

Proposal Subject	Reciprocity and Uniformity
Specific NSSP Guide Reference	ISSC Constitution, Bylaws, and Procedures Amend Procedure V and Add New Section
Text of Proposal/ Requested Action	<p>Procedure 5 Section 1.</p> <p>The NSSP and Model Ordinance as adopted by the ISSC and the FDA, without footnotes except as the Conference may adopt, shall be used as the basic guidelines for the classification of shellfish growing waters and the basic sanitation guidelines in making shellfish sanitation certification inspections of interstate shellfish shippers. The Conference discourages the use of separate guidelines for intrastate shellfish shippers. Shellfish from any state participating in the ISSC should shall be accepted for sale in any other member state under the principles of reciprocity, provided the state's program is in compliance with the NSSP and Model Ordinance. Such states that do not comply with the NSSP and Model Ordinance shall not be indicated on the ICSSL. Reciprocity for the purpose of ISSC agreements shall mean that no action or requirements on the part of any regulatory authority will cause or require any action in excess of the requirements of the NSSP or the ISSC agreements. For the purpose of the NSSP and ISSC in total, the District of Columbia shall be considered as a state with all the rights, duties, responsibilities, and privileges of a state.</p>
Public Health Significance	None
Cost Information (if available)	None
Action by 2003 Task Force III	Recommended postponing discussion on Proposal 03-302 until 8:30 AM on Wednesday, August 6, 2003. In the interim, there will be a working committee that will attempt to develop a proposal that addresses the concerns identified in the discussion. The committee will be made up of one industry and one regulatory representative from each ISSC region and one representative from each of the federal agencies. The representative from the region will be determined by the Task Force members and reported to the Chair as soon as possible.
Action by 2003 Task Force III Workgroup	<p>Recommended the following language be substituted for the language in Proposal 03-302.</p> <p>Procedure V Section 1. <u>Intent:</u></p> <p>The NSSP as adopted by the ISSC and the FDA, without footnotes except as the Conference may adopt, shall be used as the basic guidelines for the classification of shellfish growing waters and the basic sanitation guidelines in making shellfish sanitation certification inspections of interstate shellfish shippers. The Conference discourages the use of separate guidelines for intrastate shellfish shippers. Shellfish from any state participating in the ISSC should be accepted for sale in any other member state under the principles of reciprocity, provided the state's program is in compliance with the NSSP. Such states shall be indicated on the ICSSL. <u>Circumstances under which a State may refuse to exercise reciprocity should be limited to newly emergent public health issues that are not being adequately addressed by the NSSP.</u> Reciprocity for the purpose of ISSC agreements shall mean that no action or requirements on the part of any regulatory authority will cause or require any action in excess of the requirements of the NSSP or the ISSC agreements. For the purpose of the NSSP and ISSC in total, the District of Columbia shall be considered as a state with all the rights, duties, responsibilities, and privileges of a state.</p>

Section 2. Notification and Consultation:

A state, prior to taking an action that may fail to meet the definition of “reciprocity,” must first notify and consult with the Executive Board. Notification should be as far in advance as is reasonably possible in order to take into account the views of the ISSC in prior to a decision to take the action. The state should provide the rationale for the proposed action by describing, at a minimum:

- The potential effect on the public health within that state;
- The potential effect on the public health in other states;
- The potential economic impact on states;
- The necessity for the action within the proposed timeframe; and
- How the proposed actions are consistent with Procedure I requirements relating to uniformity and the importance of operating within a collective framework.

A state may also notify the ISSC Executive Board upon learning of another state’s intention to take action that may violate Procedure V.

**Action by 2003
Task Force III**

Recommended adoption of the Work Group recommendations as amended.

Procedure V

Section 1. Intent:

The NSSP as adopted by the ISSC and the FDA, without footnotes except as the Conference may adopt, shall be used as the basic guidelines for the classification of shellfish growing waters and the basic sanitation guidelines in making shellfish sanitation certification inspections of interstate shellfish shippers. The Conference discourages the use of separate guidelines for intrastate shellfish shippers. Shellfish from any state participating in the ISSC should be accepted for sale in any other member state under the principles of reciprocity, provided the state's program is in compliance with the NSSP. Such states shall be indicated on the ICSSL. ~~Circumstances under which a State may refuse to exercise reciprocity should be limited to newly emergent public health issues that are not being adequately addressed by the NSSP.~~ Reciprocity for the purpose of ISSC agreements shall mean that no action or requirements on the part of any regulatory authority will cause or require any action in excess of the requirements of the NSSP or the ISSC agreements. For the purpose of the NSSP and ISSC in total, the District of Columbia shall be considered as a state with all the rights, duties, responsibilities, and privileges of a state.

