

b. computer record, or other method acceptable to and authorized by the Molluscan Shellfish Program;

6. the transaction records shall be retained:

a. in the case of fresh shellfish, for a minimum of one year; and

b. in the case of frozen shellfish, for at least two years or the shelf life of the product, whichever is longer.

AUTHORITYNOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICALNOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1300 (June 2002), amended by the Department of Health, Office of Public Health, LR 48:1850 (July 2022), repromulgated LR 48:2138 (August 2022).

§141. Relaying of Shellfish [formerly paragraph 9:004]

A. No person shall engage in the business of relaying shellfish from waters not approved for direct market harvesting by the state health officer prior to obtaining a permit for that purpose from the Department of Health, Office of Public Health. Growing waters to be utilized for shellfish relaying purposes must meet or exceed the Department of Health's ' criteria for a restricted area classification. Applications shall be completed and submitted with a fee of \$100, which shall be paid by cashier's check or money order and filed not less than 14 days prior to the beginning of such proposed relaying. Relaying of shellfish shall be permitted only during the first two weeks of each calendar month. The Louisiana Molluscan Shellfish Program shall allow the relay of suitable shellstock during all 12 months of the year.

B. The Louisiana Molluscan Shellfish Program hereby establishes species-specific critical values for water temperature and salinity, which may affect the natural treatment process in the growing area to which the shell stock *Crassostrea virginica* (American Oyster, Eastern Oyster) will be relayed.

1. The critical salinity tolerances *Crassostrea virginica* shall be established as 3 to 36 parts per thousand. Salinities shall be measured at approximately twelve inches below the water surface.

2. The critical temperature for *Crassostrea virginica* shall be established at temperatures 44-89 degrees Fahrenheit. Water temperatures shall be measured at approximately 12 inches below the water surface.

3. The species-specific critical pollution criteria shall be that the growing area for relay shall demonstrate through its historical data that the water quality can reasonably be expected to meet the approved or conditionally approved criteria.

4. Relay activities which expose shell stock to this range of temperature and salinity values for a minimum of fourteen days shall be considered as meeting the species-specific critical values for relay of *Crassostrea virginica*.

5. The requirement for monitoring environmental conditions of the relay area shall be accomplished by collecting bacteriological water sample data and salinity data from sample stations nearest the relay area which are actively collected each month by the program. Three sample stations which triangulate, if possible, the relay area will be selected to meet this monitoring requirement.

6. No studies of contaminant levels of poisonous or deleterious substances in shellstock shall be conducted on shellstock for relay unless there exists scientific evidence which indicates the relay shellstock contains a poisonous or deleterious substance(s) which exceed a FDA tolerance level(s), or it is known that relay shellstock have been exposed to high levels of poisonous or deleterious substances.

7. The growing area to be used for the treatment process shall be monitored with sufficient frequency to identify when limiting critical value of water temperature of 44-89 degrees Fahrenheit and salinity 3-36 parts per thousand may be approached.

8. The effectiveness of species-specific contaminated reduction shall be determined based on a study. The study report shall demonstrate that, after the completion of the relay activity, the microbiological quality of shellstock is the same microbiological quality as that of the same shellstock already present in the approved or conditionally approved area.

AUTHORITYNOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5.A.(2)(3)(5)(7)(9)(15)(17)(19)(20) and R.S. 40:5.3.

HISTORICALNOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1300 (June 2002), amended by the Department of Health, Office of Public Health, LR 48:1850 (July 2022), repromulgated LR 48:2139 (August 2022).

§143. Performance Bond Required [formerly paragraph 9:004-1]

A. A \$5,000 cash performance bond consisting of a bank cashier's check made payable to the Department of Health shall be submitted with each completed application. In addition to the bond, a permittee, at his own expense shall secure the services of a surveillance officer approved by the Department of Health and the Department of Wildlife and Fisheries for the purpose of monitoring all harvesting, transporting, and bedding of shellfish for relaying purposes. In order to satisfy the monitoring requirements, all harvesting, transporting and bedding of shellfish for relaying purposes shall take place in the direct line of sight of the state-approved surveillance officer.

AUTHORITYNOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5.A.(2)(3)(5)(7)(9)(15)(17)(19)(20) and R.S. 40:5.3.

HISTORICALNOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1300 (June 2002), amended by the Department of Health, Office of Public Health, LR 48:1851 (July 2022), repromulgated LR 48:2139 (August 2022).

