



**INTERIM GUIDANCE FOR  
TEMPORARY SEAFOOD (FISH AND SHELLFISH) PROCESSING AND/OR RETAIL SALE  
As of May 20, 2020**

Fishing operations that sell fish and seafood commodities off the boat and harvesters and growers of all seafood commodities, including shellfish ([molluscs](#), [crustaceans](#), and [echinoderms](#)), and cephalopods, that sell to restaurants and other food service operations, directly and/or indirectly, that hold a valid Federal and/or State, County or City license/permit, will be allowed to sell and/or process the above named seafood products directly to the end consumer, when following the requirements outlined below, while the COVID19 restrictions are in place. All processing must be conducted in a licensed or permitted facility. Processing may not be conducted at a residence. This two-week Interim Guidance has been extended through June 15, 2020. This date will continue to be re-evaluated and extended when deemed necessary by the licensing and/or permitting Government Agency.

Restaurants looking to take advantage of this interim guidance can do so immediately but only if already permitted by their local health department. Restaurants do not need to contact the Department of Agriculture and Markets or the Department of Health for authorization or an inspection prior to operating under this guidance. Restaurants should contact their local health department permit issuing official if they have questions specific to their facility.

**Note:** Given the ongoing COVID19 pandemic and to the extent practical, entities wishing to utilize this guidance should implement reasonable measures to increase social distancing and reduce the density of people congregated in any given area.

Anyone who is over age two and able to medically tolerate a face-covering must cover their nose and mouth with a mask or cloth face-covering when in a public per [Interim Guidance on Executive Orders 202.17 and 202.18 Requiring Face Coverings in Public During the COVID-19 Outbreak, April 17, 2020](#). Employers must also provide essential workers with masks free of charge to wear when interacting with the public [per Interim Guidance on Executive Order 202.16 Requiring Face Coverings for Public and Private Employees Interacting with the Public During the COVID-19 Outbreak, April 14, 2020](#).

A federally licensed vessel, whether fishing in federal waters (3-200 miles offshore) or state waters (0-3 miles offshore) needs a **federal** “dealer permit” to sell fish directly to consumers. State-only Licensed vessels fishing in state waters (0-3 miles) are already covered under the permits issued to them by NYS Department of Environmental Conservation.

To apply for a federal “dealer permit” **and see what the requirements are** click here: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/resources-fishing/vessel-and-dealer-permitting-greater-atlantic-region>

All applicable NYS Department of Environmental Conservation permits must be valid. All processing of shellfish must be conducted with a NYS DEC processing permit at a licensed or permitted processing facility.



The guidance requirements for processing and/or selling packaged fish and other seafood commodities such as raw whole, cleaned or cut fish, cooked fish meals (hot or heat and eat), etc. intended for off-site use or consumption are as follows:

## Facilities:

Facilities that will be used for **cleaning, processing and packaging seafood** must have:

- Potable hot and cold running water
  - Proper drainage
  - Proper protection from the outside environment
  - Facilities for cleaning and sanitizing tools and work surfaces
  - Adequate and appropriate storage facilities
  - Work surfaces should be in good repair
- 
- Proper bathroom facilities that include hot and cold running water, hand soap, paper towels or air blowers for drying hands and a waste receptacle for paper towel refuse
  - Adequate and appropriate waste storage and removal
  - Adequate controls in place to eliminate cross contamination of raw and cooked foods

Facilities that will be used for **selling seafood** must have:

- Potable hot and cold running water
- Proper drainage
- Adequate storage facilities (refrigerators, freezers, hot holding, etc.)
- Proper protection from the outside environment
- Facilities for cleaning and sanitizing equipment and storage units
- Hand washing facilities
- Adequate waste storage and removal facilities

