

“Condemned waters” means waters not meeting established sanitary standards for approved shellfish harvesting, including waters designated as Prohibited, Specially Restricted, Seasonal Special Restricted and Seasonal, as delineated at N.J.A.C. 7:12.

“Council” means the Atlantic Coast Section and the Delaware Bay Section of the New Jersey Shell Fisheries Council.

“Department” means the Department of Environmental Protection.

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

“Fishing trip” means a departure from port, transit to the fishing grounds, fishing and return to port.

“Land” means to transfer the catch of surf clams from any vessel to any land, pier, wharf, dock, or other man-made structure.

“Licensee” means the holder of a surf clam license or a bait clam vessel license or his or her agent.

“Offload” or “offloading” means to separate physically a cage from a vessel.

“Person” includes the captain, owner or other person responsible for the operation of a vessel.

“Season quota” means the total amount of surf clams, excluding bait clams, that may be harvested by all surf clam license holders from State waters during the annual surf clam season.

“Standing stock” means the amount of the surf clam resource in State waters, measured in bushels as determined by surf clam inventories conducted by the Division.

“Surf clams” means the species *Macra solidissima* also known as *Spisula solidissima*. Unless otherwise specified, the term “surf clams” includes bait clams.

“Surf clam vessel” means a vessel equipped to harvest surf clams by means of a dredge or dredges.

“Vessel,” in addition to its normal meaning, includes the captain, owner or other person responsible for the operation of a vessel.

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

7:25-12.6 Applicability

(a) The rules in this subchapter shall apply to all taking, attempting to take, harvesting, or dredging of surf clams, or the participation therein, in State waters, except the following:

1. Research, inventory or educational activities involving surf clams conducted under a certificate issued by the Division pursuant to N.J.S.A. 23:4-52 or a permit issued by the Department pursuant to N.J.S.A. 50:2-6.1 for research, inventory or educational purposes;

2. Gathering from beaches of surf clams cast there by the sea, in areas adjacent to approved waters. Such harvest activities are subject to the provisions of N.J.S.A. 50:2-1 through 50:2-5 and 50:4-2, and a clamming license is required therefor as described in N.J.A.C. 7:25-8; and

3. Harvest of surf clams for personal consumption and not for sale from areas in approved waters. Such harvest activities are subject to the provisions of N.J.S.A. 50:2-1 through 50:2-5 and 50:4-2, and a clamming license is required therefor as described in N.J.A.C. 7:25-8.

(b) Compliance with this subchapter shall not exempt any person from compliance with shellfish rules adopted to protect the public health by the Department, under authority of N.J.S.A. 58:24-1 et seq., or by any department of State government or any Federal agency.

7:25-12.7 General control methods

(a) Except as provided at N.J.A.C. 7:25-12.6(a), a person or vessel shall not take, attempt to take, harvest, or dredge for surf clams, or participate therein, in any State waters without first obtaining a surf clam license and harvest tags as described in N.J.A.C. 7:25-12.12 and 7:25-12.14, or bait clam vessel license as described in N.J.A.C. 7:25-12.15.

(b) The general methods by which the Department shall control the harvest of surf clams from State waters are as follows:

1. The captain of a surf clam vessel possessing a surf clam license, or of a licensed bait clam vessel, or his or her designee, shall notify the Department of the intended fishing location of the vessel and the intended port and time of landing each day it fishes in State waters. 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. Changes in port of landing or time of landing must be given four hours prior to landing.

2. Any person fishing for surf clams at any time, or who has reported his intention to fish, in State waters shall have the vessel’s entire harvest for that fishing trip counted as part of the licensed season allocation of surf clams.

3. A person shall not transfer surf clams from a surf clam vessel or bait clam vessel to any other vessel. All surf clams harvested in State waters shall be landed in this State. Specific hours of landing may be designated by the Division. A person shall not operate a surf clam vessel or bait clam vessel to fish in or land surf clams from both State and Federal waters on a single fishing trip. A surf

clam vessel shall not land any quahogs or surf clams taken from Federal waters during the same fishing trip for which the Division's Marine Enforcement Unit, Bureau of Law Enforcement, has received notification of intent to use that vessel in State waters to harvest surf clams.

