

**CHAPTER 13****SHELLFISH****Authority**

N.J.S.A. 24:2-1.

**Source and Effective Date**

R.1997 d.356, effective August 8, 1997.  
See: 29 N.J.R. 2608(a), 29 N.J.R. 3855(b).

**Executive Order No. 66(1978) Expiration Date**

Chapter 13, Shellfish, expires on August 8, 2002.

**Chapter Historical Note**

Chapter 13, Shellfish, was adopted as R.1974 d.185, effective July 9, 1974. See: 6 N.J.R. 233(b), 6 N.J.R. 310(b). Subchapter 2, Depuration of Soft-shelled Clams, was adopted as R.1978 d.127, effective May 1, 1978. See: 10 N.J.R. 103(a), 10 N.J.R. 188(d). Chapter 13 was amended by R.1982 d.241, effective August 2, 1982. See: 14 N.J.R. 415(a), 14 N.J.R. 835(b); R.1985 d.691, effective January 21, 1986. See: 17 N.J.R. 1370(a), 18 N.J.R. 166(b).

Pursuant to Executive Order No. 66(1978), Chapter 13, Shellfish, was readopted as R.1987 d.362, effective September 8, 1987. See: 19 N.J.R. 1143(a), 19 N.J.R. 1642(a). Subchapter 2, Depuration of Soft-shelled Clams, was repealed and a new Subchapter 2, Depuration of Hard Shell and Soft Shell Clams, was adopted as R.1990 d.542, effective November 19, 1990. See: 22 N.J.R. 109(a), 22 N.J.R. 3547(a).

Pursuant to Executive Order No. 66(1978), Chapter 13 was readopted as R.1992 d.384, effective September 8, 1992. See: 24 N.J.R. 2504(a), 24 N.J.R. 3532(a).

Pursuant to Executive Order No. 66(1978), Chapter 13 was readopted as R.1997 d.356, effective August 8, 1997. See: Source and Effective Date.

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**SUBCHAPTER 1. SANITATION, HANDLING, SHIPPING AND SHUCKING OF SHELLFISH****8:13-1.1 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Certified dealer” means a shellstock shipper, shucker-packer, repacker or reshipper, holding a current certificate issued by the State Department of Health.

“Digger” means a person engaged in the harvesting of shellfish for delivery to a shellstock shipper, shucker-packer, repacker or for transplanting. This definition shall not include those persons engaged in the harvesting of sea clams or those persons harvesting shellfish for personal use only.

“Digger-retailer” means a digger who owns or operates an establishment or stand or who otherwise offers for retail sale shellfish harvested by himself. A digger-retailer is not authorized to act as a shellstock shipper. A digger-retailer may shuck shellfish for consumption on the premises.

“Food product zone” means the parts of food equipment, including auxiliary equipment (such as blower pipes and drain valves) which may be in contact with the food being processed, or which may drain into the portion of equipment with which food is in contact.

“Person” means and includes an individual, firm, corporation, association, society, partnership and their agents or employees.

"Repacker" means a person other than original shucker who packs shucked shellfish into containers for distribution or sale, but does not include retailers packing shellfish for direct sale to the consumer. A repacker may also act as a shucker-packer and/or a shellstock shipper if he has the necessary facilities.

"Reshipper" means a person who transships shucked stock in original containers, or shellstock, from certified shellfish dealers to other dealers or to the final consumer, but who is not authorized to act as a shucker-packer or a repacker.

"Retail sale" means a retail sale is regarded as any sale to the ultimate consumer or his family, or to a person who will not resell the product. All retailers of shellfish under this definition are required to purchase shellfish from certified dealers only, and to retain properly completed tags attached to such purchases for not less than 90 days.

"Shellfish" means all edible species of clams, oysters and mussels, either shucked or in the shell, fresh or frozen.

"Shellfish, market" means shellfish which are, may be, or have been harvested and/or prepared for sale for human consumption as a fresh or frozen product.

"Shellstock shipper" means a person who grows, harvests, buys and/or sells shellstock who is not authorized to act as a shucker-packer or repacker.

"Shucker-packer" means a person who shucks and packs shellfish and who may act as a shellstock shipper.

"Wet storage" means the temporary storage of shellfish from approved sources, intended for marketing, in tanks containing sea water or in natural bodies of water, and including storage in floats.

"Wholesale sale" means a wholesale sale is regarded as any sale to any other than the ultimate consumer or his family. All wholesalers of shellfish under this definition are required to apply for and hold a shellfish certificate and to use proper tags, bearing the certificate number assigned by the department.

#### 8:13-1.2 Prohibited acts

(a) No person shall sell, offer for sale or have in his possession with intent to sell without a permit from the Department of Environmental Protection any shellfish which have been taken from a place condemned by the Department of Environmental Protection pursuant to N.J.S.A. 24:14-2, or from a place condemned by authorities having supervision at the point of origin of the shellfish without permission from such authorities and the Department of Environmental Protection.

(b) No person shall engage in the wholesale handling of shellfish, operate or conduct an establishment for the shucking or repacking of shellfish, or act as a digger-retailer without a certificate to engage in such business issued by this department, except that shellstock harvested by a digger in accordance with the provisions of these regulations may be transported and sold to a certified shellstock shipper, shucker-packer or repacker.

(c) No person shall receive or accept any shipment of shellfish into New Jersey for shucking, repacking, distribution or sale, unless the consignor of the shellfish shall hold a current certificate or license issued by the shellfish control authority at the point of origin of the shellfish, authorizing the interstate shipment of shellfish. The control program of the shellfish control agency shall bear the endorsement of the United States Food and Drug Administration.

(d) No person shall utilize floats, tanks or basins for the storage, conditioning, purification or sterilization of shellfish without written permission from this department.

(e) No retailer may repack shellfish without a certificate from his department unless it is done on order from the consumer.

#### 8:13-1.3 Shellfish certificates

(a) Any person desiring to engage or continue to engage in the wholesale handling, repacking, or shucking of shellfish, or in the business of a digger-retailer, or practice wet storage, or engage in the conditioning of shellfish shall make application in writing to this department upon forms supplied by the department giving all requested information.