## Processing:

- All products must be handled, at all times, in a sanitary manner
- All cold products must be maintained at proper temperatures (41°F or less) at all times.
- All hot products must be maintained at proper temperatures (135°F or greater) at all times
- Remove all viscera and separate from fish
- No processing or distribution of scombroid species (histamine formers such as tuna, mackerel, mahi mahi, sardine, anchovy, herring, bluefish, amberjack and marlin)
- No "Pop-up" processing other than from vessels that are properly equipped with the facilities outlined above
- No processing in the back of nor the interior of a vehicle
- No processing in a residence
- No processing in the open environment
- Foods which are cooked must be cooked to valid cooking temperatures (generally between 135°F to 165°F depending on the type of product). Undercooked foods may not be offered for sale. Foods sold cooked and chilled, must be cooled to 70°F or less within 2 hours of removing from heat, and to 41°F or less within an additional 4 hours.



## Agriculture and Markets

ANDREW M. CUOMO  
Governor

RICHARD A. BALL  
Commissioner

### **Storage:**

- Fish and shellfish must be stored at 41°F or less, at all times, by refrigeration and/or on ice.
- Products must be labeled with refrigeration requirements.
- Frozen foods must be labeled to keep frozen until use.
- Hot holding units must be maintained at 135°F or greater.

### **Fish and Shellfish Processing Critical Control Points (CCPs):**

When cleaning fish, the equipment used to clean the fish must be checked for missing teeth, nicks in the cutting edge, or any other missing metal fragment. These checks will be put into place to prevent metal inclusion. The schedule of checks will be as follows:

- At the start-up of cutting
- Every four hours thereafter
- At the end of cutting

### **Records:**

- A written record will be kept that contains the date, the time and whether or not the check was found to be acceptable (A) or unacceptable (X).
- Those records must be maintained for inspection, if requested.
- If there is an unacceptable check, all the product from the previous acceptable check must be examined for metal inclusion. If no metal is found, the product will be considered acceptable.
- If metal is found, the product must be made free of the metal or not offered into commerce.
- All records required by New York State Departments of Environmental Conservation or Health (local or state) must be maintained.

### **Labeling:**

- Single species fish and shellfish offered for sale must be labeled and include, at a minimum, the common name of the fish or shellfish, the name and address of the seller, how it should be stored (temperature) and the amount in the package (net weight), in pounds or ounces. Metric measurement is optional.
- No health or nutritional claims may be made.
- Fish and shellfish are allergens need to be labeled properly. See guidance on allergens below.

### **Repackaging:**

All repackaged foods must be handled, at all times, in a sanitary manner and each individual retail package sold must follow the labeling guidelines within this document. Packages displaying “for restaurant use only”, should have such words removed or blacked out.

### **Transportation:**

Fish and shellfish must be transported on ice and/or in refrigerated vehicles.



**Allergens:**

There are eight major food group allergens (milk, eggs, fish, Crustacean shellfish, tree nuts, peanuts, wheat, and soybeans) that must follow the labeling guidelines.

If the food is not a raw agricultural commodity and it is, or it contains an ingredient that bears or contains, a major food allergen, the label must follow these rules:

1. The word 'Contains', followed by the name of the food source from which the major food allergen is derived, is printed immediately after or is adjacent to the list of ingredients (the Flour and fish examples use this method)

or

2. The common or usual name of the major food allergen in the list of ingredients is followed in parentheses by the name of the food source from which the major food allergen is derived, (for the flour example above, the ingredient "Flour" could be listed

"Flour (wheat)" instead of stating "Contains wheat" at the end of the ingredient statement

or

3. The common or usual name of the ingredient uses the name of the food source from which the major food allergen is derived (if the flour is listed in the ingredient statement as "Wheat Flour"), there is no need to include the wheat again in parenthesis or at the end of the ingredient statement

or

4. The name of the food source from which the major food allergen is derived appears elsewhere in the ingredient list

When packaging and labeling a single species fish or shellfish; after stating that the product is Flounder (as an example), you must state "Contains fish". If the product is Tilefish, the same rule still applies; you must state on the label: "Contains fish." If the product being sold is Lobster, the statement would be: "Contains shellfish."