

LCB File No. T021-99

TEMPORARY REGULATION OF THE
STATE BOARD OF HEALTH

ITEMS IN BRACKETS, [] ARE DELETED, ITEMS UNDERLINED ARE ADDED

THE AMENDMENTS TO THESE REGULATIONS ARE CONSIDERED TEMPORARY IN ACCORDANCE WITH SECTION 603 OF THE NEVADA STATE HEALTH DIVISION'S POLICY AND PROCEDURES MANUAL

SHELLFISH

Section 1. Chapter 583 of the NAC is hereby amended by adding thereto the provisions set forth as section 2 to 7, inclusive, of this regulation.

Section 2. As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 583.xxx to 583.xxx, inclusive has the meanings ascribed to them in those sections.

Section 3. The State Board of Health hereby adopts by reference the Model Ordinance contained in the National Shellfish Sanitation Program Guide For the Control Of Molluscan Shellfish and any subsequent revision or amendments issued by the Interstate Shellfish Sanitation Conference, United States Department of Health and Human Services. A copy of the guide may be obtained from Interstate Shellfish Sanitation Conference, 115 Atrium Way, Suite 117, Columbia, South Carolina 29223 at no cost, or it may be downloaded from the internet at www.issc.org. The state health officer or his designee shall review any revision or amendment to this guide to determine whether the revision or amendment is appropriate for the state. Ten days after the guide is revised or amended, the most current amendment or revision shall be deemed adopted by the State Board of Health unless the state health officer or his designee files an objection to the amendment or revision with the State Board of Health. The health division shall act as the authority referenced in the Model Ordinance.

Section 4. “Certificate of authority to affix stamp” defined. “Certificate of authority to affix stamp” means the document issued by the health division of the department of human resources which allows a wholesaler of shellfish to operate.

Section 5. “Health authority” defined. “Health authority” has the meaning ascribed to it by NRS 439.005.

Section 6. “Wholesaler of shellfish” defined. “Wholesaler of shellfish” means a person who is a dealer, shellstock shipper, shucker-packer, repacker, reshipper or depuration processor as defined in the Model Ordinance specified in Section 3 of these regulations.

Section 7. “Wholesaler of shellfish establishment” defined. “Wholesaler of shellfish establishment” means the physical facility where shellfish is received, processed, repacked, shucked or distributed from.

Section 8. No person shall operate as a wholesaler of shellfish unless he has obtained a certificate of authority to affix stamp from the health division.

Section 9. NAC 583.540 is hereby amended to read as follows:
“Shellfish” [means all oysters, clams and mussels which are intended for ultimate use as food for human consumption.] has the meaning ascribed to shellfish in the Model Ordinance specified in Section 3 of these regulations.

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Section 10. NAC 583.550 is hereby amended to read as follows:

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) A [His] completed application on a form provided by the health division;
- (b) A written description of the type of business in which the applicant intends to engage and of the facility to be used;
- (c) A map which shows the location of the facility; [and]
- (d) The applicable fee[.]; and
- (e) Evidence of the ability of the applicant to comply with the requirements of the Model Ordinance specified in Section 3 of these regulations.

2. The health division [will] may issue a certificate of authority to affix stamp to each qualified applicant following a[n] satisfactory inspection of his facility. Each certificate will be issued for no more than one year and must be renewed annually [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.] The health division shall send an invoice to the holder of the certificate of authority to affix stamp at least 45 days prior to the expiration of the certificate. The holder of the certificate must return the invoice with the appropriate renewal fee to the health division no later than 30 days before the date on which the certificate expires. The health division may require an inspection of the wholesaler of shellfish establishment to ensure it meets the requirements of the Model Ordinance specified in Section 3 of these regulations prior to deciding whether to renew a certificate. The existing certificate of authority to affix stamp is deemed valid pending a final determination by the health division of whether to renew the certificate.

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

authority to affix stamp who, without good cause, fails to return the invoice with the appropriate fee within the time limit set forth in subsection 3, is not eligible for certificate of authority to affix stamp renewal but must submit an application for a new certificate of authority to affix stamp.

5. The health division [will] shall charge and collect a nonrefundable fee [of \$500 for the issuance or renewal of a certificate.] from the operator of a wholesaler of shellfish establishment for the annual certificate of authority to affix stamp and other services in accordance with the following schedule:

<u>For initial certificate of authority to affix stamp</u>	<u>\$1250</u>
<u>For renewal of certificate of authority to affix stamp</u>	<u>\$1250</u>

6. An operator of a wholesaler of shellfish establishment may also be required to obtain a permit as a food establishment under the requirements of NRS 446.

