

CHAPTER 49. SHELLFISH

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Authority

The provisions of this Chapter 49 issued under sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20); amended under the Food Act (31 P. S. §§ 20.1—20.1B), unless otherwise noted.

Source

The provisions of this Chapter 49 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; renumbered from 25 Pa. Code Chapter 153, June 7, 1996, effective June 8, 1996, 26 Pa.B. 2707, unless otherwise noted. Immediately preceding text appears at serial pages (154265) to (154294).

Cross References

This chapter cited in 7 Pa. Code § 46.3 (relating to definitions); 7 Pa. Code § 46.219 (relating to molluscan shellfish); 28 Pa. Code § 17.91 (relating to permits); 28 Pa. Code § 17.92 (relating to minimum program activities); and 28 Pa. Code § 17.94 (relating to staff training requirements).

Subchapter A. GENERAL PROVISIONS

- Sec. 49.1. Definitions.
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§ 49.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless otherwise defined in the NSSP Model Ordinance:

*Dealer*—A shellstock shipper, shucker-packer, repacker, reshipper or depuration processor.

*Department*—The Department of Agriculture of the Commonwealth.

*Depuration or controlled purification*—The process that uses a controlled aquatic environment to reduce the level of pathogens or poisonous or deleterious substances in live shellfish.

*Facility*—A structure.

*Food Act*—The Food Act (31 P. S. §§ 20.1—20.18).

*Freight-forwarder*—A person who transports shellfish for a third party owner by vehicle or vessel, or who stores shellfish at a location for a short period of time while the shellfish are in transit.

*HACCP—Hazard Analysis Critical Control Point*—A system developed by the National Advisory Committee on Microbiological Criteria for Foods that identifies and monitors specific foodborne hazards that can adversely affect the safety of the food products.

*NSSP Model Ordinance or National Shellfish Sanitation Program Model Ordinance*—As set forth in the *Guide for the Control of Molluscan Shellfish* under the purview of the Interstate Shellfish Sanitation Conference, and published by the United States Department of Health and Human Services; Public Health Services; Food and Drug Administration, or the most current successor document.

*Person*—An individual, partnership, association, company, corporation or other legal entity. The term includes the officers, employees and agents of a partnership, association, company, corporation or other legal entity.

*Repacker*—A person other than the original certified shucker-packer who repacks shucked shellfish into other containers for distribution or sale, or repacks and resells shellstock but does not shuck shellfish.

*Reshipper*—A person who purchases shucked shellfish or shellstock from other certified shippers and sells the product, without repacking or relabeling, to other certified shippers, wholesalers or retailers.

*Secretary*—The Secretary of the Department.

*Shellstock shipper*—A person who grows, harvests, buys or repacks, and sells shellstock. The term includes a shipper who ships previously shucked and packed shellfish, but does not shuck shellfish nor repack shucked shellfish.

*Shucker-packer*—A person who shucks and packs shellfish or who acts as a shellstock shipper or reshipper, or who repacks shellfish originating from other shellfish facilities that are certified in accordance with § 49.3 (relating to certification and compliance).

#### Authority

The provisions of this § 49.1 amended under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

#### Source

The provisions of this § 49.1 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial pages (301713) to (301714) and (217565).

**§ 49.2. Scope.**

A person who processes, distributes, ships, transports, stores, offers for sale or sells shellfish in this Commonwealth shall comply with this chapter and the NSSP Model Ordinance. The NSSP Model Ordinance can be viewed at [www.cfsan.fda.gov/~ear/nss2-toc.html](http://www.cfsan.fda.gov/~ear/nss2-toc.html).

**Authority**

The provisions of this § 49.2 amended under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

**Source**

The provisions of this § 49.2 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial pages (217565) to (217566).

**§ 49.3. Certification and compliance.**

(a) A dealer may not engage commercially in the wholesale sale, shipping, processing, purchasing or selling of shellfish without the following:

(1) Compliance with this chapter, the NSSP Model Ordinance and the Food Act.

(2) Application for and receipt of a valid shellfish facility certificate from the Department.

(b) A shellfish facility certificate shall show the dealer's name, address and certification number. The activities of the dealer shall be limited to activities covered by the certification. The certification number will indicate the type of shellfish facility the dealer is authorized to operate. These types of shellfish facilities, and acceptable abbreviations, are as follows:

(1) RP—Repacker.

