

**IN THE MATTER OF
OYSTERS HARVESTED FROM SAN
ANTONIO BAY**

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**BEFORE THE
DEPARTMENT OF STATE
HEALTH SERVICES
AUSTIN, TEXAS**

EMERGENCY ORDER AND RECALL ORDER

I.

The Department of State Health Services (department) has jurisdiction to regulate the sale of molluscan shellfish (clams, mussels and oysters) under Chapter 436 of the Texas Health and Safety Code (the Act). Section 436.025 of the Act authorizes the Commissioner to issue an emergency order if the Department determines that the processing or sale of molluscan shellfish creates or poses an immediate threat to human life or health; and other procedures available to the department to remedy or prevent the threat will result in unreasonable delay.

II.

On December 4, 2009, the department was notified that norovirus type illnesses have been linked to the consumption of oysters harvested from San Antonio Bay during the time period of November 16, through November 25, 2009. Consumption of oysters contaminated with norovirus may produce symptoms of vomiting, diarrhea, nausea and cramping.

III.

Pursuant to the Texas Health and Safety Code, Chapter 436, §436.030, this Emergency Order recalls all oysters harvested from San Antonio Bay during the time period of November 16, through November 25, 2009 from commerce and is effective immediately.

IV.

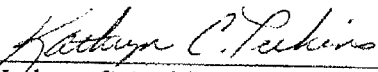
Based on the report of illnesses in multiple states linked to the consumption of oysters harvested from San Antonio Bay, the Assistant Commissioner, Texas Department of State Health Services, finds that there is an immediate threat to human life or health, and other procedures available to the department to remedy or prevent the threat will result in unreasonable delay, and that the issuance of this Emergency Recall Order is in the best interests of the public health and safety.

V.

A hearing to determine whether the Emergency Order is to be affirmed, modified, or set aside will be scheduled and held at the State Office of Administrative Hearings (SOAH), Austin, Texas.

NOW THEREFORE, IT IS ORDERED, the processing, sale, or distribution, of oysters from San Antonio Bay is immediately prohibited in accordance with Chapter 436, Texas Health and Safety Code, §436.025; and human consumption of oysters from this area may cause vomiting, diarrhea, nausea and cramping; and it is further ordered that all oysters harvested from San Antonio Bay from November 16, 2009 through November 25, 2009, are hereby recalled from commerce in accordance with Chapter 436, Texas Health and Safety Code, §436.030.

Done at Austin, Travis County, Texas on this 4th day of December, 2009.



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