4. All surf clams shall be landed in their shells and offloaded in cages. All surf clam cages containing surf clams shall be tagged with tags obtained from the Division before offloading. The tags must be used sequentially as issued. Tags shall not be removed until cages are emptied at the processing plant, at which point the removed tags shall be destroyed and discarded.

5. It shall be unlawful to possess an empty cage to which a tag required at (b)4 above is affixed.

Amended by R.1995 d.632, effective December 4, 1995.
See: 27 N.J.R. 3269(a), 27 N.J.R. 4888(a).

7:25-12.8 Season

Except for bait purposes as provided in N.J.A.C. 7:25-12.11, the annual season for taking surf clams in State waters shall begin on October 1 and extend through and including May 31.

7:25-12.9 Prohibited fishing areas

(a) The areas in which surf clams may not be taken are as follows:

1. Those waters enclosed within the following descriptions as delineated by the Division by reference to the National Oceanic and Atmospheric Administration Nautical Chart 12318 (35th, August 11/84) available for inspection at the Nacote Creek Shellfish Office:

i. From the shore on the bay side of Little Beach, latitude 39 degrees 28.3 minutes N, longitude 74 degrees 19.4 minutes W;

ii. Thence seaward 090.5 degrees T one nautical mile to a point, latitude 39 degrees 28.3 minutes N, longitude 74 degrees 17.2 minutes W, LORAN C 9960-X-26958, 9960-Y-43099;

iii. And thence south following the line of the beach one nautical mile offshore to a point, latitude 39 degrees 21.0 minutes N, longitude 74 degrees 23.6 minutes W, LORAN C 9960-X-26983, 9960-Y-43020 (generally marked by a buoy charted as "1" F1 G 4s GONG);

iv. Thence 333 degrees T to latitude 39 degrees 21.5 minutes N, longitude 74 degrees 23.9 minutes W, LORAN C 9960-X-26986, 9960-Y-43026 (generally marked by a buoy charted as R "2" F1 R 2.5s); and

v. Thence 309 degrees T to the light charted as F1 G 4 sec. 29 ft. "7" at the end of the southernmost jetty in Absecon Inlet, latitude 39 degrees 21.8 minutes N, longitude 74 degrees 24.5 minutes W, LORAN C 9960-X-26990, 9960-Y-43029;

2. Those waters enclosed within the following description, as delineated by the Division by reference to the National Oceanic and Atmospheric Administration Nautical Chart 12323 (19th Edition, November 15/80), available for inspection at the Nacote Creek Shellfish Office:

i. The area off Island Beach from a point on the southern boundary of the area closed for shellfishing by N.J.A.C. 7:12 with latitude 39 degrees 53.6 minutes N, Longitude 74 degrees 03.5 minutes W, LORAN C 9960-X-26925, 9960-Y-43364;

ii. Thence south following the line of the beach one nautical mile off shore to a point; latitude 39 degrees 45.9 minutes N, longitude 74 degrees 4.5 minutes W, LORAN C 9960-X-26914, 9960-Y-43283;

iii. Thence to the shore 270 degrees T to the abandoned lighthouse with a latitude 39 degrees 45.8 minutes N, longitude 74 degrees 6.4 minutes W; and

3. Those areas closed to shellfishing by N.J.A.C. 7:12.

Amended by R.1995 d.632, effective December 4, 1995.
See: 27 N.J.R. 3269(a), 27 N.J.R. 4888(a).

7:25-12.10 Harvest limitations; surf clam harvest quota

(a) The Commissioner, with the advice of Council, shall establish annually a season quota of between 250,000 and 700,000 bushels of surf clams. The season quota shall be set at approximately 10 percent of the State's estimated standing stock of surf clams.

(b) By September 15 of each year the Department shall send notice to all license holders by first class mail, and file notice for publication in the New Jersey Register, of the season quota for the upcoming surf clam harvest season.

(c) If the Department does not give notice of the season quota for the surf clam harvest season pursuant to (b) above, the season quota for the upcoming season shall be 500,000 bushels.

(d) Each surf clam license allocation shall be 1/57th of the season quota.

