

APPENDIX II-C

RULEMAKING NOTICE FORM

Notice Number _____	Rule Number _____	He-P 2150-2159
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1. Agency Name & Address: Department of Health & Human Services Division of Public Health Services Food Protection Services 29 Hazen Drive Concord, NH 03301	2. RSA Authority: <u> RSA 143:6, I & II(c) & (d) </u> 3. Federal Authority: _____ 4. Type of Action: Adoption _____ Repeal _____ Readoption _____ Readoption w/amendment <u> X </u>	
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5. Short Title: New Hampshire Shellfish Sanitation Rules		
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6. (a) Summary of what the rule says and of any proposed amendments:

He-P 2150 through 2159 sets forth the licensing requirements for shellfish harvesters and dealers.

The Department of Health and Human Services (Department) is proposing to readopt with amendment the provisions in He-P 2150 through He-P 2159. The proposed changes to these rules, as compared to the existing rule, include:

- **Amending He-P 2150.01 on declaration of purpose to shorten the declaration of purpose;**
- **Updating He-P 2151.01 on definitions by:**
 - **Adding the definitions of “temperature control”, “time of harvest”, and “*vibrio parahaemolyticus*”;**
 - **Amending this definitions of “aquaculture”, “authority”, “certification”, “certification number”, “compliance schedule”, “interstate certified shellfish shippers list”, “interstate shellfish sanitation conference”, “national shellfish sanitation program”, “other deficiency”, “raw”, and “shellstock shipper”; and**
 - **Deleting the definitions of “back siphonage”, “backflow”, “cull”, “dry storage”, “float aquaculture”, “heat shock”, “inspection item”, “landing”, “lot of in-shell product,” “lot of shellstock for depuration”, “lot of shuck shellfish”, “marina”, “monoculture”, “open water aquaculture”, “organoleptic”, “poisonous or deleterious substance”, “polyculture”, “post-harvest processor”, “prohibited”, “receipt of shellfish”, “repacking in-shell product”, “repacking shellstock”, “restricted use shellstock, “sanitary survey”, “sanitize”, “shellstock packing”, “swing deficiency”, “transaction record”, and “trip records”; and**
- **Amending He-P 2152.01 on incorporation of the NSSP guide for the control of molluscan shellfish to incorporate the 2019 NSSP Guide for the Control of Molluscan Shellfish (NSSP Guide) for purposes of compliance with the National Shellfish Sanitation Program and remove the requirement to have a continual time/temperature recording device;**

- Adding new section He-P 2152.02 on special requirements for (aquaculture) harvesters of oysters and hard clams for the control of *vibrio parahaemolyticus*;
- Amending He-P 2153.01 on initial certificate application requirements to allow for credit card payments for fees and removing the requirement for the permit to be posted at all times, as this is not a practical requirement on a waterborne vessel;
- Amending He-P 2153.02 on processing of initial applications and issuance of certificates by updating citations and removing the requirement that certificates shall be posted at all times in the area that is visible by patrons;
- Amending He-P 2153.03 on certificate expirations and procedures for renewal by updating various requirements and adding a reference that renewals must meet the requirements in the Nssp Guide;
- Amending He-P 2153.05 on fees by:
 - Removing the fee for each inspection conducted after the second inspection conducted in any licensing period;
 - Removing the \$75 fee for a plan review due to the removal of a requirement for the plan review; and
 - Adding the allowance for credit card payments to be consistent with other Department rules; and
- Amending He-P 2153.06 on water system requirements by removing the specific requirements for certificate holders who own and operate their own public water system or are classified as public water systems and making minor editorial and substantive revisions for clarification;
- Amending He-P 2153.07 on wastewater system requirements by updating the requirements on what a certificate holder shall submit as part of their application if they do not discharge their wastewater as described in paragraph (a) and making substantive revisions for clarifying purposes;
- Amending He-P 2153.08 on change in ownership by making minor revisions;
- Amending He-P 2153.10 on change in location to add “for land based activities” to clarify the type of facility applicable to this requirement;
- Amending He-P 2153.11 on change in certification classification by updating the requirement for reclassification or permit designation and striking references to an “upgrade”;
- Removing He-P 2153.12 on submission of plans and specifications for new or remodeled plants and renumbering the remaining sections accordingly;
- Amending He-P 2153.12, formerly He-P 2153.13, on hazard analysis and critical control point plan and sanitation standard operating procedure requirements by removing the

requirements in paragraphs (d) and (e) as (e) is redundant with the adopted code and (d) is not required;

- Amending He-P 2153.13, formerly He-P 2153.14, on variances to no longer require that a variance request include submission of a hazard analysis critical control point (HACCP) plan and to remove the requirement that a certificate holder reapply for a variance along with each annual request for recertification;
- Amending He-P 2153.14, formerly He-P 2153.15, on training to be in compliance with the various training elements as put forth in the NSSP Guide;
- Amending He-P 2154.01 on inspections by adding information on when an inspection shall be conducted, and by striking unnecessary and redundant language in paragraphs (c) through (e) and the requirement for an onsite inspection, as this is already outlined in the NSSP Guide;
- Amending He-P 2154.02 on correction of deficiencies, formerly titles “Compliance Schedule”, to be consistent with the Department rules and the NSSP Guide;
- Amending He-P 2155.01 on enforcement actions and notice of right to appeal by removing the requirement in paragraph (b) on when any inspection identifies a critical deficiency as this was redundant and already outlined in the NSSP Guide and making minor substantive and editorial revisions for clarification;
- Amending He-P 2155.02 on administrative fines by:
 - Removing the fines for failure to submit a floor plan, conducting wet storage activities without a permit, conducting commingling activities that are not compliant with He-P 2159, and conducting relaying activities without a permit, as these can be covered under the fine for “failure to operate only in the manner in which certified to do so; and
 - Adding payment by credit card as an option for payment of fines;
- Amending He-P 2155.03 on denial or revocation of a certificate by updating the requirements surrounding an application for a certificate after revocation;
- Amending He-P 2155.06 on closure by changing the term “vessel” to “vehicle” and adding a reference to the communicable diseases described in the NSSP Guide;
- Amending He-P 2157.01 on shellstock relaying by making minor substantive revisions to clarify the rule;
- Amending He-P 2157.02 on initial shellstock relaying permit application requirements by updating the edition date of the “Shellstock Relaying Permit Application” form;
- Amending He-P 2157.04 on permit expirations and procedures for renewals by revising the title of the section to “Permit Expirations”, specifying that the issued relaying permit is valid only for the dates specified on the application, and removing paragraphs (b) through (e) as the requirements are unnecessary and redundant;

- Amending He-P 2158.02 on initial wet storage permit application requirements by updating the edition date of the “Wet Storage Permit Application” form, and removing the requirements for an Army Corps of Engineers documentation/permit and a letter of no impact from NH Department of Environmental Services; and
- Correcting various references and making minor revisions, both editorial and substantive, throughout.

6. (b) Brief description of the groups affected:

These rules affect those persons, firms, or other entities which are certified, or applying to be certified, to process or pack shellfish.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	Specific State or Federal Statute the Rule Implements
He-P 2150 – He-P 2159	RSA 143:26; 21 CFR Part 123
He-P 2152.01	21 CFR 1, B, section 123.6
He-P 2152.02	RSA 143:26; 21 CFR 1, B, section 123.6
He-P 2153.01	RSA 143:22; RSA 143:22-a; RSA 143:26
He-P 2153.02	RSA 541-A:29; RSA 143:22; RSA 143:4; RSA 143:22-a; RSA 143: 21-26
He-P 2153.03	RSA 143:25; 143:22; RSA 143:26; RSA 143:22-a
He-P 2153.04	RSA 143:22; RSA 143:26; RSA 143:21-a
He-P 2153.05	RSA 143:22-a; RSA 143:22; RSA 6:11-a
He-P 2153.06	RSA 485:1-a,XV; RSA 143:26; RSA 143:21-a
He-P 2153.07	RSA 143:21; RSA 485-A; RSA 485-A:13; RSA 485:13-a
He-P 2153.08	RSA 143:22; RSA 143:20-28
He-P 2153.09	RSA 143:22; RSA 143:20-28
He-P 2153.10	RSA 143:4; RSA 143:20-28
He-P 2153.11	RSA 143:21-a; RSA 143:22; RSA 143:26
He-P 2153.12	RSA 143:20-28; 21 CFR 1, B, section 123
He-P 2153.13	RSA 143:20-28
He-P 2153.14	RSA 143:6; RSA 143:22; RSA 143:26
He-P 2154.01	RSA 143:4; RSA 143:22; RSA 143:20-28
He-P 2154.02	RSA 143:4; RSA 143:6; RSA 143:20-28
He-P 2155.01	RSA 143:6; RSA 143; RSA 541-A:30; RSA 541-A:30, III
He-P 2155.02	RSA 143:22; RSA 143:6; RSA 143:7; RSA 143:7-a; RSA 6:11-a
He-P 2155.03	RSA 143; RSA 143:20-28; RSA 143:6, II(d); RSA 143:5-a
He-P 2155.04	RSA 541-A; RSA 541-A:31-36; RSA 143:5-a, IV
He-P 2155.05	RSA 143:1-4; RSA 143:5-a; RSA 143:4; RSA 143:23; RSA 143:24
He-P 2155.06	RSA 143:26; RSA 143:6
He-P 2156.01	RSA 146.20; 21 CFR 7, C sections 7.40-7.59; RSA 143:2; RSA 143:21-a; RSA 143:23; RSA 143:26
He-P 2157.01	RSA 143; RSA 143:22; RSA 143:22-a; RSA 143:26
He-P 2157.02	RSA 143; RSA 143:22; RSA 143:22-a; RSA 143:26
He-P 2157.03	RSA 541-A:29; RSA 143:22; RSA 143:26
He-P 2157.04	RSA 143:22
He-P 2158.01	RSA 143:20-28

He-P 2158.02	RSA 143:20-28
He-P 2158.03	RSA 541-A:29
He-P 2158.04	RSA 143:22
He-P 2159.01	RSA 143:22
He-P 2159.02	RSA 143:22

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Allyson Raadmae** Title: **Administrator- Administrative Rules Unit**
Address: **Dept. of Health and Human Services** Phone #: **(603) 271-9604**
Administrative Rules Unit Fax#: **(603) 271-5590**
129 Pleasant Street, 2nd Floor E-mail: **Allyson.E.Raadmae@dhhs.nh.gov**
Concord, NH 03301

TTY/TDD Access: Relay NH 1-800-735-2964
or dial 711 (in NH)

The proposed rules may be viewed and downloaded at:
<https://www.dhhs.nh.gov/doing-business-dhhs/legal-services/administrative-rules/nh-administrative-rules-public-comment>

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Tuesday, December 6, 2022**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Tuesday, November 29, 2022 at 10:00am**

Place: **[DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH](#)**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 22:194, dated October 19, 2022

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

When compared to the existing rule, the proposed rule may decrease state general funds and have an indeterminable impact on independently-owned businesses.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

There is a potential indeterminable revenue loss associated with removal of certain fees, such as the plan review fee.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

The Department states that there is an interminable potential cost to harvesters of oysters or hard clams with respect to the requirement for a plan to control *Vibrio Parahaemolyticus*. Conversely, businesses will benefit from the removal of the requirement for a time/temperature recording device. Businesses will also benefit from the removal of certain fees and fines, e.g. the fees for the third or more inspection in a licensing period, the \$75 fee for plan review, and the fines for failure to submit a floor plan and other related activities.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rules modify an existing program or responsibility, but do not mandate any fees, duties or expenditures on the political subdivisions of the state, and therefore do not violate Part I, Article 28-a of the N.H. Constitution.

Readopt with amendment He-P 2150 through He-P 2159, effective 10-23-14 (Document #10704), to read as follows:

PART He-P 2150 NEW HAMPSHIRE SHELLFISH SANITATION RULES: DECLARATION OF PURPOSE

Statutory Authority: RSA 143:20-28

He-P 2150.01 Declaration of Purpose.

(a) RSA 143:20-28 requires the New Hampshire department of health and human services to ensure the safety of shellfish being sold for food within the State of New Hampshire.

~~(b) RSA 143:26 enables the commissioner of the department of health and human services and the commissioner of the department of environmental services to make all necessary regulations for the proper enforcement of the respective duties of each agency.~~

~~(c) The purpose of these rules is:~~

~~(1) To ensure that shellfish being sold for food complies with the provisions of RSA 143:20-28;~~

~~(2) To outline the procedures for the certification of persons, firms or corporations processing or packing shellfish either shucked or in the shell; and~~

~~(3) To outline the procedures for the denial of an application for a shellfish certificate, suspension or revocation of any shellfish certificate, or other enforcement action.~~

PART He-P 2151 NEW HAMPSHIRE SHELLFISH SANITATION RULES: DEFINITIONS

He-P 2151.01 Definitions.

(a) “Adequately iced” means that the amount and application of the ice is sufficient to ensure that immediate cooling begins and continues for all shellfish. If ice slurry is used and the shellfish are submerged, the presence of ice in the slurry indicates adequate ice.

