

CHAPTER 25A**OYSTERS****Authority**

N.J.S.A. 13:1D-9, 23:2B-14, 50:1-1 et seq.,
50:2-7 through 50:2-12, and 50:3-1 et seq.

Source and Effective Date

R.2011 d.133, effective April 11, 2011.
See: 42 N.J.R. 2665(b), 43 N.J.R. 1256(a).

Chapter Expiration Date

Chapter 25A, Oysters, expires on April 11, 2018.

Chapter Historical Note

Chapter 25A, Oysters, was adopted as emergency new rules by R.1981 d.94, effective March 11, 1981, expired May 21, 1981. See: 13 N.J.R. 195(a).

Chapter 25A, Oysters, was adopted as new rules by R.1981 d.188, effective June 4, 1981. See: 13 N.J.R. 192(b), 13 N.J.R. 340(c).

Subchapter 3, Oyster Seed Beds, was originally codified in Title 7 as Chapter 36, Oyster Seed Beds. Chapter 36 was adopted as R.1972 d.79, effective May 15, 1973. See: 4 N.J.R. 102(a). Chapter 36 expired on June 9, 1972. N.J.A.C. 7:25-7.2, Oyster seed beds, was adopted by R.1973 d.86, effective May 14, 1973. See: 5 N.J.R. 141(a). N.J.A.C. 7:25-7.2 expired on June 30, 1974. N.J.A.C. 7:25-7.2, Oyster seed beds, was adopted as a new rule by R.1975 d.74, effective May 19, 1975. N.J.A.C. 7:25-7.2, Oyster seed beds, was recodified as N.J.A.C. 7:25A-3 by R.1981 d.189, effective June 4, 1981. See: 13 N.J.R. 193(a), 13 N.J.R. 340(b).

Subchapter 2, Oyster Management in Delaware Bay, was adopted as R.1981 d.197, effective July 9, 1981. See: 13 N.J.R. 192(c), 13 N.J.R. 405(b).

Subchapter 4, Oyster Cultch Program, was adopted as R.1983 d.590, effective December 19, 1983. See: 15 N.J.R. 1416(a), 15 N.J.R. 2159(a).

Subchapter 1, Oyster Dredging Licenses, Subchapter 2, Oyster Management in Delaware Bay, and Subchapter 3, Oyster Seed Beds, were repealed, and Subchapter 1, Oyster Management, was adopted as new rules by R.1985 d.216, effective May 6, 1985. See: 17 N.J.R. 352(a), 17 N.J.R. 1092(a).

Pursuant to Executive Order No. 66(1978), Chapter 25A, Oysters, was readopted as R.1990 d.250, effective April 23, 1990. See: 22 N.J.R. 283(a), 22 N.J.R. 1573(a).

Pursuant to Executive Order No. 66(1978), Chapter 25A, Oysters, was readopted as R.1995 d.250, effective April 20, 1995. See: 27 N.J.R. 798(a), 27 N.J.R. 1979(a).

Pursuant to Executive Order No. 66(1978), Chapter 25A, Oysters, was readopted as R.2000 d.199, effective April 19, 2000. See: 32 N.J.R. 625(a), 32 N.J.R. 1807(a).

Chapter 25A, Oysters, was readopted as R.2005 d.383, effective October 13, 2005. See: 37 N.J.R. 1593(a), 37 N.J.R. 4249(a).

Subchapter 2, Direct Market Harvest Season, and Subchapter 3, Oyster Transplant Season, were adopted as new rules; and Subchapter 4, Oyster Clutch Program, was repealed by R.2010 d.132, effective July 6, 2010. See: 41 N.J.R. 2167(a), 42 N.J.R. 1362(a).

Chapter 25A, Oysters, was readopted as R.2011 d.133, effective April 11, 2011. See: Source and Effective Date.

