

**CHAPTER 25**

**DIVISION OF FISH AND WILDLIFE RULES**

**Authority**

N.J.S.A. 13:1B-30 et seq., 13:1D-9, 23:1-1 et seq., and 50:1-5 et seq.

**Source and Effective Date**

Effective: June 12, 2014.  
See: 46 N.J.R. 1641(b).

**Chapter Expiration Date**

Chapter 25, Division of Fish and Wildlife Rules, expires on June 12, 2021.

**Chapter Historical Note**

Chapter 25, Division of Fish, Game and Wildlife Rules, was adopted and became effective prior to September 1, 1969.

Subchapter 2, Use of All Land and Water Areas Under the Control of the Division of Fish, Game and Wildlife, was adopted as R.1975 d.292, effective October 1, 1975. See: 7 N.J.R. 411(a), 7 N.J.R. 499(c).

Subchapter 18, Marine Fisheries, was adopted as R.1980 d.394, effective September 17, 1980. See: 12 N.J.R. 312(a), 12 N.J.R. 576(c).

Pursuant to Executive Order No. 66(1978), Subchapter 18 was re-adopted as R.1985 d.386, effective July 8, 1985. See: 17 N.J.R. 1188(a), 17 N.J.R. 1883(b).

Subchapter 18, Marine Fisheries, was repealed and Subchapter 18, Marine Fisheries, was adopted as new rules by Emergency Rule R.1985 d.674, effective December 17, 1985. This emergency new rule expired on February 15, 1986. See: 18 N.J.R. 102(a). The provisions of the concurrent proposal were adopted with changes by R.1986 d.121, effective April 7, 1986. See: 18 N.J.R. 102(a), 18 N.J.R. 657(b).

Pursuant to Executive Order No. 66(1978), Chapter 25, Division of Fish, Game and Wildlife Rules, was readopted as R.1991 d.132, effective February 15, 1991. See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).

Pursuant to Executive Order No. 66(1978), Chapter 25, Division of Fish, Game and Wildlife Rules, was readopted as R.1996 d.119, effective February 2, 1996. See: 27 N.J.R. 4514(a), 28 N.J.R. 1378(b).

Pursuant to Executive Order No. 66(1978), Chapter 25, Division of Fish, Game and Wildlife Rules, was readopted as R.2001 d.73, effective January 30, 2001. As a part of R.2001 d.73, Chapter 25, Division of Fish, Game and Wildlife Rules, was renamed Division of Fish and Wildlife Rules; and Subchapter 2, Use of All Land and Water Areas Under the Control of the Division of Fish, Game and Wildlife, was renamed Use of All Land and Water Areas Under the Control of the Division, effective March 5, 2001. See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).

Petition for Rulemaking: Division of Fish and Wildlife Rules. See: 36 N.J.R. 221(a), 4849(b), 5459(a).

Subchapter 6, 2005-2006 Fish Code, was renamed 2006-2007 Fish Code by R.2006 d.64, effective February 6, 2006. See: 37 N.J.R. 2974(a), 38 N.J.R. 957(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 25, Division of Fish and Wildlife Rules, was extended by gubernatorial directive from January 30, 2006 to July 30, 2006. See: 38 N.J.R. 1318(c).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 25, Division of Fish and Wildlife Rules, was extended by gubernatorial directive from July 30, 2006 to September 30, 2006. See: 38 N.J.R. 3577(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 25, Division of Fish and Wildlife Rules, was extended by

gubernatorial directive from September 30, 2006 to October 30, 2006. See: 38 N.J.R. 4693(c).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 25, Division of Fish and Wildlife Rules, was extended by gubernatorial directive from October 30, 2006 to November 30, 2006. See: 38 N.J.R. 5155(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 25, Division of Fish and Wildlife Rules, was extended by gubernatorial directive from November 30, 2006 to January 14, 2007. See: 39 N.J.R. 62(a).

Chapter 25, Division of Fish and Wildlife Rules, was readopted as R.2007 d.239, effective July 13, 2007. As a part of R.2007 d.239, Subchapter 5, 2005-2006 Game Code, was renamed Subchapter 5, 2006-2011 Game Code, effective August 6, 2007. See: 39 N.J.R. 587(a), 39 N.J.R. 3324(a).

Subchapter 6, 2006-2007 Fish Code, was renamed 2008-2009 Fish Code by R.2008 d.65, effective March 17, 2008. See: 39 N.J.R. 4988(a), 40 N.J.R. 1635(b).

Subchapter 5, 2006-2011 Game Code, was renamed 2009-2012 Game Code by R.2009 d.276, effective September 8, 2009 (operative September 13, 2009). See: 41 N.J.R. 1320(a), 41 N.J.R. 3217(b).

Subchapter 6, 2008-2009 Fish Code, was renamed 2010-2011 Fish Code by R.2010 d.013, effective January 4, 2010. See: 41 N.J.R. 3004(a), 42 N.J.R. 63(a).

Subchapter 5, 2009-2012 Game Code, was renamed 2011-2012 Game Code by R.2011 d.237, effective September 6, 2011 (operative September 11, 2011). See: 43 N.J.R. 1112(a), 43 N.J.R. 2307(a).

Subchapter 6, 2010-2011 Fish Code, was renamed 2012-2013 Fish Code by R.2011 d.301, effective December 19, 2011 (operative January 1, 2012). See: 43 N.J.R. 1632(a), 43 N.J.R. 3332(a).

Subchapter 5, 2011-2012 Game Code, was renamed 2013-2014 Game Code by R.2013 d.115, effective September 16, 2013 (operative September 21, 2013). See: 45 N.J.R. 787(a), 45 N.J.R. 2121(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 25, Division of Fish and Wildlife Rules, was scheduled to expire on July 13, 2014. See: 43 N.J.R. 1203(a).

Chapter 25, Division of Fish and Wildlife Rules, was readopted, effective June 12, 2014. See: Source and Effective Date.

Subchapter 5, 2013-2014 Game Code, was renamed 2015-2016 Game Code by R.2015 d.147, effective September 8, 2015 (operative September 13, 2015). See: 47 N.J.R. 577(a), 47 N.J.R. 2264(a).

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“Council” means the Fish and Game Council in the Division.

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

“Open season” means the time during the year when fish, game, birds or animals, as the case may be, may be captured, taken, killed or had in possession.

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

**7:25-1.5 License, permit and stamp fees**

Pursuant to N.J.S.A. 23:3-1a, the fees for hunting and fishing licenses, permits and stamps issued by the Division are as follows. The listed fees include, where applicable, a nonrefundable \$2.00 application fee as set by the Legislature in N.J.S.A. 23:3-1c and an issuance fee of \$.50 as set by the Legislature in N.J.S.A. 23:3-1.1, 23:3-4 and 23:3-4.1.

Resident Fishing	\$ 16.50
Jr/Sr Fishing	7.75
Family Fishing	27.50
Family Supplement	2.25
Non-Resident Fishing	25.25
Non-Resident 7-Day Fishing	16.50
Resident Trout Stamp	7.75
Non-Resident Trout Stamp	15.50
Resident Hunting	22.00
Jr/Sr Hunting	10.75
Juvenile Hunting	3.00
Non-Resident 2-Day Hunting	27.50
1 Day Hunting	7.75
Resident Bow and Arrow	26.25
Jr/Sr Bow and Arrow	12.00
Juvenile Bow and Arrow	3.00
All Around Sportsman	60.50
Pheasant/Quail Stamp	22.00
Woodcock Stamp	2.75
Rifle Permit	14.00
Deer Permit	21.75
Turkey Permit	16.25
Semi-Wild	57.00
Commercial Hunt	222.00
Propagation	7.50
Fish Preserve	167.00

**SUBCHAPTER 1. GENERAL PROVISIONS**

**7:25-1.1 Scope**

Unless otherwise provided, the following shall constitute supplements to the statutes governing fish and game laws.

**Case Notes**

In constitutional challenge by unincorporated organization whose members advocated and practiced a “clothing-optional lifestyle” to local ordinance barring nude sunbathing on township beaches, ordinance held constitutional and generally enforceable in township; ordinance unenforceable on beach located on State-owned lands inside township boundaries. *Tri-State Metro Naturists v. Lower Twp.*, 219 N.J.Super. 103, 529 A.2d 1047 (Law Div.1987).

**7:25-1.2 Construction**

These rules shall be liberally construed to permit the department, the Division of Fish and Wildlife and its various agencies to discharge its statutory functions.

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

**7:25-1.3 Practice where rules do not govern**

The Fish and Game Council may rescind, amend or expand these rules from time to time, and such new rules shall be filed with the Secretary of State as provided by law.

**7:25-1.4 Definitions**

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

“Closed season” means the time during the year when fish, game, birds, or animals, as the case may be, may not be captured, taken, killed or had in possession.

“Code” means the New Jersey Administrative Code.

“Compendium” means the regularly published summary of applicable rules, regulations and statutes.

“Conservation officer” means a law enforcement officer of the division.

R.1973 d.13, effective January 8, 1973.  
See: 5 N.J.R. 38(c).  
Amended by R.1989 d.26, effective January 3, 1989.  
See: 20 N.J.R. 2666(a), 20 N.J.R. 55(a).  
Deleted (a)5 and 6 and renumbered 7.-11. as 5.-9.  
Amended by R.1989 d.502, effective September 18, 1989.  
See: 21 N.J.R. 1482(b), 21 N.J.R. 2963(a).  
Lease and surveying fees deleted.  
Repealed by R.1991 d.132, effective March 18, 1991.  
See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).  
Section 1.5—Fee schedule—deleted.  
New Rule, R.1993 d.360, effective July 19, 1993.  
See: 25 N.J.R. 1928(a), 25 N.J.R. 3154(a).  
Amended by R.2001 d.73, effective March 5, 2001.  
See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).

Petition for Rulemaking.  
See: 35 N.J.R. 5308(b).  
Petition for Rulemaking.  
See: 36 N.J.R. 222(a), 4329(a).  
Petition for Rulemaking.  
See: 37 N.J.R. 1089(a).