(b) “Approved” means a classification used as an identifier for a growing area where harvest for direct marketing is allowed.

~~(c) “Aquaculture” means the cultivating on of seed in natural or artificial growing areas, or the cultivation of shellstock other than seed in growing areas, shellfish in controlled conditions for human consumption.~~

(d) “Authority” means the state or local shellfish control authority or authorities or their designated agents, which are responsible for the enforcement of the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish, ~~2013 Revision,~~ as incorporated by reference ~~and amended~~ in He-P 2152.01.

~~(e) “Back siphonage” means the flowing back of used, contaminated, or polluted water from a plumbing fixture, vessel, or other source into potable water supply pipes because of negative pressure in the water supply pipes.~~

~~(f) “Backflow” means the flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water supply from any source or sources other than the intended source.~~

(~~eg~~) “Certificate” means the document issued by the authority to a person to harvest or transport shellstock for commercial sale.

(~~fh~~) “Certification” means the issuance of a numbered certificate to a person for a particular activity or group of activities that indicates:

(1) Permission from the department to conduct the activity; and

(2) Compliance with the provisions of RSA 143:22 and the requirements of these rules including the NSSP Guide for the Control of Molluscan Shellfish, ~~2013 Revision~~, as incorporated by reference ~~and amended~~ in He-P 2152.01.

(~~gi~~) “Certification number” means the unique identification number issued by the authority to each dealer for each location, which consists of a one to 5 digit Arabic number preceded by the 2 letter state abbreviation and followed by a 2 letter abbreviation for the type of activity or activities the dealer is qualified to perform in accordance with these rules and the NSSP Guide for the Control of Molluscan Shellfish, ~~2013 Revision~~, as incorporated by reference ~~in~~ He-P 2152.01, ~~using the following terms:~~

~~(1) Shellstock shipper (SS);~~

~~(2) Shucker packer (SP);~~

~~(3) Repacker (RP);~~

~~(4) Reshipper (RS); and~~

~~(5) Depuration processor (DP);~~

(~~hj~~) “Commingling” means the act of combining different lots of shellfish.

(~~ki~~) “Commissioner” means the commissioner of the New Hampshire department of health and human services, or his or her designee.

(~~lj~~) “Compliance schedule” means a written ~~comply-by-date that is specified on the inspection report schedule~~ that provides a correction time period to eliminate key and other deficiencies.

(~~mk~~) “Conditional area management plan” means a plan developed by the NH department of environmental services (DES) which establishes a strict set of criteria to be met for the growing area to remain in the open status.

(~~nl~~) “Conditionally approved” means a classification used to identify a growing area that meets the criteria for the approved classification except under certain conditions described in a conditional area management plan.

(~~om~~) “Conditionally restricted” means a classification used to identify a growing area that meets the criteria for the restricted classification except under certain conditions described in a conditional area management plan.

(~~pn~~) “Conveyance” means any type of container used to transport shellfish.

(~~qo~~) “Critical control point (CCP)” means a point, step, or procedure in a food process at which control may be applied, and a food safety hazard may as a result be prevented, eliminated, or reduced to acceptable levels.

(~~rp~~) “Critical deficiency” means a condition or practice which:

- (1) Results in the production of a product that is unwholesome; or
- (2) Presents a threat to the health or safety of the consumer.

(qs) “Critical limit” means the minimum or maximum value at which a physical, biological, or chemical parameter must be controlled at a critical control point to prevent, eliminate, or reduce to an acceptable level the occurrence of the identified food safety hazard.

~~(t) “Cull” means to remove dead or unsafe shellstock from a lot of shellstock.~~

(ru) “Dealer” means a person to whom certification is issued for the activities of shellstock shipper, reshipper, shucker-packer, repacker, or depuration processor.

(sv) “Department” means the New Hampshire department of health and human services.

(tw) “Depuration” means the process of reducing the pathogenic organisms that may be present in shellstock by using a controlled aquatic environment as the treatment process.

(ux) “Depuration processor (DP)” means a person who harvests or receives shellstock from growing areas in the approved classification or conditionally approved classification, restricted classification, or conditionally restricted classification in the open status and submits such shellstock to an approved depuration process.

(vy) “Direct marketing” means the sale for human consumption of shellfish which:

- (1) Does not require depuration or relaying prior to sale; or
- (2) Has been subjected to depuration or relaying activities.

~~(z) “Dry storage” means the storage of shellstock out of water.~~

(waa) “Facility” means an establishment, equipment, and premises designed, built, or installed to perform a specific function.

~~(ab) “Float aquaculture” means open water aquaculture where the shellfish product is suspended at the water surface using floats.~~

(aex) “Growing area” means any site which supports or could support the propagation of shellstock by natural or artificial means.

(ady) “Harvest” means the act of removing shellstock from growing areas and its placement on or in a manmade conveyance or other means of transport.

(aetz) “Harvest area” means an area that contains commercial quantities of shellstock and may include aquaculture sites and facilities.

(afaa) “Harvester” means a person who takes shellstock by any means from a growing area.

(agab) “Hazard analysis critical control point (HACCP)” means a systematic, science-based approach used in food production as a means to ensure food safety which is based upon the 7 principles identified by the National Advisory Committee on Microbiological Criteria for Foods.

(ahac) “Hazard analysis critical control point (HACCP) plan” means a written document that delineates the formal procedures that a dealer follows to implement the HACCP requirements set forth in 21 CFR 123.6 as adopted by the Interstate Shellfish Sanitation Conference.

~~—— (ai) “Heat shock” means the process of subjecting shellstock to any form of heat treatment prior to shucking, including steam, hot water, or dry heat, to facilitate removal of the meat from the shell without substantially altering the physical or organoleptic characteristics of the shellfish.~~

(adj) “In-shell product” means non-living, processed shellfish with one or both shells present.

(aka) “In-shell product packing” means the process of placing in-shell product into containers for introduction into commerce.

~~—— (al) “Inspection item” means one of the standard criteria listed in the NSSP Plant Inspection Form under which single or multiple observations of specific critical, key, or other deficiencies may be debited.~~

(amaf) “Interstate Certified Shellfish Shippers List (ICSSL)” means a United States Food and Drug Administration (FDA) publication of shellfish dealers, domestic and foreign, who have been certified by a state or foreign authority as meeting the public health control measures specified in the NSSP Guide for the Control of Molluscan Shellfish, 2013 Revision, as incorporated by reference in He-P 2152.01.

(agan) “Interstate Shellfish Sanitation Conference (ISSC)” means the organization which consists of agencies from shellfish producing and receiving states, the FDA, the shellfish industry, the National Oceanic and Atmospheric Administration (NOAA)~~the National Marine Fisheries Service of the United States~~, the US Department of Commerce, and the US Environmental Protection Agency (EPA). The ISSC provides the formal structure wherein state regulatory authorities, with FDA concurrence, can establish updated guidelines and procedures for sanitary control of the shellfish industry.

(ahae) “Key deficiency” means a condition or practice that might result in adulterated, decomposed, misbranded, or unwholesome product.

(aiap) “Label” means any written, printed, or graphic matter affixed to or appearing upon any package containing shellfish.

~~—— (aq) “Landing” means the point at which shellstock is put on land or a dock.~~

~~—— (ar) “Lot of in-shell product” means a single type of container of in-shell product of no more than one day’s harvest from a single defined growing area.~~

(ajas) “Lot of shellstock” means a single type of bulk shellstock or containers of shellstock of no more than one day’s harvest from a single defined growing area gathered by one or more harvesters. A lot may also be used to segregate the harvest times and intended uses of shellstock for the purposes of complying with time to temperature requirements.

~~(at) “Lot of shellstock for depuration” means shellstock harvested from a single defined growing area during a single day’s harvest and delivered to one depuration plant.~~

~~—— (au) “Lot of shuck shellfish” means a collection of containers of no more than one day’s shucked shellfish product produced under conditions as nearly uniform as possible, and designated by a common container code or marking.~~

~~—— (av) “Marina” means any water area with a structure, such as docks, basins, and floating docks, which is:~~

~~(1) Used for docking or otherwise mooring vessels; and~~

~~(2) Constructed to provide temporary or permanent docking space for more than 10 boats.~~

~~—— (aw) “Monoculture” means the culture of a single bivalve species.~~

~~(akax)~~ “National Shellfish Sanitation Program (NSSP)” means the cooperative program between the states, the FDA, and the shellfish industry for the sanitary control of shellfish that is adequate to ensure that the shellfish produced in accordance with the NSSP Guide for the Control of Molluscan Shellfish, 2013 Revision, as incorporated by reference in He-P 2152.01, will be safe and sanitary.

~~—(ay) “Open water aquaculture” means the cultivation of bivalve shellfish in natural shellfish growing areas.~~

~~(az) “Organoleptic” means aspects of a food substance that stimulate the senses, including taste, touch, color, odor, and feel, in cases where dryness, moisture, and stale fresh factors are to be considered.~~

~~(alba)~~ “Other deficiency” means a condition or practice that is not defined as a critical or key deficiency and is not in accordance with the requirements of NSSP Guide for the Control of Molluscan Shellfish, 2013 Revision, as incorporated by reference ~~and amended~~ in He-P 2152.01.

~~(ambb)~~ “Performance based inspection” means when a dealer who has demonstrated a history of no critical deficiencies, no more than one key deficiency, and no more than 2 other deficiencies in any one inspection for a 3-year period, and therefore requires no more than one inspection per certification period.

~~(anbe)~~ “Person” means any individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind, and any partnership, association, corporation, or other entity. Person includes the federal government, the state, and any other public or private entity.

~~—(bd) “Poisonous or deleterious substance” means a toxic substance occurring naturally or added to the environment for which a regulatory tolerance limit or action level has been established in shellfish to protect public health.~~

~~—(be) “Polyculture” means the cultivation of:~~

~~(1) Two or more species of shellfish; or~~

~~(2) Shellfish with other species in a common environment.~~

~~(aobf)~~ “Post-harvest processing” means any process that has been validated using NSSP validation procedures which reduces the levels of pathogenic hazards to below the appropriate FDA action level or, in the absence of such a level, below the appropriate level as determined by the ISSC.

~~—(bg) “Post-harvest processor” means a designation given to a shellfish dealer that has incorporated a post-harvest process.~~

~~(apbh)~~ “Primary dealer” means those certified dealers who receive, purchase, and/or pack shellfish directly from harvesters.

~~(aqbi)~~ “Processing” means any activity associated with the handling, shucking, freezing, packing, labeling, or storing of shellfish in preparation for distribution. This term includes the activities of a shellstock shipper, shucker-packer, repacker, reshipper, or depuration processor.

~~—(bj) “Prohibited” means a classification used to identify a growing area where the harvest of shellstock for any purpose, except depletion or gathering of seed for aquaculture, is not permitted.~~

~~(arbk)~~ “Raw” means shellfish that have not been thermally processed to an internal temperature of 145° Fahrenheit or greater for 15 seconds, or the equivalent.;

~~(1) To an internal temperature of 145° Fahrenheit or greater for 15 seconds, or the equivalent;
or~~

~~(2) Otherwise altering the organoleptic characteristics.~~

~~(bl) “Receipt of shellfish” means the critical control point where a shellfish dealer takes possession of shellfish at a location where it will be processed and/or will be shipped to another dealer or retail establishment, monitors the receiving critical control points to ensure compliance with critical limits, and monitors storage and shipping critical control points.~~

~~(asbm) “Relay” means to transfer shellstock from a growing area classified as restricted or conditionally restricted to a growing area classified as approved or conditionally approved for the purpose of reducing pathogens as measured by the coliform indicator group or poisonous or deleterious substances that may be present in the shellstock by using the ambient environment as the treatment process.~~

~~(atbn) “Repacker (RP)” means a person other than the original certified shucker-packer who repackages shucked shellfish into other containers.~~

~~——(bo) “Repacking in shell product” means the practice of removing in-shell product from containers and placing it into other containers.~~

~~——(bp) “Repacking shellstock” means the practice of removing shellstock from containers and placing it into other containers.~~

~~(aubq) “Reshipper (RS)” means a person who purchases shellfish from dealers and sells the product without repacking or relabeling to other dealers, wholesalers, or retailers.~~

~~(avbr) “Restricted” means a classification used to identify a growing area where harvesting shall be by special certificate and the shellstock, following harvest, is subjected to a suitable and effective treatment process through relaying or depuration.~~

~~——(bs) “Restricted use shellstock” means shellstock that is harvested from growing areas classified as approved or conditionally approved in the open status and under conditions that do not allow the sale of the shellstock for direct marketing for raw consumption. Restricted use shellstock is identified with a tag indicating that the shellstock is intended for further processing prior to distribution to retail or food service.~~

~~——(bt) “Sanitary survey” means the written evaluation report of all environmental factors, including actual and potential pollution sources, which have a bearing on the water quality in a shellfish growing area.~~

~~(awbu) “Sanitation control record” means records that document the monitoring of sanitation practices and conditions during processing.~~

~~——(bv) “Sanitize” means to adequately treat food contact surfaces by a process that is effective in:~~

~~(1) Destroying vegetative cells of microorganisms of public health significance;~~

~~(2) Substantially reducing the numbers of other undesirable microorganisms; and~~

~~(3) Not adversely affecting the product or its safety for the consumer.~~

~~(axbw) “Seed” means shellstock that is less than market size.~~

~~(aybx) “Shellfish” means all species of:~~

~~(1) Oysters, clams or mussels, whether:~~

- a. Shucked or in the shell;
- b. Raw, including post-harvest processed;
- c. Frozen or unfrozen; or
- d. Whole or in part; and

(2) Scallops in any form, except when the final product form is the abductor muscle only.