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SUBCHAPTER 4. (RESERVED)**SUBCHAPTER 1. OYSTER MANAGEMENT****7:25A-1.1 Purpose and scope**

This chapter constitutes the rules governing the issuance, renewal, substitution and transfer of oyster dredging licenses, the leasing of oyster ground in Section E in Delaware Bay, the taking and reporting of oysters from the Delaware River, Delaware Bay and their tributaries, with the exception of the leased areas, and the imposition, collection and dedication of fees to finance an oyster cultch and resource enhancement program to facilitate the protection, conservation, management and improvement of the oyster resource and industry in New Jersey. The oyster management program, which includes, as a component, the oyster cultch and resource enhancement program, includes a limitation on the number of available licenses, a limitation on harvest to specific fishing

times and areas and the establishment of a seasonal harvest quota.

Amended by R.1983 d.351, effective September 6, 1983.
See: 15 N.J.R. 990(a), 15 N.J.R. 1473(a).
Amended by R.2010 d.132, effective July 6, 2010.
See: 41 N.J.R. 2167(a), 42 N.J.R. 1362(a).
Section was "Scope". Rewrote the section.

7:25A-1.2 Construction

These rules shall be liberally construed to permit the Department to effectuate the purposes of N.J.S.A. 23:2B-14, 23:3-12.2, 50:1-1 et seq., 50:2-7 through 50:2-10, 50:2-11, 50:2-12, and 50:3-1 et seq.

The following annotations apply to N.J.A.C. 7:25A-1.2 prior to its repeal by R.2010 d.132:

Amended by R.1983 d.351, effective September 6, 1983.
See: 15 N.J.R. 990(a), 15 N.J.R. 1473(a).
Amended by R.1983 d.591, effective December 19, 1983.
See: 15 N.J.R. 1415(a), 15 N.J.R. 2158(a).
Amended by R.1994 d.450, effective September 6, 1994.
See: 26 N.J.R. 1562(a), 26 N.J.R. 3714(a).

The following annotation applies to N.J.A.C. 7:25A-1.2 subsequent to its recodification from N.J.A.C. 7:25A-1.3 by R.2010 d.132:

Recodified from N.J.A.C. 7:25A-1.3 and amended by R.2010 d.132, effective July 6, 2010.

See: 41 N.J.R. 2167(a), 42 N.J.R. 1362(a).
Substituted "23:2B-14, 23:3-12.2, 50:1-1 et seq., 50:2-7 through 50:2-10, 50:2-11, 50:2-12, and 50:3-1 et seq" for "50:1-5, 50:1-23, and 50:1-27". Former N.J.A.C. 7:25A-1.2, Purpose, repealed.

7:25A-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Annual harvest quota" means the total amount of the oyster resource from the State's natural seed beds that may be harvested by all licensed oyster vessels during a direct market harvest season or oyster transplant season.

"Annual tag allotment" means the harvest tags issued by the Division to an oyster dredge vessel license holder in an amount equal to a harvester's individual allocation.

"Bushel" means the volume of oysters within the shell containerized in baskets or bags having a capacity of not more than one standard bushel, as defined at N.J.S.A. 51:1-16.

"Cage" means a container used during a direct market harvest season or oyster transplant season containing 29.87 cubic feet (842.7 liters) and having a capacity of not more than 24 bushels of oysters within the shell.

"Commissioner" means the Commissioner of the Department of Environmental Protection or his or her designee.

"Container" means a holding or transporting apparatus used to retain oysters, in 24-bushel cages or in baskets or bags with a capacity of not more than one U.S. standard bushel.

"Council" means the Delaware Bay Section of the New Jersey Shellfisheries Council.

"Culling" means the act of sorting and discarding under-sized oysters, dead shell and/or debris.

"Cultch" means shell and other material placed on the bottom of a waterbody that is capable of functioning as a substrate for the attachment or setting of oyster larvae. Cultch is deployed in selected locations to either enhance recruitment or restore or maintain oyster habitat.

