

## FISH and SHELLFISH IN FOOD SERVICE ESTABLISHMENTS

### 3-201.11 Compliance with Food Law. [590.003(A)]

(D) Fish, other than those specified in paragraph 3-402.11(B), that are intended for consumption in raw or undercooked form and allowed as specified in 3-401.11(D), may be offered for sale or service if they are obtained from a supplier that freezes the fish as specified under 3-402.11; or if they are frozen on the premises as specified under 3-402.11 and records are retained as specified under 3-402.12.

### 3-201.14 Fish.

(A) Fish that are received for sale or service shall be:

- (1) Commercially and legally caught or harvested; <sup>P</sup> or
- (2) Approved for sale or service. <sup>P</sup>

(B) Molluscan shellfish that are recreationally caught may not be received for sale or service. <sup>P</sup>

### 3-201.15 (A) Molluscan Shellfish

(A) Molluscan shellfish shall be obtained from sources according to law and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish. <sup>P</sup>

(B) Molluscan shellfish received in interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List. <sup>P</sup>

### 3-202.17 Shucked Shellfish, Packaging and Identification

(A) Raw shucked shellfish shall be obtained in non-returnable packages which bear a legible label that identifies the: <sup>Pf</sup>

- (1) Name, address, and certification number of the shucker, packer or re-packer of the molluscan shellfish <sup>Pf</sup> and
- (2) The "sell by" or "best if used by" date for packages with a capacity of less than 1.89 L (one-half gallon) or the date shucked for packages with a capacity of 1.89 L (one-half gallon) or more. <sup>Pf</sup>

(B) A package of raw shucked shellfish that does not bear a label or which bears a label which does not contain all the information as specified under (A) of this section shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D - Specific Administrative Decisions Regarding Interstate Shipments, Section 1240.60(d) Molluscan Shellfish.

### 3-202.18 Shellstock Identification.

(A) Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester or dealer that depurates, ships, or reships the shellstock, as specified in the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, and that list: <sup>Pf</sup>

- (1) Except as specified under (C) of this section, on the harvester's tag or label, the following information in the following order: <sup>Pf</sup>
  - (a) The harvester's identification number that is assigned by the shellfish control authority, <sup>Pf</sup>
  - (b) The date of harvesting, <sup>Pf</sup>
  - (c) The most precise identification of the harvest location or

aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested, <sup>Pf</sup>

(d) The type and quantity of shellfish, <sup>Pf</sup> and

(e) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty or retagged and thereafter kept on file for 90 days"; <sup>Pf</sup> and

(2) Except as specified in (D) of this section, on each dealer's tag or label, the following information in the following order: <sup>Pf</sup>

(a) The dealer's name and address, and the certification number assigned by the shellfish control authority, <sup>Pf</sup>

(b) The original shipper's certification number including the abbreviation of the name of the state or country in which the shellfish are harvested, <sup>Pf</sup>

(c) The same information as specified for a harvester's tag under (A)(1)(b)-(d) of this section, <sup>Pf</sup> and

(d) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty and thereafter kept on file for 90 days." <sup>Pf</sup>

**(B)** A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified under (A) of this section shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D - Specific Administrative Decisions Regarding Interstate Shipments, Section 1240.60(d).

**(C)** If a place is provided on the harvester's tag or label for a dealer's name, address, and certification number, the dealer's information shall be listed first.

**(D)** If the harvester's tag or label is designed to accommodate each dealer's identification as specified under (A)(2)(a) and (b) of this section, individual dealer tags or labels need not be provided.

### **3-202.19 Shellstock, Condition**

When received by a food establishment, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded.

### **3-203.11 Molluscan Shellfish, Original Container. [590.003(B)]**

**(A)** Except as specified in (B)-(D) of this section, molluscan shellfish may not be removed from the container in which they are received other than immediately before sale or preparation for service.

**(B)** For display purposes, shellstock may be removed from the container in which they are received, displayed on drained ice, or held in a display container, and a quantity specified by a consumer may be removed from the display or display container and provided to the consumer if:

(1) The source of the shellstock on display is identified as specified under 3-202.18 and recorded as specified under 3-203.12; and

(2) The shellstock are protected from contamination.

**(C)** Shucked shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumer's request if:

- (1) The labeling information for the shellfish on display as specified under 3-202.17 is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and
- (2) The shellfish are protected from contamination.

**(D)** Part D of the 2013 Federal Food Code allowing consumer self-service of shucked shellfish is not allowed under 590.003(B).