Section 11. NAC 583.560 is hereby amended to read as follows:

The holder of a certificate shall not affix a stamp to a container of shellfish unless the wholesaler of shellfish is in substantial compliance with the requirements of the Model Ordinance specified in Section 3 of these regulations, and any health authority codes or regulations. [the shellfish it contains are alive, have closed shells and are reasonably free of mud.]

Section 12. NAC 583.570 is hereby amended to read as follows:

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

2. The health division will approve the shellfish if the shellfish are in compliance with the Model Ordinance specified in Section 3 of these regulations.

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(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 500,00 per gram; and

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

Contaminant	Maximum level (parts per million)
Mercury	1.0
Heptachlor/Heptachlor Epoxide	.3
Endrin	.3
Polychlorinated biphenals	5.0
Dieldrin	.3
Kepone	.3]

(Added to NAC by Bd. of Health, eff. 4-27=84)

Section 13. NAC 583. 580 is hereby amended to read as follows:

The holder of the 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] Be in compliance with the Model Ordinance specified in Section 3 of these regulations.

Section 14. NAC 583.590 is hereby amended to read as follows:

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

2. The tag must state:

- (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] All other information required by the Model Ordinance specified in Section 3 of these regulations;

[**(d) The date of the harvest; and**

(e) The kind and quantity of the shellfish in the container.]

Section 15. Chapter 583 of the NAC is hereby amended by adding hereto the provisions set forth as section 15 and 16 inclusive of this regulation.

Section 16. The health division may deny an application for or suspend or revoke a certificate of authority to affix stamp upon any of the following grounds:

1. The failure or refusal of an applicant or holder of the certificate to comply with any of the provisions of chapter 583 of NRS or regulations adopted by the board of health.

2. The operation of a wholesaler of shellfish establishment without first obtaining a certificate of authority to affix stamp.

3. The failure or refusal of an applicant or holder of a certificate to cooperate with an investigation or inspection by the health division.

Section 17. An applicant or holder of the certificate of authority to affix stamp, who is aggrieved by an action of the health division, relating to the denial, suspension, or revocation of a certificate issued pursuant to this chapter, may file notice of an appeal pursuant to the procedures set forth in chapter 439 of NAC. The health division shall conduct any hearing according to the procedures set forth in chapter 439 of NAC.

Information Statement per NRS 233B.066

Health Division
Bureau of Health Protection Services
Environmental Health Program
December 11, 1998
Temporary Regulations

1. Copies of the proposed amendments were mailed to 20 potential wholesalers of shellfish establishments, all county libraries, and at the six field offices of the Bureau of Health Protection Services. Legal advertisements were run in the Nevada Appeal on October 30 and November 10, 1998 and the Las Vegas Review Journal on November 1 and 10, 1998.

Public workshops were held on November 3 and 5, 1998 in Carson City and Las Vegas, respectively. Comments were solicited from three representatives of industry who attended the Carson City workshop and supported the proposed amendments as written, but wanted to know how the fee for the certificate was established.

2. The number of persons who:
 - (a) Attended the hearing: Carson City, 3; Las Vegas, 4; Reno, 85
 - (b) Testified at each hearing: Carson City, 3; Las Vegas, 4; Reno, 0
 - (c) Submitted to the agency written statements: None
3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary: See #1.
4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change: N/A
5. Estimated economic effects on wholesalers of shellfish establishments regulated under NRS 583 and subject to the oversight of the Nevada State Health Division are as follows:
 - Will establish a new \$1,250 annual permit fee for wholesalers of shellfish establishments.
 - The immediate beneficial effect is to enable wholesalers of shellfish establishments to participate in interstate commerce of molluscan shellfish.
 - No adverse effects on or costs to the public are anticipated.
6. The estimated cost to the agency for enforcement of the proposed regulation is approximately \$25,055 annually for training personnel, travel to and from wholesalers of shellfish establishments for inspections, and printing of regulations.
7. No duplication of any other state or federal regulation exists.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions: N/A
9. The agency expects to collect \$23,750 annually from 19 new permits. Monies collected will be used for salaries; travel; training; vehicle rental; per diem; reference library; membership in the Interstate Shellfish Sanitation Conference; purchase of office and inspection supplies and equipment; printing of annual permits, regulations and inspection forms; and amending regulations for permanent adoption.