(byaz) "Shellstock" means live molluscan shellfish in the shell.

~~(bz) "Shellstock packing" means the process of placing shellstock into containers for introduction into commerce.~~

(baea) "Shellstock shipper (SS)" means a dealer who grows, harvests, buys, or repacks and sells shellstock, who is not authorized to shuck shellfish nor to repack shucked shellfish, and who is permitted to buy, repack, and sell in-shell product as well as ship shucked shellfish.

(ebbb) "Shucker-packer (SP)" means a person who shucks and packs shellfish. A shucker-packer may act as a shellstock shipper or reshipper or may repack shellfish originating from other certified dealers.

(eebc) "State shellfish standardization officer" means a person that has successfully completed the FDA standardization training course and the field evaluation phase of shellfish plant inspection with an FDA standardization officer.

~~(bd) "Temperature control" means the mechanical refrigeration or other conveyance pre-chilled and maintained at 45 F or below and capable of reducing the internal temperature of shellstock to 50 °F (10 °C) or below within four (4) hours.~~

~~(cd) "Swing deficiency" means a deficiency that, depending upon the severity and circumstances, may be either a critical or key deficiency.~~

~~(ce) "Transaction record" means the form or forms used to document each purchase or sale of shellfish at the wholesale level, and includes shellfish harvest and sales records, ledgers, purchase records, invoices, and bills of lading.~~

~~(ef) "Trip records" means a form of written documentation that includes the date and time of each lot of shellfish harvested.~~

~~(be) "Time of harvest" means the time when the first shellstock harvested is no longer submerged.~~

(bfeg) "Vehicle" means a machine or conveyance, including watercraft and aircraft, used to move or transport shellfish.

~~(bg) "*Vibrio parahaemolyticus*" (V.p.) means a bacterium that lives in brackish saltwater and causes gastrointestinal illness in humans.~~

(bheh) "Wet storage" means the storage, by a dealer, of shellstock from growing areas in the approved classification or in the open status of the conditionally approved classification in containers or floats in natural bodies of water or in tanks containing natural or synthetic seawater at any permitted land-based activity or facility.

PART He-P 2152 NEW HAMPSHIRE SHELLFISH SANITATION RULES: INCORPORATION OF THE NATIONAL SHELLFISH SANITATION PROGRAM GUIDE FOR THE CONTROL OF MOLLUSCAN SHELLFISH

He-P 2152.01 Incorporation of the NSSP Guide for the Control of Molluscan Shellfish, 2013-2019 Revision.

(a) All certificate holders shall comply with the United States Department of Health and Human Services, Public Health Services, Food and Drug Administration, National Shellfish Sanitation Program (NSSP) “Guide for the Control of Molluscan Shellfish”, ~~2013~~ (2019 Revision), henceforth referred to as the “NSSP Guide-~~(2013)~~,” available as noted in Appendix A.

~~(b) The following amendments shall apply to the NSSP Guide (2013) incorporated in (a) above:~~

~~(1) Notwithstanding Chapter 13.01.A.(3), all shipments of shellstock shall be required to have a continual time/temperature recording device.~~

~~(e) The NSSP Guide (2013) may be viewed or downloaded on from the FDA website at <http://www.fda.gov/media/143238/download> or the ISSC website at <https://www.issc.org/nssp-guide>. <http://www.fda.gov/downloads/Food/GuidanceRegulation/FederalStateFoodPrograms/UCM415522.pdf>, or a copy may be obtained from the Interstate Shellfish Sanitation Conference, 209-2 Dawson Road, Columbia, SC 29223.~~

He-P 2152.02 Special Requirements for (Aquaculture) Harvesters of Oysters and Hard Clams for the Control of *Vibrio Parahaemolyticus*.

(a) A shellfish harvester/dealer who commercially harvests oysters and hard clams during the timeframe from May 1 through September 30 shall:

(1) Provide adequate shading to protect oysters and hard clams from direct exposure to sunlight during harvest and where harvested oysters or hard clams are stored;

(2) If an ice slurry is used for rapid cooling, ensure that the temperature of the slurry is less than or equal to 50° F;

(3) Ensure that all oysters and hard clams are adequately iced or placed under temperature control within 5 hours from the time of harvest;

(4) Complete a log that contains the following:

a. Time of harvest; and

b. Time to temperature control information as per (3) above;

(5) Ensure that the internal temperature of the oysters and hard clams has reached 50° F or 10° C or below within 4 hours of being placed under temperature control;

(6) Document the internal temperature and time information as specified in (5) above;

(7) Sell only oysters or hard clams that have reached an internal temperature of 50 °F (10 °C) or below; and

(8) Complete a hazard analysis and critical control point (HACCP) plan that indicates pathogen growth of naturally occurring *Vibrio parahaemolyticus* as a significant hazard that includes the following:

a. A critical limit indicating all oysters and hard clams shall be harvested in accordance with the time temperature requirements of (3) above; and

b. A critical limit indicating that the internal temperature of oysters and hard clams has reached 50 °F (10 °C) or below prior to sale.

PART He-P 2153 NEW HAMPSHIRE SHELLFISH SANITATION RULES: APPLICATION AND CERTIFICATE PROCEDURE

He-P 2153.01 Initial Certificate Application Requirements.

(a) Each applicant for a certificate shall submit the following to the department:

(1) A completed application form entitled “Application for New Shellfish Certification” (SSAPP ~~XXXXXX~~ 2022-10-01-14), signed and dated by the applicant or the person who represents the applicant and certifying the following:

“I certify that all information provided in or attached to this application is complete, accurate and up-to-date as of the date specified below. I further certify that there are no willful misrepresentations of the answers to questions herein, and that I have made no omissions with respect to any of my answers to the questions presented. I understand that it is my responsibility to immediately notify the Food Protection Section with regard to any changes, corrections or updates to the information provided.”;

(2) A check, ~~or~~ money order, or online payment by credit card at <https://www.dhhs.nh.gov/> for the applicable fees, in accordance with He-P 2153.05(a) ~~and (d)~~;

(3) Water system documentation, which meets the requirements outlined in He-P 2153.06;

(4) Wastewater system documentation, which meets the requirements outlined in He-P 2153.07, except that dealers applying to be certified as a reshipper shall not be required to submit such documentation; and

~~(5) A completed “Plan Review Application” (SSFPAPP 10-01-14), signed and dated by the applicant or the person who represents the applicant, if required by He P 2153.12(a) and (b), and if not already submitted for review; and~~

~~(56)~~ A HACCP plan as required in He-P 2153.13.

(b) The applicant shall apply online at <https://www.dhhs.nh.gov/>, by mail, or by hand delivering the documents to:

Department of Health and Human Services
Bureau of Finance/Receipts Unit – Food Protection
129 Pleasant Street
Concord, NH 03301

He-P 2153.02 Processing of Initial Applications and Issuance of Certificates.

- (a) Applications shall be processed in accordance with RSA 541-A:29.
- (b) An application for an initial certificate shall be complete when the department determines that all items required by He-P 2153.01(a) have been received.
- (c) If an application does not contain all of the items required by He-P 2153.01(a), the department shall notify the applicant in writing within 10 business days specifying any information or supporting documentation required to be submitted before the application can be processed.
- (d) If after written notice in (c) above the applicant fails to provide the missing information or supporting documentation, including payment of the required fee, within 30 days of such notice:
 - (1) The application shall be considered incomplete and shall not be processed; and
 - (2) The applicant may reapply by submitting a new initial application in accordance with He-P 2153.01(a).
- (e) Application fees shall not be transferable to any other application(s).
- (f) Application fees shall be nonrefundable.
- (g) Following an application and inspection, conducted pursuant to RSA 143:4, and in accordance with He-P 2154 an initial certification shall be issued if the department determines that an applicant is in compliance with RSA 143:20–28 and these rules.
- (h) All certificates issued in accordance with RSA 143:22 shall be issued for a specific certificate classification under He-P 2153.04.
- (i) All certificates shall be non-transferable by person or location.
- ~~(j) Certificates shall be posted at all times in an area that is conspicuous to patrons.~~

He-P 2153.03 Certificate Expirations and Procedures for Renewals.

- (a) All certificates issued shall expire pursuant to RSA 143:22.
- (b) Each dealer shall apply for recertification ~~via an application form pursuant to He-P 2153.01(a)(1)~~ at least 30 days prior to the expiration of the current certificate.
- (c) The certificate holder shall submit ~~with the a~~ renewal application that contains the following:
 - ~~(1) The materials required by He-P 2153.01(a)(1) through (a)(4);~~
 - ~~(2) The materials required by He-P 2153.01(a)(5) and (6) if these have been updated within the most recent certification period and not submitted in accordance with He-P 2153.12 and He-P 2153.13, respectively;~~
 - ~~(3) A request for renewal of any existing variances previously granted by the department, in accordance with He-P 2153.14, if applicable; and~~
 - ~~(4) Every other year, documentation of training required by He-P 2153.15.~~

(2) Any changes to information provided to the department in the initial application; and

(3) Applicable permit fees, in accordance with He-P 2153.05(a).

(d) A certificate shall be renewed if the department determines that the certificate holder:

(1) Has submitted a completed application containing all the items required by (c) above, as applicable, prior to the expiration of the current certificate;

(2) Meets the requirements for certification as outlined in the NSSP Guide; of He-P 2154.01(e) and (e);

(3) Has ~~submitted~~ a compliance schedule in place that has been accepted by the department and implemented by the certificate holder to address any new key or other deficiencies not corrected during the inspection;

(4) Is found to be in compliance with RSA 143, RSA 143:20–28, and He-P 2150–2159 at a renewal inspection, as applicable;

(5) Has paid all outstanding fees and fines in full; and

(6) Has, every other year, met the training requirement in He-P 2153.153.

(e) If a certificate holder fails to submit a complete application for renewal as required under (b) and (c) above, the dealer shall cease operation the day after the certificate expires, and shall not operate until a certificate is obtained.

He-P 2153.04 Designations and Permits.

(a) When the department certifies a person to become a dealer, the department shall notify the FDA for the purposes of having the dealer listed in the Interstate Certified Shellfish Shippers List (ICSSL). The department shall include any permit designation to be included in the ICSSL.

(b) Certification classifications and permit designations shall be as follows:

(1) Certification classifications:

a. RS – Reshipper;

b. SS – Shellstock shipper;

c. RP – Repacker;

d. SP – Shucker-packer; and

e. DP – Depuration processor; and

(2) Permit designations:

a. PHP – Post-harvest processing;

b. AQ – Aquaculture; and

c. WS – Wet storage.

(c) The department shall issue only one certification number to an individual dealer for a particular location.

(d) The department shall issue more than one certification number to an individual dealer provided that each business is maintained as a separate entity and does not operate at the same location, each of which shall require separate applications and separate fees.

(e) The department shall allow separately certified dealers to share a facility at a single location.

He-P 2153.05 Fees.

(a) For each classification of certification, the applicant shall pay the following annual fees:

- (1) Reshipper, \$175;
- (2) Shellstock shipper, \$350;
- (3) Repacker, \$875;
- (4) Shucker-packer, \$1,100, and
- (5) Depuration processor, \$1,750.

(b) For each permit, the applicant shall pay the following ~~annual~~ fees:

- (1) Shellstock relaying permit, \$50; and
- (2) Wet storage permit, \$50.

~~—(c) Certificate holders shall be responsible for payment of a \$100 fee for each inspection conducted after the second inspection conducted in any licensing period, except that the minimum number of inspections conducted during the period of certification as are required by the NSSP Guide (2013) shall not be included in this count.~~

~~(d) An applicant or certificate holder shall pay a fee of \$75 for each plan review submitted under He-P 2153.12.~~

~~(e)~~ All fees shall be non-transferable and non-refundable.

~~(d)~~ Payment of any fee to the department shall meet the following requirements:

- (1) Payment shall be made in the form of credit card payment, check, or money order made payable to the “Treasurer, State of New Hampshire” in the exact amount due;
- (2) Money order or certified check shall be required when an applicant or certificate holder has issued payment to the department by check, and such check was returned for insufficient funds; and
- (3) Any payment made to the department by check which is returned for insufficient funds, and which an individual, applicant, or certificate holder has not made good by submitting a money order or certified check within 2 business days of notification by the department, including any penalty assessment allowed by RSA 6:11-a, shall be grounds for denial or revocation of the certificate.