"Delaware Bay Office" means the Division's Delaware Bay region field office located at 1672 E. Buckshutem Road, Millville, New Jersey 08332. The office telephone number is (856) 785-0730.

"Department" means the Department of Environmental Protection.

"Direct market harvest season" means April 1 to June 30, the season, as established at N.J.S.A. 50:3-8 and 50:3-9, during which the natural seed beds may be legally opened for the taking of oysters for the purpose of direct market sale. Pursuant to N.J.S.A. 50:3-8, the duration of the direct market harvest season may be modified by the Commissioner after consultation with the Council.

"Division" means the Division of Fish and Wildlife in the Department of Environmental Protection.

"Gross tonnage" means a vessel's approximate volume as determined by a U.S. Coast Guard authorized measurement system, in accordance with the 46 CFR 69.9.

"Harvest" or "harvesting" means the act of collecting oysters with dredge, tongs or other means.

"Harvester" means the captain, license holder, or other person responsible for the operation of a vessel engaged in the act of collecting oysters with dredge, tongs or other means.

"Harvest trip" means a departure from port, transit to the State's natural seed beds, harvesting and return to port.

"Haskin Shellfish Research Laboratory" means the Rutgers University Haskin Shellfish Research Laboratory, located in Port Norris, New Jersey.

"Individual allocation" means an oyster dredge vessel license holder's equal fraction of the annual harvest quota that is available for harvest pursuant to N.J.A.C. 7:25A-2.

"Land" means to enter port in possession of oysters, to dock to a man-made structure in possession of oysters or to begin offloading harvested oysters.

"Landing sites" means all Division-approved offloading sites.

"Market oyster" means any seed oyster taken from the State's natural seed beds as part of a direct market harvest

season or oyster transplant season with a minimum size of two and one-half inches in height from hinge to lip.

“Minimum tonnage license” means an oyster dredge vessel license issued to a vessel which is five gross tons or less.

“Natural seed beds” means any of the natural beds or grounds in Delaware Bay or Delaware River above the southwest line, except that area known as Section “E”.

“Offload” or “offloading” means to separate physically a container of oysters from a vessel.

“Oyster cultch program” means the program governing the purchase and planting of shell or other cultch material in order to increase oyster recruitment or for general bed maintenance. The program also includes other enhancement activities such as, but not limited to, the transplanting of seed oysters within the Delaware River, Delaware Bay and their tributaries and other support activities.

“Oyster dealer” means any person who purchases oysters harvested by individuals from the Delaware River, Delaware Bay and their tributaries, in the shells as they are offloaded from oyster vessels, and who is licensed pursuant to N.J.S.A. 50:3-20.11.

“Oyster dredge vessel license holder” means the owner who has legal title or right to a vessel that is licensed to harvest oysters with dredge from any of the natural beds or grounds in the Delaware River or in the Delaware Bay above the Southwest line, except in that area known as Section E.

“Oyster resource development account” means the dedicated account into which are deposited all revenues received through the sale of oyster harvest tags from oysters harvested from the Delaware River, Delaware Bay and their tributaries, including, but not limited to, all license fees collected pursuant to this chapter and N.J.S.A. 50:1-18, 50:3-2 and 50:3-20.13. The monies in the account are allocated to the Division and shall be disbursed only for the enhancement and management of the oyster resource in the Delaware Bay in the amounts and manner prescribed by the Commissioner, after consultation with the Delaware Bay Section of the New Jersey Shellfisheries Council.

“Oyster transplant season” means April 1 to June 30, the season, as established at N.J.S.A. 50:3-8 and 50:3-9, during which the natural seed beds may be legally opened for the taking of seed oysters for the purpose of transplanting oysters to the leased grounds. Pursuant to N.J.S.A. 50:3-8, the duration of the oyster transplant season may be modified by the Commissioner after consultation with the Council.

“Planting” means to physically move oysters off a vessel onto a leased ground.

“Section ‘E’ ” means the leased area above the southwest line described at N.J.S.A. 50:1-23.

