

CHAPTER 12

SHELLFISH GROWING WATER CLASSIFICATION

Authority

N.J.S.A. 13:1D-9 and 58:24-1 et seq.

Source and Effective Date

R.1992 d.508, effective November 24, 1992.
See: 24 N.J.R. 3657(a), 24 N.J.R. 4518(b).

Executive Order No. 66(1978) Expiration Date

Chapter 12, Shellfish Growing Water Classification, expires on November 24, 1997.

Chapter Historical Note

Rules concerning shellfish growing water classification were originally codified as N.J.A.C. 7:25-7.1 and were filed and became effective on February 10, 1972 as R.1972 d.29. See 4 N.J.R. 4(b), 4 N.J.R. 45(b). Subsequent revisions to these rules were filed and became effective October 13, 1972 as R.1972 d.203. See: 4 N.J.R. 265(b).

1974 Revisions: On February 20, 1974 the original rules were repealed and replaced by R.1974 d.44, which was codified as N.J.A.C. 7:12 on June 30, 1974. See: 5 N.J.R. 80(a), 6 N.J.R. 103(b). R.1974 d.44 was repealed and replaced by R.1974 d.99 on April 23, 1974. See: 6 N.J.R. 101(a), 6 N.J.R. 175(b). Subsequently, amendments were filed and became effective December 6, 1974 as R.1974 d.336. See 7 N.J.R. 6(b).

1975 Revisions: Amendments became effective January 27, 1975 as R.1975 d.18. See 7 N.J.R. 102(a); February 10, 1975. Further amendments as R.1975 d.27, see 7 N.J.R. 102(c); and March 7, 1975 as R.1975 d.51, see 7 N.J.R. 152(a). On May 1, 1975, R.1975 d.116 repealed and replaced the entire text. See: 7 N.J.R. 149(a), 7 N.J.R. 260(a). Amendments were filed and became effective November 14, 1975 as R.1975 d.341. See 7 N.J.R. 463(a), 7 N.J.R. 547(b).

1976 Revisions: Amendments became effective February 18, 1976 as R.1976 d.54, see 8 N.J.R. 10(c), 8 N.J.R. 108(a); November 23, 1976 as R.1976 d.372, see 8 N.J.R. 548(b).

1977 Revisions: Amendments became effective March 8, 1977 as R.1977 d.73; see 9 N.J.R. 69(b), 9 N.J.R. 169(a); March 8, 1977 as R.1977 d.74, see 9 N.J.R. 71(a), 9 N.J.R. 169(b).

1978 Revisions: Amendments became effective February 24, 1978 as R.1978 d.69, see 10 N.J.R. 144(a). On June 30, 1978 the entire text was replaced by R.1978 d.219. See: 10 N.J.R. 328(a). Further amendments became effective September 5, 1978 as R.1978 d.299. See: 10 N.J.R. 422(a). Further amendments became effective September 16, 1987 as R.1987 d.327. See: 10 N.J.R. 425(b).

1979 Revisions: Amendments became effective May 9, 1979 as R.1979 d.184. See: 11 N.J.R. 170(b), 11 N.J.R. 276(a).

1980 Revisions: Amendments became effective January 9, 1980 as R.1980 d.12. See: 12 N.J.R. 71(c). Further amendments became effective January 29, 1980 as R.1980 d.48. See: 12 N.J.R. 112(b). Further amendments became effective May 23, 1980 as R.1980 d.230. See: 12 N.J.R. 179(b), 12 N.J.R. 391(a).

1981 Revisions: Amendments became effective June 4, 1981 as R.1981 d.190. See: 13 N.J.R. 191(b), 13 N.J.R. 339(b). Further amendments became effective November 2, 1981 as R.1981 d.431. See: 13 N.J.R. 566(a), 13 N.J.R. 755(b).

1982 Revisions: Amendments became effective June 21, 1982 as R.1982 d.182. See: 14 N.J.R. 310(a), 14 N.J.R. 655(a).

1983 Revisions: This chapter was readopted June 20, 1983 as R.1983 d.249. See: 15 N.J.R. 595(a), 15 N.J.R. 1020(a).

1984 Revisions: Amendments became effective February 21, 1984 as R.1984 d.42. See: 15 N.J.R. 2103(a), 16 N.J.R. 365(b). Further amendments became effective March 30, 1984 as R.1984 d.134, see: 16 N.J.R. 929(a) and May 7, 1984 as R.1984 d.199, see: 16 N.J.R. 558(a), 16 N.J.R. 1199(a). Section 1.7 expired on May 29, 1984. See: 19 N.J.R. 888(a). Further amendments became effective June 18, 1984 as R.1984 d.233. See: 16 N.J.R. 786(a), 16 N.J.R. 1495(b).

1985 Revisions: Amendments became effective February 19, 1985 as R.1985 d.64. See: 16 N.J.R. 3112(a), 16 N.J.R. 3379(a), 17 N.J.R. 433(a). Further amendments became effective June 3, 1985 as R.1985 d.290, see: 17 N.J.R. 661(a), 17 N.J.R. 1412(a); and December 16, 1985 as R.1985 d.634, see: 17 N.J.R. 2185(a), 17 N.J.R. 2971(a).

1987 Revisions: This chapter was substantially amended and recodified effective November 16, 1987 as R.1987 d.488. See: 19 N.J.R. 1129(a), 19 N.J.R. 2136(a). See the recodification chart below.

1988 Revisions: This chapter was readopted pursuant to Executive Order 66(1978) effective April 11, 1988 with amendments effective May 2, 1988 as R.1988 d.206. See: 20 N.J.R. 450(a), 20 N.J.R. 980(b).

Chapter 12, Shellfish Growing Water Classification, was readopted pursuant to Executive Order No. 66(1978) as R.1992 d.508, effective November 24, 1992. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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SUBCHAPTER 1. CLASSIFICATION OF CERTAIN SHELLFISH WATERS

7:12-1.1 General provisions

(a) It is the intent of the Department pursuant to statutory authority to establish regulations and specifications, to be known as the Shellfish Growing Water Classification Code.

(b) The Department recognizes that the shellfish industry and regulatory standards are subject to change as technological data becomes available; accordingly it is the desire of the Department that the code be revised as necessary.

(c) The enforcement of the provisions of this code by the Department or its agents shall be coordinated with and be in conjunction with any and all other State and federal agencies exercising jurisdiction over practices of the shellfish industry.

(d) If any provision of this code or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this code which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are severable.

(e) Pursuant to N.J.S.A. 58:24-7 and N.J.S.A. 13:1D-7a the Department shall have free access to "all oyster or clam beds, places of business and all other places where oysters, clams or other shellfish are grown, kept, stored, had in possession with intent to distribute or sell, or sold, and also to all streams, tributaries thereof and land adjacent thereto, the waters draining from which may come in contact with such shellfish.

(f) The Department of Environmental Protection, together with the Department of Health, may make such inspection of such places and take such samples of oysters, clams or other shellfish or other substances as it may deem necessary to carry out the purposes of this chapter.

(g) No person shall obstruct or interfere with any officer or employee of the State while such officer or employee is engaged in the performance of duties related to shellfish sanitation.

(h) Special shellfish buoys, signs, and markers showing areas other than Approved are considered to be under the control of the State as provided by RS 12:4-2 and any person who removes or destroys these buoys, signs and/or markers shall be liable to a penalty of \$60.00; or any person who damages or removes any shellfish sign, buoy, or marker showing a shellfish area classified other than Approved may be prosecuted for criminal mischief, N.J.S.A. 2C:17-3. These signs, markers and buoys are provided as a means of public information only.

(i) Charts designating growing water classifications as hereinafter referenced are available from the Bureau of Marine Water Classification and Analysis Offices, Marine Police Stations and Shellfisheries Field Offices at Bivalve and Nacote Creek. However, all persons are cautioned that emergency closures may be necessary and may not be charted. These Shellfish Growing Water Classification Charts are developed from Nautical Charts Number 12327 New York Harbor, 86th Edition, May 1, 1993; Number 12324 Intracoastal Waterway, Sandy Hook to Little Egg Harbor, 27th Edition, June 11, 1994; Number 12316 Intracoastal Waterway, Little Egg Harbor to Cape May, 26th Edition, June 18, 1994; and Number 12304 Delaware Bay, 35th Edition, January 1, 1994. The Department of Environmental Protection hereby condemns all shellfish growing waters as described in this chapter and other places from which shellfish are or may be taken as listed in N.J.A.C. 7:12-9 at all times of the year except when otherwise noted in N.J.A.C. 7:12-4 and 5.

(j) Designated areas utilized in conjunction with one of the Special Permit Programs under N.J.A.C. 7:12-9 which are leased from the State and may contain shellfish harvested from the Seasonal Special Restricted or Special Restricted area, are under the Relay Program, N.J.A.C. 7:12-9.8, Transfer Program, N.J.A.C. 7:12-9.9, and Transplant Programs, N.J.A.C. 7:12-9.10, and may be harvested only upon notification by the Bureau of Marine Water Classification and Analysis, Division of Water Resources, Non-leased lots within these designated areas are not available to harvest of shellfish at any time.

Amended by R.1980 d.230, effective May 23, 1980.

See: 12 N.J.R. 179(b), 12 N.J.R. 391(a).

Amended by R.1981 d.190, effective June 4, 1981.

See: 13 N.J.R. 191(b), 13 N.J.R. 339(b).

(h) added.

Amended by R.1987 d.488, effective November 16, 1987.

See: 19 N.J.R. 1129(a), 19 N.J.R. 2136(a).

Added "other than approved" to (h) and added new (i) and (j). Amended by R.1989 d.390, effective July 17, 1989.

See: 21 N.J.R. 1041(b), 21 N.J.R. 2032(a).

Deleted reference to N.J.A.C. 7:12-5 in (i) and referenced 81st Edition.

Amended by R.1990 d.399, effective August 6, 1990.

See: 22 N.J.R. 1304(a), 22 N.J.R. 2285(a).

Chart editions updated at (i).

Amended by R.1991 d.592, effective December 16, 1991 (operative January 1, 1992).

See: 23 N.J.R. 2993(a), 23 N.J.R. 3751(a).

Added references to Transfer Program and Transplant Program. Amended by R.1992 d.508, effective December 21, 1992 (operative January 1, 1993).

See: 24 N.J.R. 3657(a), 24 N.J.R. 4518(b).

At (i), updated editions of Nautical Charts being used for designating growing waters.

Amended by R.1995 d.81, effective February 6, 1995.

See: 26 N.J.R. 4475(b), 27 N.J.R. 484(a).

7:12-1.2 Definitions

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

"Approved areas" means water meeting the sanitary standards for approved shellfish harvesting as recommended by the Interstate Shellfish Sanitation Conference. Waters not classified as Prohibited, Special Restricted, Seasonal Special Restricted, or Seasonal shall be considered Approved for the harvest of shellfish.

"Bait harvesting" means the taking of shellfish from areas other than approved, for use only as bait and not for human consumption.

"Bureau" means the Bureau of Marine Water Classification and Analysis in the Division of Science and Research.

"Condemned areas" means waters not meeting the established sanitary standards as recommended by the Interstate Shellfish Sanitation Conference. Condemned areas are comprised of the following classifications: Prohibited, Special Restricted, Seasonal Special Restricted and Seasonal.

"Department" means the New Jersey Department of Environmental Protection.

"Department maintained markers" means any special shellfish buoy, range, stake or marker maintained by the Department of Environmental Protection, for the purpose of aiding in the delineation of water classified for shellfish harvesting.

"Depletion" means the planned removal of market size shellfish from areas other than approved, for resource management and control purposes.

"Depuration or controlled purification" means the process that uses a controlled aquatic environment to reduce the levels of bacteria and viruses in live shellfish.

"Depuration plant" means a premise or establishment in which clams obtained from waters officially sanctioned and classified by the Department of Environmental Protection as Special Restricted or Seasonal Special Restricted are subject to a process of controlled purification with the proper controls approved by the Department of Health which will render the depurated clams alive, and microbiologically acceptable within the meaning of State statutes and regulations.

"Depuration process" means the procedure and equipment employed by which shellfish are harvested from waters sanctioned and classified by the Department of Environmental Protection as Special Restricted or Seasonal Special Restricted and are treated at a depuration plant for controlled purification.

"Depuration unit" is a tank or series of tanks supplied by a single process water system.

"Designated enforcement unit(s)" means the Marine Enforcement Unit in the Division of Fish, Game and Wildlife, Marine Bureau in the Division of State Police, the Bureau of Marine Water Classification and Analysis in the Division of Water Resources.

"Division" means the Division of Science and Research in the Department of Environmental Protection.

"Hard clams" mean the species *Mercenaria mercenaria*.

"Harvester allocation tag" means the tag that is to be affixed to each container of shellfish at the time the container is allocated by the depuration plant operator to the individual clammer. The use, specifications and information requirements shall be in compliance with Department of Health rules at N.J.A.C. 8:13-2.24.

"Interstate Shellfish Sanitation Conference" or "ISSC" means the formal conference that establishes guidelines and procedures of the National Shellfish Sanitation Program (NSSP) for the sanitary control of the harvesting, processing and distribution of shellfish. Membership consists of Federal, State and local regulatory agencies responsible for shellfish sanitation, the shellfish industry and the academic community.

"Marina" means any structure (docks, piers, bulkheads, floating docks, etc.) that supports five or more boats, built on or near the water, which is utilized for docking, storing or otherwise mooring vessels and usually but not necessarily provides services to vessels such as repairing, fueling, security or other related activities.

"Monitoring system" means a video surveillance system which shall be remotely monitored via telephone lines in designated State offices. The surveillance system shall be so located as to monitor all critical control activities. The system must be approved by the SRRSC.

"Person" means and includes any individual, company, firm, corporation, association, society, partnership, joint stock company and their agents or employees and shall also include the State and all its political subdivisions, any agencies or instrumentalities thereof.

"Prohibited areas" means certain Condemned areas meeting specified sanitary standards as set forth by the Interstate Shellfish Sanitation Conference (ISSC).

"Relaying" means the taking of market size shellfish from areas other than approved areas, for replanting in approved areas for purposes of purification prior to marketing.

"Research" means the taking of shellfish from areas other than approved, for purposes of scientific investigation requiring naturally contaminated shellfish.

"Sanctuary" means an area established by the department for research purposes.