(b) Upon receipt of such application and upon approval of the facilities and sanitary condition of the establishment or area, and compliance by the applicant with other provisions of the laws and regulations, a certificate may be issued for such operation. The certificate shall expire on June 30 of each year.

(c) Current certificates shall be kept on file and open to inspection by representatives of the State or local health department.

#### 8:13-1.4 Sanitary requirements

(a) The floors of each establishment used for the storage, shucking, packing, distribution or sale of shellfish shall be properly drained and constructed of concrete, tile, laid in cement or other suitable material which can be properly cleaned. The floors shall not be subject to flooding.

(b) The sidewalls and ceilings of each room in an establishment in which shellfish are stored, shucked or packed shall be made of, or coated with, a clean, light-colored washable surface.

(c) All outdoor openings to toilets, wash and locker rooms, shucking, packing, shellstock storage rooms, and other portions of the establishment used for handling or storage of food or utensils shall be effectively protected

against the entrance of insects, flies, vermin, rodents and other foreign or injurious contamination, and shall be free of such sources of contamination.



(d) The floor, sidewalls, ceilings, utensils, equipment, containers and other food-handling materials in every establishment shall be kept in a clean and sanitary condition, and the operation carried on therein shall be conducted in such a manner that the purity, quality or wholesomeness of the food therein stored, shucked, packed or otherwise handled, shall not be impaired. Every room shall be properly lighted, heated, drained, ventilated and plumbed.

(e) The clothing worn by all persons engaged in work in a shellfish establishment shall be in a clean condition at all times. No clothing shall be stored in the rooms used for the shucking, packing or storage of shellfish. Aprons, coats and other clothing not in use shall be stored in a room or locker provided for this purpose.

(f) Conveniently located and adequate toilet and clothing storage facilities equipped with tight-fitting and self-closing doors shall be provided for all employees and shall be kept in a clean and sanitary condition, and in good repair. Toilet rooms shall be ventilated by an opening to the outer air or by a mechanical ventilating system.

(g) Handwashing facilities shall be provided convenient to the work area in the shucking, packing and shipping areas of each shellfish shucking or shipping establishment. Facilities shall include lavatories with hot and cold water, soap and clean individual towels, or other suitable hand-drying devices.

(h) Employees shall wash their hands with soap and water before beginning work and after each interruption. Signs requiring such handwashing shall be conspicuously posted in the toilet rooms and near handwashing sinks. Every person owning or operating a shellfish establishment shall take all reasonable means to compel such washing.

(i) Shells from which meats have been removed shall not be permitted to accumulate in the shucking room or other portion of the establishment. Such shells, if stored on premises adjacent to the shellfish establishment, shall be treated in a manner that will prevent odors, fly breeding or other nuisance.

(j) Only new or properly sanitized containers shall be used for the storage or transportation of shellfish.

(k) All vehicles used for the transportation or storage of shellfish shall be kept in a clean condition at all times. Shellstock shall be protected from contamination by bilge water, seepage, pumpage and other filth.

(l) The food product zone of all utensils and equipment shall be of such material, workmanship and design as to be smooth, easily cleanable, resistant to wear, denting, buckling, pitting, chipping and crazing; and capable of withstanding scrubbing, scouring, repeated corrosive action of cleaning compounds and other normal conditions of opera-

tions. Such surfaces shall be nontoxic, readily accessible for cleaning and inspection, and shall be kept in good repair.

(m) Shucking and culling benches and contiguous walls to a height of two feet above the bench tops of smooth concrete, corrosion resistant metal or other durable, nontoxic material, free from cracks shall be provided where needed. The benches shall drain completely and rapidly away from any shellfish on the benches.

(n) Water used for washing boats, trucks, floors or other portions of a shellfish establishment or vehicle shall be from a source approved by the department.

(o) Exterior and interior of premises shall be kept free of litter and rubbish and unused equipment shall be stored in an orderly manner. No domestic animals or fowl shall be permitted in the shellfish handling areas within the establishment.

(p) The use of dip buckets by shucking personnel is prohibited.

#### 8:13-1.5 Water

(a) An adequate supply of water shall be provided in each room used for shellstock storage, shucking, packing and utensil wash rooms, shall be easily accessible, and shall comply with all of the requirements enforced by the department.

(b) An automatically regulated hot water system shall be provided which has sufficient capacity to furnish water with a temperature of at least 130 degrees Fahrenheit during all hours of operation of the establishment.

(c) Hot and cold water outlets with a mixing or combination valve shall be provided at each sink compartment, except that warm water only may be installed at handwashing sinks.

#### 8:13-1.6 Toilet wastes

Toilet wastes shall be disposed of in compliance with all of the requirements enforced by the State Health Department.

#### 8:13-1.7 Cleaning and bactericidal treatment of equipment and utensils

(a) Adequate facilities shall be provided for the proper washing, cleaning and bactericidal treatment of equipment, utensils and buildings. All equipment, utensils and all parts of the shucking, packing and shellstock storage rooms shall be cleaned within two hours after day's operations have ceased.

(b) All utensils and equipment which come into contact with shucked shellfish shall, after washing and cleaning, be subjected to one of the following bactericidal processes at the end of each working day:

1. Exposure for at least 15 minutes at a temperature of at least 170 degrees Fahrenheit or for at least five minutes at a temperature of at least 200 degrees Fahrenheit in a steam cabinet equipped with an indicating thermometer located in the coldest zone.

2. Immersion in hot water of at least 170 degrees Fahrenheit for at least two minutes. An accurate indicating thermometer shall be provided and used.

3. Immersion for at least two minutes in or exposure for at least two minutes to, a flow of a solution containing not less than 50 parts per million of free chlorine.

4. Bactericidal sprays containing not less than 100 parts per million of free chlorine may be used for large equipment.

5. Any other method, demonstrated to the satisfaction of the State Health Department to be effective in rendering all surfaces of utensils or equipment free from visible soil, wash water and detergent, leaving them clean to sight and touch, and effectively subjects them to bactericidal treatment.

(c) Cleaned benches, blocks and stall shall be flushed or sprayed as often as necessary, and at least once each week, with a solution containing not less than 100 parts per million of available chlorine or other disinfecting agents, in an effective concentration approved by the department.

#### 8:13-1.8 Health of personnel

No person shall require, permit or allow any person to work, nor shall any person work in any shellfish establishment who is ill or infected with a communicable disease, as defined in N.J.S.A. 26:4-1, or with infected wounds or open lesions on the exposed portions of their bodies.

#### 8:13-1.9 Washing of shellstock

Shellstock shall be washed free of mud and other material as soon after harvesting as feasible, in water satisfactory to the State Health Department. Shellstock shall be reasonably free of mud when shucked or shipped by a certified shipper.

#### 8:13-1.10 Washing of shucked shellfish

Shucked shellfish intended for repacking within the State shall be washed free of mud, sand, grit, shell or other unwholesome or contaminating substance at the place of shucking, and shall be packed in single service containers or acceptable reusable containers. The covers of the reusable containers shall be so designed that any tampering will be evident.

#### 8:13-1.11 Packing of shucked shellfish

(a) Shucked shellfish shall not be held on the shucking bench for more than two hours, unless the shellfish have reached an internal temperature of 45 degrees Fahrenheit or less.

(b) Shucked shellfish shall be cooled to an internal temperature of 45 degrees Fahrenheit or less within two hours after packing and shall be stored or shipped under similar temperatures. Shucked shellfish which will not be packed within one hour after delivery to the packing room shall be cooled to an internal temperature of 50 degrees Fahrenheit or less within two hours and held at such temperature until shipped.

(c) Shucked shellfish shall be packed in clean containers made of nontoxic metal, waxed paper, glass or other impervious material, so designed that the contents will be protected from contamination during shipment and storage.

(d) Each package of shucked shellfish shall be labeled in compliance with the provisions of N.J.S.A. 24:5-17 and shall also bear the certificate number, preceded by the abbreviated letters of the State, of the packer or repacker of the shucked shellfish.

(e) Reusable shipping containers shall be thoroughly cleaned as soon after emptying as is practicable.

(f) Each package of frozen shellfish shall be marked with a code indicating the date of packing, but need not appear on the outer wrap of the package.

#### 8:13-1.12 Ice

Ice, intended for use within a shellfish establishment, shall be manufactured, handled and stored in a manner acceptable to the State Department of Health.

#### 8:13-1.13 Records

(a) Complete and accurate records of purchases and shipment of shellfish shall be kept by every certified dealer, including name, address and certificate number of vendor, date and quantities of purchase, and waters from which harvested. If purchased from a person other than a digger, the source need not be recorded. These records shall be open to inspection by representatives of the State or local health department.

(b) All persons offering shellfish for retail sale shall retain the properly completed tags attached to each purchase for not less than 90 days.

(c) A digger-retailer shall keep an accurate record of date and quantity of each harvest including waters from which harvested.

(d) Each digger shall be required to tag each container of shellfish giving his name, date, quantity and kind of shellfish and location where harvested in order that the certified dealer may have all required information.

#### 8:13-1.14 Packing and shipping of shellstock

(a) Shellstock shall be shipped in clean or sterilized containers and conveyances.

(b) All containers of shellstock and each lot or consignment of shucked stock shall bear a shipping tag at least 2½ inches by 5¼ inches in size, carrying all information required by N.J.S.A. 24:5-17, together with the date of shipment, name and address of the consignee, and the kind and quantity of shellfish and a space for the date of receipt of the shellfish.

(c) Bulk shipments (loose shipments) of shellfish by a certified dealer shall be accompanied by at least one tag bearing the required information for each consignment.

(d) The stub of the tag shall not be removed from any package until the package is empty.

(e) Immediately upon receipt of a container of shellstock or a lot of shucked stock, the purchaser shall stamp the date of receipt on the tag and keep such tags on file for a period of not less than 90 days.

#### 8:13-1.15 Revocation of certificate or permit

Any certificate or permit issued pursuant to these regulations may be revoked for any violation of Title 24 of the Revised Statutes or of any rule or regulation of the department.

## SUBCHAPTER 2. DEPURATION OF HARD SHELL AND SOFT SHELL CLAMS

### 8:13-2.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Certified depuration plant operator” (DPO) means a person who is responsible for maintaining complete and accurate records of all depuration processes and controls all critical control activities of the depuration plant. This certification will be granted based upon the plant operator(s) receiving a passing score of at least 70 on a standard examination administered by the State Department of Health.

“Critical control activities” means and includes all the critical parameters for depurating shellfish, including, but not limited to, the allocation of process containers, the procedures for harvesting and landing of shellfish, treatment of process water, standard operating procedures for the depuration process, building, tank and equipment maintenance and construction, process security and surveillance procedures and equipment, sanitation procedures, and required recordkeeping.

“Department” means the State Department of Health.

“Depuration” or “controlled purification” means the process that uses a controlled aquatic environment to reduce the level of bacteria and viruses in live shellfish.

“Depuration plant” means a premises or establishment in which clams obtained from waters officially sanctioned and classified by the Department of Environmental Protection as special restricted or seasonal special restricted are subject to a process of controlled purification with the proper controls approved by the Department which will render the depurated clams alive, and microbiologically acceptable within the meaning of State rules and regulations.

“Depuration process” means the procedure and equipment by which shellfish harvested from waters officially sanctioned and classified by the Department of Environmental Protection as Special Restricted or Seasonal Special Restricted are treated at a depuration plant for controlled purification.

“Depuration unit” means a tank or series of tanks supplied by a single process water system.

“Fecal coliform” means bacteria of the coliform group which will produce gas from EC medium when such medium is incubated for 24 hours plus or minus two hours at 44.5 degrees Celsius plus or minus 0.2 degrees Celsius in a water bath, or produce growth of colonies on a selected medium at an elevated temperature of 45 degrees Celsius and incubated for 24 hours.

“Hard shell clams” means the species *Mercenaria mercenaria*.

“Lot” means the number of bushels of clams which have been harvested on a particular day from the same area designated by the Department of Environmental Protection.

“MPN” means most probable number, which is an estimate of the numbers of bacteria per 100 milliliters or grams of sample.

“Person” means an individual, or a firm, partnership, company, corporation, trustee, association, cooperative, or any public or private entity.

“Process batch” means the number of lots of clams and the identification of each lot used to fill each separate depuration unit. A process batch can be one lot or more but cannot exceed two consecutive days harvest, nor exceed the number of bushels of clams the process tanks are capable of handling.

“Process tank(s)” means the tanks in which the controlled purification process is carried out.

"Process water" means the water in depuration tanks during the time that shellfish are being depurated.

"Sanitize" means an effective bactericidal treatment of clean surfaces of equipment and utensils, to effectively destroy microorganisms, including pathogens.

"Shellfish Resource Recovery Steering Committee" (SRRSC) means designated representatives from the Department of Environmental Protection and the Department of Health who have regulatory responsibilities for resource recovery programs.

"Soft shell clams" means the species *Mya arenaria*.

"Standard operating procedures" (SOP) means a written manual to include all depuration procedures and operations that will be conducted in a depuration plant including identifying individuals responsible for critical control activities and procedures to be employed by the depuration plant when operations must be discontinued or when critical control activities are not being met.

"Total coliform" means bacteria of the coliform group which will produce gas from brilliant green bile lactose broth two percent when such broth is incubated for 51 hours or less at 35 degrees Celsius plus or minus 0.5 degrees Celsius.

"Treated clams" means shellfish that have been depurated.

"Turbidity" means particles in water which reduce light transmittance as measured by a nephelometer. Units are usually given as Nephelometric turbidity units or as N.T.U.

"Ultraviolet light ("UV")" means that portion of the light spectrum containing the bactericidal wave lengths centered around 254 nanometers.

"U.S. Standard Bushel" means United States dry measure of four pecks, or 2150.42 cubic inches.

"Untreated clams" means shellfish that have not been depurated.

"Zero hour" ("0 hour") means the time at which a depuration unit becomes full with process water and the last container of the last lot of clams is placed into the tanks for depuration.



**8:13-2.2 General requirements**

Any person engaged in the depuration of clams shall conform to the rules governing sanitation, handling, shipping and shucking of shellfish promulgated under N.J.A.C. 8:13, and provisions set forth under Title 24 of the Revised Statutes.

**8:13-2.3 Prohibited acts**

No person shall distribute or sell, offer for sale or have in his or her possession with the intent to distribute or sell any clams which have been harvested from special restricted waters and have not been depurated for at least 48 hours and which do not meet the bacteriological standards set forth under N.J.A.C. 8:13-2.21. Clams shall be depurated for a minimum of 48 hours, but not longer than 72 hours. Depuration shall be restricted to clams of the species approved by the Department. Only clams harvested from waters approved for this purpose by the Department of Environmental Protection pursuant to N.J.S.A. 58:24-1 et seq. may be depurated. Clams from other sources may not be stored on the premises of the depuration plant. The depuration plant shall be used for no purpose other than the depuration of clams.

**8:13-2.4 Hard and Soft Shell Clam Depuration Program**

(a) Any person(s) wishing to construct and/or operate a soft or hard shell clam depuration plant shall submit to the SRRSC a detailed proposal providing all pertinent information concerning the proposed plant on applications provided by the SRRSC. A detailed set of construction plans shall accompany the application. All depuration plant proposals shall be forwarded to:

New Jersey State Department of Health  
Consumer Health Services  
Shellfish Project  
CN 364  
Trenton, New Jersey 08625-0364

(b) The SRRSC shall only accept proposals for consideration which demonstrate that they will be in conformance with all local requirements, including zoning, building, and fire codes.

(c) The SRRSC will respond in writing to each proposal after all requested information has been submitted. Each response shall state the reason(s) for acceptance or denial of the proposal.

(d) If an applicant does not initiate construction within six months of its approval, the SRRSC reserves the right to withdraw its approval.

(e) The cost of the construction and operation of any depuration plant and conformance with the applicable regulatory requirements shall be the responsibility of the individuals proposing same.

(f) The SRRSC shall have the right to limit the number of plant permits issued, based upon Department of Environmental Protection and Department of Health enforcement capabilities.

**8:13-2.5 Provisional certificate requirements**

(a) Upon approval by the SRRSC to initiate construction of a depuration plant, the issuance of a provisional shellfish certificate to operate on an interim basis until the final verification studies are completed is contingent upon the following:

1. Submission of a shellfish certificate application as required under N.J.A.C. 8:13-1.3 and a food/cosmetic license application with the required statutory fee as required under N.J.S.A. 24:15-13;
2. Final Department approval of construction plans;
3. Departmental approval of the clam processing containers as specified under N.J.A.C. 8:13-2.14;
4. Completion of plant construction;
5. Preoperational inspection conducted by the Department indicating satisfactory compliance with all of the provisions of this subchapter;
6. Filing the necessary permit applications required under Department of Environmental Protection (DEP) rules N.J.A.C. 7:12-9. The Department must receive verification from DEP that the applicant has shown proof that they can meet the DEP regulatory provisions;
7. A written SOP, which shall include all the critical control activities to include the plant's record keeping format for depurating shellfish, which must be submitted for approval to the Department prior to receipt of a provisional depuration plant certification;
8. The plant capacity shall be filed by the firm and approved by the Department utilizing the criteria specified in N.J.A.C. 8:13-2.13 prior to provisional certification approval by the Department;
9. Each plant must have at least one employee as a certified depuration plant operator prior to provisional plant certification. A standard examination which demonstrates a comprehensive knowledge of the principles and procedures of a depuration plant will be administered by the Department. Applicants of this standard test must obtain a passing score of at least 70. A certified depuration plant operator (DPO) will be present in the depuration facility during all critical control activities;
10. A plant verification study shall be conducted by the operator prior to receiving provisional certification. This verification study shall demonstrate to the Department that all critical control parameters meet the specifications as set forth within these requirements and are adequate to insure sufficient physiological activity of the shellfish for purification to occur at any point in the tank under maximum loading conditions; and

11. Plant verification studies will be determined by three consecutive processes which must meet all critical control activities as well as end point bacteriological requirements.

