

**PROPOSED REGULATION OF  
THE STATE BOARD OF HEALTH**

**LCB File No. R056-99**

August 19, 1999

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-12, 14-17, NRS 439.200; §13, NRS 439.150.

**Section 1.** Chapter 583 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this regulation.

**Sec. 2.** *As used in NAC 583.540 to 583.590, inclusive, and sections 3 to 11, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this regulation, have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Certificate” means the certificate issued by the health division that authorizes a person to operate as a wholesaler.*

**Sec. 4.** *“Facility” means a facility where shellfish are received, processed, repacked, shucked or distributed.*

**Sec. 5.** *“Health division” means the health division of the department of human resources.*

**Sec. 6.** *“Model ordinance” means the Shellfish Sanitation Model Ordinance adopted by reference by the health division pursuant to section 9 of this regulation.*

**Sec. 7.** *“Wholesaler” means a dealer, depuration processor, repacker, reshipper, shellstock shipper or shucker-packer, as those terms are defined in the model ordinance.*

**Sec. 8.** *A person shall not operate as a wholesaler unless he has been issued a certificate by the health division.*

**Sec. 9. 1.** *The state board of health hereby adopts by reference the Shellfish Sanitation Model Ordinance set forth in the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, 1997 edition, published by the Food and Drug Administration of the United States Department of Health and Human Services, and any subsequent edition that is approved by the state health officer for use in this state. For the purposes of carrying out the provisions of NAC 583.540 to 583.590, inclusive, and sections 3 to 11, inclusive, of this regulation, any reference in the Shellfish Sanitation Model Ordinance to the term “authority,” unless the context otherwise requires, shall be deemed to mean the health division.*

*2. Each subsequent edition of the Shellfish Sanitation Model Ordinance shall be deemed approved by the state board of health unless the state health officer disapproves the edition within 10 days after the date of publication by the Food and Drug Administration. The state health officer shall review each edition issued after the 1997 edition to ensure its suitability for this state.*

*3. A copy of the Shellfish Sanitation Model Ordinance may be obtained from the Interstate Shellfish Sanitation Conference, 115 Atrium Way, Suite 117, Columbia, South Carolina 29223, at no cost, or on the Internet from the website of the Interstate Shellfish Sanitation Conference at <http://www.issc.org>.*

**Sec. 10.** *The health division may deny an application or suspend or revoke a certificate upon any of the following grounds:*

1. *The failure or refusal of an applicant or holder of a certificate to comply with the provisions of NAC 583.540 to 583.590, inclusive and sections 2 to 11, inclusive, of this regulation or any other regulations adopted by the state board of health.*

2. *The failure or refusal of an applicant or holder of a certificate to cooperate with an investigation or inspection conducted by the health division to carry out the provisions of NAC 583.540 to 583.590, inclusive, and sections 2 to 11, inclusive, of this regulation.*

3. *Engaging in the business of a wholesaler without a certificate.*

**Sec. 11.** *An applicant or holder of a certificate who is aggrieved by an action of the health division concerning the denial, suspension or revocation of a certificate may, not later than 30 days after the action of the board is taken, submit a request for a hearing in the manner prescribed in NAC 439.190.*

**Sec. 12.** NAC 583.540 is hereby amended to read as follows:

583.540 “Shellfish” ~~[means all oysters, clams and mussels which are intended for ultimate use as food for human consumption.]~~ *has the meaning ascribed to it in the model ordinance.*

**Sec. 13.** NAC 583.550 is hereby amended to read as follows:

583.550 1. To apply for a certificate ~~[of authority to affix a stamp to containers of shellfish]~~ a person must submit to the health division:

- (a) ~~[His]~~ *A* completed application on a form provided by the health division;
- (b) A written description of the *type of business in which the person wishes to engage and the facility ~~[to]~~ that will* be used;
- (c) A map which ~~[shows]~~ *indicates* the location of the facility; and
- (d) The applicable fee.

