

CHAPTER 25A**OYSTERS****Authority**

N.J.S.A. 13:1D-9, 23:2B-14, 50:1-1 et seq., 50:1-5, 50:1-23, 50:1-27, 50:2-7 through 50:2-12, and 50:3-1 et seq.

Source and Effective Date

R.2005 d.383, effective October 13, 2005.
See: 37 N.J.R. 1593(a), 37 N.J.R. 4249(a).

Chapter Expiration Date

Chapter 25A, Oysters, expires on October 13, 2010.

Chapter Historical Note

Chapter 25A, Oysters, was adopted as emergency new rules by R.1981 d.94, effective March 11, 1981, expired May 21, 1981. See: 13 N.J.R. 195(a).

Chapter 25A, Oysters, was adopted as new rules by R.1981 d.188, effective June 4, 1981. See: 13 N.J.R. 192(b), 13 N.J.R. 340(c).

Subchapter 3, Oyster Seed Beds, was originally codified in Title 7 as Chapter 36, Oyster Seed Beds. Chapter 36 was adopted as R.1972 d.79, effective May 15, 1973. See: 4 N.J.R. 102(a). Chapter 36 expired on June 9, 1972. N.J.A.C. 7:25-7.2, Oyster seed beds, was adopted by R.1973 d.86, effective May 14, 1973. See: 5 N.J.R. 141(a). N.J.A.C. 7:25-7.2 expired on June 30, 1974. N.J.A.C. 7:25-7.2, Oyster seed beds, was adopted as a new rule by R.1975 d.74, effective May 19, 1975. N.J.A.C. 7:25-7.2, Oyster seed beds, was recodified as N.J.A.C. 7:25A-3 by R.1981 d.189, effective June 4, 1981. See: 13 N.J.R. 193(a), 13 N.J.R. 340(b).

Subchapter 2, Oyster Management in Delaware Bay, was adopted as R.1981 d.197, effective July 9, 1981. See: 13 N.J.R. 192(c), 13 N.J.R. 405(b).

Subchapter 4, Oyster Cultch Program, was adopted as R.1983 d.590, effective December 19, 1983. See: 15 N.J.R. 1416(a), 15 N.J.R. 2159(a).

Subchapter 1, Oyster Dredging Licenses, Subchapter 2, Oyster Management in Delaware Bay, and Subchapter 3, Oyster Seed Beds, were repealed, and Subchapter 1, Oyster Management, was adopted as new rules by R.1985 d.216, effective May 6, 1985. See: 17 N.J.R. 352(a), 17 N.J.R. 1092(a).

Pursuant to Executive Order No. 66(1978), Chapter 25A, Oysters, was readopted as R.1990 d.250, effective April 23, 1990. See: 22 N.J.R. 283(a), 22 N.J.R. 1573(a).

Pursuant to Executive Order No. 66(1978), Chapter 25A, Oysters, was readopted as R.1995 d.250, effective April 20, 1995. See: 27 N.J.R. 798(a), 27 N.J.R. 1979(a).

Pursuant to Executive Order No. 66(1978), Chapter 25A, Oysters, was readopted as R.2000 d.199, effective April 19, 2000. See: 32 N.J.R. 625(a), 32 N.J.R. 1807(a).

Chapter 25A, Oysters, was readopted by R.2005 d.383, effective October 13, 2005. See: Source and Effective Date.

Subchapter 2, Direct Market Harvest Season, and Subchapter 3, Oyster Transplant Season, were adopted as new rules; and Subchapter 4, Oyster Clutch Program, was repealed by R.2010 d.132, effective July 6, 2010. See: 41 N.J.R. 2167(a), 42 N.J.R. 1362(a).

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SUBCHAPTER 4. (RESERVED)**SUBCHAPTER 1. OYSTER MANAGEMENT****7:25A-1.1 Purpose and scope**

This chapter constitutes the rules governing the issuance, renewal, substitution and transfer of oyster dredging licenses, the leasing of oyster ground in Section E in Delaware Bay, the taking and reporting of oysters from the Delaware River, Delaware Bay and their tributaries, with the exception of the leased areas, and the imposition, collection and dedication of fees to finance an oyster cultch and resource enhancement program to facilitate the protection, conservation, management and improvement of the oyster resource and industry in New Jersey. The oyster management program, which includes, as a component, the oyster cultch and resource enhancement program, includes a limitation on the number of available licenses, a limitation on harvest to specific fishing

times and areas and the establishment of a seasonal harvest quota.

Amended by R.1983 d.351, effective September 6, 1983.
See: 15 N.J.R. 990(a), 15 N.J.R. 1473(a).
Amended by R.2010 d.132, effective July 6, 2010.
See: 41 N.J.R. 2167(a), 42 N.J.R. 1362(a).
Section was "Scope". Rewrote the section.