“Seed oysters” means all oysters harvested from any of the lands lying under the tidal waters of the Delaware River, Delaware Bay and their tributaries, with the exception of the leased areas. For purposes of fee calculations pursuant to N.J.A.C. 7:25A-2.6 and 3.6, oysters that have been removed from natural seed beds and planted on leased areas are not considered to be seed oysters subsequent to planting in the leased area.

“Southwest line” means a line running directly from the mouth of Straight Creek to Crossledge Lighthouse in Delaware Bay, as described at N.J.S.A. 50:3-11.

“Time” means Eastern Standard time (EST) or Eastern Daylight Savings time (EDT), whichever is in effect that date.

“Tongs” means a device used in catching oysters that consists of two shafts or handles attached to opposable and complementary pincers, baskets or containers operated entirely by hand from the surface of the water and that has no external or internal power source.

“Validly licensed” means those vessels:

1. Which are operable, that is, entirely capable of the commercial dredging harvest of oysters under their own motive power at the time of license application or renewal unless exempted from this requirement by the Commissioner, upon the recommendation of the Council and its finding that exigent circumstances warranted such recommendation; and
2. Which have been licensed and operated as required by the provisions of this chapter.

Amended by R.1991 d.349, effective July 1, 1991.

See: 23 N.J.R. 1112(a), 23 N.J.R. 2012(b).

Added definitions for “Council,” “Shellfish Office,” “Time”; “Validly licensed”.

Amended by R.1995 d.250, effective May 15, 1995.

See: 27 N.J.R. 798(a), 27 N.J.R. 1979(a).

Amended by R.2000 d.199, effective May 15, 2000.

See: 32 N.J.R. 625(a), 32 N.J.R. 1807(a).

Recodified from N.J.A.C. 7:25A-1.4 and amended by R.2010 d.132, effective July 6, 2010.

See: 41 N.J.R. 2167(a), 42 N.J.R. 1362(a).

In the introductory paragraph, substituted “chapter” for “subchapter”; added definitions “Annual harvest quota”, “Annual tag allotment”, “Bushel”, “Cage”, “Commissioner”, “Container”, “Culling”, “Cultch”, “Delaware Bay Office”, “Direct market harvest season”, “Gross tonnage”, “Harvest”, “Harvester”, “Harvest trip”, “Haskin Shellfish Research Laboratory”, “Individual allocation”, “Land”, “Landing sites”, “Market oyster”, “Minimum tonnage license”, “Offload”, “Oyster cultch program”, “Oyster dealer”, “Oyster dredge vessel license holder”, “Oyster resource development account”, “Oyster transplant season”, “Planting” and “Tongs”; deleted definitions “Bay season” and “Shellfish Office”; in definition “Council”, inserted “New Jersey”; in definition “Division”, inserted “in the Department of Environmental Protection”; rewrote definition “Section ‘E’ ”; substituted definition “Seed oysters” for definition “Seed oysters (seed)”; rewrote definition “Seed oysters”; in definition “Southwest line”, inserted “, as described at N.J.S.A. 50:3-11”; and in definition “Validly licensed”, rewrote paragraph 1. Former N.J.A.C. 7:25A-1.3, Construction, recodified to N.J.A.C. 7:25A-1.2.

7:25A-1.4 Licenses; residence of vessel owners; tonnage determination; license fees

(a) No licenses authorized by N.J.S.A. 50:3-1 shall be issued except as a renewal for those vessels validly licensed during the year prior to that of the license to be issued.

(b) The owner of a licensed oyster dredge vessel shall be legally domiciled or incorporated in the State of New Jersey.

(c) No vessel owned wholly or in part by a nonresident and licensed in any other state to catch oysters on natural beds or grounds in such other state shall be licensed in this State within the same year in which such license to catch oysters in such other state shall have been or shall be issued.

