

Amended "Commercial crab pot".
 Amended by R.1998 d.255, effective May 18, 1998.
 See: 30 N.J.R. 763(a), 30 N.J.R. 1809(a).
 Rewrote "Commercial crab pot" definition.
 Amended by R.1999 d.52, effective February 16, 1999.
 See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).
 Inserted "Lobster".
 Amended by R.2000 d.10, effective January 3, 2000.
 See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).
 Rewrote "Crab dredge area".
 Amended by R.2001 d.73, effective March 5, 2001.
 See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).
 Amended by R.2001 d.346, effective September 17, 2001.
 See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).
 Added "Blind crab pot line".
 Amended by R.2002 d.277, effective August 19, 2002.
 See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).
 Rewrote "Crab dredge area".

7:25-14.2 Use of crab pots and trot lines

(a) No individual shall tend or remove crabs from any pot or trot line unless he or she is the holder of a valid license, or as otherwise herein provided.

1. An individual tending crab pots or trot lines shall have in his or her possession his or her numbered license which corresponds to the vessel number and the number marker on the pots or trot lines tended;

2. A commercial licensee may authorize an agent to tend his or her pots or trot lines provided the agent is in possession of his or her own license, the license of the individual whose pots are to be tended and a letter of authorization from said licensee, issued and notarized by the Division indicating the number marker of the pots or trot lines that the agent is authorized to tend. In cases of hardship due to illness or vessel repairs, an authorized agent is not required to possess his or her own license, and can, for a maximum of 30 days, tend said licensee's pots or trot lines upon satisfying all other conditions of this paragraph.

3. In addition to the agent, the commercial licensee shall be held liable and subject to the penalty provisions provided in N.J.A.C. 7:25-14.20 for the violation of provisions of this subchapter actually committed by the agent based upon the apparent authority of the agent to act for his or her principal.

(b) No person shall cut or break the lines or otherwise tamper with or damage in any way, any pot, trot line or buoy which he does not own or is not authorized to tend.

(c) All other organisms other than crabs and conchs shall be immediately released to the waters from which such organisms were taken.

(d) All crab pots must be checked and emptied of all crabs and other organisms at least once every 72 hours.

(e) No license holder shall fish more than 600 crab pots in Delaware Bay nor more than 400 crab pots in all other waters.

(f) No license holder shall set any crab pots except between April 6 to December 4 in Delaware Bay and between March 15 to November 30 in all other waters.

(g) All gear associated with crab potting must be removed from the water within three days of the end of the season.

Amended by R.1985 d.560, effective November 4, 1985.
 See: 17 N.J.R. 1830(a), 17 N.J.R. 2608(a).
 Added (a)3.
 Amended by R.1994 d.152, effective March 21, 1994.
 See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).
 Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).
 See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).
 Added hardship provision in (a)2.
 Amended by R.2000 d.10, effective January 3, 2000.
 See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).
 In (a)3, substituted "In addition to the agent, the commercial licensee shall" for "The commercial licensee may" at the beginning, and changed N.J.A.C. reference.
 Amended by R.2002 d.277, effective August 19, 2002.
 See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).
 Changed dates in (f).

7:25-14.3 Hours of fishing

Crab pots and trot lines may be tended only from 0400 hours (4:00 A.M.) to 2100 hours (9:00 P.M.) prevailing time, in Delaware Bay and 24 hours a day in all other waters.

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).
 See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).
 Expanded hours for waters outside of Delaware Bay.

7:25-14.4 Commercial licenses for crab pots/trot lines and crab dredges

(a) No individual shall take or attempt to take crabs by any means for the purpose of sale or barter without having in his or her possession his or her valid commercial crab pot/trot lines or crab dredge license issued by the Division pursuant to N.J.S.A. 23:5-35.2. A Delaware Bay commercial crab dredge license is valid to harvest crabs only within that portion of the "Delaware Bay" defined at N.J.A.C. 7:25-14.1 as part of the "crab dredge area." An Atlantic Coast commercial crab dredge license is valid to harvest crabs in all areas defined at N.J.A.C. 7:25-14.1 as the "crab dredge area" except that the area defined as the "Delaware Bay."

1. To be eligible for a commercial crab pot license, the applicant must provide a copy of a previously valid commercial crab pot license held by the applicant from the previous year.

2. No additional crab pot licenses will be issued until the number of licenses issued decreases below the number issued in 1991 (312 licenses).

i. When additional licenses are available, unsuccessful applicants from the previous lottery will be given the first right to the license provided they purchase a license within 30 days of being notified by the Department. Notification by the Department shall be by

first class mail. It is the responsibility of the applicant to provide the Department with written notification of any change in mailing address. Once a lottery list is exhausted, the Department shall notify commercial docks and fishing organizations as to the availability of licenses. Applications for a license shall be available from the Department; and successful applicants shall be chosen by lottery, if necessary, from all completed applications received by the Department.

3. To be eligible for an Atlantic Coast commercial crab dredge license, the applicant must provide a copy of a previously valid Atlantic Coast crab dredge license held by the applicant from the previous year.

4. No additional Atlantic Coast commercial crab dredge licenses will be issued until the number of licenses issued decreases below the number issued in 1993 plus 20 percent (338 licenses). When additional licenses are available, the Department will issue available licenses pursuant to (a)2i above.

5. To be eligible for a Delaware Bay commercial crab dredge license, the applicant shall provide a copy of a previously valid Delaware Bay commercial crab dredge license held by the applicant from the preceding year.

6. No additional Delaware Bay commercial crab dredge licenses shall be issued until the number of licenses issued decreases below the number sold in 1997 (93 licenses). When additional licenses are available, the Department shall issue available licenses pursuant to (a)2i above.

7. Commercial crab pot and crab dredge licenses are non-transferable except that the holder of a valid license not pending revocation due to the violation of provisions of this subchapter may transfer the right to the license at any time to the license holder's spouse, father, mother, son, daughter, brother or sister upon application to the Division. The new licensee shall have a license issued in their name after payment of the fee specified at (a)8 below.

8. The license fee for New Jersey residents shall be \$100.00 for a commercial crab pot/trot line license, \$100.00 for a Delaware Bay commercial crab dredge license and \$100.00 for an Atlantic Coast commercial crab dredge license. The license fee for non-residents will be the same as that for a resident if a New Jersey fisherman can obtain a license to harvest crabs in the state of residence of the non-resident applicant for the same fee as a resident of that state. Otherwise, the non-resident license fee shall be an amount equal to five times the \$100.00 New Jersey resident license fee. All licenses shall expire on December 31 of the calendar year for which they were issued.

9. For crab pots and trot lines, the gear number shall be displayed on both sides of the crabber's boat amidship, in numerals not less than 12 inches high of a color contrasting

with the background, and such numerals shall be illuminated during the hours of darkness.

(b) For the purposes of this section and N.J.S.A. 23:5-35.1, the possession of more than one bushel of crabs shall be considered as taking for the purpose of sale or barter. A bushel shall be defined as a U.S. standard bushel equivalent to four pecks or 32 quarts.

(c) An applicant who is otherwise eligible for a license under (a)1, 3 or 5 above, but who fails to provide a copy of his or her license before the December 31 expiration of that license, may request an extension of time to renew in accordance with this subsection and (d) through (f) below.

1. The written request, along with any supporting documentation, shall be submitted to:

New Jersey Division of Fish and Wildlife
PO Box 400
Trenton, New Jersey 08625

2. The request shall:

i. Identify the specific license for which the extension of time to renew is requested;

ii. Explain in detail why the extension of time to renew is needed, including a statement of the type and degree of hardship that prevented the timely renewal of the license, and the hardship that will result to the applicant if the license is not renewed; and

iii. Provide appropriate documentation as necessary to support the request for the extension.

(d) The Department shall approve an extension request under (c) above only if it determines that the request and documentation demonstrate that:

1. By reason of extraordinary hardship or exceptional situation or condition, the applicant was precluded from renewing his or her commercial crab pot and/or dredge license(s) during the 12-month application period preceding the year for which the license is requested;

2. By reason of extraordinary or exceptional situation or condition, strict compliance with the deadline in (a)1, 3 or 5 above would result in exceptional and undue hardship upon the applicant; and

3. The circumstances supporting (d)1 and 2 above were not created by the applicant or persons under his or her control, and the approval of the extension will not unreasonably interfere with the orderly administration of this licensing program.

(e) The Department shall provide written notice to the applicant of its decision to approve or deny the request for extension.

(f) The denial of an extension request may be appealed pursuant to the procedures outlined in N.J.A.C. 7:25-14.21, Request for adjudicatory hearing.

Amended by R.1994 d.152, effective March 21, 1994.
See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).
Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).
See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).
Substantially amended section.
Amended by R.2000 d.10, effective January 3, 2000.
See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a)
In (a), rewrote 5, inserted "(93 licenses)" at the end of the first sentence in 6, and rewrote the first sentence in 7.
Amended by R.2004 d.20, effective January 5, 2004.
See: 35 N.J.R. 4224(b), 36 N.J.R. 174(b).
In (a), deleted the last sentence in 1 and 3; added (c) through (f).
Amended by R.2005 d.413, effective November 21, 2005.
See: 37 N.J.R. 742(a), 37 N.J.R. 4408(a).
In (a)7, deleted "or" following "son," and added ", brother or sister" following "daughter."

7:25-14.5 Non-commercial licenses for crab pot/trot line and crab dredges

(a) No individual shall take or attempt to take crabs by means of crab pots, trot lines or crab dredges without having in his or her possession a valid license issued by the Division.

1. The Division will issue a noncommercial crab pot/trot line license for no more than two crab pots or two trot lines. Trot lines shall not exceed 150 feet in length with a maximum of 25 baits attached. Pots and trot lines shall be marked with the licenses number. There is no fee for this noncommercial license. All licenses shall expire on December 31 of the calendar year for which they were issued.

2. The Division shall issue a non-commercial crab dredge license subject to the following provisions:

- i. The number of dredges on any one vessel shall not exceed two;
- ii. The maximum weight of each dredge shall be 80 pounds;
- iii. The maximum length of the tooth bar shall be 38 inches;
- iv. The maximum length of teeth shall be three inches;
- v. The minimum space between teeth shall be two and three-quarters inches measured at the base;
- vi. Mechanical dredge haulers are prohibited;
- vii. No person shall catch, take or attempt to catch or take crabs by means of a crab dredge except during the times and seasons set forth in N.J.A.C. 7:25-14.7(d) and (e);
- viii. All organisms other than crabs taken by crab dredge shall be immediately returned to the water; and

ix. There is a fee of \$15.00 for this noncommercial license.

3. Crabs taken under provisions of a noncommercial license may not be sold or used for barter. The maximum harvest and/or possession of crabs for the noncommercial crabber is one bushel per day per person.

Amended by R.1994 d.152, effective March 21, 1994.
See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).
Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).
See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).
Applied section to crab dredges; recodified (a)2 as (a)3; and inserted new (a)2.
Administrative correction.
See: 30 N.J.R. 3025(a).
Amended by R.2000 d.10, effective January 3, 2000.
See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).
In (a)2v substituted a reference to two and three-quarters inches for a reference to three inches.

7:25-14.6 Placement and marking of pots and trot lines

(a) Each crab pot shall be clearly and visibly marked with a buoy, stake or permanent identification tag bearing the license number of the owner, and all blind crab pot lines shall be clearly and visibly marked with a stake or buoy at both ends of the line. All crab pot buoys and all blind crab pot line buoys and stakes shall be marked with fluorescent or reflective paint, tape or other reflective material or reflectors. Floating line shall not be used or any crab pot or crab pot buoys.

(b) Each trot line shall be marked at both ends with a clearly visible stake or buoy. No trot line shall be set within 100 feet of another trot line.

(c) No pot shall be placed in a creek, ditch or tributary less than 50 feet wide at mean low water unless approved by the Division. No pot, blind crab pot line or trot line shall be placed in any man-made lagoon or in any marked or charted channel except noncommercially licensed pots fastened to a pier or other shore connected structure by a line no larger than twice the depth of the water at that point. Any pot placed in any body of water less than 150 feet wide from shoreline to shoreline at mean low water or in any man-made lagoon shall contain terrapin excluder devices pursuant to N.J.A.C. 7:25-14.1.

(d) No pot or trot line shall be placed in areas designated by the Division after consultation with the Shellfisheries Council and the Marine Fisheries Council, as off limits for the catching of crabs by means of pots or trot lines, except noncommercially licensed pots fastened to a pier or other shore connected structure by a line no longer than twice the depth of the water at that point.

(e) At no time shall any pot or trot line be placed to obstruct or impede navigation.

Amended by R.1985 d.560, effective November 4, 1985.
See: 17 N.J.R. 1830(a), 17 N.J.R. 2608(a).
"Stake" substituted for "state".

Amended by R.1994 d.152, effective March 21, 1994.

See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).

Petition for Rulemaking.

See: 27 N.J.R. 944(b), 27 N.J.R. 1478(c).

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Recodified (a)2 as (a)3 and inserted new (a)2; and in (c), added provision relating to terrapin excluder devices.

Amended by R.2001 d.346, effective September 17, 2001.

See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).

In (a), rewrote the first sentence and inserted "and all blind crab pot line buoys and stakes" in the second sentence; in (c), inserted "blind crab pot line".

7:25-14.7 Use of crab dredges

(a) An individual shall not catch or take crabs by dredges without having his or her valid crab dredge license in his or her possession. A Delaware Bay commercial crab dredge licensee may authorize an agent to operate the said licensee's crab dredge vessel if the agent is in possession of the said licensee's license and a letter of authorization from said licensee, issued and notarized by the Division, indicating the license number and vessel registration number of the vessel that the agent is authorized to operate. In addition to the agent, the commercial licensee shall be held liable and subject to the penalty provisions provided in N.J.A.C. 7:25-14.20 for the violation of provisions of this subchapter actually committed by the agent based upon the apparent authority of the agent to act for his or her principal.

1. No boat shall have more than four dredges working at the same time, except in Delaware Bay where no boat shall have more than two dredges working at the same time.

2. The maximum length of each tooth bar shall be 75 inches north of Route 36 (Highlands Bridge) and in the Atlantic Ocean, but if two or fewer dredges are in possession north of Route 36 (Highlands Bridge) or in the Atlantic Ocean then the maximum length of each tooth bar shall be 96 inches. The maximum length of each tooth bar shall be 54 inches in Delaware Bay, but if no more than one dredge is in possession in Delaware Bay then the maximum length of each tooth bar shall be 96 inches. The maximum length of the tooth bar in all other crab dredge areas shall be 38 inches.

3. The maximum weight of each dredge shall be 400 pounds north of Route 36 (Highlands Bridge) and in the Atlantic Ocean, but if two or fewer dredges are in possession north of Route 36 (Highlands Bridge) or in the Atlantic Ocean then the maximum weight of each dredge shall be 500 pounds. There is no weight limit for dredges used in Delaware Bay. The maximum weight of each dredge in all other crab dredge areas shall be 80 pounds. All weights refer to the weight of the dredge and collecting bag.

4. The maximum length of teeth shall be six inches north of Route 36 (Highlands Bridge), the Delaware Bay

and in the Atlantic Ocean and three inches in all other crab dredge areas.

5. Shellfish harvested from Delaware Bay Areas 2 and 3 may be retained as provided under N.J.S.A. 50:3-16.13 and N.J.S.A. 50:3-16.20. Simultaneous possession of shellfish and a dredge larger than specified in N.J.S.A. 50:3-16.20 shall be prima facie evidence of a violation of this section.

6. The minimum space between teeth shall be two and three-quarters inches in all crab dredge areas, measured at the base.

7. A toothless bar shall be allowed in place of a tooth bar in all waters, provided each toothless bar is no greater in length than the tooth bar lengths, specified at (a)2 above.

8. Chains shall be allowed in place of a tooth bar or toothless bar in all waters provided that the width of each dredge opening or mouth and the distance between the chain attachment points on the dredge are no greater in width than the tooth bar lengths specified at (a)2 above.

9. The collecting bag of a dredge, if material, shall have mesh not less than two inches bar measure or four inches stretched measure; if wire, shall not be less than two inches bar mesh (inside measurement) or two and one-half inches inside diameter if circular; if metal, the O-rings shall not be less than two inches in diameter and shall be connected with no more than six "S" hooks that measure not less than two inches in length as measured to the inside of the "S" configuration.

10. Each dredge shall be independently and separately attached to a vessel by a single cable or tow line; except that two dredges can be towed by a single line in the Atlantic Ocean, Delaware Bay and north of Route 36 (Highlands Bridge) provided that the dredges are not solidly attached to each other in any way and are fastened to the tow line by a bridle that allows the dredges to act independently of each other.

(b) No person shall catch, take, or attempt to take crabs by dredge from any area except the "crab dredge area" as defined in the definitions section. No person shall dredge or attempt to dredge crabs on any marked leased shellfish grounds. No person shall dredge or attempt to dredge crabs within 50 yards of any marked leased shellfish grounds.

(c) No person, while engaged in the catching and taking of crabs by dredge, shall have in his or her boat or possession any organisms other than crabs and conchs obtained from any source, except as provided under N.J.S.A. 50:3-16.13. Conchs may be retained in the crab dredge fishery. The possession of dredges and any organisms other than crabs and conchs simultaneously in the boat of any person shall constitute prima facie evidence of the violation of this section.

(d) No person shall catch, take or attempt to catch or take crabs or conchs by means of a crab dredge except from one-half hour after sunrise to one-half hour before sunset from

November 15 through April 15 in Delaware Bay; and from December 1 through March 31 in all other waters. The possession of dredges and crabs or conchs simultaneously in the boat of any person when the crab dredge season is closed shall constitute prima facie evidence of the violation of this section.

(e) No person shall catch, take or attempt to catch or take crabs by means of a crab dredge at any time on Sunday except north of Route 36 (Highlands Bridge), in Delaware Bay, or in the Atlantic Ocean.

New Rule, R.1994 d.152, effective March 21, 1994.

See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Inserted references to Delaware Bay; inserted (a)5; and recodified former (a)5 through (a)8 as (a)6 through (a)9.

Amended by R.1998 d.40, effective January 5, 1998.

See: 29 N.J.R. 4595(a), 30 N.J.R. 226(a).

Inserted (a)8 and recodified (a)8 and 9 as 9 and 10.

Amended by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

In (a), inserted the last sentence in the introductory paragraph, and substituted a reference to two and three-quarters inches for a reference to three inches in 6; and rewrote (c).

Amended by R.2002 d.277, effective August 19, 2002.

See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).

Rewrote (b); in (d), substituted "December" for "November".

Amended by R.2004 d.20, effective January 5, 2004.

See: 35 N.J.R. 4224(b), 36 N.J.R. 174(b).

In (a), substituted "the said licensee's" for "a" in the introductory paragraph; in (d), inserted "or conchs" following "take crabs", and added the last sentence.

7:25-14.8 Landing crabs

All crabs harvested commercially in State waters shall be landed in this State.

New Rule, R.1994 d.152, effective March 21, 1994.

See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).

7:25-14.9 Female crabs with eggs attached

No person shall take from any of the waters of this State, or have in his possession any female crustacean, commonly known as crab, with eggs or spawn attached thereto, or from which the egg pouch or bunion has been removed.

7:25-14.10 Size of crabs taken

(a) No person shall take from any tidal waters of this State or have in his or her possession any peeler or shedder blue crab measuring less than three inches across the back from the tip of the longest lateral spine to the other or a soft blue crab measuring less than three and one-half inches across the back from the tip of the longest lateral spine to the other, or hard blue crab measuring less than four and one-half inches across the back from tip to tip of spike.

1. For purposes of this section, a peeler or shedder blue crab shall mean a hard blue crab which has a fully formed soft shell beneath the hard outer shell and the impending shedding process is evidenced by the white sign along the outer rim of the paddle-like appendages on the crab's fifth pair of legs.

(b) A person shall not purchase, sell, offer for sale, or expose for sale any hard blue crab measuring less than four and three-quarter inches across from tip to tip of spike except as noted in (b)1 below. Any commercially licensed vessel or person in possession of more than one bushel of blue crabs shall be presumed to possess all blue crabs for the purpose of sale.

1. A person shall not purchase, sell, offer for sale, or expose for sale any mature female blue crab measuring less than four and one-half inches across from tip to tip of spike.

R.1982 d.169, effective June 7, 1982.
 See: 13 N.J.R. 645(a), 14 N.J.R. 578(a).
 Amended by R.1994 d.152, effective March 21, 1994.
 See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).
 Petition for Rulemaking.
 See: 27 N.J.R. 944(b), 27 N.J.R. 1478(c).
 Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).
 See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).
 Inserted "blue" preceding "crab" throughout, and, in (a)1. substituted "white sign" for "red sign".
 Amended by R.1998 d.40, effective January 5, 1998.
 See: 29 N.J.R. 4595(a), 30 N.J.R. 226(a).
 Added second sentence of (b), concerning presumption of possession for sale.
 Amended by R.2000 d.10, effective January 3, 2000.
 See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).
 In (b), inserted an exception at the end of the first sentence of the introductory paragraph, and added 1.

7:25-14.11 Harvesting crabs

(a) No person shall take or attempt to take any crabs by any means in the Newark Bay Complex.

(b) Crabs may be taken by licensed bait seines authorized pursuant to N.J.S.A. 23:5-24.2 and N.J.A.C. 7:25-18.5. Crabs taken by bait seines shall not be sold or used for barter and the maximum harvest and/or possession of crabs taken by bait seines is one bushel per day per individual; except that crabs taken by licensed bait seines during the crab pot/trot line season pursuant to N.J.A.C. 7:25-14.2(f) may be sold and may exceed one bushel per day per individual provided the individual also possesses his or her

valid commercial crab pot/trot line license specified at N.J.A.C. 7:25-14.4(a).

New Rule, R.1994 d.152, effective March 21, 1994.
 See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).
 Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).
 See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).
 Added (b).

7:25-14.12 Filing of reports

(a) All persons commercially licensed to take crabs shall keep, on forms provided by the Division, accurate records of the number of bushels of hard crabs, peelers and soft crabs caught, the type of gear used and the area fished. These records shall be filed by the 10th day of each month with the Division and said filing must be current before a commercial license for crab pot/trot lines or crab dredges is issued for the subsequent year. If no crabs were harvested during the month, a report to that effect shall be provided. Failure to file on or before the 10th of the month following the month of record may lead to suspension or permanent revocation of said license by the Department according to the following schedule:

1. First offense: no suspension;
2. Second offense: 120 days suspension; and
3. Third offense: permanent revocation.

(b) All license suspensions shall be imposed during the open season for the respective fishery; any period of suspension not occurring during the existing season shall be applied during the next open season even if such season falls in a different calendar year. Prior to suspension of the license, the permittee shall have the opportunity to request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Recodified from 7:25-14.7 and amended by R.1994 d.152, effective March 21, 1994.
 See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).
 Amended by R.2002 d.277, effective August 19, 2002.
 See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).
 Rewrote (a).

