



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner

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June 16, 2023

His Excellency, Governor Christopher T. Sununu
 and The Honorable Council
 State House
 Concord, NH 03301

REQUESTED ACTION

Authorize the New Hampshire Department of Environmental Services (NHDES) to enter into a **SOLE SOURCE** Memorandum of Agreement (MOA) with the New Hampshire Department of Health and Human Services (NHDHHS), Division of Public Health Services, Bureau of Laboratory Services (BLS), Concord, NH (VC# 177921-B001), in the amount of \$161,918, to perform laboratory services, effective as of July 1, 2023 through June 30, 2025, upon approval by Governor and Council. 100% General Funds.

Funds are available in the following account with the ability to adjust encumbrances between State Fiscal Years through the Budget Office, if needed and justified. Funding for FY2024 and FY2025 is contingent upon continued appropriation and availability of funds.

	<u>FY 2024</u>	<u>FY 2025</u>
03-44-44-442010-15230000-020-500239	\$55,700.00	\$55,700.00
Dept Environmental Services, Shellfish Protection /Healthy Tidal Waters, Current Expenses		

	<u>FY 2024</u>	<u>FY 2025</u>
03-44-44-442010-15230000-049-584990	\$25,259.00	\$25,259.00
Dept Environmental Services, Shellfish Protection/Healthy Tidal Waters, Transfer to Other State Agencies		

EXPLANATION

NHDES requests approval of a **SOLE SOURCE** Memorandum of Agreement (MOA) between DHHS and NHDES for continuation of laboratory services to support NHDES' Shellfish Protection Program. Commercial and recreational shellfish harvesting is a valuable part of New Hampshire's seacoast culture, and an important economic activity. The shellfish beds are closed for various times of the year due to a variety of public health concerns, including Paralytic Shellfish Poisoning (PSP) events, Amnesic Shellfish Poisoning (ASP) events, water quality problems stemming from wastewater treatment plant upsets, and other factors. The State utilizes a set of national guidelines known as the National Shellfish Sanitation Program (NSSP) to evaluate the suitability of shellfish growing areas for harvest. Proper evaluation of areas includes regular testing of seawater and shellfish tissue samples to ensure areas meet standards for

human consumption. This agreement is **Sole Source** because the DHHS-BLS is the only laboratory in New Hampshire that is accredited by the U.S. Food and Drug Administration (FDA) to analyze seawater and shellfish tissue samples. Use of an accredited laboratory is required by the NSSP and the FDA.

This agreement provides funds for the DHHS-BLS to analyze seawater and shellfish tissue samples for Paralytic Shellfish Poisoning toxin, for Amnesic Shellfish Poisoning toxin, for *Vibrio* bacteria, for fecal coliform bacteria, and for male-specific coliphage. The laboratory results will be used by NHDES to determine appropriate classification of shellfish growing waters and to determine when shellfish growing areas may be reopened for harvesting following pollution-generating events such as wastewater treatment facility upsets. The agreement also provides funds for the purchase of equipment, support for part-time laboratory staff, and overtime costs for laboratory staff.

The attached MOA between NHDES and DHHS will provide for completion of laboratory tasks, as outlined in items A, B, C and D of the MOA.

This agreement has been approved by the Office of the Attorney General as to its form, substance, and execution.

We respectfully request your approval.



Robert R. Scott, Commissioner
Department of Environmental Services

MEMORANDUM OF AGREEMENT
between the
NH DEPARTMENT OF ENVIRONMENTAL SERVICES (Water Division)
and the
NH DEPARTMENT OF HEALTH AND HUMAN SERVICES

PROJECT: **Laboratory Analysis of Shellfish Tissue Samples and Seawater Samples for Paralytic Shellfish Poison, Amnesic Shellfish Poison, *Vibrio* Bacteria, Male Specific Coliphage, and Fecal Coliform Bacteria.**

This Memorandum of Agreement (MOA) between the NH Department of Health and Human Services' (DHHS) Division of Public Health Services (DPHS), Public Health Laboratories (PHL), Bureau of Laboratory Services (BLS), and the Department of Environmental Services (DES) Water Division, describes the responsibilities of each department in analyzing shellfish tissue and seawater samples for the purposes of shellfish water classification and management.

Pursuant to RSA 143:21, RSA 143:21-a, and RSA 487:34, DES is responsible for classifying shellfish harvest waters used for human consumption. Classification requires the laboratory analysis of tissue samples for Paralytic Shellfish Poison toxin, Amnesic Shellfish Poison toxin, *Vibrio* bacteria, and fecal coliform bacteria. DES also conducts seawater samples for fecal coliform bacteria Most Probable Number and male specific coliphage. DES is required to (1) test shellfish tissue samples for Paralytic Shellfish Poisoning (PSP) toxin and Amnesic Shellfish Poison (ASP) toxin to determine when shellfish beds need to be closed and/or reopened following a red tide event; (2) assess *Vibrio* bacteria levels in shellfish under various environmental conditions to assess risk of illness outbreaks, (3) conduct analysis of shellfish tissue and seawater samples for fecal coliform bacteria to determine when it is appropriate to reopen shellfish harvesting areas following a pollution event, (4) conduct analysis of seawaters for fecal coliform bacterial testing to maintain the proper classifications of shellfish growing waters, and (5) conduct analysis of seawater samples and other water samples such as wastewater treatment facility effluent, for male specific coliphage, a viral indicator that provides information on when disease-causing viruses may be present in seawater and/or shellfish. Because these tests must be conducted in an FDA-accredited laboratory in accordance with National Shellfish Sanitation Program specifications, DHHS will perform the required tests on behalf of DES in accordance with this MOA.