**7:25-1.6 (Reserved)**

**7:25-1.7 Penalties**

(a) Pursuant to N.J.S.A. 50:2-1 no person shall take or catch any clams without either a recreational or commercial

license. Any person violating this provision shall be liable to a penalty of \$20.00 for the first offense and \$40.00 for each subsequent offense.

(b) Pursuant to N.J.S.A. 50:2-2, no person shall take or catch more than 150 clams a day with only a recreational license or no license. Any person violating this provision shall be liable to a penalty of \$100.00 for the first offense and \$200.00 for each subsequent offense.

Inserted definitions for "blue crab" and "crab", and amended definitions of "crab dredge area" and "commercial crab pot".

Administrative correction.

See: 29 N.J.R. 497(a).

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".

Administrative change.

See: 48 N.J.R. 647(a).

**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 250 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".

Amended by R.2008 d.15, effective January 7, 2008.

See: 39 N.J.R. 143(a), 40 N.J.R. 126(a).

In (a)2i, substituted a comma for the semicolon following "from the Department"; and in (a)4, substituted "250 licenses" for "the number issued in 1993 plus 20 percent (338 licenses)".

**Case Notes**

Petitioner was properly denied a commercial crab pot license because the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. §§ 430-4335, which protected members of the military from being disadvantaged in their civilian careers upon discharge from the service, did not apply to petitioner, who worked for two months for a fishery two years before joining the Coast Guard; there was no evidence that petitioner enjoyed a career in fishery prior to his enlistment (adopting 2009 N.J. AGEN LEXIS 300). *Campbell v. N.J. Dep't of Env'tl. Prot.*, OAL Dkt. No. ENH-FW 10270-08, 2009 N.J. AGEN LEXIS 1123, Final Decision (July 9, 2009).

**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 Jonah crab or any female crustacean, commonly known as a crab, with eggs or spawn attached thereto, or from which the egg pouch or bunion has been removed.

Administrative change.

See: 48 N.J.R. 647(a).

#### 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.

(c) A person shall not possess, purchase, sell, offer for sale, or expose for sale any Jonah crab measuring less than four and three-quarter inches in carapace width.

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.

Administrative change.

See: 48 N.J.R. 647(a).

#### 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).

(c) The recreational possession limit for Jonah crab shall be 50 Jonah crabs per person per day, which shall not be bartered, sold, offered for sale, or exposed for sale.

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).  
 Administrative change.  
 See: 48 N.J.R. 647(a).

July 1, 2003 3<sup>11</sup>/<sub>32</sub>  
 July 1, 2004 3<sup>8</sup>/<sub>8</sub>

(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 <sup>13</sup> / <sub>32</sub>
July 1, 2006	3 <sup>7</sup> / <sub>16</sub>
July 1, 2007	3 <sup>15</sup> / <sub>32</sub>
July 1, 2008	3 <sup>1</sup> / <sub>2</sub>
January 1, 2013	3 <sup>17</sup> / <sub>32</sub>

**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).  
 Petition for Rulemaking.  
 See: 41 N.J.R. 895(a), 1898(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.

After	Minimum Size (inches)
August 19, 2002	3 <sup>1</sup> / <sub>4</sub>
July 1, 2002	3 <sup>5</sup> / <sub>16</sub>

(c) A person fishing in ASMFC Lobster Management Area 3, 4 and/or 5 or that has designated Lobster Management 3, 4 and/or 5 for fishing on their Federal Fisheries or State Lobster Pot Permit shall not take, land, have in his or her possession, sell or offer for sale any 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 3	after July 1, 2012	6 <sup>1</sup> / <sub>4</sub>
LMA 4	after July 1, 2002	5 <sup>1</sup> / <sub>4</sub>
LMA 5	after July 1, 2004	5 <sup>1</sup> / <sub>4</sub>

(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 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-eighth inches in length.

**7:25-14.21 Request for adjudicatory hearing**

(a) Any person, subject to the limitation on third party appeal rights set forth in P.L. 1993, c.359 (N.J.S.A. 52:14B-3.1 through 3.3), who believes himself or herself to be aggrieved with respect to a license and/or permit decision made by the Department under this subchapter may request an adjudicatory 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.

(b) A request for an adjudicatory hearing must be received by the Department within 30 calendar days after the person requesting the hearing receives notice of the Division's decision. If the Department does not receive a hearing request within the allotted time, it shall deny the hearing request.

(c) A person requesting a hearing shall provide the following information in writing to the Department at the address in (f) below:

1. The name, address, and telephone number of the person requesting the hearing;
2. A copy of the decision document;
3. A description of any facts or issues which the petitioner believes constitute a defense to the decision made by the Department;
4. Information supporting the request and specific reference to or copies of other written documents relied upon to support the request;
5. An estimate of the time required for the hearing (in days and/or hours); and
6. A request, if necessary, for a barrier-free hearing location for physically disabled persons.

(d) If the person fails to include all of the information required by (c)1 through 6 above, the Department may deny the hearing request.

(e) A request for an adjudicatory hearing shall be submitted to the Department at the address listed below, with a copy to the Division of Fish and Wildlife at the address given at N.J.A.C. 7:25-14.4(c):

Office of Legal Affairs  
New Jersey Department of Environmental Protection  
PO Box 402  
Trenton, New Jersey 08625-0402  
Attention: Adjudicatory Hearing Requests

New Rule, R.2004 d.20, effective January 5, 2004.  
See: 35 N.J.R. 4224(b), 36 N.J.R. 174(b).

**SUBCHAPTER 15. CLAM RELAY PROGRAM****Subchapter Historical Note**

Subchapter 15, Clam Relay Program, was adopted as new rules by R.1977 d.167, effective May 11, 1977. See: 9 N.J.R. 264(b).

Subchapter 15, Clam Relay Program, was repealed, and Subchapter 15, Clam Relay Program, was adopted as emergency new rules by R.1982 d.309, effective August 27, 1982. See: 14 N.J.R. 1055(a). The provisions of R.1982 d.309 were readopted as R.1982 d.411, effective October 28, 1982. See: 14 N.J.R. 1055(a), 14 N.J.R. 1300(d).

Subchapter 15, Clam Relay Program, was adopted as emergency new rules by R.1983 d.519, effective October 27, 1983, expired November 18, 1983.

Subchapter 15, Clam Relay Program, was adopted as emergency new rules by R.1984 d.65, effective March 1, 1984, to expire April 30, 1984. See: 16 N.J.R. 560(a). The provisions of R.1984 d.65 were readopted as R.1984 d.165, effective May 7, 1984. See: 16 N.J.R. 560(a), 16 N.J.R. 1086(a).

**7:25-15.1 Relay of hard clams**

(a) This rule is intended to implement the hard clam relay program administered statewide by the Department of Environmental Protection (department). This rule must be read together with the shellfish growing water classification rules and definitions which appear at N.J.A.C. 7:12 and are subject to amendment at anytime. N.J.S.A. 58:24-2 requires the department to condemn immediately shellfish beds subject to pollution.

(b) The general intent of this rule is to control the relay of hard clams, (*Ercenaria mercenaria*) from Special Restricted, Seasonal Special Restricted, or Condemned Waters within the Atlantic Coast Section. These designated Special Restricted, Seasonal Special Restricted, or Condemned Waters will be charted by the department and such charts will be issued to participants and available to the public. Anyone who meets the requirements set forth below in this rule may participate in this program. If it becomes necessary to limit the number of participants, then applicants will be admitted in order of their application.

(c) The department will schedule areas for harvest and designate the landing site and so notify the participants. The department will designate certain specific areas as off limits to the use of clam rakes and tongs for the harvest of hard clams in such shallow water areas as it deems abundant with soft clams. Charts of the designated soft clam areas will be provided to all participants by the department. In these designated soft clam areas, the harvest of hard clams shall be permitted only by treading.

(d) Participants shall be furnished numbered receipt forms, with the date they are to be used, by the Division. These forms shall be completed in their entirety and signed by the harvester and also signed by the buyer if the shellfish are to be sold at the landing site, for each date used. Completed and all used receipt forms shall be sent to the Division's Bureau of Shellfisheries' Nacote Creek Office no later than one week after the forms are completed.

(e) Any person who wishes to participate in this program must comply with the following conditions in order to be eligible for participation:

1. Possess a current, valid, commercial clamming license issued by the division (see N.J.S.A. 50:2 et seq.);

2. Possess one of the following special permits issued by the Division of Water Resources (N.J.S.A. 58:24-3 and N.J.A.C. 7:12-2) to harvest and/or buy and/or sell hard clams from condemned waters:

i. Permit 5a: SPECIAL PERMIT TO HARVEST, BUY, SELL AND RELAY HARD CLAMS FROM SPECIFIED SPECIAL RESTRICTED SEASONAL SPECIAL RESTRICTED OR CONDEMNED WATERS IN CONJUNCTION WITH A STATE APPROVED SHELLFISH RELAY PROGRAM; or

ii. Permit 5b: SPECIAL PERMIT TO HARVEST HARD CLAMS FROM SPECIFIED SPECIAL RESTRICTED, SEASONAL SPECIAL RESTRICTED, OR CONDEMNED WATERS FOR SALE PURPOSES ONLY IN CONJUNCTION WITH A STATE APPROVED SHELLFISH RELAY PROGRAM; and

3. The above permits will show on their face the specific conditions that are deemed necessary for the proper operation of the shellfish relay program. All permittees are also required to comply with all other applicable statutes and regulations. Included with every permit will be department charts of the harvest areas showing specific sections within the estuaries that may be harvested on any particular day, as determined by the department.

(f) Any person applying for a permit 5a must have acquired a special relay lease from the department for three one-half acre lots of shellfish cleansing grounds on which the relayed shellfish are to be planted by the means hereinafter set forth. No person shall hold more than one relay lease. Applications for leases must be made in person at the Nacote Creek Shellfish Office for the department. The lease shall be subject to the following additional conditions:

1. This special relay lease shall be issued for only one year and shall be reapplied for annually on or before December 31 for the following calendar year.