7:25-14.13 Size of lobster taken

(a) A person shall not take from the marine waters of this State by any means, import, export, offload at any port, have in his or her possession, buy, sell or offer to buy or sell, any American lobster of the genus and species *Homarus americanus*, which when measured from the rear end of the eye socket along a line parallel to the center line of the body shell to the rear end of the body shell is less than the lengths listed below after the dates stipulated.

<u>After</u>	<u>Minimum Size (inches)</u>
August 19, 2002	3 $\frac{3}{4}$
July 1, 2002	3 $\frac{7}{16}$
July 1, 2003	3 $\frac{1}{2}$
July 1, 2004	3 $\frac{3}{8}$

(b) A person fishing in Atlantic States Marine Fisheries Commission (ASMFC) Lobster Management Area (LMA) 3 or that has designated Lobster Management Area 3 for fishing on their Federal Fisheries Permit or State Lobster Pot Permit shall not take, land, have in his or her possession, sell or offer to sell any American lobster with a length as measured in (a) above that is less than the length listed below after the dates stipulated:

After	Minimum Size (inches)
July 1, 2005	3 ¹ / ₂
July 1, 2006	3 ⁷ / ₁₆
July 1, 2007	3 ¹ / ₂
July 1, 2008	3 ¹ / ₂

(c) A person fishing in ASMFC Lobster Management Area 4 and/or 5 or that has designated Lobster Management Area 4 and/or 5 for fishing on their Federal Fisheries Permit or State Lobster Pot Permit shall not take, land, have in his or her possession, sell or offer to sell any female American lobster with a length as measured in (a) above that is greater than the length listed below after the dates stipulated.

ASMFC Lobster Management Area	Dates	Maximum Size (inches)
LMA 4	after July 1, 2002	5 ¹ / ₂
LMA 5	after July 1, 2004	5 ¹ / ₂

(d) A person shall not import, export, have in his or her possession, buy, sell or offer to buy or sell any American lobster that does not comply with the size limits for the Lobster Management Areas as stipulated in (a) through (c) above.

(e) The maximum size limits stipulated in (c) above do not apply to the recreational harvest of American lobster. The minimum size limit for American lobster harvested for recreational purposes shall comply with those stipulated in (a) above and shall not be sold, offered for sale or bartered.

(f) A State Lobster Pot Permittee possessing a Type A, B, C, E or F Permit shall report to the Department the initial ASMFC Lobster Management Area(s) he or she intends to fish and notify the Department prior to relocating to a different Lobster Management Area(s). Notification shall be sent to:

NJ Lobster Pot Permit Program
 Nacote Creek Research Station
 PO Box 418
 Port Republic, NJ 08241

1. If the permittee identifies more than one ASMFC Lobster Management Area as an area he or she intends to fish, then the more restrictive maximum and/or minimum size limit of those identified areas shall apply to that permittee's possession, landing and sale of lobsters.

(g) A person shall not take from the marine waters of this State by any means, possess at sea or offload at any port an American lobster, which is damaged or mutilated to the extent that its length as specified in (a) above cannot be determined.

(h) A person shall not import, export, have in his or her possession, buy, sell or offer to buy or sell, any detached American lobster tail, if the sixth abdominal segment (that segment closest to the fan of the tail), when measured along its dorsal center line with the tail flexed, is less than one and one-sixteenth inches in length.

New Rule, R.1999 d.52, effective February 16, 1999.
 See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).
 Former N.J.A.C. 7:25-14.13, Penalties, recodified to N.J.A.C. 7:25-14.18.
 Amended by R.2002 d.277, effective August 19, 2002.
 See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).
 Rewrote (a); added (b) to (f); recodified existing (b) and (c) as (g) and (h).
 Administrative correction.
 See: 34 N.J.R. 3641(c).

7:25-14.14 Lobster possession limits

American lobster taken by otter trawl or fish pot shall be limited to 100 lobster per day per vessel (based on a 24-hour period) up to a maximum of 500 lobsters per trip per vessel, for trips of five days or longer. American lobster taken by hand, or any gear or methods other than otter trawl, fish or lobster pot or fish or lobster trap shall be limited to six lobster per person in possession or taken in any one calendar day.

New Rule, R.1999 d.52, effective February 16, 1999.
 See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).
 Amended by R.2001 d.346, effective September 17, 2001.
 See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).
 Inserted "per vessel" following "per day" and "per trip" in the first sentence; inserted ", fish pot" preceding "or any gear", inserted "lobster" following "otter trawl," and preceding "trap shall be limited", and inserted "per person" preceding "on possession" in the second sentence.
 Amended by R.2002 d.277, effective August 19, 2002.
 See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).
 Rewrote the section.

7:25-14.15 Prohibitions

(a) A person shall not take from the marine waters of this State by any means, import, export, offload at any port, have in his or her possession, buy, sell or offer to buy or sell, any American lobster with eggs attached, or from which the egg have been removed.

(b) A person shall not possess a female lobster bearing a v-shaped notch (that is, a straight-sided triangular cut without setal hairs, at least one-quarter inch in depth and tapering to a sharp point) in the flipper next to the right of the center flipper as viewed from the rear of the female lobster. V-notched female lobster also means any female which is mutilated in a manner which could hide, obscure or obliterate such a mark. The right flipper will be examined when the underside of the lobster is down and its tail is toward the person making the determination.

(c) A person shall not use any spear, gig, gaff or other penetrating device as a method of capture of lobsters.

New Rule. R.1999 d.52, effective February 16, 1999.
See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

7:25-14.16 Eligibility for lobster pot permit and pot allocation

(a) As of December 31, 2001, a vessel shall not land lobster harvested by a lobster pot unless such vessel is in the possession of a valid New Jersey Lobster Pot Permit issued in the name of the vessel and owner.

1. To be eligible for a Type A, B, C and F Lobster Pot Permit allowing the use or possession in Federal and/or State waters of an allotted number of lobster pots as defined under N.J.A.C. 7:25-18.5(g)11, a complete application, including the required documentation, must be received by the Department no later than December 31, 2001. To be eligible for a Type E Lobster Pot Permit allowing the use or possession in Federal and/or State waters of an allotted number of lobster pots as defined under N.J.A.C. 7:25-18.5(g)11, a complete application, including the required documentation, must be received by the Department no later than December 31, 2002. Applications may be mailed to:

New Jersey Lobster Pot Permit
Nacote Creek Research Station
PO Box 418
Port Republic, NJ 08241

i. For a Type A Lobster Pot Permit, the applicant shall document that the vessel owner possesses a current valid Federal Lobster Permit, had landed and sold a minimum of 2,000 pounds of lobster in New Jersey in any one calendar year during the period from March 25, 1991 to September 3, 1998, and participated in the harvest of lobster by lobster pot, pursuant to (a)4 below, during the year of documented landings submitted by the applicant.

(1) A Type A Lobster Pot Permittee shall receive an allocation for the number of lobster pots (traps) authorized on the permittee's Federal Fisheries Permit for American lobster (Federal Lobster Permit), to be fished in Federal and/or State waters. For the purpose of this section, lobster pots will be assumed to last for five years with a 10 percent loss of pots per year.

(2) Documented proof of participation in an ASMFC Management Area pot fishery shall consist of one or more of the following:

(A) Federal logbook reporting forms identifying the vessel, number of pots fished, date of landings and National Marine Fisheries Service Statistical Area from where lobster were harvested;

(B) A personal logbook in combination with a notarized statement from the applicant attesting to its authenticity; and/or

(C) Gear damage compensation reports.

ii. For a Type B Lobster Pot Permit, the applicant shall document that the vessel owner possesses a current valid Federal Lobster Permit, had landed and sold a minimum of 2,000 pounds of lobster in New Jersey in any one calendar year during the period from January 1, 1980 to March 25, 1991 and participated in the harvest of lobster by lobster pot pursuant to (a)4 below, during the year of documented landings submitted by the applicant.

(1) A Type B Lobster Pot Permittee shall receive an allocation for the number of lobster pots (traps) authorized on the permittee's Federal Fisheries Permit for American lobster to be fished in Federal and/or State waters.

iii. For a Type C Lobster Pot Permit, the applicant shall document that the vessel owner has possessed a valid New Jersey Lobster/Fish Pot License in any one calendar year during the period from January 1, 1980 to September 3, 1998 and landed and sold a minimum of 2,000 pounds of lobster in New Jersey during the year of the valid New Jersey Lobster and Fish Pot License submitted by the applicant.

(1) A Type C Commercial Lobster Pot permittee shall receive an allocation for 500 lobster pots to be fished in State waters only.

(2) An applicant seeking eligibility for a Type C New Jersey Lobster Pot Permit and pot allocation shall not have received or applied for pot or trap tags from any other lobster pot or trap tag issuing jurisdiction.

iv. For a Type D Recreational Pot Permit, the applicant must purchase a New Jersey Lobster or Fish Pot License.

(1) A Type D Recreational Lobster Pot permittee shall receive an allocation for 10 lobster pots to be fished in State waters only and limited to six lobsters per person per day.

(A) Lobsters taken under provisions of a Type D Recreational Pot Permit may not be sold, offered for sale or used for barter.

(B) An applicant for a Type D Recreational Pot Permit will be exempt from qualifying criteria and application deadline as established under this paragraph and (a)2 through 11 below.

v. For a Type E Lobster Pot Permit, the applicant shall document that the vessel owner possesses a current valid Federal Lobster Permit, landed and sold a minimum of 500 pounds of lobster in New Jersey in any

one calendar year during the period from January 1, 1980 to September 3, 1998, and participated in the harvest of lobster by otter trawl or lobster pot, pursuant to (a)4 or (a)5 below, during the year of documented landings submitted by the applicant.

(1) A Type E Lobster Pot Permittee shall receive an allocation for the number of lobster pots (traps) authorized on the permittee's Federal Fisheries Permit for American lobster to be fished in Federal and/or State waters.

(2) A Type E Lobster Pot Permittee that does not possess a Federal Fisheries Permit for American Lobster shall receive a lobster pot (trap) allocation of 500 pots (traps) to be fished in State waters only.

(3) A Type E Lobster Pot Permittee shall not possess otter trawl gear aboard his or her permitted vessel when fishing with pot gear. The simultaneous possession of otter trawl gear and lobster pot gear on board a vessel shall constitute prima facie evidence of a violation of this section.

vi. For a Type F Lobster Pot Permit, the applicant shall document that the vessel owner possesses a current valid Federal Lobster Permit, landed and sold a minimum of 2,000 pounds of lobster in New Jersey in any one calendar year during the period from September 3, 1998 to December 31, 2000, and participated in the harvest of lobster by lobster pot pursuant to (a)4 below during the year of documented landings submitted by the applicant.

(1) A Type F Lobster Pot Permittee shall receive an allocation for the number of lobster pots (traps) authorized on the permittee's Federal Fisheries Permit for American lobster to be fished in Federal and/or State waters.

2. Documented proof of a Federal Lobster Permit or State Lobster/Fish Pot License shall consist of a copy of said permit or license submitted with the application that can be confirmed by Federal and State records.

3. Documented proof of landings shall consist of one or more of the following:

i. Weigh-out slips from the purchaser totaling the weight and the date the lobster was harvested; or

ii. A notarized statement from the applicant and the purchaser(s), attesting to the weight and date the lobster were landed and sold. A copy of the business records supporting the statement(s) must accompany the application.

4. Documented proof of participation in the lobster pot fishery shall be established through one or more of the following:

i. Federal logbook reporting forms identifying the vessel, number of pots fished and date of landings in New Jersey;

ii. A personal logbook in combination with bait and pot receipts;

iii. Gear damage compensation reports; or

iv. A notarized statement from the applicant and pot manufacturer or retailer attesting to the number of lobster pots and the date that the pots were purchased. A copy of the business records supporting the statement(s) must accompany the application.

5. Documented proof of participation in the lobster otter trawl fishery shall be established through one or more of the following:

i. Federal logbook reporting forms identifying the vessel, fishing gear and date of landings in New Jersey; or

ii. A copy of New Jersey license to fish with an otter trawl that can be confirmed by State records.

6. Other documentation similar to that in (a)3, 4 and 5 above may be accepted at the discretion of the Commissioner after his or her review.

7. The applicable New Jersey Lobster Pot Permit shall be on board the vessel to which it is issued at all times. The permit and pot allocation is valid upon issuance and in subsequent years unless revoked as part of a penalty action pursuant to N.J.A.C. 7:25-14.19 or as modified by the Commissioner, pursuant to N.J.A.C. 7:25-14.19. The applicable permit is issued to a specific vessel in the name of the owner.

8. The owner of a vessel permitted pursuant to this subsection may transfer his or her Lobster Pot Permit, upon application to Department as follows:

i. To his or her replacement vessel. The vessel being replaced shall no longer be eligible for a New Jersey Lobster Pot Permit or pot allocation based upon the vessel's history, but shall be eligible for a permit transfer from another permitted vessel.

ii. Along with the sale of his or her vessel to a new owner, the owner selling the vessel shall no longer be eligible for a New Jersey Lobster Pot Permit based on the harvesting history of the vessel being sold.

iii. Transfer of a permit to a new vessel shall be limited to the same pot allocation and Lobster Permit Type as the original permitted vessel or as modified by the Commissioner pursuant to N.J.A.C. 7:25-14.19.

iv. No permit shall be transferred without the prior approval of the Department, based upon satisfaction of (a)7i through iii above.

9. Any harvester or vessel landing lobster in New Jersey for the purpose of sale shall sell all lobster only to a permitted Federal lobster dealer.

10. All New Jersey Lobster Permit holders landing lobster in New Jersey shall be required to complete monthly reports signed by the permittee attesting to the validity of the information. The monthly report forms shall be supplied by and returned to the Federal or State agency given authority for the Pot Tag Program and shall include all information required by said agency.

11. All New Jersey Lobster Permit holders shall allow research personnel from the Department or a person designated by the Department aboard the permitted vessel at any time following a 48 hour notification to sample lobster pot catches at sea.

New Rule, R.2000 d.395, effective October 2, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 3592(b).

Amended by R.2001 d.346, effective September 17, 2001.

See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).

Rewrote the section.

Amended by R.2002 d.277, effective August 19, 2002.

See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).

Rewrote the section.

Administrative change and correction.

See: 37 N.J.R. 502(d).

7:25-14.17 Lobster pot tag program

(a) All lobster pots as defined under N.J.A.C. 7:25-18.5(g)11 in State or Federal waters or aboard a vessel shall be tagged with appropriate tags to be issued by the Federal or State agency given authority for the pot tag program.

1. Pot tags shall be placed on the pot bridge or main cross member clearly visible for inspection.

2. Pot tags shall be a permanently affixed and not transferable to another pot once attached to a pot.

3. A person or permitted lobster pot vessel shall only have on board or lift pots that have the valid identification as assigned to said person or vessel.

4. A person or vessel shall not have on board or fish more lobster pots than that vessel is allocated under the permittee's New Jersey Lobster Pot Permit.

5. Pot tags shall be issued annually and shall be valid for one year.

6. Permit holders shall be issued tags based upon their allocation of tags plus 10 percent to cover routine losses.

7. Catastrophic tag loss shall be defined as losses above the 10 percent routine loss rate established by the issuing authority due to gear conflicts, storms or other circumstance which may be accepted at the discretion of the Federal or State agency given authority for the pot tag program.

i. When a catastrophic loss occurs, an entirely new allotment of tags shall be dispersed and the original tags shall be invalid upon replacement.

ii. Permittees shall be allowed to fish new pots with a letter of exemption from the issuing authority until new tags are re-issued for a time period not to exceed two months.

iii. The issuing authority shall have the right to invoke emergency measures to suspend pot tag regulations in the event of area-wide catastrophic losses, for a time period not to exceed two months.

8. Permittees shall purchase pot tags only from the issuing authority.

New Rule, R.2000 d.395, effective October 2, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 3592(b).

7:25-14.18 Exceptions for research

N.J.A.C. 7:25-14.13(a), 14.13(b), 14.15(a) and 14.15(b) shall not apply to the taking or possession of lobster bearing a tag that has been issued or affixed by the Department of Environmental Protection or by any other state or Federal agency with which the Department cooperates in a research project.

New Rule, R.1999 d.52, effective February 16, 1999.

See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

Recodified from N.J.A.C. 7:25-14.16 by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

7:25-14.19 Administrative notice

The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify minimum or maximum size limits, pot and trap limits, trip limits and possession limits in this section by notice in order to maintain compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. § 5104(b). The Department shall publish notice of any such modification by filing and publishing a notice of administrative change in the New Jersey Register and a notice in the Division's commercial regulation publication. All such notices shall be effective when the Department files the notice with the Office of Administrative Law or as specified otherwise in the notice.

New Rule, R.1999 d.52, effective February 16, 1999.

See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

Recodified from N.J.A.C. 7:25-14.17 by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

Amended by R.2001 d.346, effective September 17, 2001.

See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).

Inserted "pot and trap limits," preceding "trip limits".

Amended by R.2002 d.277, effective August 19, 2002.

See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).

Inserted "or maximum" after "minimum".

7:25-14.20 Penalties

(a) Any person violating any of the provisions of this subchapter relating to crabs shall be liable to the penalties provided by N.J.S.A. 23:2B-14 except for (b), (c) and (d) below.

(b) Any person not having a valid license in possession or failing to exhibit same for inspection by an authorized law enforcement officer while tending a pot or trot line or dredging crabs, or violating the provisions of N.J.A.C. 7:25-14.5(a)1 or 2 or 14.6 shall be liable to a penalty of \$30.00 for the first offense and \$50.00 for each subsequent offense.

(c) Any person failing to check crab pots at least once every 72 hours pursuant to N.J.A.C. 7:25-14.2(d) shall be liable to a penalty of \$30.00 for each pot in violation.

(d) Any person violating the provisions of N.J.A.C. 7:25-14.9 or 14.10 shall be liable to a penalty of \$30.00 for each crab taken or had in possession.

(e) Any person using or possessing a crab pot which does not contain a biodegradable panel or other mechanism specified in N.J.A.C. 7:25-14.1 shall be subject to a penalty of \$30.00 for each pot in violation.

(f) Any person dredging crabs outside of the "crab dredge area" or dredging crabs on unauthorized marked leased shellfish grounds pursuant to N.J.A.C. 7:25-14.7(b) shall be subject to the penalties provided by N.J.S.A. 23:2B-14 in addition to a mandatory 12 month crab dredge license privilege revocation and seizure of the entire catch in possession. The commercial licensee shall be held liable and subject to license privilege revocation and catch seizure for violations actually committed by an agent based upon the apparent authority of the agent to act for his or her principal.

(g) Any person violating the provisions of N.J.A.C. 7:25-14.13, lobster size, tail size and landing of lobster parts; N.J.A.C. 7:25-14.14, possession limits; N.J.A.C. 7:25-14.15, prohibition of egg-bearing lobsters, v-notched female lobsters and the prohibition of the use of a penetrating device; N.J.A.C. 7:25-14.16, eligibility for a lobster pot permit and pot allocation; N.J.A.C. 7:25-14.17, lobster pot tag program; N.J.A.C. 7:25-18.5(g)11i, lobster pot maximum size or N.J.A.C. 7:25-18.5(g)11iv, escape vents, shall be subject to a penalty of \$30.00 for each lobster, lobster part or lobster pot in violation.

(h) Failure to comply with the provisions of N.J.A.C. 7:25-14.13, lobster size, tail size, and landing of lobster parts; N.J.A.C. 7:25-14.15, prohibition of egg-bearing lobsters, v-notched female lobster; N.J.A.C. 7:25-14.16, eligibility for a lobster pot permit and pot allocation; N.J.A.C. 7:25-14.17, lobster pot tag program; N.J.A.C. 7:25-18.5(g)11ii, lobster pot maximum size; or N.J.A.C. 7:25-18.5(g)11vii, escape vents, shall result in the suspension during the period which extends from April 1 to November 30, or revocation of the

vessel's lobster pot permit and/or the lobster pot license of the operator according to the following schedule:

1. First offense: 60 days suspension;
2. Second offense: 120 days suspension;
3. Third offense: permanent revocation.

4. In calculating the period of suspension or revocation applicable under (h)1 through 3 above, the number of previous suspensions shall be reduced by one for each three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period, only one of those suspensions may be forgiven under this paragraph; therefore, a permit holder who incurs more than one suspension within a three-year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspensions provided in this paragraph applies only to determination of suspension periods; all prior suspensions shall be taken into account in calculating monetary penalties in accordance with N.J.S.A. 23:2B-14.

(i) Pursuant to N.J.S.A. 23:10-21 and 21.1, any gear used in violation of the provisions of this subchapter may be seized and forfeited.

(j) The assessment of any administrative penalty shall not preclude the Department from prosecuting for a larger amount in the event the administrative penalty is not paid by the time requested.

(k) Nothing in this section shall require the Department to assess an administrative penalty before instituting prosecution.

Amended by R.1982 d.169, effective June 7, 1982.

See: 13 N.J.R. 645(a), 14 N.J.R. 578(a).

Added (c).

Amended by R.1985 d.560, effective November 4, 1985.

See: 17 N.J.R. 1830(a), 17 N.J.R. 2608(a).

"Or" substituted for "of".

Recodified from 7:45-14.8 and amended by R.1994 d.152, effective March 21, 1994.

See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).

Recodified from N.J.A.C. 7:25-14.13 and amended by R.1999 d.52, effective February 16, 1999.

See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

Rewrote the section.

Recodified from N.J.A.C. 7:25-14.18 and amended by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

In (a) and (b), changed N.J.A.C. references; an in (f), inserted references to N.J.A.C. 7:25-14.16 and N.J.A.C. 7:25-14.17.

Administrative correction.

See: 32 N.J.R. 801(a).

Amended by R.2000 d.395, effective October 2, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 3592(b).

In (a) and (b), changed N.J.A.C. references; inserted a new (f); recodified former (f) as (g), and inserted references to N.J.A.C. 7:25-14.16 and 7:25-14.17; inserted a new (h); and recodified former (h) through (j) as (i) through (k).

Amended by R.2004 d.20, effective January 5, 2004.

See: 35 N.J.R. 4224(b), 36 N.J.R. 174(b).

