

# Dare County Board of Health & Human Services Rules Governing the Operation of Seafood Markets in Dare County, North Carolina

## Section One: Purpose

To establish standards for the operation of retail seafood markets and temporary seafood sales, and to minimize the risk of disease transmission through the handling, processing, and sale of seafood, the Dare County Board of Health declares that the following rules for protection of the public health are hereby Adopted pursuant to the authority granted by Chapter 130A Section 39 of the North Carolina General Statutes, and shall apply throughout Dare County North Carolina.

## Section Two: General Provisions

**Scope.** No person shall construct, operate or renovate or cause to be constructed, operated or renovated any retail seafood market or temporary seafood sales contrary to the provisions of these Rules. These Rules supersede regulations, requirements, rules and standards relative to seafood markets previously adopted by the Dare County Board of Health.

**Conflict.** The provision of any federal, state municipal law, ordinance, regulation or rule establishing requirements and standards affording greater protection to the public health, safety and welfare shall prevail within the jurisdiction of such agency or municipality over the requirements and standards established by these rules.

**Permit.** No person shall operate a retail seafood market or temporary seafood sales until it has been (1) inspected; (2) found to comply with these rules; and (3) permitted by the Dare County Department of Public Health.

## Section Three: Definitions

The following definitions shall apply in the interpretation and enforcement of these Rules:

**Adulterated** - means the condition of the seafood: (1) if it bears or contains any poisonous or deleterious substance which may render it injurious to human health; (2) if it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by federal/state laws, regulations and/or rules, or in excess of such tolerance if so established; (3) if it contains in whole or in part of any filthy, putrid or decomposed substance, or if it is otherwise unfit for human consumption; or (4) if it has been processed, prepared, packed or held under unsanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to human health.

Approved - means food and seafood products that comply with the requirements of the North Carolina Department of Agriculture & Consumer Services (NCDA&CS) and/or the United States Food & Drug Administration (USFDA) and the requirements of these Rules shall be considered as approved.

Board of Health - means the Dare County Board of Health.

Crustacea meat - means and included the meat of crabs, crayfish, lobsters and shrimp.

Department - means the Dare County Department of Public Health or its authorized representative.

Director - means Director of the Dare County Department of Public or his (her) authorized representative.

Food - means any raw, pre-prepackaged ready to eat product, ice or beverage or ingredient used or intended for use or for sale in whole or in part of human consumption.

Permit - means written authorization granted by the Health Director to operate a seafood market or temporary seafood sales and sell or offer for sale seafood products as defined in these rules.

Person - means any individual, firm, association, organization, partnership, business trust, corporation, or company.

Processing - means the heading, gutting, skinning, scaling, scrubbing, washing, or any other actions which remove or alter any parts of seafood products in order to prepare seafood products for sale to the public. All processing shall take place in a permitted facility.

Refrigeration - means capable of maintaining product temperature at forty-one (41 ) degrees Fahrenheit or less.

Sanitize - means the effective bactericidal treatment of clean surfaces and utensils by a process which has been approve by the North Carolina Commission for Health Services through adoption of the 15A NCAC 18A .2619. The sanitizing process shall be effective in destroying vegetative cells of the pathogenic bacteria and in substantially reducing the population of other microorganisms. Sanitization treatment shall be safe for the consumer and shall not adversely affect the product.

Retail Seafood Market - means any establishment or place from, in or on which any raw seafood product is stored, handled and /or offered for retail sale for human consumption. This definition does not include temporary seafood sales.

Shellfish - means an aquatic invertebrate with a shell including but not limited to all varieties of oysters, clams, mussels and scallops.

Temporary Seafood Sales - means the sale of seafood form any movable device, from which a person may sell seafood. For the purposes of this section, this means the sale of seafood from any location which does not fall under the definition of a retail Seafood Market as set forth herein.