He-P 2153.06 Water System Requirements.

~~(a) Certificate holders which own and operate their own public water systems, as defined by RSA 485:1-a, XV, shall indicate, as part of their application, the Public Water System (PWS) identification number which has been assigned by the New Hampshire department of environmental services (DES).~~

~~(b) For an application to be approved, certificate holders which own and operate their own public water systems regulated by DES shall:~~

~~(1) Maintain compliance with all applicable water quality standards and monitoring and reporting requirements of Env Dw 717 or successor rules in subtitle Env Dw; or~~

~~(2) Maintain compliance with the requested actions in a letter of deficiency, or the required actions of an administrative order, issued by DES and established to obtain compliance with the regulations cited in (1) above.~~

~~—(c) Certificate holders which are classified as public water systems, as defined by RSA 485:1-a, XV, but whose water system infrastructure is owned by another party, shall indicate, as part of their application, the private water system (PWS) identification number which has been assigned by DES.~~

~~—(d) For an application under this paragraph to be approved, the owner of the water system infrastructure shall:~~

~~(1) Maintain compliance with all applicable water quality standards and monitoring and reporting requirements of Env Dw 717 or successor rules in Env Dw; or~~

~~(2) Maintain compliance with the requested actions in a letter of deficiency, or the required actions of an administrative order, issued by the DES and established to obtain compliance with the regulations cited in (1) above.~~

~~(ae) Certificate holders which purchase their water from other public water systems, as defined by RSA 485:1-a, XV, and therefore do not fall under (a) above, shall provide proof of their water source along with the application.~~

~~(bf) Certificate holders which do not fall under (a) through (e) above, and are instead served by a water source other than a public water system, shall submit with the initial and renewal applications the written results of a laboratory analysis of the water intended for use, which tests the level of the following:~~

~~(1) Bacteria;~~

~~(2) Nitrates; and~~

~~(3) Nitrites.~~

~~(cg) The analyses required by (bf) above shall be conducted not more than 6 months prior to the date of the application by a laboratory accredited by DES to perform such tests in accordance with Env-C 300.~~

~~(dh) For an application to be approved, the results of the water analysis shall be as follows:~~

~~(1) The bacteria test required under (bf) above shall not exceed the maximum contaminant level (MCL) for drinking water prescribed by Env-Dw 7020; and~~

(2) The nitrate and nitrite tests required under (b) above shall not exceed the MCL for drinking water prescribed by Env-Dw 7040 for those 2 contaminants.

He-P 2153.07 Wastewater System Requirements.

(a) Certificate holders which discharge their wastewater to either public or private wastewater systems which hold either a state surface water discharge permit or a groundwater discharge permit issued by the New Hampshire department of environmental services (DES), shall indicate this on the initial provide a copy of this information along with the application.

(b) Certificate holders which do not discharge their wastewater as described in (a) above shall submit the following as part of their application:

(1) The applicant demonstrates that the existing use has not changed since July 1, 1967, by providing:

a. A town property tax record for 1967 or earlier that is authenticated by a current official of the town; or

b. A sworn, notarized affidavit that the existing use has not increased from the use existing as of July 1, 1967 from an individual unrelated to the applicant who owned the structure served by the private sewage or waste disposal system prior to July 1, 1967 or has personal knowledge of the use of the structure prior to July 1, 1967 in an official capacity such as being a tax assessor or code enforcement officer.; or

(2) A copy of the construction approval and the operation approval for the sewage or waste disposal system that indicates that the system is sufficient in capacity to serve the subject establishment issued by DES in accordance with RSA 485-A:29 and Env-Wq 1000.

(c) If not stated in or (b)(2) above a copy of the sewage or waste disposal system plan specifying use shall be submitted as part of their application.

, as part of their application, one of the following:

(1) Both:

a. A copy of the construction approval for the sewage or waste disposal system that indicates that the system is sufficient in capacity to serve the subject shellfish processing plants issued by DES in accordance with RSA 485-A:29 and Env-Wq 1000; and

b. A written statement signed by the applicant containing the following language: "I certify that there has been no increase in the loading on the wastewater system which would cause an exceedance of the capacity of the system approved by the New Hampshire Department of Environmental Services under the provisions of Env-Wq 1000"; or

(2) A written statement signed by the applicant containing the following language: "I certify that the private sewage or waste disposal system serving this certificate holder was constructed prior to 1971 and is presently not in failure. I further certify that I have not been notified by either the New Hampshire Department of Environmental Services or the local health officer that the system serving this certificate holder is in violation of any state or local statute, administrative rule, ordinance, or bylaw."

(de) If there is no increase in the loading of the waste disposal system serving the certificate holder in (b) above, and the applicant is unable to produce the documentation required, and has obtained approval of the waste disposal system from DES, the department shall waive the requirement in (b) with written approval from DES.
~~the department shall inform DES that the applicant has not complied with (b)(1) above. In this case, the requirement of (b)(1) above shall be waived.~~

He-P 2153.08 Change in Ownership.

(a) When there is a change in ownership, the new owner shall submit the items required for initial applicants under He-P 2153.01 to the department at least 30 days prior to the change in ownership.

(b) Upon receipt and processing of the items required by (a) above, and after an inspection conducted in accordance with He-P 2154~~5~~, which determines compliance with the NSSP Guide (2013), as incorporated by reference ~~and amended~~ in He-P 2152.01, the department shall issue an initial certification reflecting the change in ownership.

(c) The issuance of an initial certification due to a change in ownership shall void the certificate of the previous owner on the date the change of ownership occurs.

He-P 2153.09 Change in Name.

(a) When a certificate holder intends to change the name of its business, the certificate holder shall submit a written request to the department for a new certificate at least 30 days prior to the intended date of name change.

(b) The written request shall include:

- (1) The reason for requesting a new certificate;
- (2) The name of the business as it appears on the existing certificate;
- (3) The name of the business as the certificate holder requests it to appear on the new certificate; and
- (4) The date upon which the change in name is intended to occur.

(c) Following receipt of the items required by (b) above, the department shall issue a revised certificate reflecting the change in name. The certificate number and expiration date shall remain the same as it was on the immediately preceding certificate.

He-P 2153.10 Change in Location.

(a) When there is a change in location, for land based activities, the certificate holder shall submit the items required for initial certification under He-P 2153.01 to the department at least 30 days prior to the change in location.

(b) Upon receipt and processing of the items required under (a) above, and after an inspection conducted in accordance with He-P 2154~~5~~, the department shall issue an initial certification reflecting the change of location.

(c) The issuance of an initial certification due to a change in location shall void the previous certificate on the date the change of location occurs.

(d) This section shall not apply to vehicles used to sell wholesale or retail shellfish.

He-P 2153.11 Change in Certificate Classification.

(a) A certificate holder wishing to request a change to their certificate classification or permit designation ~~n upgrade to a higher level of certificate~~ as listed in He-P 2153.04 shall:

- (1) Be treated as an applicant for a new certificate; and
- (2) Apply for a new certificate in accordance with He-P 2153.01.

(b) The issuance of an initial certification due to a change n upgrade in certificate classification or permit designation shall void the previous certificate on the date the change upgrade occurs.

~~(c) A certificate holder wishing to request a downgrade to a lower level of certificate listed in He-P 2153.04 shall submit a written request for downgrade to the department.~~

~~——(d) The written request in (c) above shall include:~~

- ~~(1) The reason for requesting a downgrade; and~~
- ~~(2) The date upon which the downgrade is intended to occur.~~

~~——(e) Following receipt of the request under (c) above, the certificate holder shall be issued a revised certificate reflecting the downgrade in the certificate classification. The certification number and expiration date shall remain the same as it was on the immediately preceding certificate.~~

He-P 2153.12 Submission of Plans and Specifications for New or Remodeled Plants.

~~——(a) An applicant or certificate holder shall complete and submit a “Plan Review Application” (SSFPAPP 10-01-14) to the department for review and approval.~~

~~(b) The application in (a) above shall be submitted at least 45 days prior to:~~

- ~~(1) Constructing a new shellfish processing plant;~~
- ~~(2) Converting an existing structure for use as a shellfish processing plant;~~
- ~~(3) Remodeling a shellfish processing plant; or~~
- ~~(4) Relocating a shellfish processing plant when the relocation also involves (1), (2), or (3) above.~~

~~(c) An applicant or certificate holder shall pay a fee of \$75 for each plan review application submitted.~~

~~——(d) The department shall review plans for construction, renovation, or structural alterations of a shellfish processing plant for compliance with all applicable sections of RSA 143:20-28 and He-P 2150-2159 and notify the applicant or certificate holder as to whether the plan complies with these requirements.~~

He-P 2153.123 Hazard Analysis and Critical Control Point (HACCP) Plan and Sanitation Standard Operating Procedure (SSOP) Requirements.

(a) Every dealer shall establish and implement a written hazard analysis critical control point (HACCP) plan which is specific to:

- (1) Each location where shellfish products are processed by that dealer; and
 - (2) Each kind of shellfish product processed by the dealer.
- (b) At a minimum, the HACCP plan shall include:
- (1) A list of the food safety hazards that are reasonably likely to occur for each kind of shellfish product processed by that dealer and identification of preventative measures that shall be applied to control those hazards; and
 - (2) A statement of standard operating procedures for the plan under consideration clearly identifying:
 - a. Each critical control point;
 - b. The critical limits for each critical control point;
 - c. The method and frequency for monitoring and controlling each critical control point by an individual who has successfully completed training in the application of HACCP principles to shellfish processing or who is otherwise qualified through job experience to perform these functions;
 - d. The method and frequency to routinely verify that the dealer is following standard operating procedures and monitoring critical control points;
 - e. Action to be taken by the dealer if the critical limits for each critical control point are not met; and
 - f. Records to be maintained by the dealer to demonstrate that the HACCP plan is properly operated and managed.

(c) The department shall review HACCP plans for compliance with all applicable sections of RSA 143:20-28 and He-P 2150–2159 and notify the applicant or certificate holder as to whether the plan complies with these requirements.

~~—(d) The dealer shall submit an updated or new HACCP plan 45 days prior to whenever a change in the process, location, or product will occur.~~

~~—(e) The dealer shall monitor conditions and practices that are both appropriate to the facility and the food being processed and shall maintain sanitation control records in compliance with 21 CFR 123.~~

~~(d)~~ (f) The dealer shall maintain possession of the HACCP plan at all times.

He-P 2153.1³⁴ Variances.

(a) Applicants or certificate holders seeking variances from specific rules, or from items in the NSSP Guide (2013), as incorporated by reference in He-P 2152.01, shall submit a “Variance Request Form” (SSVARFORM ~~XXXX 2022-10-01-14~~) to the:

NH Department of Health and Human Services
Division of Public Health Services
Food Protection Section
29 Hazen Drive
Concord, NH 03301
(603) 271-4589

~~(b) The variance request shall also include submission of a HACCP plan if required under He-P 2154.13.~~

(be) The commissioner shall approve a request for variance if:

(1) The commissioner concludes that authorizing deviation from strict compliance with the rule or the item in the NSSP Guide (2013), as incorporated by reference ~~and amended~~ in He-P 2152.01, from which a variance is sought does not contradict the intent of the rule or the item in the NSSP Guide ~~(2013) item~~; and

(2) The alternative proposed by the applicant or certificate holder ensures that the objective or intent of the rule or item in the NSSP Guide (2013), as incorporated by reference ~~and amended~~ in He-P 2152.01, from which a variance is sought will be accomplished.

(cd) The commissioner shall deny a request for a variance if:

(1) The request does not meet the requirements of (a) ~~and (b)~~ above; or

(2) The request does not meet the criteria for approval in accordance with (be) above.

(de) If a variance is approved, the certificate holder's subsequent compliance with the alternatives approved in the variance shall be considered equivalent to complying with the rule or the NSSP Guide (2013), as incorporated by reference ~~and amended~~ in He-P 2152.01.

(ef) A variance shall be approved for one year or until the expiration of the current certificate, unless otherwise specified by the department.

~~(g) The certificate holder shall reapply for a variance along with each annual request for recertification.~~

(fh) No request for a variance concerning any statutory provision or the rules of other state agencies referred to in this chapter shall be approved.

He-P 2153.145 Training.

(a) All dealers shall have for review by inspection staff:

(1) Documentation that the individual responsible for monitoring and controlling each critical control point has successfully completed training in the application of HACCP principles to shellfish processing or who can demonstrate that the individual otherwise qualified through job experience to perform these functions; and

(2) Proof of training for all individuals in proper food handling and personal hygienic practices as it relates to their assigned duties.

(ba) Harvesters Dealers shall:

(1) eComplete department approved training every 2 years. The training shall include required processing, handling, and transportation practices as determined by the department.;

(2b) A dealer shall provide proof of successful completion of Complete the required training in (b)(1) above to the department within 90 days of initial certification; and prior to each annual recertification.