Amended the reference for dollar amount throughout, amended N.J.A.C. reference in (d).
Administrative correction.
See: 36 N.J.R. 3276(a).

Amended by R.2005 d.413, effective November 21, 2005.
See: 37 N.J.R. 742(a), 37 N.J.R. 4408(a).
Added "during the period which extends from April 1 to November 30," to the introductory paragraph of (h); added (h)4.

(c) A deer that has been so severely injured by a collision with a motor vehicle that it must be killed shall be considered as accidentally killed for the purposes of this subchapter.

Amended by R.2001 d.73, effective March 5, 2001.
See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).

7:25-17.7 Information required

(a) Any State or municipal officer disposing of or authorizing the disposal or possession of accidentally killed deer shall notify the Division on a quarterly basis of the following information on forms provided by the Division:

1. The location where the deer was killed;
2. The sex of the deer;
3. The date of the accidental deer kill; and
4. The name and address of the permittee.

Amended by R.2001 d.74, effective March 5, 2001.
See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).

SUBCHAPTER 18. MARINE FISHERIES

7:25-18.1 Size, season and possession limits

(a) For the purpose of this subchapter, the following common names shall mean the following scientific name(s) for a species or group of species, except as otherwise specified elsewhere in this subchapter.

<u>Common Name</u>	<u>Scientific Name</u>
American Eel	Anquilla rostrata
Atlantic Cod	Gadus morhua
Atlantic Croaker	Micropogon undulatus
Atlantic Mackerel	Scomber scombrus
Black Drum	Pogonias cromis
Black Sea Bass	Centropristis striata
Bluefish	Pomatomus saltatrix
Cobia	Rachycentron canadum
Conch	Busycon carica
	Busycotypus canaliculatum
	Busycon contrarium
Goosefish (Monkfish)	Lophius americanus
Haddock	Melanogrammus aeglefinus
Kingfish	Menticirrhus saxatilis
	Menticirrhus americanus
King Mackerel	Scomberomorus cavalla
Pollock	Pollachius virens
Red Drum	Sciaenops ocellatus
River herring	Alosa aestivalis (alewife)
	Alosa pseudoharengus (blueback herring)
Scup (Porgy)	Stenotomus chrysops
Shad	Alosa sapidissima
	Alosa mediocris
Shark	Large Coastal Group
	Sphyrna mokarran (Great Hammerhead)
	Sphyrna lewini (Scalloped Hammerhead)
	Sphyrna zygaena (Smooth Hammerhead)
	Ginglymostoma cirratum (Nurse Shark)
	Carcharhinus altimus (Bignose Shark)
	Carcharhinus limbatus (Blacktip Shark)

<u>Common Name</u>	<u>Scientific Name</u>
	Carcharhinus leucas (Bull Shark)
	Carcharhinus perezii (Caribbean Reef Shark)
	Carcharhinus obscurus (Dusky Shark)
	Carcharhinus galapagensis (Galapagos Shark)
	Negaprion brevirostris (Lemon Shark)
	Carcharhinus brachyurus (Narrowtooth Shark)
	Carcharhinus signatus (Night Shark)
	Carcharhinus plumbeus (Sandbar Shark)
	Carcharhinus falciformis (Silky Shark)
	Carcharhinus brevipinna (Spinner Shark)
	Galeocerdo cuvieri (Tiger Shark)
	Small Coastal Group
	Squatina dumerili (Atlantic Angle Shark)
	Sphyrna tiburo (Bonnethead)
	Rhizoprionodon terraenovae (Atlantic Sharpnose Shark)
	Carcharhinus acronotus (Blacknose Shark)
	Rhizoprionodon porosus (Caribbean Sharpnose Shark)
	Carcharhinus isodon (Finetooth Shark)
	Carcharhinus porosus (Smalltail Shark)
	Pelagic Group
	Hexanchus vitulus (Bigeye Sixgill Shark)
	Hepranchias perlo (Sevengill Shark)
	Hexanchus griseus (Sixgill Shark)
	Isurus paucus (Longfin Mako)
	Lamna nasus (Porbeagle Shark)
	Isurus oxyrinchus (Shortfin Mako)
	Prionace glauca (Blue Shark)
	Carcharhinus longimanus (Oceanic Whitetip Shark)
	Alopias superciliosus (Bigeye Thresher)
	Alopias vulpinus (Thresher Shark)
	Mustelus canis
	Scomberomorus maculatus
	Libinia dubia
	Libinia emarginata
	Squalus acanthias
	Morone saxatilis
	Paralichthys dentatus
	Tautoga onitis
	Cynoscion regalis
	Cynoscion nebulosus
	Pleuronectes americanus
Smooth Dogfish	
Spanish Mackerel	
Spider crab	
Spiny Dogfish	
Striped Bass	
Summer Flounder (Fluke)	
Tautog (Blackfish)	
Weakfish	
Winter Flounder	

(b) A person shall not purchase, sell, offer for sale, or expose for sale any species listed below less than the minimum length, measured in inches, except as may be provided elsewhere in this subchapter, and subject to the specific provisions of any such section. Any commercially licensed vessel or person shall be presumed to possess the following species for sale purposes and shall comply with the minimum sizes below. Fish length shall be measured from the tip of the snout to the tip of the tail (total length), except as noted below.

<u>Species</u>	<u>Minimum Size (inches)</u>
American Eel	6
Atlantic Cod	21
Atlantic Croaker	No Limit
Atlantic Mackerel	7

Species	Minimum Size (inches)
Black Drum	16
Black Sea Bass	11
Bluefish	9
Cobia	37
Conch	5
Goosefish (Monkfish)	17
Haddock	21
Kingfish	8
King Mackerel	23
Pollock	19
Red Drum	18
River herring (Alewife, blueback herring)	No Limit
Scup (Porgy)	9
Shad	No Limit
Shark	48
Spanish Mackerel	14
Summer Flounder	14
Tautog (Blackfish)	14
Weakfish	13
Winter Flounder	12

1. Total length for black sea bass shall be measured along the midline from the tip of the snout to the end of the central portion of the tail, not to include tail filaments.

2. In addition to the total minimum goosefish size, all goosefish tails possessed must be at least 11 inches in length from the anterior portion of the fourth cephalic dorsal spine to the end of the caudal fin. The total weight of all goosefish livers landed shall not be more than 30 percent of the total weight of all goosefish tails landed or 12 percent of the total weight of all goosefish landed.

3. A person shall not take in any one day or possess more than the possession limit specified below for each species listed, except as may be provided elsewhere in this subchapter, and subject to the specific provisions of any such section.

Species	Possession Limit
Cobia	2
Red Drum	1, no more than 27 inches

(c) A person angling with a hand line or with a rod and line or using a bait net or spearfishing shall not have in his or her possession any species listed below less than the minimum length, nor shall such person take in any one day or possess more than the possession limits as provided below, nor shall such person possess any species listed below during the closed season for that species. Exceptions to this section as may be provided elsewhere in this subchapter shall be subject to the specific provisions of any such section. Fish length shall measure from the tip of the snout to the tip of the tail (total length), except as noted below:

Species	Minimum Size (Inches)	Open Season	Possession Limit
American Eel	6	Jan. 1—Dec. 31	50

Species	Minimum Size (Inches)	Open Season	Possession Limit
Atlantic Cod	21	Jan. 1—Dec. 31	No Limit
Atlantic Croaker	No Limit	Jan. 1—Dec. 31	No Limit
Black Drum	16	Jan. 1—Dec. 31	3
Black Sea Bass	12	Jan. 1—Dec. 31	25
Bluefish	No Limit	Jan. 1—Dec. 31	15
Cobia	37	Jan. 1—Dec. 31	2
Haddock	21	Jan. 1—Dec. 31	No Limit
Kingfish	No Limit	Jan. 1—Dec. 31	No Limit
King Mackerel	23	Jan. 1—Dec. 31	3
Pollock	19	Jan. 1—Dec. 31	No Limit
Red Drum	18	Jan. 1—Dec. 31	1, not greater than 27 inches
River herring (Alewife, blueback herring)	No Limit	Jan. 1—Dec. 31	35
Scup (Porgy)	9	Jan. 1—Feb. 28 and July 1—Dec. 31	50
Shad	No Limit	Jan. 1—Dec. 31	6
Shark	48	Jan. 1—Dec. 31	2 per vessel
Spanish Mackerel	14	Jan. 1—Dec. 31	10
Summer Flounder (Fluke)	17	May 26—Sept. 10	8
Striped Bass		refer to N.J.S.A. 23:5-45.1	
Tautog	14	Jan. 1—May 31 Jun. 1—Nov. 14 Nov. 15—Dec. 31	4 1 8
Weakfish	13	Jan. 1—Dec. 31	8
Winter Flounder	12	March 23—May 21	10

1. Total length for black sea bass shall be measured along the midline from the tip of the snout to the end of the central portion of the tail, not to include tail filaments.

2. The possession limit for shark, as listed at (a) above, shall be as enumerated at (c) above on a per vessel basis regardless of the number of individuals on board said vessel. If a person is fishing from shore or a land based structure, the possession limit shall be as enumerated at (c) above on a per person basis.

3. Anglers may take no more than 50 eels per day; however, anglers may keep more than 50 eels in storage for personal use, provided they possess no more than 50 eels per person for bait purposes while fishing.

(d) A person shall not take, possess, land, purchase, sell or offer for sale any of the following species:

Species	Scientific Name
Atlantic Sturgeon	Acipenser oxyrhynchus
Basking Shark	Cetorhinidae maximus
Bigeye Sand Tiger Shark	Odontaspis noronhai
Sand Tiger Shark	Odontaspis taurus
Shortnose Sturgeon	Acipenser brevirostrum
Whale Shark	Rhincodon typus
White Shark	Carcharodon carcharias

(e) Except as provided in (f) below, a person shall not remove the head, tail or skin, or otherwise mutilate to the extent that its length or species cannot be determined, any species with a minimum size limit specified at (b) or (c) above or any other species of flatfish, or possess such mutilated fish, except after fishing has ceased and such species have been landed to any ramp, pier, wharf or dock or other shore feature where it may be inspected for compliance with the appropriate size limit.

1. A shark may be eviscerated and the head and tail removed prior to landing, provided that the alternate length as measured from the origin of the first dorsal fin to the precaudal pit (located just forward of the origin of the upper lobe of the caudal or tail fin) is not less than 23 inches in length. The fins may not be removed from a shark or dogfish, except after fishing has ceased and such shark or dogfish has been landed as specified in (e) above.

(f) Special provisions applicable to a Special Fillet Permit are as follows:

1. A party boat owner may apply to the Commissioner for a permit for a specific vessel, known as a Special Fillet Permit to fillet species specified at (c) above at sea;

2. For purposes of this section, party boats are defined as vessels that can accommodate 15 or more passengers as indicated on the Certificate of Inspection issued by the United States Coast Guard for daily hire for the purpose of recreational fishing;

3. The Special Fillet Permit shall be subject to the following conditions:

i. Once fishing commences, no parts or carcasses of any species specified in (c) above and no flatfish parts or carcasses shall be discarded overboard; of the species specified at (c) above, only whole live fish may be returned to the water;

ii. No carcasses of any flatfish or species listed at (c) above shall be mutilated to the extent that its length or species cannot be determined;

iii. All fish carcasses of species specified at (c) above shall be retained until such time as the vessel has docked and been secured at the end of the fishing trip adequate to provide a law enforcement officer access to inspect the vessel and catch;

iv. No fillet of any flounder or other flatfish shall be less than eight inches in length during the period of May 1 through October 31 or less than five inches in length during the period of November 1 through April 30;

v. No fillet of any species listed below shall have the skin removed and no fillet shall be less than the minimum length in inches specified below.

<u>Species</u>	<u>Minimum Fillet or Part Length</u>
Atlantic Croaker	No Limit
Black Drum	9 inches
Black Sea Bass	5 inches
Bluefish	No Limit
Cobia	26 inches
Haddock	14 inches
Kingfish	No Limit
King Mackerel	16 inches
Pollock	13 inches
Red Drum	13 inches
Scup	4 inches
Spanish Mackerel	10 inches
Tautog	7 inches
Weakfish	9 inches

vi. Fish carcasses from the previous trip shall be disposed of prior to commencing fishing on a subsequent trip;

vii. Violation of any of the provisions of the Special Fillet Permit shall subject the captain and permit holder to the penalties established pursuant to N.J.S.A. 23:2B-14 and shall result in a suspension or revocation, applicable to both the vessel and the owner of the Special Fillet Permit according to the following schedule:

- (1) First offense: 60 days suspension;
- (2) Second offense: 120 days suspension; and
- (3) Third offense: Revocation of permit, rendering the vessel and the owner not eligible for permit renewal regardless of vessel ownership.

viii. In calculating the period of suspension or revocation applicable under (f)3vii above, the number of previous suspensions shall be reduced by one for each three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period, only one of those suspensions may be forgiven under this subparagraph; therefore, a permit holder who incurs more than one suspension in a three-year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspensions provided in this subparagraph applies only to determination of suspension periods; all prior suspensions shall be taken into account in calculating monetary penalties in accordance with N.J.S.A. 23:2B-14.

ix. Upon receipt of the notice of suspension but prior to the suspension or revocation of the Special Fillet Permit, the permittee has 20 days to request a hearing from the Department. The hearing shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1.1. If a request for a hearing is not received by the Department within 20 days of the permittee's receipt of the notice of

<u>Species</u>	<u>Minimum Fillet or Part Length</u>
Atlantic Cod	14 inches

suspension, the permit suspension or revocation will be effective on the date indicated in such notice.

(g) Any person violating the provisions of (b), (c), (d), (e) or (f) above shall be liable to a penalty of \$30.00 for each fish taken or possessed. Each fish taken or possessed shall constitute an additional separate and distinct offense.

(h) A person shall not take, attempt to take or have in his or her possession any striped bass or striped bass hybrids, as defined in (i) below, while on or angling in the Delaware River or its tributaries from the upstream side of the U.S. Route 1 Bridge to and including the Salem River and its tributaries from April 1 through May 31 of each year, or from any waters of the State, except the Atlantic Ocean, from January 1 through February 28 of each year as set forth in N.J.S.A. 23:5-45.2.

1. Hook and line fishermen are hereby restricted to the use of non-offset circle hooks while fishing with any natural bait within the Delaware River or its tributaries from April 1 through May 31 of each year. This restriction shall apply only to hooks of size two and larger and shall not apply to hooks of smaller sizes (such as those normally used for white perch fishing).

(i) Except for the products of commercial aquaculture, no person shall take from the marine waters in this State or have in his or her possession while on or angling in the marine waters of this State any striped bass hybrids, being hybrids of the *Morone* genus, less than the striped bass minimum size limits established pursuant to N.J.S.A. 23:5-45.1.

1. For the purposes of this section, commercial aquaculture shall mean the culture or husbandry of striped bass hybrids in non-wild systems for the purpose of egg and larval production and/or increasing size.

2. For the purposes of this section, parents of striped bass hybrids shall include *Morone saxatilis* (striped bass), *M. chrysops* (white bass), *M. americana* (white perch), and *M. mississippiensis* (yellow bass).

(j) Except for striped bass hybrids that are the products of commercial aquaculture, a person shall not possess more than the possession limit or less than the minimum size limits established pursuant to N.J.S.A. 23:5-45.1, whether striped bass or striped bass hybrid, while on or angling in the marine waters of this State.

(k) A person shall not remove the head, tail or skin from any striped bass hybrid except immediately prior to preparation or serving as food.

(l) All hybrid striped bass which are the products of commercial aquaculture shall be accompanied by accurate and dated documentation of quantity, original description and destination.

(m) Wanton waste of fish is prohibited.

1. Fish of any species, taken by any means, which are purposely killed shall become part of the fisherman's daily

possession limit and shall be removed from the waters from which they were taken and from adjacent lands. This subsection shall not apply to those fish which are released while still alive and subsequently die or to those fish taken inadvertently by net (bycatch) and subsequently die.

(n) Any person violating the provisions of (h) through (l) above shall be liable for a penalty of \$100.00 for each fish taken or possessed. Each fish taken or possessed shall constitute a separate and distinct offense.

(o) The following provision is applicable to the recreational harvest of bluefish.

1. Any party/charter vessel carrying recreational fishermen for hire to fish for bluefish shall have a valid Federal party/charter vessel permit.

(p) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify the fishing seasons, minimum size limits and possession limits specified in this section by notice in order to maintain and/or to come into compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. § 5104(b). The Department shall publish notice of any such modification in the New Jersey Fish and Wildlife Digest and the New Jersey Register, and shall submit a news release to individuals on the Division outdoor writers' mailing list.

(q) All persons aboard any fishing vessel subject to this rule shall immediately comply with instructions and signals issued by a conservation officer, a marine police officer or other law enforcement officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch for the purpose of enforcement of this rule.

(r) Pursuant to N.J.S.A. 23:10-21 and 21.1, any gear used in the violating of the provisions of this subchapter may be seized and forfeited to the Division.

Amended by R.1990 d.607, effective December 3, 1990.
See: 22 N.J.R. 3078(a), 22 N.J.R. 3628(b).

Added new (e) through (h), redesignated existing (e) as (i).
Amended by R.1991 d.132, effective March 18, 1991.
See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).

Size limit for marine fish changed in (a). Added (f), (g), (h), (i) and (j).

Amended by R.1991 d.348, effective July 1, 1991.
See: 23 N.J.R. 43(a), 23 N.J.R. 2011(a).

Deleted “, winter flounder measuring less than six inches in length, or measuring less than 13 inches in length” with stylistic changes in (a). Added “, winter flounder under 10 inches in length, or red drum under 14 inches in length” with stylistic changes in (b). Added (d). Redesignated (d) as (e); added reference to “(d)”. Redesignated (e)-(n) as (f)-(o).
Amended by R.1992 d.143, effective March 16, 1992.
See: 24 N.J.R. 4(c), 24 N.J.R. 1113(a).

Added requirements for weakfish management.
Petition for Rulemaking: Request for reduction of size limit; denied.
See: 24 N.J.R. 2957(a).

Public Notice: Announcement of fish checking stations for the Striped Bass Trophy Program.
See: 24 N.J.R. 3767(c).

Amended by R.1992 d.476, effective December 7, 1992.

See: 24 N.J.R. 1456(a), 24 N.J.R. 4368(b).

New (e) and (f) added prohibiting the filleting of any flatfish at sea in order to prevent circumvention of size limits on fluke and winter flounder; recodification of existing (e)-(o) as (g)-(q).
Amended by R.1993 d.56, effective January 19, 1993.

See: 24 N.J.R. 4249(a), 25 N.J.R. 303(a).

(c) repealed and replaced in accordance with the Summer Flounder Fishery Management Plan developed by the Mid-Atlantic Fishery Management Council and Atlantic States Marine Fisheries Commission.
Amended by R.1993 d.77, effective February 16, 1993.

See: 24 N.J.R. 205(a), 25 N.J.R. 689(a).

Added Atlantic Sturgeon under 60 inches in height.

Administrative Correction.

See: 25 N.J.R. 4495(a).

Amended by R.1994 d.44, effective January 18, 1994.

See: 25 N.J.R. 2167(a), 26 N.J.R. 353(a).

Emergency Amendment, R.1994 d.230, effective April 13, 1994 (to expire June 12, 1994).

See: 26 N.J.R. 1885(a).

Amended by R.1994 d.248, effective May 16, 1994.

See: 26 N.J.R. 291(a), 26 N.J.R. 2021(b).

Adopted Concurrent Proposal, R.1994 d.339, effective June 10, 1994.

See: 26 N.J.R. 1885(a), 26 N.J.R. 2792(a).

Provisions of emergency amendment R.1994 d.230 readopted, with a change effective July 5, 1994.

Amended by R.1994 d.615, effective December 19, 1994.

See: 26 N.J.R. 1931(a), 26 N.J.R. 5011(a).

Amended by R.1995 d.82, effective February 6, 1995.

See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

Administrative Change.

See: 27 N.J.R. 1793(a).

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Changed section name from "Size and possession limits"; added species and changed size and possession limits throughout; in (a) and (b), inserted provisions relating to presumed possession; and in (c), inserted reference to bait nets.

Administrative change.

See: 29 N.J.R. 2278(a).

In (b), increased minimum size of Summer Flounder and Tautog; and in (c), increased possession limit of Summer Flounder.

Amended by R.1997 d.246, effective June 2, 1997.

See: 29 N.J.R. 285(a), 29 N.J.R. 2555(a).

In (a) and (b), added "(total length), except as noted below"; in (a), in table, changed minimum size for "Black sea bass" from 8 to 9 inches and added "Tautog (blackfish)"; inserted new (a)1, and recodified former (a)1 and (a)2 as (a)2 and (a)3; in (b), added "Black sea bass" to table; added (b)1; in (c), added "Black sea bass" to table; in (e), inserted "or possess such mutilated fish,"; and in (f)3v, added "Black sea bass" and "Scup" to table.

Amended by R.1998 d.40, effective January 5, 1998.

See: 29 N.J.R. 4595(a), 30 N.J.R. 226(a).

Added Bluefish to size limits; in (b) changed minimum size for Atlantic Cod and Haddock from 19 inches to 21 inches; in (f)3v, changed minimum length of Atlantic Cod and Haddock from 13 inches to 14 inches.

Administrative change.

See: 30 N.J.R. 1319(b).

Administrative change.

See: 30 N.J.R. 1402(b).

Amended by R.1999 d.52, effective February 16, 1999.

See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

Rewrote (a) through (f).

Administrative change.

See: 31 N.J.R. 1084(a).

Amended by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

In (c), changed minimum size for Winter Flounder; in (h), substituted "upstream side of the U.S. Route 1 Bridge" for "Trenton Falls" following "from the".

Administrative change.

See: 32 N.J.R. 1387(a).

Amended by R.2000 d.395, effective October 2, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 3592(b).

In (c), increased minimum size for Winter Flounder; in (h), substituted "upstream side of the U.S. Route 1 Bridge" for "Trenton Falls"; inserted a new (n); and recodified former (n) through (p) as (o) through (q).

Amended by R.2001 d.73, effective March 5, 2001.

See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).

Administrative change.

See: 33 N.J.R. 1589(a).

Amended by R.2001 d.346, effective September 17, 2001.

See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).

Rewrote the section.

Administrative change.

See: 34 N.J.R. 921(a).

Administrative change.

See: 34 N.J.R. 1023(b).

Administrative change.

See: 34 N.J.R. 1669(a).

Amended by R.2002 d.277, effective August 19, 2002.

See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).

In (a) to (c), added "River herring"; in (g), deleted "(a)," "or" preceding (e), inserted "or (f)" after (e); rewrote (h).