§145. Permit Required for Relaying
[formerly paragraph 9:004-2]

A. Permits are required prior to performing any relaying at the discretion of the Department of Health, Office of Public Health under the following restrictions.

1. No permittee or boat captain may serve on any vessel subject to this permit who has been cited or found guilty of violations relative to the harvesting of shellfish within three years of the application date; provided, however that said permittee or boat captain may receive a waiver of this condition with regard to those citations which did not result in a conviction upon the appropriate showing being made to the Department of Wildlife and Fisheries.

2. Should environmental conditions in the growing area used for relay exceed the limits of classification of the growing area, the relay area shall be closed along with all other affected growing area. The minimum 14-day treatment time shall only be during the time that relay area is characterized by water temperatures and salinity units that are within critical limits.

3. Shellfish harvested for relaying purposes from restricted waters shall not be laid down within 500 feet of any adjoining lease where shellfish may be taken for sale as food during the active period of the relay permit.

4. Sacking of shellfish, storage of empty shellfish sacks on board permitted or authorized relaying vessels and/or the direct marketing of shellfish taken from waters not approved for that purpose by the state health officer shall be strictly prohibited.

5. Culling of shellfish shall be permitted only when container relaying is practiced and written authorization is obtained from the Department of Health a.

6. Only two leases in the restricted area and approved bedding area, each pre-approved by the Department of Health, shall be utilized in the relaying of shellfish.

a. Shellfish relayed from a restricted area of a public oyster seed ground will be allowed at the discretion of the Louisiana Department of Wildlife and Fisheries (LDWF) only during the open oyster season. Shellstock from the public oyster seed ground will be allowed to be bedded on only two approved leases which will be pre-approved by the Department of Health. Relaying from a public oyster seed ground area shall be for the purpose of moving the live oyster resource. The removal of excessive amounts of non-living reef material in relay loads shall result in the forfeiture of the relay permit and/or the closure of the public oyster seed ground area to transplanting. Permit-holders shall allow on-board inspection and sampling of relay loads by the LDWF.

7. The permittee shall be responsible for notifying the Department of Wildlife and Fisheries prior to leaving port to relay shellfish and immediately upon returning from the permitted trip each day. The Department of Wildlife and Fisheries shall be notified by calling (800) 442-2511.

8. All leases shall be "red flagged" so that they may be easily spotted by both aircraft and boats. "Red flagged" as used in this Paragraph, means that the four outside corners of the lease must be marked with poles with red flags attached.

9. All activities relative to the relaying of shellfish shall be permitted only during daylight hours with all activities completed no later than 30 minutes after official sunset. Applicants may apply for a written exemption to this requirement when the distance between the restricted area and bedding area is such that compliance is not possible.

10. Both sides of the permitted vessel shall be marked with the permit number in at least 6-inch-high letters on a contrasting background so as to be visible from low flying aircraft or from any other vessel in the immediate vicinity.

11. A copy of the complete relay permit and applicable rules shall be on board each authorized vessel at all times during the active period of the relay permit.

12. The harvesting of shellfish for relaying purposes within 150 feet of any sewage discharge point emanating from any camp, home, or other habitable structure shall be prohibited.

AUTHORITYNOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5 (2)(3)(5)(7)(15), and R.S. 40:5.3.

HISTORICALNOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1300 (June 2002), amended by the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, LR 34:445 (March 2008), LR 34:2175 (October 2008), LR 48:1851 (July 2022), LR 34:2175 (October 2008), repromulgated LR 48:2140 (August 2022).

§147. Surveillance Officer's Daily Trip Report
[formerly paragraph 9:004-3]

A. An official Department of Health's "Surveillance Officers Daily Trip Report" must be completed each day by the surveillance officer and mailed to the Department of Health, Seafood Sanitation Unit after each completed day of relaying.

AUTHORITYNOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5.A.(2)(3)(5)(7)(9)(15)(17)(19)(20) and R.S. 40:5.3.

HISTORICALNOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1301 (June 2002), amended by the Department of Health, Office of Public Health, LR 48:1852 (July 2022), repromulgated LR 48:2140 (August 2022).

§149. Enforcement Provisions
[formerly paragraph 9:004-4]

A. Failure to comply with any of the permitting requirements specified in §§141-147 shall result in the following administrative action.

1. The relay permit and all relay permitting privileges shall be immediately suspended by the Department of Health or the Department of Wildlife and Fisheries.

