

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

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

Source and Effective Date

R.1992 d.384, effective September 8, 1992.
See: 24 N.J.R. 2504(a), 24 N.J.R. 3532(a).

Executive Order No. 66(1978) Expiration Date

Chapter 13, Shellfish, expires on September 8, 1997.

Chapter Historical Note

Chapter 13, Shellfish, became effective July 9, 1974 as R.1974 d.185.
See: 6 N.J.R. 233(b), 6 N.J.R. 310(b).

1978 Revisions: Subchapter 2 became effective May 1, 1978 as R.1978 d.127. See: 10 N.J.R. 103(a), 10 N.J.R. 188(d).

1982 Revisions: Revisions became effective August 2, 1982 as R.1982 d.241. See: 14 N.J.R. 415(a), 14 N.J.R. 835(b).

1986 Revisions: Amendments became effective January 21, 1986 as R.1985 d.691. See: 17 N.J.R. 1370(a), 18 N.J.R. 166(b).

1987 Revisions: This chapter was readopted pursuant to Executive Order No. 66(1978) effective September 8, 1987 as R.1987 d.362. See: 19 N.J.R. 1143(a), 19 N.J.R. 1642(a).

Chapter 13, Shellfish, was readopted pursuant to Executive Order No. 66(1978), effective September 8, 1992. See section annotations for additional rulemaking.

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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.

(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

Subchapter Historical Note

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). Subsequent amendments are as follows:

- 8:13-2.1 Definitions
As amended, R.1982 d.241, effective August 2, 1982. See: 14 N.J.R. 415(a), 14 N.J.R. 835(b).
Amended definition of "fecal coliform" and added definition of "U.S. Standard Bushel".
Amended by R.1985 d.691, effective January 21, 1986. See: 17 N.J.R. 1370(a), 18 N.J.R. 166(b).
Added text to definition "zero hour (0 hour)".
- 8:13-2.3 Prohibited acts
As amended, R.1982 d.241, effective August 2, 1982. See: 14 N.J.R. 415(a), 14 N.J.R. 835(b).
Added last two sentences.
- 8:13-2.4 Certificate requirements
As amended, R.1982 d.241, effective August 2, 1982. See: 14 N.J.R. 415(a), 14 N.J.R. 835(b).
Added to (d) certification limited to depuration and sale of depurated clams. Also added last sentence to (e).
Amended by R.1985 d.691, effective January 21, 1986. See: 17 N.J.R. 1307(a), 18 N.J.R. 166(b).
(f) added.
- 8:13-2.6 Plant design
Amended by R.1985 d.691, effective January 21, 1986. See: 17 N.J.R. 1307(a), 18 N.J.R. 166(b).
- 8:13-2.7 Transportation of clams
As amended, R.1982 d.241, effective August 2, 1982. See: 14 N.J.R. 415(a), 14 N.J.R. 835(b).
Added (b)-(d).

Amended by R.1985 d.691, effective January 21, 1986. See: 17 N.J.R. 1307(a), 18 N.J.R. 166(b).

Substantially amended.

- 8:13-2.8 Source seawater
As amended, R.1982 d.241, effective August 2, 1982. See: 14 N.J.R. 415(a), 14 N.J.R. 835(b).
(b)1 changed "fecal" to "total" coliform.
Amended by R.1985 d.691, effective January 21, 1986. See: 17 N.J.R. 1307(a), 18 N.J.R. 166(b).
(a)3 added text "at the time of harvest."
- 8:13-2.9 Plant equipment
As amended, R.1982 d.241, effective August 2, 1982. See: 14 N.J.R. 415(a), 14 N.J.R. 835(b).
Added iv to (b)8; added 9 to (b) and renumbered old 9 new 10; added last sentence to (c); added iii to (d)1.
Amended by R.1985 d.691, effective January 21, 1986. See: 17 N.J.R. 1307(a), 18 N.J.R. 166(b).
(d) amended; new (e) and (f).
- 8:13-2.10 Washing and culling of clams
Amended by R.1985 d.691, effective January 21, 1986. See: 17 N.J.R. 1307(a), 18 N.J.R. 166(b).
Added text "During the depuration ... of these materials." and "the water shall ... the tanks they".
- 8:13-2.11 Cleaning and sanitizing of equipment
As amended, R.1982 d.241, effective August 2, 1982. See: 14 N.J.R. 415(a), 14 N.J.R. 835(b).
"shall be drained of seawater after each process" added to (a)1. Added last sentence to (a)2.
Amended by R.1985 d.691, effective January 21, 1986. See: 17 N.J.R. 1307(a), 18 N.J.R. 166(b).
Substantially amended.
- 8:13-2.13 Bacteriological sampling
As amended, R.1982 d.241, effective August 2, 1982. See: 14 N.J.R. 415(a), 14 N.J.R. 835(b).
Deleted and added new i to (a)1.
Amended by R.1985 d.691, effective January 21, 1986. See: 17 N.J.R. 1307(a), 18 N.J.R. 166(b).
Substantially amended.
- 8:13-2.14 Recordkeeping
As amended, R.1982 d.241, effective August 2, 1982. See: 14 N.J.R. 415(a), 14 N.J.R. 835(b).
Added 3-5 to (a); renumbered old 3 as new 6; renumbered old 4-11 as new 7-14; renumbered old 12 as new 15; added 16.
Amended by R.1985 d.691, effective January 21, 1986. See: 17 N.J.R. 1307(a), 18 N.J.R. 166(b).
(a)2 added text "or the Department of Environmental Protection section identification numbers"; old (a)14 deleted; (a)15 and 16 renumbered to (a)14 and 15.
- 8:13-2.15 Shellfish shipping tags
R.1982 d.241, effective August 2, 1982. See: 14 N.J.R. 415(a), 14 N.J.R. 835(b).
Subchapter 2 was repealed by R.1990 d.542, effective November 19, 1990, and replaced with new rules. See: 22 N.J.R. 109(a), 22 N.J.R. 3547(a).
- #### 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.