Administrative change.

See: 35 N.J.R. 708(a).

Administrative correction.

See: 35 N.J.R. 1561(a).

Administrative change.

See: 35 N.J.R. 1927(a).

Administrative correction.

See: 35 N.J.R. 5619(a).

Amended by R.2004 d.20, effective January 5, 2004.

See: 35 N.J.R. 4224(b), 36 N.J.R. 174(b).

In (a), amended the table of Common Name and Scientific Name; in (g), substituted "\$30.00" for "\$20.00".

Administrative change.

See: 36 N.J.R. 1191(c).

Administrative change.

See: 36 N.J.R. 2420(c).

Administrative change.

See: 37 N.J.R. 1177(b).

Administrative change.

See: 37 N.J.R. 3696(a).

Amended by R.2005 d.413, effective November 21, 2005.

See: 37 N.J.R. 742(a), 37 N.J.R. 4408(a).

In (a), added common name "Striped Bass" and scientific name "Morone saxatilis"; in (c), added species "Striped Bass" and open season information "refer to N.J.S.A. 23:5-45.1"; in (f)3vii, increased number of days suspension to 60 for first offense and 120 for second offense; added (f)3viii; recodified former (f)3viii as (f)3ix.

Administrative change.

See: 38 N.J.R. 1731(a).

Administrative correction.

See: 38 N.J.R. 2797(b).

Administrative change.

See: 39 N.J.R. 1473(b).

7:25-18.2 Pound nets

(a) The following words and terms shall have the following meanings unless the context clearly indicates otherwise.

"Department" means the New Jersey Department of Environmental Protection.

"Heart" means an upright fence of netting forming a heart-shaped (round or square) compartment located between the leader and the pocket. It is designed to cause fish to circle in front of and eventually enter the pocket of a pound net.

“Leader” means an upright fence of netting that acts as a barrier to fish and guides them toward a trap; the netting is made of heavy twine, not designed to catch fish by the gills.

“Navigable channel” means a channel marked with navigational markers including poles, piling or buoys, by the Coast Guard or the State.

“Pocket” means an upright fence of netting forming the final compartment of a pound net in which trapped fish accumulate.

“Pound net” means a large fish trap, consisting of a leader, pocket and one or more hearts, held in place with poles, the netting of which reaches from the bottom to above the surface of the water.

“Staked or anchored gill net” means an upright fence of monofilament or nylon netting, held in place at each end by stakes or anchors, that catches fish by snagging their gill covers as they try to pass through the mesh of the net.

“Submarine pound net” means a pound net that is totally submerged beneath the water and held in place by anchors.

(b) General requirements for all pound net users are as follows:

1. No person may install, operate or maintain a pound net in the marine waters of the State without having first obtained a license from the Department.
2. The Department may establish limits on the number of licenses to be issued for pound nets in Raritan Bay and Sandy Hook Bay and in the Atlantic Ocean within three nautical miles of the coastline.
3. Licenses must be renewed annually.
4. Holders of pound net licenses from the previous year shall have first priority in obtaining a new license, provided they apply before March 1 of the current year.
5. Any person operating any fish pound net in the marine waters of New Jersey, must, at the time of emptying the net, return to the waters wherein the net is located all species less than the minimum size limits specified pursuant to N.J.A.C. 7:25-18.1.
6. No person may, by boat, anchor, dredge or otherwise, willfully and without reasonable cause, interfere with, break, damage or destroy any fish net or associated equipment being lawfully used by a license holder.
7. The Department may require any licensee to submit a money surety bond to insure removal of pound net poles and apparatus as required by these rules.
8. Violation of the rules in this section will subject the violator to money penalties, loss of license and/or injunctive relief under N.J.S.A. 23:2B-14.

(c) Specific requirements for pound net users in Raritan, Sandy Hook and Delaware Bays are as follows:

1. Any person applying for a pound net license must indicate the specific proposed site for the net, as designated by a chart developed by the Department. Sites which have not previously been located on the approved chart must be approved by the Department prior to issuance of a license.
2. New pound net sites must be at least 3,000 feet from a previously located pound net site, when measured parallel to the shoreline, and must be at least 1,000 feet from any navigable channel.
3. Any pound net license holder has priority in retaining a pound net site previously licensed by him or her, provided that he or she has actively and lawfully fished that site during the previous year and has submitted a license application prior to March 1 of the current year. After March 1, any citizen may apply for any available site on a first-come basis.
4. No staked or anchored shad net may be placed within 3,000 feet of an operating pound net. However, shad nets may be set on licensed pound net sites by the license holder or on unoccupied, approved pound net sites, provided the shad nets are set end-to-end with and in line with any existing pound nets.
5. Pound nets must be placed end-to-end so as to form a straight line, perpendicular to the shoreline.
6. The maximum allowable length of a pound net, including leader and hearts, is 750 feet.
7. A minimum distance of 50 feet must be maintained between any two pound nets, shad nets or combination thereof, when measured perpendicular to the shoreline.
8. A pound net license holder must maintain a nameplate, on the offshore pole of the net not less than six inches square, on which shall be legibly marked the identification number of the pound, as assigned by the Department.
9. A flashing, amber light must be displayed between sunset and sunrise on each of the two end poles of a pound net or a continuous row of pound nets. These lights must be placed at least 10 feet above the mean high water level and must be of sufficient brightness to be visible for at least three miles in all directions (360 degrees) at such times and under such weather conditions as would allow visibility of 10 miles.
10. Within 30 days of the termination of fishing activities for that year, all poles and stakes must be removed by the pound net license holder.
11. The pound net license holder will be responsible for the cost of pole and/or stake removal where the Department accepts responsibility for such removal, due to the licensee's failure to comply with 10 above.

(d) Specific requirements for pound net users in the Atlantic Ocean are as follows:

1. When submitting a request for an ocean or submarine pound net license, the applicant must specify the specific proposed site-location for placement of each net. Upon site approval, the Department may issue the license. (Note: Permission for location of ocean pound nets is also required from the United States Army Corps of Engineers.)

2. No portion of a pound net may be set within 1,500 feet or greater than 7,000 feet from the mean low water line on the ocean shoreline.

3. No row of pound nets may be erected or operated within one and one-half miles of any other row of pound nets, when measured parallel with the coastline.

4. No more than two pound nets may be joined together.

5. A minimum distance of 1,000 feet, when measured perpendicular to the coastline, must be maintained between individual or paired pound nets set in a row.

6. A row of ocean or submarine pound nets must form a straight line with the nets placed end-to-end.

7. The maximum allowable length of an ocean or submarine pound net, including leader and pocket, is 1,100 feet.

8. The minimum mesh size for ocean or submarine pound nets is two inches, stretched.

9. Ocean pound nets shall be maintained in compliance with the following additional requirements:

i. White reflectors must be placed around the top of each pole so as to reflect in all directions;

ii. Flashing amber lights must be displayed on the inshore and offshore poles of nets or rows of nets, between sunset and sunrise; these lights must be placed at least 10 feet above the mean high water level and must be of sufficient brightness to be visible for at least three miles in all directions (360 degrees) at such times and under such weather conditions as would allow visibility of 10 miles.

10. Submarine pound nets shall be maintained in compliance with the following additional requirements:

i. At least eight fluorescent orange floats, at least 12 inches in diameter, shall be maintained along the length of each net, including the inshore and offshore ends.

ii. The pound net license holder shall maintain a nameplate, not less than 12 inches square, on which shall be legibly marked the identification number of the pound, as assigned by the Department.

11. The license holder must completely remove all pound net poles and stakes, within ten months of the termination of fishing activities.

12. The pound net license holder will be responsible for the cost of pole and/or stake removal, where the Department accepts responsibility for such removal, due to the licensee's failure to comply with 11 above.

Amended by R.1984 d.439, effective October 1, 1984.

See: 16 N.J.R. 1866(a), 16 N.J.R. 2543(b).

Amended by R.1991 d.132, effective March 18, 1991.

See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).

Lighting requirements affecting pound nets increased on (c)9 and (d)9ii.

Amended by R.1994 d.248, effective May 16, 1994.

See: 26 N.J.R. 291(a), 26 N.J.R. 2021(b).

7:25-18.3 Net identification tags

(a) Any identification tag furnished by the Division for a licensed net shall be displayed in a prominent and easily accessible place on such net.

(b) No identification tag furnished by the division may be counterfeited or transferred.

7:25-18.4 Spearfishing

It shall be lawful to take, catch, or kill all species of fish by means of spearfishing, during the respective open season, except for those species of fish specifically protected. For the purpose of this rule, spearfishing shall mean the taking of fish by means of a spear, harpoon, or other missile, or by hand, while completely submerged in the marine waters of the State.

Amended by R.1985 d.609, effective January 7, 1985.

See: 16 N.J.R. 2478(a), 17 N.J.R. 79(a).

Amended by R.1995 d.82, effective February 6, 1995.

See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

7:25-18.5 General net regulations

(a) No person shall take, catch, kill or attempt to take, catch or kill any fish within the marine waters of the State by any means except in the manner commonly known as angling with hand line or with rod and line unless specifically permitted by statute or regulation.

(b) All stakes used in fyke nets, pound nets, parallel nets or gill nets shall be marked with at least one of the following which shall be placed at least two feet above mean high water and be visible from all sides:

1. Reflectors of not less than two inches in diameter;
 2. Reflecting tape not less than two inches in width;
 3. Light colored flags not less than two square feet;
- or
4. Light colored jugs or buoys not less than 12 inches in diameter.

(c) It shall be illegal to catch fish or attempt to catch fish by means of a rod and line or hand line, commonly called angling, within 300 feet of a set (operating) fish net as licensed pursuant to this section.

(d) It shall be illegal to set a fish net as licensed pursuant to this section within 300 feet of any person actively fishing with a rod and line or hand line, commonly called angling.

(e) All nets licensed pursuant to this section must be legibly and indelibly marked with the gear identification number of the owner.

(f) No person shall set, tend, tamper with or damage in any way or remove fish or other organisms from any net requiring a license without having in his possession the numbered license issued to said person which corresponds to the gear identification number marked on such net.

(g) Individuals intending to take fish with a net in the marine waters of this State pursuant to N.J.S.A. 23:5-24.2 shall, as required, apply to the Commissioner for a license

and/or permit. To be eligible for a gill net license in 2003, an applicant must provide a copy of a previously valid New Jersey gill net license held by the applicant between January 1, 1997 and July 13, 2000. Individuals may purchase the greatest number of each type of gill net license they held in any one calendar year between January 1, 1997 and July 13, 2000. To be eligible for a gill net license in all subsequent years, an applicant must provide a copy of a previously valid gill net license held by the applicant from the preceding year. Individuals must purchase the maximum number of gill net licenses to which they are entitled annually. Any licenses not purchased will be forfeited. The holder of a valid gill net license not pending revocation or court action due to violation of provisions of this subchapter may transfer the right to purchase all of the gill net licenses he is entitled to purchase to another individual at any time, upon notification to the Department. The new licensee shall have a license(s) issued in his or her name after payment of the fee specified in (g)5vi or (g)6ix below. Any licenses not purchased by the new entrant will be forfeited. Individuals who applied to the gill net delayed entry program prior to July 13, 2000 and who obtained gill net licenses after the July 13th control date in 2000 or in 2001 or who obtained gill net licenses or are eligible to obtain gill net licenses in 2002, will be restricted to purchase a maximum of two drifting and/or six staked or anchored gill net licenses. Any licenses not purchased in any year will be forfeited. Availability of Delaware Bay Gill Net Permits shall be determined pursuant to N.J.A.C. 7:25-18.6 through 18.11. Upon receipt of the application, and the prescribed license fee, the Commissioner may, in his or her discretion, issue single season licenses and/or permits as specified for each net type for the taking of fish with nets only as follows:

1. Haul seines shall have a mesh not smaller than 2.75 inches stretched and shall not exceed 70 fathoms in length, whether used singly or in series. Haul seines may be used for all species except those specifically protected.

i. The haul seine season shall begin on November 1 and end on April 30;

ii. A person shall not use or attempt to use a haul seine for any species in Lake Takanassee, Spring Lake, Wreck Pond and Deal Lake;

iii. The haul seine resident fee shall be \$25.00 per net.

2. Fykes shall have a length, including leaders, which shall not exceed 30 fathoms and no part of the net or leaders shall be constructed of monofilament or have a mesh larger than five inches stretched or smaller than three eight inches stretched (inside measurement). Fyke nets may be used for all species except those specifically protected.

i. The fyke season shall begin on November 1 and end on April 30;

ii. A person shall not use or attempt to use a fyke net for any species in Lake Takanassee, Spring Lake, Wreck Pond and Deal Lake, or in the area commonly known as Collins Cove off the Mullica River between a line starting at aid to navigation channel marker flashing red number 8 (latitude 39°33.36'N, longitude 74°28.39'W), bearing approximately 229°T to a point on the western shore of Collins Cove at latitude 39°33.09'N, longitude 74°28.72'W and the Garden State Parkway where it crosses the Mullica River;

iii. No fyke net nor any part of a fyke net shall be set in the middle one third of any river, stream or tributary.

iv. All stakes used for the setting of fyke nets must be removed within 30 days of the close of the season;

v. Submerged anchored fyke nets shall be marked at each end with a fluorescent orange float at least 12 inches in diameter or a fluorescent orange flag at least 12 inches by 12 inches and suspended at least three feet above the water, measured from the surface of the water to the bottom of the flag. No less than 24 square inches of any reflective material shall be attached and maintained on each marker.

vi. Winter flounder may be taken by fyke net during the season of November 1 through February 19. Any winter flounder taken by fyke net from February 20 through April 30 shall not be retained and must be immediately returned to the water.

vii. The fyke resident fee shall be \$12.00 per net. Each licensee shall notify the Department in their license application of the specific estuary in which they intend to fish the fyke net(s). Licensees shall notify the Department as to any change in the specific estuary within which the fyke net is located no later than seven days following the change in estuary. Such notice shall be in writing to:

Division of Fish and Wildlife
Marine Fisheries Administration
PO Box 400
Trenton, New Jersey 08625-0400.

3. Miniature fykes or pots shall only be used for the taking of catfish, suckers, killifish (Cyprinodontidae) and eels. The mesh of this net type shall be no smaller than three sixteenth inches bar, inside measurement. This net type shall not have leaders or wings and shall not exceed 16 inches in diameter if cylindrical or 201 square inches in cross section if any other configuration in any of the marine waters of this State.

i. The miniature fyke or pot season shall begin on January 1 and end on December 31;

ii. The miniature fyke or pot resident fee shall be \$100.00 regardless of the number of miniature fykes or pots employed;

iii. One or two miniature fykes or pots may be used for the taking of killifish or eels only for bait without application for or granting of a license, provided, however, that killifish or eels taken without having a valid license in possession may not be sold or used for barter.

iv. No miniature fyke or pot shall be placed in any man-made lagoon or in any marked or charted channel except noncommercial pots or miniature fykes fastened to a pier or other shore connected structure by a line no longer than twice the depth of the water at that point.

4. The bait net season shall begin on January 1 and shall end on December 31. Except as provided in N.J.S.A. 23:5-24.2, bait net resident fees shall be \$10.00 per license.

i. Bait nets shall be limited to one or more of the following types:

(1) Hand held dip nets 24 inches in diameter or less;

(2) Bait seines not exceeding 150 feet and mesh not less than three eighths inches stretched, inside measurements, and not more than 2.5 inches stretched;

(3) Cast nets not exceeding 30 feet in diameter;

(4) Lift or umbrella nets not exceeding four feet square; and

(5) Killipots with mesh not less than three sixteenth inches bar, inside measurements, and not exceeding 10 inches in diameter or 25 inches in length if cylindrical or 2,000 cubic inches for any other conformation for the taking of killifish (*Cyprinodontidae* spp.) only;

ii. No person shall harvest or attempt to harvest fish by any means from the Deal Lake flume, the Lake Takanassee spillway or Wreck Pond spillway on Monday, Wednesday, and Friday, during the months of April and May in any year.

iii. No person shall take more than 35 river herring (alewife and blueback herring in the aggregate) per day with any dip net, cast net, lift or umbrella net or bait seine; and

iv. The simultaneous possession of greater than 35 alewife or blueback herring in the aggregate and any dip net, cast net, lift or umbrella net or bait seine shall constitute prima facie evidence of the violation of this rule.

5. Drifting gill nets shall be used only in the Atlantic Ocean, Delaware Bay, and the tributaries of Delaware Bay. The smallest mesh of any drifting gill net shall be not less than five inches stretched beginning February 12 through February 29. From March 1 through December 15 the smallest mesh of any drifting gill net shall be not

less than 3.25 inches stretched except in the tributaries of Delaware Bay and in Delaware Bay and the Atlantic Ocean within two nautical miles of the mean high water line where the smallest mesh shall be not less than 2.75 inches stretched and subject to the permitting and reporting requirements specified in (g)5vii below and in N.J.A.C. 7:25-18.12. These nets shall not individually exceed 200 fathoms in length. Individual drifting gill nets shall not be fastened together to form a series of nets exceeding 400 fathoms in length beginning February 12 through May 15 or exceeding 200 fathoms in length beginning May 16 through December 15. Drifting gill nets may be used for all species except those specifically protected.

i. Separate drifting gill nets or a series of joined drifting gill nets shall not be set or fished closer than 100 fathoms from any other net or series of nets;

ii. Separate drifting gill nets or a series of joined drifting gill nets shall be marked at each end with a fluorescent orange float at least 12 inches in diameter or a fluorescent orange flag at least 12 inches by 12 inches and suspended at least three feet above the water, measured from the surface of the water to the bottom of the flag. No less than 24 square inches of any reflective material shall be attached and maintained on each end marker. A white float measuring at least eight inches in diameter shall be located approximately 20 feet inside of each end marker;

iii. Drifting gill nets shall be used in the Atlantic Ocean only from February 12 through December 15. Drifting gill nets shall not be used in the Atlantic Ocean within 100 fathoms of the marked channel of any inlet. Drifting gill nets between 2.75 inches stretched mesh and 3.25 inches stretched mesh shall be subject to the permitting and reporting requirements specified in (g)5vii below, and

(1) Shall only be fished within two miles of the MHWL;

(2) Shall only be fished between the hours of sunrise and sunset;

(3) Shall be no higher than eight feet (off the bottom) while fishing; and

(4) A maximum of 200 fathoms per licensed fisherman shall be in the water at any one time;

iv. Drifting gill nets shall be used in the tributaries of Delaware Bay only for the season extending from February 12 through May 15 and July 15 through December 15;

v. Drifting gill nets shall be used in Delaware Bay only from February 12 through December 15, subject to the additional conditions specified in N.J.A.C. 7:25-18.12. For the purpose of this section, that portion of Delaware Bay defined by the New Jersey-Delaware boundary on the west, Loran C27180 on the east, and Loran C42830 on the north, during the period from May 15 through June 15, shall be known as the Brandywine Shoal Restricted Area.

(1) No more than two drifting gill nets shall be permitted to be set or operated within the Brandywine Shoal Restricted Area by any vessel.

(2) No more than one drifting gill net shall be permitted to be set or operated, nor shall any net be left unattended, within the Brandywine Shoal Restricted Area by any vessel at night (from sunset to sunrise) or on any public holiday as specified at N.J.S.A. 36:1-1 or weekend. For the purpose of this section, "unattended" means that set of circumstances where the operator is more than 100 feet from the nearest portion of his net.

vi. The drifting gill net resident fee shall be \$20.00 per net.

vii. Individuals utilizing drifting, staked or anchored gill nets less than 3.25 inches stretched mesh in the Atlantic Ocean or in the Delaware Bay after February 29 in any calendar year shall possess a Gill Net Mesh Exemption Permit.

(1) An individual shall apply annually for the permit.

(2) All permittees shall submit monthly reports of their catch and effort and other information as may be determined by the Department on forms provided by the Department. These reports shall be filed with the Division no later than 10 calendar days after each monthly reporting period. If no fishing activity was conducted under this permit during the month, a report to that effect shall be provided. Gill Net Mesh Exemption permittees shall be personally responsible for guaranteeing the timely delivery of reports to the Division as well as the accuracy of all information contained therein. The Department may demand that a permittee provide proof of the truth of any data contained in any report submitted to the Division under this program. If the permittee fails to file a true, complete monthly report with the Division by the 15th day of any month, the Division, in its discretion, may contact the permittee by the most expeditious method available in order to secure a complete report.

(3) If the Division is unable to secure a true, complete monthly report from the permittee by such informal means or the Division has credible evidence that the data on any report is false, the Division shall notify the permittee in writing of the Division's intention to revoke the permittee's Mesh Exemption privilege for the reasons stipulated in the notice, effective 20 business days after the date on the written notice (excluding the date on the notice) and of the Division's suspension of the permittee's Mesh Exemption privileges in the interim, effective on a date stipulated in the notice but no sooner than 10 business days after the date of the notice (excluding the date on the notice).

(4) The permittee may request a hearing to contest a proposed revocation of Mesh Exemption privileges in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The request for an administrative hearing must be received in writing by the Department within 20 business days from the date on the Division's notice of suspension and intention to revoke, excluding the date on the notice. However, if a timely request for a hearing is not received by the Department, any allegation contained in the notice shall be deemed admitted by the permittee and Mesh Exemption privileges shall be revoked as of the date stipulated in the notice, without any further action by the Division.

(5) The Division Director may, in his or her sole discretion, stay the suspension of Mesh Exemption privileges pending a hearing on the notice of proposed revocation of Mesh Exemption privileges for any good cause set forth in a written petition from the permittee, including sworn statements from the permittee or other persons with knowledge relevant to the allegations on which the Division action is based. The petition and its supporting statements and documentation shall be made available to the court and all parties in advance of any hearing.

(6) The Division shall reinstate Mesh Exemption privileges suspended for late or incomplete reports, but no more than three times per permittee in any single permit year, if that permittee personally delivers any missing reports, completed, along with a credible written explanation for the delay and/or omissions to the Division within 20 business days from the date on the notice of suspension.

(7) Any permittee who has had a Mesh Exemption privilege revoked shall be disqualified from exercising any privilege associated with a Mesh Exemption permit for 24 months following:

(A) The effective date of an uncontested notice of proposed revocation of privileges;

(B) The date of the Commissioner's Final Decision affirming revocation of Mesh Exemption privileges; or

(C) The filing date of the court order affirming the Commissioner's Final Decision revoking Mesh Exemption privileges, whichever is applicable.