(2) RS—Reshipper.

(3) SP—Shucker-Packer.

(4) SS—Shellstock Shipper.

(5) DP—Depuration processor.

(c) The shellfish facility certificate shall be posted in the facility in a conspicuous place.

(d) The certification requirements do not apply to the sale of shellfish for consumption on the premises or by a retail food establishment that sells shellfish to ultimate consumers.

(e) The Department is empowered to revoke or suspend a shellfish facility certification held by a dealer who violates this chapter, or who violates any provision of the NSSP Model Ordinance.

(f) Whenever the shellfish facility certification is revoked or suspended, the certificateholder will be notified in writing of the violations which caused

the revocation or suspension. The Department will notify the United States Food and Drug Administration (FDA) of the action when interstate certified shellfish dealers are involved so that the dealer's business name and certification number may be removed from the FDA Interstate Certified Shellfish Shippers List.

(g) A person required to obtain shellfish facility certification from the Department under this section shall apply annually for the certificate on forms provided by the Department. The certification expires automatically on October 31 following the date of issue.

#### **Authority**

The provisions of this § 49.3 amended under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

#### **Source**

The provisions of this § 49.3 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial pages (217566) to (217567).

#### **Cross References**

This section cited in 7 Pa. Code § 49.1 (relating to definitions).

### **§ 49.4. Records and labeling.**

A dealer shall maintain complete, accurate and legible transaction records which provide the information necessary to trace purchases and sales of shellfish back to their source. A dealer shall keep and retain records and maintain product labeling in compliance with the standards and requirements of this chapter and the NSSP Model Ordinance and the Food Act. Current HACCP plans for molluscan shellfish shall be readily available and easily identified for the Department.

#### **Authority**

The provisions of this § 49.4 amended under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

#### **Source**

The provisions of this § 49.4 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial pages (217567) to (217568).

#### **Cross References**

This section cited in 7 Pa. Code § 49.18 (relating to packing of shucked shellfish).

**§ 49.5. Inspection and sampling.**

(a) The Department may inspect facilities falling under this chapter to ascertain compliance or noncompliance with this chapter.

(b) After the Department's personnel present identification, the shellfish facility operator and its personnel shall allow the Department to determine if the shellfish facility is in compliance with this chapter by allowing Department personnel access to the shellfish facility, allowing inspection and providing information and records to which the Department is entitled under the Food Act or this chapter, during the shellfish facility's hours of operation and other reasonable times if the facility is not open during normal business hours.

(c) The Department and its employees and agents may also conduct inspections whenever a person presents information to the Department giving the Department reason to believe that there exists a violation of this chapter, of a shellfish facility certification issued under this chapter, or of orders issued by the Department.

(d) The Department and its authorized agents may secure samples of shellfish and processed shellfish products for laboratory examination from any lot of shellfish and will be permitted to examine the records of the facility to obtain information pertaining to shellfish harvested, purchased, received, processed, sold, held, distributed or shipped, and to personnel employed.

(e) The Department or its authorized agent is authorized to detain a shellfish product if there is cause to believe it is adulterated or misbranded. It is unlawful to remove or dispose of a detained product without a determination of the Secretary, in accordance with section 6 of the Food Act (31 P. S. § 20.6), authorizing the removal or disposition.

(f) Laboratory analyses to be performed shall be conducted in accordance with the most current edition of the following:

(1) The American Public Health Association's Recommended Laboratory Procedures for the Examination of Seawater and Shellfish.

(2) The United States Food and Drug Administration's Bacteriological Analytical Manual.

(3) Official Methods of Analysis of the Association of Official Analytical Chemists.

(4) Compendium of Methods for the Microbiological Examination of Foods, compiled by the American Public Health Association's Technical Committee on Microbiological Methods for Foods.

(5) Standard Methods for the Examination of Water and Wastewater, prepared and published jointly by the American Public Health Association.

**Authority**

The provisions of this § 49.5 amended under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

**Source**

The provisions of this § 49.5 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial pages (217568) to (217570).