Public Notice: 1993-94 harvest quota set at 600,000 bushels.
See: 25 N.J.R. 4795(c).

Public Notice: 1994-95 harvest quota set at 600,000 bushels.
See: 26 N.J.R. 4218(a).

Public Notice: Increase in surf clam harvest quota.
See: 27 N.J.R. 4011(c).

Public Notice: 1997-98 harvest quota set at 600,000 bushels.
See: 29 N.J.R. 5334(b).

Public Notice: 1998-99 harvest quota set at 600,000 bushels.
See: 30 N.J.R. 3973(a).

Public Notice: 1999-2000 harvest quota set at 700,000 bushels.
See: 31 N.J.R. 4125(a).

Public Notice: 2000-2001 harvest quota set at 700,000 bushels.
See: 32 N.J.R. 3872(a).

(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 225,000 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 or 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 the first offense and a penalty of \$200.00 per fish for each subsequent 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).

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 beat 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 begin 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 shall not possess any summer flounder less than 14 inches in length which have been harvested by vessels in a commercial fishery for summer flounder.

3. 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.

4. A vessel shall not land more than 100 pounds of summer flounder during the period of May 1 through October 31 or more than 200 pounds of summer flounder during the period of November 1 through April 30 in New Jersey on any one trip unless said vessel is in possession of a valid New Jersey Summer Flounder Permit to participate in the directed fishery for summer flounder. Vessels fishing under the special terms of a quota transfer or combination program as provided in (l)6 below may be exempt from this requirement if such terms specify that a New Jersey Summer Flounder Permit is not necessary to land summer flounder in New Jersey. 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 Summer Flounder Permit shall complete an application provided by the Department. Applicants applying to use hook and line shall submit their applications no later than May 31, 1994. Applicants applying for a New Jersey Summer Flounder permit for any other gear type shall submit their applications no later than January 1, 2000. Applications for a New Jersey Summer Flounder Permit received after the above dates shall be denied.

ii. To be eligible for a New Jersey Summer Flounder Permit the vessel's owner shall meet the following criteria:

(1) The vessel shall have landed and sold at least 1,000 pounds of summer flounder in New Jersey in each of two years during the period of 1985-1992;

(2) The vessel shall have possessed a valid New Jersey otter trawl, pound net, or gill net license or a valid Federal summer flounder permit during each of the two years it qualified based upon the pounds of summer flounder landed and sold in (l)4ii(1) above. Vessels providing documentation regarding the amount of summer flounder landed for two years between January 1, 1985 to November 2, 1988 or vessels providing documentation of harvest by hook and line are exempt from this requirement; and

(3) Applicants shall provide weigh out slips to document the amount of summer flounder landed and copies of their New Jersey otter trawl, pound net or gill net license or Federal summer flounder permit for the respective years.

iii. The New Jersey Summer Flounder 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. The vessel, when engaged in the directed summer flounder fishery, may only have on board the gear type(s) listed on the New Jersey Summer Flounder Permit.

(1) The owner of a permitted vessel may transfer his or her New Jersey Summer Flounder Permit, upon application to the Department, as follows:

(A) To his or her replacement vessel, provided the replacement vessel is not greater than 10 percent larger in vessel length, gross registered tonnage and net tonnage and not more than 20 percent greater in horsepower. The vessel being replaced shall no longer be eligible for a New Jersey Summer Flounder Permit; or

(B) 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 Summer Flounder Permit based on the harvesting history of the vessel being sold.

(2) Transfer of a permit to a new vessel shall be limited to the same gear type(s) of the originally permitted vessel.

(3) Applicants for permit transfer shall complete an application provided by the Department, and no permit may be transferred without the prior approval of the Department.

iv. A vessel possessing a valid New Jersey Summer Flounder Permit to commercially harvest summer

flounder by angling or hook and line and when operating under the permit shall be subject to the following:

(1) Crew size shall be limited to no more than five persons, including the captain;

(2) The vessel shall not carry any passengers for hire. When carrying passengers for hire the New Jersey Summer Flounder Permit is not valid and the recreational possession limits and seasonal restrictions as specified in N.J.A.C. 7:25-18.1 apply.

v. A vessel that does not possess a New Jersey Summer Flounder Permit shall be permitted to land not more than 100 pounds of summer flounder during the period of May 1 through October 31, or not more than 200 pounds of summer flounder during the period of November 1 through April 30 on any trip provided the amount of summer flounder landed from any vessel shall not exceed 10 percent, by weight, of the total weight of all species landed and sold, except that vessels taking summer flounder by angling or hook and line shall be subject to the possession limits established in N.J.A.C. 7:25-18.1.