For the purpose of this MOA, DHHS and DES understand the following:

A. DES will:

1. For State fiscal year (SFY) 2024:

- Collect and submit to DHHS up to 80 shellfish tissue samples for Paralytic Shellfish Poison testing, 30 shellfish tissue samples for Amnesic Shellfish Poison testing, 16 shellfish tissue samples for *Vibrio* bacteria testing, 95 shellfish tissue samples for fecal coliform MPN testing, 1,150 seawater samples for fecal coliform MPN testing, and 200 seawater samples for male specific coliphage testing.
- Provide DHHS up to \$55,700 to conduct shellfish tissue *Vibrio* testing, shellfish tissue fecal

coliform testing, shellfish tissue male specific coliphage testing, shellfish tissue Amnesic Shellfish Poison testing, seawater male specific coliphage testing, and seawater fecal coliform testing.

- Provide DHHS with up to \$25,259 for purchase of equipment, part-time laboratory staff, overtime costs for laboratory staff, and expenses related to travel to conferences and meetings relating to shellfish sanitation and laboratory training, as specified below:
 - The purchase of Water Analysis Laboratory equipment and supplies - \$1,000;
 - Overtime pay - up to \$1,263 for Public Health Laboratory staff, and \$1,198 for Water Analysis Laboratory staff; and,
 - The hiring of a part-time Water Analysis Laboratory staff member - up to \$21,798.

2. For SFY 2025,

- Collect and submit to DHHS up to 80 shellfish tissue samples for Paralytic Shellfish Poison testing, 30 shellfish tissue samples for Amnesic Shellfish Poison testing, 16 shellfish tissue samples for *Vibrio* bacteria testing, 95 shellfish tissue samples for fecal coliform MPN testing, 1,150 seawater samples for fecal coliform MPN testing, and 200 seawater samples for male specific coliphage testing.
- Provide DHHS with up to \$55,700 to conduct shellfish tissue *Vibrio* testing, shellfish tissue fecal coliform testing, shellfish tissue Amnesic Shellfish Poison testing, seawater male specific coliphage testing, and seawater fecal coliform testing.
- Provide DHHS with up to \$25,259 for part-time laboratory staff, overtime costs for laboratory staff, and expenses related to travel to conferences and meetings relating to shellfish sanitation and laboratory training, as specified below:
 - The purchase of Water Analysis Laboratory equipment and supplies - \$1,000;
 - Overtime pay - up to \$1,263 for Public Health Laboratory staff, and \$1,198 for Water Analysis Laboratory staff; and,
 - The hiring of a part-time Water Analysis Laboratory staff member - up to \$21,798

3. Pay DHHS for each tissue or seawater test performed at DHHS PHL per sample based on the following fee schedule:

- Total *Vibrio* Bacteria in tissue - \$150
- *Vibrio* tdh+/trh+ Bacteria in tissue - \$100
- Fecal Coliform Bacteria in tissue - \$60 (\$0 for the first 50 samples per year, \$60 for each additional sample, per year)
- Amnesic Shellfish Poison toxin in tissue - \$50
- Fecal Coliform Bacteria Most Probable Number in Seawater - \$30
- Male Specific Coliphage in Seawater - \$30
- Paralytic Shellfish Poison Toxin - \$200 (\$0 for the first 65 samples per year, \$200 for each additional sample, per year)

B. DHHS will:

1. Provide laboratory analyses for each test requested by DES in accordance with this MOA, not

to exceed the limits detailed in (A) above.

- Up to 80 shellfish tissue samples for Paralytic Shellfish Poison testing, 30 shellfish tissue samples for Amnesic Shellfish Poison testing, 6 shellfish tissue samples for *Vibrio* bacteria testing, 95 shellfish tissue samples for fecal coliform MPN testing, 1,150 seawater samples for fecal coliform MPN testing, and 200 seawater samples for male specific coliphage testing.
2. Provide written results to DES of all analyses as they are completed.
 3. For each SFY, provide laboratory analyses of up to 50 shellfish tissue samples per year for fecal coliform Most Probable Number testing (valued at \$60 per sample) and laboratory analysis of up to 65 shellfish tissue samples per year for Paralytic Shellfish Poison toxin testing (valued at \$200 per sample), at no charge, to determine the proper classification of shellfish growing waters.
 4. Submit invoices to DES on a quarterly basis.
- C. The total funding for this project shall not exceed \$161,918 over the two fiscal years. All payments are subject to the approval of the Project Coordinator at DES.
- D. Other terms and conditions:
1. The duration of this MOA shall be from July 1, 2023 through June 30, 2025, upon Governor and Council approval.
 2. Either party cannot terminate this MOA, in whole or in part, unless both parties agree in writing to the termination or it becomes unfeasible for DHHS or DES to continue its obligations under this MOA.

IN WITNESS WHEREOF, the parties have agreed to the terms of this MOA on the dates indicated.

Date 6/15/23



Lori A. Weaver, Interim Commissioner
Department of Health and Human Services

Date 6/16/23

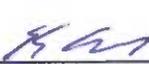


Robert R. Scott, Commissioner
Department of Environmental Services

Approval by Attorney General's Office

This is to certify that the above Memorandum of Understanding has been reviewed by this office and is approved as to form, substance, and execution.

Date 6/16/23

 (K. Allen Brown FS)

Signed