## Section Four: Permits

- A. Application. A person seeking permission to operate a retail seafood market or temporary seafood sales shall make written application and shall submit plans and specification to the Department. A person seeking reissue of his (her) permit to operate a retail seafood market or temporary seafood sales shall make written application to the Department. Every applicant shall produce valid, written documentation showing successful completion of a nationally recognized food or seafood handling course.
- B. Plan Review. Plans and specifications proposed for new construction, conversion, or remodeling of a retail seafood market shall be submitted to the Department of review and approval prior to commencing any new construction, conversion or remodeling activity. Plans shall consist of at least a scaled floor layout drawing of the proposed market, and a listing and description of all equipment. Construction, conversion and remodeling shall comply with approved plans and specifications.
- C. Inspection. A permit to operate a retail seafood market or temporary seafood sales shall not be issued or reissued until the market has been inspected or re-inspected by the Department, and found to comply with these Rules. After issuance of a permit, the Department shall conduct an inspection of retail markets during normal operation hours at last one time per year to determine compliance with these Rules. Temporary seafood sales shall be inspected at least biannually if they are open for a sufficient length of time to accommodate bi-annual inspections. Any violation of these Rules shall constitute cause and may subject the proprietor to revocation of his (her) permit. Permits shall expire on January 31 of the succeeding calendar year. Permits may be reissued if the proprietor maintains and operates the market in compliance with these Rules, and makes written application to the Department. Permits shall be posted in a conspicuous place so as to be readily visible by the public at the entrance of the market. Prior to beginning operation, the proprietor shall submit to the Department copies of permits necessary from any other regulatory agency such as the NCDA&CS, USFDA, and the North Carolina Division of Marine Fisheries.

## Section Five: Construction & Operation Standards for Retail Seafood Markets

- A. Floors. Floors shall be constructed so as to be easily cleanable, and shall be kept clean and in good repair. Where seafood is handled, processed or stored; where equipment or utensils are washed; walk-in freezers and refrigerators; and in dressing, locker and toilet rooms; floors shall be constructed of nonabsorbent materials such as concrete, terrazzo, tile or a commercial grade of linoleum. Where water is routinely discharged to the floor or where the floor is subjected to flood-type cleaning: (1) floors shall be constructed of concrete, terrazzo, tile or equal, and

slope to drains; (2) a hot and cold water mixing bib shall be located so that a hose may be connected for washing and rising floors. Floors shall be constructed so as to be free of cleaning obstacles. Floor area shall be sufficient to accommodate all activities necessary and relevant to operation of a seafood market.

- B. Walls & Ceiling. Walls and ceiling shall be constructed so as to be easily cleanable, and shall be kept clean and in good repair. Where seafood is handled, processed or stored; where equipment or utensils are washed; walk-in freezers and refrigerators; and in dressing, locker and toilet rooms; wall and ceilings shall be constructed of nonabsorbent materials, and walls shall have washable surfaces to the highest level reached by splash or spray of water (to a minimum height of six (6) feet from the floor surface).
- C. Lightning & Ventilation. Lightning and ventilation equipment shall be constructed so as to be easily cleanable, and shall be kept clean and in good repair. Areas where seafood is handled and processed; and where equipment or utensils are washed; shall be provided with at least fifty (50) foot-candles of light on the preparation or work surface. In all other areas, at least ten (10) foot-candles of light at height thirty (30) inches above the floor shall be provided. Where seafood is exposed for display, handling, preparation or other purposes, light bulbs shall be shatterproof or shielded so as to preclude the possibility of broken glass falling into the product.
- D. Lavatory & Toilet Facilities. Seafood markets shall have adequate, conveniently located and readily accessible toilet facilities. Toilet room shall be provided with self-closing doors, and kept free of flies and storage. Windows located in the toilet room shall be screened. Fixtures shall be kept clean and in good repair. Durable, legible signs stating that employees must wash their hands before returning to work shall be posted in the toilet rooms. Process areas shall be equipped with adequate, conveniently, located and readily accessible lavatories. Lavatories shall have a mixing faucet, hot and cold running water, and be provided with soap and sanitary towels or an approved hand-drying device. Lavatories shall be kept clean and in good repair. Neither equipment/utensil washing sinks nor processing sinks shall be approved as employee handwashing facilities.
- E. Storage Spaces. Storage spaces shall be kept clean and free from unnecessary articles and offensive or musty odors. All items shall be stored on shelves located at least fifteen (15) inches above the floor or otherwise arranged so as to facilitate thorough cleaning of the room or space. Unless tightly sealed, shelves shall be constructed approximately one (1) inch from the wall to eliminate cracks for roaches. Shelves shall not be covered with paper, cardboard, oilcloth nor any other absorbent material. Wooden cabinets and shelves shall be finished with a clear or light colored material so as to produce smooth, nonabsorbent and easily cleanable surfaces. Single-service containers, wrapping paper, etc. shall be: (1) purchased only in sanitary containers; (2) stored so as to prevent contamination by dust, splash and vermin; and (3) handled in a sanitary manner. Shipping boxes, crates, or other containers shall be washed and rinsed immediately after emptying and prior to

storing. Food and food containers, wrapping paper, etc. shall not be stored under exposed sewer lines.