5. The annual summer flounder harvest quota for New Jersey shall be determined by the Mid Atlantic Fishery Management Council as implemented by the National Marine Fisheries Service. All landings of summer flounder in New Jersey shall be applied to the New Jersey annual summer flounder quota unless New Jersey enters into an agreement with another state(s) to transfer or combine summer flounder commercial quotas, as provided for pursuant to (l)6 below and such agreement indicates otherwise.

i. Ten percent, but not more than 200,000 pounds of the New Jersey annual summer flounder quota, shall be allocated each year for by-catch landings when any of the six seasons for the directed commercial fishery are closed. The by-catch landings shall be divided between the six seasons as identified at (l)5ii below at the same percentage as for the directed fishery specified at (l)5ii below or as modified by the Commissioner.

(1) Any by-catch not landed during the season allocated shall be added to the directed fishery of the following season except during the last season.

(2) If any of the by-catch allowance has not been landed by December 1 in any calendar year the remaining amount shall be added to the directed summer flounder fishery quota.

(3) For the purpose of this section, all seasons identified at (l)5ii below shall start on the first Sunday of the applicable month.

ii. The balance of the New Jersey annual quota for the summer flounder fishery remaining after deducting the by-catch allowance specified in (l)5i above shall be divided into seasons, daily trip limits and number of allowable landing days in each week (Sunday through Saturday) as follows:

(1) January-February: 28 percent, 7,500 pound trip limit and a maximum of two days a week that a vessel may land summer flounder.

(2) March-April: 11 percent, 1,000 pound trip limit and a maximum of five days per week that a vessel may land summer flounder;

(3) May-June: 10.5 percent, 500 pound trip limit and a maximum of five days per week that a vessel may land summer flounder;

(4) July-August: 10.5 percent, 500 pound trip limit and a maximum of five days per week that a vessel may land summer flounder;

(5) September-October: 29 percent, 1,000 pound trip limit and a maximum of four days that a vessel may land summer flounder, except as follows:

(A) A vessel may elect to land summer flounder only one day per week. If such an election is made, the trip limit shall be 4,000 pounds; and

(6) November-December: 11 percent, 1,000 pound trip limit and a maximum of five days per week that a vessel may land summer flounder.

(7) Any daily landing of summer flounder not exceeding 100 pounds during the period of May 1 through October 31 or 200 pounds during the period November 1 through April 30 shall not be applied to maximum weekly landing days during any season as specified in (l)5ii(1) through (6) above, provided the amount of summer flounder landed from any vessel shall not exceed 10 percent, by weight, of the total weight of all species landed and sold.

iii. No vessel shall have in possession or land and no dealer shall accept from any one vessel more than the daily trip limit of summer flounder in any one calendar day.

iv. Any vessel participating in a directed summer flounder fishery shall notify the Department of the time and place of unloading of the vessel at least two hours in advance of such unloading. Such unloading shall not occur except between the hours of 6:00 A.M. and 6:00 P.M. from November 1 through April 30 and 6:00 A.M. and 8:00 P.M. from May 1 through October 31. The vessel shall also report how many times that week (Sunday through Saturday) the vessel will have landed, including the trip being called in. For example, "This will be my third landing this week." Notification shall include a phone call to (609) 748-2050 unless changed by notice to permit holders via first class mail.

v. If a minimum of 100,000 pounds of the New Jersey summer flounder quota remains unlanded as of December 1 in any calendar year, the Commissioner, or his or her designee, may set a daily trip limit for the remainder of that calendar year or until the quota specified in (l)5iii above is landed, whichever occurs first.

