

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

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

Source and Effective Date

R.2000 d.455, effective October 16, 2000.
See: 32 N.J.R. 416(a), 32 N.J.R. 3982(b).

Executive Order No. 66(1978) Expiration Date

Chapter 13, Shellfish, expires on October 16, 2005.

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).

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Subchapter 2, Depuration of Soft-shelled Clams, was repealed and Subchapter 2, Depuration of Hard Shell and Soft Shell Clams, was adopted as new rules by R.1990 d.542, effective November 19, 1990.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, Shellfish, 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, Shellfish, was readopted as R.1997 d.356, effective August 8, 1997. See: 29 N.J.R. 2608(a), 29 N.J.R. 3855(b).

Pursuant to Executive Order No. 66(1978), Subchapter 2, Depuration of Hard Shell and Soft Shell Clams, was readopted as R.2000 d.455, effective October 16, 2000, and Subchapter 1, Sanitation, Handling, Shipping and Shucking of Shellfish, was repealed and Subchapter 1, Sanitation, Handling, Shipping and Shucking of Shellfish, was adopted as new rules by R.2000 d.455, effective November 6, 2000. See: Source and Effective Date. See, also, section annotations.

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

(a) The purpose of this subchapter is to provide uniform sanitary standards based upon the National Shellfish Sanitation Program Model Ordinance which was developed through a Memorandum of Understanding between the U.S. Food and Drug Administration and the Interstate Shellfish Sanitation Conference. A full text of the current edition of the Model Ordinance incorporated herein by reference is available by contacting the U.S. Food and Drug Administration, Baltimore District Office at 900 Madison Avenue, Baltimore, Maryland 21201. Copies can also be obtained through the Interstate Shellfish Sanitation Conference web page at <http://www.issc.org>.

(b) The scope of this subchapter is to establish the minimum sanitation and recordkeeping requirements for the harvesting, shipping, reshipping of shellstock, and shucking and repacking of raw molluscan shellfish to include clams, oysters, mussels, and whole scallops shipped in both interstate and intrastate commerce.

8:13-1.2 Definitions

In addition to definitions contained in the definition section of the Model Ordinance the following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise.

“DEP” means the New Jersey Department of Environmental Protection.

“Department” means the New Jersey Department of Health and Senior Services.

"FDA" means the U.S. Food and Drug Administration.

"ISSC" means the Interstate Shellfish Sanitation Conference.

"Model Ordinance (M.O.)" means the National Shellfish Sanitation Program's Model Ordinance published as a Notice of Availability in the Federal Register volume 63 issue/page 38659 through 38660 on July 17, 1998 and contained in the "Guide For The Control Of Molluscan Shellfish" under the purview of the Interstate Shellfish Sanitation Conference and published by the U.S. Department of Health and Human Services; Public Health Services; Food and Drug Administration, 1997 Revision, incorporated herein by reference as amended and supplemented.

"NSSP" means the National Shellfish Sanitation Program.

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

"Retail" means a retail sale which is defined as any sale to the ultimate consumer or his/her family, or to a person who will not sell the product.

"Wholesale" means any sale to any other person than the ultimate consumer or his or her family.

8:13-1.3 Prohibited acts

(a) No person shall sell, offer for sale or have in his or her possession with intent to sell without a permit from the DEP any shellfish which have been taken from a place classified as "Prohibited" or otherwise closed to harvesting by the DEP pursuant to N.J.A.C. 7:12 (N.J.S.A. 58:24-1) or from a place condemned by authorities having supervision at the point of origin of the shellfish without permission from such authorities and/or the DEP.

(b) No person shall engage in the wholesale handling of shellfish, operate or conduct an establishment for the shucking, repacking or wet storage of shellfish without a certificate issued by the Department, except that shellstock harvested by a harvester in accordance with the provisions of these rules may be transported and sold to a certified dealer.

(c) No person shall receive or accept any shipment of shellfish for shucking, repacking, shipping or sale unless the New Jersey dealer holds a current certificate issued pursuant to N.J.A.C. 8:13-1.5 and holds a current license issued pursuant to N.J.S.A. 24:15-13. Shellfish originating from out-of-State sources shall be received from states or countries that have received the endorsement of the FDA and the dealer shall be listed in the current Interstate Certified Shellfish Shippers List published by the FDA.

(d) No retailer may repack or shuck shellfish without a certificate from the Department unless it is done on order from the consumer.

8:13-1.4 Model Ordinance requirements

Persons engaged in the handling, shucking, repacking, depuration, wet storage, and shipping of shellfish shall comply with the provisions of the Model Ordinance, except Chapter I, Chapter II, Chapter III, Chapter IV, Chapter V, Chapter VI, Chapter VIII @ .01 and .02C, and Chapter XV which are not being adopted and incorporated herein by reference.

8:13-1.5 Shellfish certificates

(a) Any person desiring to engage or continue to engage in the wholesale handling, shipping, shucking, repacking, wet storage, or depurating of shellfish shall make application in writing on forms supplied by the Department, entitled "Application for Certification to Handle Oysters, Clams or Mussels." Applicants shall provide all identifying information required on the form including name, mailing address, and telephone number of the owner of the business, the location address of the establishment, trade name, name and address of corporate officers, name and county of registered agent if applicable, the type and source of shellfish to be handled, the type of operations to be carried out, and whether shellfish will be sold in interstate commerce.

(b) Upon receipt of such applications and upon approval of the facilities and sanitary condition of the establishment or area, and compliance by the applicant with other provisions of the law and regulations, a certificate shall be issued for such operation by the Department.

(c) All shellfish certificates shall expire on June 30 of each year. A renewal application entitled "Application for Certification to Handle Oysters, Clams or Mussels" shall be completed on forms supplied by the Department with the information required in (a) above and returned to the Department no later than June 30 of the application year. In no case shall a shellfish firm operate without a valid certificate issued by the Department. The certification shall not be transferable with respect to persons or locations. If the certificate operator has ceased operations, the discontinuance of operations statement shall be completed and returned to the Department.

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

8:13-1.6 Suspension, revocation or nonrenewal of certification

(a) Upon evidence duly ascertained by the Department or any local board of health that the holder of the certificate has, or is currently, violating any rule, regulation or statute applicable to wholesale shellfish operations, the Department shall, upon hearing and proof of allegation, suspend, revoke or refuse to renew any such certificate. The hearing shall be conducted pursuant to the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.