#### 8:13-2.6 Final certificate requirements

(a) Considering the extremes of environmental conditions, an acceptable process verification study shall be conducted during the winter and summer seasons. Only after this additional process verification study indicating that all critical control activities have been met, including satisfactory bacteriological criteria, will final certification be considered by the Department.

(b) Final certification will be issued based upon a record of satisfactory compliance with the critical control activities and the requirements of (a) above.

(c) The certificate shall expire on June 30 of each year. Certificate renewal is required each year on forms supplied by the Department.

(d) Shellfish certification and food/cosmetic license are not transferable with respect to changes in location and/or ownership.

#### 8:13-2.7 Certification restrictions, suspensions, and revocations

(a) Certification is limited to the depuration and sale of depurated clams.

(b) Any certificate issued by the Department pursuant to these rules may be suspended or revoked for any violation of Title 24 of the Revised Statutes or of any rule or regulation of the Department or when bacteriological data shows that the depuration process is not reducing fecal coliform levels to the standards set forth. Any violation of a special permit to possess shellfish harvested from special restricted waters issued by the Department of Environmental Protection is grounds for suspension or revocation of the certificate issued by the Department.

(c) The Department, when in its judgment has determined that any of the critical control activities of the depuration rules are violated, may, before a hearing, suspend the certification pending the hearing. When the certification has been suspended, the person shall have the right to an expedited hearing. In all other cases, the person shall be afforded the opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1, prior to the suspension or revocation of the license. When the special permit issued by the Department of Environmental Protection under N.J.A.C. 7:12-9 is suspended or revoked, the shellfish certificate issued by the Department will no longer be valid.

#### 8:13-2.8 Plant location and site specification

The depuration plant shall be located in such an area where seawater of proper quality and sufficient quantity is available for the process. The plant shall be located close enough to the harvest site to minimize travel time, to prevent excessive bacterial multiplication, and to reduce stress in the clams. The plant shall be so located that it will not be subject to flooding by high tides.

#### 8:13-2.9 Plant design

The plant shall be designed in such a manner as to prevent cross-contamination of untreated and treated clams and in order that a video surveillance system can effectively monitor all critical control activities. Washing and culling facilities, with a convenient supply of potable wash water which meets the requirements of N.J.A.C. 7:10 (Safe Drinking Water Act rules), shall be provided for untreated and treated clams. Three separate dry storage areas meeting the requirements of N.J.A.C. 8:13-2.11 shall be provided for untreated clams, clams treated pending laboratory approval, and treated approved clams. The plant shall be provided with potable running water, electricity, and sewage disposal sufficient to meet all the specifications and carry out all the requirements set forth in these rules.

#### 8:13-2.10 Transportation of clams

(a) The vessel(s) or vehicle(s) used in the transportation of clams shall be kept in a clean and sanitary condition. The clams stored and transported in the vessel(s) shall be protected from undue environmental stress such as freezing in winter and overheating in direct sunlight during the summer months. Clams shall be protected from contamination at all times during harvesting and transportation to the depuration plant.

(b) A waterproof serially numbered harvester-allocation tag approved by the Department shall be issued by the DPO and affixed to each harvest container in the plant as part of the daily harvest allocation, as specified in N.J.A.C. 8:13-2.24, which tags shall be accounted for or used that day only.

(c) Only serially numbered "U.S. Standard" bushel size containers shall be used in the harvesting, transportation, and receiving of hard shell and soft shell clams at the depuration plant unless written approval is given to use an alternate standard type of container. All reasonable measures shall be taken to assure that containers of clams received at the plant are filled to capacity.

(d) During the unloading procedures from the harvesting vessels at the designated times and locations, the containers of clams shall not be covered and shall be open to view.

(e) Once off-loading commences, the containers of shellfish shall immediately be moved into the plant and the attached harvester allocation tag be date and time stamped upon receipt by the plant on that harvest day.

(f) Overland transportation must be approved by the SRRSC under the provisions of DEP rules N.J.A.C. 7:12-9.

#### 8:13-2.11 Shellfish storage

(a) Shellfish received from harvesters shall be stored immediately in the untreated controlled storage unit prior to depuration. This location shall be cool and protect the shellfish from contamination. The internal temperature of the shellfish in the controlled storage unit shall be maintained within five degrees Fahrenheit of the processed water temperature, but shall not exceed 68 degrees Fahrenheit (20 degrees Celsius).

(b) After removal from the depuration process, shellfish shall be stored in the intermediate refrigerator at refrigeration temperatures of 45 degrees Fahrenheit or 7.2 degrees Celsius or below pending laboratory analysis.

(c) Upon receipt of satisfactory laboratory analysis, shellfish shall be packed in shipping containers and placed in the treated refrigerator at refrigeration temperatures.

#### 8:13-2.12 Source seawater

(a) No seawater shall be used for depuration unless it meets the following requirements:

1. The source seawater total coliform counts expressed as MPN/100 ml shall not exceed the following level:

i. Median of samples equal to or less than 700: with not more than 10 percent of samples exceeding 2,300 for a five tube, three dilution test, and 3,300 for a three tube, three dilution test.

2. The source seawater shall be free of toxic chemicals, pesticides, detergents, dye stuffs, radioisotopes and marine toxins in concentrations which exceed established State/Federal rules or regulations, or exist in concentrations deemed hazardous by State or Federal officials.

3. Salinity must be within 20 percent of the harvest area value, at the time of harvest.

(b) The seawater in which the untreated clams are placed for controlled purification shall be of sufficient quality to assure optimal physiological activity. The following requirements shall be met either naturally or through treatment of the water;

1. No detectable coliform organisms as measured by the standard five-tube MPN test for drinking water or a test of equivalent sensitivity;

2. The pH shall be between the range of 7.0 to 8.4;

3. The dissolved oxygen levels shall be a minimum of 5.0 mg/liter;

4. Turbidity shall not be more than 20 Nephelometric turbidity units; and

5. Temperature range shall be a minimum of 40 degrees Fahrenheit (4.4 degrees Celsius) to a maximum of 68 degrees Fahrenheit (20 degrees Celsius) for soft shell clams; and, a minimum of 50 degrees Fahrenheit (10 degrees Celsius) to a maximum of 68 degrees Fahrenheit (20 degrees Celsius) for hard shell clams.

i. Refrigeration units shall be installed of sufficient capacity to cool and maintain processing water 68 degrees Fahrenheit (20 degrees Celsius) or below.

ii. A system shall be established to raise and maintain the water temperature above 40 degrees Fahrenheit (4.4 degrees Celsius) for soft shell clams and 50 degrees Fahrenheit (10 degrees Celsius) for hard shell clams.