2. The annual fee for this lease, to be paid at the time of application, shall be \$5.00.

3. Once the lease lots have been marked by the division, the lessee shall be solely responsible for the placement and maintenance of the stakes marking same, or their necessary replacement.

4. This special relay lot shall be used for relay from the specified harvest areas only. No special relay lease will be renewed if the lessee did not actively participate in the previous year's program unless such inactivity was due to unusual hardship, as determined by the department, or was due to the department's failure to administrate or operate a hard clam relay program during the previous year.

i. Upon termination of the program by the department, special relay lessees, subject to (h) below shall retain exclusive rights, for a period of 18 months, to the clams planted on their leased grounds before the termination date and may thereafter reapply to lease the grounds;

5. A lessee vacating a relay lot shall have exclusive right to hard clams planted before the date of vacation for a period of six months from that date.

6. Signs, having a white background with six-inch black lettering giving the participant's special relay permit number or code symbol and relay lot "Section A" "B," or "C," shall be placed and maintained on the participant's relay lot corners. Failure to mark lots as specified shall be deemed a violation of these rules.

7. The participant's harvest boat shall be marked on both sides, amidships, with six-inch black letters on a white background giving the participant's first initial, last name, and special relay permit number while he is engaged in any phase of the program.

8. The designated enforcement unit shall have the authority to inspect any relay lot to ensure compliance with all relay program rules. Shellfish found on any relay lot contrary to these and other applicable statutes and rules shall be subject to seizure.

9. Nonleased lots within designated relay lease areas are not open to harvest of shellfish at any time. No person shall harvest or attempt to harvest shellfish within 50 yards of any designated relay planting area except the lessee of any leased grounds that may exist within the prohibited area who may harvest on his own leasehold.

(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
Atlantic Menhaden	Brevoortia tyrannus
Black Drum	Pogonias cromis
Black Sea Bass	Centropristis striata
Blueline Tilefish	Caulolatilus microps
Bluefish	Pomatomus saltatrix
Cobia	Rachycentron canadum
Conch	Busycon carica
	Busycotypus canaliculatum
	Busycon contrarium
Dolphin	Coryphaena hippurus
Goosefish (Monkfish)	Lophius americanus
Haddock	Melanogrammus aeglefinus
Hybrid striped bass	Morone saxatilis x Morone spp.
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 (American shad)
	Alosa mediocris (hickory shad)
Shark	Aggregate Large Coastal Group
	Ginglymostoma cirratum (Nurse Shark)
	Carcharhinus limbatus (Blacktip Shark)
	Carcharhinus leucas (Bull Shark)
	Negaprion brevirostris (Lemon Shark)

<u>Common Name</u>	<u>Scientific Name</u>
	Carcharhinus falciformis (Silky Shark)
	Carcharhinus brevipinna (Spinner Shark)
	Galeocerdo cuvieri (Tiger Shark)
Hammerhead Group	
	Sphyrna mokarran (Great Hammerhead)
	Sphyrna lewini (Scalloped Hammerhead)
	Sphyrna zygaena (Smooth Hammerhead)
Non-Blacknose Small Coastal Group	
	Sphyrna tiburo (Bonnethead)
	Carcharhinus isodon (Finetooth Shark)
	Rhizoprionodon terraenovae (Atlantic Sharpnose Shark)
Blacknose Group	
	Carcharhinus acronotus (Blacknose Shark)
Pelagic Group	
	Lamna nasus (Porbeagle Shark)
	Isurus oxyrinchus (Shortfin Mako)
	Prionace glauca (Blue Shark)
	Carcharhinus longimanus (Oceanic Whitetip Shark)
	Alopias vulpinus (Thresher Shark)
Research Only Group	
	Carcharhinus plumbeus (Sandbar Shark)
Smoothhound Group	
	Mustelus canis (Smooth Dogfish)
	Mustelus norrisi (Florida Smoothhound)
Spanish Mackerel	Scomberomorus maculatus
Spider crab	Libinia dubia
	Libinia emarginata
Spiny Dogfish	Squalus acanthias
Striped Bass	Morone saxatilis
Summer Flounder (Fluke)	Paralichthys dentatus
Tautog (Blackfish)	Tautoga onitis
Weakfish	Cynoscion regalis
	Cynoscion nebulosus
Winter Flounder	Pleuronectes americanus

(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	9
Atlantic Cod	19
Atlantic Croaker	No Limit
Atlantic Mackerel	7
Atlantic Menhaden	No Limit
Black Drum	16
Black Sea Bass	11
Blueline Tilefish	No Limit
Bluefish	9
Cobia	37
Conch	5
Dolphin	No Limit
Goosefish (Monkfish)	17
Haddock	16
Kingfish	8
King Mackerel	23

Species	Minimum Size (inches)
Pollock	19
Red Drum	18
River herring (Alewife, blueback herring)	No Limit
Scup (Porgy)	9
Shad	
American	No Limit
Hickory	No Limit
Shark	
Aggregate Large Coastal Group	No Limit
Hammerhead Group	No Limit
Non-Blacknose Small Coastal Group	No Limit
Blacknose Group	No Limit
Pelagic Group	No Limit
Smoothhound Group	No Limit
Spanish Mackerel	14
Summer Flounder	14
Tautog (Blackfish)	15
Weakfish	13
Winter Flounder	12

Species	Minimum Size In Inches	Open Season	Possession Limit
Blueline Tilefish	No Limit	Oct. 22—Dec. 31	15
Bluefish	No Limit	Jan. 1—Dec. 31	7
Cobia	37	Jan. 1—Dec. 31	15
Dolphin	No Limit	Jan. 1—Dec. 31	2
Haddock	21	Jan. 1—Dec. 31	No Limit
Hybrid striped bass	Refer to N.J.S.A. 23:5-45.1		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	None	0
Scup (Porgy)	9	Jan. 1—Feb. 28 and July 1—Dec. 31	50
Shad			
Delaware Bay, and Delaware River and its tributaries	No Limit	Jan. 1—Dec. 31	6, as specified in (c)4 below
All other marine waters	No Limit	Jan. 1—Dec. 31	6, as specified in (c)4 below
Shark			1 per vessel, as specified in (c)2 below
Aggregate Large Coastal Group	54	Jan. 1—May 14, and July 16—Dec. 31	
Hammerhead Group	78	Jan. 1—May 14, and July 16—Dec. 31	
Non-Blacknose Small Coastal Group	No Limit	Jan.1—Dec. 31	
Blacknose Group	No Limit	Jan. 1—Dec. 31	
Pelagic Group	54	Jan. 1—Dec. 31	
Smoothhound Group	No Limit	Jan. 1—Dec. 31	No Limit
Spanish Mackerel	14	Jan. 1—Dec. 31	10
Summer Flounder (Fluke)	18	May 22—Sept. 26	5
Striped Bass		refer to N.J.S.A. 23:5-45.1	
Tautog	15	Jan. 1—Feb. 28, Apr. 1—Apr. 30, July 17—Nov. 15, Nov. 16—Dec. 31	4, 4, 1, 6
Weakfish	13	Jan. 1—Dec. 31	1
Winter Flounder	12	March 1—Dec. 31	2

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 In Inches	Open Season	Possession Limit
American Eel	9	Jan. 1—Dec. 31	25
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	12.5	May 27—June 30, July 1—July 31	15, 2

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. Shark length shall be measured from the tip of the snout to the V shaped indentation between the two separate tail segments (fork length) forming the caudal fin. Sharks may be harvested in the recreational fishery only by angling with a hand line, or rod and reel. The possession limit for shark, as listed at (a) above, shall be a maximum harvest of one shark from the Aggregate Large Coastal, Hammerhead, Non-Blacknose Small Coastal, Blacknose,

or Pelagic species group on a per vessel basis regardless of the number of individuals on board said vessel. In addition, each recreational angler fishing from a boat may harvest one bonnethead and one Atlantic sharpnose per trip. If a person is fishing from shore or a land based structure, the possession limit shall be a maximum harvest of one shark from the Aggregate Large Coastal, Hammerhead, Non-Blacknose Small Coastal, Blacknose, or Pelagic species group per calendar day on a per person basis. In addition, each recreational angler fishing from the shore or a land based structure may harvest one bonnethead and one Atlantic sharpnose per calendar day.

3. Anglers may take no more than 25 eels per day; however, anglers may keep more than 25 eels in storage for personal use, provided they possess no more than 25 eels per person for bait purposes while fishing. Any crew member of a party/charter vessel for hire carrying recreational fishermen may possess no more than 50 eels for bait purposes while fishing.

4. In the Delaware Bay, and the Delaware River and its tributaries, the maximum possession limit for American shad is three. In all other marine waters, the possession limit for American shad is zero.

5. At Island Beach State Park (IBSP), an angler fishing from a pier, jetty, beach, bank, or marsh utilizing a hook and line and who has a date and time stamped proof of IBSP entry receipt may possess no more than two summer flounder greater than or equal to 16 inches (total length) on the day of entry during the summer flounder open season. The proof of entry receipt shall be presented upon the request of a State Conservation Officer or New Jersey Park Police Officer. The proof of entry to IBSP must be retained with the fish until just prior to utilization. The one or two fish harvested at IBSP shall count toward the five-fish possession limit applicable in waters outside IBSP.

6. Any party/charter vessel landing blueline tilefish from the Exclusive Economic Zone (Federal waters) must hold a valid Northeast open access golden tilefish party/charter vessel permit, issued by the NMFS.