Further recommended that the Executive Board establish a working group to determine the appropriate language to identify the circumstances under which reciprocity may not be honored.

Further recommended that the new Procedure V take effect immediately after adoption by the General Assembly.

**Action by 2003
General Assembly**

Adopted recommendations of Task Force III.

**Action by
USFDA**

Concurred with Conference Action.

**Action by 2005
Executive Board**

The ISSC Executive Board did not take action on this proposal due to a pending Procedure V complaint.

Action by 2005 Task Force III	Recommended the Executive Board continue to pursue appropriate language to identify the circumstances under which reciprocity may not be honored.
Action by 2005 General Assembly	Adopted recommendation of 2005 Task Force III that the Executive Board continue to pursue appropriate language to identify the circumstances under which reciprocity may not be honored.
Action by USFDA	Concurred with Conference action.
Action by 2007 Reciprocity Committee	Recommended modification of the ISSC Constitution, Bylaws, and Procedures by moving portions of Procedure V. and creating a new Procedure XVII. Additional language was added to the ISSC Constitution, Bylaws, and Procedures to amend Procedure V. and move deleted sections to a new Procedure XVII.

PROCEDURE V. GUIDELINES

The NSSP as adopted by the ISSC and the FDA, without footnotes except as the Conference may adopt, shall be used as the basic guidelines for the classification of shellfish growing waters and the basic sanitation guidelines in making shellfish sanitation certification inspections of interstate shellfish shippers. The Conference discourages the use of separate guidelines for intrastate shellfish shippers. Shellfish from any state participating in the ISSC should be accepted for sale in any other member state under the principles of reciprocity, provided the state's program is in compliance with the NSSP. Such states shall be indicated on the ICSSL. Reciprocity for the purpose of ISSC agreements shall mean that no action or requirements on the part of any regulatory authority will cause or require any action in excess of the requirements of the NSSP or the ISSC agreements. For the purpose of the NSSP and ISSC in total, the District of Columbia shall be considered as a state with all the rights, duties, responsibilities, and privileges of a state

Section 1. — Intent

~~The NSSP as adopted by the ISSC and the FDA, without footnotes except as the Conference may adopt, shall be used as the basic guidelines for the classification of shellfish growing waters and the basic sanitation guidelines in making shellfish sanitation certification inspections of interstate shellfish shippers. The Conference discourages the use of separate guidelines for intrastate shellfish shippers. Shellfish from any state participating in the ISSC should be accepted for sale in any other member state under the principles of reciprocity, provided the state's program is in compliance with the NSSP. Such states shall be indicated on the ICSSL. Reciprocity for the purpose of ISSC agreements shall mean that no action or requirements on the part of any regulatory authority will cause or require any action in excess of the requirements of the NSSP or the ISSC agreements. For the purpose of the NSSP and ISSC in total, the District of Columbia shall be considered as a state with all the rights, duties, responsibilities, and privileges of a state.~~

Notification and Consultation

~~A state, prior to taking an action that may fail to meet the definition of "reciprocity," must first notify and consult with the Executive Board. Notification should be as far in advance as is reasonably possible in order to take into account the views of the ISSC prior to a decision to take the action. The state should provide the rationale for the proposed action by describing, at a minimum:~~

- ~~• The potential effect on the public health within that state;~~
- ~~• The potential effect on the public health in other states;~~
- ~~• The potential economic impact on states;~~
- ~~• The necessity for the action within the proposed timeframe; and~~
- ~~• How the proposed actions are consistent with Procedure I requirements~~

~~relating to uniformity and the importance of operating within a collective framework.~~

~~A state may also notify the ISSC Executive Board upon learning of another state's intention to take action that may violate Procedure V.~~

~~**Section 3. Consideration**~~

~~If, after fully considering the state's rationale for the proposed actions, the Executive Board determines that the state's actions are unwarranted and contrary to the interests of the collective membership, the Executive Board shall so advise the state. If the State takes the proposed action after being so advised, or fails to follow Procedure V, the Executive Board will commence a formal Procedure V process.~~

