

MEMORANDUM

DATE: February 19, 1993

TO: Division of Shellfish Sanitation Staff

FROM: Robert E. Croonenberghs, Ph.D., Director
Division of Shellfish Sanitation

THROUGH: Eric H. Bartsch, P.E., Director
Office of Water Programs

SUBJECT: Shellfish and Crustacea Plants - Procedure - Inspections - Certification and Enforcement

Delete Working Memos #98 & 115

As a follow up to the newest version of the NSSP and to simplify certification and enforcement based upon routine inspections the Division will adopt the following procedures:

I. CERTIFICATION AND INSPECTION

- A. Certification is granted only to shippers who meet the following inspection requirements:
1. no critical deficiencies;
 2. not more than two (2) key item deficiencies; and
 3. not more than three (3) other item deficiencies.
- B. After a dealer is certified, unannounced inspections using the Division plant inspection form are conducted during periods of operation. A copy of the completed inspection form and a list of observations for items of noncompliance are provided to the most responsible individual at the firm.
- C. The minimum frequency for inspection is:
1. within thirty (30) days of beginning operation for any dealer certified on the basis of pre-operational inspection;
 2. at least monthly for shucker-packer, repacker, shellstock shipper, depuration plants and crustacea plants; and
 3. at least semi-annually for other certified dealers.

II. ENFORCEMENT ACTIONS:

- A. When a routine inspection detects a critical deficiency, the deficiency shall be corrected or hazard abated during that inspection or the plant must cease production affected by the deficiency. If the item is not corrected within the specified time, the Division will immediately begin actions to withdraw dealer certification, which requires a 30-day notice in the Virginia Register and a formal administrative hearing before a hearing officer appointed by the Virginia Supreme Court. Further, product affected by the critical deficiency shall be controlled to prevent contaminated or adulterated product from reaching the consumers. If adulterated product is sold, the Commissioner can order a recall if it poses an immediate public health concern. Controls other than product destruction may be considered and approved by the Division on a case-by-case basis.
- B. When a routine inspection detects 4 or more key item deficiencies, a follow-up inspection is conducted as soon as possible but within 30 days. The follow-up inspection shall determine if the deficiencies have been corrected or are being corrected per the scheduled correction dates noted on the inspection report.
- C. When the follow-up inspection of the key item deficiencies indicates a failure to comply with the correction schedule, the Division will immediately begin actions to convene an informal hearing to insure correction of deficiencies or a formal hearing.
- D. When a routine inspection detects "other" item deficiencies or 3 or less key item deficiencies, the deficiencies shall be corrected prior to next routine inspection.
- E. All specific deficiencies, as noted in the narrative section of the inspection report, which are repeated consecutively and are not corrected as scheduled shall be corrected prior to the annual certification. Dealers which fail to correct such deficiencies will not be certified.

III. DEFINITIONS OF INSPECTION DEFICIENCIES

- A. CRITICAL DEFICIENCY - A condition or practice which:
 - 1. results in the production of a product which is unwholesome or
 - 2. presents a threat to the health or safety of consumers.
- B. KEY DEFICIENCY - A condition which may result in adulterated, decomposed, misbranded or unwholesome product.
- C. OTHER DEFICIENCY - A condition or practice that is not in accordance with the shellfish and crustacea regulations and/or NSSP Manual requirements but is not key or critical.