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

<u>Species</u>	<u>Scientific Name</u>
Atlantic Angel Shark	Squatina dumerili
Atlantic Sturgeon	Acipenser oxyrinchus
Basking Shark	Cetorhinidae maximus
Bigeye Sand Tiger Shark	Odontaspis noronhai
Bigeye Sixgill Shark	Hexanchus vitulus
Bigeye Thresher Shark	Alopias superciliosus
Bignose Shark	Carcharhinus altimus
Caribbean Reef Shark	Carcharhinus perez
Caribbean Sharpnose Shark	Rhizoprionodon porosus
Dusky Shark	Carcharhinus obscurus
Galapagos Shark	Carcharhinus galapagensis
Longfin Mako Shark	Isurus paucus
Narrowtooth Shark	Carcharhinus brachyurus
Night Shark	Carcharhinus signatus

<u>Species</u>	<u>Scientific Name</u>
River Herring	Alosa aestivalis
	Alosa psuedoharengus
Sand Tiger Shark	Odontaspis taurus
Sandbar (Brown) Shark	Carcharhinus plumbeus
Sharpnose Sevengill Shark	Heptranchias perlo
Shortnose Sturgeon	Acipenser brevirostrum
Sixgill Shark	Hexanchus griseus
Silky Shark (recreational fishery only)	Carcharhinus falciformis
Smalltail Shark	Carcharhinus porosus
Whale Shark	Rhincodon typus
White Shark	Carcharodon carcharias

1. Vessels fishing exclusively in the Exclusive Economic Zone (Federal waters) while operating under a valid Federal permit for Atlantic mackerel and/or Atlantic herring, may possess river herring up to a maximum of five percent, by weight, of all species possessed.

2. A person shall not barter, sell, offer for sale, or expose for sale, any river herring possessed pursuant to (d)1 above.

(e) Except as provided in (e)2 and (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 or dogfish may be eviscerated prior to landing. The fins may not be removed from a shark or spiny dogfish, except after fishing has ceased and such shark or spiny dogfish has been landed as specified in (e) above.

2. A person may use parts of one legal sized summer flounder as bait. The carcass of the fish minus the fillets, commonly known as the rack, of the summer flounder used must be retained by the person and counted as part of the person's daily bag limit for that day. The rack shall be kept fully intact so it can be measured for minimum size limit. One summer flounder caught on the person's current fishing trip can be used for this purpose. No parts of fish caught on previous fishing trips shall be in possession. No other species of flat fish or fish listed under (b) or (c) above shall be used for this purpose.

(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 fish of any species less than the minimum size limit specified in (c) above shall be filleted and 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.

Species	Minimum Fillet or Part Length
Atlantic Cod	14 inches
Atlantic Croaker	No Limit
Black Drum	9 inches
Black Sea Bass	5 inches
Bluefish	No Limit
Cobia	26 inches
Haddock	14 inches
Hybrid striped bass	24 inches
Kingfish	No Limit
King Mackerel	16 inches
Pollock	13 inches
Red Drum	13 inches
Scup	4 inches
Striped bass	24 inches
Tautog	7 inches
Weakfish	9 inches

vi. Spanish mackerel shall be landed with head, tail and fins attached.

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

viii. 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.

ix. In calculating the period of suspension or revocation applicable under (f)3viii 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.

x. 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 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) or (e) 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, and the list of shark species contained within any of the shark groups 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) or to maintain consistency

with any Mid-Atlantic Fishery Management Council plan adopted by the National Marine Fisheries Service. 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. After any instructions, signals or other communication from an authorized law enforcement officer indicating the officer's intent to perform an inspection, it shall be unlawful for any person to dispose of fish, fish parts or any other matter in any manner until such time as the inspection is complete. Violation of this provision shall subject the violator to the penalties established pursuant to N.J.S.A. 23:2B-14.

(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).  
 Amended by R.2008 d.15, effective January 7, 2008.  
 See: 39 N.J.R. 143(a), 40 N.J.R. 126(a).  
 In the tables in (a) and (c), inserted the entries for "Dolphin" and "Hybrid striped bass"; in the table in (b), inserted the entry for "Dolphin"; in the introductory paragraph of (e), inserted "(e)2 and"; added (e)2; in the introductory paragraph of (f)3v, inserted "fish of any species less than the minimum size limit specified in (c) above shall be filleted and no", and in the table in (f)3v, inserted the entries for "Hybrid striped bass" and "Striped bass"; in (g), substituted "(d) or (e)" for "(d), (e) or (f)"; in (p), inserted "or to maintain consistency with any Mid-Atlantic Fishery Management Council plan adopted by the National Marine Fisheries Service"; and in (q), inserted the second and third sentences.  
 Administrative change.  
 See: 40 N.J.R. 150(c), 2109(c).  
 Administrative change.  
 See: 41 N.J.R. 2012(a), 4114(a).  
 Administrative change.  
 See: 42 N.J.R. 789(a), 1374(a).  
 Amended by R.2010 d.155, effective July 19, 2010.  
 See: 42 N.J.R. 700(a), 42 N.J.R. 1527(a).  
 In (a), rewrote the table; in the introductory paragraph of (b), inserted a comma following the second occurrence of "sale"; in the tables following the introductory paragraphs of (b) and of (c), inserted the entries for "Large Coastal Group", "Small Coastal Group" and "Pelagic Group" under entry "Shark", and inserted the entry for "Smooth Dogfish"; in the introductory paragraph of (c), substituted "be measured" for "measure"; in the table following the introductory paragraph of (c), in the entry for "Shark", deleted "48" from the Minimum Size in inches column and "Jan. 1-Dec. 31" from the "Open Season" column and substituted "1 per vessel, as specified in (c)2 below" for "2 per vessel" in the "Possession Limit" column; rewrote (c)2, the table in (d) and (e)1; and in (p), inserted ", and the list of shark species contained within any of the shark groups".  
 Administrative change.  
 See: 43 N.J.R. 1332(b), 1424(a).  
 Administrative change.  
 See: 44 N.J.R. 493(a), 1262(a), 1973(a), 2650(a).  
 Administrative change.  
 See: 45 N.J.R. 205(a), 1129(a), 1399(a), 1915(a), 2040(a).

Administrative change and correction.

See: 46 N.J.R. 212(b).

Administrative change.

See: 46 N.J.R. 293(a), 695(a), 789(a), 1641(c).

Administrative change.

See: 47 N.J.R. 1320(a).

Administrative change.

See: 47 N.J.R. 2292(c).

#### 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 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 or she is entitled to purchase to another individual at any time, upon notification of the Department. The new licensee shall have a license(s) issued in his or her name after the 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 12, 2000, and who obtained gill net licenses after the July 13th control date in 2000 or 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. American eel may be taken by haul seine during the season of January 1 through April 30. Any American eel taken by haul seine from November 1 through December 31 shall not be retained and must be immediately returned to the water.

iv. 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. American eel may be taken by fyke net during the season of January 1 through April 30. Any American eel taken by fyke net from November 1 through December 31 shall not be retained and must be immediately returned to the water.

viii. 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 fyke 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 one-half inch by one-half inch bar, inside measurement. The 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.

v. No license holder shall use more than 300 miniature fykes or pots for the taking of catfish, suckers, killifish, and eels.

vi. All persons holding a miniature fyke net license shall keep, on forms provided by the Division, accurate records of their catch and effort using that gear, including name, amount of gear used, fishing time, area fished, species caught, total amount of each species taken, and any other data required by the Division that is relevant to the management of the fishery. These forms shall be completed for all fishing activity with miniature fyke nets for the months of January through December, inclusive; signed by the licensee attesting to the validity of the information; and filed within 10 days following the end of the reported month with the Division at the address shown on the reporting form. Said filing must be current before a license for miniature fyke nets is issued for the subsequent year. If there was no harvest for a given month, a report to that effect shall be submitted to the Division. 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;

vii. Prior to suspension or revocation of the license, the licensee 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.

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; and

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.

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 ½ 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. Subject to N.J.A.C. 7:25-18.12(e), 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

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)4iii 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).  
 Amended by R.2008 d.15, effective January 7, 2008.  
 See: 39 N.J.R. 143(a), 40 N.J.R. 126(a).  
 In the introductory paragraph of (g), inserted "or she"; added (g)3v and (g)3vi; in the introductory paragraph of (g)11, deleted "and" preceding "pursuant to"; in the introductory paragraph of (g)11i, substituted "March 31" for "h 31"; rewrote (g)11i(4) and (g)11i(5); and in (i), inserted "or to maintain consistency with any Mid-Atlantic Fishery Management Council plan adopted by the National Marine Fisheries Service".  
 Administrative change.  
 See: 42 N.J.R. 1374(a).  
 Administrative change.  
 See: 44 N.J.R. 493(a).

Administrative change.  
 See: 45 N.J.R. 205(a).  
 Administrative change and correction.  
 See: 46 N.J.R. 212(b).  
 Amended by R.2015 d.168, effective November 2, 2015.  
 See: 47 N.J.R. 315(a), 47 N.J.R. 2669(c).

In the introductory paragraph of (g), inserted a comma following "1997" twice, and inserted a comma following the third occurrence of "2000"; in the introductory paragraph of (g)11, inserted "N.J.A.C. 7:25-18.5A or"; and in the introductory paragraph of (g)11ix, inserted "and except as provided in N.J.A.C. 7:25-18.5A".  
 Administrative change.  
 See: 48 N.J.R. 131(a), 647(a).

**7:25-18.5A Artificial reefs**

(a) This section establishes the location of the artificial reefs located in State waters and the full access zones located within certain reefs. The artificial reefs are open to all recreational and commercial activities except no person shall use, leave, deploy, or tend any lobster, fish, or conch pot within an artificial reef located in State waters except in an area designated as a full access zone under this section. Persons who use, leave, deploy, or tend lobster, fish, or conch pots in a full access zone may do so only in compliance with (d) below.