- F. **Water Supply.** The water supply shall be located, constructed, maintained and operated in accordance with standards recognized by the North Carolina Commission for Health Services through adoption of 15A NCAC 18A .1720. Areas where seafood is handled or processed; where equipment or utensils are washed; can was facilities; dressing, locker and toilet rooms; and, any other areas where water is required for cleaning shall be provided with hot and cold running water under pressure. The capacity of hot water heating equipment shall be based on the number and size of sink compartments, the number of lavatories, a can wash facility, and the volume of hot water required to conduct other processing and cleaning activities. Heating equipment shall deliver hot water at a minimum of temperature of 130 degrees (54 degrees C) to each point of use. Cross-connections with unapproved water supplies are prohibited. If potential backflow conditions exist, than an approve prevention device shall be provided.
- G. **Disposal of Wastes.** Sewage and other liquid wastes shall be disposed of in a public sewer system or, in the absence of a public sewer system, by an approved, properly operation sanitary wastewater treatment and disposal system. Garbage and other solid wastes including by-products shall be collected and stored in cans constructed of leak-proof, nonabsorbent material with tight fitting lids or in other approved containers or methods. Lids shall be kept in place except for cans located inside the establishment and frequently used. Facilities shall be provided for cleaning and storing garbage cans and mops. Cleaning facilities shall include a hot and cold water mixing bib, hot and cold running water, threaded nozzle and curbed impervious pad sloped to drain or other approved facilities or methods. If containerized systems are used for garbage storage, then facilities shall be provided for the cleaning of such systems.
- H. **Insect & Rodent Control.** The establishment shall be kept free of flies, roaches, rodents, ants and other vermin. All openings to the outside shall be protected against the entrance of flies by self-closing doors, screened windows, controlled air currents or other effective means. The premises under control of the proprietor shall be kept neat and clean at all times. Waste material, tin cans, rubbish and other litter shall not be allowed to accumulate on the premises. There shall be no fly or mosquito breeding places, rodent harborages or un-drained areas on the premises. Only pesticides which have been properly labeled and approved for the specific purpose intended shall be used. Such pesticides shall be used in accordance with the manufacturer's directions, and shall be handled and stored so as to prevent any contamination of equipment, utensils and edible products.
- I. **Miscellaneous.** Soiled aprons, clothing and linen shall be kept in containers provided for this purpose. Suitable storage spaces shall be provided for brooms, brushes, hoses, mops, cleaning compounds and other items in routine use. Process sinks shall only be used for dressing, scaling, washing and cutting fish or other

seafood. Wash sinks shall only be used for cleaning equipment and utensils. Ready-to-eat foods shall be handled, displayed and stored in a manner so as to prevent contamination of these items. Mop water shall only be discarded in a mop sink or garbage can wash facility. Operations shall not be conducted in any room used for domestic purposes.