~~(3e) At a minimum, have one individual involved in the harvester's dealer's shellfish operations shall obtain the required training in (b)(1) above.~~

~~—— (d) The dealer shall maintain records of the completed training.~~

~~—— (e) Failure to submit confirmation of the training certificate shall result in enforcement pursuant to He-P 2155.03.~~

PART He-P 2154 NEW HAMPSHIRE SHELLFISH SANITATION RULES: INSPECTIONS AND COMPLIANCE

He-P 2154.01 Inspections.

(a) For the purpose of determining compliance with RSA 143:20-28 and He-P 2150–2159, as authorized by RSA 143:4 and RSA 143:22, the applicant or certificate holder shall admit and allow any department representative at any time to enter and inspect the all facilities, activities, ~~or~~ equipment, vehicles and records pertaining to shellfish processing, holding or transportation.

(b) Inspections shall be conducted:

(1) Prior to issuance of a certificate;

(2) At a frequency not less than as specified in Chapter I @02 F.(1) in the NSSP Guide; and

(3) Whenever the department has reason to believe a condition exists that places the dealer in non-compliance with RSA 143:20-28 and He-P 2150–2159.

~~An applicant requesting certification shall be subject to a comprehensive, onsite inspection in order to determine compliance with RSA 143:20-28 and He P 2150-2159.~~

~~—— (e) Certification shall be given only to applicants who meet the following requirements:~~

~~(1) Does not exceed the following HACCP plan and HACCP plan implementation deficiency limits:~~

~~a. No critical deficiencies;~~

~~b. Not more than 2 key deficiencies; and~~

~~c. Not more than 2 other deficiencies; and~~

~~(2) Does not exceed the following sanitation and additional NSSP Guide (2013) deficiency limits:~~

~~a. No critical deficiencies;~~

~~b. Not more than 2 key deficiencies; and~~

~~c. Not more than 3 other deficiencies.~~

~~(d) A compliance schedule shall be issued with the certification if there are any deficiencies identified which were not corrected by the dealer during the inspection.~~

~~(e) A dealer shall make application for certification renewal annually at the time specified by the department. The department shall not renew the certification for any dealer until the requirements of (c) above are met. The number of deficiencies from an existing compliance schedule approved by the department shall be combined with any new deficiencies identified during the certification renewal inspection when determining compliance with (c) above.~~

(cf) The dealer shall agree to a compliance schedule to address any new deficiencies not corrected by the dealer during the inspection.

(dg) After the dealer is certified, the department shall make unannounced inspections of the dealer's facilities during periods of activity, and at the following minimum frequencies:

- (1) Within 30 days of beginning production if the dealer was certified on the basis of a pre-operational inspection;
- (2) At least monthly for dealer facilities certified as depuration processors;
- (3) At least quarterly for production activities certified as shucker-packer or repacker; and
- (4) At least semiannually for other dealer activities.

(eh) To be eligible for the department's performance based inspection program (PIP), the dealer shall have demonstrated a history of satisfactory compliance for the previous 3-year period, including, but not limited to, the following:

- (1) Full compliance with the minimum inspection frequency listed in (dg) above;
- (2) Annual recertification of the dealer by the department, with no lapses in certification;
- (3) Verification that no critical deficiencies, no more than one key deficiency, and no more than 2 other deficiencies have occurred in any one inspection;
- (4) Correction of all identified deficiencies in accordance with the compliance schedule approved by the department; and
- (5) No repeat deficiencies.

(fi) The minimum frequency of inspection under a PIP shall be no less than one inspection per certification period. The recertification inspection shall qualify as the required minimum inspection frequency.

He-P 2154.02 Compliance Schedule~~Correction of Deficiencies.~~

(a) When any inspection identifies a critical deficiency:

- (1) The deficiency shall be corrected during that inspection; or
- (2) The certificate holder shall cease production of the activity(ies) affected by the deficiency.

~~(ba) When a key or other deficiency identified in the inspection report cannot be corrected both immediately and permanently in the presence of the inspector a compliance schedule shall be issued. The certificate holder shall complete, date, and sign, at the time of inspection, a "Compliance Schedule" form (SSCAPAPP 10-01-14) provided by the inspector, to include:~~

- ~~(1) A plan for correction of each deficiency;~~

~~(2) The date by which each deficiency shall be corrected; and~~

~~(3) Measures to be put in place to ensure that the deficiency does not reoccur.~~

~~(b) The department shall review and accept each compliance schedule that:~~

~~(1) Achieves compliance with RSA 143:20-28 and He-P 2150-2159;~~

~~(2) Addresses all deficiencies as cited in the inspection report;~~

~~(3) Does not create a new violation of RSA 143:20-28 or He-P 2150-2159 as a result of the implementation of the compliance schedule; and~~

~~(4) Specifies the date upon which the deficiencies will be corrected.~~

(c) The department shall verify the elimination of any key or other deficiencies as specified in the implementation of any compliance schedule referenced in (b) above that has been accepted, as follows:

(1) The department shall review any materials submitted to the department by the certificate holder and determine whether the materials demonstrate implementation of and compliance with the requirements of the compliance schedule; and

(2) If materials in (1) above are not submitted to the department by the certificate holder, or if the department determines that the materials submitted in (1) above do not demonstrate implementation of and compliance with the requirements of the compliance schedule, the department shall conduct an inspection to determine compliance; ~~and~~

~~(3) If the department determines that the certificate holder has produced sufficient evidence of good cause for failure to comply with the compliance schedule, the department shall revise the compliance schedule.~~

(d) If the department finds the certificate holder to be out of compliance with the compliance schedule ~~by the specified completion date~~, the department shall do one or more of the following, as applicable:

(1) Revise the compliance schedule if the department determines that the certificate holder has produced sufficient evidence of good cause for failure to comply with the compliance schedule;

~~(2)~~ Impose applicable fines, in accordance with He-P 2155.02(a)(15);

~~(3)~~ Revoke the certificate in accordance with He-P 2155.03(a)(6); or

~~(4)~~ Deny the application for a renewal of a certificate in accordance with He-P 21534.03~~4~~(de).

PART He-P 2155 NEW HAMPSHIRE SHELLFISH SANITATION RULES: ENFORCEMENT ACTIONS

He-P 2155.01 Enforcement Actions and Notice of Right to Appeal.

(a) The department shall impose enforcement actions for violations of RSA 143:20-28, He-P 2150-2159, or the NSSP Guide (~~2013~~), as incorporated by reference ~~and amended~~ in He-P 2152.01, as applicable, including the following:

(1) Imposing administrative fines upon an applicant, certificate holder, or any decertified dealer in accordance with He-P 2155.02;

- (2) Denying a certificate application in accordance with He-P 2155.03;
- (4) Revoking a certificate in accordance with He-P 2155.03;
- (5) Ordering embargo of contaminated or adulterated products, including condemning and seizing products, in accordance with RSA 146:20 and (d) below;
- (6) Ordering the certificate holder to cease and desist all operations in the event of a threat to the public health and safety in accordance with RSA 143:5-a, RSA 541-A:30, III, or both; and
- (7) Ordering a person or entity to cease and desist all operations in the event that the person or entity is operating without a valid certificate.

~~(b) When any inspection identifies a critical deficiency:~~

~~(1) The deficiency shall be corrected during that inspection; or~~

~~(2) The certificate holder shall cease production of the activity(ies) affected by the deficiency.~~

(be) When the certificate holder fails to comply with [He-P 2154.02 \(a\)\(b\)](#) above, the department shall immediately begin actions to revoke the certificate holder's certification.

(cd) Product affected by a critical deficiency shall be controlled to prevent contaminated or adulterated product from reaching consumers. When necessary the department shall:

- (1) Detain or seize any undistributed lots of shellfish that may have been adulterated;
- (2) Initiate a recall of any distributed shellfish; and
- (3) Immediately notify the enforcement officials for FDA and any other relevant authorities.

(de) When denying a certificate application, imposing a fine, or revoking a certificate, the department shall send to the applicant or certificate holder a written notice that sets forth:

- (1) The action to be taken by the department;
- (2) The reasons for the action, including the identification of each deficiency; and
- (3) The right of the applicant, certificate holder, or other person or entity to request a hearing in accordance with RSA 541-A, He-C 200, and He-P 2155.04.

(ef) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 143, RSA 541-A:30, III, or He-P 2150–2159.

He-P 2155.02 Administrative Fines.

(a) The department shall impose fines as follows:

- (1) For providing false or misleading information on or with an application, in violation of He-P 2153.01(a) or He-P 2153.03 (c)12(a), the fine shall be \$1,000;
- (2) For failure to operate only in the manner in which certified to do so, in violation of He-P 2153.02(h), the fine shall be \$1,000;

(3) For failure to cooperate during an inspection of a shellfish plant, including but not limited to failing to allow department representatives or inspectors to inspect the premises, vehicles, and records at all times, in violation of He-P 215~~45~~.01, the fine shall be \$2,000;

(4) For failure to notify the department by telephone within 24 hours of any fire or other incident that jeopardizes the safety or sanitation of shellfish, in violation of He-P 215~~56~~.06(a), the fine shall be \$250;

(5) For failure to notify the department pursuant to He-P 215~~34~~.08(a) at least 30 days prior to a change in ownership, the fine shall be \$500;

(6) For failure to notify the department pursuant to He-P 215~~34~~.10(a) at least 30 days prior to the change of location, the fine shall be \$500;

~~(7) For failure to submit a plan review as required in He-P 2153.12(a) and (b), the fine shall be \$300;~~

~~(78)~~ For failure to discard shellfish as required by RSA 146:~~3,20~~ and in the manner instructed to do so by the department, the fine shall be \$1,000;

~~(89)~~ For failure to cease operation upon notification by the department to do so, the fine shall be \$1,000;

~~(940)~~ For failure to cease operation after a certificate has expired, when an application has been denied, or when a certificate has been revoked, the fine shall be \$1,000;

~~(104)~~ For failure to maintain records in accordance with RSA 143:22, the fine shall be \$1,000;

~~(112)~~ For a violation of the same critical deficiency 2 times within any 12-month period, the fine shall be \$1,000;

~~(123)~~ For a violation of the same key deficiency 3 times within any 12-month period, the fine shall be \$500;

~~(134)~~ For failure to pay an administrative fine within 30 days of its imposition, or within 30 days of the decision to uphold the imposition of a fine that was appealed, the fine shall be \$500;

~~(145)~~ For failure to comply with any compliance schedule that has been accepted by the department, the fine shall be \$500;

~~(156)~~ For operation of a dealer without obtaining a certificate, as required by RSA 143:22, the fine shall be \$1,000. Each day operating without a certificate shall be considered a separate offense subject to an additional \$500 fine;

~~(167)~~ For failure to submit a HACCP plan for review, in accordance with He-P 2154.13, the fine shall be \$500;

~~(178)~~ For failure to comply with a variance approved in accordance with He-P 215~~34~~.14, the fine shall be \$500; and

~~(189)~~ For failure to submit a timely renewal application, in violation of He-P 2153.03(b), the fine shall be \$75;~~5~~

~~(20) For conducting wet storage activities without a permit, the fine shall be \$500;~~

~~(21) For conducting commingling activities that are not compliant with He-P 2159, the fine shall be \$500; and~~

~~(22) For conducting relaying activities without a permit, the fine shall be \$500.~~

(b) Except for violations of (a)(189) above, each day that a certificate holder continues to be in violation of the provisions of RSA 143:20-28 or He-P 2150–2159 shall constitute a separate violation and shall be fined in accordance with this section.

(c) Payment of any imposed fine to the department shall meet the following requirements:

(1) Payment shall be made in the form of credit card, check, or money order payable to the “Treasurer, State of New Hampshire” in the exact amount due;

(2) Money order or certified check shall be required when an applicant or certificate holder has issued payment to the department by check, and such check was returned for insufficient funds; and

(3) Any payment made to the department by check which is returned for insufficient funds, and which an applicant or certificate holder has not made good by submitting money order or certified check within 2 business days of notification by the department, including any penalty assessment by RSA 6:11-a, shall be grounds for revocation or denial of the certificate.

He-P 2155.03 Denial or Revocation of a Certificate.

(a) The department shall deny an application or revoke a certificate if:

(1) An applicant or certificate holder has failed to pay any applicable fee in accordance with He-P 2153.05 or any administrative fine imposed under He-P 2155.02 or any payment ordered by a court to be paid to the department;

(2) An applicant or certificate holder has had a check returned to the department for insufficient funds, and has not re-submitted the outstanding fee and additional charges in the form of money order or certified check within 2 business days of notification by the department;

(3) After being notified of and given an opportunity to supply missing information, an applicant or certificate holder fails to submit an application that meets the requirements of He-2153.01(a);

(4) An applicant, certificate holder or any representative or employee of the applicant or certificate holder:

a. Provides false or misleading information to the department;

b. Prevents or interferes, or fails to cooperate with any inspection or investigation conducted by the department; or

c. Fails to provide, upon request, information or documents to the department;

(5) There is a deficiency identified in the inspection report and the applicant or certificate holder does not either correct it or complete a compliance schedule in accordance with He-P 2154.02;

(6) The certificate holder fails to implement or continue to implement a compliance schedule that has been accepted by the department in accordance with He-P 2154.02;

(7) The certificate holder is cited 2 or more times under RSA 143, or He-P 2150–2159 for the same critical deficiency within the last 12 months or the last 5 inspections;

(8) A certificate holder has had a certificate revoked and submits an application during the one-year prohibition period specified in (b) below;

(9) A certificate holder fails to implement an approved HACCP plan in accordance with He-P 2153.13; or

(10) The certificate holder fails to submit proof of required training as required in He-P 2153.15.

