



**Request for Delegated Rulemaking  
WAC 246-282-005  
Shellfish 2023 Model Ordinance**

State Board of Health Meeting  
November 13, 2024

## Presenter

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**Dani Toepelt, R.S.**

*Section Manager*

Shellfish Licensing & Certification



@WADeptHealth

## Background Information

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- WAC 246-282-005 sets minimum performance standards for shellfish operators.
- WAC 246-282-005(1)(a) adopts by reference the 2019 version of F.D.A.'s National Shellfish Sanitation Program's (NSSP) *Guide for the Control of Molluscan Shellfish*, which includes the Model Ordinance.
- The Model Ordinance is revised every odd year.
  - No revision was released in 2021, due to the COVID-19 pandemic.
- On September 3, 2024, the FDA released the 2023 version of the Model Ordinance.

## Background Information

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- Adopting the current version will allow the shellfish industry to continue to export shellfish products outside of the state of Washington and the Department to enforce the 2023 Model Ordinance.
- The changes in the 2023 Model Ordinance will not impact the rules that are currently open as part of the Board's Sanitary Control of Shellfish rulemaking.
- Historically, the Board has delegated rulemaking authority to the Department to update the incorporation by reference in WAC 246-282-005(1)(a).



# Potential Changes to Rule

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## **WAC 246-282-005, Minimum performance standards.**

(1) Any person engaged in a shellfish operation or possessing a commercial quantity of shellfish or any quantity of shellfish for sale for human consumption must comply with and is subject to:

(a) The requirements of the U.S. Food and Drug Administration National Shellfish Sanitation Program (NSSP), Guide for the Control of Molluscan Shellfish (~~2019-2023~~) (copies available through the U.S. Food and Drug Administration, Shellfish Sanitation Branch, and the Washington state department of health, office of shellfish and water protection);

(b) The provisions of 21 Code of Federal Regulations (C.F.R.), Part 123 - Fish and Fishery Products, adopted December 18, 1995, by the United States Food and Drug Administration, regarding Hazard Analysis Critical Control Point (HACCP) plans (copies available through the U.S. Food and Drug Administration, Office of Seafood, and the Washington state department of health, office of food safety and shellfish programs); and

(c) All other provisions of this chapter.

(2) If a requirement of the NSSP Model Ordinance or a provision of 21 C.F.R., Part 123, is inconsistent with a provision otherwise established under this chapter or other state law or rule, then the more stringent provision, as determined by the department, will apply.

## SBOH Delegation Considerations

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- The scope of the rule change will be limited to changing the “2019” to “2023” in WAC 246-282-005(1)(a).
- The changes in the 2023 Model Ordinance do not impact the rules currently open as part of the Board’s Sanitary Control of Shellfish rulemaking.
- The department does not anticipate any controversy or opposition to this rule change.
- The department will use an exception rulemaking process.
- The department will keep interested parties engaged and informed via an up-to-date webpage and GovDelivery notifications that will be distributed using existing listservs. The department will have a formal comment period, as well as hold a public hearing.

Questions?





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