(b) The locations and boundaries of the Sandy Hook Reef site and the Axel J. Carlson Jr. Reef site are as follows:

1. The Sandy Hook Reef site is located approximately 1.4 miles east of Sea Bright, Monmouth County. The site is located approximately 5.7 nautical miles at a compass bearing of 157 degrees from Sandy Hook Channel. The boundaries of the Sandy Hook Reef site are as follows (latitude and longitude expressed as dd mm.mmm, that is, degrees minutes and thousandths of minutes):

<u>Boundaries</u>	<u>Latitude</u>	<u>Longitude</u>
NE Corner	40 23.300'	73 55.880'
NW Corner	40 23.300'	73 56.600'
SE Corner	40 20.880'	73 55.880'
SW Corner	40 20.880'	74 56.600'

2. The Axel J. Carlson Jr. Reef site is located approximately 2.0 miles east of Mantoloking, Ocean County. The site is located approximately 4.4 nautical miles at a compass bearing of 166 degrees from Manasquan Inlet. The boundaries of the Axel J. Carlson Jr. Reef site are as follows (latitude and longitude expressed as dd mm.mmm, that is, degrees minutes and thousandths of minutes):

<u>Boundaries</u>	<u>Latitude</u>	<u>Longitude</u>
NE Corner	40 03.720'	73 58.570'
NW Corner	40 04.180'	73 59.750'
SE Corner	39 59.830'	73 59.400'
SW Corner	40 00.350'	74 00.650'

(c) The boundaries of the full access zones are as follows:

1. At the Sandy Hook Reef site, the full access zone is that portion of the Sandy Hook Reef site lying within a continuous line beginning at 40 22.800' 73 56.600' to 40 22.800' 73 55.880'; then south to 40 22.500' 73 55.880';

then west to 40 22.500' 73 56.300'; then south to 40 22.400' 73 56.300' and west to 40 22.400' 73 56.600' (latitude and longitude expressed as dd mm.mmm, that is, degrees minutes and thousandths of minutes).

2. At the Axel J. Carlson, Jr. Reef site, there are two full access zones, the North full access zone and the South full access zone.

i. The North full access zone is that portion of the Axel J. Carlson, Jr. Reef site lying within a continuous line beginning at 40 04.180' 73 59.750' to 40 04.110' 73 59.600'; then south to 40 03.500' 73 59.600'; then west to 40 03.500' 73 59.906' (latitude and longitude expressed as dd mm.mmm, that is, degrees minutes and thousandths of minutes); and

ii. The South full access zone is that portion of the Axel J. Carlson, Jr. Reef site lying within a continuous line beginning at 40 00.900' 74 00.499' to 40 00.900' 74 00.000'; then south to 40 00.060' 74 00.000'; then west to 40 00.350' 74 00.650' (latitude and longitude expressed as dd mm.mmm, that is, degrees minutes and thousandths of minutes).

(d) Any person intending to use, leave, deploy, or tend any lobster, fish, or conch pot within a full access zone shall hold the appropriate license as provided under N.J.A.C. 7:25-18.5(g)11 and shall comply with the following:

1. Lobster, fish, and conch pots shall be used, left, deployed, or tended only:

i. In an area designated as a full access zone under this section; and

ii. Between sunrise and sunset.

2. When deploying lobster, fish, and conch pots or setting strings of such pots, the following requirements shall be met:

i. All deployed lobster, fish, and conch pots shall be marked with buoys or flags, either individually or at the beginning and end of a string. All buoys, flags, and strings shall meet the requirements of the National Oceanic and Atmospheric Administration's (NOAA) Fisheries Greater Atlantic Region's Atlantic Large Whale Take Reduction Plan and Harbor Porpoise Take Reduction Plan, and the NOAA Office of Protected Resources' Bottlenose Dolphin Take Reduction Plan, 50 CFR Part 229, and any amendments thereto, incorporated herein by reference. The Atlantic Large Whale Take Reduction Plan is available from NOAA at <http://www.nero.noaa.gov/Protected/whaletrp/>, the Harbor Porpoise Take Reduction Plan is available at <http://www.nero.noaa.gov/protected/porptrp/>, and the Bottlenose Dolphin Take Reduction Plan is available at <http://www.nmfs.noaa.gov/pr/interactions/trt/bdtrp.htm>.

ii. Strings of lobster, fish, and conch pots shall contain no more than 20 pots.

3. Two hours' notice shall be provided to the Marine Law Enforcement Unit by calling (609) 748-2050 prior to any lobster, fish, or conch pot being deployed. The notice shall include the operator's name; vessel name; license number for the lobster, fish, and conch pots or traps being tended; date, time, and port of landing; and on what reef and in what zone the pots will be deployed.

(e) Any person who violates any provision of this section shall be subject to the following penalties and/or suspension or revocation of the applicable license:

1. Deployment or tending of lobster, fish, or conch pots outside a designated full access zone or between sunset and sunrise:

i. First offense: \$100.00 penalty and 30-day suspension of lobster, fish, or conch pot license.

ii. Second offense: \$200.00 penalty and permanent revocation of lobster, fish, or conch pot license.

2. Deployment or tending of gear not marked or not properly marked with a buoy or flag, or setting strings with more than 20 pots or strings not meeting the requirements of (d)2 above:

i. First offense: \$100.00 penalty and 30-day suspension of lobster, fish, or conch pot license.

ii. Second offense: \$200.00 penalty and 45-day suspension of lobster, fish, or conch pot license.

iii. Third offense: \$200.00 penalty and permanent revocation of lobster, fish, or conch pot license.

3. Failure to provide notification in accordance with (d)3 above:

i. First offense: \$100.00 penalty.

ii. Second offense: \$200.00 penalty.

iii. Third or subsequent offenses: \$200.00 penalty and 30-day suspension of lobster, fish, or conch pot license.

(f) In calculating the period of suspension or revocation applicable pursuant to (e) above, the number of previous suspensions imposed pursuant to (e)1, 2, or 3 above, respectively, shall be reduced by one for each three-year period in which the license holder does not commit any other violation subject to penalty and/or suspension or revocation under the same paragraph in (e) above. If more than one suspension is imposed under the same paragraph (for example, two violations subject to (e)2 above) within a three-year period, only one of those suspensions may be forgiven under this subsection. Therefore, a license holder who incurs more than one suspension under a single paragraph of (e) above 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. Any reduction in suspensions as provided in this subsection applies only to the

determination of the period of suspension. All prior suspensions shall be taken into account in calculating monetary penalties in accordance with section (e) above.

New Rule, R.2015 d.168, effective November 2, 2015.  
See: 47 N.J.R. 315(a), 47 N.J.R. 2669(c).

**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.

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

**Case Notes**

Fisherman denied gill net permit and wait-listed; untimely application. *Shelton v. Department of Environmental Protection*. 93 N.J.A.R.2d (EPE) 191.

**7:25-18.9 Application for Delaware Bay commercial and noncommercial gill net permits**

(a) An individual who wishes to enter the Delaware Bay gill net fishery shall submit an application for a Delaware Bay gill net permit to the Division. All applications shall be submitted on forms available from the Division and shall be

accepted yearround. All permit application forms shall be obtained from and mailed to the Division at:

Department of Environmental Protection  
Division of Fish and Wildlife  
Marine Fisheries Permits  
PO Box 400  
501 East State Street  
Trenton, New Jersey 08625-0400

(b) A complete Delaware Bay gill net permit application shall consist of:

1. A completed application form signed by the applicant; and
2. For a Delaware Bay commercial gill net permit to be issued during the 60-day period following June 3, 1991, full documentation establishing that the applicant satisfies the requirements for issuance of a commercial gill net permit set forth in N.J.A.C. 7:25-18.7(a) or (b), as appropriate; or
3. For a Delaware Bay commercial gill net permit to be issued after August 2, 1991 full documentation establishing that the applicant satisfies the requirements for issuance of a commercial gill net permit set forth in N.J.A.C. 7:25-18.8(a).

(c) The Division shall review each application received to determine whether the application is complete as provided in (b) above. If the Division determines that an application is not complete, the application shall be returned to the applicant.

(d) If the Division determines that an application for a Delaware Bay gill net permit received by the Division at the address set forth in (a) above during the 60-day period

following June 3, 1991 is complete and that the applicant satisfies the eligibility requirements for issuance of a Delaware Bay commercial gill net permit set forth in N.J.A.C. 7:25-18.7(a) or (b), the applicant shall be issued Delaware Bay commercial gill net permits up to the limits set forth in N.J.A.C. 7:25-18.7(a) or (b) as appropriate. If the applicant does not satisfy the eligibility requirements for issuance of a Delaware Bay commercial gill net permit set forth in N.J.A.C. 7:25-18.7(a) or (b), the applicant shall be issued Delaware Bay non-commercial gill net permits up to the limits set forth in N.J.A.C. 7:25-18.7(d).

(e) If the Division determines that an application for a Delaware Bay gill net permit received by the Division at the address set forth in (a) above after August 2, 1991 is complete, the applicant shall be placed on the waiting list maintained by the Division under (f) below based on whether the Division determines that the applicant qualifies for a Delaware Bay commercial or non-commercial gill net permit. If the Division determines that an applicant for a Delaware Bay commercial gill net permit has not documented that the applicant satisfies the requirement for issuance of a commercial gill net permit set forth in N.J.A.C. 7:25-18.8(a), the applicant shall be placed on the non-commercial gill net permit waiting list. Delaware Bay commercial and non-commercial gill net permits shall be issued in accordance with the procedures set forth in N.J.A.C. 7:25-18.10.

(f) The Division shall maintain separate waiting lists for Delaware Bay commercial and noncommercial gill net permits based on the chronological order of the date that each complete permit application is postmarked. Applications shall not be placed on both the commercial and the noncommercial gill net permit list.

(g) An applicant shall annually confirm that the applicant wants to remain on the permit waiting list. Confirmation shall be made by letter postmarked between January 1 and January 31 sent to the Division at the address set forth in (a) above. Failure to send confirmation to the Division as above provided shall result in cancellation of the application and removal of the applicant from the permit waiting list without the Division giving notice to the applicant.

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

#### Case Notes

Fisherman denied gill net permit and wait-listed; untimely application. Shelton v. Department of Environmental Protection. 93 N.J.A.R.2d (EPE) 191.

#### 7:25-18.10 Issuance of Delaware Bay commercial and non-commercial gill net permits after August 2, 1991

(a) When, after August 2, 1991, the combined number of Delaware Bay commercial and non-commercial gill net

permits for staked, anchored or drifting gill nets falls below 800 for staked or anchored gill nets or 200 drifting gill nets as set forth in N.J.A.C. 7:25-18.6(c), the Commissioner may issue new permits for the type of net allowed by the available permit.