(d) For the purposes of licensing, gross tonnage shall be determined based on one of the following:

1. For vessels five gross tons or less that are not eligible for a United States Coast Guard Certificate of Documentation and were built in the United States, the applicant shall provide a current New Jersey Motor Vehicle Registration for the vessel and shall certify that the vessel is not eligible for a United States Coast Guard Certificate of Documentation.

2. For vessels greater than five gross tons that were built in the United States, the applicant shall provide a current copy of the United States Coast Guard Certificate of Documentation for the vessel. The Certificate of Documentation shall include the owner's name and address as well as the dimensions and gross tonnage of the vessel.

3. For any vessel built outside of the United States, the applicant shall provide gross tonnage documentation in accordance with N.J.A.C. 7:25A-1.5(k).

(e) For vessels five gross tons or less qualifying under (d)1 above, the minimum annual license fee of \$10.00 established at N.J.S.A. 50:3-2 applies. For vessels qualifying under (d)2 or 3 above, the annual license fee of \$2.00 per gross ton established at N.J.S.A. 50:3-2 applies.

Amended by R.1991 d.349, effective July 1, 1991.
See: 23 N.J.R. 1112(a); 23 N.J.R. 2012(b).

Added "as a renewal for", "prior to that of the license to be issued"; deleted "new oyster", "previous".

Recodified from N.J.A.C. 7:25A-1.5 and amended by R.2010 d.132, effective July 6, 2010.

See: 41 N.J.R. 2167(a), 42 N.J.R. 1362(a).

Section was "Licenses". Inserted designation (a); and added (b) through (e). Former N.J.A.C. 7:25A-1.4, Definitions, recodified to N.J.A.C. 7:25A-1.3.

7:25A-1.5 Substitution, exchanges or transfers of licensed oyster dredge vessels; license renewal

(a) Any person who owns a vessel validly licensed pursuant to N.J.S.A. 50:3-1 may substitute a new vessel for the previously licensed vessel, except that no substituted vessel

shall have a greater gross tonnage than the previously licensed vessel.

(b) Two persons owning vessels validly licensed pursuant to N.J.S.A. 50:3-1 may exchange their vessels with the approval of the Commissioner and the Council and be exempt from the tonnage limitation set forth in (a) above.

(c) A person replacing or transferring ownership of his or her licensed oyster vessel shall do one of the following:

1. File a notarized Statement of Intent with the Department indicating that he or she has sold the vessel and wishes to replace it with another vessel within one year. If transfer of the license to the replacement vessel is to occur after the expiration date of the current license, the license holder shall renew the license prior to expiration and pay the annual license fee specified in N.J.A.C. 7:25A-1.4(e) to retain the right to the license to be transferred; or

2. File a notarized Statement of Intent with the Department indicating that he or she will waive all rights and conditions of that license, not apply for a replacement license, and transfer the right to a license with the vessel to its new owner who shall meet all statutory criteria for licensing. If transfer of the licensed vessel is to occur after the expiration date of the current license, the license holder shall renew the license prior to expiration and pay the annual license fee specified in N.J.A.C. 7:25A-1.4(e) to retain the right to the licensed vessel to be transferred.

(d) The new owner of a transferred vessel for which the previous owner has filed a notarized Statement of Intent with the Department under (c)2 above indicating that he or she will waive all rights and conditions of that license intending to transfer the right to the license with the vessel to its new owner, must have the license reissued in his or her own name. Application for reissue must include documentation as to ownership of the vessel, the current year's license, documentation of the gross tonnage of the vessel as specified in (k) below and the annual license fee specified in N.J.A.C. 7:25A-1.4(e).

(e) A licensed vessel that is lost, destroyed or disabled may be replaced within four years of December 31 of the year for which the lost, destroyed, or disabled vessel was licensed. The owner shall file a Statement of Intent with the Department, on or before December 31 of the year for which the lost, destroyed, or disabled vessel was licensed, that he or she will replace the vessel. If transfer of the license to the new vessel is to occur after the expiration date of the current license, the license holder shall renew the license prior to expiration and pay the annual license fee specified in N.J.A.C. 7:25A-1.4(e) to retain the right to the license to be transferred. The replacement vessel shall be licensed upon proof of loss and of replacement of the previously licensed vessel. No replacement vessels shall have more than a 10-percent greater gross tonnage than the previously licensed vessel.

