

7:25-12.16 Licensing fees

(a) The annual fee for each surf clam license shall be the minimum provided for at N.J.S.A. 50:2-6.3.

(b) The annual fee for a bait clam vessel license shall be the minimum provided for at N.J.S.A. 50:2-6.3.

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

7:25-12.17 Renewal of surf clam licenses and bait clam vessel licenses

(a) Surf clam licenses and bait clam vessel licenses shall be renewed annually by payment of the annual license fee on or before the June 30 immediately preceding the license year. If a surf clam licensee has not paid the annual license fee on or before the expiration date, the Department shall retire that surf clam license from the surf clam fishery.

(b) Surf clam license and bait clam vessel license renewal is specifically conditioned on the continuing compliance of the licensee with all the requirements of this subchapter and all statutory criteria for licensing and harvest. The Department shall not renew a surf clam license or a bait clam vessel license for a licensee who, by June 30, has not filed the required weekly reports in a timely fashion, as specified at N.J.A.C. 7:25-12.13, and, in the case of bait clams, paid the required landing fee in a timely fashion, as specified at N.J.A.C. 7:25-12.12, for any part of the preceding license year.

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

7:25-12.18 Signatories; certification

(a) All applicants and licensees shall, upon submission of initial, renewal, replacement applications, transfer applications or weekly harvest reports, sign the following certification on the application or report forms:

1. "I certify under penalty of law that the information provided in this document is true, accurate and complete. I am aware that there are significant civil penalties for submitting false, inaccurate or incomplete information and significant criminal penalties, including fines and/or imprisonment for submitting false, inaccurate or incomplete information or information which I do not believe to be true."

(b) Penalties for false swearing or false reporting may include the penalties set forth in N.J.S.A. 2C:28-3 and the penalties set forth in N.J.A.C. 7:25-12.19.

7:25-12.19 Penalties

Violation of any section of this subchapter, or any license or order issued pursuant to it, shall subject the violator to the penalties set forth in the Marine Fisheries Management and Commercial Fisheries Act, N.J.S.A. 23:2B-1 et seq., at N.J.S.A. 23:2B-14. Penalties may include monetary penal-

ties of \$100.00 to \$3,000 for a first violation, and \$200.00 to \$5,000 for any further violations. Penalties may also include confiscation of any vessel or equipment used in committing a violation, and revocation of any license issued under this subchapter and N.J.S.A. 50:2-6.1 through 50:2-6.3. The Department may compromise and settle any claim for a penalty under this subsection in such amount as in the discretion of the Department may appear appropriate and equitable under all the circumstances.

7:25-12.20 Hearings

(a) Except as provided in (b) below, prior to the suspension or revocation of any license, the licensee has the right to a hearing, upon the licensee's request to the Department. The request for a hearing shall be sent to the Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, CN 402, Trenton, New Jersey 08625-0402. The hearing shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B and 52:14F, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) When necessary to protect the public health, safety or welfare, the Department may immediately suspend a license without a pre-suspension hearing. In that case, the hearing shall be conducted on an expedited basis.

New Rule, R.1991 d.173, effective April 1, 1991.
See: 23 N.J.R. 223(a), 23 N.J.R. 1001(a).
Administrative change in (a).
See: 23 N.J.R. 3325(b).

SUBCHAPTER 13. LEASED TIDAL GROUNDS

7:25-13.1 Marking of leased tidal grounds; Delaware River and Bay

No leased shellfish ground in the Delaware River and Bay shall be dredged upon unless it is properly staked or buoyed. Proper stakes or buoys shall extend at least four feet above mean high water; each corner marked with a stake or buoy shall have on it the number of the lots marked. Numbers shall be four inches high on a background of contrasting color. Corners that have to be marked shall be the same as those shown on the approved shellfisheries maps.

R.1977 d.16, effective January 26, 1977.
See: 8 N.J.R. 547(b), 9 N.J.R. 78(a).

SUBCHAPTER 14. CRAB MANAGEMENT

Authority

N.J.S.A. 23:2B-6, 23:2B-14, and 50:3-16.13.

Subchapter Historical Note

Unless otherwise expressly noted, all provisions of Subchapter 14, Crab Management, were originally adopted pursuant to authority of N.J.S.A. 50:3-20 and were filed and became effective June 1, 1977, as R.1977 d.196. See: 9 N.J.R. 117(a), 9 N.J.R. 319(b). Amendments to Subchapter 14, which were proposed in the May 7, 1981 Register at 13 N.J.R. 2828(b), were disapproved by the legislature on June 15, 1981 by Senate Concurrent Resolution No. 3024 (see: 13 N.J.R. 382(a)). The amendments were subsequently adopted by the Department and filed with the Office of Administrative Law on July 20, 1981 d.299, to become effective August 6, 1981. The adopted amendments were modified to comport with the Legislative objectives. See: 13 N.J.R. 546(a). Subchapter 14 was proposed as a readoption with amendments and was adopted as a new rule pursuant to Executive Order No. 66(1978) as R.1985 d.560, effective November 4, 1985. See: 17 N.J.R. 1930(a), 17 N.J.R. 2608(a). See, also, Chapter Historical Note.

7:25-14.1 Definitions

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

“Blue crab” means the crab *Callinectes sapidus*.

“Crab” means any species commonly known as a crab except horseshoe crab (*Limulus polyphemus*).