2. All shellfish harvested for relaying purposes in violation of permitting requirements shall be returned to the

original growing waters or destroyed at a permittee's own expense.

3. If said charges are upheld in an administrative hearing, the following additional penalties shall be imposed.

a. Relay permitting privileges shall be denied for a period of three years.

b. The \$5,000 cash bond posted by the permittee shall be forfeited and retained by the state.

AUTHORITYNOTE: Promulgated in accordance with R.S.40:4.A.(1)), R.S. 40:5.A.(2)(3)(5)(7)(9)(15)(17)(19)(20) and R.S. 40:5.3.

HISTORICALNOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1301 (June 2002), amended by the Department of Health, Office of Public Health, LR 48:1852 (July 2022), repromulgated LR 48:2140 (August 2022).

Chapter 3. Preparation and Handling of Seafood for Market

§301. Water Storage of Shellfish [formerly paragraph 9:005]

A. The water storage, cleansing, bedding or conditioning of shell stock shall not be permitted or practiced in water with a salt content less than that in which shell fish will naturally grow to maturity, and shall not be permitted or practiced on the following:

1. [formerly paragraph 9:005-1] artificial bodies of water, unless the entering water has a bacteriological quality at all times at least equal to the U. S. Public Health Service standards for drinking water; or

2. [formerly paragraph 9:005-2] natural bodies of water which are subject to either constant or intermittent pollution as disclosed by a sanitary survey, or any water in such proximity to dwellings, industrial plants, boats or docks that their cleanliness can be protected only by the strict observance of sanitary regulations by all persons in the vicinity.

AUTHORITYNOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICALNOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1301 (June 2002).

§303. Construction and Cleanliness of Shellfish Boats [formerly paragraph 9:006]

A. All boats utilized for the harvesting or transporting of shellfish shall be provided with a false deck or bottom to prevent the contamination of shellfish with bilge water. For the purpose of this regulation, bilge water may be defined as any water that collects in the lowest inner part of a boat's hull. Decks, holds or binds used for storage of shellfish shall be washed daily with either potable water, or water drawn from an approved growing area or Conditionally Approved area in open status. Unless otherwise exempted in writing by the Louisiana Department of Health, a suspended awning shall be provided on harvest boats to protect shellfish from direct exposure to sun, birds and other adverse conditions.

The suspended awning shall be a minimum of 12 inches above the shellfish with a maximum height of 7 feet. The suspended awning shall be of such width and length so as to extend to the outer edges of the harvesting or transporting vessel. The provisions of this rule shall apply to all types of harvesting and transporting vessels. Small children in diapers, dogs, cats or other forms of wildlife shall not be permitted on board harvesting vessels while shellfish are being fished or transported. Violation of any of the requirements in this Section shall result in one of the following penalties.

1. Shellfish shall be seized and destroyed at violator's expense.

2. Shellfish shall be bedded on a Department of Wildlife and Fisheries managed seed reservation at violator's expense.

AUTHORITYNOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5.A.(2)(3)(5)(7)(9)(15)(17)(19)(20) and R.S. 40:5.3.

HISTORICALNOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1301 (June 2002), repromulgated LR 29:173 (February 2003), repromulgated by the Department of Health, Office of Public Health, LR 48:1852 (July 2022), repromulgated LR 48:2140 (August 2022).

§305. Sewage Disposal on Shellfish Boats [formerly paragraph 9:007]

A. Owners and operators of all vessels in which persons are engaged in the handling of shellfish from the planting or growing grounds, shall provide their vessels with suitable receptacles, including tight fitting lids. These waste receptacles shall be properly labeled with the wording "FOR HUMAN WASTE ONLY" with the letter size being no less than land 1/2 inches and be of adequate size and type having a capacity of at least 2 gallons for each person on the boat, in which the extract, both solid and liquid, of person on the boats, shall be received. The contents of such receptacles shall be disposed of either by means of the sewerage system of a municipality, by incineration, or by burial in the ground at points sufficiently removed from the banks of streams or tidal waters to prevent the pollution of the waters thereof, or any other means of disposal authorized by law.

AUTHORITYNOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICALNOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1302 (June 2002), amended LR 33:850 (May 2007), LR 35:1239 (July 2009).

§307. Sewage Disposal near Shellfish Areas [formerly paragraph 9:008]

A. The discharge of human waste from any camp, boat or other source into the waters directly over, or adjacent to, areas where the shellfish are being produced for market is prohibited.

AUTHORITYNOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICALNOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1302 (June 2002).