(f) Except as specified in (c)1 and (e) above, in order to maintain licensing during subsequent years, oyster dredge vessel licenses shall be renewed annually on or before December 31. Application for renewal shall include proof of ownership of the vessel, an affidavit attesting that the vessel was validly licensed and evidence of compliance with N.J.A.C. 7:25A-1.4.

(g) A license not renewed within the calendar year shall be retired.

(h) License renewal is specifically conditioned on the continuing conformance of the licensee with all the requirements of this chapter.

(i) Nothing in this subchapter shall allow the issuance of two licenses for one.

(j) Only vessels propelled under their own motive power are eligible for license renewal.

(k) The application for license reissuance, including renewal and reissuance to a new licensee as a result of a transfer, shall include documentation as to ownership and vessel gross tonnage, including the following:

1. A valid Certificate of Title; or
2. A current New Jersey Motor Vehicle Registration, and as applicable:
 - i. If the vessel is eligible for a United States Coast Guard Certificate of Documentation, in accordance with N.J.A.C. 7:25A-1.4(d)2, a current copy of the Certificate; or
 - ii. If the vessel is not eligible for a United States Coast Guard Certificate of Documentation, a certificate of measurement (survey) from a United States Coast Guard authorized certification organization indicating that an admeasurement of the vessel had been conducted. The applicant shall provide the Division with an official copy of the survey with raised seal, which must indicate the gross tonnage of the vessel prior to completion of the transfer and subsequent issuance of the license.

Amended by R.1991 d.349, effective July 1, 1991.

See: 23 N.J.R. 1112(a), 23 N.J.R. 2012(b).

Added "more than a 10-percent" in (e). Added "in order to maintain licensing during subsequent years", "an affidavit that the vessel was validly licensed", "evidence of compliance with N.J.A.C. 7:25A-1.5"; deleted "the previous year's license. An applicant may be issued a license if he had a license in the previous year" in (f).

Recodified from N.J.A.C. 7:25A-1.6 and amended by R.2010 d.132, effective July 6, 2010.

See: 41 N.J.R. 2167(a), 42 N.J.R. 1362(a).

Section was "Substitution of vessels; license renewal". In (b), substituted "Commissioner" for "commissioner of Environmental Protection", and deleted "Delaware Bay Section of the Shellfisheries" preceding "Council"; in the introductory paragraph of (c), inserted "replacing or" and "or her", and substituted "shall" for "may"; rewrote (c)1, (c)2, (d) and (e); in (f), substituted "vessel" for "boat" in the first sentence, inserted "attesting", and updated the N.J.A.C. reference; in (g), deleted "together with the license holder's Section E leases" from the end; and

added (j) and (k). Former N.J.A.C. 7:25A-1.5, Licenses, recodified to N.J.A.C. 7:25A-1.4.

7:25A-1.6 Leasing of Section E

The owner of an operable vessel which is licensed to dredge oysters pursuant to N.J.S.A. 50:3-1 may lease ground in Section E upon application and approval of the Council.

Recodified from N.J.A.C. 7:25A-1.7 and amended by R.2010 d.132, effective July 6, 2010.

See: 41 N.J.R. 2167(a), 42 N.J.R. 1362(a).

Deleted "Delaware Bay Section of the Shellfisheries" preceding "Council". Former 7:25A-1.6, Substitution of vessels; license renewal, recodified to N.J.A.C. 7:25A-1.5.

7:25A-1.7 Expiration and renewal of Section E lot leases

(a) Each Section E lot lease will expire at the end of the calendar year in which it was issued. Lease holders or their heirs and assigns will have the option to renew each year.