#### 8:13-2.13 Plant depuration equipment

(a) Hydraulic seawater system design and material requirements are as follows:

1. The seawater pumping system shall include intake structures, intake pumps, distribution or piping network, valves, filling and flow measuring devices which shall be maintained in good working order at all times and shall be of sufficient size and design to supply the system with process seawater to meet the requirement set forth in (b) below.

2. The distribution piping network shall be constructed in such a manner so that the entire system can be cleaned.

3. Accurate flow control devices shall be installed in the process seawater system to assure that the flow requirements are being met and maintained.

4. Electrical hydraulic equipment such as pumps, ultraviolet unit(s) and other electrical components of the seawater circulation system shall be protected from water splash and corrosion.

5. The seawater hydraulic system shall be constructed of materials which are inert, noncorrosive and nontoxic to man or clams.

6. A minimum of five mg/liter of dissolved oxygen shall be maintained throughout the depuration processing system. An aeration system shall be installed if the oxygen level is below five mg/liter. The aeration system shall not produce excessive foaming. Bubble type aeration systems are prohibited. Accurate dissolved oxygen meters to measure the dissolved oxygen of the process water shall be provided.

(b) The process tank(s) in which controlled depuration is carried out shall be constructed of suitable sturdy material which is smooth, free of breaks and open seams. Materials used in process tank construction shall, under use conditions, be corrosion resistant, nontoxic, relatively nonabsorbent. The tank(s) shall be in good repair and shall be easily accessible for cleaning and inspection. The tank(s) shall be

self-draining to facilitate tank cleaning. Tank design shall be approved by the Department prior to installation. Tank design shall insure that:

1. Uniform hydraulic flow is maintained throughout the tank(s);
2. The proper stacking and removal of shellfish process containers is carried out to insure a satisfactory flow of process seawater;
3. Vibrations and tank disturbances are not present;
4. The flow and quality of treated seawater shall be easily monitored. The volume flowing through each tank shall be at least one gallon per minute per U.S. bushel of clams;
5. The process tank(s) shall have the capacity to supply at least five cubic feet of seawater per U.S. bushel of clams at the overflow level for soft shell clams and at least eight cubic feet of seawater per U.S. bushel for hard shell clams.
6. The depuration processing system shall be designed and constructed so as to provide sufficient water of adequate quality throughout the system in a manner which accomplishes effective purification. This depuration processing system design and construction must be approved by the Department prior to the plant receiving a provisional certification.
7. Process tanks shall be provided with durable, easily cleanable, plastic mesh type lids with adequate openings for sampling. These lids shall have locking mechanisms and shall be sealed with tamper evident seals which are approved by the Department and which are serially numbered. The seals shall be put in place at the zero hour of depuration and not removed until completion of the 48 hour process. If the required bacteriological analysis results in a process failure as defined in N.J.A.C. 8:13-2.21, the tank lids shall be in place and sealed at the start of the additional process time and not removed for 24 hours.
8. The tank(s) shall be protected against chemical, microbiological, or other contamination.
9. The tanks shall be maintained in good repair at all times.

(c) A minimum space shall be provided to assure three inches between the bottom of the clam processing containers and the process tanks.

(d) Clam processing containers shall be adequately submerged in the process water during the entire depuration process.

#### 8:13-2.14 Clam processing containers

(a) Clam processing container design must be approved by the Department in writing prior to receiving a provisional certificate. Clam processing containers used in the process tanks shall be constructed of materials which are noncorrosive, nontoxic, and of a suitable shape and size to allow processed seawater to pass easily in all directions; allow for intermediate washing of clams and be easily cleanable and constructed of materials which can be sanitized. Clam processing containers shall not be used for any other purpose other than for depuration.

1. The maximum depth of shellfish in the containers shall be three inches (76 mm) for hard shell clams and in increments of 1/2 U.S. bushels.
2. The maximum depth of shellfish in the containers shall be eight inches (20.3 cm) for soft shell clams and in increments of 1/2 U.S. bushels.

#### 8:13-2.15 Water purification system(s)

(a) An ultraviolet (UV) bacteriological reduction system shall be installed to provide process seawater meeting a bacteriological quality of no detectable coliform organisms as measured by the standard five-tube MPN test for drinking water or a test of equivalent sensitivity sampled at the UV unit outlet unless this quality can be met naturally and the water is not recirculated. A recirculating seawater system shall be so designed, installed and operated to assure that the water receives UV treatment prior to entering the system.

1. The Department will consider alternate methods of bacteriological reduction if adequate scientific information is presented showing that the equipment will produce process water of the required bacteriological quality; proper testing is conducted; and the practicability of equipment can be demonstrated.

2. Chemicals such as chlorine or similar disinfecting compounds shall not be used to treat the process seawater, unless the compounds in the water are completely inactivated prior to introduction into the distribution system.

(b) The ultraviolet (UV) sterilization unit shall meet the following minimum requirements:

1. The unit shall be designed and operated to deliver at peak load at least one gallon per minute of treated water per U.S. bushel of clams;
2. The unit shall have water flow control device(s) to prevent the water flow exceeding the capacity of the unit regardless of the incoming pressure; and
3. A meter and recording chart shall be attached to the unit which will continuously monitor and record the following:

- i. Any changes in ultraviolet transmissivity of the water to be treated; and
  - ii. Depreciation or reduction in the output of the intensity of the ultraviolet lamps;
4. The recorder chart shall be calibrated in hours and days and the chart shall be marked to indicate "0", "24", "48", and "72" hour intervals for each process batch. Alternate types of recorder units shall be approved by the Department prior to use and shall be capable of providing the basic required information;
  5. The ultraviolet system shall have provisions for in-place cleaning of the interior of the purification chamber and ultraviolet tubes; and
  6. The ultraviolet tubes shall be replaced when they reach a point of 60 percent efficiency or 7,500 hours old.