(b) When a certificate has been denied or revoked, the applicant or certificate holder shall be prohibited from reapplying for a certificate for one year at a different location, if the enforcement action pertained to their role in the business.

(c) The one-year period referenced in (b) above shall begin on:

(1) The date of the department’s decision to revoke or deny the certificate, if no request for an administrative hearing is requested or if the request is withdrawn; or

(2) The date a final decision upholding the action of the department is issued, if a request for a hearing is made and a hearing is held.

(d) Notwithstanding (b) and (c) above, the department shall consider an application submitted after a decision to revoke or deny becomes final, if the applicant provides proof that circumstances have changed and that the applicant has obtained the requisite degree of knowledge, skills, and resources necessary to maintain compliance with the provisions of RSA 143 and He-P 2150–2159.

(e) Reapplication for a certificate after revocation shall require submission of a written application for a certificate to the department, completed in accordance with He-P 2153.01.:

~~(1) A written application for a certificate to the department, completed in accordance with He-P 2153.01;~~

~~(2) A compliance schedule, completed in accordance with He P 2156.02; and~~

~~(3) Written proof that subsequent to the revocation, an individual in charge has successfully completed training in the application of HACCP principles to shellfish processing or at least equivalent to that received under standardized curriculum recognized as adequate by the Shellfish Sanitation Control Authority (SSCA) or department.~~

He-P 2155.04 Request for an Administrative Hearing.

(a) An applicant or certificate holder shall have 10 calendar days after receipt of the notice of an enforcement action to submit a written request for a hearing.

(b) If a request for a hearing is not received pursuant to (a) above, the applicant or certificate holder shall have waived his right to a hearing and the action of the department shall become final.

(c) Hearings under this section shall be conducted in accordance with RSA 541-A and He-C 200.

(d) For administrative fines, full payment shall be submitted to the department no later than 30 days from receipt of the notice or within 30 days from the date of the decision of the department’s administrative appeals unit, if a hearing has been requested.

He-P 2155.05 Effect of Denial of Application, Revocation or Expiration of Certificate.

(a) Any applicant who has been denied a certificate or renewal certificate shall not operate or shall cease operation within 10 calendar days after receipt of the denial notice, unless a timely appeal is submitted.

(b) If a certificate is revoked by the department, the certificate holder shall cease operation within 10 calendar days after receipt of the revocation notice, unless a timely appeal is submitted.

(c) If a certificate holder is subject to immediate closure as defined in RSA 143:5-a, the certificate holder shall immediately cease operation pending reinspection and pursuant to the appeals provisions of RSA 541-A.

(d) If a certificate expires without the timely submission of an application for renewal, the certificate holder shall immediately cease operation.

He-P 2155.06 Closure. A certificate holder shall immediately discontinue operations and notify the department at 603-271-4589, or if at night or during weekends at 603-271-5300, if an imminent health hazard might exist because of an emergency such as, but not limited to:

(a) Interruption of water services that lasts for 2 or more hours;

(b) Whenever a drinking water sample is found to have E.coli bacteria or exceed the MCL for nitrates or nitrites described in He-P 21534.06(hf);

(c) A failed sewer system or a sewage backup into the ~~vehicle~~ vessel or facility;

(d) Interruption of electrical service for 2 or more hours;

(e) A fire affecting the ~~vehicle~~vessel or facility;

(f) Flooding in the ~~vehicle~~vessel or facility;

(g) Chemical exposure in the ~~vehicle~~ vessel or facility;

(h) Any other natural disaster or catastrophic event that may result in contamination of the shellfish;

(i) An employee has been found to be infected with a communicable disease as described in the NSSP "Guide for Control of Molluscan Shellfish" Chapters XI-XV.02.G, as incorporated by reference in He-P 2152.01-He-P 2156.02(b); or

(j) Any other unsafe or unsanitary conditions that threaten to contaminate the ~~vehicle~~vessel or facility.

PART He-P 2156 NEW HAMPSHIRE SHELLFISH SANITATION RULES: SHELLFISH RELATED RECALLS

He-P 2156.01 Recall Procedures.

(a) The dealer shall develop and maintain on file a written procedure for the recall of shellfish products, including procedures for the notification of the department and consumers of the removal of the product from commerce, which complies with the Recall Enforcement Policy, Title 21 Code of Federal Regulations (CFR) Part 7.

(b) Production and distribution records shall be used to enable location of products if a recall is initiated.

(c) The dealer shall recall any product which the dealer or the department knows or has reason to believe may adversely affect the health and safety of the public, or is adulterated or misbranded.

(d) A dealer who knows or should know that the standard or quality of the product has been violated or has reason to believe that circumstances exist which might adversely affect the safety of the product shall notify the department within 24 hours of learning of the violation or circumstances.

(e) Circumstances in (d) requiring notification shall include, but are not limited to, source contamination, spills, accidents, natural disasters, or breakdowns in treatment processes.

(f) If the department determines that the circumstances present an imminent health hazard and the consumer notification and/or shellfish product recall can significantly minimize the threat to health and safety of the public, the department shall order the dealer to initiate a product recall.

(g) In cases of a shellfish product recall, the dealer shall disseminate notification within 24 hours of the recall to all wholesale and retail outlets to which the shellfish product was distributed.

(h) If directed by the department, the dealer shall issue notification to consumers who may be affected by the recall by using such methods, including the media, as will ensure timely notification to consumers.

(i) RSA 146:20 shall apply to shellfish products.

PART He-P 2157 NEW HAMPSHIRE SHELLFISH SANITATION RULES: SHELLSTOCK RELAYING

He-P 2157.01 Shellstock Relaying.

(a) Any dealer who would like to conduct relaying activities shall apply for a shellstock relaying permit.

(b) Permit applications shall be submitted no later than 30 days prior to the requested date of relay.

(c) Any dealer who conducts relaying activities shall comply with the NSSP Guide (~~2013~~), as incorporated by reference ~~and amended~~ in He-P 2152.01.

(d) All relaying activities shall be conducted in the presence of the State Shellfish Standardization Officer or State Shellfish Standardization Inspector or their representative.

He-P 2157.02 Initial Shellstock Relaying Permit Application Requirements.

(a) Each applicant for a shellstock relaying permit shall submit the following:

(1) A completed application form entitled "Shellstock Relaying Permit Application" (SSRAPP ~~XXXX~~ 2022-10-01-14), signed and dated by the applicant or the person who represents the applicant and certifying the following:

"I certify that all information provided in or attached to this application is complete, accurate and up-to-date as of the date specified below. I further certify that there are no willful misrepresentations of the answers to questions herein, and that I have made no omissions with respect to any of my answers to the questions presented. I understand that

it is my responsibility to immediately notify the Food Protection Section with regard to any changes, corrections or updates to the information provided.”; and

- (2) A check or money order for the applicable fee, in accordance with He-P 2153.05(b).
- (b) The applicant shall mail or hand deliver the documents to:

Department of Health and Human Services,
Bureau of Finance/Receipts Unit – Food Protection Section
129 Pleasant Street
Concord, NH 03301-6503
Telephone: (603) 271-4589; fax (603) 271-4859

He-P 2157.03 Processing of Initial Shellstock Relaying Applications and Issuance of Permits.

- (a) Applications shall be processed in accordance with RSA 541-A:29.
- (b) An application for an initial permit shall be complete when the department determines that a completed application required by He-P 2157.02 has been received.
- (c) If an application is incomplete, the department shall notify the applicant in writing as to which items are required to be submitted before the application will be processed.
- (d) A permit shall be issued if the department determines that an applicant is in compliance with these rules.
- (e) All permits shall be non-transferable by person or location.

He-P 2157.04 Permit Expirations and Procedures for Renewals.

- ~~(a) All permits issued are valid only for the dates specified on the application, shall expire in accordance with RSA 143:22.~~
- ~~(b) Each dealer shall apply for a shellstock relaying permit via an application form pursuant to He-P 2157.01 at least 30 days prior to the expiration of the current permit.~~
- ~~(c) The permit holder shall submit with the renewal application:~~
- ~~(1) The materials required by He P 2157.02(a); and~~
- ~~(2) A request for renewal of any existing variances previously granted by the department, in accordance with He P 2153.14, if applicable.~~
- ~~(d) A permit shall be renewed if the department determines that the permit holder has submitted an application containing all the items required by (c) above, as applicable, prior to the expiration of the current certificate.~~
- ~~(e) If a permit holder fails to submit a complete application for renewal as required under (b) and (c) above, the dealer shall cease operation the day after the permit expires, and shall not operate until a permit is obtained.~~

PART He-P 2158 NEW HAMPSHIRE SHELLFISH SANITATION RULES: WET STORAGE APPLICATION AND PERMIT PROCEDURE

He-P 2158.01 Wet Storage Application and Permit Procedure.

- (a) Any dealer who would like to conduct wet storage activities shall apply for a wet storage permit.
- (b) Permit applications shall be submitted no later than 60 days prior to the requested date of activity.
- (c) Any dealer who conducts wet storage activities shall comply with the NSSP Guide ~~(2013)~~.

He-P 2158.02 Initial Wet Storage Permit Application Requirements.

(a) Only a certified shellstock shipper, shucker-packer or depuration processor may apply for a wet storage permit.

(b) Each applicant for a wet storage permit shall submit the following to the department:

(1) A completed application form entitled “Wet Storage Permit Application” (SSWSAPP ~~XXXX 2022-10-01-14~~), signed and dated by the applicant or the person who represents the applicant and certifying the following:

“I certify that all information provided in or attached to this application is complete, accurate and up-to-date as of the date specified below. I further certify that there are no willful misrepresentations of the answers to questions herein, and that I have made no omissions with respect to any of my answers to the questions presented. I understand that it is my responsibility to immediately notify the Food Protection Section with regard to any changes, corrections or updates to the information provided.”;

(2) A check or money order for the applicable fee, in accordance with He-P 2153.05(b);

(3) If a land-based facility, then an operational plan as required by the NSSP Guide ~~(2013)~~, Chapter 7, Section .01 B (2) and Section .04 B (1)-(3);

(4) Water system documentation which meets the requirements in He-P 2153.06 for wet storage in artificial bodies of water (land-based);

(5) Water treatment system description and maintenance plan for wet storage in artificial bodies of water (land-based);

(6) A flow chart identifying each step in the wet storage process for natural bodies of water (offshore), and in artificial bodies of water (land-based); and

(7) A description of cleaning procedures and a cleaning schedule.;

~~(8) NH department of environmental services letter of no impact; and~~

~~(9) Army Corps of Engineers documentation/permit.~~

(c) The applicant shall mail or hand deliver the documents to:

Department of Health and Human Services
Bureau of Finance/Receipts Unit – Food Protection Section
129 Pleasant Street
Concord, NH 03301-6503
Telephone: (603) 271-4589; fax (603) 271-4859

He-P 2158.03 Processing of Initial Wet Storage Applications and Issuance of Permits.

(a) Applications shall be processed in accordance with RSA 541-A:29.

(b) An application for an initial permit shall be complete when the department determines that all items required by He-P 2158.02(b) have been received.

(c) If an application does not contain all the items required by He-P 2158.02(b), the department shall notify the applicant in writing as to which items are required to be submitted before the application will be processed.

(d) A permit shall be issued if the department determines that the applicant is in compliance with these rules.

(e) All permits shall be non-transferable by person or location.

(f) Permits shall be available for inspection during normal business hours.

He-P 2158.04 Permit Expirations and Procedures for Renewals.

(a) All permits issued shall expire in accordance with RSA 143:22.

(b) Each dealer shall apply for a wet storage permit via an application form pursuant to He-P 2158.02 at least 30 days prior to the expiration of the current permit.

(c) The permit holder shall submit with the renewal application:

(1) The materials required by He-P 2158.02(b)(1)-(2);

(2) The materials required by He-P 2158.02(b)(3)-(79) if any of these have been altered or changed within the most recent permit period; and

(3) A request for renewal of any existing variances previously granted by the department, in accordance with He-P 2153.14, if applicable.

(d) A permit shall be renewed if the department determines that the permit holder has submitted an application containing all the items required by (c) above, as applicable, prior to the expiration of the current certificate.

(e) If a permit holder fails to submit a complete application for renewal as required under (b) and (c) above, the dealer shall cease operation the day after the permit expires, and shall not operate until a permit is obtained.

PART He-P 2159 NEW HAMPSHIRE SHELLFISH SANITATION RULES: COMMINGLING

He-P 2159.01 Commingling Requirements.