"Seasonal area" means waters condemned and opened for the harvest of shellfish each year automatically by operation of the regulations in this chapter.

"Seasonal Special Restricted Area" means certain Condemned waters meeting specified sanitary standards as set forth by the Interstate Shellfish Sanitation Conference (ISSC) during a portion of the year. The areas so designated will automatically, by operation of regulations according to the schedule in N.J.A.C. 7:12-5.1, be available for use under the special permit programs sanctioned by the Department.

"Shellfish" means all species of oysters, clams or mussels, either shucked or in the shell that are fresh or fresh frozen and whole or in part and scallops, only when they are whole or with roe-on.

"Shellfish Resource Recovery Steering Committee" or "SRRSC" means a committee of representatives from the Department of Environmental Protection and the Department of Health who have the regulatory responsibilities for resource recovery programs.

"Soft clams" means the species *Mya arenaria*.

"Spawner area" means those areas established by the department to re-establish shellfish populations.

"Special Permit Programs" means programs developed to utilize shellfish from waters classified other than approved.

"Special Restricted areas" means certain Condemned areas meeting specified sanitary standards as set forth by the Interstate Shellfish Sanitation Conference. Application for removal of shellfish to be used for human consumption from areas classified as Special Restricted will be considered for transplant, transfer, relaying, and depuration/controlled purification.

"Transfer" means the movement of shellfish from leased land located in a Condemned area to leased lands located in an Approved area for the purposes of propagation and/or purification.

"Transplanting" means the taking of submarket size shellfish from areas other than approved areas for replanting in approved areas until they grow to market size.

Amended by R.1982 d.182, effective June 21, 1982.

See: 14 N.J.R. 310(a), 14 N.J.R. 655(a).

Amended by R.1983 d.249, effective June 20, 1983.

See: 15 N.J.R. 595(a), 15 N.J.R. 1020(a).

"Department maintained markers" added.

Amended by R.1984 d.42, effective February 21, 1984.

See: 15 N.J.R. 2103(a), 16 N.J.R. 365(b).

"Seasonal Special Restricted Areas" defined.

Amended by R.1986 d.234, effective June 16, 1986.

See: 18 N.J.R. 784(a), 18 N.J.R. 1275(a).

Added definitions "Department", "sanctuary", "spawner area" and "special permit programs".

Amended by R.1987 d.488, effective November 16, 1987.

See: 19 N.J.R. 1129(a), 19 N.J.R. 2136(a).

Substantially amended.

Amended by R.1988 d.206, effective May 2, 1988.

See: 20 N.J.R. 450(a), 20 N.J.R. 980(b).

Cross reference in Seasonal Special Restricted Areas changed to section 5 from section 6.

Amended by R.1990 d.548, effective November 19, 1990.

See: 22 N.J.R. 97(a), 22 N.J.R. 3508(a).

Added definitions for Bureau, depuration plant, depuration process, designated enforcement unit, Division, hard clams, harvester allocation tag, Interstate Shellfish Sanitation Conference, monitoring system, Shellfish Resource Recovery Steering Committee, and soft clams; amended definitions for depuration, marina, prohibited areas, seasonal restricted area, and shellfish.

Amended by R.1992 d.508, effective December 21, 1992 (operative January 1, 1993).

See: 24 N.J.R. 3657(a), 24 N.J.R. 4518(b).

Amended definition of "Shellfish".

Amended by R.1994 d.201, effective April 18, 1994.

See: 26 N.J.R. 789(a), 26 N.J.R. 1632(a).

Amended by R.1995 d.81, effective February 6, 1995.

See: 26 N.J.R. 4475(b), 27 N.J.R. 484(a).

7:12-1.3 (Reserved)

As amended, R.1978 d.327, eff. September 16, 1978.

See: 10 N.J.R. 425(b).

As amended, R.1979 d.184, eff. May 9, 1979.

See: 11 N.J.R. 170(b), 11 N.J.R. 276(a).

As amended, R.1980 d.12, eff. January 9, 1980.

See: 12 N.J.R. 71(c).

As amended, R.1980 d.48, eff. January 29, 1980.

See: 12 N.J.R. 112(b).

As amended, R.1980 d.230, eff. May 23, 1980.

See: 12 N.J.R. 179(b), 12 N.J.R. 391(a).

As amended, R.1981 d.190, eff. June 4, 1981.

See: 13 N.J.R. 191(b), 13 N.J.R. 339(b).

As amended, R.1981 d.431, eff. November 2, 1981.

See: 13 N.J.R. 566(a), 13 N.J.R. 755(b).

As amended, R.1982 d.182, eff. June 21, 1982.

See: 14 N.J.R. 310(a), 14 N.J.R. 655(a).

As amended, R.1983 d.249, eff. June 20, 1983.

See: 15 N.J.R. 595(a), 15 N.J.R. 1020(a).

Substantially amended.

As amended, R.1984 d.42, eff. February 21, 1984.

See: 15 N.J.R. 2103(a), 16 N.J.R. 365(b).

(a)3iii: Special Restricted Area delineated.

(a)3vii: deleted.

As amended, R.1984 d.233, eff. June 18, 1984.

See: 16 N.J.R. 786(a), 16 N.J.R. 1495(b).

(a): Approved Area Charts changed to Shellfish Growing Water Classification Charts; Editions updated.

(a)4ii added; 24i, 31vii, and 32vii revised, 37iii revised, xii and xiii added; 39iii revised.

Amended by R.1985 d.64, eff. February 19, 1985.

See: 16 N.J.R. 3112(a), 16 N.J.R. 3379(a), 17 N.J.R. 433(a).

(a)i-iii: amended;

(a)27vi: added; (a)40: deleted.

Amended by R.1985 d.290, effective June 3, 1985.

See: 17 N.J.R. 661(a), 17 N.J.R. 1412(a).

Substantially amended.

Amended by R.1986 d.234, effective June 16, 1986.

See: 18 N.J.R. 784(a), 18 N.J.R. 1275(a).

Substantially amended.

Amended by R.1987 d.488, effective November 16, 1987.

See: 19 N.J.R. 1129(a), 19 N.J.R. 2136(a).

This section was "Growing water condemnations".

SUBCHAPTER 2. SHELLFISH GROWING WATER CLASSIFICATION—PROHIBITED

7:12-2.1 Shellfish growing water classification—Prohibited

(a) The following shellfish growing waters are classified Prohibited:

1. General areas as follows:

i. All lagoons dredged for the purpose of access to property and/or the dockage of boats; and

ii. All marinas, anchorages or other places where docking or mooring facilities are provided for boats.

2. Northern New Jersey area: All the waters lying west and north of Raritan Bay, including the Raritan River, Arthur Kill, Kill Van Kull, Newark Bay, Passaic River, Hackensack River, Upper Bay, Hudson River and tributaries thereof.

3. Monmouth Middlesex County area (Note that a portion is also designated as a Special Restricted area. See N.J.A.C. 7:12-3):

i. All those waters of Raritan Bay, Raritan River and Arthur Kill (and tributaries) lying south and west of the New Jersey/New York boundary and lying west of a line beginning on the northernmost point of land on Conaskonk Point, Union Beach, New Jersey and bearing approximately 345 degrees T to the southernmost point of land on Sequine Point, near Princes Bay, Staten Island, New York, where this line terminates;

ii. All those waters of Raritan Bay and its tributaries lying south of a line beginning on the northernmost point of land on Conaskonk Point (Union Beach) and bearing approximately 092 degrees T to the northernmost point of land on Point Comfort (Keansburg) where this line terminates;

iii. All waters of Pews Creek and tributaries thereof;

iv. All waters of Compton Creek and tributaries thereof;

v. All those waters of Raritan Bay and Lower Bay enclosed by the New Jersey/New York boundary and a straight line beginning on the southwesternmost point of land on Rockaway Point, Long Island, New York and bearing approximately 222 degrees T to the northernmost point of land on Sandy Hook, New Jersey and then following the shoreline of Sandy Hook west and south to a point on the shoreline where this line intersects a line beginning at the navigation aid at Sandy Hook Point designated as Equal Interval 6 second and Vertical Beam light 38ft 15M Bell (E. Int 6 sec and VB 38ft 15M Bell) and then following this line bearing approximately 278 degrees T to the channel marker designated as GR "TC" Interrupted Quick Green Light (GR "TC" F1(2+1)(G6s)) located at the intersection of Raritan Bay East Reach, Sandy Hook Channel, and Terminal Channel, and then following the southwesternmost boundary of the Raritan Bay East Reach Channel in a northwesterly direction until it intersects the New Jersey/New York boundary where this line terminates. (Note: This closure adjoins those Prohibited waters defined in (a)20i below); and

vi. All those waters enclosed by a line beginning where the structure (old ferry pier) forming the western extent of the Atlantic Highlands Municipal Harbor (First Avenue, Borough of Atlantic Highlands) and then following the western extent of this structure in a northerly direction to its northernmost extent, and then connecting this structure with the breakwater (this breakwater or rockpile forms the northern boundary of the municipal harbor) and following the northern side of the breakwater in an easterly direction to the breakwater's easternmost extent, where it is marked by the navigation marker designated as 'Flashing light 4sec 29ft 8M' (F1 4sec 29ft 8M) and then bearing approximately 201 degrees T to the mainland where this line terminates.

4. Sea Girt area: All of Wreck Pond and tributaries thereof.

5. Manasquan River area (Note: A portion is also designated as a Special Restricted area. See N.J.A.C. 7:12-3):

i. All of the Point Pleasant Canal; and

ii. All of the waters of the Manasquan River and tributaries located north and west of the State Highway Route 70 bridge.

6. Bay Head and Metedeconk River area (Note: A portion is also designated as a Special Restricted area. See N.J.A.C. 7:12-3):

i. All of Twilight Lake and its tributaries including its access channel upstream from where its mouth meets Northern Barnegat Bay or Bay Head Harbor;

- ii. All those waters of Beaverdam Creek and its tributaries west of a line beginning on the southwesternmost point of land forming the eastern side of the lagoon located just west of the westernmost extent of Boat Point Drive in Point Pleasant and bearing approximately 097 degrees T to navigation marker Flashing Green light "3" (FL G "3") and then bearing approximately 210 degrees T to the easternmost point of land on Wardells Neck east of the easternmost extent of North Drive in Brick Township; and
- iii. All those waters of the Metedeconk River and its tributaries west of a line beginning on the southeasternmost point of land of Wardells Neck east of the easternmost extent of South Drive in Brick Township and then bearing approximately 180 degrees T to navigation marker Flashing Red light "2" (FL R "2") and then bearing approximately 165 degrees T through navigation marker Flashing Green light "1" (FL G "1") to the shoreline in West Mantoloking where this line terminates.
7. Toms River area: All those waters of Toms River and tributaries west from a straight line beginning at Good Luck Point and bearing approximately 342 degrees T to the easternmost point of land in Dover Township where the Thomas A. Mathis Bridge (Route 37) intersects the shoreline.
8. Brigantine area (Note: Portions are also designated as Special Restricted and Seasonal. See N.J.A.C. 7:12-3 and 4):
- i. All of Baremore Quarters inside of a line from the northern end of 10th Street South and bearing approximately 332 degrees T to 470 West Shore Drive and terminating.
9. Atlantic City area (Note: Portions are also designated as Special Restricted and Seasonal. See N.J.A.C. 7:12-3 and 4):
- i. All of Clam Creek and contiguous harbors;
- ii. All of Inside Thorofare and West Canal;
- iii. All of Beach Thorofare from a line across Beach Thorofare bearing approximately 225 degrees T from the eastern side of the mouth of Penrose Canal at its junction with Beach Thorofare to a line from the northernmost tip of runway number 22 (North-South runway) at Bader Field in Atlantic City and bearing approximately 033 degrees T across Beach Thorofare; and
- iv. All of an unnamed lagoon at the northwest corner of Lakes Bay.
10. Great Egg Harbor River (Note: Portions are also designated as Special Restricted and Seasonal. See N.J.A.C. 7:12-3 and 4).
- i. All Great Egg Harbor River and tributaries upstream from a line starting at a Department maintained marker at the mouth of Powell Creek and bearing approximately 248 degrees T across the river to another Department maintained marker.
11. Ocean City area: All of the body of water known as The Lagoon (location of Coast Guard Station, Ocean City).
12. Strathmere and Sea Isle City area (Note: Portions are also designated as Special Restricted and Seasonal. See N.J.A.C. 7:12-3 and 4):
- i. An area adjacent to the Town of Strathmere inshore from a line along the western side of the Ocean Drive Bridge to the portion that opens, then bearing approximately 212 degrees T to the boat ramp at the end of Bayview Avenue, Strathmere;
- ii. All of the unnamed tributary to the east of Whale Creek;
- iii. All of Ludlam Thorofare from a line bearing approximately 229 degrees T through Flashing Red light 350(FL R 8ft "350") to a line bearing approximately 122 degrees T through Flashing Red light 8ft 362(FL R 8ft "362").
- iv. All of Sunks Creek and tributaries thereof.
13. Avalon area:
- i. All those waters contained within a line from the Avalon Yacht Club proceeding in a southwest direction across the mouth of Cornell Harbor, then along that shoreline and across the mouth of Pennsylvania Harbor, then continuing along that shoreline and across the mouth of Princeton Harbor, then continuing along the eastern shoreline of Gravens Thorofare to its junction with Long Reach, then along the northeast shoreline of Long Reach in a southeasterly direction across the mouths of several lagoons, then to the end of 51st Street, Avalon, then along Ocean Drive in a northerly direction, then along 7th Street, Avalon, to the point of origin at the Avalon Yacht Club and terminating.
14. Stone Harbor area (Note: a Portion is also designated as Seasonal. See: N.J.A.C. 7:12-4):
- i. All the body of water running parallel with Seven Mile Beach, not including tributaries;
- ii. All of Oldman Creek;
- iii. All of Oyster Creek;
- iv. All of Scotch Bonnet northwest of the line defined by two Department maintained markers approximately 700 yds. northwest of the junction with Great Channel;
- v. All of Ludlam Gut;
- vi. All of Muddy Hole;

- vii. All of Stone Harbor Canal;
- viii. All of Hetty Creek;
- ix. All of Crooked Creek;
- x. All of Mulford Creek and the creek connecting it with Crooked Creek; and
- xi. All of Holmes Creek upstream of a line across the creek beginning at the first drainage ditch on the north bank inside the creeks' mouth.

