

**Proposal Subject:** Certification Requirements for Retail Distribution Centers

**Specific NSSP Guide Reference:** Section II. Model Ordinance Chapter X. General Requirements for Dealers

**Text of Proposal/ Requested Action:** .04 Certification Requirements.

A. General.

- (1) Except as specified in (4) below, No person shall act as a dealer prior to obtaining certification.
- (2) Any person who wants to be a dealer shall:
  - (a) Make application to the Authority for certification;
  - (b) Have and implement a HACCP Plan, and have a program of sanitation monitoring and record keeping in compliance with 21 CFR 123 as it appears in the *Federal Register* of December 18, 1995, except for the requirement for harvester identification on a dealer's tag.
- (3) Each dealer shall have a business address at which inspections of facilities, activities, or equipment can be conducted.
- (4) A Retailer that operates a Distribution Center that receives and distributes molluscan shellfish is not required to obtain certification as a shellfish dealer if:
  - (a) the Distribution Center ships shellfish only to retail outlets that are owned and operated by the same company that owns and operates the Distribution Center;
  - (b) the Distribution Center receives the shellfish from a source listed on the ICSSL and distributes the product to the retail stores in the original containers in which it was received; and
  - (c) from the time the shellfish is received at the distribution center to the time of sale or service to the consumer, the shellfish is maintained under the ownership and control of the company that owns and operates the Distribution Center and the retail stores.

**Public Health Significance:**

FDA considers retail food stores that receive molluscan shellfish from company-owned Distribution Centers that operate in the manner described above to be in compliance with 3-201.15 of the FDA Food Code, even if those Distribution Centers are not listed in the ICSSL. State and local regulatory authorities that license food stores may wish to take additional steps to be assured that the Distribution Centers can be considered an acceptable source, such as verifying that the Distribution Center maintains the shellfish as 45 deg F or below during storage and transit to the retail store.

This exception to II.X.04 applies regardless of whether one or more of the retail stores to which the product is shipped is located in a different State from where the distribution center is located and regardless of whether the distribution center and/or the stores are located in a State that has a program for certifying shellfish dealers.

If all three conditions listed in the proposed X.04.A. (4) are not met, then a Distribution Center that receives and ships shellfish in interstate commerce should seek certification and listing on the ICSSL.

Food safety concerns related to this policy should be minimal since no breakdown or repacking of shellfish is taking place and safe distribution and receiving is the responsibility of a single retail company and their own stores. Also the ability to effectively conduct a product traceback should not be compromised by this because

ownership of the product isn't being transferred if the stores and Distribution Center are part of same company.

**Cost Information  
(if available):**

**Action by 2011  
Task Force II** Recommended adoption of Proposal 11-209 as submitted.

**Action by 2011  
General Assembly** Voted no action on Proposal 11-209.

**Action by FDA  
February 26, 2012** Concurred with Conference action on Proposal 11-209.