(b) Nothing in this chapter shall be construed to affect the exclusive power of the Council, subject to approval by the Commissioner, to lease shellfish ground as defined in N.J.S.A. 50:1-18.

Recodified from N.J.A.C. 7:25A-1.8 and amended by R.2010 d.132, effective July 6, 2010.

See: 41 N.J.R. 2167(a), 42 N.J.R. 1362(a).

Rewrote (a); and in (b), deleted "Shellfisheries" preceding "Council" and "of Environmental Protection" following "Commissioner". Former 7:25A-1.7, Leasing of Section E, recodified to N.J.A.C. 7:25A-1.6.

7:25A-1.8 Fees; Oyster Resource Development Account

(a) In accordance with N.J.S.A. 50:1-18(e), the Commissioner, in consultation with the Council, shall fix the fee for all oysters harvested from the Delaware River, Delaware Bay and their tributaries, with the exception of the leased areas. The fee for all oysters harvested from the Delaware River, Delaware Bay and their tributaries, with the exception of the leased areas, shall be \$2.00 per bushel. The fee pursuant to this section will be collected by the Division prior to harvest through the purchase of tags from the Division's Delaware Bay Office.

(b) The fee imposed pursuant to this section, except as may otherwise be provided by law, shall be collected by and allocated to the Division and shall be deposited in the Oyster Resource Development Account, established pursuant to section 8 of P.L. 1996, c. 112 (N.J.S.A. 23:3-12.2). The fees shall be disbursed only for the enhancement and management of the oyster resource from the Delaware River, Delaware Bay and their tributaries in the amounts and manner prescribed by the Commissioner after consultation with the Council.

New Rule, R.2010 d.132, effective July 6, 2010.

See: 41 N.J.R. 2167(a), 42 N.J.R. 1362(a).

Former N.J.A.C. 7:25A-1.8, Expiration and renewal of Section E lot leases, recodified to N.J.A.C. 7:25A-1.7.

7:25A-1.9 Designation of landing sites

(a) All oysters harvested from Delaware River, Delaware Bay and their tributaries shall be landed at one of the following designated landing sites: the Maurice River section of Commercial Township, the Cohansey River section of Greenwich Township, Fortescue Creek or the area known as Money Island on Nantuxent Creek.

(b) No oysters shall be landed except at designated landing sites. A list of designated landing sites will be posted at the Division's Delaware Bay Office.

Public Notice: Based upon physical tests of natural oyster seed beds and the recommendation of the Bay Season Advisory Committee, the Delaware Bay Section of the Shellfisheries Council voted to close the natural seed beds below a line from Bennies Point to Buoy No. 35, effective 3:30 P.M., Friday, June 7, 1985, and to close all remaining natural seed beds, effective 3:30 P.M., Friday, June 14, 1985. Pursuant to N.J.A.C. 7:25A-1.9(f), I, Robert E. Hughey, Commissioner of Environmental Protection, granted the necessary approvals to effect these closures.

See: 17 N.J.R. 1795(c).

Public Notice: Based upon physical tests of natural oyster seed beds and the recommendations of the Bay Season Advisory Committee, the Delaware Bay Section of the Shellfisheries Council voted to close the natural seed beds below a line from Bennies Point to Buoy No. 35, effective 3:30 P.M., Friday, May 30, 1986, and to close all remaining natural seed beds, effective 3:30 P.M., Friday, June 6, 1986. Pursuant to N.J.A.C. 7:25A-1.9(f), Richard T. Dewling, Commissioner of Environmental Protection, granted the necessary approvals to effect these closures.

See: 18 N.J.R. 1411(b).

Public Notice: Based upon physical tests of natural oyster seed beds and the recommendation of the Bay Season Advisory Committee and the Rutgers Oyster Research Laboratory, the Delaware Bay Section of the Shellfisheries Council voted at their regularly scheduled meeting on February 3, 1987, that the natural oyster seed beds above the southwest line in Delaware Bay will not be open for the taking of oysters in 1987, due to depletion of the beds as determined by sampling.

