



Mr Chris Lyall
Chief Inspector of Primary Produce Safety
Biosecurity Tasmania
Department of Natural Resources and Environment Tasmania
165 Westbury Road
Prospect TAS 7250

3 August 2023

Dear Chris,

Thank you for the opportunity to respond to the second draft Guide to Primary Production and Processing of Bivalve Molluscs in Tasmania.

As we flagged when we commented on the first draft, we consider it imperative that near term decisions be made on the wet storage and depuration applications that have been before you for a considerable time. Existing applicants should not have to reapply, or resupply information already supplied, simply because of the preparation and finalisation of a guide.

Our comments on the second draft guide are set out below.

General

The second draft is little changed from the first draft. The great majority of the recommendations made in Oysters Tasmania's 25-page submission on the first draft have not been adopted. Most of our arguments justifying those recommendations have been neither addressed nor rebutted, either in the workshop held on 20 July, or the feedback summary you circulated. We therefore request that the recommendations be accepted or the arguments justifying those recommendations be rebutted.

Rebuttal of the arguments justifying our recommendations would be particularly valuable with respect to those arguments outlining the operation of specific statutory provisions.

- Can you explain how subsection 11(2) of the Primary Produce Safety Act 2011 leads to your statement that "therefore the application must acknowledge that requirements of other applicable legislation (through other Government agencies) have been approved and provided"?



- Should the Guide’s unqualified reproduction of paragraph TAS I4P2 from Schedule 9 of the National Construction Code remain, when the preceding paragraph of that Schedule (TAS I4P1) states that TAS I4P2 does not apply to “live shellfish premises where live shellfish are being packed or handled for transport or transferral to shellfish processing premises”?
- Can you explain how “the installation of plumbing fixtures and fittings including water treatment and storage systems (i.e. wet storage and depuration systems) are considered plumbing installations under the Building Act 2016” when the definition of plumbing installation in section 4 of the Building Act 2016 makes no reference to any of those terms?
- Given that you mention in your feedback summary that subclause 16(1) of Food Standards Code 4.2.1 requires the effective control of hazards and refers to a definition of “hazard”, do you accept that subclause 16(2) states that a seafood business is taken to comply with subclause 16(1) if the business implements any one of a number of procedures, and that a number of these procedures limit the meaning and range of hazards that need to be controlled?

It would be good to get clarity on these matters in order for industry to redraft the food safety program template in a way that is likely to meet your approval.

In some instances plain errors have been retained. For instance, as was pointed out in our submission on the first draft, it is just not true that “accredited producers engaged in the cultivation of spat for the purposes of growing on are not permitted to direct harvest bivalves for supply into the human consumption market”. For instance, Tasmania’s two largest oyster farmers, Tasmanian Oyster Company and Cameron of Tasmania, are “accredited producers engaged in the cultivation of spat for the purposes of growing on” and are “permitted to direct harvest bivalves for supply into the human consumption market”.

Wet storage

We understand that all submissions on the first draft, not just the submission from Oysters Tasmania, called for the distinct treatment of wet storage and depuration. Your second draft takes some welcome steps in this direction. However, numerous problems remain.

An incongruity has been added. Part of the draft Guide continues to say that wet storage “may” improve condition, and another part has been added saying that wet storage “must” improve condition. Such a requirement is unwarranted on food safety grounds and is not imposed by other jurisdictions where oyster farmers practise wet storage (n.b. it may be relevant for clams).

Similarly, the addition of a statement that wet storage must optimise physiological conditions so that shellfish rapidly resume normal filter-feeding activity is excessive. Other jurisdictions where oyster farmers practise wet storage do not appear to impose such a requirement.

The second draft refers on page 24 to a requirement for there to be a validation study of a wet storage system to ensure that water and shellfish are purified by the system. However shellfish in wet storage do not require purification and in many instances neither does the water. The reference on page 24 should be amended so that it is consistent with the statement on page 31 that the requirement for wet storage validation is limited to recirculating systems.

The requirement for wet storage to ensure that UV systems operate at optimal levels, shellfish continuously remove contaminants, and shellfish do not spawn, fails to recognise that wet storage systems need not involve UV systems, are not required to remove contaminants, and can only minimise the likelihood of spawning.

The second draft maintains a concerningly ambiguous statement that “shellfish must not be disturbed while draining and only removed after water is drained to below the level of shellfish”. This could imply that shellfish cannot be removed from wet storage without the tank first being drained. This would make wet storage economically unviable and would differ from standard practise in other jurisdictions where oyster farmers practise wet storage. As such, the Guide should make clear that shellfish can be removed from wet storage without the tank first being drained.

The second draft sets out distinct regulatory requirements for when a breakdown of depuration services lasts less than six hours compared to when a breakdown lasts six hours or more. But the second draft does not set out distinct regulatory requirements for when a breakdown of recirculating wet storage systems lasts less than six hours compared to when a breakdown lasts six hours or more. It should. Namely, the regulatory requirement to test the water and meat should apply only to a breakdown that lasts six hours or more.

The second draft maintains requirements on wet storage specifications including minimum flow rate, maximum flow rate, and stock displacement volume. These requirements do not appear to be drawn from the wet storage requirements of other jurisdictions, nor from ASQAP. Only the specification relating to turbidity arises from ASQAP. The Guide should not include specification requirements on wet storage that are not drawn from ASQAP or bodies and jurisdictions with wet storage expertise and experience.



Depuration

The second draft maintains a requirement for monthly testing of post-depuration water, in addition to testing in the validation study and testing as required by the Authority. NSW only require testing of post-depuration water in the validation study and as required by the Authority. That is, there is no minimum of monthly testing of post-depuration water in NSW. This approach should be adopted in Tasmania.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Duncan Spender".

Duncan Spender
CEO, Oysters Tasmania