [WAC 246-282-990](#), because the 2024 Legislature passed a budget proviso that gives the Department funding to contract with

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an independent third-party consultant to study the commercial shellfish regulatory program and make recommendations on fees.

Today, Danielle Toepelt from the Department's Office of Environmental Health and Safety will present the Board with additional background on the rule, updates to the draft proposed changes, feedback received, and next steps.

**This is not an action item.**

**Staff**

Shay Bauman, Policy Advisor

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PO Box 47990 • Olympia, WA 98504-7990  
360-236-4110 • [wsboh@sboh.wa.gov](mailto:wsboh@sboh.wa.gov) • [sboh.wa.gov](http://sboh.wa.gov)