(b) After August 2, 1991, the combined number of Delaware Bay commercial and non-commercial gill net permits for staked, anchored or drifting gill nets issued under (a) above shall be limited to no more than 800 for staked or anchored gill nets and 200 drifting gill nets.

(c) Delaware Bay commercial and non-commercial gill net permits shall be issued in the name of the applicant that appears at the top of the permit waiting lists maintained by the Division of Fish, Game, and Wildlife under N.J.A.C. 7:25-18.9(f).

(d) Applicants for commercial and non-commercial gill net permits shall remain at the top of the permit waiting list and shall be issued permits as they become available until the applicant has been offered the type and number of new gill net permits that the applicant applied for not to exceed the limits in (d)1 and 2 for each type of permit. Upon reaching the limits in (d)1 and 2 below, as appropriate, the applicant's name shall be removed from the permit waiting list.

1. Delaware Bay commercial gill net permits shall be issued for no more than four drifting gill nets and/or 25 staked or anchored gill nets.

2. Delaware Bay non-commercial gill net permits shall be issued for 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.

(e) Delaware Bay non-commercial gill net permits shall not be issued to an individual in possession of one or more Delaware Bay commercial gill net permits.

(f) Delaware Bay commercial gill net permits shall not be issued to an individual in possession of one or more Delaware Bay non-commercial gill net permits.

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

#### 7:25-18.11 Transfer of Delaware Bay commercial and noncommercial gill net permits

(a) Except as provided in (b) below, Delaware Bay commercial and non-commercial gill net permits are non-transferable.

(b) The Commissioner shall transfer a Delaware Bay commercial or non-commercial gill net permit to the spouse, father, mother, son, daughter, brother or sister of the holder of the commercial or noncommercial permit provided that:

1. The Division receives a written request at the address set forth in N.J.A.C. 7:25-18.9(a) signed by the

holder of a Delaware Bay commercial or noncommercial gill net permit requesting transfer of the holder's permit to a designated spouse, father, mother, son, daughter, brother or sister;

2. For the transfer of a Delaware Bay commercial gill net permit, the written request under (b)1 above shall be accompanied by documentation that establishes that the designated spouse, father, mother, son, daughter, brother or sister has three years of commercial fishing experience; and

3. The number and type of commercial or non-commercial permits transferred shall be the same number and type issued to the holder.

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.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).

In (b), added "spouse, father, mother," and "brother or sister" throughout.

**7:25-18.12 Commercial fishing seasons, quotas, and trip limits**

(a) The following provisions are applicable to the commercial harvest of weakfish:

1. A vessel shall not possess or land in any one day more than 100 pounds of weakfish harvested by the gear specified below, provided the amount of weakfish landed from any vessel shall not exceed 50 percent, by weight, of the total weight of all species landed and sold, except during the respective open season specified below. During the respective open season for the gear types specified below, a vessel shall not possess or land in any one day more than 100 pounds of weakfish.

<u>Gear</u>	<u>Open Season</u>
Otter Trawl	January 1 through July 31 and October 13 through December 31
Pound Net	January 1 through June 6 and July 1 through December 31
Gill Net	January 1 through May 20, September 3 through October 19 and October 27 through December 31

2. A person shall not possess or land by any gear any weakfish less than 13 inches in length.

3. A vessel shall not possess or land by any gear other than the specified in (a)1 above more than 100 pounds of weakfish in any one day, provided the amount of weakfish landed from any vessel shall not exceed 50 percent, by weight, of the total weight of all species landed and sold, except during the respective open season specified in (a)1 above.

4. A dealer shall not accept more than 100 pounds of weakfish landed in New Jersey taken by the respective gear specified in (a)1 above, provided the amount of weakfish landed from any vessel shall not exceed 50 percent, by weight, of the total weight of all species landed and sold, except during the respective open season specified above. A dealer shall not accept from any vessel more than 100 pounds of weakfish landed in New Jersey during the respective open season for the gear types specified in (a)1 above.

5. A dealer shall not accept more than 100 pounds of weakfish a day landed in New Jersey taken by gear other than that specified in (a)1 above at any time, provided the amount of weakfish landed from any vessel shall not exceed 50 percent, by weight, of the total weight of all species landed and sold.

(b) The following provisions are applicable to the commercial harvest of bluefish:

1. A vessel shall not land for the purpose of sale nor sell any bluefish unless such vessel is in possession of a valid Federal commercial permit for bluefish.

2. New Jersey's annual allocation of bluefish as determined by the National Marine Fisheries Service shall be allocated according to gear type as follows:

- i. Gill Net: 60.9 percent;
- ii. Pound Net: 14.9 percent;
- iii. Otter Trawl: 14.7 percent;
- iv. Purse Seine: 7.5 percent; and
- v. Hook and Line: 1.8 percent.

3. A vessel shall not land nor sell any bluefish taken by the gear type specified in (b)2 above except during the respective open season specified below.

<u>Gear</u>	<u>Open Season</u>
Gill Net	Jan. 1 through Dec. 31
Pound Net	Jan. 1 through Dec. 31
Otter Trawl	Jan. 1 through Dec. 31
Hook Line	June 16 through August 7
Purse Seine	Jan. 1 through Dec. 31

4. A dealer shall not accept any bluefish landed in New Jersey taken by the respective gear specified in (b)2 above except during the respective open season specified in (b)3 above.

5. As specified in (b)2 above, the annual bluefish quota for the purse seine fishery shall be 7.5 percent of New Jersey's annual commercial bluefish quota as allocated by the National Marine Fisheries Service. No purse seine vessel shall land and no dealer shall accept any bluefish landed in New Jersey that have been harvested by purse seine in excess of the annual purse seine quota or after the purse seine season has been closed. If the annual purse seine quota is exceeded in any one calendar year, the overharvest shall be deducted from the purse seine quota in the next subsequent calendar year(s).

6. No fish dealer shall accept any bluefish from any vessel or harvester unless such dealer is in possession of a valid Federal dealer permit.

7. No dealer shall accept any bluefish from any vessel unless said vessel is in possession of a valid Federal commercial permit for bluefish.

8. Any individual or vessel landing bluefish in New Jersey for the purpose of sale shall sell all bluefish to a Federally permitted bluefish dealer.

9. All permitted bluefish dealers shall provide weekly landing reports to the Division on a form supplied by the Commissioner.

10. A party or charter vessel possessing a Federal permit to commercially harvest bluefish 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 bluefish 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 Commissioner, or his or her designee, may close the season for the respective gear in (b)3 above upon four days public notice of the projected date the quota for the respective gear 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.

(c) The following provisions are applicable to the commercial harvest of tautog:

1. The possession of more than 100 pounds of tautog on board a vessel or landed from a vessel shall constitute a directed fishery for tautog.

2. A vessel shall not land more than 100 pounds of tautog in New Jersey on any one trip, after January 1, 1997 unless said vessel is in possession of its valid New Jersey Tautog Permit to participate in a directed fishery for tautog. 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 Tautog Permit shall complete an application provided by the Department and submit their application no later than December 31, 2002 including information on name, address, vessel name, vessel documentation or registration number, gear and landings criteria as specified at (c)2ii below;

ii. To be eligible for a New Jersey Tautog permit, the vessel's owner shall meet the following criteria:

(1) The vessel shall have landed at least 1,000 pounds of tautog in New Jersey and subsequently sold at least 1,000 pounds of tautog in each of two years during the period 1982 through 1993;

(2) Documented proof of landings shall accompany the application and 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); or

(C) Other documentation similar to that in (c)2ii(2)(A) or (B) above may be accepted at the discretion of the Commissioner after his or her review.

3. The possession of 100 pounds or less of tautog on board a vessel or landed from a vessel for the purpose of sale shall constitute a non-directed fishery for tautog.

4. A harvester or vessel shall not land tautog for the purpose of sale or sell any tautog after March 1, 1998 unless such harvester or vessel is in the possession of a

valid New Jersey Tautog Permit or a valid New Jersey Non-Directed Fishery Tautog Permit.

5. A New Jersey Non-Directed Fishery Tautog 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 Non-Directed Fishery Tautog Permit shall complete an application provided by the Department and submit their application no later than December 31, 2002 including information on name, address, vessel name, vessel documentation or registration number, gear and landings criteria as specified at (c)5ii below;

ii. To be eligible for a New Jersey Non Directed Fishery Tautog Permit, the vessel's owner shall meet the following criteria:

(1) The vessel or owner shall have landed at least 100 pounds of tautog in New Jersey and subsequently sold at least 100 pounds of tautog in each of two years during the period 1982 through 1997.

(2) Documented proof of landings shall accompany the application and 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); or

(C) Other documentation similar to that in (c)5ii(1)(A) or (B) above may be accepted at the discretion of the Commissioner after his or her review.

6. The New Jersey Tautog Permit or the New Jersey Non-Directed Fishery Tautog Permit shall be on board the vessel to which it is issued at all times. The applicable permit is valid upon issuance and in subsequent years unless revoked as part of a penalty action. The applicable permit is issued to a specific vessel in the name of the owner. The vessel, when engaged in a tautog fishery, may only have on board the gear type(s) listed on that vessel's permit.

7. The owner of a vessel permitted pursuant to this subsection may transfer his or her tautog permit provided the permit is not pending revocation or court action, upon application to the Department, as follows:

i. To his or her replacement vessel, provided the replacement vessel has no greater than 10 percent increase in length overall and 20 percent increase in shaft horsepower as compared to the originally permitted vessel. The vessel being replaced shall no longer be eligible for a tautog permit; or

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 June 11 through June 30 and November 9 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 sharks than the number specified in the possession limit at N.J.A.C. 7:25-18.1(c) without a valid annual vessel permit for sharks issued by the National Marine Fisheries Service or a New Jersey commercial fishing license issued for the gear allowed in the commercial shark fishery. With a valid annual vessel permit or a New Jersey commercial fishing license, the maximum possession limit is 36 sharks from the Aggregate Large Coastal shark species group and the Hammerhead shark species group combined, an unlimited number of sharks from the Non-Blacknose Small Coastal shark species group, an unlimited number of sharks from the Blacknose shark species group, and an unlimited number of sharks from the Pelagic shark species group. A person shall not sell or attempt to sell any sharks without a valid annual vessel permit for sharks issued by the National Marine Fisheries Service or a New Jersey commercial fishing license issued for the gear allowed in the commercial shark fishery.

i. Any harvester or vessel landing shark in New Jersey for the purpose of sale shall sell all sharks 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. Each shark dealer shall report weekly shark landings electronically through the Standard Atlantic Fisheries Information System (SAFIS).