**§ 49.6. Source.**

(a) A dealer in this Commonwealth may not have in his possession for processing, offer for sale or sell shellfish unless the shellfish have been obtained from interstate dealers who are listed in the United States Food and Drug Administration's Interstate Certified Shellfish Shippers List, or intraState dealers certified by the Department.

(b) A dealer who knowingly or willfully alters or damages or loans or transfers to another dealer a shellfish facility certification number or shellfish tags, or a dealer who uses the shellfish facility certification number or shellfish tags other than the dealer to whom it was issued, is in violation of this chapter.

**Authority**

The provisions of this § 49.6 issued under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

**Source**

The provisions of this § 49.6 adopted December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial page (217570).

**§ 49.7. Freight-forwarders.**

A freight-forwarder shall maintain shellfish (other than frozen shellfish) at an ambient temperature of 45° Fahrenheit while being transported. A freight-forwarder shall maintain shell fish (other than frozen shellfish) at an ambient temperature of 45° Fahrenheit when maintained in a staging or layover area for more than 1 hour.

**Source**

The provisions of this § 49.7 adopted October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285.

**Subchapter B. [Reserved]****§§ 49.11—49.13. [Reserved].****Source**

The provisions of these §§ 49.11—49.13 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; reserved October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial pages (217570) to (217571).

**§§ 49.14—49.20. [Reserved].****Source**

The provisions of this § 49.14 adopted December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; reserved October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial pages (217572) to (217575).

**§ 49.21. [Reserved].****Source**

The provisions of this § 49.21 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; reserved December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial page (4727).

**§ 49.22. [Reserved].****Source**

The provisions of this § 49.22 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; reserved December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial page (4727).

**Subchapter C. CONSTRUCTION AND MAINTENANCE  
OF PHYSICAL FACILITIES**

Sec.	
49.31.	Submission of plans.
49.32—49.34.	[Reserved].
49.35.	Ventilation.
49.36.	Locker area.
49.37.	[Reserved].
49.38.	[Reserved].
49.39.	[Reserved].

**§ 49.31. Submission of plans.**

(a) Whenever a shellfish processing, depuration or controlled purification facility is constructed, remodeled or altered and whenever an existing structure is converted to use as a shellfish processing, depuration or controlled purification facility, properly prepared plans and specifications for the construction, remodeling or conversion shall be submitted to the Department for review and approval before construction, remodeling or conversion is begun.

(b) The plans and specifications must indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas and the type and model of proposed fixed equipment and facilities. A shellfish processing facility, depuration or controlled purification plant may not be constructed, remodeled, altered or converted unless the plans and specifications are first approved by the Department. The approval will be based on compliance with this chapter and NSSP Model Ordinance.

**Authority**

The provisions of this § 49.31 amended under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

**Source**

The provisions of this § 49.31 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial pages (217575) to (217576).

**§§ 49.32—49.34. [Reserved].****Source**

The provisions of this § 49.32 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; reserved October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial pages (217576) to (217577).

**§ 49.35. Ventilation.**

A room in which shellfish are processed, stored or handled shall be well ventilated to minimize odors, noxious fumes, vapors and condensation. The operation of cooking, heating or ventilation equipment may not create conditions that may cause shellfish to become contaminated and may not create an unlawful discharge.

**Authority**

The provisions of this § 49.35 amended under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

**Source**

The provisions of this § 49.35 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial page (4729).

**§ 49.36. Locker area.**

Adequate facilities shall be provided for the orderly storage of employe clothing and personal belongings.

**Authority**

The provisions of this § 49.36 amended under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

**Source**

The provisions of this § 49.36 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial page (4729).

**§ 49.37. [Reserved].****Source**

The provisions of this § 49.37 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; reserved December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial pages (4729) to (4730).

**§ 49.38. [Reserved].****Source**

The provisions of this § 49.38 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; reserved December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial page (4730).

**§ 49.39. [Reserved].****Source**

The provisions of this § 49.39 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; reserved December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial page (4730).

**Subchapter D. SHELLFISH PROCESSING:  
SANITARY FACILITIES AND CONTROLS**

- Sec.  
49.41. Water supply.  
49.42. Plumbing.  
49.43. Toilet facilities.  
49.44. Hand wash sinks.  
49.45. Sewage.  
49.46. Garbage and refuse.  
49.47. Insect and rodent control.