15. Jenkins Sound Area:

- i. All of Jenkins Sound north of a line from a Department maintained marker northeast of the parking area at Shellbed Landing and bearing approximately 078 degrees T to another Department maintained marker and terminating; and
- ii. All of Genesis Bay north of a line defined by two Department maintained markers outside the mouth of Hetty Creek;

16. The Wildwoods Area (Note: Portions are also designated as Special Restricted and Seasonal. See: N.J.A.C. 7:12-3 and 4):

- i. All of Grassy Sound Channel and tributaries thereof south of a line defined by Department maintained markers on either shoreline approximately 100 yds. south of Fl R 8ft "459";
- ii. All those waters lying between North Wildwood Boulevard and Jenkins Channel and Jenkins Sound, including Gravelly Run and Turtle Gut;
- iii. All of Beach Creek and tributaries thereof;
- iv. All of Richardson Sound within a line beginning at the western end of the Route 47 bridge to a Department maintained marker at the mouth of Gar Creek, then proceeding easterly to the northernmost tip of Wishbone Island, then along the shoreline of Wishbone Island to its easternmost point, then proceeding easterly to another Department maintained marker on the northernmost tip of Hildreth Meadow, then southwesterly along the shoreline of Hildreth Meadow to the eastern end of the Route 47 bridge, then northwesterly along the bridge to the point of origin at the western end of the bridge:
- v. All of Old Turtle Thorofare and its tributaries north and east of its junction with Tempe Creek;
- vi. All of Tempe Creek and tributaries thereof;
- vii. All of Cresse Creek and tributaries thereof;
- viii. All of the tributaries of Richardson Sound northwest of the Intracoastal Waterway;
- ix. All of Post Creek and Ottens Harbor and tributaries thereof;
- x. All of Sunset Lake and tributaries thereof;

- xi. All of Richardson Channel and tributaries thereof;
- xii. All of Swain Channel;
- xiii. All that unnamed body of water connecting Swain Channel and Jarvis Sound (Intracoastal Waterway); and
- xiv. All of Reubens Thorofare and tributaries thereof.

17. Cape May (Note: A portion is also designated as a Special Restricted area. See N.J.A.C. 7:12-3):

- i. All of Upper Thorofare and tributaries thereof;
- ii. All of Middle Thorofare and tributaries thereof;
- iii. All of Lower Thorofare and tributaries thereof;
- iv. All of Skunk Sound and tributaries thereof;
- v. All of Cape Island Creek and tributaries thereof;
- vi. All of Cape May Canal and tributaries thereof; and
- vii. That area of Cape May Harbor described in N.J.A.C. 7:12-3(a)32i which lies adjacent to the U.S.C.G. harbor area inshore from a line connecting Flashing Green light Number 5 (FL G 4 sec. "5") with G "9" PA.

18. Delaware Bay area (Note: Portions are also designated as Special Restricted and Seasonal. See N.J.A.C. 7:12-3 and 4):

- i. All that portion of Delaware Bay contained within a line beginning at the Cape May Point Lighthouse (Fl 15(s) 165ft 24M) and bearing approximately 336 degrees T to Red Number 8 (Fl R 2.5s Bell) then bearing approximately 054 degrees T to the standpipe at North Cape May and terminating;
- ii. All of Cox Hall Creek and Fishing Creek;
- iii. All of Dias Creek;
- iv. All of the Bidwell Creek upstream of the easterly side of the Route 47 bridge;
- v. All that portion of Delaware Bay inshore of a line from the marker (Department maintained) on the point of land on the west shore of West Creek and bearing approximately 142 degrees T to the mainland south of Goshen Creek and terminating:
 - (1) All of Goshen Creek and tributaries thereof;
 - (2) All of Dennis Creek and tributaries thereof;
 - (3) All of East Creek and tributaries thereof; and
 - (4) All of West Creek and tributaries thereof;
- vi. All of Riggins Ditch and tributaries thereof;

vii. All of Maurice River and tributaries upstream of a line from the end of Berry Avenue (Shellpile) and bearing approximately 214 degrees T across the river to a Department maintained marker and terminating; and

viii. All of Cohansey River and tributaries upstream of a line from QG 24ft 5M "1" and bearing approximately 097 degrees T across the mouth, to a Department maintained marker and terminating.

19. All of the New Jersey portion of the Delaware River and tributaries thereof lying northwest of a straight line beginning at the southern dome (Salem Nuclear Power Plant) and bearing approximately 230 degrees T towards the point of land, on the southern shore, at the mouth of Blackbird Creek.

20. Atlantic Ocean:

i. All of the ocean waters east of a line connecting the northernmost point of Sandy Hook and the southwesternmost point of Rockaway Point and south of the New York State line and extending to and following the New Jersey three nautical mile jurisdiction limit in a southerly direction until it intersects a line bearing approximately 269 degrees T connecting a point with coordinates of latitude 40 degrees 20.8 minutes N., longitude 73 degrees 47.7 minutes W. (generally marked by a buoy charted as W Or "BA" Gp Fl(4) 20 sec WHISTLE marking the separation zone on the Ambrose-Barnegat traffic lane) and the radio tower located at the New Jersey Marine Police Station, 128 Ocean Avenue, Borough of Monmouth Beach, with coordinates of latitude 40 degrees 20.5 minutes N., longitude 73 degrees 58.5 minutes W., then along that line to a point 1.5 nautical miles directly offshore, then along the shoreline in a southerly direction 1.5 nautical miles offshore until it intersects a line beginning at the water tank located on 509 Monmouth Avenue, Borough of Spring Lake, with coordinates of latitude 40 degrees 08.8 minutes N., longitude 74 degrees 02.2 minutes W., and bearing approximately 085 degrees T through the dome of the Essex-Sussex Hotel, 700 Ocean Avenue, Borough of Spring Lake, with coordinates of latitude 40 degrees 08.8 minutes N., longitude 74 degrees 01.5 minutes W., then proceeding from that point of intersection in a westerly direction along that line towards the above noted dome until it is 0.5 nautical miles directly offshore, then continuing in a southerly direction 0.5 nautical miles offshore for approximately 3.9 nautical miles to a point with coordinates of latitude 40 degrees 5.1 minutes N., longitude 74 degrees 1.7 minutes W., then bearing approximately 280 degrees T (reciprocal 100 degrees T) to the water tank located next to the junction of New York Avenue and the Con Rail Railroad tracks, Borough of Point Pleasant Beach, with coordinates of latitude 40 degrees 05.2 minutes N., longitude 74 degrees 2.8 minutes W., and terminating. This closure adjoins those Prohibited waters in (a)3v above and those Special Restricted waters defined in N.J.A.C. 7:12-3.2;

ii. All of the ocean waters inshore of a line beginning at the water tank located on Lake Avenue, Borough of Bay Head, with coordinates of latitude 40 degrees 04.1 minutes N., longitude 74 degrees 02.7 minutes W., and bearing approximately 146 degrees T for approximately 2.2 nautical miles until it intersects a line bearing approximately 056 degrees T from the water tank located on Normandy Way in the Normandy Beach section of Dover Township, with coordinates of latitude 39 degrees 59.9 minutes N., longitude 74 degrees 03.8 minutes West. This point of intersecting lines is approximately two nautical miles from the shoreline and has coordinates of latitude 40 degrees 01.6 minutes N., longitude 74 degrees 00.5 minutes West. The line then continues bearing approximately 236 degrees T (reciprocal 056 degrees T) from the point of intersection to the above noted water tank in Normandy Beach and terminating;

iii. All of the ocean waters inshore of a line beginning at the three story wood frame building on the beach between Tuna Way and Kittiwake Avenue in the Ocean Beach section of Dover Township with coordinates of latitude 39 degrees 59.3 minutes N., longitude 74 degrees 3.8 minutes W., and bearing approximately 100 degrees T for approximately one nautical mile from the shoreline to a point with coordinates of 39 degrees 59.1 minutes N., longitude 74 degrees 2.5 nautical minutes W., then continuing in a southerly direction one nautical mile offshore for approximately 4.5 nautical miles until it intersects a line bearing approximately 096 degrees T from the water tank located on the corner of Barnegat Avenue and 12th Avenue, Borough of Seaside Park, with coordinates of latitude 39 degrees 54.9 minutes N., longitude 74 degrees 05.0 minutes West. This point of intersecting lines is approximately one nautical mile from the shoreline and has coordinates of latitude 39 degrees 54.8 minutes N., longitude 74 degrees 03.3 minutes West. Then proceeding in an easterly direction along that line beginning at the water tank for approximately 0.5 nautical miles to a point approximately 1.5 nautical miles from the shoreline with coordinates of latitude 39 degrees 54.7 minutes N., longitude 74 degrees 02.7 minutes West. The line continues from this point parallel to the shoreline in a southerly direction 1.5 nautical miles offshore for approximately 1.1 nautical miles to a point with coordinates of latitude 39 degrees 53.6 minutes N., longitude 74 degrees 02.9 minutes W., then bearing approximately 276 degrees T (reciprocal 096 degrees T) for approximately 1.6 nautical miles to the cupola located on top of Island Beach State Park's Maintenance Center (the old Coast Guard Station 110), with coordinates of latitude 39 degrees 53.7 minutes N., longitude 74 degrees 04.9 minutes W., and terminating.

iv. All of the ocean waters inshore of a line beginning at the water tank located on 813 Boulevard, Borough of Surf City, with coordinates of latitude 39 degrees 39.6 minutes N., longitude 74 degrees 10.1 minutes W., and bearing approximately 120 degrees T for approximately two nautical miles from the shoreline to a point with coordinates of latitude 39 degrees 38.6 minutes N., longitude 74 degrees 07.7 minutes W., then from this point which is approximately two nautical miles offshore, the line runs parallel to the shoreline in a southerly direction for approximately 1.2 nautical miles to a point with coordinates of latitude 39 degrees 37.7 minutes N., longitude 74 degrees 08.4 minutes W., then bearing approximately 300 degrees T for approximately 2.2 nautical miles to the water tank located on 112 West 17th Street, Borough of Ship Bottom, with coordinates of latitude 39 degrees 38.7 minutes N., longitude 74 degrees 10.8 minutes W., and terminating;

v. All of the ocean waters inshore of a line beginning at the light chartered as F1 G 4sec 29ft 6M "7" at the end of Absecon Inlet's southwest jetty and bearing approximately 017 degrees T towards the ocean end of Absecon Inlet's northeast jetty until it intersects a line bearing approximately 148 degrees T (reciprocal 328 degrees T) from the center span of the Vincent Haneman Bridge (Route 87). This point of intersecting lines has coordinates of latitude 39 degrees 22.0 minutes N., longitude 74 degrees 24.4 minutes West, then proceeding in a southeasterly direction along that line for approximately 0.6 nautical miles to a point with coordinates of latitude 39 degrees 21.5 minutes N., longitude 74 degrees 23.9 minutes W. (generally marked by a buoy charted as R. "2" F1 R 2.5s), then bearing approximately 275 degrees T (reciprocal 095 degrees T) for approximately 0.5 nautical miles towards the outermost tip of Garden Pier, Atlantic City, until it is 0.25 miles directly offshore, then parallel along the shoreline in a southwesterly direction, 0.25 nautical miles offshore, for approximately 1.3 nautical miles until it intersects a line bearing approximately 153 degrees T from the center of Convention Hall, Atlantic City, then proceeding in a southeasterly direction along that line for approximately 1.75 nautical miles to a point with coordinates of latitude 39 degrees 19.4 minutes N., longitude 74 degrees 25.1 minutes W., then from this point which is approximately 2 nautical miles offshore, the line runs parallel to the shoreline in a southwesterly direction for approximately 2.1 nautical miles to a point with coordinates of latitude 39 degrees 18.4 minutes N., longitude 74 degrees 27.5 minutes W., then bearing approximately 333 degrees T (reciprocal 153 degrees T) for approximately 1.9 nautical miles to the outermost tip of Ventnor City Fishing Pier located at the Boardwalk and South Cambridge Avenue, City of Ventnor, then along that pier to the shore and terminating. This closure adjoins those Special Restricted waters defined in N.J.A.C. 7:12-3.2(a)23i;

vi. All of the ocean waters inshore of a line beginning at the base of the jetty located on the beach near the intersection of Seaspray Road and Waverly Boulevard, City of Ocean City (first stone jetty projecting into Great Egg Harbor Inlet on the northeasternmost end of the city), and continuing along that jetty in a southeasterly direction to its outermost tip, then in a general southerly direction, the line continues and connects the tips of the stone jetties projecting into the ocean until reaching the tip of the stone jetty located at the end of the 15th Street (just south of the Ocean City Fishing Club Pier), then bearing approximately 230 degrees T for approximately 2.8 nautical miles to the water tank located at 4600 Haven Avenue (46th Street intersects across from this location), Ocean City, with coordinates of latitude 39 degrees 14.3 minutes N., longitude 74 degrees 37.6 minutes W., and terminating;

vii. All of the ocean waters inshore of a line beginning at the City of Ocean City's Beach Patrol, First Aid and Rest Room Building located on the beach at 34th Street, with coordinates of latitude 39 degrees 15.0 minutes N., longitude 74 degrees 36.6 minutes W., and bearing approximately 126 degrees T for approximately 1.5 nautical miles from the shoreline to a point with coordinates of latitude 39 degrees 14.1 minutes N., longitude 74 degrees 35.0 minutes W., then bearing approximately 216 degrees T along the shoreline in a southwesterly direction 1.5 nautical miles offshore, for approximately 2.3 nautical miles to a point with coordinates of latitude 39 degrees 12.3 minutes N., longitude 74 degrees 36.7 minutes W., then bearing approximately 306 degrees T for approximately 1.4 nautical miles to the outermost tip of Anglers Fishing Club's Pier, 5825 Central Avenue, Ocean City, then along that pier to the shoreline and terminating;

viii. All of the waters east of the Ocean Drive Bridge crossing Townsend Inlet and inshore of a line beginning at the water tank located on the corner of 80th Street and Central Avenue, City of Sea Isle City, with coordinates of latitude 39 degrees 07.8 minutes N., longitude 74 degrees 42.8 minutes W., and bearing approximately 151 degrees T for approximately 2.5 nautical miles from the shoreline until it intersects a line bearing approximately 127 degrees T from the water tank located on the corner of 13th Street and Dune Drive, Borough of Avalon, with coordinates of latitude 39 degrees 06.4 minutes N., longitude 74 degrees 42.8 minutes West. This point of intersecting lines is approximately 1.5 nautical miles from the shoreline and has coordinates of latitude 39 degrees 05.3 minutes N., longitude 74 degrees 40.9 minutes West. The line continues from this point along the shoreline in a southerly direction 1.5 nautical miles offshore for approximately 1.1 nautical miles until it intersects a line bearing approximately 127 degrees T from the water tank located on the corner of 38th Street and Dune Drive, Borough of Avalon, with coordinates of latitude