(8) The Division shall issue a Mesh Exemption permit to an applicant pending resolution of a contested Division proposal to revoke that applicant's Mesh Exemption privilege, but that permittee shall not exercise or enjoy any Mesh Exemption privilege if the Division has already suspended that permittee's Mesh Exemption privilege pending resolution of a proposed revocation until:

(A) The Division Director lifts the suspension of that permittee's Mesh Exemption privileges;

(B) The Commissioner issues a Final Decision reinstating that permittee's Mesh Exemption privileges; or

(C) A court of competent jurisdiction orders reinstatement of that permittee's Mesh Exemption privileges, as the case may be.

6. Staked and anchored gill nets shall be used only in the Atlantic Ocean, Raritan Bay, Sandy Hook Bay, and the Delaware Bay and its tributaries. No unattended, overnight staked or anchored gill net shall be set in the Atlantic Ocean from June 15 through October 31. No unattended, overnight anchored gill net shall be set in Delaware Bay from June 15 through September 30. For the purpose of this section, "unattended" means that set of circumstances where the operator is more than $\frac{1}{2}$ nautical mile (3,040 feet) from the nearest portion of his net. Staked or anchored gill nets shall not be fastened together to form a series of net exceeding 400 fathoms in length from the beginning of the season through May 15 or exceeding 200 fathoms in length beginning May 16 through December 15, subject to the additional conditions specified in N.J.A.C. 7:25-18.12.

i. Separate staked or anchored gill nets or a series of joined staked or anchored gill nets shall not be set closer than 20 fathoms from any other net or series of nets;

ii. Separate staked or anchored gill nets or a series of joined staked or anchored gill nets shall be marked at each end with a fluorescent orange float at least 12 inches in diameter or a fluorescent orange flag at least 12 inches by 12 inches and suspended at least three feet above the water, measured from the surface of the water to the bottom of the flag. No less than 24 square inches of any reflective material shall be attached and maintained on each marker. A white float measuring at least eight inches in diameter shall be located approximately 20 feet inside of each end marker;

iii. Staked and anchored gill nets may be used in the Atlantic Ocean for any species except those specifically protected only beginning February 12 through December 15, where individual gill net length shall not exceed 50 fathoms. The smallest mesh of any such net used in the Atlantic Ocean shall not be less than five inches stretched beginning February 12 through February 29 and not less than 3.25 inches stretched beginning March 1 through December 15. Staked or anchored gill nets shall not be used in the Atlantic Ocean within 100 fathoms of the marked channel of any inlet;

iv. Staked and anchored gill nets shall be used only for shad in the Raritan Bay or Sandy Hook Bay and only beginning February 1 through May 15, where individual gill net length shall not exceed 30 fathoms. The smallest mesh of any such net used in Raritan Bay

or Sandy Hook Bay shall not be less than five inches stretched;

v. Staked gill nets may be used in the tributaries of Delaware Bay for any species except those specifically protected only beginning January 1 through May 15 and July 15 through December 15, where individual gill net length shall not exceed 30 fathoms. The mesh of any such net used in the tributaries of Delaware Bay shall not be less than 2.75 inches stretched nor greater than 3.25 inches stretched beginning January 1 through February 29 and no mechanical means shall be utilized to retrieve such net. The mesh of any net shall not be less than 2.75 inches from March 1 through May 15 and July 15 through December 15. No net shall be set across the middle one third of any tributary or the mouth of any tributary, nor shall any net be set in a manner that impedes navigation;

vi. Staked gill nets may be used in Delaware Bay only from February 1 through December 15, except as further defined by statute and/or rule. Individual staked gill net length shall not exceed 30 fathoms. The mesh of any such net used in Delaware Bay shall be 2.75 inches stretched beginning February 1 through February 29 except that staked gill nets of a mesh not less than 2.75 inches stretched or greater than 3.25 inches stretched may be used within one half nautical mile of the MHWL from January 1 through February 29 provided no mechanical means are utilized to retrieve such nets. From March 1 through December 15 the smallest mesh of any staked gill net shall not be less than 3.25 inches stretched except within two nautical miles of the mean high water line where the smallest mesh shall not be less than 2.75 inches stretched and subject to the permitting and reporting requirements specified in (g)5vii above and N.J.A.C. 7:25-18.12. Staked gill nets shall not be used in that portion of Delaware Bay known as the Brandywine Shoal Restricted Area as defined in (g)5v above;

vii. The use of anchored gill nets is permitted in the tributaries of Delaware Bay for any species, except those specifically protected, only beginning January 1 through May 15 and July 15 through December 15, where individual gill net length shall not exceed 30 fathoms. The mesh of any such net used in the tributaries of Delaware Bay shall not be less than 2.75 inches stretched nor greater than 3.25 inches stretched beginning January 1 through February 29 and no mechanical means shall be utilized to retrieve such net. The mesh of any net shall not be less than 2.75 inches from March 1 through May 15 and July 15 through December 15. No net shall be set across the middle one third of any tributary or mouth of any tributary, nor shall any net be set in a manner that impedes navigation;

viii. The use of anchored gill nets is permitted in the Delaware Bay only from February 1 through De-

ember 15, except as further defined by statute and/or rule. Individual anchored gill net length shall not exceed 30 fathoms. The smallest mesh of any such net used in the Delaware Bay shall not be less than five inches stretched beginning February 1 through February 29 except that anchored gill nets of a mesh not less than 2.75 inches stretched or greater than 3.25 inches stretched may be used within one half mile of the mean high water line from January 1 through February 29 provided no mechanical means are utilized to retrieve such nets. From March 1 through December 15 the smallest mesh of any anchored gill net shall not be less than 3.25 inches stretched except within two nautical miles of the mean high water line where the smallest mesh shall not be less than 2.75 inches stretched and subject to the additional conditions specified in N.J.A.C. 7:25-18.12. Anchored gill nets shall not be used in that portion of the Delaware Bay known as the Brandywine Shoal Restricted Area as defined in (g)5v above;

ix. The staked and anchored gill net resident fee shall be \$3.00 per net.

7. Pound nets shall have a mesh not smaller than two inches stretched and may be used for all species except those specifically protected. These nets shall be used only in Raritan Bay, Sandy Hook Bay, Delaware Bay and the Atlantic Ocean.

i. The pound net season shall begin on February 15 and end on May 15 in the Delaware Bay and begin on January 1 and end on December 31 in all other areas;

ii. The pound net resident fee shall be \$100.00 per net.

8. Wire pound nets shall not extend into the Delaware Bay further than 300 feet from the mean low water mark nor 300 feet from the outside of the flats which fall bare at low water and may be set and used in the Delaware Bay only.

i. The wire pound net season shall begin on March 1 and end on December 31.

ii. The wire pound net resident fee shall be \$25.00 per net.

9. Parallel net may be used to take carp, catfish and suckers only and shall be used only in Delaware Bay and its tributaries. Parallel nets shall have a mesh not smaller than 3.5 inches stretched and not exceed 100 fathoms in length. They shall be set approximately parallel to the shore and only at the low water mark. No net shall be set across any tributary or mouth of any tributary, nor shall any net be set in a manner that impedes navigation.

i. The parallel net season shall begin on September 1 and end on May 31;

ii. The parallel net resident fee shall be \$10.00 per net.

10. Shrimp trawls shall be used for the taking of grass shrimp (*Palaemonetes* spp.) or sand shrimp (*Crangon* spp.) only. Any organisms other than these shrimp taken with a shrimp trawl shall immediately be returned to the waters from which such organisms were taken. The internal opening of the trawl shall have a maximum width of 60 inches and a maximum height of 12 inches. The mesh of the net shall not be greater than one-half inch stretched. No boat shall have more than two trawls working at the same time, and each trawl shall be independently and separately attached to the vessel by a single cable or tow line.

i. The shrimp trawl season shall begin on April 15 and end on December 15;

ii. The shrimp trawl resident fee shall be \$12.00 per net.

11. Lobster or fish pots may be used for the taking of all species except those specifically protected and pursuant to the specific requirements of N.J.A.C. 7:25-14.13 through 14.20 and shall be used only in the Atlantic Ocean, Delaware Bay, Raritan Bay and Sandy Hook Bay except as provided in (g)11ix below.

i. To be eligible for a lobster or fish pot license in 2003, an applicant must provide a copy of a previously valid New Jersey lobster or fish pot license held by the applicant in one of the years from 1995 through h 31, 2002. To be eligible for a lobster or fish pot license in all subsequent years, an applicant must provide a copy of a previously valid lobster or fish pot license held by the applicant from the preceding year.

(1) No additional lobster or fish pot licenses shall be issued until the number of licenses decreases below the number issued in 2003.

(2) Applications for a license shall be available from the Department; and successful applicants shall be chosen by lottery, if necessary, from all completed applications received by the Department. When additional licenses are available, unsuccessful applicants from the previous lottery will be given the first right to the license provided they purchase a license within 30 days of being notified by the Department. Notification by the Department shall be by first class mail. It is the responsibility of the applicant to provide the Department with written notification of any change in mailing address. Once a lottery list is exhausted, the Department shall notify commercial docks and fishing organizations as to the availability of licenses.

(3) The holder of a valid lobster or fish pot license not pending revocation or court action due to violation of provisions of this subchapter may transfer the right to the license at any time, upon application to the Department. The new licensee shall have a license issued in his or her name after payment of the fee specified at (g)11xi below and pursuant to the specific requirements of N.J.A.C. 7:25-14.13 through 14.20.

(4) Applicants for a fish and lobster pot license to recreationally take lobster pursuant to N.J.A.C. 7:25-14.6(a)1iv shall be exempt from this subsection. Fish and lobster pot licenses issued pursuant to N.J.A.C. 7:25-14.6(a)1iv for 2003 and subsequent years shall be used only for the purpose of harvesting not more than six lobster per licensee per day.

(5) Fish and lobster pots issued pursuant to N.J.A.C. 7:25-14.6(a)1iv shall not be included in the total of fish and lobster pot licenses identified in (g)11i(1) above.

ii. All lobster and fish pots shall have a maximum size less than a volume equivalent to 22.950 cubic inches (376,082 cubic cm) when deployed in the waters as specified in (g)11 above, except as provided in (g)11ix below.

iii. Any fish or lobster pot license holder shall have priority in retaining the same license number previously issued to him or her provided that he or she has submitted a license application requesting the previously issued license number prior to March 1 of the current year and that the license number applied for was assigned to an active license not more than two years prior to the application;

iv. Effective January 1, 1986, each fishing vessel subject to this regulation must display its license number on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be visible from above. The license number affixed to each vessel subject to this paragraph must be of block Arabic numerals at least 10 inches in height and of a color contrasting the background;

v. Effective January 1, 1986, all lobster or fish pots or traps and associated buoys and other gear deployed in the salt waters of this State and not permanently attached to the vessel must be legibly and indelibly marked with one of the following codes of identification:

(1) The State lobster or fish pot gear identification number; or

(2) The full name and address of the State lobster or fish pot license holder.

vi. No person other than the license holder shall remove fish or lobsters from any pot or trap. Anyone tending fish or lobster pots or traps after January 1, 1986, shall have in his or her possession the numbered license which corresponds to the gear identification number on the vessel and the gear identification number or name and address affixed to the pots and buoys being tended. The license must be displayed for inspection upon request of any authorized officer. No one shall cut or break the lines or otherwise tamper with or damage any pot, trap, or buoy which he or she does not own;

vii. All lobster and fish pots shall be constructed to include one of the following escape vents in the parlor

section of the pot located in such a manner that it would not be blocked or obstructed in normal use by any portion of the pot, associated gear, or the sea floor:

(1) In a fishery in which the possession of lobster on board a vessel or landed from a vessel exceeds 100 lobsters per trip day (based on a 24-hour period) up to a maximum of 500 lobster per trip for trips of five days or longer, the escape vent(s) shall be not less than:

(A) A rectangular portal with an unobstructed opening not less than 1.9375 inches (49.2 mm) by 5.75 inches (146.0 mm). Effective July 1, 2003 the unobstructed opening shall be increased to not less than 2 inches (50.8 mm) by 5.75 inches (146.0 mm); or

(B) Two circular portals with unobstructed openings not less than 2.625 inches (66.7 mm) in diameter;

(2) In a fishery in which the possession of more than 100 pounds of scup on board a vessel or landed from a vessel occurs, the escape vent(s) shall be not less than:

(A) A rectangular portal with an unobstructed opening not less than 2.25 inches (57.2 mm) by 2.25 inches (57.2 mm); or

(B) A circular portal with an unobstructed opening not less than 3.1 inches (78.7 mm) in diameter.

(3) In a fishery in which the possession of black sea bass on board a vessel or landed from a vessel occurs, the escape vent(s) shall be not less than:

(A) A square portal with an unobstructed opening not less than 2.0 inches (50.8 mm) by 2.0 inches (50.8 mm);

(B) A rectangular portal with an unobstructed opening not less than 1.375 inches (34.9 mm) by 5.75 inches (146.0 mm); or

(C) A circular portal with an unobstructed opening not less than 2.5 inches (63.5 mm) in diameter.

(D) Effective January 1, 2007, all lobster and fish pots used for the harvest of black sea bass shall have at least two escape vents.

(4) In a fishery in which more than one of the escape vents listed in (g)11vii(1) through (3) above is applicable, the pots shall be constructed with the largest of the applicable escape vents.

viii. All lobster and fish pots shall be constructed to include a ghost panel or other mechanism which is designed to create an opening to allow the escape of lobsters and fish after a pot has been abandoned or lost, and which meets the following specifications:

(1) The opening covered by the panel or created by other approved mechanism shall be located in the outer parlor section(s) of the pot, shall be in a position which allows the unobstructed exit of lobsters or fish from the pot and shall be of the following dimensions:

(A) Not less than 3.75 inches (95.25 mm) by 3.75 inches (95.25 mm), or

(B) Not less than three inches (76.2 mm) by six inches (152.4 mm) when used in a fishery in which the possession of black sea bass on board a vessel or landed from a vessel occurs.

(2) The panel shall be constructed of, or fastened to the pots with, one of the following materials: untreated wood lath; untreated cotton, hemp, sisal or jute twine not greater than 3/16 inch (4.76 mm) in diameter; non-stainless, ungalvanized, uncoated ferrous metal not greater than 3/32 inch (2.4 mm) in diameter; or magnesium alloy, timed float release (pop-up device), or similar magnesium alloy fasteners;

(3) The door of the pot may serve as the ghost panel if the door is fastened to the pot with a material specified in (g)11viii(2) above;

(4) The escape vent specified in (g)11vii above may serve as a ghost panel if the escape vent is incorporated into a panel constructed of, or attached to the pot with, a material specified in (g)11viii(2) above, and, upon breakdown of the degradable materials, will create an opening of at least the dimensions specified in (g)11viii(1)(A) and (B) above for the exit of lobster and fish; and

(5) Pots constructed entirely or partially of wood shall be considered to be in compliance with this subparagraph if constructed of wood lath to the extent that deterioration of wooden component(s) will result in an unobstructed opening as specified in (g)11viii(1)(A) and (B) above.

ix. A modified lobster or fish pot may be used for the taking of conchs or whelks and spider crabs in all marine waters of the State including the Atlantic Ocean with the exception of the Newark Bay Complex.

(1) Any such conch pot is defined as a rectangular shaped device no larger than 30 inches on any side; or a cylindrical shaped device not greater than 34 inches in diameter and 30 inches in height. Conch pots must allow for an unobstructed opening on their top surface measuring not less than eight by eight inches square or nine inches in diameter. Conch pots using horseshoe crabs as bait must contain a bait-saving device containing a horseshoe crab or parts of a horseshoe crab as bait which, by design, extends the effective fishing time of the horseshoe crab bait in the water. Conch pots cannot contain a parlor, funnel, or other entrapping mechanism in the interior of the pot. Any

similar configuration may be approved for use upon application to the Division and receipt of written approval. Such applications must contain a diagram detailing the shape and dimensions of the requested conch pot configuration.

(2) Conch pots may be tended only from 0400 hours (4:00 A.M.) to 2100 hours (9:00 P.M.).

(3) No conch pot shall be placed in a creek, ditch or tributary less than 50 feet wide at mean low water, in any marked or charted channel or in any man-made lagoon;

x. The lobster or fish pot season shall begin on January 1 and end on December 31;

xi. The resident fee for lobster or fish pots shall be \$100.00 regardless of the number of pots employed.

12. Shad nets for the Hudson River shall be held in place by either stakes or anchors and shall not exceed 200 fathoms in length. The smallest mesh of any shad net shall not be less than five inches stretched.

i. Shad nets shall be marked at each end with a fluorescent orange float at least 12 inches in diameter or a fluorescent orange flag at least 12 inches square and suspended at least two feet above the mean high waterline.

ii. Shad nets shall be used in the Hudson River for the taking of shad only.

(h) Nonresident license fees shall be the same as resident fees established in this section if a resident of this State may obtain a license to fish for similar species of fish with similar gear in the nonresident applicant's state for the same fee as a resident of that state. Otherwise, the license fee for a nonresident is 10 times the license fee charged to a resident.

(i) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify seasons, mesh sizes, maximum net lengths, species allowed to be harvested by specific gear types, escape vent sizes, ghost panel sizes and acceptable materials for fastening ghost panels to pot and traps specified in this section, by notice in order to maintain and/or to come into compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. § 5104(b). The Department shall publish notice of any such modification in the Division's commercial regulation publication and as a notice of administrative change in the New Jersey Register.

(j) An applicant who is otherwise eligible for a Gill Net or Lobster or Fish Pot license under (g)11 above, but who fails to provide a copy of his or her license before the December 31 expiration of that license, may request an extension of time to renew in accordance with this subsection and (k) through (m) below.

1. The written request, along with any supporting documentation, shall be submitted to:

New Jersey Division of Fish and Wildlife
PO Box 400
Trenton, New Jersey 08625-0400

2. The request shall:

i. Identify the specific license for which the extension of time to renew is requested;

ii. Explain in detail why the extension of time to renew is needed, including a statement of the type and degree of hardship that prevented the timely renewal of the license, and the hardship that will result to the applicant if the license is not renewed; and

iii. Provide appropriate documentation as necessary to support the request for extension.

(k) The Department shall approve an extension request under (j) above only if it determines that the request and documentation demonstrate that:

1. By reason of extraordinary hardship or exceptional situation or condition, the applicant was precluded from renewing his or her Gill Net License or Lobster or Fish Pot License during the 12-month application period preceding the year for which the license/permit is requested;

2. By reason of extraordinary or exceptional situation or condition, strict compliance with the deadline in (g)11 above would result in exceptional and undue hardship upon the applicant; and

3. The circumstances supporting (k)1 and 2 above were not created by the applicant or persons under his or her control, and the approval of the extension will not unreasonably interfere with the orderly administration of the licensing program.

(l) The Department shall provide written notice to the applicant of its decision to approve or deny the request for extension.

(m) The denial of an extension request may be appealed pursuant to the procedures outlined in N.J.A.C. 7:25-18.17, Request for adjudicatory hearing.

Amended by R.1988 d.285, effective June 20, 1988.
See: 19 N.J.R. 1610(a), 20 N.J.R. 1344(b).

Substantially amended.

Amended by R.1988 d.286, effective June 20, 1988.
See: 20 N.J.R. 866(a), 20 N.J.R. 1345(a).

Amended (g)4.

Administrative Correction to (g)6vi: Added text.
See: 22 N.J.R. 2301(a).

Amended by R.1991 d.278, effective June 3, 1991.
See: 22 N.J.R. 1311(a), 23 N.J.R. 1792(a).

Changed "persons" to "individuals"; added reference to "permits" in (g).

Amended by R.1992 d.143, effective March 16, 1992.
See: 24 N.J.R. 4(c), 24 N.J.R. 1113(a).

Further eligibility qualifications for certain fishing with nets added at (g); specifications regarding the tributaries of the Delaware Bay.

Amended by R.1992 d.449, effective November 16, 1992.
See: 24 N.J.R. 207(a), 24 N.J.R. 4256(a).

Requirements to eliminate fyke netting and haul seining from certain small bodies of water.

Amended by R.1994 d.202, effective April 18, 1994.

See: 25 N.J.R. 5397(a), 26 N.J.R. 1633(a).

Amended by R.1994 d.615, effective December 19, 1994.

See: 26 N.J.R. 1931(a), 26 N.J.R. 5011(a).

Amended by R.1995 d.82, effective February 6, 1995.

See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

Administrative correction.

See: 27 N.J.R. 1794(a).

Administrative correction.

See: 27 N.J.R. 2212(a).

Administrative change.

See: 27 N.J.R. 4916(c).

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Made changes to mesh sizes throughout; inserted (g)2iii, (g)4ii, and (g)11vi; and recodified from (g)2iii through (g)2viii as (g)2iv through (g)2ix, (g)4ii and (g)4iii as (g)4iiv and (g)4iv, and (g)11vi through (g)11x as (g)11vii through (g)11xi.

Amended by R.1997 d.246, effective June 2, 1997.

See: 29 N.J.R. 285(a), 29 N.J.R. 2555(a).

In (g), made nonsubstantive changes; and substantially amended (g)11.

Amended by R.1999 d.52, effective February 16, 1999.

See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

Rewrote (g)11; and added (i).

Amended by R.2001 d.73, effective March 5, 2001.

See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).

Amended by R.2001 d.346, effective September 17, 2001.

See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).

In (g), rewrote the second sentence and deleted the fifth sentence in the introductory paragraph, inserted 3iv, rewrote the first sentence in 9 and substituted "exceeds 100 lobsters" for "occurs" in 11vi(1).

Administrative change.

See: 34 N.J.R. 921(a).

Amended by R.2002 d.277, effective August 19, 2002.

See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).

Rewrote (g).

Emergency amendment, R.2003 d.223, effective May 1, 2003 (to expire June 30, 2003).

See: 35 N.J.R. 2366(a).

In (g)11ix(1), inserted a new third sentence.

Adopted concurrent amendment, R.2003 d.305, effective June 30, 2003.

See: 35 N.J.R. 2366(a), 35 N.J.R. 3611(b).

Provisions of R.2003 d.223 adopted without change.

Amended by R.2004 d.20, effective January 5, 2004.

See: 35 N.J.R. 4224(b), 36 N.J.R. 174(b).

In (g)2, deleted former vii and viii, and recodified former ix as new vii; in (g)11ix, inserted "and spider crabs" following "conchs or whelks".

Administrative change.

See: 37 N.J.R. 1177(b).

Public Notice: Horseshoe crabs.

See: 37 N.J.R. 4074(a), 5066(a).

Amended by R.2005 d.413, effective November 21, 2005.

See: 37 N.J.R. 742(a), 37 N.J.R. 4408(a).