- J. Employees. Employees shall wear clean outer clothing, such as caps, aprons, coats, etc. Employees shall be clean, and shall handle seafood, equipment and utensils in a safe and sanitary manner. No tobacco products shall be used while handling and processing seafood. Employees shall scrupulously wash their hand prior to beginning work, prior to any direct hand contact with product, between handling or processing different type products so as to prevent cross contamination, after each visit to the toilet and otherwise as necessary to promote sanitation in the establishment.
- K. Equipment & Utensils. Equipment and utensils shall be so constructed as to be easily cleanable, and shall be kept clean and in good repair. Food contact surfaces shall, in addition, be easily accessible for cleaning, nonabsorbent, noncorrosive and nontoxic. Stainless steel, phenolic resin, marble slabs or tight wood in which there are no open cracks or joints meet the requirements of these Rules. Equipment and utensils used in the handling and processing of seafood shall be thoroughly cleaned after each use, rinsed with hot water and subjected to an approved sanitizing treatment. Cleaned and sanitized equipment and utensils shall be stored so as to drain, dry and be protect from splash, dust and other contamination.
- L. Processing & Utensil Sinks. Seafood markets shall be equipped with facilities for scaling, drawing and washing fish. These facilities shall consist of: (1) At least a one (1) compartment stainless steel sink with two (2) sloped drainboards that are an integral part of and continuous with the sink; (2) a flexible hand sprayer with hot and cold running water; (3) a crumb-cup strainer in the absence of a garbage disposal unit; and, (4) a sand-trap drain.
- M. Refrigeration. Seafood shall be kept at or below a temperature of forty-one (41) degrees Fahrenheit except when being processed. Mechanical refrigerators shall be equipped with an air temperature thermometer accurate to +/- 3 degrees Fahrenheit. Seafood shall be thawed under refrigeration at a temperature not to exceed forty-one (41) degrees Fahrenheit or under cold running water no warmer than seventy (70) degrees Fahrenheit. Fish and similar products for display and sale shall be stored in nonabsorbent boxes or cases of sufficient depth and size to allow thorough icing at all times. Display boxes or cases shall be insulated to conserve ice and assure effective refrigeration. The inside and outside of display boxes or cases shall be kept clean. The drain or drip from any box or case shall be elevated above the floor to allow thorough cleaning and ventilation. Walk-in refrigerators or freezers shall be equipped with shelves, movable pallets or dollies at least four (4) inches above the floor, and shall be kept clean. Refrigeration shall not be required for salted or brine processed fish. Containers with covers adequate to prevent the



entrance of flies, dust, splash and other contamination shall be used for the display, sale and storage of salted and brine processed fish. The cover, inside and outside of these containers shall be kept clean. Metal containers subject to chemical change as a result of contact with salt (NaCl) or any of its chemical by-products shall not be used for the display, handling or storage of salted or brine processed fish.

- N. Finfish, Shellfish & Crustaceo. Finfish, Shellfish and Crustaceo shall be obtained from an approved source. If the source of oysters, clams or mussels is outside the State of North Carolina, the shipper's name shall be listed in the current United States Food and Drug Administration.
- O. Interstate Certified Shellfish Shippers List. If the source of cooked crustacea meat is outside the state, the packer shall be certified by the regulatory authority in the state or territory of origin. Certification of a cooked crustacean meat packer shall be attested by the presence of an official certificate/permit number on the container in which the product is packed and sold. Shucked shellfish and cooked crustacean meat shall be obtained and stored in the single-service container in which packed at the source. Each unit container shall be clearly identified with the name and address of the packer, re-packer or distributor; certificate/permit number of the packer or re-packer; and, abbreviated name of the state or territory of origin. Single-service shipping containers shall not be reused for the storage of any food including seafood or any single-service item. Shellstock shall be obtained and stored in the container in which packed at the source. Each unit container shall be clearly identified with a uniform label or tag bearing the shipper's name and address; the certificate/permit number issued by the regulatory authority; abbreviated name of the state or territory of origin; date of harvesting; date of shipment and/or reshipment; name of waters from which the shellstock were harvested; kind and quantity of shellstock in the container; and, name and address of the consignee. After each container has been emptied, the shellstock shall be stored at forty-one (41) degrees Fahrenheit or below in clean, well-drained bins or enclosures provided for this exclusive purpose, which are protected against contamination and equipped with a thermometer. The proprietor shall retain bills of sale for all shellfish and cooked crustacean meat purchased for a period of at least one year.

## Section Six: Temporary Seafood Sales

The temporary offering for sale of seafood in any area of Dare County shall be restricted as follows:

- A. An application, plan review, inspection, and permit as set forth in Section IV (a), (b) and (c) shall be obtained prior to selling or offering seafood for sale.
- B. The portion of the vehicle used for storage and transportation shall be enclosed and constructed of smooth materials and be so constructed as to be easily cleaned and maintained in good repair.