7:25A-1.2 Construction

These rules shall be liberally construed to permit the Department to effectuate the purposes of N.J.S.A. 23:2B-14, 23:3-12.2, 50:1-1 et seq., 50:2-7 through 50:2-10, 50:2-11, 50:2-12, and 50:3-1 et seq.

The following annotations apply to N.J.A.C. 7:25A-1.2 prior to its repeal by R.2010 d.132:

Amended by R.1983 d.351, effective September 6, 1983.
See: 15 N.J.R. 990(a), 15 N.J.R. 1473(a).
Amended by R.1983 d.591, effective December 19, 1983.
See: 15 N.J.R. 1415(a), 15 N.J.R. 2158(a).
Amended by R.1994 d.450, effective September 6, 1994.
See: 26 N.J.R. 1562(a), 26 N.J.R. 3714(a).

The following annotation applies to N.J.A.C. 7:25A-1.2 subsequent to its recodification from N.J.A.C. 7:25A-1.3 by R.2010 d.132:

Recodified from N.J.A.C. 7:25A-1.3 and amended by R.2010 d.132, effective July 6, 2010.
See: 41 N.J.R. 2167(a), 42 N.J.R. 1362(a).

Substituted "23:2B-14, 23:3-12.2, 50:1-1 et seq., 50:2-7 through 50:2-10, 50:2-11, 50:2-12, and 50:3-1 et seq" for "50:1-5, 50:1-23, and 50:1-27". Former N.J.A.C. 7:25A-1.2, Purpose, repealed.

7:25A-1.3 Definitions

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

"Annual harvest quota" means the total amount of the oyster resource from the State's natural seed beds that may be harvested by all licensed oyster vessels during a direct market harvest season or oyster transplant season.

"Annual tag allotment" means the harvest tags issued by the Division to an oyster dredge vessel license holder in an amount equal to a harvester's individual allocation.

"Bushel" means the volume of oysters within the shell containerized in baskets or bags having a capacity of not more than one standard bushel, as defined at N.J.S.A. 51:1-16.

"Cage" means a container used during a direct market harvest season or oyster transplant season containing 29.87 cubic feet (842.7 liters) and having a capacity of not more than 24 bushels of oysters within the shell.

"Commissioner" means the Commissioner of the Department of Environmental Protection or his or her designee.

"Container" means a holding or transporting apparatus used to retain oysters, in 24-bushel cages or in baskets or bags with a capacity of not more than one U.S. standard bushel.

"Council" means the Delaware Bay Section of the New Jersey Shellfisheries Council.

"Culling" means the act of sorting and discarding undersized oysters, dead shell and/or debris.

"Cultch" means shell and other material placed on the bottom of a waterbody that is capable of functioning as a substrate for the attachment or setting of oyster larvae. Cultch is deployed in selected locations to either enhance recruitment or restore or maintain oyster habitat.

"Delaware Bay Office" means the Division's Delaware Bay region field office located at 1672 E. Buckshutem Road, Millville, New Jersey 08332. The office telephone number is (856) 785-0730.

"Department" means the Department of Environmental Protection.

"Direct market harvest season" means April 1 to June 30, the season, as established at N.J.S.A. 50:3-8 and 50:3-9, during which the natural seed beds may be legally opened for the taking of oysters for the purpose of direct market sale. Pursuant to N.J.S.A. 50:3-8, the duration of the direct market harvest season may be modified by the Commissioner after consultation with the Council.

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

"Gross tonnage" means a vessel's approximate volume as determined by a U.S. Coast Guard authorized measurement system, in accordance with the 46 CFR 69.9.

"Harvest" or "harvesting" means the act of collecting oysters with dredge, tongs or other means.

"Harvester" means the captain, license holder, or other person responsible for the operation of a vessel engaged in the act of collecting oysters with dredge, tongs or other means.

"Harvest trip" means a departure from port, transit to the State's natural seed beds, harvesting and return to port.

"Haskin Shellfish Research Laboratory" means the Rutgers University Haskin Shellfish Research Laboratory, located in Port Norris, New Jersey.

"Individual allocation" means an oyster dredge vessel license holder's equal fraction of the annual harvest quota that is available for harvest pursuant to N.J.A.C. 7:25A-2.

"Land" means to enter port in possession of oysters, to dock to a man-made structure in possession of oysters or to begin offloading harvested oysters.

"Landing sites" means all Division-approved offloading sites.

"Market oyster" means any seed oyster taken from the State's natural seed beds as part of a direct market harvest