Added (j)-(m).

Administrative change.

See: 38 N.J.R. 5359(a).

Petition for Rulemaking. Horseshoe crabs.

See: 39 N.J.R. 700(b), 1528(a).

7:25-18.6 Delaware Bay commercial and non-commercial gill net permit.

(a) An individual utilizing a drifting, staked or anchored gill net in that portion of Delaware Bay or its tributaries defined as the area east of the New Jersey-Delaware boundary enclosed by a line from Cape Henlopen, Delaware to Cape May Point Light, New Jersey and the "southwest line" as defined in N.J.S.A. 50:3-11 shall have a commercial or non-

commercial gill net permit for each gill net license in their possession. The person shall have the permit on his or her person at all times while fishing in that portion of Delaware Bay or its tributaries defined in this subsection.

(b) For a period of 60 days following June 3, 1991, Delaware Bay commercial and non-commercial gill net permits shall be issued in accordance with N.J.A.C. 7:25-18.5.

(c) No new Delaware Bay commercial or non-commercial gill net permits shall be issued after August 2, 1991 until the combined number of Delaware Bay commercial and non-commercial gill net permits falls below either 800 for staked or anchored gill nets or 200 for drifting gill nets.

(d) An individual possessing a Delaware Bay Gill Net Permit shall obtain the number of gill net licenses authorized by the Delaware Bay Gill Net Permit in each calendar year. Failure to do so will result in the number of nets authorized by the permit being reduced to the number of net licenses actually obtained in that calendar year beginning in 1994, or in the event no licenses are purchased, invalidation of the permit immediately following the end of that calendar year.

New Rule, R.1991 d.278, effective June 3, 1991.

See: 22 N.J.R. 1311(a), 23 N.J.R. 1792(a).

Amended by R.2004 d.20, effective January 5, 2004.

See: 35 N.J.R. 4224(b), 36 N.J.R. 174(b).

In (c), deleted “, except as provided in (c)1 below” following “drifting gill nets” in the introductory paragraph and deleted 1.

7:25-18.7 Eligibility for Delaware Bay commercial and non-commercial gill net permits during the 60 days following June 3, 1991

(a) To be eligible for a Type A Delaware Bay commercial gill net permit during the 60-day period following June 3, 1991 allowing the use or possession on the waters of the Delaware Bay or its tributaries of no more than the maximum number of gill nets of the same type for which the applicant held valid New Jersey gill net licenses in any one calendar year during the period of January 1, 1985 through September 6, 1990 but no more than four drifting gill net permits and/or 25 staked or anchored gill net permits, the applicant shall, as part of the applicant's application for a commercial gill net permit:

1. Document that the applicant sold a minimum of 5,000 pounds of fish or 250 bushels of crabs or any combination thereof where one bushel of crabs is equal to 20 pounds of fish in any one year from 1985 through 1990; and

2. Provide a copy of a valid New Jersey gill net license(s) held by the applicant in any one calendar year from January 1, 1985 through September 6, 1990 for each gill net permit requested.

(b) To be eligible for a Type B Delaware Bay commercial gill net permit during the 60-day period following June 3, 1991 allowing the use or possession on the waters of the Delaware Bay or its tributaries of no more than two drifting gill

nets and/or up to six staked or anchored gill nets, the applicant shall, as part of the applicant's application for a commercial gill net permit document that the applicant sold a minimum of 5,000 pounds of fish or 250 bushels of crabs or any combination thereof where one bushel of crabs is equal to 20 pounds of fish in any one year from 1985 through 1990.

(c) To comply with the requirement that to be eligible for a Delaware Bay commercial gill net permit under (a) or (b) above an applicant shall have sold a minimum of 5,000 pounds of fish or 250 bushels of crabs or any combination thereof where one bushel of crabs is equal to 20 pounds of fish in any one year from 1985 through 1990, an applicant shall include as part of the applicant's application:

1. Weigh-out slips issued to the applicant by a wholesaler(s) that acquired fish from the applicant establishing that the applicant sold 5,000 pounds of fish or 250 bushels of crabs or any combination thereof where one bushel of crabs is equal to 20 pounds of fish in any one of the five years; or

2. Notarized statements of wholesaler(s) that the wholesaler(s) records establish that the applicant sold 5,000 pounds of fish or 250 bushels of crabs or any combination thereof where one bushel of crabs is equal to 20 pounds of fish in any one of the five years and that such records are available for inspection by the Division.

(d) An individual who does not meet any of the requirements in (a) or (b) above may apply for a maximum of two Delaware Bay non-commercial gill net permits during the 60-day period following June 3, 1991. The Delaware Bay non-commercial gill net permits shall allow the holder to use in or possess on the waters of Delaware Bay or its tributaries no more than one drifting gill net not to exceed 360 feet in length or two staked or anchored gill nets not to exceed 180 feet in length each.

New Rule, R.1991 d.278, effective June 3, 1991.

See: 22 N.J.R. 1311(a), 23 N.J.R. 1792(a).

7:25-18.8 Eligibility for Delaware Bay commercial and non-commercial gill net permits after the 60-day period following June 3, 1991

(a) To be eligible for a Delaware Bay commercial gill net permit issued after the 60-day period following June 3, 1991, the applicant shall, at the time that the application is submitted to the Division, have three years of commercial fishery experience. The applicant shall include with the application a notarized affidavit by a commercial fisherman that the applicant has served as a crew member on a commercial fishing boat for a minimum of three years.

(b) If, at the time that an application for a Delaware Bay gill net permit is submitted to the Division, the applicant does not satisfy the eligibility requirement for a Delaware Bay commercial gill net permit set forth in (a) above, the applicant shall be eligible for a Delaware Bay non-commercial gill net permit.

- ii. Along with the sale of his or her vessel to a new owner. The owner selling the vessel shall no longer be eligible for a tautog permit based on the harvesting history of the vessel being sold.
8. Transfer of a permit to a new vessel shall be limited to the same gear type(s) of the originally permitted vessel.
9. No permit shall be transferred without the prior approval of the Department.
10. A vessel possessing a permit to commercially harvest tautog by angling or hook and line or spearfishing and when operating under the permit shall be subject to the following:
- i. Crew size shall be limited to no more than five persons, including the captain; and
- ii. The vessel shall not carry any passengers for hire. When carrying passengers for hire, the tautog permit is not valid and the possession limits and seasonal restrictions as specified in N.J.A.C. 7:25-18.1 apply.
11. The annual tautog harvest quota for New Jersey shall be 103,000 pounds or as modified by the Commissioner pursuant to (i) below. All landings of tautog in New Jersey shall be applied to the New Jersey annual quota.
- i. The commercial season for tautog shall be from April 15 through June 30 and November 1 through January 15.
- ii. The Commissioner, or his or her designee, shall close the season for the commercial tautog fishery upon four days public notice of the projected date the annual quota shall be caught. Public notice shall include letters by first class mail to all New Jersey Tautog Permit and New Jersey Non-Directed Fishery Tautog Permit holders.
- iii. Once the season has been closed for the commercial tautog fishery, no vessel shall land any tautog in New Jersey and no dealer shall accept any tautog landed in New Jersey.
- iv. If the Commissioner, or his or her designee, closes the season prematurely because of unanticipated environmental events resulting in the quota not being landed by the projected date and at least one month remains in the current season, then the Commissioner, or his or her designee, may reopen the season for a specified period of time upon four days public notice. Public notice shall be made as specified in (c)11ii above.
- v. If the quota for any year is exceeded, the amount over harvested will be deducted from the following year's annual quota.
- vi. Beginning in 1997, the Department shall notify the holders of New Jersey Tautog Permits and New Jersey Non-Directed Fishery Tautog Permits of the season allocations no later than January 31 of the year to which the allocation applies. Notification shall be by first class mail to permit holders.
- vii. All New Jersey Tautog Permit and New Jersey Non-Directed Fishery Tautog Permit holders shall be required to complete monthly reports supplied by the Department. The monthly report shall be signed by the permittee attesting to the validity of the information and be submitted so it is received by the Department no later than five working days following the end of the reported month at the following address:
- Tautog Program
Nacote Creek Research Station
PO Box 418
Port Republic, NJ 08241-0418
- (1) The monthly report shall include, but not be limited to, the following information: name, permit number, total amount (in pounds) of tautog taken, dates caught, time at sea, duration of fishing time, area fished, crew size, landing port, date sold, buyer. This information shall be provided for any trip in which tautog are landed.
- (2) If no trips for tautog were taken and no tautog were landed during the month, a report to that effect shall be required.
12. Any person violating the provisions of this section shall be subject to the penalties prescribed in N.J.S.A. 23:2B-14 in addition to the following:
- i. Failure to submit the required documentation to the application shall result in the denial of the permit.
- ii. Falsification or misrepresentation of any information on the application including documentation provided to verify the amount of tautog landed as specified in (c)2ii(2) and (c)5ii(1) above shall result in the denial or revocation of the permit in addition to any civil or criminal penalties prescribed by law.
- iii. Failure to comply with the provisions of (c)11iii above, landing tautog after the season has been closed, or (c)11vii above, failure to submit accurate and timely monthly reports, shall result in the suspension during open seasons for tautog or revocation of the vessel's tautog permit according to the following schedule:
- (1) First Offense: 60 days suspension
- (2) Second Offense: 120 days suspension
- (3) Third Offense: permanent revocation
- iv. In calculating the period of suspension or revocation applicable under (c)12iii above, the number of previous suspensions shall be reduced by one for each three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period, only one of those

suspensions may be forgiven under the subparagraph; therefore, a permit holder who incurs more than one suspension in a three-year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspensions provided in this subparagraph applies only to determination of suspension periods; all prior suspensions shall be taken into account in calculating monetary penalties in accordance with N.J.S.A. 23:2B-14.

v. Prior to revocation of the permit, the permittee shall have the opportunity to request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(d) The following provisions are applicable to the commercial harvest of sharks:

1. A person shall not possess more than two sharks per vessel nor shall a person sell or attempt to sell more than two sharks without a valid annual vessel permit for sharks issued by the National Marine Fisheries Service.

i. Any harvester or vessel landing shark in New Jersey for the purpose of sale shall sell all shark only to a dealer with a valid permit for sharks issued by the National Marine Fisheries Service.

2. A dealer shall not purchase or receive a shark without a valid annual dealer permit for sharks issued by the National Marine Fisheries Service.

3. A person shall not sell and a dealer shall not receive any large coastal shark, any small coastal shark, or any pelagic shark, as identified in N.J.A.C. 7:25-18.1(a), after the effective date that the quota for that group of sharks has been reached or is projected to be reached by the National Marine Fisheries Service, for the remainder of that semi-annual period.

(e) The following provisions are applicable to the commercial harvest of shad:

1. An individual shall not take or attempt to take, possess or land any shad in the State, without a valid Shad Commercial Net Permit or a Shad Incidental Harvest Permit issued by the Department, except as provided in (e)1i below. No person shall harvest or possess more than 300 pounds of shad per day without a Shad Commercial Net Permit, except that no person shall harvest or land from the Atlantic Ocean or possess while on the waters of the Atlantic Ocean any amount of shad which exceeds five percent, by weight, of all species taken or possessed.

i. An individual may possess the recreational possession limit for shad as established in N.J.A.C. 7:25-18.1(c) provided that the shad are taken by hook and line only and are not sold, offered for sale, or exposed for sale.

2. To qualify for a Shad Commercial Net Permit, an applicant shall meet the following criteria:

i. The applicant shall submit an application provided by the Department by December 21, 2005 including information regarding the name and address of the vessel owner, vessel name, vessel documentation or registration number and documented proof of landings as listed in (e)2ii and iii below. Except as provided by (p) below, applications for a Shad Commercial Net Permit received after the above date shall be denied. Completed applications should be submitted to:

New Jersey Shad Permit
Nacote Creek Research Station
PO Box 418
Port Republic, NJ 08241-0418

ii. The applicant shall have landed at least 3,000 pounds of shad in each of three years from 1994-1998 inclusive;

iii. Documented proof of landings shall be one of the following:

(1) Weigh-out slips issued to the applicant by a wholesaler(s) who acquired fish from the applicant;

(2) Notarized statement(s) of the wholesaler(s) that the wholesaler's records establish that the applicant sold at least 3,000 pounds of shad in each of three calendar years during the period from 1994 through 1998 inclusive. A copy of the business records supporting the statement(s) shall accompany the application and the original business records shall be made available for inspection by the Department; or

(3) Other documentation similar to that in (e)2iii(1) and (2) above may be accepted at the discretion of the Commissioner after his or her review; and

iv. The applicant shall sign an affidavit on the application certifying as to the validity of the information provided.

3. Failure to attach the required documentation under (e)2iii above to the application shall result in the denial of the permit.

4. Falsification or misrepresentation of any information on the Shad Commercial Net Permit application including documentation provided to verify the amount of shad harvested shall result in the denial or revocation of the permit in addition to any civil or criminal penalties prescribed by law.

5. A Shad Incidental Harvest Permit shall be issued to qualifying applicants which will allow the harvest or possession of not more than 300 pounds of shad per day from New Jersey's waters. To qualify for a Shad Incidental

Harvest Permit, an application shall comply with the following provisions:

i. The applicant shall submit an application provided by the Department by December 21, 2005 including information regarding the name and address of the vessel owner, vessel name, vessel documentation or registration number and documented proof of landings as listed in (e)5ii and iii below. Except as provided by (p) below, applications for a Shad Incidental Harvest Permit received after the above date shall be denied. Completed applications should be submitted to:

New Jersey Shad Permit
 Nacote Creek Research Station
 PO Box 418
 Port Republic, NJ 08241-0418

ii. The applicant shall submit documented proof establishing that the applicant landed at least 150 pounds of shad in each of three calendar years during the period from 1994 through 1998 inclusive;

iii. Documented proof shall be one of the following:

(1) Weigh-out slips issued to the applicant by a wholesaler(s) who acquired fish from the applicant;

(2) Notarized statement(s) of the wholesaler(s) that the wholesaler's records establish that the applicant sold at least 150 pounds of shad during each of three calendar years during the period from 1994 through 1998 inclusive. A copy of the business records supporting the statement(s) shall accompany the application; or

(3) Other documentation similar to that in (e)5iii(1) and (2) above may be accepted at the discretion of the Commissioner after his or her review; and

iv. The applicant shall sign an affidavit on the application certifying as to the validity of the information provided.

6. Failure to attach the required documentation under (e)5iii to the application shall result in the denial of the permit.

7. Falsification or misrepresentation of any information on the Shad Incidental Harvest Permit application including documentation provided to verify the amount of shad harvested shall result in the denial or revocation of the permit in addition to any civil or criminal penalties prescribed by law.

8. All Shad Commercial Net Permit and Shad Incidental Harvest Permit holders shall have their permit on their person at all times when engaged in any phase of harvesting, transporting, selling or possessing shad.

9. Shad Commercial Net Permits and Shad Incidental Harvest Permits are non-transferable.

10. A person shall not land nor sell any shad taken in New Jersey waters except during the season from January 1 through December 31.

11. All Shad Commercial Net Permit and Shad Incidental Harvest Permit holders shall be required to complete annual reports on forms supplied by the Department. The annual report shall be signed by the permittee attesting to the validity of the information and be submitted so it is received by the Department no later than January 15 of the following calendar year at the following address:

Division of Fish and Wildlife
 American Shad Program
 PO Box 418
 Port Republic, NJ 08241

i. The annual report shall include:

(1) The daily harvest and sale, in pounds, of American shad;

(2) The buyer(s) name;

(3) The name and address of the permit holder; and

(4) Any other requested information pertinent to management of the American shad resource including catch/effort, length and sex data, by-catch data and tagging information from a representative size range of shad.

12. Research personnel from the Department shall be allowed to sail aboard any permitted vessel at any time, provided the Department notifies the permittee at least two days in advance.

13. Any person or permittee violating the provisions of this section shall be subject to the penalties described in N.J.S.A. 23:2B-14 in addition to the following:

i. Failure to comply with the provisions of (e)1 above, landing shad without the applicable shad permit or landing greater than the allowable limit authorized by the applicable shad limit, (e)10 above, landing shad outside the open season or (e)11 above, timely submission of annual reports, shall subject the violator to suspension during the period from March 1 to May 15 or revocation of the Shad Commercial Net Permit or Shad Incidental Harvest Permit according to the following schedule:

(1) First offense: 60 day suspension

(2) Second offense: 120 day suspension

(3) Third offense: Permanent revocation of permit.

ii. In calculating the period of suspension or revocation applicable under (e)13i above, the number of previous suspensions shall be reduced by one for each

three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period, only one of those suspensions may be forgiven under this subparagraph; therefore, a permit holder who incurs more than one suspension in a three-year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspensions provided in this subparagraph applies only to determination of suspension periods; all prior suspensions shall be taken into account in calculating monetary penalties in accordance with N.J.S.A. 23:2B-14.

iii. Prior to the suspension or revocation of the permit, the permittee shall have the opportunity to request a hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(f) The following provisions are applicable to the commercial harvest of black drum:

1. A vessel shall not possess or land by any gear more than 10,000 pounds of black drum in any one day;
2. A dealer shall not accept from a vessel or person more than 10,000 pounds of black drum a day landed in New Jersey;
3. The annual black drum harvest quota for New Jersey shall be 65,000 pounds; and
4. The Commissioner, or his or her designee, may close the season upon two days public notice of the projected date the quota shall be landed. Such notice shall be sent by first class mail to all commercial docks and commercial fishing organizations on the mailing list of the Division of Fish and Wildlife.

(g) The following provisions are applicable to the commercial harvest of spiny dogfish:

1. A person or vessel shall not possess for sale any spiny dogfish nor shall a person sell or attempt to sell spiny dogfish without a valid annual vessel permit for spiny dogfish issued by the National Marine Fisheries Service.
2. A dealer shall not purchase or receive spiny dogfish without a valid annual dealer permit for spiny dogfish issued by the National Marine Fisheries Service.
3. No person or vessel shall have in possession or land and no dealer shall accept from any one vessel more than the daily trip limit set by the National Marine Fisheries Service or the Atlantic State Marine Fisheries Commission.
4. Any closure of the spiny dogfish fishery by the National Marine Fisheries Service in adjacent Federal waters or recommended closure by the Atlantic States

Marine Fisheries Commission for areas including New Jersey automatically closes New Jersey waters to the harvest of spiny dogfish and to the commercial landings of spiny dogfish.

(h) The following provisions are applicable to the commercial harvest of black sea bass:

1. After December 31, 2002, a vessel shall not land more than 100 pounds of black sea bass during the period of January 1 through March 31 or more than 50 pounds of black sea bass during the period April 1 through December 31 in New Jersey on any one trip unless said vessel is in possession of a valid New Jersey Black Sea Bass Permit. The permit shall be issued in the name of the vessel and the owner and for the specific gear type(s) used to qualify for the permit.

i. Applicants for a New Jersey Black Sea Bass Permit shall complete and submit an application provided by the Department by December 31, 2002 that includes information on name, address, vessel name, vessel documentation or registration number, gear and landings criteria as specified in (h)1ii below. Applications for a New Jersey Black Sea Bass Permit received after the above date shall be denied.

ii. To be eligible for a New Jersey Black Sea Bass Permit, the vessel's owner shall meet the following criteria:

(1) The vessel shall have landed and sold a minimum cumulative total of 10,000 pounds of black sea bass in New Jersey during the period 1988 through May 3, 2001;

(2) The vessel shall have possessed a valid Federal Black Sea Bass Moratorium Permit or appropriate New Jersey gear license for each year of submitted landings documentation; and

(3) Documented proof of landings shall consist of one or more of the following:

(A) Weigh-out slips totaling the weight harvested;

(B) A notarized statement from the applicant and the purchaser(s) attesting to the weight harvested (a copy of the business records supporting the statement(s) must accompany the application);

(C) Other documentation similar to that in (h)1ii(3)(A) or (B) above may be accepted at the discretion of the Commissioner after his or her review.

2. The New Jersey Black Sea Bass Permit shall be on board the vessel to which it is issued at all times. The permit is valid from the date of issuance and for any subsequent years unless revoked as part of a penalty action.

v. Any person who has had his or her New Jersey Summer Flounder Dealers Permit suspended or revoked shall not land or permit the landing of any summer flounder at his or her facility during the suspension or revocation under the provisions of another permittee's New Jersey Summer Flounder Dealers Permit.

vi. Prior to revocation of the permit, the permittee shall have the opportunity to request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(j) The following provisions are applicable to the commercial harvest of winter flounder:

1. No person shall fish for or land any winter flounder taken by any net, trap, dredge or commercial gear in New Jersey waters, except during the open season of December 1 through May 31. No dealer shall accept any winter flounder taken in New Jersey waters except during such open season. The harvest of winter flounder by the use of fyke net is subject to the provisions of N.J.A.C. 7:25-18.5(g)2.

(k) The following provisions are applicable to the commercial harvest of scup:

1. Annual coastwide scup quotas and daily trip limits for the periods of January 1 through April 30 and November 1 through December 31, and an annual New Jersey scup quota for the period from May 1 through October 31 shall be determined by the Mid-Atlantic Fishery Management Council as implemented by the National Marine Fisheries Service or determined by the Atlantic States Marine Fisheries Commission. All landings of scup in New Jersey during the period from May 1 through October 31 shall be applied to the New Jersey scup quota.

i. Any closure of the scup fishery by the National Marine Fisheries Service in adjacent Federal waters or any closure which includes New Jersey marine waters during the periods January 1 through April 30 and November 1 through December 31 would automatically close New Jersey to commercial landings of scup.

ii. The Commissioner, or his or her designee, shall implement annual and seasonal scup quotas and daily trip limits as determined by the Atlantic States Marine Fisheries Commission upon two days public notice. The implemented quotas and limits shall also be reflected in this subsection through a notice of administrative change in the New Jersey Register, in accordance with N.J.A.C. 1:30-2.7.

iii. The Commissioner, or his or her designee, shall close the season for the commercial scup fishery upon two days public notice of the projected date the New Jersey seasonal quota shall be caught. Public notice shall include letters by first class mail to all New Jersey Scup

Dealer Permit holders and Federal scup moratorium permit holders that are New Jersey residents.

iv. Once any season has been closed for the commercial scup fishery, no vessel shall land any scup and no dealer shall accept any scup landed in New Jersey.

v. If the Commissioner, or his or her designee, closes the New Jersey season prematurely because of unanticipated events resulting in the quota not being landed by the project date, then the Commissioner, or his or her designee, may reopen the season for a specified period of time upon two days public notice. Public notice shall be made as specified in (k)1iii above.

vi. If the quota for any season is exceeded, the amount overharvested shall be deducted from the following year's quota for that season.