See: 19 N.J.R. 662(b).

Amended by R.1991 d.349, effective July 1, 1991.

See: 23 N.J.R. 1112(a), 23 N.J.R. 2012(b).

Substituted "written agreement" for "arrangement" in (b)2. Added "on the day taken" in (c). Added (d) and (e). Recodified (d), (e), (f) as (f), (g), (h); deleted "Delaware Bay Section of the Shellfisheries" in (f), (b). Recodified (g)-(k) as (i)-(m). Recodified (l) as (n) and added "and in accordance with this chapter before the vessel may return to harvesting from the seed beds." Added (o), (p) and (r). Recodified (m) as (q).

Amended by R.1994 d.450, effective September 6, 1994.

See: 26 N.J.R. 1562(a), 26 N.J.R. 3714(a).

Public Notice: Closure of Delaware Bay oyster seed beds.

See: 27 N.J.R. 2268(b).

Repeal and New Rule, R.2010 d.132, effective July 6, 2010.

See: 41 N.J.R. 2167(a), 42 N.J.R. 1362(a).

Section was "Oyster seed beds".

7:25A-1.10 Requirements and conditions for commercial harvest of oysters with tongs

(a) No person shall catch, take or attempt to catch or take by tonging or by any hand-operated device any oysters in the Delaware River, Delaware Bay and their tributaries without first obtaining a commercial shellfish license required by N.J.S.A. 50:2-2 and, if applicable, oyster harvest tags as described in (c) below. In specific areas of the Delaware River, Delaware Bay and their tributaries, as described at

N.J.S.A. 50:3-14 and 50:3-16.3, oysters may be harvested by hand tongs only.

(b) The commercial harvest of oysters with tongs from Delaware River, Delaware Bay and their tributaries, excluding the leased areas, shall be subject to the following requirements.

1. All oysters harvested using tongs shall be landed in their shells and shall be containerized in one-bushel containers. Each container shall be tagged with tags obtained from the Division. Tags shall be affixed to containers immediately upon use, regardless of the volume of oysters placed in the container. Tags shall be used sequentially as issued. Tags shall remain in place until the oysters are landed and officially delivered for sale by the harvester to the oyster dealer, at which point the exact number of bushels offloaded shall be recorded on the oyster dealer's weekly report as described in N.J.A.C. 7:25A-1.12.

2. No container shall be tagged prior to being filled with oysters. Tags affixed to empty containers shall be subject to removal and confiscation by Division personnel. No empty container with tags affixed shall be placed onboard any vessel being prepared to harvest oysters.

3. A harvester, or any other person aboard any vessel employed in the harvesting of oysters with tongs, shall immediately comply with instructions and signals issued by an authorized law enforcement officer or other Division representative and comply with his or her instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch for the purpose of enforcement of this subchapter.

(c) Commercial shellfish license holders harvesting oysters with tongs shall pay a landing fee for each bushel of oysters landed in accordance with N.J.A.C. 7:25A-1.8(a). Tags will be available from the Division's Delaware Bay Office in batches of 50 or more. Tags provided under this section shall be valid only for the season for which issued and are non-transferable. Refunds will not be given for unused tags.

New Rule, R.2010 d.132, effective July 6, 2010.

See: 41 N.J.R. 2167(a), 42 N.J.R. 1362(a).

Former N.J.A.C. 7:25A-1.10, Review, recodified to N.J.A.C. 7:25A-1.16.

7:25A-1.11 Commercial shellfish license records required

(a) All commercial shellfish license holders harvesting oysters with tongs from the Delaware Bay, Delaware River and their tributaries, excluding the leased areas, shall provide to the Division weekly oyster harvest reports on forms supplied by the Division. Weekly reports shall include the following information:

1. The name of the license holder and the commercial shellfish license number;