vi. The Commissioner, or his or her designee, shall close the season for the directed and/or by-catch commercial summer flounder fishing season upon two days public notice of the projected date the season quota shall be caught. Public notice shall include letters by first class mail to all permitted New Jersey Summer Flounder Dealers and New Jersey Summer Flounder Permit holders.

vii. Once the season has been closed for the directed commercial summer flounder fishery, no vessel shall land any summer flounder and no dealer shall accept any summer flounder landed in New Jersey in excess of the by-catch allowances specified in (l)1 and 4 above and provided the amount of summer flounder landed from any vessel shall not exceed 10 percent, by weight of the total weight of all species landed and sold. If the entire season and/or annual quota including the by-catch allowance has been landed, then no vessel or person shall land or sell any summer flounder and no dealer or person shall accept or buy any summer flounder landed in New Jersey.

viii. 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 (l)5vi above.

(1) The Commissioner or his or her designee may set daily trip limits when reopening a prematurely closed season.

ix. If the quota for a particular season is not taken, the balance shall be reallocated for the following season, except that any balance existing as of December 31 of any year shall not be reallocated.

x. If the quota for any of the first five seasons is exceeded, the amount overharvested shall be deducted from the following season.

xi. If the quota for any year is exceeded, the amount overharvested will be deducted from the following year's annual quota. The remaining annual quota will then be allocated as defined in (l)5i and ii above.

xii. Beginning in 1994, the Department shall notify the holders of New Jersey Summer Flounder Permits of the season allocations no later than January 31 of the year to which the allocation applies. Notification shall be accomplished by first class mail to permit holders.

xiii. All New Jersey Summer Flounder 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 15 working days following the end of the reported month at the following address:

New Jersey Summer Flounder 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, New Jersey Summer Flounder Permit number of the vessel, 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 summer flounder are landed. New Jersey Summer Flounder Permit holders who also possess a Federal summer flounder permit and are required to report monthly to the Federal government may submit the "STATE" copy of their Federal log book in satisfaction of the New Jersey reporting requirements.

(2) If no trips for summer flounder were taken and no summer flounder were landed during the month, a report to that effect shall be required.

6. Pursuant to Amendment 5 of the Mid-Atlantic Fishery Management Council's Summer Flounder Management Plan, the Commissioner may enter into agreements with other states to transfer or combine summer flounder commercial quotas. Such agreements shall specify the terms and conditions under which vessels not in possession of a New Jersey Summer Flounder Permit may land summer flounder 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.

7. No fish dealer shall accept any summer flounder from any vessel or harvester unless such dealer is in possession of a valid New Jersey Summer Flounder Dealers Permit. A New Jersey Summer Flounder Dealers Permit may be obtained by completing an application supplied by the Department and submitting it to:

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

8. No dealer shall accept from any vessel more than the amounts of summer flounder specified at (l)4 above unless said vessel is in possession of its valid New Jersey Summer Flounder Permit.

9. No vessel shall land and no dealer shall accept any summer flounder which have been frozen, filleted or

processed in any way. Only whole, fresh summer flounder may be landed, except that by-catch amounts of summer flounder as specified in (l)1 and 4 above may be landed frozen provided that each fish is individually frozen whole and can be individually weighed and measured without thawing.

10. Any harvester or vessel landing summer flounder in New Jersey for the purpose of sale shall sell all summer flounder to a permitted New Jersey Summer Flounder Dealer.

11. All permitted New Jersey Summer Flounder Dealers shall provide daily reports during the period January 1 through February 28 and weekly reports during the period March 1 through December 31 to the Division listing the amount of summer flounder landed on a daily basis by size category and any other information that may be required by the Commissioner or as a result of an agreement with other states pursuant to (l)6 above. Such report shall be faxed to the Division at the number specified on the reporting forms supplied by the Division not later than 10:00 A.M. on the following day for daily reports and 12:01 P.M. on Monday following the week's end for weekly reports 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.