- C. All equipment used for storage, display and sales shall be constructed of smooth, nonabsorbent materials and be so constructed as to be easily cleaned and maintained in good repair.
- D. All seafood products displayed for sale shall be stored in covered, labeled, nonabsorbent cases or boxes of sufficient size and depth to permit and maintain thorough icing at all times. Seafood must be unadulterated, iced and well-drained at all times. Seafood must be kept at or below 41 degrees Fahrenheit. Seafood shall not be permitted to float in drip water from melting ice. Ice shall be from an approved source or commercially bagged from an approved facility.
- E. Where vehicles offer shellfish for sale, shellstock shall be stored using mechanical refrigeration at 41 degrees Fahrenheit. The reuse of single service shipping containers and the storage of shucked shellfish in other containers are not allowed.
- F. To prevent the possibility of cross-contamination at temporary seafood sales, storage and sales will be limited to one product, unless the operator has immediate access to an approved hand washing facility.
- G. Fish that are commonly associated with the potential of causing histamine fish poisoning, including but not limited to, tuna, mahi-mahi, bluefish, mackerel, albacore, and wahoo, shall not be offered for sale.
- H. Lavatory and toilet facilities as specified in Section V(d) shall be accessible and located within 200 feet of the establishment. If the proprietor of the establishment does not control the premises where the lavatory and the toilet facilities are located, then he/she shall obtain a written agreement assuring availability for use any time the establishment is in operation.
- I. Processing of seafood products is prohibited and cooked seafood product shall not be sold or offered.
- J. All liquid waste generated from the sale of seafood, including the liquid waste generated during any cleaning or storage shall be contained in a manner approved by the Department and disposed in accordance with Section V(g). All solid waste generated from the sale of seafood shall be collected and stored in leak-proof, nonabsorbent containers with tight fitting lids and disposed in a manner approved by the Department.
- K. Temporary seafood sales devices shall be constructed to ensure proper cleaning. Unless mechanically refrigerated, transport vehicles shall be emptied and cleaned daily.



- L. Individuals engaged in the sale of seafood products shall wear clean single use disposable gloves while handling seafood product, wear clean clothing and handle all products in a sanitary manner.
- M. Records shall be kept for one year disclosing the source of the seafood products for sale. .

## Section Seven: Records

The owner shall maintain records disclosing the source of seafood sold or processed for a period thereafter of at least one year

## Section Eight: Right of Entry

Pursuant to authority granted by the North Carolina General Statute 130A Section 17, the Department shall have the right to enter upon the premises of any seafood market or other facility for the purpose of conducting an inspection and determining compliance with these Rules.

## Section Nine: Appeals Procedure

- A. Director Appeals concerning interpretation and enforcement of these Rules shall be made by petition to the Director and shall be made within fifteen (15) days of the challenged action. The director may require the appellant to submit such information as deemed necessary to make a decision concerning interpretation and enforcement. The Director shall respond to affirm, modify or reverse the challenged action. When granting variance from these Rules, the Director may impose such conditions as deemed necessary to protect the public health.
- B. Board of Health Appeals concerning decision of the Director shall be made by written petition to the Board of Health and shall be made within fifteen (15) days of the challenged action. The Board of Health shall conduct a hearing within forty-five (45) days after receipt of an appeal petition and shall give the appellant not less than fifteen (15) days notice of the date, time and place of the hearing. The Board of Health shall respond to affirm, modify or reverse the challenged action. When granting variance from these Rules, the Board of Health may impose such conditions as deemed necessary to protect the public health.

## Section Ten: Remedies

If a person violates any part of these Rules, then he (she) shall be guilty of a misdemeanor and shall be subject to the sanctions provided in Chapter 130A Section 25 of the North Carolina General Statutes.

## Section Eleven: Severability

If any provision of these Rules or the application thereof to any person or any circumstance is declared invalid, then the remainder of these Rules or the application of such provisions to other persons or circumstances shall not thereby be affected.

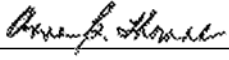
## Section Twelve: Effective Date

Rewritten rules approved and adopted on March 23, 2012, by the Dare County Board of Health effective on and after May 23, 2012.

Signed : 

Roger Sears, Chairman

Dare County Board of Health

Signed : 

Anne Thomas, Director

Dare County Health Department



## County of Dare

### Department of Health & Human Services

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