**§ 49.41. Water supply.**

(a) Potable water of sufficient quantity to meet the needs of the shellfish facility shall be provided from a source approved by the Department or be under permit from the Department of Environmental Protection. Water quality must meet the requirements of 25 Pa. Code Chapter 109 (relating to safe drinking water). Noncommunity water supplies shall be designed, constructed and operated in accordance with the Department of Environmental Protection's Bureau of Water Supply and Community Health Manual and 25 Pa. Code Chapter 109.

- (b) Hot and cold water under pressure shall be provided to each plumbing fixture used for cleaning, washing or sanitizing purposes in:
- (1) Areas where shellfish are processed.
  - (2) Areas where equipment, utensils or containers are cleaned.
  - (3) Sanitary facilities.

**Authority**

The provisions of this § 49.41 issued under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

**Source**

The provisions of this § 49.41 adopted December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial page (217579).

**§ 49.42. Plumbing.**

- (a) Plumbing must be designed, constructed and installed in accordance with Chapter 3 of the Pennsylvania Construction Code Act (35 P. S. §§ 7201.301—7201.304), in a manner that prevents contamination of the water supply or the creation of an unsanitary condition.
- (b) There may be no cross-connections between the approved pressure water supply and water from a nonapproved source. There may be no fixtures or connections through which the approved pressure supply might be contaminated by backsiphonage. When required, adequate devices shall be installed to protect fixtures and equipment against backflow and backsiphonage.
- (c) Blower drains may not be directly connected with the sewers, but shall have a minimum air gap of 4 inches. Corrosion resistant piping having square sanitary threads shall be used to a point of 2 inches above the overflow level of the tank and so constructed as to be easily cleanable.
- (d) Drains or waste lines may not be located above shellfish storage or processing areas.

**Authority**

The provisions of this § 49.42 issued under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

**Source**

The provisions of this § 49.42 adopted December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial page (217580).

**§ 49.43. Toilet facilities.**

- (a) At least one conveniently-located toilet facility shall be provided for employees. There need not be a separate toilet facility for each gender.
- (b) Toilet rooms shall be ventilated by a direct opening to the outer air or by a mechanical ventilating system.

(c) Toilet facilities, including rooms and fixtures, shall be kept in a clean condition and in good repair at all times.

(d) The doors of toilet rooms shall be tight fitting and self-closing, and the rooms may not open directly into processing areas.

(e) Toilet tissue shall be provided. Easily cleanable receptacles shall be provided for waste materials. The receptacles in toilet rooms shall be covered.

**Authority**

The provisions of this § 49.43 issued under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

**Source**

The provisions of this § 49.43 adopted December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial pages (217580) and (237815).

**§ 49.44. Hand wash sinks.**

(a) Hand wash sinks shall be provided, adequate in number and size for the number of employees, convenient to work areas and equipped with cold and hot running water. Hot water of at least the minimum temperature required by the NSSP Model Ordinance shall be provided from a hot and cold mixing or combination faucet. Hand wash sinks shall be located within or immediately adjacent to toilets and within processing areas.

(b) Hand cleansing soap or detergent and approved sanitary towels or other approved hand-drying devices shall be provided at hand wash sinks.

(c) Three-compartment sinks used for washing and sanitizing equipment and utensils may not be used for handwashing.

**Authority**

The provisions of this § 49.44 issued under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

**Source**

The provisions of this § 49.44 adopted December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial page (237815).

**§ 49.45. Sewage.**

Sewage disposal systems shall be approved by the local authority and must comply with 25 Pa. Code Chapters 71, 73 and 243 (relating to the administration of sewage facilities planning program; standards for onlot sewage treatment facilities; and nuisances), and The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

**Authority**

The provisions of this § 49.45 issued under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

**Source**

The provisions of this § 49.45 adopted December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial page (237815).

**§ 49.46. Garbage and refuse.**

(a) Garbage and refuse shall be kept in leakproof, nonabsorbent containers which shall be kept covered with tight-fitting lids when filled or stored, or when not in continuous use. The containers are not required to be covered when stored in a special vermin proofed room or enclosure, or in a waste refrigerator. Other refuse shall be stored in containers, rooms or areas in an approved manner.