2. No vessel shall have in possession or land and no dealer shall accept from any vessel more than the lesser of the daily trip limits set by the National Marine Fisheries Service or the Atlantic States Marine Fisheries Commission for the season of January 1 through April 30 and November 1 through December 31 and no vessel shall have in possession or land and no dealers shall accept from any one vessel more than the daily trip limit of 1,000 pounds of scup during the season of May 1 through October 31 or as provided for in (k)2i below.

i. If a minimum of 25 percent of the New Jersey scup quota is projected to remain unlanded as of October 1 in any calendar year, then there shall be a 4,000 pound trip limit for the remainder of the season or until the season is closed as provided in (k)1i above.

ii. The trip limit for scup shall be two trips per week (Sunday through Saturday) with landings not to exceed 30,000 pounds during any two-week period from January 1 through April 30 and 6,500 pounds daily from November 1 through December 31. During the period of January 1 through April 30, the daily trip limit will be reduced to 1,000 pounds when it is projected that 80 percent of the period quota will be harvested.

3. No fish dealer shall accept any scup from any vessel or harvester unless such dealer is in possession of a valid New Jersey Scup Dealer Permit. A New Jersey Scup Dealer Permit may be obtained by completing an application supplied by the Department and submitting it to:

New Jersey Scup Dealer Permit
Nacote Creek Research Station
PO Box 418
Port Republic, NJ 08241-0418

4. A harvester or vessel shall not land scup for the purpose of sale or sell any scup unless such harvester or vessel is in possession of a valid scup moratorium permit issued by the National Marine Fisheries Service.

5. Any harvester or vessel landing scup in New Jersey for the purpose of sale shall sell all scup to a permitted New Jersey Scup Dealer.

6. All permitted New Jersey Scup Dealers shall provide weekly reports to the Division listing the amount of scup landed on a daily basis and any other information that may be required by the Commissioner or as a result of an agreement with other states pursuant to (k)9 below. Such report shall be faxed to the Division at the number specified on the reporting forms supplied by the Division no later than two days following the week's end or sent by any other method approved by the Department. For the purpose of this provision, the week shall begin on Sunday and end on Saturday.

7. All scup moratorium permit holders landing scup in New Jersey shall be required to complete monthly reports supplied by the Department. The monthly report shall be signed by the permittee attesting to the validity of the information and be submitted so it is received by the Department no later than 15 working days following the end of the reported month at the following address:

New Jersey Scup Program
Nacote Creek Research Station
PO Box 418
Port Republic, NJ 08241-0418

i. The monthly report shall include, but not be limited to, the following information: name, scup moratorium permit number, total amount (in pounds) of each species taken, dates caught, time at sea, duration of fishing time, gear type used to harvest, number of tows, area fished, crew size, landing port, date sold and buyer. This information shall be provided for any trip in which scup are landed. Scup moratorium permit holders may submit the "STATE" copy of the Federal log book in satisfaction of the New Jersey reporting requirements.

8. Any person violating the provisions of this section shall be subject to the penalties prescribed in N.J.S.A. 23:2B-14 in addition to the following:

i. Failure to comply with the provisions of (k)1iv above, landing or accepting scup after the season has been closed; (k)2 above, landing or accepting more than the daily trip limit; (k)3 above, accepting scup from a vessel without first having obtained a valid New Jersey Scup Dealer Permit; (k)4 above, landing for the purpose of sale or selling scup without first having obtained a valid scup moratorium permit; (k)5 above, selling scup to a non-permitted fish dealer; or (k)6 and 7 above, failure to submit accurate and timely reports, shall result in the suspension during the open seasons or revocation of the dealer's New Jersey Scup Dealer Permit according to the following schedule:

- (1) First offense: 60 days suspension.
- (2) Second offense: 120 days suspension.

(3) Third offense: Permanent revocation.

ii. In calculating the period of suspension or revocation applicable under (k)8i above, the number of previous suspensions shall be reduced by one for each three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period, only one of those suspensions may be forgiven under this subparagraph; therefore, a permit holder who incurs more than one suspension in a three-year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspensions provided in this subparagraph applies only to determination of suspension periods; all prior suspensions shall be taken into account in calculating monetary penalties in accordance with N.J.S.A. 23:2B-14.

9. Pursuant to Amendment 8 of the Mid-Atlantic Fishery Management Council's Fishery Management Plan for the Summer Flounder and Scup Fishery, the Commissioner may enter into agreements with other states to transfer or combine scup commercial quotas. Such agreements shall specify the terms and conditions under which vessels may land scup in New Jersey, as well as how the landings will be applied to the quota. Any agreement developed by the Commissioner and any other state is not valid until such time as it has been reviewed and approved by the Northeast Regional Director of the National Marine Fisheries Service.

(l) Special provisions applicable to an Atlantic herring fishery are as follows:

1. The possession of more than 5,000 pounds of Atlantic herring on board a vessel or landed from a vessel shall constitute a directed fishery for Atlantic herring.

2. A person shall not fish for or land any Atlantic herring in excess of 5,000 pounds using any vessel in excess of 165 feet in length and in excess of 3,000 horsepower in a directed fishery for Atlantic herring.

3. Atlantic herring taken in a directed fishery for Atlantic herring shall not be processed for use as fish meal or oil.

4. Any closure of the Atlantic herring fishery by the National Marine Fisheries Service or the Atlantic States Marine Fisheries Commission in adjacent Federal waters or in any area which includes New Jersey marine waters would automatically close New Jersey waters to the commercial harvest of Atlantic herring.

5. If any of the management areas identified in the joint New England Fishery Management Council Atlantic States Marine Fisheries Commission Fishery Management Plan for Atlantic Herring are closed by the National Marine Fisheries Service or the Atlantic States Marine Fisheries

Commission, the landing of Atlantic herring harvested from any management area that is closed shall be prohibited in New Jersey.

(m) Dealer business records may be used as admissible evidence in any proceeding to document violations of trip limits, weekly landing limits or closed seasons specified in this section.

(n) For the purpose of this section, "land" shall mean to begin offloading fish, to offload fish or to enter port with fish.

(o) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify quotas, trip limits and/or seasons specified in the section, by notice in order to maintain and/or to come into compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. § 5104(b). The Department shall publish notice of any such modification in the New Jersey Register.

(p) An applicant who is otherwise eligible for a license or permit under (c)2 and 5; (e)2 and 5; or (h)1 above, but who fails to apply prior to the application deadline, may request an extension of time to apply in accordance with this subsection and (q) through (s) below.

1. The written request, along with any supporting documentation, shall be submitted to:

New Jersey Division of Fish and Wildlife
 PO Box 400
 Trenton, New Jersey 08625-0400

2. The request shall:

i. Identify the specific permit for which the extension of time to apply is requested;

ii. Explain in detail why the extension of time to apply is needed, including a statement of the type and degree of hardship that prevented the timely application of the permit, and the hardship that will result to the applicant if the permit is not granted; and

iii. Provide appropriate documentation as necessary to support the request for extension.

(q) The Department shall approve an extension request under (p) above only if it determines that the request and documentation demonstrate that:

1. By reason of extraordinary hardship or exceptional situation or condition, the applicant was precluded from applying for his or her Tautog, Non Directed Fishery Tautog, Shad Commercial Net, Shad Incidental Harvest, or New Jersey Black Sea Bass permit during the 12-month application period preceding the year for which the permit is requested;

2. By reason of extraordinary or exceptional situation or condition, strict compliance with the deadline in (c)2

and 5; (e)2 and 5; or (h)1 above would result in exceptional and undue hardship upon the applicant; and

3. The circumstances supporting (q)1 and 2 above were not created by the applicant or persons under his or her control, and the approval of the extension will not unreasonably interfere with the orderly administration of the permitting program.

(r) The Department shall provide written notice to the applicant of its decision to approve or deny the request for extension.

(s) The denial of an extension request may be appealed pursuant to the procedures outlined in N.J.A.C. 7:25-18.17, Request for adjudicatory hearing.

New Rule, R.1992 d.143, effective March 16, 1992.

See: 24 N.J.R. 4(c), 24 N.J.R. 1113(a).

Amended by R.1993 d.56, effective January 19, 1993.

See: 24 N.J.R. 4249(a), 25 N.J.R. 303(a).

Former (a) and (i) recodified to new rule at 7:25-8.14; remaining subsections recodified as (a)-(g).

Administrative Correction to N.J.A.C. 7:25-18.12(b) through (g).

See: 25 N.J.R. 2001(d).

Administrative Correction to (c).

See: 25 N.J.R. 2281(a).

Amended by R.1994 d.201, effective April 18, 1994.

See: 26 N.J.R. 789(a), 26 N.J.R. 1632(a).

Repeal and New Rule, R.1995 d.82, effective February 6, 1995.

See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

Formerly "Weakfish management."

Administrative Correction.

See: 27 N.J.R. 1794(a).

Administrative Correction.

See: 27 N.J.R. 3420(a).

Administrative Correction.

See: 27 N.J.R. 3420(b).

Administrative Change.

See: 28 N.J.R. 3786(a).

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Inserted (b)1, (c), and (d); recodified former (b)1 through (b)6 as (b)2 through (b)7 and former (c) and (d) as (e) and (f); and made conforming changes throughout.

Amended by R.1998 d.40, effective January 5, 1998.

See: 29 N.J.R. 4595(a), 30 N.J.R. 226(a).

Inserted (a)2 and recodified (a)2 as 3; deleted (c)2iii through v, added (c)3 through 10 and recodified (c)3 and 4 as 11 and 12; deleted (d), and recodified (e) and (f) as (d) and (e).

Administrative change.

See: 30 N.J.R. 1402(b).

Amended by R.1999 d.52, effective February 16, 1999.

See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

In (a)3, substituted "more than 150 pounds of" for "any" following "accept"; inserted a new (d); and recodified former (d) and (e) as (e) and (f).

Administrative change.

See: 31 N.J.R. 1612(a).

Amended by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

Rewrote (a); inserted a new (e); and recodified former (e) and (f) as (f) and (g).

Amended by R.2000 d.395, effective October 2, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 3592(b).

Rewrote the section.

Amended by R.2001 d.73, effective March 5, 2001.

See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).

Amended by R.2001 d.346, effective September 17, 2001.

See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).

Rewrote the section.

Amended by R.2002 d.277, effective August 19, 2002.

See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).

In (c)2i and (c)5i, inserted "and submit their application no later than December 31, 2002" after "Department"; in (c)7i, substituted "has no greater than 10 percent increase in length overall and 20 percent increase in shaft horsepower" for "is of equal or less gross registered tonnage and vessel registered length"; in (d)1, added i; added a new (h), recodify existing (h), (i) as (i), (j).

Administrative change.

See: 34 N.J.R. 3264(a).

Administrative change.

See: 35 N.J.R. 709(a).

Administrative change.

See: 35 N.J.R. 1927(a).

Administrative correction.

See: 35 N.J.R. 4285(a).

Amended by R.2004 d.20, effective January 5, 2004.

See: 35 N.J.R. 4224(b), 36 N.J.R. 174(b).

Rewrote the section.

Administrative change.

See: 36 N.J.R. 1191(c).

Administrative correction and change.

See: 36 N.J.R. 2420(c).

Administrative correction.

See: 36 N.J.R. 3276(a).

Administrative change.

See: 37 N.J.R. 589(c).

Amended by R.2005 d.413, effective November 21, 2005.

See: 37 N.J.R. 742(a), 37 N.J.R. 4408(a).

Rewrote the section.

Administrative change.

See: 38 N.J.R. 1318(d), 5359(a).

7:25-18.13 Striped bass bonus program

(a) Pursuant to N.J.S.A. 23:5-45.1(c), the possession of one "bonus sized" striped bass, measuring not less than 28 inches in length, will be allowed in addition to the possession limit allowed under N.J.S.A. 23:5-45.1(a), pursuant to (b) through (o) below.

(b) Any person intending to take one striped bass measuring not less than 28 inches in length in addition to his or her striped bass possession limit as specified at N.J.S.A. 23:5-45.1 shall apply to the Division for "fish possession cards." Applications may be obtained from the following:

1. Division of Fish and Wildlife

Striped Bass Bonus Fish Program
Nacote Creek Research Station
PO Box 418
Port Republic, NJ 08241-0418

2. Fish checking stations, as authorized by the Division and identified by public notice in the New Jersey Register.

(c) The application form shall be completed to include the name, address and telephone number of the applicant.

(d) Applications for fish possession cards will be accepted for participation in the bonus fish program and processed in order of receipt by the Division.

(e) Successful applicants will receive two, color-coded, non-transferable fish possession cards. One card shall be filled out completely and the month and day numbers perforated immediately upon retention of bonus fish. A finite number of cards shall be available to participating party and charter boat captains in the name of the vessel owner.

(f) Fish possession cards shall be valid in the calendar year for which they were issued except during those periods in which the Department has closed the State's waters to harvesting as provided at (l) below. All fish possession cards not utilized during the calendar year shall be returned to the address at (b) above by January 15 of the next subsequent calendar year.

(g) Successful applicants may keep and submit annual records of their striped bass fishing activity as requested on forms furnished by the Division. Such records shall include the name, address, and card number(s) of the fishermen, the days and hours fished, the lengths of striped bass caught, the location of fishing activity and the type of fishing. Party and charter boat captains shall be required to maintain and submit logbooks developed by the Division.

(h) A person shall not have in his or her possession at any time more than three striped bass, of which two shall be not less than the size provided for in N.J.S.A. 23:5-45.1 and the other shall be not less than 28 inches in length and said person shall have a properly completed and legal fish possession card, as provided for at (e) above.

(i) Any striped bass taken under this section may be transported to an authorized fish checking station by the person who caught the fish on the day so taken. A person shall not present for registration or permit to be registered in his or her name a striped bass which he or she did not catch. Any person who legally takes a striped bass under this section and who cannot arrive at a fish checking station shall immediately mail his her bonus card to the address presented at (b) above.

(j) A person shall not possess any striped bass taken or tagged under the provisions of this section which is damaged or mutilated to the extent that its length cannot be determined, other than immediately prior to preparation or being served as food.

(k) An additional fish possession card shall be provided to the angler upon recording of his or her prior legally harvested bonus striped bass at an authorized fish checking station or via mail as presented at (i) above, provided the season has not been closed pursuant to (l) below.

(l) When, at any time during the calendar year, the Division has projected that the quota established by the Atlantic States Marine Fisheries Commission for striped bass will have been harvested the Division will close the State's waters to any further harvesting upon two days public notice by distribution of a news release to individuals on the Division outdoor writers mailing list. A notice shall also be published in the New Jersey Register.

(m) The quota described in (l) above shall be 321,650 pounds until such time as another quota is duly promulgated by the Atlantic States Marine Fisheries Commission. A portion of this quota will be allotted to party and charter boats.

(n) Upon promulgation of any change in the quota described in (l) above, the Division will provide public notice in the New Jersey Register and by distribution of a news release to individuals on the Division outdoor writers mailing list.

(o) Any person violating the striped bass size and possession limits as provided for in N.J.S.A. 23:5-45.1, or this section shall be liable for penalty of \$100.00 per fish for each offense. In addition, any person violating any provision of this section shall be subject to revocation, applicable to both the vessel and the owner, from the Striped Bass Bonus Program. Revocation would render the vessel and the owner ineligible for participation in the program regardless of vessel ownership. Any fish possession cards in such person's possession shall be invalid and shall be returned to the Division upon such person's receipt of notification of such revocation. Failure to return the cards upon notification shall subject the violator to penalties prescribed pursuant to N.J.S.A. 23:2B-14.

(p) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify the size limit, bag limit, season and/or quota specified in this section, by notice in order to maintain and/or to come into compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. § 5104(b). The Department shall publish notice of any such notice in the Division's Fish and Wildlife Digest publication and the New Jersey Register.

New Rule, R.1995 d.82, effective February 6, 1995.

See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

Administrative Correction.

See: 27 N.J.R. 2739(a).

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Changed section name from "Striped bass trophy program"; and substantially amended section.

Amended by R.2001 d.73, effective March 5, 2001.

See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).

Amended by R.2001 d.346, effective September 17, 2001.

See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).

In (e), inserted "in the name of the vessel owner" following "boat captains"; in (o), inserted "applicable to both the vessel and the owner," in the second sentence and added the third sentence; added (p).

Amended by R.2002 d.277, effective August 19, 2002.

See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).

In (o), substituted "each" for "the first", deleted "and a penalty of \$200.00 per fish for each subsequent offense".

Administrative change.

See: 35 N.J.R. 1927(a).

7:25-18.14 Otter and beam trawls

(a) Vessels greater than 165 feet in length and in excess of 3,000 horsepower shall not fish in the marine waters of this State with an otter or beam trawl nor may any such vessel have an otter or beam trawl available for immediate use while on the marine waters of this State as defined in (b) below.

1. All trawl net doors possessed on the waters of the State of New Jersey must contain the official documentation number or the state registration number of the vessel to whom they belong indelibly branded or stamped in block letters no less than two inches in height on the surface of each door.

i. Trawl doors shall be used only by the vessel which corresponds to the branded or stamped numbers. A vessel may utilize another vessel's trawl doors provided the vessel owner utilizing such doors contacts the Division's Bureau of Law Enforcement at 609-748-2050 in advance and provides the following information: name of owner and vessel borrowing doors, name of owner, vessel and branded or stamped number of borrowed doors. The vessel owner borrowing the trawl doors shall also be responsible for contacting the Bureau of Law Enforcement in advance to indicate when he will begin utilizing his own trawl doors.

(b) No vessel may have available for immediate use any otter or beam trawl while on the marine waters of this State during the hours between sunset and sunrise except on the Atlantic Ocean, at a distance of greater than two miles from the coast line. An otter or beam trawl that conforms to one of the following is considered not "available for immediate use":

1. A net stowed below deck, provided:

i. It is located below the main working deck from which the net is deployed and retrieved;

ii. The towing wires, including the "leg" wires are detached from the net; and

iii. It is fan-folded (flaked) and bound around its circumference;

2. A net stowed and lashed down on deck, provided:

i. It is securely fastened to the deck of the vessel;

ii. The towing wires, including the leg wires are detached from the net; and

iii. It is fan-folded (flaked) and bound around its circumference; or

3. A net is on a reel and is covered and secured; provided:

i. The entire surface of the net is covered with canvas or other similar material and held in place by line bound securely around the entire net in such a manner so that no section of the net is exposed;

ii. The towing wires or towing lines located between the net and the trawl doors shall be completely detached from the trawl doors; and

iii. The cod end closure rope shall be removed from the cod end.

(c) To determine compliance with any established minimum mesh requirement for an otter or beam trawl, the following procedures shall be employed. Stretched mesh sizes are measured by a wedge-shaped gauge having a taper of two centimeters in eight centimeters and a thickness of two and three-tenths millimeters, inserted into the meshes under pressure or pull of five kilograms. The mesh size of the cod end of the net will be the average measurement of any series of 20 consecutive meshes measured at least 10 meshes from the lacings, beginning at the after end and running parallel to the long axis.

(d) No person shall use any device or method which would have the effect of reducing an established minimum mesh size; provided, however, that chafing gear which does not obstruct the meshes of the top half of the cod end may be attached and net strengtheners may be attached to the cod end of the trawl net if such net strengtheners consist of mesh material similar to the material of the cod end and have a mesh size of at least twice the authorized minimum mesh size.

(e) A vessel or person utilizing a roller rig trawl gear shall not utilize rollers greater than 18 inches in diameter.

(f) The operator of, or any other person aboard, any fishing vessel shall immediately comply with instructions and signals issued by an authorized law enforcement officer and comply with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch, for the purpose of enforcement of this section.

(g) Any vessel in the act of fishing, upon being boarded and instructed by an authorized law enforcement officer, shall haul back, or retrieve from the waters for inspection, all gear being utilized. After being so instructed, the operator of the vessel, or any other person so instructed, shall have a 30 minute time period to commence haul back and shall continue haul back or retrieval at an ordinary rate and without

interruption until the gear is on board and available for inspection.

(h) Possession of an otter trawl and doors shall subject said vessel to inspection for compliance with this section by authorized enforcement personnel. Any nets or doors possessed or used in violation of this section shall be subject to forfeiture under authority of N.J.S.A. 23:10-21.

(i) Violation of any section of this subchapter, or any license or order issued pursuant to it, shall subject the violator to the penalties prescribed in N.J.S.A. 23:2B-14, Penalties consist of \$100.00 to \$3,000 for the first offense and \$200.00 to \$5,000 for any subsequent offense.

(j) For the purpose of this section, "land" shall mean to bring offloading fish, to offload fish or to enter port with fish.

(k) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify quotas, mesh sizes, minimum size limits, seasons, trip limits, by-catch allocations and the amount of fish that shall constitute a directed fishery specified in this section by notice in order to maintain compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. 5104(b). The Department shall publish notice of any such modification by filing and publishing in the New Jersey Register and in the Division's commercial regulation publication. All such notices shall be effective when the Department files the notice with the Office of Administrative Law or as specified otherwise in the notice.

(l) Special provisions applicable to the commercial harvest of summer flounder are as follows:

1. The possession of more than 100 pounds of summer flounder during the period of May 1 through October 31 or the possession of more than 200 pounds of summer flounder during the period of November 1 through April 30 on board a vessel or landed from a vessel shall constitute a directed fishery for summer flounder.

2. A person utilizing an otter or beam trawl in the directed fishery for summer flounder shall not use a net of less than 5.5 inches stretched diamond mesh or 6.0 inches minimum stretched square mesh, inside measurement. The mesh size shall be applied throughout the body, extensions and cod end portions of the net upon adoption in the Federal Register of essentially the same criteria. Until such time, the mesh size shall be applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net. The possession of any net less than the minimum specified above in this paragraph, on board a vessel engaged in a directed fishery for summer flounder is prohibited unless such net is not available for immediate use as defined in (b) above or is one of the following:

i. Vessels fishing in the fly net fishery are exempt from the minimum mesh size requirement. A fly net is a two seam otter trawl with the following configuration:

(1) The net has large mesh webbing in the wings with a stretch mesh measure of eight inches to 64 inches;

(2) The first body (belly) section of the net consists of 35 meshes or more of eight inch stretch mesh webbing or larger; and

(3) In the body section of the net the stretch mesh decreases in size relative to the wings and continues to decrease throughout the extensions to the cod end, which generally has a webbing of two inch stretch mesh.

