

**TO:** Regional Retail Food Specialists – FDA/ORR  
Retail Food Protection Team – FDA/CFSAN

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**DATE:** November 3, 2004

**SUBJECT:** Reuse of Oyster Shells

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Keywords: 4-502.14 (2001), 4-101.11 (2001), 3-601.12 (2001), reused shells, consumer advisory, honestly presented, utensils

Questions: 1) Can mollusk or crustacean shells be reused? 2) Can a consumer advisory be displayed to allow the reuse of shells? 3) Is the reuse of natural shells with shucked shellfish honestly presented or misleading?

Discussion and Rationale: This interpretation was developed jointly by the FDA’s National Retail Food Team’s Standardization Work Group and the National Shellfish Safety Team’s Shellfish Specialists.

1) Can mollusk or crustacean shells be reused? The practice by food establishments of purchasing natural oyster shells from shucker-packers or other commercial sources and serving shucked oysters on these shells as Oysters Rockefeller or oysters on-the-half-shell often occurs because it is less costly than buying shellstock. Shucked shellfish also have a longer shelf life. This practice raises the question whether reusing natural shells as food utensils is safe and permitted under the Food Code and whether customers are misled when shucked shellfish are placed in something other than their own natural shells.

The intent of Section 4-502.14 – Shells, Use Limitation, in the 2001 Food Code stating that mollusk and crustacean shells may not be used more than once as serving containers is to allow removal of oysters from the shell for preparation and then return to their original shell for service. A food establishment is also prohibited from saving shells after they are returned from customers and reusing them under the “use limitations” of Section 4-502.14. If these natural shells are purchased to be used as “serving containers,” they are utensils and must meet the characteristics for utensils in 4-101.11 – Characteristics, in the Food Code. Historically, Section 4-105 in the earlier Model 1976 Food Service Sanitation Manual was interpreted the same way. The attached FDA memorandum from William P. Wollschlager, dated November 22, 1978, explains that perspective and the intent has remained unchanged.

Section 4-101.11 – Characteristics, in the 2001 Food Code, defines characteristics of multiuse utensils, including safe, durable, sufficient to withstand repeated warewashing, smooth, easily cleanable and resistant to chipping and decomposition. The natural materials of oyster and other mollusk and crustacean shells are not sufficiently durable to withstand caustic cleaners and high pressure sprays from dish machines or pressure sprayers needed for repeated cleaning. These shells collect residues from the environment (dust, animals, birds, etc.) or from organic material with its pathogens and biofilms and are not easily cleaned with their cracks, crevices and porous shells. Soil on the back of the shell in the radial growth rings is also very difficult to clean. Both *Vibrio vulnificus* and *Vibrio parahaemolyticus* have an affinity for the chitin in shells and are not easily removed. Because of these factors, natural mollusk and crustacean shells do not meet the

criteria for characteristics of a multiuse utensil and cannot be reused beyond the limited exception for preparation of the animal and return to its shell associated with Section 4-502.14.

2) Can a consumer advisory with its reminder and disclaimer be displayed to allow the reuse of shells? No, the consumer advisory in Section 3-603.11 – Consumer Advisory, in the 2001 Food Code is related to a warning statement when raw or undercooked animal foods are offered to consumers in a ready-to-eat form. The consumer advisory is required when raw shellfish are offered for sale or service but it does not allow the reuse of shells.

3) Is the reuse of natural shells with shucked shellfish honestly presented or misleading to a consumer? The use of commercially available artificial shells intended to be used as a serving utensil with shucked shellfish is not misleading. If a natural oyster shell is used as a serving utensil, the assumption is that this is the shell where the oyster developed. This can be verified in the food establishment by requesting the certification tags of the shellstock used which must be retained 90 days. Certification information for fresh frozen oysters on-the-half-shell can be verified from the packing invoice or packing container. When natural shells from another source are reused or when the shells from shellstock served at that facility are reused, this is misleading and not honestly presented to the consumer as specified in Section 3-601.12 – Honestly Presented, in the 2001 Food Code.

Response: The reuse of mollusk and crustacean shells as multiuse utensils is not allowed in food establishments. This does not include the exception for removal of the oyster or other species from the shell for preparation then returning the animal to the shell for service. The shell itself may be potentially unsafe for use as a food utensil because of residues from natural and environmental contamination occurring after the mollusk or crustacean is removed. In addition, natural shells are not durable and easily cleanable. Reused shells with shucked shellfish would be considered misleading and not honestly presented. Consumer advisors must be provided when raw and fresh frozen shellfish are served ready-to-eat but it does not provide any allowance for the operator of a food establishment when reusing shells.

References:

1. Sec. 4-502.14 Shells, Use Limitation – 2001 Food Code
2. Sec. 4-101.11 Characteristics – 2001 Food Code
3. 3-601.12 Honestly Presented – 2001 Food Code
4. Correspondence, dated November 22, 1978, from William P. Wollenschlager, FDA, Division of Retail Food Protection regarding Mollusk and Crustacea Shells