### **3-203.12 Shellstock, Maintaining Identification.**

**(A)** Except as specified under (C)(2) of this section, shellstock tags or labels shall remain attached to the container in which the shellstock are received until the container is empty. <sup>Pf</sup>

**(B)** The date when the last shellstock from the container is sold or served shall be recorded on the tag or label. <sup>Pf</sup>

**(C)** The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for 90 calendar days from the date that is recorded on the tag or label, as specified under (B) of this section, by: <sup>Pf</sup>

- (1) Using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date that is recorded on the tag or label, as specified under (B) of this section; <sup>Pf</sup> and
- (2) If shellstock are removed from its tagged or labeled container:
  - (a) Preserving source identification by using a record keeping system as specified under (C)(1) of this section, <sup>Pf</sup> and
  - (b) Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container with different certification numbers; different harvest dates; or different growing areas as identified on the tag or label before being ordered by the consumer. <sup>Pf</sup>

### **3-401.11 Raw Animal Foods.**

**(D)** A raw animal food such as . . . raw fish, raw-marinated fish, raw molluscan shellfish . . . or a partially cooked food such as lightly cooked fish . . . may be served or offered for sale upon consumer request or selection in a ready-to-eat form if:

- (1) food establishment does not serve a highly susceptible population;
- (2) consumer is advised that to ensure safety, the food should be cooked; (See 3-603 Consumer Advisory) and
- (3) regulatory authority grants a variance based on a submitted HACCP plan.  
(See HACCP Plan Handout.)

### **3-402.11 Parasite Destruction.**

**(A)** Except as specified in (B) of this section, before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish shall be:

- (1) Frozen and stored at a temperature of -20°C (-4°F) or below for a minimum of 168 hours (7 days) in a freezer; <sup>P</sup>
- (2) Frozen at -35°C (-31°F) or below until solid and stored at -35°C (-31°F) or below for a minimum of 15 hours; <sup>P</sup> or

(3) Frozen at -35°C (-31°F) or below until solid and stored at -20°C (-4°F) or below for a minimum of 24 hours. <sup>P</sup>

**(B)** Paragraph (A) of this section does not apply to:

- (1) MOLLUSCAN SHELLFISH;
- (2) A scallop product consisting only of the shucked adductor muscle;
- (3) Tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern); or
- (4) Aquacultured fish, such as salmon, that:
  - (a) If raised in open water, are raised in net-pens, or
  - (b) Are raised in land-based operations such as ponds or tanks, and
  - (c) Are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured fish.
- (5) fish eggs that have been removed from the skein and rinsed.

### **3-402.12 Records, Creation and Retention.**

(A) Except as specified in 3-402.11(B) and (B) of this section, if raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person-in-charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records of the food establishment for 90 calendar days beyond the time of service or sale of the fish. <sup>Pf</sup>

(B) If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under 3-402.11 may substitute for the records specified under (A) of this section.

(C) If raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, and the fish are raised and fed as specified in 3-402.11(B)(3), a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified in 3-402.11(B)(3) shall be obtained by the person in charge and retained in the records of the food establishment for 90 calendar days beyond the time of service or sale of the fish. <sup>Pf</sup>

### **3-502.12 Reduced Oxygen Packaging Without a Variance**

**(C)** Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method. <sup>P</sup>

### **3-602.11 Food Labels.**

(B)(7) For any salmonid fish containing canthaxanthin or astaxanthin as a color additive, the labeling of the bulk fish container, including a list of ingredients, must be displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin or astaxanthin.

### **4-204.110 Molluscan Shellfish Tanks.**

**(A)** Except as specified under (B) of this section, molluscan shellfish life support system display tanks may not be used to store or display shellfish that are offered for human consumption and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only. <sup>P</sup>

**(B)** Molluscan shellfish life support system display tanks that are used to store or display shellfish that are offered for human consumption shall be operated and maintained in accordance with a variance granted by the regulatory authority as specified in 8-103.10 and a HACCP PLAN that: <sup>Pf</sup>

(1) Is submitted by the permit holder and approved as specified under 8-103.11; <sup>Pf</sup> and

(2) Ensures that:

(a) Water used with fish other than molluscan shellfish does not flow into the molluscan tank, <sup>Pf</sup>

(b) The safety and quality of the shellfish as they were received are not compromised by the use of the tank, <sup>Pf</sup> and

(c) The identity of the source of the shellstock is retained as specified under 3-203.12. <sup>Pf</sup>

#### **4-502.14 Shells, Use Limitation**

Mollusk and crustacea shells may not be used more than once as serving containers.

(Document updated November, 2018 after MA adopted the 2013 Federal Food Code and the 2015 Amendments.)