(m) Special provisions applicable to a commercial weakfish fishery are as follows:

1. The possession of more than 100 pounds of weakfish or Atlantic croaker on board a vessel or landed from a vessel shall constitute a directed fishery for weakfish or Atlantic croaker.

2. A person shall not possess any weakfish less than 12 inches in length that have been harvested by otter or beam trawl during the period from September 1 through December 31. During the period of January 1 through August 31, the minimum size limit for weakfish harvested by otter or beam trawl is 13 inches in length pursuant to N.J.A.C. 7:25-18.12(a).

3. A person utilizing a beam or otter trawl in a directed fishery for weakfish or Atlantic croaker shall not use a net of less than 3.75 inches stretched diamond mesh or 3.375 inches stretched square mesh, inside measurement, applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net. The possession of any net less than the minimum mesh specified above in this paragraph on board any vessel in a directed fishery for weakfish or Atlantic croaker is prohibited.

4. A person shall not land more than 150 pounds of weakfish harvested by otter trawl except during the open seasons of January 1 through July 31 and October 13 through December 31. No dealer shall accept more than 150 pounds of weakfish landed in New Jersey taken by otter trawl except during such open seasons.

(n) Special provisions applicable to a directed winter flounder fishery are as follows:

1. The possession of more than 100 pounds of winter flounder on board a vessel or landed from a vessel shall constitute a directed fishery for winter flounder.

2. A person utilizing an otter or beam trawl in a directed fishery for winter flounder shall not use a net of less than 6.5 inches stretched mesh inside measurement applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net.

3. Except during the open season specified at N.J.A.C. 7:25-18.12(j)1, a vessel with any winter flounder on board

shall not have any otter or beam trawl available for immediate use while on the marine waters of this State. An otter or beam trawl that conforms to the provisions at (b)1 through 3 above is considered not "available for immediate use."

(o) Special provisions concerning the harvest of bluefish are as follows:

1. The annual bluefish allocation to the otter trawl fishery shall be 14.7 percent of New Jersey's annual commercial bluefish quota as allocated by the National Marine Fisheries Service.

2. A person shall not land any bluefish by otter trawl except during the open season of January 1 through December 7.

(p) Special provisions applicable to a directed scup fishery are as follows:

1. The possession of more than 500 pounds of scup during the period of November 1 through April 30 and more than 200 pounds of scup during the period of May 1 through October 31 on board a vessel or landed from a vessel shall constitute a directed fishery for scup.

2. A person utilizing an otter or beam trawl in a directed fishery for scup shall not use a net of less than 5.0 inches stretched mesh inside measurement applied for a minimum of 75 continuous meshes forward of the terminus of the net.

i. Nets not large enough to accommodate the number of minimum meshes listed in (p)2 above shall not contain any meshes less than 5.0 inches stretched mesh inside measurement throughout the entire net.

3. The possession of any net with a mesh less than the minimum specified in (p)2 above on board a vessel in a directed fishery for scup is prohibited unless it is not available for immediate use as defined in (b) above.

(q) Special provisions applicable to a directed black sea bass fishery are as follows:

1. The possession of more than 500 pounds of black sea bass during the period of January 1 through March 31 or more than 100 pounds of black sea bass during the period of April 1 through December 31 on board a vessel or landed from a vessel shall constitute a directed fishery for black sea bass for the purpose of requiring minimum mesh sizes as defined in (q)2 below.

2. A person utilizing an otter or beam trawl in a directed fishery for black sea bass shall not use a net of less than 4.5 inches stretched diamond mesh or 4.0 inches minimum stretched square mesh, inside measurement applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net. The possession of any net less than the minimum specified in this paragraph on board a vessel in a directed fishery for black

sea bass is prohibited unless it is not available for immediate use as defined in (b) above.

i. Nets not large enough to accommodate the number of minimum meshes listed in (q)2 above shall not contain any meshes less than 4.5 inches stretched diamond mesh or 4.0 inches stretched square mesh inside measurement throughout the entire net.

New Rule, R.1993 d.56, effective January 19, 1993.

See: 24 N.J.R. 4249(a), 25 N.J.R. 303(a).

Amended by R.1994 d.44, effective January 18, 1994.

See: 25 N.J.R. 2167(a), 26 N.J.R. 353(a).

Amended by R.1995 d.82, effective February 6, 1995.

See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

Administrative Correction.

See: 27 N.J.R. 1794(a).

Administrative Change.

See: 27 N.J.R. 2390(b).

Administrative Correction.

See: 27 N.J.R. 3420(a).

Administrative Correction.

See: 27 N.J.R. 3420(b).

Administrative Change.

See: 27 N.J.R. 4916(c).

Emergency amendment R.1996 d.299, effective May 31, 1996 (to expire July 30, 1996).

See: 28 N.J.R. 3182(a).

Administrative Change.

See: 28 N.J.R. 3786(a).

Adopted concurrent proposal, R.1996 d.392, effective July 24, 1996.

See: 28 N.J.R. 3182(a), 28 N.J.R. 3956(a).

Administrative change.

See: 28 N.J.R. 4784(a).

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Substantially amended section.

Administrative correction.

See: 29 N.J.R. 600(a).

Omitted recodification to (j)12v from a prior recodification corrected.

Administrative change.

See: 29 N.J.R. 1308(c).

In (j), changed the minimum length of summer flounder harvested in a commercial fishery from 13 inches to 14 inches.

Amended by R.1997 d.246, effective June 2, 1997.

See: 29 N.J.R. 285(a), 29 N.J.R. 2555(a).

Amended internal section references throughout; inserted new (j) and (k), recodified former (j) through (n) as (l) through (p), and deleted former (o) and (p); in (l)3, inserted "The mesh size shall ... Until such time, the mesh size shall be" and deleted provisions relating to forfeiture of privilege of owners and vessels to land summer flounder of less than 14 inches upon violation of restrictions; in (m)3, (m)4, (n)4, and (o)2, deleted reference to modification by the Commissioner of the open season or mesh size; in (p)1, inserted "during the period ... October 31"; in (p)2, substituted "4.5 inches" for "4.05 inches"; and added (p)3 through (p)12.

Administrative correction.

See: 29 N.J.R. 3251(a).

In (l)2, increased size of summer flounder from 13 to 14 inches; and in (p)4 and 5, substituted "November 1 through December 31" for "November 1 through October 31".

Amended by R.1998 d.40, effective January 5, 1998.

See: 29 N.J.R. 4595(a), 30 N.J.R. 226(a).

Inserted (q)3 and (r).

Administrative change.

See: 30 N.J.R. 1402(b).

Amended by R.1999 d.52, effective February 16, 1999.

See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

In (l)12, deleted "by June 30, 1993 for use of otter trawls, pound nets, gill nets or scallop dredges or" following "application" in i, and substituted a reference to fresh product for a reference to fish product in the introductory paragraph of iii.

Administrative change.

See: 31 N.J.R. 1084(a).

Amended by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

Rewrote (a), (l) and (p); and in (r), added 4 and 5.

Administrative change.

See: 32 N.J.R. 2230(a).

Administrative change.

See: 32 N.J.R. 4107(a).

Administrative change.

See: 33 N.J.R. 45(a), 45(b).

Administrative change.

See: 33 N.J.R. 1209(b).

Administrative change.

See: 33 N.J.R. 1914(a).

Amended by R.2001 d.346, effective September 17, 2001.

See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).

In (l), rewrote 4, 5, 9 and 11; in (m), inserted references to Atlantic croaker throughout; rewrote (p); in (q), rewrote 3.

Administrative correction.

See: 33 N.J.R. 3740(a).

Administrative change.

See: 33 N.J.R. 3740(b).

Administrative change.

See: 34 N.J.R. 921(a).

Amended by R.2002 d.277, effective August 19, 2002.

See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).

In (l)5i(3), inserted "directed fishery" after "all"; in (l)11, inserted a new sentence after "(l)6 above"; in (m) introductory paragraph substituted "commercial" for "directed"; in (m)4, substituted "more than 150 pounds of" for "any"; in (q)1, inserted "for the purpose of requiring minimum mesh sizes as defined in (q)2 below" after "sea bass"; deleted (q)3.

Administrative change.

See: 35 N.J.R. 709(b).

Amended by R.2004 d.20, effective January 5, 2004.

See: 35 N.J.R. 4224(b), 36 N.J.R. 174(b).

Rewrote the section.

Administrative change.

See: 37 N.J.R. 589(c).

Administrative change.

See: 37 N.J.R. 3696(a).

7:25-18.15 Atlantic sturgeon management

An individual shall not take or attempt to take, possess or land any Atlantic sturgeon in the State.

New Rule, R.1993 d.77, effective February 16, 1993.

See: 24 N.J.R. 205(a), 25 N.J.R. 689(a).

Amended by R.1995 d.82, effective February 6, 1995.

See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

Amended by R.2001 d.73, effective March 5, 2001.

See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).

Amended by R.2005 d.413, effective November 21, 2005.

See: 37 N.J.R. 742(a), 37 N.J.R. 4408(a).

Deleted (b)-(o); rewrote former (a) and removed designation.

7:25-18.16 Horseshoe crab (*Limulus polyphemus*)

(a) An individual shall not catch, take, or attempt to catch or take, land or possess horseshoe crabs from any beach or shoreline or from the marine waters of this State unless such individual has in his or her possession a valid permit to take horseshoe crabs issued by the Commissioner of Environmental Protection. Subject to the limitations of this section, including any quotas specified in (d) below, any individual who wishes to harvest horseshoe crabs may be eligible to obtain a permit by completing an application available from the Division of Fish and Wildlife, Bureau of Marine Fish-

eries, PO Box 400, Trenton, N.J. 08625-0400. The following persons, in the following circumstances, are not subject to this section:

1. Property owners, tenants or agents of property owners may, at any time, remove dead horseshoe crabs from their property for purposes of disposal. No sale, trade, or barter of horseshoe crabs is permitted under this paragraph.

2. Persons collecting horseshoe crabs for strictly scientific purposes only and operating under the terms and conditions specified by a required scientific collecting permit issued pursuant to N.J.S.A. 23:4-52 by the Administrator of the Marine Fisheries Administration within the Division.

3. Individuals in possession of a valid New Jersey miniature fyke or a valid New Jersey lobster or fish pot license and in possession of bona fide written documentation that the horseshoe crabs were obtained from a legal source.

(b) An individual is eligible for a horseshoe crab permit if the individual in each of two calendar years during the period of January 1, 1993 through May 29, 1997:

1. Possessed a valid New Jersey miniature fyke or lobster or fish pot license;

2. Possessed a valid New Jersey horseshoe crab permit; and

3. Reported landings of horseshoe crabs in New Jersey as verified by the Department on the basis of the reports submitted by the individual to the Department as required under this section since May 3, 1993.

(c) Horseshoe crab permits shall be nontransferable except that a horseshoe crab permit holder may transfer the right to the horseshoe crab permit at any time to the permittee's spouse, father, mother, son or daughter upon application to the Division. No permit shall be transferred without the prior determination by the Department that the transfer complies with this subsection.

(d) The annual horseshoe crab harvest quota for New Jersey from May 15, 2006 to December 31, 2007 shall be zero or as modified by the Commissioner pursuant to (h) below. Thereafter, the annual horseshoe crab harvest quota for New Jersey shall be no more than 150,000 or as modified by the Commissioner pursuant to (h) below. All landings of horseshoe crabs in New Jersey shall be applied to the New Jersey annual horseshoe crab quota.

1. The season for horseshoe crabs shall be April 1 through April 30 and June 8 through August 15. No person shall harvest or take any horseshoe crabs, dead or alive, during the period May 1 through June 7.

2. The Commissioner, or his or her designee, shall close the season for the commercial horseshoe crab fishery upon four days public notice of the projected date the annual quota shall be caught. Public notice shall include letters by first class mail to all New Jersey Horseshoe Crab Permit holders.

3. If the Commissioner, or his or her designee, closes the season prematurely because of unanticipated environmental events resulting in the quota not being landed by the projected date and at least one month remains in the current season, then the Commissioner, or his or her designee, may reopen the season for a specified period of time upon four days public notice. Public notice shall be made as specified in (d)2 above.

4. If the quota for any year is exceeded, the amount over harvested will be deducted from the following year's annual quota.

5. Beginning in 2001, the Department shall notify the previous year's holders of New Jersey Horseshoe Crab Permits of the current year's annual quota no later than January 31 of the year to which the annual quota applies. Notification shall be by first class mail to the previous year's permit holders.

(e) A person shall not harvest horseshoe crabs from the beaches and the adjacent waters and uplands within 1,000 feet of the bayfront mean high water line in that portion of Delaware Bay extending from the Cape May Canal in Cape May County to Stow Creek in Cumberland County at any time. Additionally, a person shall not harvest horseshoe crabs from the beaches and shoreline and the adjacent waters and uplands in the back bay area near Thompson's Beach bordered by, but not including, Adlers Ditch and Riggins Ditch in Cumberland County.

(f) An individual shall not harvest or land horseshoe crabs that have been taken by any method other than by hand harvest. The use of any implement (nets, rakes, spears, shovels, forks, etc.) to assist hand harvest is prohibited. Hand harvest is permitted in areas other than specified in (e) above only on Tuesdays and Thursdays during the season established under (d) above.

(g) It shall be illegal to possess horseshoe crabs on any vessel while having in possession any harvest gear except miniature fykes, conch pots, lobster pots, fish pots or minnow pots. The simultaneous possession of horseshoe crabs and any other harvest gear except those listed shall be prima facie evidence of a violation of this section.

(h) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify the annual quota and/or season in this section by notice in order to maintain and/or to come into compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. § 5104(b). The Department shall publish notice of any such modification by filing a notice of administrative change with the Office of Administrative Law for publication in the New Jersey Register and publishing notice of the modification in the Division's commercial regulation publication. All such notices shall be effective when the Department files the notice with the Office of Administrative Law or as specified otherwise in the notice.

(i) All horseshoe crab permit holders shall telephone the Division's designated telephone number for horseshoe crab harvest each Friday during the horseshoe crab season and report the number of horseshoe crabs harvested during the previous week. If no horseshoe crabs were harvested during the previous week, a telephone report to that effect shall be provided. Any person harvesting horseshoe crabs shall also provide monthly reports within five working days following the end of the reported month to the Department on forms supplied to the permit holder. The monthly report shall include the number of horseshoe crabs harvested, the area of collection and any other information as the Department may deem necessary for management of the horseshoe crab resource. If no horseshoe crabs were harvested during the month, a report to that effect shall be provided. The permittee shall be personally responsible for guaranteeing the timely delivery of reports to the Division as well as the accuracy of all information contained therein. The Department may demand that a permittee provide proof of the truth of any data contained in any report submitted to the Division under this program. If the permittee fails to file a true, complete monthly report with the Division by the fifth day of any month, the Division, in its discretion, may contact the permittee by the most expeditious method available in order to secure a complete report.

(j) Any person violating the provisions of this section shall be subject to the penalties prescribed in N.J.S.A. 23:2B-14 in addition to the suspension or revocation of the permittee's horseshoe crab harvesting privileges, according to the following procedures:

1. The Division shall notify the permittee in writing of the Division's intention to revoke the permittee's horseshoe crab harvesting privilege for the reasons stipulated in the notice, effective 20 business days after the date on the written notice (excluding the date on the notice) and of the Division's suspension of the permittee's horseshoe crab harvesting privileges in the interim, effective on a date stipulated in the notice but not sooner than 10 business days after the date of the notice (excluding the date on the notice).

2. The permittee may request a hearing to contest a proposed revocation of horseshoe crab harvesting privileges in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The request for an administrative hearing must be received in writing by the Department within 20 business days from the date on the Division's notice of suspension and intention to revoke, excluding the date on the notice. However, if a timely request for a hearing is not received by the Department, any allegation contained in the notice shall be deemed admitted by the permittee and horseshoe crab harvesting privileges shall be revoked as of the date stipulated in the notice, without any further action by the Division.

3. The Division Director may, in his or her sole discretion, stay the suspension of horseshoe crab harvesting privileges pending a hearing on the notice of proposed revocation of horseshoe crab harvesting privileges for any good cause set forth in a written petition from the

(1) A one month permit suspension shall be imposed on the permittee for a first offense.

(2) A two month permit suspension shall be imposed on the permittee for a second offense.

(3) A six month permit suspension shall be imposed on the permittee for a third offense.

ii. A permit suspension applicable to both the vessel and the owner must occur within the normal season of fishing operations which extends from May 15 to October 31 each year.

iii. If the duration of a permit suspension is not completed during the current year's normal season of fishing operations, the balance of the permit suspension shall be made up during the following year's normal season of fishing operations.

iv. A permit holder incurring a permit suspension who does not incur a second permit suspension for a three year period following the initial violation shall have the first permit suspension removed from consideration in determining a penalty for any subsequent violation.

3. The maximum length overall of any vessel fishing under the provisions of this section shall be 90 feet.

4. Purse seine or shirred nets shall not exceed 150 fathoms in length.

5. A person shall not fish on Saturdays, Sundays, and the days on which New Year's Day, Martin Luther King's Birthday, Lincoln's Birthday, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Election Day, Veteran's Day, Thanksgiving Day, Christmas Day are officially observed by the State of New Jersey.

6. Fishing shall be conducted only during the hours between sunrise and sunset.

7. Removal of fish from the purse seine shall be by brailing or dip net only. No fish pump shall be on board any vessel operating under a permit for the purpose of taking Atlantic menhaden for bait purposes.

8. The possession of any fish, as defined at N.J.S.A. 23:2B-3e, other than Atlantic menhaden on a purse seine vessel harvesting Atlantic menhaden for bait is prohibited.

i. The simultaneous possession of Atlantic menhaden and any other fish, as defined at N.J.S.A. 23:2B-3e, and a purse seine, aboard a vessel of any person holding an Atlantic menhaden bait permit or any vessel conducting menhaden fishing operations, shall constitute prima facie evidence of the violation of this subchapter.

9. No refuse, litter or garbage of any kind, or any quantity of dead fish shall be thrown overboard or released from the vessel or its net(s).

10. The licensee is responsible for cleaning up any fish, fish-part, refuse, litter, garbage of any kind which is released during any fishing operation or as a result of a fishing operation and must initiate such cleanup no later than 24 hours after the release begins. Upon the licensee's failure to initiate such cleanup within the 24 hour period, the Department may conduct or arrange for the performance of the cleanup. In addition to any other penalties and remedies provided by law, the licensee shall be liable for all costs associated with such cleanup, including any administrative costs incurred by the Department. Such cleanup shall include, but not be limited to, the marine and estuarine waters of the State and adjacent beaches, shorelines and marshes.

11. No stakes, markers, or buoys designating channels, crab pots, lobster pots, fish pots, or traps, or staked leased shellfish grounds, shall be disturbed by the act of fishing.

12. Any vessel engaged in fishing for Atlantic menhaden for bait under the provisions of this section shall display, on both sides of the vessel amidship, a yellow capital letter "B" not less than five feet in height on a black square background not less than six feet on a side. For any vessel where the gunnel height is less than eight feet above the waterline at amidship, the ratio of height of the letter "B" to height (or width) of the square black background of the display shall remain in the same proportion, that is, 5:6, but may be reduced in size. In all cases, however, each side of the black background shall be no less than three-quarters of the height of the gunnel at amidship from the waterline.

13. Any vessel operating under a permit for the purpose of taking Atlantic menhaden for bait purposes shall be required to notify the Department of the intended fishing location of the vessel. The notification shall be made by calling the Division's Marine Enforcement Unit, Bureau of Law Enforcement at (609) 748-2050, prior to fishing in State waters and prior to change of location.

14. No vessel or person shall fish or utilize any other gear type in the same day it has called in and declared that it is fishing for menhaden for bait purposes.

15. The annual purse seine quota for the purpose of taking menhaden for bait shall be unlimited.

(c) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify the annual quota or seasons specified in this subchapter by notice in order to maintain consistency with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. § 5104(b). The Department shall publish notice of any such modification by filing and publishing in the New Jersey Register and in the Division's commercial regulation publication. All such notices shall be effective when the Department files the notice with the Office of Administrative Law or as specified otherwise in the notice.

R.1989 d.394, effective July 17, 1989.
 See: 21 N.J.R. 107(a), 21 N.J.R. 2035(a).
 Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).
 See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).
 Inserted (b)2i through (b)2iv, in (b)7 added provision relating to fish pumps, and added (b)13 and (b)14.
 Amended by R.2000 d.10, effective January 3, 2000.
 See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).
 In (b), rewrite the first sentence of the introductory paragraph in 2, and added 15; and added (c).
 Amended by R.2001 d.73, effective March 5, 2001.
 See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).

Case Notes

State regulation prohibiting fishing did not violate commercial fishing organization's rights under the commerce clause. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

Commercial fishing organization had no rights, under the privileges and immunities clause of the Constitution, which could be violated as a result of state regulations prohibiting fishing. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing did not constitute impermissible disparate treatment. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing did not constitute impermissible use of "police power". *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing was within the scope of statute permitting regulation of fish and game. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing was valid under supremacy clause. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation purporting to regulate fishing within Delaware Bay was severable from other regulations. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

7:25-22.4 Vessel boarding

The operator of, or any other person on board, a fishing vessel subject to this subchapter, shall immediately comply with instructions and signals issued by any law enforcement officer and facilitate a safe boarding and inspection of the vessel, its gear, equipment, catch, and any area where fish may be stored, for the purpose of enforcement of this subchapter.

R.1989 d.394, effective July 17, 1989.

See: 21 N.J.R. 107(a), 21 N.J.R. 2035(a).

Case Notes

State regulation prohibiting fishing did not violate commercial fishing organization's rights under the commerce clause. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

Commercial fishing organization had no rights, under the privileges and immunities clause of the Constitution, which could be violated as a result of state regulations prohibiting fishing. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing did not constitute impermissible disparate treatment. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing did not constitute impermissible use of "police power". *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing was valid under supremacy clause. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing was within the scope of statute permitting regulation of fish and game. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation purporting to regulate fishing within Delaware Bay was severable from other regulations. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

SUBCHAPTER 23. PERMIT TO KILL WILD DEER

Subchapter Historical Note

Subchapter 23, Permit to Kill Wild Deer, was adopted as R.1985 d.250, effective May 20, 1985. See: 17 N.J.R. 350(b), 17 N.J.R. 1289(b).

7:25-23.1 Scope

This subchapter shall constitute the rules governing the killing of deer, reasonably believed to be causing damage to crops on lands under cultivation, which, absent these rules, would be proscribed by the State Game Code, N.J.A.C. 7:25-5. Provisions for this exception to the State Game Code appears therein at N.J.A.C. 7:25-5.31.