#### 8:13-2.16 Water temperature recording device(s)

(a) A water temperature recording device or devices shall be installed in a position to accurately record the process water temperature. The device shall be installed to meet the following requirements:

1. The recorder case shall be moisture-proof under normal operating conditions;
2. The temperature recording device shall be graduated with a range between two degrees Fahrenheit and 100 degrees Fahrenheit;
3. The chart shall be graduated with not less than two degrees Fahrenheit divisions, with not more than 40 degrees Fahrenheit per inch of scale, graduated in time scale divisions of not more than one hour;
4. The chart shall have a rotation period to record for 72 hours and indicate a continuous recording for the 48/72 hour depuration process;
5. The recorded elapsed time as indicated by the temperature recorder chart rotation shall be within two percent of true elapsed time; and
6. The chart support shall be provided with a pin or pins to puncture the chart in a manner to prevent improper or false rotation.

(b) Temperature recording device operation is as follows:

1. The temperature recording device shall be activated on the onset of the depuration process (0 hour);
2. Charts shall identify the dates of process batch including lot number(s) and quantity of clams in each lot; and
3. Any unusual occurrences shall be recorded on the chart, such as system breakdown or large temperature deviations.

(c) Alternate types of recorder units will be considered by the Department. Such units must be approved by the Department prior to use.

(d) An accurate indicating thermometer shall be provided to check the temperature recording device.

#### 8:13-2.17 Plant capacity control

(a) The maximum amount of clams in each tank shall not exceed the flow requirement of one gallon per minute of seawater per bushel of clams nor the physical size limits of the tank and other spacing criteria established in this subchapter.

1. The plant capacity shall be established as set forth in N.J.A.C. 8:13-2.5. Each process tank shall be posted to indicate the maximum tank capacity for that particular process. This posting shall be of size and legibility to allow for viewing by the required surveillance cameras.

2. If the flow rate of the system or individual tanks decrease, the plant operator shall adjust the number of bushels of clams in the tanks not to exceed the flow requirement and repost the new capacities.

3. The DPO shall employ all reasonable means to ensure that all tanks in the system have equal flow. If this cannot be achieved, then the operator shall post each tank with its rated capacity.

4. The DPO shall notify the Department by telephone at the beginning of the next working day if the total capacity of the system changes, either by an increase or decrease in flow capacity, and resubmit in writing the new rated capacity for departmental approval within five days after verbal notification.

5. The DPO will be responsible for allocating the processing containers and harvester allocation tags for harvesters on a daily basis. The allocation of containers and tags shall not exceed the approved capacity specified in the plant's SOP.

6. The number of bushels of clams harvested each day shall not exceed the amount which the plant is capable of processing on that day.

#### 8:13-2.18 Carryover

(a) In the event that insufficient clams are harvested to make it a full process batch, no more than two consecutive days catch of clams can be combined to make up a process batch.

(b) Processing shall begin within 36 hours of receipt of clams at the depuration plant.

(c) If a plant carries over part of a day's catch, then the next day's harvest cannot exceed the number of bushels which the plant is capable of processing on that day.



(d) If a plant exceeds capacity due to a process failure, the plant shall notify the Department regarding the disposition of these clams by the next working day.

#### 8:13-2.19 Washing and culling of clams

(a) Appropriate culling procedures will be employed to ensure that broken, cracked, dead, or gaping clams are removed and not placed into the process containers. Before depuration, clams shall be washed with water taken from a source approved by the Department. During the depuration process, the tanks shall be drained whenever necessary and the tank and clams flushed of fecal material, sand, and debris to prevent an accumulation of these materials. After the depuration process is completed, the water shall be drained from the tanks before the clams are removed. Washing facilities shall be designed to prevent cross-contamination of untreated and treated clams.

(b) When culling of untreated clams occurs at the plant, the cull shall be held in the untreated clam controlled storage unit until the destruction of culled product can be witnessed by a regulatory official who has responsibility to enforce rules governing depuration.

(c) Final culling of shellfish shall be conducted after the shellfish have been processed and after laboratory results confirming acceptable bacteriological quality have been received by the DPO. Any final culled product shall be stored in the intermediate refrigerator until the destruction of culled product can be witnessed by an appropriate regulatory official.

(d) Culled shellfish in storage pending destruction shall be appropriately labeled to distinguish them from untreated and treated clams.

#### 8:13-2.20 Cleaning and sanitizing treatment of equipment

(a) Adequate facilities shall be provided for the proper washing, cleaning, and sanitizing treatment of equipment, utensils, and building. All equipment and utensils utilized in the depuration plant shall be maintained in a clean condition. All clams and seawater contact surfaces shall be cleaned and sanitized, as defined under N.J.A.C. 8:24-5.5, at the frequencies listed as follows:

1. Process tanks and seawater distribution piping shall be drained of seawater after each process and tanks and racks shall be cleaned and sanitized within three hours after a process batch is removed from the system and rinsed of sanitizing residuals before another depuration process begins.

2. The seawater reservoir(s) used to hold incoming process seawater shall be drained and flushed after each process batch and cleaned and sanitized at least once a week.

3. Clam processing containers shall be cleaned and sanitized within three hours after removal of clams.

4. The ultraviolet or quartz tubes and tube chamber of the UV unit(s) shall be cleaned within three hours after each depuration process.

#### 8:13-2.21 Bacteriological quality

(a) Depurated clams shall meet the following bacteriological quality standard:

1. A fecal coliform median value not to exceed 50 organisms/100 gms and not more than 20 percent of the samples shall exceed a 100 fecal coliform value per 100 gms for soft shell clams.

2. A fecal coliform median value not to exceed 20 organisms/100 gms and not more than 20 percent of the samples shall exceed a 50 fecal coliform value per 100 gms for hard shell clams.

(b) The SRRSC reserves the right to establish adjunct bacteriological testing in addition to the fecal coliform standards currently being utilized.