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 application by May 31, 1994 for use of hook and line or the attach 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 summer flounder landed as specified in (l)4 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 (l)3 above, minimum mesh size, (l)5iii above, landing, possession or accepting in excess of the daily trip limit for summer flounder (l)5iv, failure of notification of landing of summer flounder, (l)5vii above, landing, summer flounder after the directed fishery and/or bycatch season has been closed, or (l)5xiii above, failure to submit accurate and timely monthly reports, (l)8 accepting more than by-catch amounts from nonpermitted vessels, (l)9 accepting any summer flounder other than fresh product, or (a), (b), (d), (e), (f) above or N.J.S.A. 23:3-46 through 23:3-47 shall result in the suspension or revocation of the vessel's New Jersey Summer Flounder permit or the dealers New Jersey Summer Flounder Dealers Permit according to the following schedule:

- (1) First offense: 60 days suspension
- (2) Second offense: 120 days suspension
- (3) Third offense: permanent revocation

iv. 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.

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.

13. Dealer business records may be used as admissible evidence in any proceeding to document violations of trip limits, weekly landing limits or closed seasons.

(m) Special provisions applicable to a directed weakfish or Atlantic croaker 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 any 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 any 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 shall not possess any winter flounder less than 12 inches in length that have been harvested by otter or beam trawl, or any other net, trap, dredge or commercial gear.

3. A person utilizing an otter or beam trawl in a directed fishery for winter flounder shall not use a net of less than 5.0 inches stretched mesh inside measurement applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net.

4. No person shall fish for or land any winter flounder taken by otter trawl or by any other 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 nets is subject to the provisions of N.J.A.C. 7:25-18.5(g)2.

5. Except during the open season specified at (l)4 above, 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 100 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 4.5 inches stretched mesh inside measurement applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net.

3. 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.

4. 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 Council upon four 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 four days public notice of the projected date the New Jersey seasonal quota shall be caught.

iv. Public notice shall include letters by first class mail to all New Jersey Scup Dealer holders and Federal scup moratorium permit holders that are New Jersey residents.

v. 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.

vi. 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 four days public notice. Public notice shall be made as specified in (p)4 iii above.

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

5. No vessel shall have in possession or land and no dealer shall accept from any one 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 seasons of January 1 through April 30 and November 1 through December 31 and no vessel shall have in possession or land and no dealer 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 (p)5i 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 (p)4i above.

ii. The daily trip limit for scup shall be 500 pounds from November 1 through December 31 and shall be reduced to 200 pounds when 50 percent of the quota is projected to be caught. The Division of Fish and Wildlife will notify all New Jersey Scup Dealer Permit holders and New Jersey residents who hold Scup Federal Moratorium Permits by letter (first class mail) of the ASMFC's projection and the new trip limits.

6. 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

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

8. 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.

9. 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 (p)10 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 of Saturday.

10. 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 their Federal log book in satisfaction of the New Jersey reporting requirements.

11. 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 (p)4ii, landing or accepting scup after the season has been closed; (p)5, landing or accepting more than the daily trip limit; (p)6, accepting scup from a vessel without first having obtained a valid New Jersey Scup Dealer Permit; (p)7, landing for the purpose of sale or selling scup without first having obtained a valid scup moratorium permit; (p)8, selling scup to a non-permitted fish dealer; or (p)9 and (p)10, failure to submit accurate and timely reports shall result in the suspension or revocation of the dealer's New Jersey Scup Dealer Permit according to the following schedule:

(1) First offense: No suspension.

(2) Second offense: 60 days suspension during the open season as provided in (p)4 above.

(3) Third offense: 120 days suspension during the open season as provided in (p)4 above.

(4) Fourth offense: Permanent revocation.

ii. 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.

iii. Any person who has had his or her New Jersey Scup Dealer Permit suspended or revoked, shall not land or permit the landing of any scup at his or her facility during the suspension or revocation under the provisions of another permittee's New Jersey Scup Dealer Permit.

12. 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.

(q) Special provisions applicable to a directed black sea bass fishery are as follows:

1. The possession of more than 1,000 pounds of black sea bass on board a vessel or landed from a vessel shall constitute a directed fishery for black sea bass.

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 four inches stretched diamond mesh or 3.5 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.