39 degrees 05.5 minutes N., longitude 74 degrees 43.7 minutes West. This point of intersecting lines is approximately 1.5 nautical miles from the shoreline and has coordinates of latitude 39 degrees 04.5 minutes N., longitude 74 degrees 41.9 minutes West. The line continues from this point bearing approximately 247 degrees T (reciprocal 067 degrees T) for approximately three nautical miles to the standpipe located on 95th Street between Second and Third Avenues, Borough of Stone Harbor, with coordinates of latitude 39 degrees 02.3 minutes N., longitude 74 degrees 45.6 minutes W., and terminating;

ix. All of the ocean waters inshore of a line beginning at the base of the groin located on the beach near the intersection of Ocean Avenue and 2nd Avenue, City of North Wildwood, and continuing along that groin in a northeasterly direction to its outermost tip, then bearing approximately 147 degrees T towards a point with coordinates of latitude 38 degrees 59 minutes N., longitude 74 degrees 46.2 minutes W. (generally marked by a buoy charted as RW "H"MO (A) whistle) for approximately 0.5 nautical miles until it intersects a line bearing 044 degrees T from the light at the end of the eastern jetty of Cape May Inlet charted as Fl 4s 30ft 7M and passing tangent to the southeasternmost point of land of the City of North Wildwood. This point of intersecting lines has coordinates of latitude 38 degrees 59.9 minutes N., longitude 74 degrees 47.0 minutes West. The line then continues from the point of intersection bearing approximately 224 degrees T (reciprocal 44 degrees T) along that line towards the above noted light at the end of the eastern jetty of Cape May Inlet for approximately 2.8 nautical miles until it intersects a line bearing approximately 130 degrees T from the standpipe located on the corner of Park Boulevard and Myrtle Road, Borough of Wildwood Crest, with coordinates of latitude 38 degrees 58.4 minutes N., longitude 74 degrees 50.4 minutes W. This point of intersecting lines is approximately 0.4 nautical miles from the shoreline and has coordinates of latitude 38 degrees 57.9 minutes N., longitude 74 degrees 49.6 minutes W. Then proceeding in a southeasterly direction along that line to a point approximately 1.5 nautical miles from the shoreline with coordinates of latitude 38 degrees 57.2 minutes N., longitude 74 degrees 48.5 minutes W., then proceeding parallel to the shoreline in a southwesterly direction 2.5 nautical miles offshore for approximately 2.4 nautical miles to a point with coordinates of latitude 38 degrees 55.4 minutes N., longitude 74 degrees 50.5 minutes W., then bearing approximately 310 degrees T (reciprocal 130 degrees T) for approximately 1.2 nautical miles to the light noted above at the end of the eastern jetty of Cape May Inlet then along that jetty to the shore and terminating;

x. All of the ocean waters inshore of a line beginning at the base of the western jetty of Cape May Inlet and continuing along that jetty in a southeasterly direction to the light at the end of the jetty charted as Fl G 4 sec 37ft 7M5 then bearing approximately 295 degrees T (reciprocal 115 degrees T) to the water tank located on the United States Coast Guard Training Center, City of Cape May, with coordinates of latitude 38 degrees 56.8 minutes N., and longitude 74 degrees 53.6 minutes W., and terminating;

xi. All of the waters of the Cold Spring Inlet Hopper and Bucket Dredge Disposal Area contained within a line beginning at an offshore point with coordinates of latitude 38 degrees 55.9 minutes N., and longitude 74 degrees 53.1 minutes W., and bearing approximately 156 degrees T for approximately 0.35 nautical miles to a point with coordinates of latitude 38 degrees 55.6 minutes N., and longitude 74 degrees 52.9 minutes W., then bearing approximately 248 degrees T for approximately 0.5 nautical miles to a point with coordinates of latitude 38 degrees 55.4 minutes N., and longitude 74 degrees 53.5 minutes W., then bearing approximately 332 degrees T for approximately 0.3 nautical miles to a point with coordinates of latitude 38 degrees 55.7 minutes N., and longitude 74 degrees 53.7 minutes W., then bearing approximately 66 degrees T for approximately 0.5 nautical miles to its point of origin and terminating; and

xii. All those waters inshore of a line beginning at the water tank located on the United States Coast Guard Training Center, City of Cape May, with coordinates of latitude 38 degrees 56.8 minutes N., and longitude 74 degrees 53.6 minutes W., and bearing approximately 151 degrees T for approximately 0.25 nautical miles from the shoreline to a point with coordinates of latitude 38 degrees 56.2 minutes N., and longitude 74 degrees 53.2 minutes W., then parallel along the shoreline in a westerly direction, 0.25 nautical miles offshore, for approximately 2.4 nautical miles to a point with coordinates of latitude 38 degrees 55.5 minutes N., longitude 74 degrees 56.1 minutes W., then bearing approximately 356 degrees T (reciprocal 176 degrees T) for approximately 0.2 nautical miles to the southern tip of Third Avenue groin located at the western end of Beach Avenue, City of Cape May, then along that groin to the shore and terminating.

Amended by R.1988 d.206, effective May 2, 1988.

See: 20 N.J.R. 450(a), 20 N.J.R. 980(b).

Delineates the boundaries of those shellfish growing waters classified as prohibited.

Amended by R.1989 d.390, effective July 17, 1989.

See: 21 N.J.R. 1041(b), 21 N.J.R. 2032(a).

At (a)3., added reference to Middlesex county and at 20. added new x. and xi. and recodified x. to xii. with amendments to coordinates.

Amended by R.1990 d.399, effective August 6, 1990.

See: 22 N.J.R. 1304(a), 22 N.J.R. 2285(a).

Manasquan River added; Ludlam Thorofare, Ware Thoro-Mill Creek, Atlantic Ocean, Great Channel, Jenkins Sound and Grassy Sound/Richardson Sound deleted.

Amended by R.1991 d.592, effective December 16, 1991 (operative January 1, 1992).

See: 23 N.J.R. 2993(a), 23 N.J.R. 3751(a).

Grassy Sound deleted; deleted portion of Delaware Bay at pumping station at the mouth of Fishing Creek; changed delineation of waters inshore City of Wildwood and changed delineation of water inshore around United States Coast Guard Training Center, City of Cape May. Amended by R.1992 d.508, effective December 21, 1992 (operative January 1, 1993).

See: 24 N.J.R. 3657(a), 24 N.J.R. 4518(b).

Amended designation at (a)20iii; made technical changes upon adoption at (a)3v; 12iii; 16i; 17viii and 20ix and x.

Amended by R.1994 d.201, effective April 18, 1994.

See: 26 N.J.R. 789(a), 26 N.J.R. 1632(a).

Petition for Rulemaking.

See: 26 N.J.R. 4450(a), 27 N.J.R. 244(d).

Amended by R.1995 d.81, effective February 6, 1995.

See: 26 N.J.R. 4475(b), 27 N.J.R. 484(a).

Case Notes

Petitioner obligated to construct a treatment works: failure to do so violates discharge permit. *Lentine Aggregates v. Dept. of Environmental Protection*, 4 N.J.A.R. 117 (1981), affirmed per curiam Dkt. No. A-3424-80 (App.Div.1982).

7:12-2.2 Use of shellfish grown in waters classified as Prohibited for human consumption

Shellfish grown in waters classified as Prohibited may not be utilized for human consumption except under conditions as may be established by the ISSC.

New Rule: R.1992 d.508, effective December 21, 1992 (operative January 1, 1993).

See: 24 N.J.R. 3657(a), 24 N.J.R. 4518(b).

Amended by R.1994 d.201, effective April 18, 1994.

See: 26 N.J.R. 789(a), 26 N.J.R. 1632(a).

SUBCHAPTER 3. SHELLFISH GROWING WATER CLASSIFICATION—SPECIAL RESTRICTED

7:12-3.1 Use of shellfish grown in waters classified as Special Restricted for human consumption

Shellfish grown in waters classified as Special Restricted may be utilized for human consumption only pursuant to a special permit issued by Department under N.J.A.C. 7:12-9.

7:12-3.2 Shellfish growing waters that are classified as Special Restricted

(a) The following shellfish growing waters are classified as Special Restricted:

1. All those waters contained within a line beginning on the northernmost point of Conaskonk Point near Union Beach, New Jersey and bearing approximately 345 degrees T to Sequine Point at Princes Bay, Staten Island, New York, until it intersects the New York-New Jersey boundary, then along that boundary in an easterly direction until it intersects the Raritan Bay East Reach Channel, then along the southwest boundary of that channel in a southeasterly direction (approximate bearing 106

degrees T) to the channel marker designated as GR "TC" Interrupted Quick Flashing Green light (GR "TC" I QK Fl G) located at the intersection of Raritan Bay East Reach, Sandy Hook Channel and Terminal Channel, and then bearing approximately 098 degrees T to the navigation aid designated as "Equal Interval 6 second and vertical Beam light 38ft 15M Bell" (E. Int. 6 sec and VB 38ft 15M Bell) located on the shore at Sandy Hook Point, then proceeding in a generally southerly direction following the western shoreline of Sandy Hook to the westernmost extent of the Rt. 36 highway bridge spanning the Shrewsbury River and then following the northern edge of that bridge to where it intersects the shoreline on the mainland and then following the shoreline in a generally northwesterly direction until it intersects a line bearing approximately 201 degrees T from the navigational marker designated as Flashing light 4 second 29ft 8M (Fl 4 sec 29ft 8M) marking the easternmost extent of the Atlantic Highlands Municipal Yacht Basin's breakwater (this stonepile forms the basin's northern boundary), and then along that line in a northerly direction to the marker designated as a Flashing light 4 second 29ft 8M and following the northern side of the breakwater in a westerly direction until it reaches the structure forming the western boundary of the Yacht Basin, and then following the western edge of this structure in a southerly direction to the mainland, then following the shoreline in a generally northwesterly direction to the northernmost point of land on Point Comfort (Keansburg), then bearing approximately 272 degrees T to the northernmost point of land on Conaskonk Point (Union Beach), its point of origin.

2. All of the Shrewsbury River and tributaries (not including the Navesink River) south from the northernmost edge of the Route 36 Highway Bridge.

3. All of the Navesink River and tributaries.

4. All of Shark River and tributaries. This closure adjoins those Prohibited waters defined in N.J.A.C. 7:12-2.1(a)20i.

5. All of Manasquan River and tributaries located south and east of the State Highway Route 70 bridge to its union with the Atlantic Ocean at the Manasquan Inlet (See N.J.A.C. 7:12-2).

6. Bay Head and Mantoloking area: All those waters of Northern Barnegat Bay and tributaries north of a straight line beginning on the easternmost point of land on Swan Point and bearing approximately 141 degrees T to Flashing Green light "15"(QG8ft"15") and then following the east side of the inland waterway channel bearing approximately 227 degrees T to Flashing Green light "17" (FG G 6s "17") then bearing approximately 210 degrees T to the most westerly point of land on Curtis Point where this line terminates.

7. Island Beach areas: Mantoloking to Berkeley Township (Note: A portion is designated Seasonal. See N.J.A.C. 7:12-4): All those waters of Barnegat Bay and its tributaries east of a line beginning on the western most point of land on Curtis Point (Brick Township) and then bearing approximately 186 degrees T to the most westerly point of land on Dutchman's Point (just south of Mantoloking Shores), then bearing approximately 210 degrees T to Flashing Red light "2" (Fl R"2") off Normandy Beach, then bearing approximately 169 degrees T to the nearest island to the south, then along the shore of that island to its southernmost point, then bearing approximately 177 degrees T to the east tip of the two islands off Ocean Beach, continuing along the east shore of that island to its southernmost point, then bearing approximately 200 degrees T to Flashing Green light "11" (Fl G "11") off West Point Island, then bearing approximately 190 degrees T to the westernmost tip of the next (unnamed) island to the south, then bearing approximately 209 degrees T to the westernmost point of land on Pelican Island, then bearing approximately 129 degrees T to Flashing Green light "3" (Fl G "3") marking the channel to Seaside Heights, then bearing approximately 170 degrees T to the southwest corner of the bulkhead west of the Berkeley Yacht Basin, then bearing 174 degrees T to the western end of the municipal pier off 5th Avenue in Seaside Park then bearing approximately 210 degrees T to the western end of the municipal pier off 14th Avenue in Seaside Park, then bearing approximately 186 degrees T to the next point of land, then bearing approximately 178 degrees T and terminating at the next point of land at Island Beach State Park.

8. Barnegat Bay-Brick Township and Dover Township from Swan Point to Toms River (Note: A portion is also designated Seasonal. See N.J.A.C. 7:12-4):

i. All those waters of the small unnamed creek just north of Havens Cove, west from a straight line across the mouth of said creek beginning at the point of land on the south bank (forming its mouth) and bearing approximately 033 degrees T toward the mouth of a small lagoon along the north bank;

ii. All of Kettle Creek and tributaries north and west from a straight line beginning at Seaweed Point and bearing approximately 241 degrees T to Andrew Point at Green Island;

iii. All those waters of Silver Bay and its tributaries west of a straight line beginning at the southernmost point of land on Andrew Point (Green Island) and bearing approximately 181 degrees T and terminating on the most easterly point on Cattus Island Park (Ocean County);

iv. All the waters of Applegate Cove south and west of a straight line beginning on Tilton Point and bearing approximately 334 degrees T, to the easternmost point of land on the northern shore of Applegate Cove; and

v. All those waters of Shelter Cove west from a straight line connecting the points of land at its mouth, then all those waters west and north of a line from the southernmost point of land at the mouth Shelter Cove and bearing approximately 154 degrees T to Quick Green light "29" then bearing approximately 181 degrees T toward Good Luck Point and terminating at its point of intersection with the Mathis Bridge, connecting the mainland with Pelican Island; the southern boundary of this condemned area shall follow said bridge in a westward direction and terminate at its connection with the mainland shore. The bridge is a common boundary line with (a)9 below.

9. Toms River area: All of those waters forming the mouth of Toms River west from a straight line beginning at Good Luck Point and bearing approximately 353 degrees T toward the most easterly point of land at Windsor park (north of the Mathis Bridge), and terminating at its point of intersection with the Mathis Bridge; the northern boundary of this condemned area shall follow said bridge in a westward direction and terminate at its connection with the mainland shore. (Note: This designation adjoins the Prohibited waters described in N.J.A.C. 7:12-2.1(a)7.)

10. Barnegat Bay-Berkeley Township area, Toms River to Potter Creek: All waters of Barnegat Bay and its tributaries (including all of Potter Creek) west of a line beginning on the north bank of the entrance to Good Luck Point Marina (at Good Luck Point) then proceeding along the offshore ends of the piers in a southerly direction to the eastern end of Barnegat Pier, then bearing approximately 215 degrees T to Quick Green "38" north of Berkeley Shores, then bearing approximately 221 degrees T to and terminating at the most easterly point of land on the south bank of Potter Creek.

11. Barnegat Bay-Berkeley Township, Potter Creek to Sunrise Beach (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4):

i. Potter Creek to Cedar Creek area: All those waters west of a line beginning at the easternmost point of land (directly east of the terminus of Island Drive, Berkeley Township) on the south bank of Potter Creek (this point of land coincides with that described in (a)10 above and bearing approximately 182 degrees T to the northernmost point on the pier located on the northernmost point of land at Berkeley Island Park (Ocean County Park System);

ii. Cedar Creek to Laurel Harbor area: All those waters west of a line beginning at the bulkhead (located on the northeasternmost point of land at the mouth of Cedar Creek) located on the southeasternmost extent of Berkeley Island Park (Ocean County Park System) and bearing approximately 161 degrees T to the northernmost point of land on the unnamed island located just east of Laurel Harbor, and then following the eastern shoreline of this island in a southerly direction to the southernmost extent of this island, and then bearing approximately 207 degrees T to the Department maintained marker located on the northernmost point of land on the mainland (located at the northeastern extent of Laurel Boulevard in Lacy Township) and then following the shoreline in a southerly direction, and then westerly to the southernmost extent of land in Laurel Harbor (located at the southwesternmost extent of Laurel Boulevard in Lacy Township and then bearing approximately 229 degrees T to the unnamed point of land that forms the southeastern bank at the mouth of the Laurel Harbor lagoon complex where it terminates. This condemnation includes all waters of Cedar Creek and its tributaries as well as waters comprising the Laurel Harbor lagoon complex; and

iii. All those waters west (upstream) from a line beginning at the northernmost point of land, on the southern bank, that helps form the cove at the mouth of the southern lagoon complex adjacent to the community of Sunrise Beach and bearing approximately 335 degrees T to the northeasternmost telephone/electric pole (3MV, BT 36) on Capstan Drive (Sunrise Beach community), then from this pole, across the mouth of Stouts Creek, bearing approximately 352 degrees T and terminating at the small point of land on the west bank of a small unnamed creek along the opposite (northern) shore of Stouts Creek.

12. Western Barnegat Bay—Forked River to Conklin Island. (Note: A portion is designated as Seasonal. See: N.J.A.C. 7:12-4):

i. All waters of Forked River and its tributaries west of a line beginning on the easternmost point of land immediately north of Forked River (approximate location: latitude 39 degrees 49 minutes 38 seconds N., longitude 74 degrees 9 minutes 38 seconds W.) and bearing approximately 167 degrees T to the easternmost point of land on the southern bank at the mouth of Forked River;

ii. All of Oyster Creek;

iii. All waters south and west of a line beginning on the northern bulkhead at the mouth of an unnamed lagoon (lying between Beacon Drive and Nautilus Road in Ocean Township) and bearing approximately 180 degrees T to Department maintained marker "AA" (located approximately 400 yards east of Flashing Red light "2" (Fl R "2") at the mouth of Waretown Creek) and then bearing approximately 195 degrees T to the

Department maintained marker "BB" (located approximately 400 yards east of the mouth of South Harbor) and then bearing approximately 200 degrees T, through Department maintained marker "CC", to Flashing Red light "2" (Fl R "2") marking the entrance to the Barnegat Beach lagoon system where it terminates; and

iv. All waters west and south (including all waters of Double Creek) beginning at the easternmost extent of the bulkhead (Flashing Red light "2") located along the shoreline of the Barnegat Public Dock and bearing approximately 180 degrees T to the northernmost point of land on the northwest peninsula on Conklin Island.

13. Barnegat Bay—Little Egg Harbor and Long Beach Island area; Barnegat Light to Holgate (Note: A portion is also designated as Seasonal. See: N.J.A.C. 7:12-4):

i. An area adjacent to the Borough of Barnegat Light inshore from a line connecting jetties and/or pier ends along the shore (not including the main inlet jetties). The line extends from the end of the small jetty immediately adjacent (west) to the Barnegat Lighthouse (Aband Lt HO), and continues along that shoreline in a general southwesterly direction to the entrance of the first man-made boat harbor or lagoon currently named Lighthouse Marina, then all of those waters south and east of a line beginning at the point formed on the northern bank at the entrance to this boat harbor or lagoon and bearing approximately 227 degrees T directly through light "1" (Fl "1") to its terminus on the High Bar Peninsula;

ii. All those waters of Barnegat Bay enclosed by a line beginning on the northernmost point of land forming the northern mouth of the most northerly lagoon located between Butler and Meadow Streets in High Bar Harbor (Long Beach Township) and bearing approximately 270 degrees T to the northeasternmost point of land on the northernmost of the two islands just offshore, (Edwin B. Forsythe National Wildlife Refuge—Barnegat Division) then bearing approximately 014 degrees T to the westernmost point of land at the northern extremity of the High Bar spoil area (also known as "The Dike") where this line terminates;

iii. All of Harvey Cove north and east of a straight line drawn across its entrance from the point of land forming its mouth on the southernmost bank and bearing approximately 010 degrees T to a point of land on the northern bank; and

iv. All those waters of the tributaries or creeks of Cedar Bonnet Island north of Route 72 (Manahawkin Causeway) enclosed by a line beginning on the easternmost bank at the mouth of the easternmost creek or tributary and then bearing approximately 270 degrees T to the western bank at the mouth of this tributary, and then following the shoreline easterly to the next tributary, creek, or lagoon's mouth, where it bears approxi-

mately 270 degrees T to the western bank of this body of water where it terminates.

14. Manahawkin Bay, Mallard Island, Beach Haven West (Village Harbor) area (Note: A portion is also designated as Seasonal. See: N.J.A.C. 7:12-4):

i. All of Cedar Creek, Manahawkin Creek and the waters adjacent to Beach Haven West (Village Harbor) north and west from a line beginning on the northern bank at the entrance to Cedar Creek and bearing approximately 150 degrees T to a small island, then bearing approximately 209 degrees T to the western end of the most westerly island along the Manahawkin Causeway, then bearing approximately 181 degrees T to the easternmost point of land on the northwest bank of Mill Creek Thorofare, then bearing approximately 174 degrees T to the northernmost point of land on Thorofare Island, then following the shoreline of Thorofare Island to its southernmost point of land, then bearing approximately 266 degrees T to its terminus on the easternmost point of land on Popular Point; and

ii. All of those waters in unnamed creek north and west of a line beginning on Oyster Point and bearing approximately 032 degrees T to its terminus on the northeast shore of the unnamed creek. This line of closure is an extension of a line (terminating on Oyster Point) defined in N.J.A.C. 7:12-4.2.

15. Cedar Run area. (Note: A portion is designated as Seasonal. See N.J.A.C. 7:12-4):

i. All of Cedar Run Cove, Creek and Tributaries north and west (upstream) of a straight line beginning at Horse Point and bearing approximately 037 degrees T to a point of land on the opposite side of the cove.

ii. All those waters of Channel Creek and tributaries north and west of a line beginning on the southernmost point of land on Horse Point and bearing approximately 267 degrees T to a Department maintained marker located on the western shore.

16. Westecunk Creek Area:

i. All those waters of Dinner Point Creek north and west of a line connecting two Department maintained markers (approximate bearing from the northernmost to southernmost marker 057 degrees T) at its mouth where it empties into Little Egg Harbor Bay (The southernmost Department maintained marker coincides with that utilized in N.J.A.C. 7:12-3.2(a)16ii below.); and

ii. All those waters of Westecunk Creek and tributaries west of a line beginning at Flashing light 4 second 10 ft "1" (Fl 4sec 10ft "1") and bearing approximately 006 degrees T to a Department maintained marker located on the northern bank of Westecunk Creek at its mouth.

17. All of Parker Run and its tributaries west (upstream) from a straight line across the creek between the peak of the Ocean County pavilion on the north bank and bearing approximately 140 degrees T to navigational aid Flashing Green light number "1" (Fl G "1") on the south bank.

18. Tuckerton area (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4): All of Tuckerton Creek and tributaries thereof north and west of a straight line connecting the west and east banks of the cove formed by the alignment of the range (Department maintained) located on the west bank of Tuckerton Cove and the telephone pole (P-21377) on the east bank. When the range is aligned, the bearing it creates is approximately 049 degrees T (reciprocal 229 degrees T).

19. Atlantis and Mystic Islands area:

i. All of Big Thorofare and tributaries west and/or south (upstream) of the Great Bay Boulevard bridge which crosses same; and

ii. All of Big Creek and tributaries thereof.

20. Mullica River Great Bay area (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4):

i. Mullica River and tributaries (Note: A portion is also designated as Seasonal. See: N.J.A.C. 7:12-4): All of Mullica River and tributaries thereof, upstream from a straight line beginning at the easternmost point of Moss Point and bearing approximately 093 degrees T to the southwesternmost point of land on the north bank of the northernmost ditch (Bloody Ditch) separating Blood Point from the mainland;

ii. All of Nacote Creek and tributaries thereof;

iii. Ballanger Creek area (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4.):

(1) All of Ballanger Creek and tributaries upstream from a straight line connecting two Department maintained markers; and

(2) All of Winter Creek and tributaries upstream from a straight line connecting two Department maintained markers;

iv. Roundabout Creek area (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4.): All of Roundabout Creek and tributaries upstream from a straight line connecting two Department maintained markers;

v. All of Judies Creek and tributaries upstream from a straight line connecting two Department maintained markers (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4.)

vi. All of Mott Creek and tributaries thereof;

vii. All of Oyster Creek and tributaries thereof; and

viii. All those waters of Cape Horn Marina and tributaries upstream from a straight line connecting two Department maintained markers.

21. Reed Bay area (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4):

i. All of the unnamed cove southwest of Somers Cove (adjacent to the Seasonal area described in N.J.A.C. 7:12-4.1(a)4ii) west of a line connecting two Department maintained markers. ii. All of Doughty Creek and that portion of Somers Cove lying north of a line commencing at the Department maintained marker at the southeast entrance to Somers Cove and bearing approximately 274 degrees T across the cove to the Department maintained marker on the north bank of the unnamed ditch; and

iii. All of Conover Creek and tributaries thereof.

22. Brigantine area (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4):

i. All of Black Hole and St. George's Thorofare east of a line from the point on the eastern shore at the mouth of Conch Lagoon and bearing approximately 358 degrees T to the opposite shore.

23. Atlantic City-Absecon area (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4):

i. All of Absecon Inlet and Absecon Channel contained within a line from the base of the Vincent Haneman Bridge (Rte. 87) (at Harrah's Casino) and continuing along that shoreline crossing the mouth of Clam Creek and continuing to the seaward end of the jetty on the western shore, at the mouth of Absecon Inlet, then channelward to a line from RN"2"(FIR2.5s) and bearing approximately 328 degrees T to the mid-span of the Vincent Haneman Bridge (Rte. 87), then running northwest along that line to the Rte. 87 bridge, then westward along the bridge to the point of origin at the base of the bridge.

ii. All of Absecon Creek and adjacent Absecon Bay northwest of a line from the Department maintained marker on the northern shore of Absecon Bay and bearing approximately 216 degrees T to the Department maintained marker on the adjacent shoreline and terminating;

iii. All of Jonathan Thorofare;

iv. All of Newfound Thorofare;

v. All of Duck Thorofare;

vi. All of Clam Thorofare and the canals in Venice Park section of Atlantic City;

vii. All of Beach Thorofare from Absecon Channel to a line across Beach Thorofare bearing approximately 225 degrees T from the eastern side of the mouth of Penrose Canal at its junction with Beach Thorofare.

24. Pleasantville-Northfield-Linwood-Margate-Ventnor-Longport area (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4):

i. All of Shelter Island waters;

ii. All of Hospitality Creek;

iii. All of Great Thorofare and all of Beach Thorofare from a line from the northernmost tip of runway number 22 (North-South runway) at Bader Field in Atlantic City and bearing approximately 033 degrees T across Beach Thorofare to a line from the tip of the stone jetty at the end of Atlantic Avenue (Longport) and bearing approximately 336 degrees T across Beach Thorofare to the center of the Longport Blvd.-Route 152 bridge, that crosses an unnamed creek on the unnamed island immediately north and west of the city of Longport;

iv. All of the unnamed thorofare between Pork Island and Lone Cedar Island;

v. All of Dock Thorofare and tributaries contained within a line from the point of land on the north side of Mulberry Island (at Dock Thorofare) and bearing approximately 077 degrees T to the southeasternmost point of land on Kiah's Island, then along that shoreline in a northerly, then easterly direction to a Department maintained marker, then bearing approximately 340 degrees T to and including the unnamed creek just east of Stillman Creek, then along the shoreline of Dock Thorofare in a westerly direction including Stillman Creek and continuing along the shoreline to the point of origin at the mouth of Mulberry Thorofare and terminating; and

vi. Lakes Bay (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4.): All of Lakes Bay within a line from the Pleasantville Yacht Club and following the channel markers Fl G "15", Fl B "13", Fl G "11", Fl R "8" to Fl G "7", then bearing approximately 061 degrees T across the northernmost tip of a small unnamed island to Great Island then northwesterly across the mouth of Great Thorofare, then along the shoreline in a northwesterly direction, then across the mouth of an unnamed lagoon at the northwest corner of Lakes Bay and returning to the point of origin.

25. Ocean City-Somers Point area (Note: A portion is also designated as Seasonal. See: N.J.A.C. 7:12-4):

i. All of Bass Harbor Thorofare from Ship Channel to a line beginning at a Department maintained marker on the southern shore of Steelman Bay and bearing approximately 306 degrees T, touching the shoreline of an unnamed island and continuing to a Department maintained marker on the opposite shore and terminating;

ii. All of Patcong Creek and tributaries upstream from a line beginning at Channel Marker number 1 (Fl

"1") and bearing approximately 110 degrees T to a Department maintained marker and terminating;

iii. All of Beach Thorofare, Peck Bay and adjacent thorofares contained within a line beginning at the western end of West 16th Street, Ocean City and bearing approximately 342 degrees T to Flashing red light 263 (Fl Q R "263"), then along the south side of the unnamed island (on which Flashing red light 263 Fl QR "268" is located) to its westernmost point, then across the small thorofare to the nearest point of land on Shooting Island and following the southeastern shoreline of Shooting Island, then in a northerly direction to a Department maintained marker, then bearing approximately 240 degrees T across the thorofare to the northernmost point of land on the unnamed island (located southwest of Shooting Island), then along the shoreline in a westerly direction to another Department maintained marker, then bearing approximately 203 degrees T through Flashing green light 275 (Fl G "275") to a Department maintained marker on the Ocean City shoreline, then along the Ocean City shoreline in a northeasterly direction to its point of origin at West 16th Street and terminating;

iv. All of Crook Horn Creek and tributaries from the 34th Street Bridge to but not including Edward Creek;

v. All of Crook Horn Creek from Edward Creek to Middle Thorofare;

vi. All of Upland Thorofare and tributaries thereof; and

vii. All of Beach Creek north of the railroad bed.

viii. All of those waters in Ship Channel within a line bearing approximately 190 degrees T through a Department maintained marker on the northern shore of Ship Channel approximately 1,000 feet west of the mouth of the Anchorage Point Lagoon, to another Department maintained marker on the southern shore of Ship Channel, then bearing approximately 066 degrees T to another Department maintained marker which is approximately 1,000 feet east of the mouth of the Anchorage Point Lagoon, then proceeding northwesterly along the shoreline of Ship Channel, across the mouth of the Anchorage Point Lagoon and to the point of origin at the Department maintained marker.

26. Great Egg Harbor River (Note: A portion is also designated as Seasonal. See: N.J.A.C. 7:12-4):

i. All of Great Egg Harbor River and tributaries between the following lines:

(1) A line beginning at Flashing Red 8 (Fl R "8") and bearing approximately 208 degrees T across the river to a Department maintained marker at the mouth of an unnamed creek; and

(2) A line from a Department maintained marker at the mouth of Powell Creek and bearing approximately 248 degrees T across the river to another Department maintained marker;

ii. All of Lakes Creek.

27. Tuckahoe River: All the waters of Tuckahoe River and tributaries upstream from a straight line beginning on the east bank of the mouth of Job Creek bearing approximately 023 degrees T to the island offshore along the shore of the island and terminating on the opposite bank of Tuckahoe River.

28. Strathmere and Sea Isle City area (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4):

i. All of Maple Swamp Creek;

ii. That portion of Ludlam Bay lying south and west of a line beginning at a Department maintained marker on the shoreline of the barrier island near the mouth of Swimming Creek and bearing approximately 315 degrees T to a Department maintained marker near the Intracoastal Waterway, then bearing approximately 226 degrees T to a Department maintained marker on the mainland and terminating.

iii. All of Big Elder Creek;

iv. All of Little Elder Creek; and

v. The area of Townsend Channel adjacent to the town of Townsends Inlet contained within a line beginning at the street end of 77th St. and bearing approximately 212 degrees T to a Department maintained marker at the mouth of Middle Thorofare, then bearing approximately 171 degrees T to the southernmost pier in Townsend Channel (at the end of 94th Street) then running along that pier to the shore and terminating.

29. Avalon area: That portion of Ingram Thorofare lying south from a line across Ingram Thorofare beginning at the easternmost tip of an unnamed island on the northwest side of Ingram Thorofare and bearing approximately 072 degrees T to the opposite shore of Ingram Thorofare, then to another line across Ingram Thorofare beginning on the south bank of a small unnamed creek bearing approximately 119 degrees T through Flashing Green light "377" (Fl G 4s 3M "377") and terminating on the opposite shore.

30. The Wildwoods area:

i. Those waters of Grassy Sound Channel from the Ocean Drive Bridge (Route 619) southwest to a line bearing approximately 062 degrees T through Fl R 4s "442";

ii. All that portion of Taylor Sound west and north of a line beginning on the northwest bank of the entrance to Reubens Thorofare and bearing approximately 029 degrees T to the opposite shore then along the shoreline to a line bearing approximately 031 degrees T through the easternmost point of the second largest island in Taylor Sound, to the south shore of Jones Creek, then along the shoreline in an easterly direction to the point of origin and terminating; and

iii. All of Jarvis Sound south and west of a line connecting two Department maintained markers on the northern side of the mouth of Shell Thorofare and Meadow Creek at the northern end of Jarvis Sound then along the shoreline in a westerly direction to the junction with Reubens Thorofare and Upper Thorofare, then across Upper Thorofare bearing approximately 311 degrees T then along the southern shoreline of Jarvis Sound across the mouth of Middle Thorofare and Lower Thorofare, then along the shoreline in a northerly direction across the mouth of Shell Thorofare and terminating at the point of origin.

31. Cape May area: All of Cape May Inlet and Cape May Harbor inside a line beginning at Flashing Light 7M (Fl 4 sec. 30 ft. 7M) Fl R 4s 30ft 6M "4" at the outermost end of east jetty at Cape May Inlet, along the jetty and shoreline until it intersects a line connecting the 641 ft. Loran Tower on the north side of the inlet and range light Q 22ft marking the entrance channel through Cape May Inlet, then along the shoreline in a westerly direction and across Skunk Sound to a line connecting flashing red light (Fl R 4sec.) marking the entrance to Cape May Canal and the radio tower at the U.S.C.G. Receiving Station, along that line to the shoreline along the shoreline to a line beginning at the tank on the U.S.C.G. Training Center and bearing approximately 331 degrees T to buoy G "9" PA then along a line connecting buoy G "9" PA with flashing green light 5 (Fl G 4sec. "5") then to the shore bearing approximately 157 degrees T, then along the shoreline to the light (Fl G4sec 37 ft. 7M) at the end of the jetty then across the inlet to the Flashing light "4" (Fl R 4 sec. 30 ft. 6M "4") and terminating.

32. Delaware Bay area (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4):

i. Maurice River and Maurice River Cove: Maurice River and tributaries thereof and that portion of Maurice River Cove between the following two lines:

(1) A straight line known as the Summer Line beginning at the East Point Lighthouse and bearing approximately 311 degrees T to a marker on the western bank at the mouth of New England Creek; and

(2) A line from the end of Berry Avenue (Shell-pile) and bearing approximately 214 degrees T across the River to a Department maintained marker; and

ii. Dividing Creek (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4): All of Dividing Creek and tributaries upstream from a line beginning on the southerly bank at the entrance to Hansey Creek and bearing 217 degrees T to the opposite shore of Dividing Creek;

iii. Oranoaken Creek (Note: A portion is also designated as Seasonal. See: N.J.A.C. 7:12-4): All of Oranoaken Creek in the area known as The Glades and north of Weir Creek;

iv. The Glades: All the water known as The Glades north from their confluence with Weir Creek, including that portion of Oranoaken Creek north from Weir Creek;

v. Straight Creek: All of Straight Creek;

vi. Nantuxent Cove area (Note: A portion is also designated as Seasonal. See: N.J.A.C. 7:12-4):

(1) All of Nantuxent Creek upstream from a straight line across the creek beginning at the confluence of the next large tributary (unnamed) on the south side of Nantuxent Creek downstream from Hay Cut Creek and bearing approximately 300 degrees T;

(2) All of Cedar Creek upstream from a straight line across the creek beginning at the confluence of the first tributary on the north side of Cedar Creek upstream from the mouth of Cedar Creek and bearing 153 degrees T; and

(3) All of Beach Creek.

vii. Fortescue Creek: All of Fortescue Creek;

viii. Beadons Creek: All of Beadons Creek;

ix. All of that portion of Delaware Bay and tributaries thereof inshore of a line from a Department maintained marker at Beadon Point and bearing approximately 309 degrees T towards flashing light (Fl 4 sec. 33 ft. 6M), but terminating at a Department maintained marker on the shoreline at Nantuxent Point; and

x. Cohansey Cove area: All of Delaware Bay and Cohansey Cove included within a line from within a line from QK Fl 24 ft. 5M "1" and bearing approximately 245 degrees T to buoy "10", then bearing approximately 099 degrees T to a Department maintained marker on the mainland, then along the mainland (including tributaries) in a northwesterly direction to a Department maintained marker at the mouth of Cohansey River, then bearing approximately 277 degrees T to QK Fl 24 ft. 5M "1", the point of origin and terminating.

33. Delaware River area:

i. All of the New Jersey portion of the Delaware River and its tributaries thereof and the New Jersey section of Delaware Bay and its tributaries between the two lines described herein:

(1) A straight line beginning at the tower just northwest of the mouth of Mad Horse Creek bearing approximately 173 degrees T to a tower on Bombay Hook Point, Delaware, this line intersects the New Jersey-Delaware boundary line at Latitude 39 degrees 21 minutes 16 seconds N., Longitude 75 degrees 26 minutes 44 seconds W.; and

(2) A straight line beginning at the southern dome (Salem Nuclear Power Plant) and bearing approximately 230 degrees T towards the point of land, on the southern shore, at the mouth of Blackbird Creek.

(3) All of Stow Creek and Mad Horse Creek.

Amended by R.1988 d.206, effective May 2, 1988.

See: 20 N.J.R. 450(a), 20 N.J.R. 980(b).

Delineates the boundaries of those shellfish growing waters classified as Special Restricted.

Amended by R.1989 d.390, effective July 17, 1989.

See: 21 N.J.R. 1041(b), 21 N.J.R. 2032(a).

Deleted and replaced (d)1,j At (a)18 amended coordinates; at (a)21 added new i and renumbered remaining subparagraphs; at (a)28 added new i and ii, deleted old; and renumbered; and deleted (a)30 and renumbered remaining paragraphs.

Amended by R.1990 d.399, effective August 6, 1990.

See: 22 N.J.R. 1304(a), 22 N.J.R. 2285(a).

Manasquan River deleted; Ludlam Bay added.

Amended by R.1991 d.592, effective December 16, 1991 (operative January 1, 1992).

See: 23 N.J.R. 2993(a), 23 N.J.R. 3751(a).

Changed delineation of waters of Cedar Run; changed delineation of waters of Great Thorofare and Beach Thorofare; added waters of Ship Channel and added Grassy Sound Channel.

Amended by R.1992 d.508, effective December 21, 1992 (operative January 1, 1993).

See: 24 N.J.R. 3657(a), 24 N.J.R. 4518(b).

Reclassifications at (a)29 and technical changes upon adoption at (a)6, 8v, 10, 23i, 25iii, 29, 30i and 31.

Amended by R.1994 d.201, effective April 18, 1994.

See: 26 N.J.R. 789(a), 26 N.J.R. 1632(a).

Amended by R.1995 d.81, effective February 6, 1995.

See: 26 N.J.R. 4475(b), 27 N.J.R. 484(a).

SUBCHAPTER 4. SEASONALLY APPROVED SHELLFISH GROWING WATERS

7:12-4.1 Seasonally Approved growing waters (Approved November 1 through April 30 yearly, Special Restricted May 1 through October 31, yearly)

(a) The following shellfish growing waters designated on the charts referred to in N.J.A.C. 7:12-1.1 shall be Special Restricted for the harvest of shellfish from May 1 through October 31 yearly and Approved for the harvest of shellfish from November 1 through April 30 yearly:

1. Southern Barnegat Bay area:

i. Potter Creek to Laurel Harbor: Seasonal—Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All those waters east of the line described in N.J.A.C. 7:12-3.2(a)11i and 11ii and west of a line beginning at the easternmost point of land on the southern bank of Potter Creek then to Flashing Red light 15 ft. "40" (Fl R 15ft "40") and then bearing approximately 252 degrees T to the Department maintained marker located on the northeasternmost point of land on the mainland, (located just northeast of the northeasternmost extent of Laurel Boulevard in Lacy Township) where it terminates. (This designation of Seasonally Approved waters directly adjoins those defined as Special Restricted in N.J.A.C. 7:12-3.2(a)11i and 11ii.)

ii. Barnegat Bay-Forked River to Barnegat: Seasonal—Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All those waters east of the Special Restricted waters described in N.J.A.C. 7:12-3 and west of a line beginning at the easternmost point of land immediately north of Forked River (Department maintained marker) approximate location: latitude 39 degrees 49 minutes 53 seconds N., longitude 74 degrees 9 minutes 17 seconds W.) and bearing approximately 167 degrees T to Flashing Red light "2" (Fl R "2") located off the mouth of Forked River, and then bearing approximately 212 degrees T to Flashing light "3" (Fl "3") marking the entrance to the channel to Oyster Creek, and then bearing approximately 204 degrees T through Department maintained markers "A" and "B" to Department maintained marker "C" located approximately 0.4 nautical miles east of Flashing Red light "2" (Fl R "2") marking the entrance to Waretown Creek, then bearing approximately 194 degrees T through Department maintained markers "D" and "E" to Department maintained marker "F" located approximately 0.5 nautical miles east of Flashing Green light "1" (Fl G "1") marking the entrance to Lochiel Creek and the Pebble Beach lagoon complex, and then bearing approximately 180 degrees T through Department maintained marker "G" and terminating at the range marker (Department maintained) located on Conklin Island.

2. Barnegat Bay to Little Egg Harbor Bay-Long Beach Island area:

i. Northern Long Beach Island: Seasonal—Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All that portion of Barnegat Bay and Manahawkin Bay lying east of a line beginning on the northern point of land forming the mouth of the most northerly lagoon located between Butler and Meadow Streets in High Bar Harbor (Long Beach Township) and bearing approximately 270 degrees T to the northeast point of the northernmost of the two islands just offshore, (Edwin B. Forsythe National Wildlife Refuge-Barnegat Division) then along the west shore of that island to its southeast point, then bearing approximately 131 degrees T across the unnamed gut or thorofare to the northeast point of the southernmost island, then along the east shore of that island to its easternmost point, then bearing approximately 144 degrees T to the most easterly point on Vol Sedge, then along the southeastern shore of that island to its southernmost point, and then bearing approximately 170 degrees T to the easternmost extent of the southern island of Vol Sedge, then bearing approximately 213 degrees T to the westernmost tip of Loveladies Harbor (marsh), then bearing approximately 190 degrees T to the westernmost point of land at the end of Bay View Road which forms the (southern bank) entrance to the Loveladies Harbor lagoon complex, then proceeding to where a line bearing approximately 177 degrees T to the standpipe in Harvey Cedars intersects the shoreline just west of Bay Terrace (Harvey Cedars), and then following the bulkhead or shoreline in a southerly direction, until reaching the southwesternmost point of land, located at the westernmost extent of Maiden Lane (Harvey Cedars), and then bearing approximately 220 degrees T to a point of land just north of the northernmost extent of Kent Place (Harvey Cedars), and then following the western shoreline or bulkhead in a southerly direction across the mouths of the two lagoons. (The northernmost lagoon located between Buckingham Avenue and Lange Avenue in Long Beach Township shall remain Prohibited, and the southernmost lagoon, which is located immediately south of Lange Avenue shall also remain Prohibited) to the bulkhead on the point of land on the southern bank forming the entrance to the second of these lagoons, then bearing approximately 205 degrees T to the northernmost corner of the largest of the unnamed islands (just northeast of Fl G "55") off the mouth of Harvey Cove (Harvey Cove itself shall remain Special Restricted, See: N.J.A.C. 7:12-3.2(a)) then along that island's northern shoreline to its easternmost point then bearing approximately 115 degrees T to the westernmost point of land just west of the westernmost extent of West Salem Avenue in Harvey Cedars, then bearing approximately 219 degrees T to the westernmost point of land (marsh) located west of the westernmost extent of James Street in Long Beach Township, then bearing approximately 196 degrees T to the westernmost point of land located

on the properties labeled as block 104, lot 10 and block 102, lot 10 (located just southwest of the westernmost extent of a private road known as Little Bridge Road) in Long Beach Township, then bearing approximately 209 degrees T to the end of the pier at the end of Bay Shore Street in Long Beach Township, then bearing approximately 247 degrees T to Flashing Green light "1" (Fl G "1"), then bearing approximately 224 degrees T to Flashing Red light "2" (Fl R "2"), then bearing approximately 211 degrees T to a Department maintained marker on Cedar Bonnet Island, then following the east shore of that island to where the eastern shoreline of Cedar Bonnet Island intersects with Route 72 (Manahawkin Causeway) and then following the southern edge of that highway in an easterly direction to its terminus where Route 72 intersects with Long Beach Island (in Ship Bottom).

ii. Southern Long Beach Island: Seasonal—Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All those waters lying east of a line beginning at the point where Route 72 (Manahawkin Causeway) intersects with Long Beach Island (in Ship Bottom) and proceeding in a westerly direction as it follows the southern edge of Route 72 (this line coincides with that described in (a)2i(1) above to where the highway intersects with the westernmost shoreline of Cedar Bonnet Island, and then following that shoreline in a generally southerly direction, but following all changes in direction of the shoreline until reaching the southernmost point of Cedar Bonnet Island, and then bearing approximately 190 degrees T to the unnamed island immediately south (this island is generally considered part of the Cedar Bonnet group) and then following that shoreline in a southerly direction to that island's southernmost point where it intersects a line beginning at the range markers (Department maintained) located on the above unnamed island and following that line bearing 203 degrees T to Flashing Red light 8ft. "74" (Fl R 4s "74") marking the intracoastal waterway, then bearing approximately 177 degrees T to the most northerly point of land on High Island and then following this island's eastern shoreline to its southernmost point, then bearing approximately 197 degrees T to Red "80" R "80", then bearing approximately 206 degrees T to Flashing Red light "81" (Fl G 2.5s "81"), then following the west side of the intracoastal waterway bearing approximately 187 degrees T to Red "84" (R "84"), then bearing approximately 218 degrees T to Flashing Red light "86" (Fl R 4s "86"), then bearing approximately 221 degrees T to Flashing Red light "88" (Fl R 2.5 s "88"), then bearing approximately 240 degrees T to Flashing Red light "92" (Fl R 4s "92"), then bearing approximately 209 degrees T to Quick Green light "95" (QG "95"),

then bearing approximately 172 degrees T to the northernmost point of the easternmost Marshelder Island and then following the eastern shoreline of this island in a southerly direction to this island's southernmost point, and then bearing approximately 201 degrees T to Flashing Red light 104 (Fl R 2.5s "104"), then bearing approximately 229 degrees T to the northernmost point on Mordecai Island, then following the western shore of that island to its westernmost point, then bearing approximately 244 degrees T to Flashing Green light 109 (Fl G 4s "109") then bearing approximately 199 degrees T to a point on shore and terminating.

3. Mullica River—Great Bay area:

i. Mullica River; Seasonal—Special Restricted May 1 through October 31, Approved November 31 through April 30 yearly:

(1) All those waters of the Mullica River (excluding Nacote Creek and the small cut or thorofare separating Moss Point from the mainland which shall remain Special Restricted) lying between a straight line beginning at the northernmost point of land on Akimbo Point and bearing approximately 070 degrees T to the southernmost point of land on Doctor Point (downstream boundary) and a straight line beginning at the easternmost point of land on Moss Point and bearing approximately 093 degrees T, to the southwesternmost point of land on the north bank of the northernmost ditch (Bloody Ditch) separating Blood Point from the mainland (upstream boundary). The line defining the upstream boundary described here coincides with that described in N.J.A.C. 7:12-3.2(a)20i.

ii. Ballanger Creek area: Seasonal—Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All of Ballanger Creek and tributaries upstream from a straight line beginning at the westernmost point of land on the south bank of Ballanger Creek and bearing approximately 000 degrees T to the opposite shore of the creek to the Department maintained markers located upstream and as defined in N.J.A.C. 7:12-3;

(2) All of Winter Creek from its juncture with Ballanger Creek upstream to the Department maintained marker described in N.J.A.C. 7:12-3.2(a)20iii(2).

iii. Roundabout Creek area: Seasonal—Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All of Roundabout Creek and tributaries upstream from a straight line beginning at the southernmost point of land on the east bank of Roundabout Creek and bearing approximately 306 degrees T to the opposite shore of the creek to the Department maintained markers described in N.J.A.C. 7:12-3.2(a)20iv.

iv. Judies Creek: Seasonal—Special Restricted May 1 through October 30 yearly, Approved November 1 through April 30 yearly:

(1) All of Judies Creek and tributaries upstream from its confluence with Basses Bay to the Department maintained markers as described in N.J.A.C. 7:12-3.2(a)20v.

4. Absecon Bay—Absecon Channel Reed Bay area: Seasonal—Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

i. All of Middle Thorofare, Wills Thorofare, Absecon Channel, Absecon Inlet Little Panama, Low Water Thorofare and Absecon Bay contained within a line beginning at the point of land on the western shore at the mouth of Point Bar Thorofare, then along that shoreline and across the mouth of Newfound Thorofare, then along that shoreline and across the mouth of Jonathan Thorofare, then along that shoreline to the Department maintained marker located at the mouth of the first major man-made cut or lagoon (not including mosquito ditches) and bearing approximately 036 degrees T to another Department maintained marker on the opposite bank and continuing along that shoreline in a northeast direction to the Department maintained marker, then bearing approximately 134 degrees T to the Department maintained marker at the mouth on the west shore of Wills Thorofare, then bearing approximately 075 degrees T across Wills Thorofare, then along the northeast shore of Wills Thorofare and Absecon Channel, then across the mouth of Middle Thorofare and along the eastern shoreline of two unnamed islands, including Low Water Thorofare and an unnamed thorofare, and across the mouth of Little Panama and along the shoreline in a southerly direction to Absecon Channel, then in a seaward direction across the mouth of St. George's Thorofare and along that shoreline to the seaward end of the jetty, then channelward to a line from R "2" (Fl R 2.5s) and bearing approximately 328 degrees T to the midspan of the Vincent Haneman Bridge, then along that line to the Rte. 87 bridge, then along the bridge in a westerly direction to the base of the bridge, then along the shoreline in a northerly direction across the mouth of Clam Thorofare and Beach Thorofare and along that shoreline to the point of origin at the point of land at Point Bar Thorofare.

ii. All those waters in the unnamed cove (southwest of Somers Cove) from a Department maintained marker on the northern shoreline and bearing approximately 215 degrees T across the cove to another Department maintained marker and along that shoreline in a northerly direction to a Department maintained marker, then bearing approximately 005 degrees T to another Department maintained marker, then along the shoreline in a generally easterly direction to the point of origin and terminating.

5. Brigantine Area: Seasonal—Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

i. All the waters of St. George's Thorofare from the point of land on the eastern shore, at the mouth of Conch Lagoon, and bearing approximately 358 degrees T to the north side of St. George's Thorofare, then along that shoreline in a westerly direction to a Department maintained marker at Rum Point, then bearing approximately 108 degrees T to the opposite shore of St. George's Thorofare, then along that shoreline in a generally easterly direction, eventually crossing the mouths of Sea King Lagoon and Conch Lagoon to the point of origin.

6. Lakes Bay—Shelter Bay—Risley Channel Area: Seasonal—Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

i. All that portion of Lakes Bay, Shelter Bay and adjoining thorofares contained within a line from the Pleasantville Yacht Club and following the channel markers Fl G "15", Fl G "13", Fl G "11", Fl R "8" to Fl G "7", then bearing approximately 061 degrees T across the northernmost tip of a small unnamed island to Great Island, then along the shoreline of Great Island in a southerly direction to a Department maintained marker (at the southwesternmost point), then bearing approximately 216 degrees T to the northwestern tip of Shelter Island, then bearing approximately 206 degrees T to a Department maintained marker on an unnamed island, then along the northern and western shoreline of the island to another Department maintained marker, then bearing approximately 245 degrees T to Jonas Island, then along the eastern shoreline, then along northern shoreline, then along western shoreline to a Department maintained marker, then bearing approximately 204 degrees T to Pork Island, then along the shoreline in a westerly direction to the base of the Ventnor—Margate Bridge, then bearing approximately 233 degrees T to the most northern point of land on Lone Cedar Island, then along the western and southern shoreline of Lone Cedar Island to a Department maintained marker, then bearing approximately 214 degrees T to the northwesternmost point of land on Dune Island, then along the western shore of Dune Island to its westernmost point, then bearing approximately 223 degrees T across Risley Channel to a Department maintained marker, then following the shoreline in a northerly direction to an unnamed thorofare, then following the southeast shoreline of that thorofare to a point of land adjacent to G "235" (at the junction with Broad Thorofare) then bearing approximately 350 degrees T across the thorofare to the point of land on the opposite bank, then along the shoreline in a northeasterly direction to its mouth at Risley Channel, then following the shoreline in a northerly direction and across the mouth of the next unnamed thorofare connecting Risley Channel and Scull Bay and

continuing in a northerly direction along the shoreline of Dock Thorofare, including all of Mulberry Thorofare, then from the point of land on the north side of Mulberry Thorofare (at its mouth) bearing approximately 077 degrees T to the southernmost point of land on Kiah's Island, then along that shoreline in a northeasterly direction (approximately 2500 yards) to a Department maintained marker, then bearing approximately 340 degrees T to the opposite shoreline at the point of land on the east side of the mouth of the unnamed creek just east of Stillman Creek, then continuing in an easterly direction along the northern shoreline of Dock Thorofare, Lakes Channel and Lakes Bay to its point of origin at the Pleasantville Yacht Club and terminating.

7. Ocean City—Somers Point Area—Great Egg Harbor Bay: Seasonal—Special Restricted May 1 through October 31, yearly, Approved November 1 through April 30 yearly;

i. All the waters contained within a line from the base of the Ocean City—Longport Bridge in Ocean City, extending to the southern end of the bascule, then bearing approximately 285 degrees T to GC "251", then bearing approximately 223 degrees T to the northern end of the bascule on the Ocean City—Somers Point Bridge, then bearing approximately 261 degrees T to Cowpens Island and along the southern shoreline in a westerly direction to a Department maintained marker, then bearing approximately 286 degrees T to the easternmost tip of the unnamed island adjacent to Shooting Island, then bearing approximately 149 degrees T to the end of West 16th Street, Ocean City, then along the Ocean City shoreline in a northeasterly direction, across the mouth of the Lagoon to the point of origin at the base of the Ocean City—Longport Bridge and terminating.

ii. All the waters of Ship Channel contained within a line from the base of Somers Point—Ocean City Bridge in Somers Point, then along the bridge to the northern end of the bascule, then bearing approximately 056 degrees T to Flashing light "1" (Fl "1"), then bearing approximately 310 degrees T to a point of intersection with the shoreline of Ship Channel, then proceeding westerly along the shoreline of Ship Channel to the point of origin at the base of Somers Point—Ocean City Bridge terminating.

iii. All the waters of Peck Bay contained within a line from the base of the 34th Street Bridge (Ocean City) and continuing along the Ocean City shoreline in a northeasterly direction to a Department maintained marker, then bearing approximately 295 degrees T to another Department maintained marker on the mainland, then along the shoreline in a southerly direction to the base of the 34th Street Bridge and across the bridge to the point of origin and terminating.

iv. All of the waters of Great Egg Harbor Bay and its tributaries north of a line from the tip of the municipal pier at the boat ramp at Kennedy Parks, Somers Point, to the tip of a privately maintained pier (High Bank Apartments, Broadway, Somers Point) which is just west of the municipal pier, then bearing approximately 260 degrees T to a Department maintained marker located on the northern shore of Drag Channel.

v. All of the waters of Ship Channel within a line bearing approximately 246 degrees T through a Department maintained marker located on the northern shore of Ship Channel approximately 1,000 feet from the mouth of the Anchorage Point Lagoon to another Department maintained marker located on the southern shore of Ship Channel, then bearing approximately 135 degrees T to another Department maintained marker on the southern shore of Ship Channel, then bearing approximately 083 degrees T to buoy GC "251" then bearing approximately 313 degrees T to another Department maintained marker at the eastern end of Anchorage Point, then proceeding along the shoreline of Ship Channel to the point of origin approximately 1,000 feet from the mouth of the Anchorage Point Lagoon.

