



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

April 11, 2013

Her Excellency, Governor Margaret Wood Hassan
 and the Executive Council
 State House
 Concord, New Hampshire 03301

Sole Source

REQUESTED ACTION

Authorize the Department of Environmental Services (DES) to enter into a **sole source** Memorandum of Agreement (MOA) with the Department of Health and Human Services (DHHS), Division of Public Health Services (DPHS), Bureau of Laboratory Services (BLS), Concord, NH (VC# 177921), in the amount of \$85,000.00, to perform laboratory services, effective as of July 1, 2013 through June 30, 2015, upon approval by Governor and Council . 100% General Funds.

Funding is available as follows, with the authority to adjust encumbrances in each of the state fiscal years through the Budget Office if needed and justified, and contingent upon the availability and continued appropriation of funds in SFY 14 and SFY 15 as follows:

	<u>FY 2014</u>	<u>FY 2015</u>
03-44-44-442010-15230000-020-500239	\$24,969.00	\$24,469.00
Dept. Environmental Services, Shellfish Protection Program/Healthy Tidal Waters, Current Expense		

	<u>FY 2014</u>	<u>FY 2015</u>
03-44-44-442010-15230000-049-500294	\$17,531.00	\$18,031.00
Dept. Environmental Services, Shellfish Protection Program/Healthy Tidal Waters, Transfer to Other State Agencies		

EXPLANATION

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, water quality problems stemming from wastewater treatment plant upsets, and other factors. The State of New Hampshire 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 certified by the U.S. Food and Drug Administration (FDA) to analyze shellfish

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tissue samples for PSP toxin and fecal coliform bacteria. Use of a certified 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 and for fecal coliform bacteria. The laboratory results will be used by DES 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 attached memorandum of agreement (MOA) between DES and DHHS will provide for completion of laboratory tasks, as outlined in items A and B 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.


Thomas S. Burack, Commissioner

Enclosure

**MEMORANDUM OF AGREEMENT
BETWEEN
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
AND
THE DEPARTMENT OF ENVIRONMENTAL SERVICES (WATER DIVISION)**

***PROJECT:* Laboratory Analysis of Shellfish Tissue Samples and Seawater Samples for Paralytic Shellfish Poison and Fecal Coliform Bacteria.**

This Memorandum of Agreement (MOA) describes a project, which has been agreed to between the NH Department of Health and Human Services (DHHS), Division of Public Health Services (DPHS), Public Health Laboratories (PHL) and the Department of Environmental Services (DES) Water Division, to analyze shellfish tissue and seawater samples for the purposes of shellfish water classification and management.

Work in SFY 2014 and SFY 2015 will involve laboratory analysis of tissue samples for Paralytic Shellfish Poison toxin and for fecal coliform bacteria, and seawater samples for fecal coliform bacteria Most Probable Number (\$30 per sample) and for fecal coliform bacteria plate counts (\$20 per sample) for a total project cost not to exceed \$42,500 per year, or \$85,000 over the two fiscal years. As match for the project, DHHS will contribute laboratory analysis 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) to determine the proper classification of shellfish growing waters.

The purposes of this project are to (1) test shellfish tissue samples for Paralytic Shellfish Poisoning (PSP) toxin to determine when shellfish beds need to be closed and/or reopened following a red tide event; (2) 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, and (3) conduct analysis of seawaters for fecal coliform bacterial testing to maintain the proper classifications of shellfish growing waters. This MOA will result in written results of the bacterial and PSP samples.

Termination of any paragraph, part, or section of this Agreement per the conditions described herein shall not be interpreted as termination of the entire Agreement. The period of this Agreement shall be from the date of Governor and Council approval through June 30, 2015.

For the purpose of this Agreement, DHHS and DES agree to cooperate as follows:

A. For SFY14, the DES agrees to:

1. Collect and submit to the DHHS up to 65 shellfish tissue samples for Paralytic Shellfish Poison testing, up to 50 shellfish tissue samples for fecal coliform MPN

testing, up to 1,250 seawater samples for fecal coliform MPN testing, and up to 250 water samples for fecal coliform plate count testing.

2. Provide the DHHS up to \$42,500.00 to be utilized for seawater fecal coliform testing; All payments are subject to the approval of the Project Coordinator at DES.

B. For SFY14, the DHHS agrees to complete the following tasks:

1. Provide laboratory analyses for fecal coliform [MPN] bacteria for up to 1,250 seawater samples, and for fecal coliform [plate count] bacteria for up to 250 water samples.
2. Provide laboratory analyses for Paralytic Shellfish Poison toxin for up to 65 shellfish tissue samples at no charge to DES as match for the program.
3. Provide laboratory analyses for fecal coliform [MPN] bacteria for up to 50 shellfish tissue samples at no charge to DES as match for the program.
4. Provide written results of all analyses as they are completed.
5. Submit invoices to DES on a quarterly basis.

C. For SFY15, the DES agrees to:

1. Collect and submit to the DHHS up to 65 shellfish tissue samples for Paralytic Shellfish Poison testing, up to 50 shellfish tissue samples for fecal coliform MPN testing, up to 1,250 seawater samples for fecal coliform MPN testing, and up to 250 water samples for fecal coliform plate count testing.
2. Provide the Department of Health and Human Services up to \$42,500.00 to be utilized for seawater fecal coliform testing; All payments are subject to the approval of the Project Coordinator at DES.

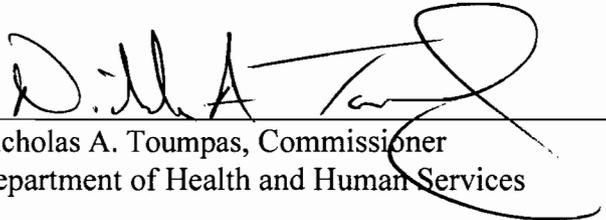
D. For SFY15, the DHHS agrees to complete the following tasks:

1. Provide laboratory analyses for fecal coliform [MPN] bacteria for up to 1,250 seawater samples, and for fecal coliform [plate count] bacteria for up to 250 water samples.
2. Provide laboratory analyses for Paralytic Shellfish Poison toxin for up to 65 shellfish tissue samples at no charge to DES as match for the program.

3. Provide laboratory analyses for fecal coliform [MPN] bacteria for up to 50 shellfish tissue samples at no charge to DES as match for the program.
4. Provide written results of all analyses as they are completed.
5. Submit invoices to DES on a quarterly basis.

IN WITNESS WHEREOF, the respective parties have hereunto set their hands on the dates indicated.

Date 3/13/2013



Nicholas A. Toumpas, Commissioner
Department of Health and Human Services

Date 4/15/2013



Thomas S. Burack, Commissioner
Department of Environmental Services

Approval by Attorney General's Office

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

Date 4-15-13



Signed