2. The health division ~~{will}~~ *shall* issue a certificate to each qualified applicant following ~~{an}~~ *a satisfactory* inspection of his facility. Each certificate ~~{will be issued on the basis of the fiscal year and will expire on June 30 following its issuance. The health division will prorate the fee required of a person who applies for a certificate after July 1.~~

~~—3.— The holder of a certificate may apply to the health division for the renewal of the certificate. The application for renewal must be:~~

~~—(a) Made on a form provided by the health division;~~

~~—(b) Accompanied by the appropriate fee; and~~

~~—(c) Received by the health division before June 1 next preceding the expiration of his certificate.~~

~~—4.— After reinspecting the facility and ascertaining that the holder of the certificate is still qualified, the health division will renew the certificate.~~

~~—5.— } is valid for 1 year.~~

3. *The health division shall, not later than 45 days before a certificate expires, send a notice of renewal and an application for renewal to the holder of the certificate. The notice must include:*

*(a) The amount of the fee for the renewal of the certificate;*

*(b) A statement indicating whether an inspection of the facility is required for the renewal of the certificate; and*

*(c) The date on which the application and fee for renewal must be returned to the health division.*

4. *If the health division has reason to believe that the facility is not in compliance with the provisions of the model ordinance, it may require an inspection of the facility to determine*

*whether to renew the certificate. If the health division determines that an inspection of the facility is required for the renewal of the certificate, the certificate remains in effect until the certificate expires or until the health division makes a determination whether to renew the certificate, whichever occurs later.*

*5. The health division shall not renew the certificate of a holder who fails, without good cause, to return the application and fee for renewal to the health division not later than 30 days before the certificate expires. The provisions of this subsection do not prohibit a holder of a certificate from applying for a new certificate.*

6. The health division ~~with~~ shall charge and collect a nonrefundable fee of ~~[\$500]~~ \$1,250 for the issuance or renewal of a certificate.

**Sec. 14.** NAC 583.560 is hereby amended to read as follows:

583.560 1. The holder of a certificate shall not affix a stamp to a container *of shellfish* unless ~~[the shellfish it contains are alive, have closed shells and are reasonably free of mud.]~~ *he has complied with the provisions of the model ordinance and any applicable regulations adopted by the appropriate health authority.*

*2. As used in this section, “health authority” has the meaning ascribed to it in NRS 439.005.*

**Sec. 15.** NAC 583.570 is hereby amended to read as follows:

583.570 1. The holder of a certificate shall, upon request, submit samples of his shellfish to the health division for analysis.

2. The health division ~~with~~ shall approve the shellfish if ~~[-~~  
~~—(a) The median fecal coliform count does not exceed a most probable number of 230 per 100~~  
~~grams of meat;~~

~~—(b) A plate count at 35°C does not exceed 500,000 per gram; and~~

~~—(c) The following contaminants do not exceed the levels listed:~~

<del>Contaminant</del>	<del>Maximum level</del>
	<del>(parts per million)</del>

~~—Mercury~~ ~~1.0~~

~~—Heptachlor/Heptachlor Epoxide~~ ~~.3~~

~~—Endrin~~ ~~.3~~

~~—Polychlorinated biphenyls~~ ~~5.0~~

~~—Dieldrin~~ ~~.3~~

~~—Kepone~~ ~~.3]~~

*the samples are in compliance with the provisions of the model ordinance.*

**Sec. 16.** NAC 583.590 is hereby amended to read as follows:

583.590 1. The holder of a certificate shall affix his stamp to a tag which is attached to

~~[the container.]~~ *a container of shellfish.*

2. The tag must ~~[state:]~~ *include:*

(a) The name and address of the holder of the certificate;

(b) The number of his certificate; *and*

(c) ~~[The bed from which the shellfish were harvested;~~

~~—(d) The date of the harvest; and~~

~~—(e) The kind and quantity of shellfish in the container.]~~ *Any other information required by*

*the provisions of the model ordinance.*

Sec. 17. NAC 583.580 is hereby repealed.

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**TEXT OF REPEALED SECTION**

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**583.580 Handling and shipment.** The holder of a certificate shall handle and ship all containers to which he affixes his stamp in a manner which will:

1. Prevent spoilage and contamination during shipping; and
2. If the shellfish are not shucked, maintain the temperature required to keep the shellfish alive.