#### 8:13-2.22 Bacteriological sampling

(a) Bacteriological sampling collection and analysis of depurated clams shall be conducted by a government-operated laboratory approved by the State of New Jersey shellfish laboratory evaluation officer, who is certified by the United States Food and Drug Administration under the latest version of the National Shellfish Sanitation Program manual of operations, Part I, Appendix E. The Department shall reserve the right to approve a nongovernment laboratory, preferably not affiliated with the plant(s) being regulated, on an interim basis when a government laboratory is not available.

(b) The following minimum sampling programs shall be followed:

1. Clams samples are to be taken randomly for each process batch of clams at the following intervals:

- i. Zero hour samples shall be collected at a frequency established in writing by the Department. The frequency shall be based on levels of pollution, weather conditions, and seasonal changes with a minimum of two samples per lot when zero hours sampling is deemed necessary.

- ii. Five samples per lot at a period of time between 40 and 48 hours. Samples taken prior to 48 hours which do not meet the bacteriological standards shall be resampled to show that the process batch meets the bacteriological standards before being offered for sale and results received by the DPO.

- iii. Five samples per lot at "72" hours if found necessary.

2. A water sample of the ultraviolet (UV) treated water shall be taken directly from outlet of each UV unit each week.

(c) All bacteriological sampling results shall be forwarded to the Department's shellfish project in writing within five days of completion.

(d) Clam process batch(es) which do not meet the bacteriological standards set forth after 48 hours of depuration shall be further depurated for an additional 24 hours. Clam process batch(es) which do not meet the bacteriological standard after 72 hours of depuration cannot be further depurated and shall not be used for human food consumption and shall be disposed of in a manner approved by the Department. The certificate holder shall be responsible to notify the Department's shellfish project by telephone immediately upon receipt of bacteriological results which do not meet the standard after 48 or 72 hours of depuration.

(e) No clams are to be packed and shipped until laboratory results confirming acceptable bacteriological quality have been received by the plant.

#### 8:13-2.23 Recordkeeping

(a) Each lot(s) of clams brought to the depuration plant shall be assigned a process batch number. A separate set of records shall be kept on the premises at all times for at least one year and be available for inspection upon request. All records shall be kept in indelible ink and shall indicate the following:

1. The process batch number as well as the harvester allocation tag serial number(s) for each process;
2. The name of each clammer working each day along with the number(s) of his or her serialized harvester allocation tag;
3. The number of clams and bushels each clammer harvests each day;
4. The total number of bushels and clams in each process batch;
5. The number of bushels and number of clams culled in the plant before and after depuration;
6. The date and time of "0" hour entry for each process;
7. The number of hours the clams are depurated along with the date and time the process is terminated for each process;
8. The ultraviolet (UV) recorder tape corresponding to each process batch shall be attached to the records. A log tube intensity record shall be kept daily which indicates the date and intensity readings;
9. Temperature recorder charts corresponding to each process batch shall be attached to the records;
10. The sales information to include date, number of bushels of soft shell clams, number of hard shell clams, person and address to whom sold shall be recorded at the time of sale and identified to the process batch; and

11. A copy of the harvest depuration receipt as required in N.J.A.C. 7:12-9 shall be available for review and inspection upon request.

(b) Copies of the records required in this section shall be submitted via facsimile machine to the Department shellfish project no later than 12:00 noon of the next working day.

#### 8:13-2.24 Harvester allocation tag

(a) Each container of shellfish shall have a harvester allocation tag affixed to it prior to the container being allocated by the depuration plant to the individual clammer.

1. This tag shall be approved by the Department prior to provisional certification.

2. This tag shall consist of waterproof material and shall be compatible with the time clock which has been approved by the Department.

3. This tag shall, at a minimum, contain the following information:

- i. The harvester name and permit number;
- ii. The date issued;
- iii. The time issued;
- iv. A serialized number;
- v. The DEP harvest area;
- vi. The process date;
- vii. The process "0" hour time; and
- viii. The date and time issued along with the date and time the shellfish are received by the plant, both of which shall be date and time stamped on this tag.

4. This tag shall remain affixed on each container from the time allocated through and including harvesting, transporting, holding prior to depurating, during the depuration process, while in the intermediate storage refrigerator awaiting process bacteriological evaluation approvals.

5. This tag, when removed prior to market packaging, shall be retained in an orderly fashion by the plant and shall be available at the plant for a period of time no less than one year.

#### 8:13-2.25 Harvester depuration receipt

Upon landing of the shellfish at the approved landing site and time, each harvester shall be issued a receipt(s) by the DPO as required in N.J.A.C. 7:12-9.

#### 8:13-2.26 Shellfish shipping tags

(a) The process batch shall be stamped on all shellfish shipping tags which shall be affixed to each container of clams sold as required by the regulations generally governing the tagging and sale of shellfish (N.J.A.C. 8:13-1.14(b)).

Shellfish shipping tags shall be affixed to each shellfish shipping container as it is being packed. The shellfish shipping tags shall meet the following requirements:

1. Shellfish tags shall be at least  $2\frac{5}{8}$  inches wide and  $5\frac{1}{4}$  inches long and constructed of a waterproof and tear resistant material;

2. The attachment point shall be reinforced, preferably with a metal and fiber eyelet; and

3. Shellfish tags shall be preprinted or stamped in waterproof ink with the shippers name, address, shippers permit number prefixed with NJ in capital letters, the common name of the shellstock, the harvesting area, the net weight, numerical count, and/or standard measure of the shellstock in the container, and the date shipped. The description of a New Jersey State harvesting area shall not be less specific than the descriptions set out in N.J.A.C. 8:13-1.14 or any revisions of these rules. A certification number shall be followed by the letters "DP" to indicate depurated product on the tag.

#### 8:13-2.27 Depuration plant monitoring/surveillance equipment

(a) A video surveillance system shall be installed and operated to clearly monitor all critical control activities of the depuration plant and shall be in working order and operating at all times. The plant shall provide two monitors for remote viewing via telephone lines in state offices. This system shall be approved by the SRRSC prior to provisional certification.

(b) A video cassette recorder shall be provided and shall operate to record all surveillance camera sequences.

(c) The plant shall have an audible alarm and a visible alarm in plain view of surveillance cameras which is triggered when the electrical service is interrupted during a process.