3. A person shall not sell and a dealer shall not receive any aggregate large coastal shark, any hammerhead shark, any non-blacknose small coastal shark, any blacknose shark, any smoothhound 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.

4. The commercial fishing season for shark shall be from January 1 through December 31.

5. The following gear types may be used for commercial shark harvest in State marine waters: gillnets, trawl nets, and pound nets. Large-mesh gill nets are defined as having a stretch mesh greater than or equal to five inches.

6. All sharks harvested by commercial fishermen shall have tails and fins attached naturally through dockside landing. Commercial fishermen may completely remove the fins of any of the species of the Smoothhound Shark Group from January 1 through December 31 each year. If the fins are removed, the total wet weight of the fins shall not exceed 12 percent of the dressed weight of any species of the Smoothhound Shark Group carcasses landed or found on board a vessel.

7. The Smoothhound Shark Group annual quota is unlimited and the trip limit is unlimited.

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

ing 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. The vessel, when engaged in a black sea bass fishery, may only have on board the gear type(s) listed on that vessel's New Jersey Black Sea Bass Permit.

3. The owner of a vessel permitted pursuant to this subsection not pending revocation or court action may transfer his or her Black Sea Bass Permit, upon application to the Department, as follows:

i. 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 than the originally permitted vessel. The vessel being

replaced shall no longer be eligible for a black sea bass permit; or

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 Black Sea Bass Permit based on the harvesting history of the vessel being sold.

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

5. 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.

6. A vessel possessing a valid Black Sea Bass Permit to commercially harvest black sea bass by angling or hook and line 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 Black Sea Bass Permit is not valid and the recreational possession limits and seasonal restrictions as specified in N.J.A.C. 7:25-18.1 apply.

7. A vessel that does not possess a New Jersey Black Sea Bass Permit shall be permitted to land not more than 100 pounds of black sea bass during the period of January 1 through March 31, or not more than 50 pounds of black sea bass during the period of April 1 through December 31 on any trip provided the amount of black sea bass landed from any vessel shall not exceed 10 percent, by weight, of the total weight of all species landed and sold. Vessels taking black sea bass by angling or hook and line that do not possess a New Jersey Black Sea Bass Permit shall be subject to the possession limits established in N.J.A.C. 7:25-18.1 and the seasonal by-catch limits and 10 percent criteria specified above.

8. 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 New Jersey Black Sea Bass Permit holders. 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. Ten percent of the New Jersey annual black sea bass quota shall be allocated each year for by-catch landings when any of the seasons for the directed commercial fishery defined in (h)8iii below are closed. The by-catch landings shall be divided between seasons as identified in (h)8iii below at the same percentage apportioned to each season specified at (h)8iii below.

(1) Any by-catch not landed during the season allocated shall be added to the directed fisheries quota 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 black sea bass fishery quota.

iii. The balance of the New Jersey annual quota for the black sea bass fishery remaining after deducting the by-catch allowance specified in (h)8ii above shall be divided into seasons, percentage of the annual quota apportioned into each season, daily trip limits and number of allowable landing days in each one- or two-week period (Sunday through Saturday) as follows:

(1) January 1 - April 15: 38.8 percent, 1,000 pound trip limit and a maximum of two days per two-week period that a vessel may land black sea bass, or 2,000 pound trip limit and a maximum of one day per two-week period that a vessel may land black sea bass. The first period shall begin on January 1 and end the second Saturday following January 1. Each two-week period will run consecutively from Sunday to the second Saturday thereafter.

(2) April 16 - June 30: 20.6 percent, 500 pound trip limit and a maximum of two days per week that a vessel may land black sea bass, or a 1,000 pound trip limit and a maximum of one day per week that a vessel may land black sea bass;

(3) July 1 - September 30: 13.5 percent, 3,000 pound trip limit and a maximum of one day per week that a vessel may land black sea bass, 1,000 pound trip limit and a maximum of three days per week that a vessel may land black sea bass, or 500 pound trip limit and a maximum of six days per week that a vessel may land black sea bass;

(4) October 1 - December 31: 27.1 percent, 1,500 pound trip limit and a maximum of two days per week that a vessel may land black sea bass, or 1,000 pound trip limit and a maximum of three days per week that a vessel may land black sea bass.

(5) If a minimum of 50,000 pounds of the New Jersey black sea bass 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.

(6) Any daily landing of black sea bass not exceeding 100 pounds during the period of January 1 through March 31 or 50 pounds during the period of April 1 through December 31 shall not be applied to maximum weekly landing days during any season as specified in (h)8iii(1) through (4) above, provided the amount of black sea bass landed from any vessel shall not exceed 10 percent, by weight, of the total weight of all species landed and sold.

iv. No vessel shall have in possession or land and no dealer shall accept from any one vessel or person more than the lesser of the daily trip limit of black sea bass set by the National Marine Fisheries Service or the Atlantic States Marine Fisheries Commission in any one calendar day.

v. The Commissioner, or his or her designee, shall close the season for the commercial black sea bass fishery upon two days public notice of the projected date the seasonal percentage of the annual quota shall be caught. Public notice shall include letters by first class mail to all New Jersey Black Sea Bass Permit holders.

vi. Once the season has been closed for the directed commercial black sea bass fishery, no vessel or person shall land or sell any black sea bass and no dealer or person shall accept or purchase any black sea bass landed in New Jersey in excess of the by-catch allowances specified in (h)1 and 7 above and provided the amount of black sea bass landed from any vessel shall not exceed 10 percent, by 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 black sea bass and no dealer or person shall accept or buy any black sea bass landed in New Jersey.

vii. 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 two days public notice. Public notice shall be made as specified in (h)7v above.

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

viii. 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.

ix. If the quota for any season is exceeded, the amount overharvested shall be deducted from the following season. The amount overharvested shall also be deducted from the following years seasonal quota in pounds and reallocated to the season from which it was deducted the previous year.

x. Any vessel participating in the black sea bass 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.

9. After December 31, 2002, no dealer shall accept or purchase any black sea bass from any vessel or harvester unless such dealer is in possession of a valid New Jersey Black Sea Bass Dealers Permit. A New Jersey Black Sea Bass Dealers Permit may be obtained by completing an application supplied by the Department and submitting it to:

New Jersey Black Sea Bass Dealers Permit  
Nacote Creek Research Station  
PO Box 418  
Port Republic, NJ 08241

10. After December 31, 2002, no dealer shall accept or purchase from any one vessel more than the amounts of black sea bass specified at (h)1 above unless said vessel is in possession of its valid New Jersey Black Sea Bass Permit.

11. After December 31, 2002, any harvester or vessel landing black sea bass in New Jersey for the purpose of sale shall sell all black sea bass to a permitted New Jersey Black Sea Bass Dealer.

12. All permitted New Jersey Black Sea Bass Dealers shall provide daily reports during the period January 1 through April 15 and weekly reports during the period April 16 through December 31 to the Division listing the amount of black sea bass landed on a daily basis and any other information that may be required by the Commissioner. If no black sea bass were landed, a report to that effect shall be required. Such report shall be faxed to the Division at the number listed on the reporting form no 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.

13. 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 an application shall result in the denial of the permit.

ii. Falsification or misrepresentation of any information on an application including documentation provided to verify the amount of black sea bass landed as specified in (h)1ii(3) 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 (h)6 above, criteria under which a vessel may harvest black sea bass by angling or hook and line, (h)8 above, exceeding daily trip limits and landing black sea bass after the season has been closed, (h)9 above, accepting or purchasing black sea bass without a New Jersey Black Sea Bass Dealers Permit, (h)10 above, accepting or purchasing from any non-permitted vessel more than the amount of black sea bass stipulated pursuant to (h)1 and 7 above, and (h)11 above, selling black sea bass to a non-permitted dealer shall result in the suspension during open season(s) or revocation of the vessel's and/or dealer's Black Sea Bass 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 (h)13iii 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.

v. Any person who has had his or her New Jersey Black Sea Bass Dealers Permit suspended or revoked shall not land or permit the landing of any black sea bass at his or her facility during the suspension or revocation under the provisions of another permittee's New Jersey Black Sea Bass 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.

(i) The following provisions are applicable to the commercial harvest of summer flounder:

1. 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 (i)3 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 (i)1ii(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 pursuant to this subsection not pending revocation or court action

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 than the originally permitted vessel. 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; and

(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.

2. 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 (i)3 below and such agreement indicated 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 (i)2ii below at the same percentage as for the directed fishery specified at (i)2ii 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 directed fishery seasons identified at (i)2ii 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 the by-catch allowance specified in (i)2i above shall be divided into seasons, percentage of the annual quota apportioned to each season, daily to trip limits and number of allowable landing days in each week (Sunday through Saturday) as follows:

(1) January - February: 28 percent, 1,000 pound trip limit and a maximum of two days per two-week period that a vessel may land summer flounder, or 2,000 pound trip limit and a maximum of one day per two-week period that a vessel may land summer flounder. Each two-week period shall begin on Sunday and end on the second Saturday with the first two week period beginning on the first Sunday of January;

(2) March - April: 11 percent, 500 pound trip limit and a maximum of two days per week that a vessel may land summer flounder, or 1,000 pound trip limit with a maximum of one day per week that a vessel may land summer flounder;

(3) May-June: 10.5 percent, 500 pound trip limit and a maximum of four days per week that a vessel may land summer flounder, or 250 pound trip limit and a maximum of seven days a week that a vessel may land summer flounder;

(4) July-August: 10.5 percent, 500 pound trip limit and a maximum of four days per week that a vessel may land summer flounder, or 250 pound trip limit and a maximum of seven days a week that a vessel may land summer flounder;

(5) September - October: 29 percent, 250 pound trip limit and a maximum of six days that a vessel may land summer flounder, or 500 pound trip limit with a maximum of three days per week 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 1,500 pounds;

(6) November - December: 11 percent, 500 pound trip limit and a maximum of three days per week 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 1,500 pounds; and

(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 (i)2ii(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 (i)2 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 seasonal percentage of the annual 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 (i)1 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 two days public notice. Public notice shall be made as specified in (i)2vi 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 (i)2i 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.

