

Chapter 5 – Food Safety Rules

Subchapter 3

SHELLFISH SANITATION RULE

1.0 Authority

This rule is adopted pursuant to 3 V.S.A. § 3003; 18 V.S.A. §§ 102 and 103; and 18 V.S.A. § 4308.

2.0 Purpose

This Rule establishes the requirements necessary to regulate the commerce of molluscan shellfish and to establish a program to protect the public health of consumers by assuring the sale or distribution of shellfish from safe sources and assuring shellfish have not been adulterated during cultivating, harvesting, processing, shipping, or handling.

3.0 Scope

This rule applies to shellfish dealers in Vermont.

4.0 Definitions

4.1 “Authority” means the Vermont Department of Health, which is responsible for the enforcement of this Rule.

4.2 “Commissioner” means the Commissioner for the Vermont Department of Health or a designee to whom the Commissioner has assigned his or her functions.

4.3 “Dealer” means a person to whom a license or certification is issued for the activities of shellstock shipper, shucker-packer, repacker, reshipper, or deperation processor.

4.4 “Department” means the Vermont Department of Health.

4.5 “Facility” means a structure. For other connotations, use person or activity.

4.6 “License” means the document issued by the Department to a person to harvest or transport shellstock for commercial sale.

4.7 “Repacker (RP)” means any person, other than the original certified shucker-packer, who repackages shucked shellfish into other containers.

4.8 “Repacking Shellstock” means the practice of removing shellstock from containers and placing it into other containers.

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

- 4.10** “Shellfish” means all species of:
- 4.10.1** Oysters, clams or mussels, whether:
- 4.10.1.1 Shucked or in the shell;
 - 4.10.1.2 Fresh or frozen; and
 - 4.10.1.3 Whole or in part; and
- 4.10.2** Scallops in any form, except when the final product form is the adductor muscle only.
- 4.11** “Shellstock” means live molluscan shellfish in the shell.
- 4.12** “Shellstock packing” means the process of placing shellstock into containers for introduction into commerce.
- 4.13** “Shellstock Shipper” means a dealer who grows, harvests, buys, or repacks and sells shellstock. They are not authorized to shuck shellfish or to repack shucked shellfish. A shellstock shipper may also ship shucked shellfish.

5.0 License Requirements

- 5.1** A person shall not maintain a shellfish shipping, reshipping, packing, repacking, or dealing operation unless such establishment is licensed pursuant to the provisions of 18 V.S.A. § 4351.
- 5.1.1 Each individual facility shall require a separate license, regardless of ownership. A license expires annually, unless sooner revoked by the Department.
- 5.2** A completed Application for License to Operate a Shellfish Reshipper and Repacker, payment for applicable fees determined in 18 V.S.A. § 4353, and copies of all other required documentation and permits must be submitted to the Department for review no less than 30 days before the expected start of operation.
- 5.3** Additional documentation, when applicable and requested by the Department, including but not limited to:
- 5.3.1 Wastewater system documentation and permits from the Vermont Agency of Natural Resources;
 - 5.3.2 Water system documentation for water systems requiring a permit;
 - 5.3.3 Local permit or zoning approval for proposed operation.
- 5.4** Operations shall submit a plan review prior to any new construction or significant renovation of an existing facility.
- 5.5** Transference of Licenses
- 5.5.1 A license shall not be transferred from one person or corporation to another.

- 5.5.2 When a licensed establishment is sold, the corporation changes, or the establishment relocates or enlarges its operation, the license held by the former entity or person shall be returned to the Department prior to a new license being issued.
- 5.5.3 The new proprietor or management must apply for and receive a license before operating the business.
- 5.6** A variance may be granted by the Commissioner to modify or waive one or more requirements of this rule if the Commissioner determines that a health hazard, safety hazard, or nuisance will not result from the variance.
 - 5.6.1 Each person requesting a variance shall submit the following to the Department:
 - 5.6.1.1 A written statement of the proposed variance of the regulatory requirement;
 - 5.6.1.2 Documentation of how the proposed variance addresses public health hazards and guest safety at the same level of protection as that of the original requirement; and
 - 5.6.1.3 Any other relevant information as required by the Commissioner.
 - 5.6.2 For each variance granted, the licensee shall meet the following requirements:
 - 5.6.2.1 Follow the plans and procedures approved by the Commissioner;
 - 5.6.2.2 Maintain a permanent record of the variance at the facility; and
 - 5.6.2.3 Maintain and provide to the Commissioner, upon request, records that demonstrate that the variance is being followed.

6.0 Requirements for the Operation of Shellfish Shippers, Reshippers, Packers, Repackers, and Dealers

- 6.1** All licensed shellfish reshippers and repackers 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, as amended from time to time.
- 6.2** All establishments must comply with any relevant state and local fire and life safety laws and regulations.