(a) Any dealer who conducts commingling activities shall comply with the NSSP Guide (2013).

(b) The practice of commingling shall be limited to:

(1) Certified primary dealers who purchase shellstock directly from harvesters; and

(2) Certified shucker-packers who purchase shellstock from other certified dealers.

(c) When a primary dealer chooses to commingle shellstock or a shucker-packer chooses to commingle shucked shellfish, they shall possess a written commingling plan approved by the department,

which describes the procedures the primary dealer or shucker-packer use to commingle product in a way to ensure that each lot of shellstock or shucked shellfish is identified in a way to prevent misidentification and provide traceability.

(d) The commingling plan in (c) above shall include provisions that minimize commingling but meet the minimum of:

- (1) Multiple harvest areas from the same harvest date; and/or
- (2) Multiple harvest dates from the same harvest area.

(e) All shellfish tags and records shall indicate which areas and/or which dates from the same harvest area have been commingled, for example, Quahog Bay/White's Cove, Brunswick commingled, or Quahog Bay, Brunswick 11/12 & 11/13 commingled.

(f) Shucked product may be commingled if it is in one container and from only 2 consecutive days processing. The areas commingled shall be documented in the days shucking log and also in the sales records.

(g) Tags of commingled shellstock that has been held in wet storage shall include the statement: "This Product was in Wet Storage at (Facility Certification Number) from (Date) to (Date)."

(h) When an entire cargo consists only of molluscan shellfish products, for example oysters, hard or soft shell clams, or mussels, the various lots shall be separated so as to avoid unintentional cross-contamination and/or commingling. When a lot of shellfish is part of a mixed cargo, for example, with other seafood or non-seafood products, it shall be protected from contamination and/or commingling through partitioning, horizontal separation, or other isolation methods.

(i) No cargo shall be placed on or above the shellfish unless all cargo is packed in sealed, crush-resistant, waterproof containers.

(j) All handling and recordkeeping practices shall ensure that any container of shellfish can be traced-back to a specific harvest date and harvest area.

(k) Shellstock or shucked product from different lots shall not be commingled during repacking.

He-P 2159.02 Depuration Process Commingling Requirements.

(a) Unless the dealer has an accepted commingling management plan, different harvest lots of shellfish shall not be commingled during washing, culling, or packing.

(b) If more than one harvest lot of shellfish is being processed at the same time, the identity of each harvest lot shall be maintained throughout the depuration process and final packing.

(c) If shellfish in different tanks are at different stages of depuration, each tank shall be labeled to show when depuration began.

(d) Non-purified shellfish shall not be removed from a depuration plant except under direct supervision by the department.

APPENDIX A: Incorporation by Reference Information

Rule	Title	Publisher; How to Obtain; and Cost
He-P 2152.01(a)	U.S. Food and Drug Administration-National Shellfish Sanitation Program's (NSSP), "Guide for the Control of Molluscan Shellfish" (2019 Revision)	<p>Publisher: U.S. Food and Drug Administration-National Shellfish Sanitation Program (NSSP)</p> <p>Cost: Free to the Public</p> <p>The incorporated document is available at:</p> <p>https://www.fda.gov/media/143238/download or</p> <p>https://www.issc.org/2019-nssp-guide</p>

APPENDIX B

Rule	Specific State or Federal Statute the Rule Implements
He-P 2150 – He-P 2159	RSA 143:26; 21 CFR Part 123
He-P 2152.01	21 CFR 1, B, section 123.6
He-P 2152.02	RSA 143:26; 21 CFR 1, B, section 123.6
He-P 2153.01	RSA 143:22; RSA 143:22-a; RSA 143:26
He-P 2153.02	RSA 541-A:29; RSA 143:22; RSA 143:4; RSA 143:22-a; RSA 143: 21-26
He-P 2153.03	RSA 143:25; 143:22; RSA 143:26; RSA 143:22-a
He-P 2153.04	RSA 143:22; RSA 143:26; RSA 143:21-a
He-P 2153.05	RSA 143:22-a; RSA 143:22; RSA 6:11-a
He-P 2153.06	RSA 485:1-a,XV; RSA 143:26; RSA 143:21-a
He-P 2153.07	RSA 143:21; RSA 485-A; RSA 485-A:13; RSA 485:13-a
He-P 2153.08	RSA 143:22; RSA 143:20-28
He-P 2153.09	RSA 143:22; RSA 143:20-28
He-P 2153.10	RSA 143:4; RSA 143:20-28
He-P 2153.11	RSA 143:21-a; RSA 143:22; RSA 143:26
He-P 2153.12	RSA 143:20-28; 21 CFR 1, B, section 123
He-P 2153.13	RSA 143:20-28
He-P 2153.14	RSA 143:6; RSA 143:22; RSA 143:26
He-P 2154.01	RSA 143:4; RSA 143:22; RSA 143:20-28
He-P 2154.02	RSA 143:4; RSA 143:6; RSA 143:20-28
He-P 2155.01	RSA 143:6; RSA 143; RSA 541-A:30; RSA 541-A:30, III
He-P 2155.02	RSA 143:22; RSA 143:6; RSA 143:7; RSA 143:7-a; RSA 6:11-a
He-P 2155.03	RSA 143; RSA 143:20-28; RSA 143:6, II(d); RSA 143:5-a
He-P 2155.04	RSA 541-A; RSA 541-A:31-36; RSA 143:5-a, IV
He-P 2155.05	RSA 143:1-4; RSA 143:5-a; RSA 143:4; RSA 143:23; RSA 143:24
He-P 2155.06	RSA 143:26; RSA 143:6
He-P 2156.01	RSA 146.20; 21 CFR 7, C sections 7.40-7.59; RSA 143:2; RSA 143:21-a; RSA 143:23; RSA 143:26
He-P 2157.01	RSA 143; RSA 143:22; RSA 143:22-a; RSA 143:26
He-P 2157.02	RSA 143; RSA 143:22; RSA 143:22-a; RSA 143:26
He-P 2157.03	RSA 541-A:29; RSA 143:22; RSA 143:26
He-P 2157.04	RSA 143:22
He-P 2158.01	RSA 143:20-28
He-P 2158.02	RSA 143:20-28
He-P 2158.03	RSA 541-A:29
He-P 2158.04	RSA 143:22
He-P 2159.01	RSA 143:22
He-P 2159.02	RSA 143:22



**STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
MAIL TO: BUREAU OF FINANCE/RECEIPTS UNIT-FOOD PROTECTION
129 PLEASANT STREET, CONCORD, NH 03301
Telephone: 603-271-4589 FAX: 603-271-4859 TDD Access: 1-800-735-2964
Website: www.dhhs.nh.gov E-mail:
dhhs.foodprotection@dhhs.state.nh.us**

APPLICATION FOR NEW SHELLFISH CERTIFICATION

Note: Payment to be in the form of a check or money order made payable to Treasurer State of NH

RS-407582

¹Full Legal Name of ~~Harvester~~/Dealer (Corporation, LLC or Owner) _____

²Name of Shellfish ~~Harvester or~~ Dealer _____

³Location of Shellfish ~~Harvester or~~ Dealer (Street) _____ (Town, State) _____ (Zip) _____

⁴Mailing Address (if different) _____ (Town, State) _____ (Zip) _____

⁵Telephone # of Facility (_____) _____ ⁶Emergency Contact Telephone #- (_____) _____

~~⁷Fax # (_____) _____~~ ⁷⁸Email Address _____

⁸⁹Name of Person in Charge at ~~Shellfish Processing Plant~~ _____

⁹¹⁰ Type of Ownership	¹¹ Type of Certificate	¹² Certificate # _____
<input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Corporation	<input type="checkbox"/> New Facility	
<input type="checkbox"/> Joint Venture	<input type="checkbox"/> Limited Liability	<input type="checkbox"/> Joint Venture <input type="checkbox"/> Renewal
/Recertification	<input type="checkbox"/> Limited Liability	¹⁰³ Town Water <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Partnership <input type="checkbox"/> Other (Specify) _____		¹⁰³ Town Wastewater <input type="checkbox"/> Yes <input type="checkbox"/> No

¹¹⁴Class of Certificate

^a Reshipper (\$175.00) ^b Shellstock Shipper (\$350.00) ^c Repacker (\$875.00)

^d Shucker Packer (\$1100.00) ^e Depurator (\$1750.00)

¹²Permit Designation N/A

^a Aquaculture ^b Post-Harvest Processing ^c Wet Storage

***Submit all supporting documentation. Incomplete applications will be returned.**

^{13,15} <input type="checkbox"/>	Type of Shellfish to be processed _____
¹⁴⁶ <input type="checkbox"/>	Shellfish process plant/dealer schedule of operation: a) Weeks <u>Weeks</u> per year _____ b) Days of week of operations _____ c) Hours of Operation _____
¹⁵⁷ <input type="checkbox"/>	Written results of laboratory analysis of water for bacteria, nitrates and nitrites. Results must be less than 6 months old. (n/a if Town Water)
¹⁶⁸ <input type="checkbox"/>	New applications only: Copy of Certificate of Approval for Operation of the septic system. (n/a if Town Wastewater <u>or if applying for Reshipper certification</u>)
¹⁹ <input type="checkbox"/>	A list of all sources from which shellfish shall be obtained. _____
²⁰ <input type="checkbox"/>	Description of all vehicles used to transport shellfish (Use additional sheets if necessary) Make of vehicle _____ Year of Manufacture _____ VIN _____ Make of vehicle _____ Year of Manufacture _____ VIN _____ Color: _____ NH State motor vehicle registration number _____
²¹ <input type="checkbox"/>	New applications only: Floor Plan Review Include additional \$75.00 review fee. See Application Form SSFPAPP 10-01-14.
¹⁷²² <input type="checkbox"/>	New applications only: HACCP Plan

I, (print name & title) ^(1823,1924) _____, certify that all information provided in or attached to this application is complete, accurate and up-to-date as of the date specified below. I further certify that there are no willful misrepresentations

of the answers to questions herein, and that I have made no omissions with respect to any of my answers to the questions presented. I understand that it is my responsibility to immediately notify the Food Protection Section with regard to any changes, corrections or updates to the information provided.

SIGNATURE OF APPLICANT/DEALER: ²⁰⁵ _____ DATE OF APPLICATION: _____
216 _____

-----DO NOT WRITE BELOW THIS LINE - FOR OFFICE USE ONLY-----

Date App Received _____ Check # _____ Check Amount _____

Date approved by SSO or SSI _____ Certification # _____

**INSTRUCTIONS FOR COMPLETING
APPLICATION FOR SHELLFISH CERTIFICATION**

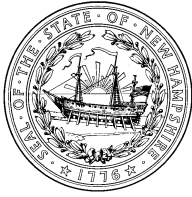
Please fill in all blanks, if not applicable enter "NA"