3. 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.

4. 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

5. No dealer shall accept from any vessel more than the amounts of summer flounder specified at (i)1 above unless said vessel is in possession of its valid New Jersey Summer Flounder Permit.

6. 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 (i)1 above may be landed frozen provided that each fish is individually frozen whole and can be individually weighed and measured without thawing.

7. 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.

8. 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 any agreement with other states pursuant to (i)3 above. If no summer flounder were landed, a report to that effect shall be required. 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.

9. 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 to 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 (i)1ii(3) 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 N.J.A.C. 7:25-18.14(i)2, minimum mesh sizes, (i)2iii above, landing, possession or accepting in excess of the daily trip limit for summer flounder, (i)2iv above, failure of notification of landing of summer flounder, (i)2vii above, landing summer flounder after the directed fishery and/or by-catch season has been closed, (i)2xiii above, failure to submit accurate and timely monthly reports, (i)5 above accepting more than by-catch amounts from nonpermitted vessels, (i)6 above accepting any summer flounder other than fresh product, or N.J.A.C. 7:25-18.14(a), (b), (d), (e), (f) or N.J.S.A. 23:3-46 through 47 shall result in the suspension during open seasons 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. In calculating the period of suspension or revocation applicable under (i)9iii 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.

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. No person shall have in possession, and no dealer shall accept from any person, more than the daily possession limit of 38 winter flounder taken in New Jersey waters. 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 in addition to the daily possession limit specified in this paragraph.

(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 State 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 that 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 5,000 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 10,000 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 seven trips per week (Sunday through Saturday) with landings not to exceed 50,000 pounds per trip from January 1 through April 30 and a daily limit as established by the National Marine Fisheries Service 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) The following provisions are applicable to the commercial harvest of tilefish:

1. A vessel shall not possess or land from the Exclusive Economic Zone (Federal waters) in any one day more than 300 pounds, whole weight, of blueline tilefish during the open season of January 1 to December 31. Any vessel landing blueline tilefish from the Exclusive Economic Zone (Federal waters) must hold a valid Northeast open access golden tilefish commercial vessel permit, issued by the NMFS.

(n) The following provisions are applicable to the commercial harvest of American eel:

1. The annual American eel harvest quota for New Jersey shall be determined by the Atlantic States Marine Fisheries Commission. All landings of American eel in New Jersey shall be applied to the New Jersey annual American eel quota.
2. Any closure of the American eel fishery by the Atlantic States Marine Fisheries Commission for areas including New Jersey automatically closes all New Jersey waters to the harvest of American eel and to the commercial landings of American eel. The Commissioner, or his or her designee, shall give public notice of any such closure. Public notice shall include posting of a notice on the Department's website and either an e-mail or first class mail sent to all miniature fyke or pot license holders.

(o) 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.

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

(q) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify quotas, trip limits and/or seasons, as well as gear types and gear restrictions, 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) or to maintain consistency with any Mid-Atlantic Fishery Management Council plan adopted by the National Marine Fisheries Service. The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify trip limits and/or seasons, as well as gear types and gear restrictions, specified in this section by notice in order to provide for the optimal utilization of any quotas specified in this section. The Commissioner will review the catch rate for a particular species in relation to the season quota and, if harvest data indicate that upward adjustments in harvest control measures are warranted to maximize utilization of the available quota within a specific season for a specific fishery, the Commissioner may adjust the above specified control measures to achieve optimal utilization of the total allowable catch. The Department shall publish notice of any such modification in the New Jersey Register.

(r) 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 (s) through (u) 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.

(s) The Department shall approve an extension request under (r) 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 (s)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.

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

(u) 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.

(v) All persons shall comply with all commercial provisions of the approved Atlantic States Marine Fisheries Commission fisheries management plan for Spanish mackerel, spot, and spotted seatrout implemented by the National Marine Fisheries Service. The Federal provisions shall apply in both Federal and New Jersey territorial waters.

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).

Amended by R.2008 d.15, effective January 7, 2008.

See: 39 N.J.R. 143(a), 40 N.J.R. 126(a).

Rewrote (e)9 and (o).

Administrative change.

See: 40 N.J.R. 150(c), 879(b), 2109(c), 6204(a).

Administrative change.

See: 41 N.J.R. 220(a), 4114(a).

Administrative change.

See: 42 N.J.R. 68(b), 789(a).

Amended by R.2010 d.155, effective July 19, 2010.

See: 42 N.J.R. 700(a), 42 N.J.R. 1527(a).

Rewrote (d)1 and (d)2; added (d)4 through (d)7; and in (o), inserted "as well as gear types and gear restrictions," twice, inserted a comma following "season quota and", and substituted the first occurrence of "this section" for "the section".

Administrative change.

See: 42 N.J.R. 3059(a).

Administrative change.

See: 43 N.J.R. 3334(a).

Administrative change.

See: 44 N.J.R. 493(a), 1973(a).

Administrative change.

See: 44 N.J.R. 2129(a), 2650(a).

Administrative change.

See: 45 N.J.R. 205(a), 1129(a), 1399(a), 1915(a), 2040(a), 2330(b).

Administrative change and correction.

See: 46 N.J.R. 212(b).

Administrative change.

See: 46 N.J.R. 293(a), 789(a).

Administrative change.

See: 47 N.J.R. 106(a), 1320(a), 2292(c).

Administrative change.

See: 48 N.J.R. 131(a), 647(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 greater than or equal to 24 inches but 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 "bonus sized" striped bass, as defined in (a) above, 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 to participate in the striped bass bonus program. 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. On the Division of Fish and Wildlife's website at [www.njfishandwildlife.com](http://www.njfishandwildlife.com).

(c) The application form shall be completed to include the name, address and telephone number of the applicant.

(d) Applications to participate in the striped bass bonus program shall be processed in order of receipt by the Division.

(e) Successful applicants will receive a non-transferable fish possession permit, the number to be determined by the Commissioner or his or her designee based on the available quota and the number of applicants. Each permit shall be filled out completely upon retention of a bonus striped bass. A finite number of permits shall be available to participating party and charter boat captains in the name of the vessel and owner. Fish possession permits issued to party and charter boats are for the use of patrons on that vessel and shall not be sold, offered for sale or used for barter.

(f) Fish possession permits shall be valid from September 1 through December 31 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.

(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 permit 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 the number of striped bass provided for in N.J.S.A. 23:5-45.1, nor shall such striped bass be less than the size provided for in N.J.S.A. 23:5-45.1. One additional striped bass may be possessed and shall not be less than the size defined in (a) above. Said person shall have a properly completed and legal fish possession permit, as provided for at (e) above.

(i) 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 may report the catch electronically at <http://www.njfishandwildlife.com/bonusbas.htm> or shall immediately mail his or her fish possession 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 permit may be provided to the angler as determined by the Commissioner or his or her designee based upon the available remaining quota and the number of applicants upon recording of his or her prior legally harvested bonus striped bass electronically 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 and via the Division's website at [www.njfishandwildlife.com](http://www.njfishandwildlife.com). A notice shall also be published in the New Jersey Register.

(m) The quota described in (l) above shall be 215,912 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) The Division will provide public notice via a news release to individuals on the Division outdoors writers mailing list and to all participants in the striped bass bonus program as to the number of fish possession permits pursuant to (e) above, the availability of additional fish possession permits pursuant to (k) above, and changes to the quota described in

(l) above. A notice shall also be published in the New Jersey Register.

(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 permit 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 permits 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 Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify the size limit, bag limit or season specified in this section by notice in order to provide for the optimal utilization of any quota specified in this section. The Commissioner will review the catch rate in relation to the season quota and, if harvest data indicate that upward adjustments in harvest control measures are warranted to maximize utilization of the available quota within a specific season for a specific fishery, the Commissioner may adjust the above specified control measures to achieve optimal utilization of the total allowable catch. 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).  
 Amended by R.2008 d.15, effective January 7, 2008.  
 See: 39 N.J.R. 143(a), 40 N.J.R. 126(a).  
 Rewrote the introductory paragraph of (b); in (b)2, substituted "pursuant to (i) below" for "by public notice in the New Jersey Register";

added (b)3; rewrote (d) and (e); in (f), deleted the last sentence; rewrote (h); in (i), inserted the second and third sentences, and substituted "fish possession" for "bonus" following "his or her"; in (k), substituted "may" for "shall" and "check" for "checking", and inserted "as determined by the Commissioner or his or her designee based upon the available remaining quota and the number of applicants"; in (l), inserted "and via the Division's website at [www.njfishandwildlife.com](http://www.njfishandwildlife.com)"; rewrote (n); and in (p), inserted the second and third sentences.  
 Administrative change.  
 See: 47 N.J.R. 1320(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 begin offloading fish, to offload fish or to enter port with fish.

(k) The Commissioner, with the approval of the New Jersey 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) or to maintain consistency with any Mid-Atlantic Fishery Management Council plan adopted by the National Marine Fisheries Service. The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify 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 provide for the optimal utilization of any quotas specified in this section. The Commissioner will review the catch rate for a particular species in relation to the season quota and if harvest data indicate that upward adjustments in harvest control measures are warranted to maximize utilization of the available quota within a specific season for a specific fishery, the Commissioner may adjust the above specified control measures to achieve optimal utilization of the total allowable catch. The Department shall publish notice of 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