~~**Section 4. Formal Procedure V. Process**~~

~~The process will include written notification to all states involved (initiating and affected states), to present findings on the scientific and public health issues raised, which support their respective views or actions on the issue, along with identification of the formal procedural process and timeline.~~

~~All affected states (initiating and affected states), shall present the following information to the ISSC EXECUTIVE BOARD:~~

- ~~• Scientific and related public health issues;~~
- ~~• Economic issues;~~
- ~~• Other relevant issues;~~
- ~~• Rationale why Procedure V has/has not been violated.~~
- ~~• Alternative Actions for consideration.~~

~~The Executive Board determination will include Findings of Facts and Conclusions.~~

~~**Section 5. Censure**~~

~~If the state takes the proposed action after being so advised, or fails to follow Procedure V, the Executive Board may place the state under censure until such time as removed from the censure by the Executive Board and so inform the governor of that state in writing. A state under censure may attend all functions and otherwise exercise rights as a member of the ISSC, but may not vote, either in committees, task forces, or in the general assembly. The Executive Board reserves the right to take additional actions against the non-compliant State.~~

PROCEDURE XVII. RECIPROCITY

Reciprocity for the purpose of ISSC agreements shall mean that no action or requirements on the part of any regulatory authority will cause or require any action in excess of the requirements of the NSSP or the ISSC agreements. The intent of this procedure is to ensure that state actions do not unnecessarily restrict interstate shipment of shellfish conforming to the reciprocity of the NSSP. The ISSC recognizes that states should be allowed to appropriately respond to public health emergencies that could restrict interstate shipment of oysters. Chapter XVII. Section 1. Notification and Consultation provides adequate opportunity for communication between interested parties that could include state and federal regulatory agencies and the industry.

Section 1. Notification and Consultation

A state, prior to taking an action that may fail to meet the definition of "reciprocity," must first notify and consult with the Executive Board. Notification should be as far in advance as is reasonably possible in order to take into account the views of the ISSC prior to a decision to take the action. The state should provide the rationale for the proposed action by describing, at a minimum:

- The potential effect on the public health within that state;
- The potential effect on the public health in other states;

- The potential economic impact on states;
- The necessity for the action within the proposed timeframe; and
- How the proposed actions are consistent with Procedure I requirements relating to uniformity and the importance of operating within a collective framework.

A state may also notify the ISSC Executive Board upon learning of another state’s intention to take action that may violate Procedure V.

Section 2. Consideration

If, after fully considering the state’s rationale for the proposed actions, the Executive Board determines that the state’s actions are unwarranted and contrary to the interests of the collective membership, the Executive Board shall so advise the state. If the State takes the proposed action after being so advised, or fails to follow Procedure V, the Executive Board will commence a formal Procedure V process.

Section 3. Formal Procedure V. Process

The process will include written notification to all states involved (initiating and affected states), to present findings on the scientific and public health issues raised, which support their respective views or actions on the issue, along with identification of the formal procedural process and timeline.

All affected states (initiating and affected states), shall present the following information to the ISSC EXECUTIVE BOARD:

- Scientific and related public health issues;
- Economic issues;
- Other relevant issues;
- Rationale why Procedure V has/has not been violated.
- Alternative Actions for consideration.

The Executive Board determination will include Findings of Facts and Conclusions.

Section 4. Censure

If the state takes the proposed action after being so advised, or fails to follow Procedure V, the Executive Board may place the state under censure until such time as removed from the censure by the Executive Board and so inform the governor of that state in writing. A state under censure may attend all functions and otherwise exercise rights as a member of the ISSC, but may not vote, either in committees, task forces, or in the general assembly. The Executive Board reserves the right to take additional actions against the non-compliant State.

Action by 2007 Task Force III

Recommended adoption of the Reciprocity Committee recommendation on Proposal 03-302.

Action by 2007 General Assembly

Adopted recommendation of 2007 Task Force III.

Action by USFDA

December 20, 2007
 Concurred with Conference action with the following comments and recommendations for ISSC consideration.

The word “oyster” at the end of sentence three in paragraph one of Procedure XVII should be changed to “shellfish.” This is in keeping with use of the word “shellfish” elsewhere in Procedures XVII and Procedure XVII’s intent to address all species of molluscan shellfish, not just oysters.