1. **Full Legal Name of ~~Harvester/Dealer~~** - provide the full legal name of the corporation, LLC or owner(s) of the Shellfish Dealer ~~and/or Harvester.~~
2. **Name of Facility**- provide the full name of the Shellfish ~~Harvester/Dealer.~~
3. **Location** - provide location of ~~Shellfish Processing Plant, Harvester or Dealer~~ to include street number, street name, city/town, state, and zip code.
4. **Mailing Address** - provide mailing address if different than ~~Shellfish Processing Plant, Harvester or Dealer~~ location.
5. **Telephone # of Facility**- provide the on-site telephone number for the Shellfish ~~Processing Plant, Harvester or Dealer.~~
6. **Emergency Contact Telephone Number** - provide telephone number for individual who should be contacted in an emergency.
- ~~7. **Business Fax Number** - for faxing information.~~
- ~~8. **Email Address** - provide Email address.~~
- ~~9. **Name of Person in Charge at Shellfish Processing Plant**- provide the name of the individual who is in charge at the sShellfish Processing Plant, Harvester or Dealer operations.~~
- ~~10. **Type of Ownership** - check the appropriate ownership type of the establishment, if other please specify.~~
- ~~11. **Type of Certificate** - check the appropriate license type that you are applying for.~~
- ~~12. **Current Certificate #** - provide current certification number if known, otherwise please leave blank.~~
- ~~13. **Town Water/Town Wastewater** - circle "Yes" if establishment has town water or wastewater, "No" if it does not. If "No" refer to water and wastewater requirements document.~~
- ~~14. **Type of Certificate** - check the appropriate classification.
 - a. **Reshipper-(RS)** means a person who purchases shellfish from dealers and sells the product without repacking or relabeling to other dealers, wholesalers or retailers.
 - b. **Shellstock Shipper-(SS)** means a dealer who grows, harvest, buys, or repacks and sells shellstock. They are not authorized to shuck shellfish nor to repack shucked shellfish. A shellstock shipper may also buy, repack and sell in-shell product as well as ship shucked shellfish.
 - c. **Repacker-(RP)** means any person, other than the original certified shucker-packers, who repackages shucked shellfish into other containers.
 - d. **Shucker Packer-(SP)** ~~m~~Means a person who shucks and packs shellfish. A shucker-packer may act as a shellstock shipper or reshipper or may repack shellfish originating from other certified dealers.
 - e. **Depurator Processor-(DP)** means a person who harvests or receives shellstock from growing areas in the approved or conditionally approved, restricted or conditionally restricted classification and submits such shellstock to an approved depuration process.~~
- ~~12. **Type of Permit** - check the appropriate permit designation that you are applying for. Check N/A if not applicable.
 - a. **Aquaculture-(AQ)** means cultivating shellfish in controlled conditions for human consumption.
 - b. **Post-Harvest Processing-(PHP)** means any process which uses validated processes to reduce pathogenic hazards below the appropriate FDA or ISSC action levels.
 - e-c. **Wet Storage-(WS)** means the storage of shellstock from growing areas in approved classification or in open status of the conditionally approved classification in containers or floats in natural bodies of water or in tanks containing natural or synthetic seawater at any permitted land-based activity or facility.~~
- ~~15. **Types of Shellfish to be processed** - List all types of shellfish processed, including clams, oysters or mussels either shucked or in shell, fresh or frozen, whole or in part.~~
- ~~16. **Schedule of operations**-Provide the following: a) Weeks of operation, b) Days of operations, c) Hours of Operations.~~
- ~~17. **Water Source** - The dealer shall provide a potable water supply in accordance with applicable federal, state and local regulations. If the water supply is from a private source, the dealer shall make arrangements to have the water supply sampled by persons recognized by the Authority and tested at laboratories sanctioned or certified by the Authority: 1) Prior to use of the water supply; 2) Every six (6) months while the water supply is in use; and 3) After the water supply has been repaired and disinfected. Written results of laboratory analysis of water for bacteria, nitrates and nitrites must be submitted. Results must be less than 6 months old. (n/a if Town Water)~~
- ~~18. **Wastewater** - Provide copies of Certificate of Approval for operations of septic system. (n/a if Town Wastewater or if applying to be a Reshipper.)~~
- ~~19. **Sources**: Submit a list of all sources from which shellfish shall be obtained.~~
- ~~20. **Description of Vehicles to transport Shellfish** - All vehicles used for the transportation of shellfish must be listed including the make of vehicle, the vehicle identification number, the year of manufacture, the color and the state motor vehicle registration number.~~
- ~~21. **New applications only: Floor Plan Review** - Include additional \$75.00 review fee. See Application Form SSFPAPP 10-01-14.~~
- ~~22. **HACCP Plan** - Provide a Hazard Analysis Critical Control plan specific to the shellfish Dealer's activities. New applications only: HACCP Plan~~
- ~~23. **Printed Name**.-Print full name of Shellfish Dealer's Processing Plant's legal owner, signing application or officer or legal owner who applies for the license.~~
- ~~24. **Title of applicant**-Provide title of Shellfish Processing Plant's Dealer's applicant.~~
- ~~25. **Signature of Applicant**-Provide original signature of Shellfish Processing Plant's Dealer's applicant.~~
- ~~26. **Date of Application**-Provide current date of application.~~

SUBMITTING YOUR APPLICATION

1. Payment shall be made in the form of a check or money order payable to “Treasurer, State of New Hampshire”, and must accompany application. Payments are non-refundable and non-transferable.
2. Incomplete or illegible applications or applications not accompanied by payment, water test results, product list, or any other applicable attachments, will be returned. Completed application(s) should be forwarded to Bureau of Finance/Receipts Unit-Food Protection, 129 Pleasant St, Concord, NH 03301.

For additional information or for further assistance, please contact the NH Department of Health and Human Services, Division of Public Health Services, Food Protection Section at (603) 271-4589 or dhhs.foodprotection@dhhs.state.nh.us dhhs.state.nh.us gov



**STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN
SERVICES
DIVISION OF PUBLIC HEALTH SERVICES
FOOD PROTECTION SECTION**

29 HAZEN DRIVE, CONCORD, NH 03301-6504
603-271-4589 FAX: 603-271-4859 TDD Access: 1-800-735-2964
Website: www.dhhs.nh.gov E-mail:
dhhs.foodprotection@dhhs.nh.gov

Variance Request Form

Name of Shellfish Harvester or Dealer: _____
 Certification Number: _____
 Address _____
 Telephone: _____
 Please reference the specific Shellfish Rule or Model Ordinance Item for which you are applying for a variance.
 Shellfish Rule or Model Ordinance Reference Number: _____
 Rule Description: _____

Please provide a full explanation of why the variance is necessary.

Please provide a written plan for future compliance with the rule(s) or, as an alternative, a written plan detailing how you will satisfy the intent of the rule(s). (Attach any supporting documentation, if applicable)

Date: _____ Applicant Name: _____ Applicant Signature: _____

Variance granted

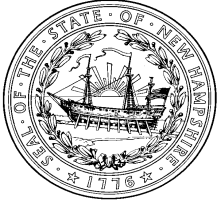
Variance denied

1) This variance pertains to the above-mentioned rule only, and shall not be deemed permission to waiver from any other requirement outlined in the He-P2150-2159 the *NH Shellfish Sanitation Rules*.
 2) This variance shall be considered null and void at such time one of more of the following events should occur: Change of ownership, renovation, failure to comply with said variance.
 3) ***Note: For violating a variance approved in accordance with He-P2153.14, the fine shall be \$500.**

Comments:

Please note, if a variance is granted, it will expire on the ~~same date as specified in the comments. the shellfish certificate expires~~. Variance requests must be filed annually along with your certificate renewal

 Colleen Smith, Administrator (Date)
 NH Division of Public Health Services
 Food Protection Section



**STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
MAIL TO: BUREAU OF FINANCE/RECEIPTS UNIT-FOOD PROTECTION
129 PLEASANT STREET, CONCORD, NH 03301**

Telephone: 603-271-4589 FAX: 603-271-4859 TDD Access: 1-800-735-2964

Website: www.dhhs.nh.gov E-mail:

dhhs.foodprotection@dhhs.nh.gov

Application for Shellfish Relay

RS 407582

Send completed application and fee of \$50 (payment to be in form of check or money order made payable to Treasurer, State of NH) to:

Department of Health and Human Services
Bureau of Finance/Receipts Units - Food Protection Section
129 Pleasant St., Concord, NH 03301

To allow time for processing, applications must be submitted 30 days prior to the requested date of relay and issued permit will only be valid for dates specified on application. New application is required if new dates are requested.-

Applicant Name: _____
(Last name printed) (First name printed)

Name to appear on Permit: _____
(Print Name to Appear on Permit i.e. Company Name or Doing Business As (dba))

Address: _____
(Street) (City, State, Zip Code)

Business Phone: _____ **Fax:** _____ **email:** _____

Requested relay dates: Start date: _____ End date (if not the same date as Start date): _____

State Authorized Relay Supervisor (1): _____
(Name and Address)

Business Phone: _____ **email:** _____

State Authorized Relay Supervisor (2): _____
(Name and Address)

Business Phone: _____ **email:** _____

State Authorized Relay Supervisor (3): _____
(Name and Address)

Business Phone: _____ **email:** _____

PART I – SHELLFISH WILL BE REMOVED FROM:

No relay is allowed from areas classified Prohibited or Conditionally Restricted in the “closed” status.

Shellfish Species/Amount	City/Town	Lease Identifier	Projected Start/End Dates
--------------------------	-----------	------------------	----------------------------------

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

PART II – SHELLFISH WILL BE RELAYED TO:

Shellfish Species/Amount	City/Town	Lease Identifier

Will any shellfish listed in PART I be brought to shore? Yes or No (circle)
If 'yes', please complete PART IV.

Type of Relay: Container No container/broadcast

If container relaying will be used, describe the containers (type, size, materials) in detail and the system of container identification. Must be sufficient to locate and avoid re-harvest of shellfish in containers that have not completed the relay process.

PART III – BOAT IDENTIFICATION

1. Name _____ Registration No. _____
Color _____ Size _____ Make _____
Marine head with discharge? Yes or No (circle) Documented _____
Captain _____ Date of Birth _____
Owner/Other information _____

2. Name _____ Registration No. _____
Color _____ Size _____ Make _____
Marine head with discharge? Yes or No (circle) Documented _____
Captain _____ Date of Birth _____
Owner/Other information _____

PART IV – IF ANY SHELLFISH IN PART I WILL BE BROUGHT TO SHORE

1. Name of Individual/Company that will transport shellfish listed in PART I: _____

2. Location of Landing/Loading Docks: _____
(Name of dock, street, town)

3. Vehicle to be used for transporting: _____
(Type, make, model, year, registration)

PART IV – IF ANY SHELLFISH IN PART I WILL BE BROUGHT TO SHORE (cont.)

4. Expected dates and times of start and completion of the landing/loading operations (be specific – extensions can be applied for if needed): _____

5. Location of receiving point for shellfish transported in vehicle noted in 3. above: _____

(Name of dock) (Street) (Town)

6. If shellfish are to be stored at this location (noted in 5. above) rather than loaded on boat for immediate delivery to waters listed in part II, please note area, method, and length of storage:

(Area and method of storage) (Expected length of storage)

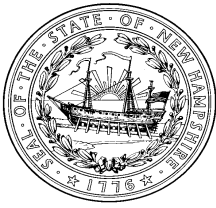
**PART V – DETAILED DESCRIPTION OF PROPOSED RELAY PROCESS
(If additional space is required please provide as attachment.)**

“I certify that all information provided in or attached to this application is complete, accurate and up-to-date as of the date specified below. I further certify that there are no willful misrepresentations of the answers to questions herein, and that I have made no omissions with respect to any of my answers to the questions presented. I understand that it is my responsibility to immediately notify the Food Protection Section with regard to any changes, corrections or updates to the information provided.”

Signature of applicant: _____ Date: _____

-----DO NOT WRITE BELOW THIS LINE – FOR OFFICE USE ONLY-----

Date App Received: _____ **Effective Period:** _____ **Date approved by SSO:** _____



STATE OF NEW HAMPSHIRE
 DEPARTMENT OF HEALTH AND HUMAN SERVICES
 MAIL TO: BUREAU OF FINANCE/RECEIPTS UNIT-FOOD PROTECTION
 129 PLEASANT STREET, CONCORD, NH 03301
 Telephone: 603-271-4589 FAX: 603-271-4859 TDD Access: 1-800-735-2964
 Website: www.dhhs.nh.gov E-mail: dhhs.foodprotection@dhhs.nh.gov

Wet Storage Permit Application

RS 407582

Send completed applications and fee of \$50 (payment to be in form of check or money order made payable to Treasurer, State of NH) to:
 NH Department of Health and Human Services
 Bureau of Finance/Receipts Units - Food Protection Section
 129 Pleasant St., Concord, NH 03301

To allow time for processing, applications must be submitted 60 days prior to the requested date of activity. Note that due to the complexity of some wet storage processes, the permit process may take more than 60 days.

PLEASE TYPE OR PRINT

DATE OF REQUEST: _____ CERTIFICATE # NH: _____

Applicant Name/Name on Certificate: _____
 (Print Name to Appear on Permit/Name on Certificate)

Address: _____
 (Street) (City, State, Zip Code)

Business Phone: _____ Fax: _____ email: _____

Submit all supporting documentation. Incomplete applications will be returned.

- ~~A~~ If a land-based facility, an operational plan as required by NSSP Guide ~~(2013)~~, Chapter 7, Section .01 B (2) and Section .04 B (1)-(3).
- Water system documentation which meets the requirements in He-P 2153.06 for wet storage in artificial bodies of water (land-based).
- Water treatment system description and maintenance plan for wet storage in artificial bodies of water (land-based).
- A flow chart identifying each step in ~~the wet storage process for natural bodies of water (offshore), and in~~ artificial bodies of water (land-based).
- A description of cleaning procedures and a cleaning schedule.
- ~~NH department of environmental services letter of no impact.~~
- ~~Army Corps of Engineers documentation/permit.~~

PART I – PURPOSE OF WET STORAGE ACTIVITIES

Provide a narrative explaining the purpose for the wet storage activities, such as holding or conditioning.

PART II – LOCATION OF WET STORAGE SITE and SOURCE WATER:

Type of Wet Storage:

- Land Based/Flow Through System
- Land Based/Recirculating System
- ~~Offshore/ Approved or Conditionally Approved (open status), as well as harvested from approved or conditionally approved areas.~~

“I certify that all information provided in or attached to this application is complete, accurate and up-to-date as of the date specified below. I further certify that there are no willful misrepresentations of the answers to questions herein, and that I have made no omissions with respect to any of my answers to the questions presented. I understand that it is my responsibility to immediately notify the Food Protection Section with regard to any changes, corrections or updates to the information provided.”

Signature of applicant: _____ **Date:** _____

Printed Last/First Name of Applicant: _____

-----DO NOT WRITE BELOW THIS LINE – FOR OFFICE USE ONLY-----

Wet Storage Permit Number: _____ **Approved** **Denied**

Effective Period: _____ **Date App. Received:** _____ **Effective Period:** _____

[relay app has SSO approval. Add?]

Comments: _____