3. Annual and seasonal black sea bass quotas and daily trip limits shall be determined by the Mid Atlantic Fishery Management Council and implemented by the National Marine Fisheries Service or determined by the Atlantic States Marine Fisheries Commission.

i. The Commissioner, or his or her designee, shall implement annual and seasonal black sea bass quotas and daily trip limits determined by the Atlantic States Marine Fisheries Commission upon four days public notice. Public notice shall include letters by first class mail to all Federal black sea bass moratorium permit holders that are New Jersey residents. 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.

ii. No vessel shall have in possession or land and no dealer or person shall accept from any one vessel or person more than the lesser of the daily trip limits of black sea bass set by the National Marine Fisheries Service or the Atlantic States Marine Fisheries Service in any one calendar day. The daily trip limit for black sea bass shall be 3,000 pounds from April 1 through June 30, 2000 pounds from July 1 through September 30 and 3,000 pounds from October 1 through December 31. The daily trip limit from October 1 through December 31 shall be reduced to 1,000 pounds when the ASMFC projects that 50 percent of the quota will be caught.

iii. The Commissioner, or his or her designee, shall close the season for the commercial black sea bass fishery upon four days public notice of the projected date each seasonal quota shall be caught. Public notice shall include letters by first class mail to all Federal black sea bass moratorium permit holders that are New Jersey residents.

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

v. If the Commissioner, or his or her designee, closes the season prematurely because of unanticipated events resulting in the quota not being landed by the projected date, 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 (q)3i above.

(r) 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.

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.

7:25-18.15 Atlantic sturgeon management

(a) An individual shall not take or attempt to take, possess or land any Atlantic sturgeon in the State, without a valid Atlantic Sturgeon Commercial Gill Net Permit or a valid Atlantic Sturgeon By-Catch Permit issued by the Department. No holder of either permit shall land an Atlantic sturgeon unless such sturgeon has a valid, properly affixed possession tag as specified at (g) and (h) below. No person shall possess any Atlantic sturgeon that does not have a valid, properly affixed possession tag. "Land" shall mean to begin offloading fish, to offload fish or to enter port with fish.

(b) An Atlantic Sturgeon Commercial Gill Net Permit may be transferred to another individual eligible for a gill net license for the purpose of taking Atlantic sturgeon with gill nets. The permittee shall request approval to transfer the permit in writing to the Department, and no such transfer shall be valid until the transferee has received a valid permit issued in his or her name from the Department. An Atlantic sturgeon commercial gill net possession tag may be transferred to another Atlantic Sturgeon Commercial Gill Net Permit holder. The permittees shall list on the permittee's annual report pursuant to (l) below the name of the permittee or permittees to whom the permittee transferred any possession tag. The recipient of the transferred possession tag or tags shall list in the annual report pursuant to (l) below each such transferred tag received.

(c) To qualify for an Atlantic Sturgeon Commercial Gill Net Permit, an applicant shall comply with the provisions below by April 2, 1993:

1. The applicant shall complete an application provided by the Department, listing the dressed weight of Atlantic sturgeon harvested by gill net during 1988, 1989 or 1990, whichever year he landed the greatest dressed weight, or the number of nine-inch or greater stretched mesh gill nets purchased between January 1, 1989 and January 10, 1991 with the intent of entering a directed Atlantic sturgeon fishery.

2. The applicant shall attach documented proof of the dressed weight of Atlantic sturgeon harvested by gill net during 1988, 1989 or 1990, whichever year he landed the greatest dressed weight, or the number of nine-inch or greater stretched mesh gill nets purchased between January 1, 1989 and January 10, 1991. Documented proof shall consist of one or more of the following:

- i. Weigh-out slips totaling the dressed weight harvested;

- ii. A notarized statement from the applicant and the purchaser(s) attesting to the dressed weight harvested (records must be verifiable based upon inspection of the purchaser's business records);

- iii. Sales receipts for the number of nine-inch or greater stretched mesh gill nets purchased, including date of sale, length, and stretched mesh size;

- iv. A notarized statement from the applicant and the seller(s) attesting to the number of nine-inch or greater stretched mesh gill nets purchased, including date of sale, length, and stretched mesh size; or

- v. Other documentation similar to that in (c)2i, ii, iii or iv above may be accepted at the discretion of the Commissioner after his or her review; and

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