“Crab dredge area” means all marine waters of the State including the Atlantic Ocean with the exception of the Newark Bay Complex, the State oyster beds defined in N.J.A.C. 7:25-19.1, and the Delaware Bay north and west of a line:

1. Beginning at a point (Corner 1) on the shore line of Cape May County (Lat. 39 deg 04.35'N; Long. 74 deg 54.83'W) thence running 247 deg 38.08' (T) 21,127 feet to a point (Corner 2) where the Clam Line intersects the Brandywine-Dennis Creek Line (Lat. 39 deg 05.66'N; Long. 74 deg 58.96'W);

2. Thence running 221 deg 14.32' (T) 4, 871 feet to a point (Corner 3) (Lat. 39 deg 05.06'N; Long. 74 deg 59.64'W) located on the Dennis Creek Range Line;

3. Thence running 319 deg 24.57' (T) 13,749 feet to a point (Corner 4) (Lat. 39 deg 06.77'N; Long. 75 deg 01.54'W) located in the Delaware Bay;

4. Thence running 270 deg 50.95' (T) 40,487 feet to a point (Corner 5) (Lat. 39 deg 06.84'N; Long. 75 deg 10.10'W) in Delaware Bay;

5. Thence running 329 deg 27.45' (T) 25,825 feet to a point (Corner 6) (Lat. 39 deg 10.49'N; Long. 75 deg 12.90'W) on the Southwest Line; and

6. Thence running 235 deg 24.00' (T) 7,561.25 feet to the ruins of the former lighthouse known as Cross Ledge Shoal in Delaware Bay.

“Commercial crab pot” means a cube or rectangular shaped device not larger than 30 inches on a side with openings inward for the entrance of crabs. Any similar device may be approved by the Division. The material of which the pot is constructed shall have a mesh not less than one inch across measured on its longest axis. The openings into the interior of the pot shall be oval and not larger than seven inches wide and four inches high.

1. Effective January 1, 1998, all commercial crab pots shall be constructed to include a biodegradable panel or other mechanism which is designed to create an opening to allow the escape of crabs or other marine organisms after a pot has been abandoned or lost, and which meets the following criteria:

i. The opening covered by the panel or created by another approved mechanism as identified in subparagraph 1iii below shall be oval or rectangular and measure at least eight inches wide and five inches high, shall be located in the upper section of the pot, and shall be in a position which allows the unobstructed exit of crabs or fish from the pot;

ii. The panel shall be constructed of, or fastened to the pot with one of the following materials: wood lath; cotton, hemp, sisal or jute twine not greater than $\frac{3}{16}$ inch in diameter; or non-stainless, uncoated ferrous metal not greater than $\frac{3}{8}$ inch in diameter; and

iii. The door or a side panel of the pot may serve as the ghost panel if the door or side panel is fastened to the pot with a material specified in subparagraph 1ii above.

2. Effective January 1, 1998, all commercial crab pots set 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 include terrapin excluder devices attached to the inside of all pot entrance funnels which meet the following criteria:

i. The terrapin excluder device shall be rectangular and no larger than four inches wide and two inches high;

ii. The terrapin excluder device shall be securely fastened inside each funnel to effectively reduce the size of the funnel opening to no larger than four inches wide and two inches high; and

iii. Any similar device may be approved by the Division after consultation at a regularly scheduled meeting of the Marine Fisheries Council.

“Delaware Bay,” for the purpose of this subchapter, consists of the marine waters under the jurisdiction of the State of New Jersey north and west of the COLREGS Demarcation Line which runs from the Cape May Point Lighthouse in Cape May, New Jersey to F1 5sec Horn at Cape Henlopen, Delaware.

“Department” means the Department of Environmental Protection.

“Division” means the Division of Fish, Game and Wildlife.

“Land” means to transfer the catch of crabs from any vessel to any land, pier, wharf or dock.

“Newark Bay Complex” means the tidal Passaic River, the tidal Hackensack River, the Newark Bay, the Arthur Kill, and the Kill Van Kull.

“Trot line” means a single length of anchored line no longer than 3,000 feet to which baits or baited barbless hooks are attached.

Repeal and New Rule, R.1994 d.152, effective March 21, 1994.
See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).

Section was “Crab pots and trot lines defined”.
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 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”.

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. The commercial licensee may be held liable and subject to the penalty provisions provided in N.J.A.C. 7:25-14.13 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 16 to December 14 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).

(a)3 added.

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.

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 line 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 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 preceding year. Any person on active military service during any part of the period from January 1, 1991 through July 8, 1993, will also be eligible for a license provided application is made to the Department within a 90 day period following completion of that active military

service, upon submission of official documentation indicating duration of military service and date of discharge.

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 commercial crab dredge license held by the applicant from the preceding year. Any person on active military service during any part of the period from January 1, 1991 through July 8, 1993, will also be eligible for a license provided application is made to the Department within a 90 day period following completion of that active military service, upon submission of official documentation of military service and date of discharge.

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

5. To be eligible for a 1997 Delaware Bay commercial crab dredge license, the applicant shall provide a copy of a New Jersey crab dredge license, an Area 2 and 3 license or an oyster dredge boat license valid at any time during the period from January 1, 1992 through December 31, 1996; and shall have landed and sold blue crabs in New Jersey during the crab dredge season concurrent with the time period of the license(s) held. Applicants qualifying under an Area 2 or 3 license or an oyster dredge boat license above shall have also concurrently held a commercial crab pot/trot line license. Proof of landings shall include monthly reporting forms held by the Division, weigh-out slips, or other form of proof acceptable to the Commissioner. In subsequent years, 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. 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 a license holder may transfer the right to the license at any time to the license holder's spouse, father, mother, son or daughter 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.

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.

7:25-14.5 Noncommercial licenses for crab pot/trot lines 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 noncommercial crab dredge license subject to the following provisions: