

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 of sharks from the Aggregated Large Coastal shark species group and the Hammerhead shark species group combined is the number determined by the National Marine Fisheries Service as published by notice in the Federal Register, 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. The Commissioner, or his or her designee, shall provide notice of any changes to the maximum possession limit for the Aggregated Large Coastal shark species group and the Hammerhead shark species group combined as determined by the National Marine Fisheries Service and published by notice in the Federal Register. Public notice shall include posting of a notice on the Department's website and either an e-mail or first class mail to all holders of a valid annual vessel permit for sharks issued by the National Marine Fisheries Service or a New Jersey commercial fishing license. A person shall not sell or attempt to sell any sharks without a valid 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 aggregated 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 shall be determined by the Atlantic States Marine Fisheries Commission and the trip limit is unlimited. All landings of the Smoothhound Shark Group species in New Jersey shall be applied to the New Jersey annual Smoothhound Shark Group quota.

i. Any closure of the Smoothhound Shark Group fishery by the Atlantic States Marine Fisheries Commission for areas including New Jersey shall automatically close all New Jersey waters to the harvest of the Smoothhound Shark Group species and to the commercial landings of Smoothhound Shark Group species. The Commissioner, or his or her designee, shall provide 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 to all gill net, trawl net, and pound net license holders.

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

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

1. An individual shall not take or attempt to take, possess or land any shad in the State, without a valid Shad Commercial Net Permit or a Shad Incidental Harvest Permit issued by the Department, except as provided in (e)1i, (e)1ii, or (e)10 below. No person shall harvest or possess more than 300 pounds of shad per day without a Shad Commercial Net Permit, except as provided (e)1i, (e)1ii, or (e)10 below.

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

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

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

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

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

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

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

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

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

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

and

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

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

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

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

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

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

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

iii. Documented proof shall be one of the following:

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

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

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

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

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

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

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

9. Shad Commercial Net Permits and Shad Incidental Harvest Permits are non-transferable except that the holder of a valid permit not pending suspension or revocation may transfer the right to the permit at any time to the permit holder's spouse, father, mother, son, daughter, brother or sister upon application to the Department.

10. A person shall not:

i. Land nor sell any American shad taken in the Delaware Bay or River except during the season from January 1 through December 31;

ii. Land or possess any American shad taken in any marine waters other than the Delaware Bay, or the Delaware River and its tributaries, except as provided in (e)10iii below;

iii. Barter, sell, offer for sale, or expose for sale, any American shad landed from vessels fishing exclusively in the Exclusive Economic Zone (Federal waters) while operating under a valid Federal permit for Atlantic mackerel and/or Atlantic herring. These vessels may possess American shad up to a maximum of five percent, by weight, of all species possessed.

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

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

i. The annual report shall include:

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

(2) The buyer(s) name;

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

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

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

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

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

(1) First offense: 60 day suspension

(2) Second offense: 120 day suspension

(3) Third offense: Permanent revocation of permit.

ii. In calculating the period of suspension or revocation applicable under (e)13i above, the number of previous suspensions shall be reduced by one for each three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period, only one of those suspensions may be forgiven under this subparagraph; therefore, a permit holder who incurs more than one suspension in a three-year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspensions provided in this subparagraph applies only to determination of suspension periods; all prior suspensions shall be taken into account in calculation.

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, shall close the season upon two days public notice of the projected date the quota shall be landed. Such notice shall be provided by posting of a notice on the Department's website and either an e-mail or first class mail sent 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 black sea bass quotas 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 black sea bass quotas 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 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 percent of a New Jersey black sea bass seasonal quota remains unlanded when there is at least 50 percent of the season remaining, the Commissioner, or his or her designee, may set a daily trip limit for the remainder of that specified season to achieve optimal utilization of the available



quota upon two days' public notice. Public notice shall be given as specified in (h)8v below.

(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 daily trip limit of black sea bass set by the Commissioner 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 be provided by posting of a notice on the Department's website and either an e-mail or first class mail sent to all New Jersey Black Sea Bass Dealers and 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, has closed the season under (h)8v above and if unanticipated events result in the quota not being landed by the projected date stated in the closure notice, 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 given as specified in (h)8v 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 fol-

lowing 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 50 percent of a New Jersey summer flounder seasonal quota remains unlanded where there is at least 50 percent of the season remaining, the Commissioner, or his or her designee, may set a daily trip limit for the remainder of that specified season to achieve optimal utilization of the available quota or until the quota specified in (i)2 above is landed, whichever occurs first, upon two days' public notice. Public notice shall be given as specified in (i)2vi below.

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 be provided by posting of notice on the Department's website and either an e-mail or first class mail sent 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, has closed the season under (i)2vi above and if unanticipated events result in the quota not being landed by the projected date stated in the closure notice, 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 given as specified in (i)2vi above.

(1) The Commissioner, or his or her designee, may set daily trip limits when reopening a premature-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 infor-

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.

(w) For the purposes of this section, a "fish dealer" or "dealer" shall mean any person who receives fish managed under this subchapter for any commercial purpose. Commercial purposes shall include sale and offering for sale, as well as the actual or attempted barter, trade, or exchange of fish for money or for any other thing of value.

(x) Any Federally permitted vessel or person shall complete the required Federal Trip Reports prior to landing any species of marine fish.

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), 3059(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: 43 N.J.R. 3334(a).

Administrative change.

See: 44 N.J.R. 493(a), 1973(a), 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), 2610(a).

Amended by R.2016 d.057, effective June 6, 2016.

See: 47 N.J.R. 1815(a), 48 N.J.R. 953(b).

Rewrote the section.

### 7:25-18.13 Striped bass bonus program

(a) 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.A.C. 7:25-18.1(h)1, 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.A.C. 7:25-18.1(h)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.A.C. 7:25-18.1(h)1, nor shall such striped bass be less than the size provided for in N.J.A.C. 7:25-18.1(h)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 permit 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.