(b) Adequate cleaning facilities shall be provided and each container, room or area shall be thoroughly cleaned after the emptying or removal of garbage and refuse.

(c) Garbage and refuse shall be disposed of with sufficient frequency and in a manner to prevent contamination of shellfish and surrounding processing areas.

(d) Outside garbage and refuse storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers, dumpsters and compactor systems located outside shall be stored on or above a smooth surface of nonabsorbent material such as concrete or machine-laid asphalt that is kept clean and maintained in good repair.

(e) Disposal of garbage and refuse shall conform to section 201 of the Solid Waste Management Act (35 P. S. § 6018.201).

**Authority**

The provisions of this § 49.46 issued under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

**Source**

The provisions of this § 49.46 adopted December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155.

**Cross References**

This section cited in 7 Pa. Code § 49.51 (relating to shucking).

**§ 49.47. Insect and rodent control.**

(a) Safe and effective measures shall be used to prevent the entry of insects, rodents and other vermin, and to kill and capture insects and vermin which enter the facility despite other control measures.

(b) Openings to the outside shall be effectively protected against the entry of vermin and insects by tight-fitting, self-closing doors, closed windows, effective screening, controlled air curtains or other means. Screening material may not be less than 16 mesh per inch.

(c) Necessary internal insect and vermin control measures shall be used, and the measures shall be in compliance with State and Federal regulations. The use of insecticides and rodenticides is permitted only under precautions and restrictions that will prevent the contamination of shellfish or packaging materials with illegal residues, and cause no health hazards to employees.

(d) The storage and use of pesticides in a shellfish facility shall be prohibited unless used in full compliance with the manufacturer's label or used under the control of a certified pesticide applicator.

**Authority**

The provisions of this § 49.47 amended under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

**Source**

The provisions of this § 49.47 adopted December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial pages (237816) and (217583).

**Subchapter E. SHUCKING AREA AND EQUIPMENT**

Sec.

- 49.51. Shucking.
- 49.52. Shucking benches and tables.
- 49.53. Utensils and equipment construction.
- 49.54. Bactericidal treatment of utensils and equipment.
- 49.55. Equipment and utensil handling and storage.
- 49.56. General maintenance.

**§ 49.51. Shucking.**

(a) Only clean, live shellstock, kept separate from different sources, maintained at the required temperature, and received from an approved source, shall be shucked. Shellfish with badly broken shells shall be discarded.

(b) Shellfish shall be shucked in a manner that will not subject the shucked meat to contamination.

(c) The use of "dip" buckets for hand or knife rinsing is prohibited.

(d) A shellfish shucker may not go into or through the packing room for any purpose, except when the shucker operates in a dual shucking packing capacity. If the shucker is operating in a dual capacity, the shucker shall first change to clean clothing and thoroughly wash his hands and exposed portions of his arms.

(e) Shells from which shellfish meats have been removed, and other nonedible materials shall be removed promptly from the shucking area and disposed of consistent with § 49.46 (relating to garbage and refuse).

**Authority**

The provisions of this § 49.51 amended under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

**Source**

The provisions of this § 49.51 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial pages (217583) to (217584).

**§ 49.52. Shucking benches and tables.**

(a) Shucking benches and tables shall be designed and constructed of impervious, noncorrosive material, smooth and free from cracks and crevices, and sloped to a drain. Benches shall drain completely and rapidly, and drainage shall be directed away from stored shellfish.

(b) Shucking blocks shall be of solid piece construction, easily cleanable, fabricated from safe material and free from cracks and crevices.

**Authority**

The provisions of this § 49.52 amended under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

**Source**

The provisions of this § 49.52 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial page (4731).

**§ 49.53. Utensils and equipment construction.**

(a) Food contact surfaces of utensils and equipment, including those used for the handling of ice, must be designed to be easily cleaned, kept in good repair and constructed of safe material.

(b) The “Shellfish Industry Equipment Construction Guides,” developed for use with the Public Health Service-States-Industry Cooperative Program for the Certification of Interstate Shellfish Shippers, as appended to the “Guide for the Control of Molluscan Shellfish” (developed under the purview of the Interstate

Shellfish Sanitation Conference and published by the United States Department of Health and Human Services; Public Health Services; Food and Drug Administration) is incorporated by reference. The “Shellfish Industry Equipment Construction Guide” can be viewed at [www.cfsan.fda.gov/~ear/nss2-43a.html](http://www.cfsan.fda.gov/~ear/nss2-43a.html).

(c) Equipment and utensils must be designed, installed and operated in accordance with the “Shellfish Industry Equipment Construction Guide,” and the standards and criteria established by the National Sanitation Foundation, unless otherwise established by this chapter.

(d) Devices which use compressed air to circulate wash water around and through the product, must be properly designed and constructed as to be easily dismantled for cleaning, examination and repair. The design and construction will be approved by the Department. Blowers shall follow the guidelines of the “Shellfish Industry Equipment Construction Guide.”

(e) Single service articles or containers must be made from clean, sanitary, safe materials and may not impart odors, color or taste, or contribute to the contamination of shellfish. Articles and packages intended for single service use may not be reused.

(f) Pots, pans and utensil washers must be designed, constructed, installed, maintained and operated to comply with the manufacturer’s instructions and in accordance with the applicable standards for commercial spray-type washing machines established by the National Sanitation Foundation.

#### Authority

The provisions of this § 49.53 amended under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

#### Source

The provisions of this § 49.53 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial pages (217584) to (217585).

### § 49.54. Bactericidal treatment of utensils and equipment.

(a) Adequate cleaning facilities, including three-compartment sinks, or utensil washing machines, brushes, detergents, sanitizers, hot water and pressure hoses shall be available for use within the shellfish facility for proper cleaning and sanitizing of equipment and utensils.

(b) Shucking benches and stools, shucking blocks, tables, skimmers, blowers, colanders, buckets or other equipment used in the processing operation shall be cleaned and sanitized as frequently as necessary during and at the end of each day’s operation.

(c) If there is a need for a slop sink or device to discard liquid waste, the sink or device shall be provided in addition to the three-compartment sink. Cleaning

wastes may not be emptied into sinks used for hand washing, or the processing of shellfish or the cleaning and sanitizing of utensils.

(d) A three-compartment sink shall be used for the manual washing and sanitizing of equipment and utensils. Equipment and utensils shall be thoroughly washed in a warm detergent solution which is kept reasonably clean, rinsed free of the solution and sanitized.

(e) Equipment too large or impractical to treat by the methods in subsection (c) or (d) may be cleaned, followed by spraying or swabbing the equipment with a chemical sanitizing solution of at least twice the minimum strength required for the particular sanitizing solution when used for immersion sanitization. This may be accomplished by either of the following systems:

(i) A clean-out-of-place system (C.O.P.) that allows the equipment to be moved (for cleaning purposes) from the position in which it is ordinarily used.

(ii) A central cleaning system that pipes a supply of hot or cold water, with or without chemicals, to a number of cleaning stations placed throughout the shellfish processing area.

(f) Cleaning compounds and sanitizing agents shall be safe and adequate under use conditions. Chemical sanitizing agents may not have concentrations higher than the maximum permitted under 21 CFR 178.1010 (relating to sanitizing solutions) and a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used. Sanitizing solutions at effective concentrations established by the United States Food and Drug Administration, Department of Health and Human Services under 21 CFR 178.1010 are incorporated by reference.

#### Authority

The provisions of this § 49.54 amended under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

#### Source

The provisions of this § 49.54 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial pages (217585) to (217586).

### § 49.55. Equipment and utensil handling and storage.

(a) Adequate storage facilities shall be provided for equipment and utensils which have been cleaned and sanitized.

(b) Single-use containers and covers shall be kept in original cartons until used, kept clean and dry until used and stored off the floor and away from walls to facilitate inspecting and cleaning the area.

(c) Unused equipment and materials not necessary to facility operation may not be stored in rooms used for shellstock storage, shucking, packing, repacking or in equipment and container store rooms.

**Authority**

The provisions of this § 49.55 issued under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

**Source**

The provisions of this § 49.55 adopted December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial pages (217586) to (217587).

**§ 49.56. General maintenance.**

(a) Shellfish processing facilities shall be kept in good condition and cleaned as necessary to maintain sanitary conditions. Cleaning operations may not cause contamination of shellfish and food-contact surfaces. Supplies used in the cleaning and sanitizing operations shall be safe and effective for that purpose.

(b) Only authorized equipment and persons shall be permitted in the shellfish processing area. Dogs, cats, birds or other animals or unauthorized persons may not be allowed in areas of the shellfish facility that are used for processing, holding, storing or transporting of shellfish except that patrol dogs accompanying security or police officers are permitted.

**Authority**

The provisions of this § 49.56 amended under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

**Source**

The provisions of this § 49.56 adopted December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial page (217587).

**Subchapter F. EMPLOYEE HEALTH AND CLEANLINESS**

Sec.	
49.61.	Health.
49.62.	Cleanliness.
49.63.	[Reserved].
49.64.	[Reserved].
49.65.	[Reserved].
49.66.	[Reserved].
49.71.	[Reserved].
49.72.	[Reserved].

- 49.81. [Reserved].
- 49.82. [Reserved].
- 49.83. [Reserved].
- 49.84. [Reserved].
- 49.91. [Reserved].

### § 49.61. Health.

(a) A person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease, or while afflicted with a boil, an infected wound or an acute respiratory infection, may not work in a shellfish facility in a capacity in which there is a likelihood of the person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.

(b) An owner or manager who has reason to suspect that an employee has contracted a communicable disease shall immediately notify the Department. Pending appropriate action by the health officials, the employee shall be excluded from the facility.

#### Authority

The provisions of this § 49.61 amended under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

#### Source

The provisions of this § 49.61 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial pages (217587) to (217588).

### § 49.62. Cleanliness.

(a) Employees and other persons who handle shellfish shall wash their hands and exposed portions of their arms with soap and warm water before beginning work, and during work as often as necessary following other activities, such as smoking, eating, cleaning or visits to the toilet. Hands, or rubber gloves when used, shall be washed and sanitized before manually handling shellfish.

(b) A person may not eat food, drink beverages or use tobacco in areas where shellfish is being processed or in areas used for washing equipment or utensils.

(c) Employees shucking or handling shellfish meat shall wear clean aprons or coats and effective hair restraints. When manual handling of shellfish meat becomes necessary, sanitized rubber gloves or the equivalent shall be worn, or the hands shall be washed and sanitized immediately before the manual handling. Finger cots, gloves or shields, if worn by shuckers, shall be sanitized as often as necessary and shall be made of nonabsorbent material.

**Authority**

The provisions of this § 49.62 amended under the act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

**Source**

The provisions of this § 49.62 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155; amended October 13, 2006, effective October 14, 2006, 36 Pa.B. 6285. Immediately preceding text appears at serial page (217588).

**§ 49.63. [Reserved].****Source**

The provisions of this § 49.63 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; reserved December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial page (4733).

**§ 49.64. [Reserved].****Source**

The provisions of this § 49.64 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; reserved December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial pages (4733) to (4734).

**§ 49.65. [Reserved].****Source**

The provisions of this § 49.65 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; reserved December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial page (4734).

**§ 49.66. [Reserved].****Source**

The provisions of this § 49.66 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; reserved December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial page (4734).

**§ 49.71. [Reserved].****Source**

The provisions of this § 49.71 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; reserved December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial page (4735).

**§ 49.72. [Reserved].**

**Source**

The provisions of this § 49.72 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; reserved December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial page (4735).

**§ 49.81. [Reserved].**

**Source**

The provisions of this § 49.81 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; reserved December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial page (4735).

**§ 49.82. [Reserved].**

**Source**

The provisions of this § 49.82 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; reserved December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial pages (4735) to (4736).

**§ 49.83. [Reserved].**

**Source**

The provisions of this § 49.83 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; reserved December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial page (4736).

**§ 49.84. [Reserved].**

**Source**

The provisions of this § 49.84 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; reserved December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial page (4736).

**§ 49.91. [Reserved].**

**Source**

The provisions of this § 49.91 adopted September 8, 1971, effective September 9, 1971, 1 Pa.B. 1828; reserved December 14, 1990, effective December 15, 1990, 20 Pa.B. 6155. Immediately preceding text appears at serial page (4736).

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