8. Strathmere Area: Seasonal—Special Restricted May 1 through October 31 yearly. Approved November 1 through April 30 yearly; All that portion of Main Channel and Whale Creek within the area enclosed by a straight line from the north end of the Ocean Drive Bridge, along the western side of the bridge to the portion that opens, then bearing approximately 212 degrees T to the boat ramp located at the end of Bayview Avenue, Strathmere, then along that shoreline to the mouth of Whale Creek, then along the eastern bank of Whale Creek (excluding unnamed tributary) and along the eastern shore of Ludlam Bay, across the mouth of Swimming Creek to a Department maintained marker on the western side of the mouth of Swimming Creek and bearing approximately 027 degrees T to a Department maintained marker located on the western side of the mouth of Whale Creek, then across the mouth of Burroughs Hole and along the western shore of Whale Creek to its junction with Flat Creek, then along the southern shore of Flat Creek in a southwesterly direction to a Department maintained marker on the southwest side of the mouth of Burroughs Hole then bearing approximately 309 degrees T to another Department maintained marker on the northern shore of Flat Creek, then along that shoreline in a northeasterly direction to the junction of Flat Creek and Main Channel then in a northwesterly direction to a Department maintained marker on the south side of Main Channel, then bearing approximately 344 degrees T to another Department maintained marker on the eastern side of the mouth of Ben Hands Thorofare, then along the shoreline of Main Channel to its point of origin at the Ocean Drive Bridge and terminating.

9. Great Sound area:

i. Holmes Creek and Holmes Creek Cove: Seasonal—Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All of Holmes Creek and Holmes Creek Cove contained within a straight line beginning at Halfmile Point and bearing approximately 335 degrees T to the opposite shore and along that shoreline in a westerly direction, excluding drainage ditches which remain Condemned to the mouth of Holmes Creek, then continuing along the northern side of Holmes Creek to the first drainage ditch, then directly across Holmes Creek and continuing along that shoreline to the cove and along that shoreline to the point of origin at Halfmile Point and terminating; and

ii. All of Cresse Thorofare, Gull Island Thorofare, Great Channel and Scotch Bonnet contained within a line starting at the base of the Stone Harbor Blvd. Bridge and proceeding in a northeast direction along the Stone Harbor shoreline, across the mouths of Snug Harbor, South Basin, North Basin, Stone Harbor Creek and Oldmans Creek, continuing along the shoreline including Shark Creek, then along that shoreline in a northerly direction to a Department maintained marker along Sturgeon Hole, then bearing approximately 232 degrees T to the mouth of Southeast Creek (on Gull Island), then along the shoreline in a southeasterly direction (excluding Southeast Creek), then in a northwesterly direction to a Department maintained marker, then bearing approximately 271 degrees T across Cresse Thorofare to another Department maintained marker, then in a southerly direction along the shoreline and across the mouth of Scotch Bonnet and continuing along the shoreline including Goths Creek, continuing along the shoreline and across the mouth of Muddy Hole, continuing along the shoreline and across the second mouth of Muddy Hole, then along the shoreline to the mouth of Scotch Bonnet then along the Scotch Bonnet shoreline to a Department maintained marker, then bearing approximately 215 degrees T to another Department maintained marker, then along the shoreline in a southeasterly direction to the junction of Great Channel and along that shoreline in a southwesterly direction across an unnamed creek and continuing along the shoreline and across the mouth of Dung Thorofare and the shoreline of Nummy Island to a Department maintained marker and bearing approximately 296 degrees T to another Department maintained marker, then along the Stone Harbor shoreline in a northeasterly direction to the base of the Ocean Drive Bridge (Rt. 619), then bearing approximately 018 degrees T to the point of land at the junction of Great Channel and Pleasure Bay and continuing along the shoreline of Great Channel across the mouth of Stone Harbor and Shelter Haven to the point of origin at the base of the Stone Harbor Blvd. Bridge.

10. Jenkins Sound–Grassy Sound–Richardson Sound: Seasonal–Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

i. All of Nichols Channel, Dung Thoro, Great Flat Thoro, Drum Thoro, Jenkins Channel, Genesis Bay, Jenkins Sound and tributaries thereof contained within a line beginning at the parking area at Shellbed Landing and continuing along the Jenkins Sound shoreline in a southwesterly direction to a Department maintained marker at the mouth of an unnamed tributary to Race Cove, then bearing approximately 126 degrees T to another Department maintained marker, then in a southeasterly direction along the Jenkins Channel shoreline excluding tributaries to Dead Thoro Point, then in a southwesterly direction to Grassy Sound Channel, then bearing approximately 118 degrees T to Nummy Island, then along that shoreline in a northeasterly direction including tributaries to Great Channel, then bearing approximately 013 degrees T to the opposite shoreline, then along the shoreline of Dung Thoro and Nichols Channel, excluding tributaries to a Department maintained marker on the shoreline of Genesis Bay, then bearing approximately 279 degrees T to a Department maintained marker, then along the shoreline in a southerly direction to a Department maintained marker, then bearing approximately 258 degrees T to a Department maintained marker, then along the shoreline in a southwesterly direction to the point of origin and terminating.

ii. All of Grassy Sound Channel and Hereford Inlet from the Ocean Drive Bridge (Route 619) to a line bearing approximately 030 degrees T through F1 10S 57ft 24M at Hereford Inlet.

iii. All of Grassy Sound contained within a line beginning at the southern end of the railroad bridge in West Wildwood along the shoreline of Grassy Sound in an easterly direction, across the mouth of the Wildwood Canal and Beach Creek to a Department maintained marker at Grassy Point, then bearing approximately 257 degrees T to the northern end of the railroad bridge at Hann Point, then across Grassy Sound Channel to the point of origin at the southern end of the railroad bridge.

iv. Those waters of Old Turtle Thorofare from the mouth of Old Turtle Thorofare at Richardson Sound to a line created by two Department maintained markers on opposite banks of Old Turtle Thorofare just south of its junction with Tempe Creek.

11. Delaware Bay area:

i. Bidwell Creek: Seasonal–Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All of Bidwell Creek and tributaries downstream from the easterly side of the Route 47 bridge to its confluence with the Delaware Bay;

ii. East Point area: Seasonal–Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All that portion of Delaware Bay contained within a line beginning at the East Point Lighthouse and bearing approximately 229 degrees T to the Flashing Green number 5 buoy (Fl G 4 sec “5” turn buoy) in the Maurice River Approach Channel, then bearing approximately 098 degrees T to the marker (Department maintained) on the point of land on the west shore at the mouth of West Creek and terminating.

iii. Maurice River Cove: Seasonal–Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All those waters inside of a line beginning at the East Point Lighthouse and bearing approximately 311 degrees T (known as the Summer Line) to a marker on the western bank at the mouth of New England Creek, then along the shoreline in a westerly direction approximately 1600 yds to a Department maintained marker, then bearing approximately 132 degrees T to Flashing Green 2.5 second “5” (Fl G 2.5 sec. “5”), then bearing approximately 048 degrees T to the East Point Lighthouse and terminating; and

(2) All those waters adjacent to the mouth of Oranoaken Creek and Dividing Creek, from a Department maintained marker on the shoreline approximately 1100 yards southwest of the mouth of Oranoaken Creek and bearing approximately 059 degrees T to another Department maintained marker on the shore 900 yards east of Dividing Creek.

iv. Dividing Creek: Seasonal–Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All of Dividing Creek and tributaries including Weir Creek lying between the line described in N.J.A.C. 7:12-3.2 and a line beginning at the southernmost point of land on the west bank at the mouth of Dividing Creek and bearing 000 degrees T to the opposite shore of Dividing Creek;

v. Oranoaken Creek: Seasonal–Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All of Oranoaken Creek and tributaries, except the connecting branches of Fortescue Creek, downstream from The Glades and south of Weir Creek to a line beginning at the eastern-most point of land on the west bank at the mouth of Oranoaken Creek and bearing approximately 090 degrees T to the opposite shore of Oranoaken Creek.

vi. Fishing Creek: Seasonal–Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All of Fishing Creek; and

vii. Fortescue Beach: Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All waters northeast of a line from the southernmost tip of Beadons Point bearing approximately 154 degrees T to the westernmost tip of a point of land just south of Raybins Beach and just north of Fishing Creek (Cumberland County).

viii. Nantuxent Cove, Back Creek and portion of Cedar Creek and Nantuxent Creek: Seasonal—Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All of Nantuxent Cove north of a line beginning at the light (Fl 4 sec 36 feet 6M) located at the western tip of Nantuxent Point and bearing approximately 289 degrees T to the light (Fl 6 sec 21 feet 6M) located at the southern tip of Ben David Point, all of Back Creek and tributaries, including Tweed Creek, all of Nantuxent Creek lying downstream from the line described in N.J.A.C. 7:12-3.2 and all of Cedar Creek lying downstream from the line described in N.J.A.C. 7:12-3.2.

R.1980 d.12, effective January 9, 1980.

See: 12 N.J.R. 71(c).

Amended by R.1980 d.48, effective January 29, 1980.

See: 12 N.J.R. 112(b).

R.1982 d.182, effective June 21, 1982.

See: 14 N.J.R. 210(a), 14 N.J.R. 655(a).

Amended by R.1983 d.249, effective June 20, 1983.

See: 15 N.J.R. 595(a), 15 N.J.R. 1020(a).

Substantially amended.

Amended by R.1984 d.233, effective June 18, 1984.

See: 16 N.J.R. 786(a), 16 N.J.R. 1495(a).

(a)6 and 9 substantially revised.

Amended by R.1985 d.290, effective June 3, 1985.

See: 17 N.J.R. 661(a), 17 N.J.R. 1412(a).

Substantially amended.

Amended by R.1986 d.234, effective June 16, 1986.

See: 18 N.J.R. 784(a), 18 N.J.R. 1275(a).

Substantially amended.

Amended by R.1987 d.488, effective November 16, 1987.

See: 19 N.J.R. 1129(a), 19 N.J.R. 2136(a).

Recodified and substantially amended from 1.4.

Amended by R.1988 d.206, effective May 2, 1988.

See: 20 N.J.R. 450(a), 20 N.J.R. 980(b).

Delineates those shellfish growing waters classified as Seasonally approved.

Amended by R.1989 d.390, effective July 17, 1989.

See: 21 N.J.R. 1041(b), 21 N.J.R. 2032(a).

At (a)4ii, waters around Somers Cove delineated in more detail; at (a)6i, area added between Shelter Island, Jonas Island and Pork Island; (a)9 deleted regarding Sea Isle City Area and 10 and 11 renumbered and amended new 9ii; added vi to new 10.

Amended by R.1990 d.399, effective August 6, 1990.

See: 22 N.J.R. 1304(a), 22 N.J.R. 2285(a).

Absecon Bay and Great Sound Area deleted; Ship Channel, Great Channel, Jenkins Sound, Grassy Sound/Richardson Sound and Maurice River Cove added.

Amended by R.1991 d.592, effective December 16, 1991 (operative January 1, 1992).

See: 23 N.J.R. 2993(a), 23 N.J.R. 3751(a).

Added (a)7iv and v, Great Egg Harbor Bay and Ship Channel; added (a)10iii and iv, Grassy Sound and Old Turtle Thorofare.

Amended by R.1992 d.508, effective December 21, 1992 (operative January 1, 1993).

See: 24 N.J.R. 3657(a), 24 N.J.R. 4518(b).

Amended designation at (a)8 and make technical changes upon adoption to (a)1i(1); 2ii(1); 6i; 7i, iii and v and 9ii.

Amended by R.1994 d.201, effective April 18, 1994.

See: 26 N.J.R. 789(a), 26 N.J.R. 1632(a).

Amended by R.1995 d.81, effective February 6, 1995.

See: 26 N.J.R. 4475(b), 27 N.J.R. 484(a).

7:12-4.2 Seasonally Approved growing waters (Approved January 1 through April 30 yearly, Special Restricted May 1 through December 31 yearly)

(a) The following shellfish growing waters designated on the charts referred to in N.J.A.C. 7:12-1.1 shall be Special Restricted for the harvest of shellfish from May 1 through December 31 yearly and Approved for the harvest of shellfish from January 1 through April 30 yearly:

1. Island Beach areas: Mantoloking to Island Beach State Park: Seasonal—Special Restricted May 1 through December 31 yearly, Approved January 1 through April 30 yearly:

i. All of those areas lying between the lines described in N.J.A.C. 7:12-3.2(a)7, 9, and 10 and a straight line beginning at the most westerly point of land on Dutchman's Point, just south of Mantoloking Shores, and bearing approximately 227 degrees T to the most northwesterly point of land on NW Point Island, off Chadwick Beach, then following that island's northeasterly shore to its most easterly point of land, then bearing approximately 191 degrees T to the northernmost tip of the most northern of the two islands off Ocean Beach, then bearing approximately 246 degrees T to Flashing light "1" (Fl "1"), then bearing approximately 186 degrees T to Flashing Red light "2" (Fl R "2") off Ortleigh Beach, then all of those waters lying between the eastern shoreline and the Thomas A. Mathis Bridge and a straight line bearing approximately 230 degrees T to Quick Green "29" (QG "29" PA) which forms a common point of termination with the Seasonal area line described in (a)2ii below.

ii. All of those areas lying between the lines described in N.J.A.C. 7:12-3.2(a)7, 8, 9, and 10 including all those waters north of a straight line extending from the northernmost cupola on Island Beach State Park (currently the Island Beach State Park Maintenance Center, formerly the old USCG Station number 110) and bearing approximately 303 degrees T through Quick Red "38" (QR "38") just north of Berkeley Shores. The northern boundary of this Seasonally approved area shall be the Thomas A. Mathis Bridge.

2. Barnegat Bay—Brick Township and Dover Township area: Seasonal—Special Restricted May 1 through December 31 yearly, Approved January 1 through April 30 yearly:

- i. All of those areas of Barnegat Bay lying between the Special Restricted waters at the mouth of Kettle Creek as described in N.J.A.C. 7:12-3.2(a)8 and a straight line beginning at Seaweed Point and bearing approximately 135 degrees T to Flashing Red light "20" (Fl 2.5s "20") off Seaweed Point, and then bearing approximately 251 degrees T to Andrew Point on Green Island.
- ii. All of those areas of Barnegat Bay lying between the Special Restricted waters as described in N.J.A.C. 7:12-3.2(a)8 and a straight line extending from the point of land forming the northern back mouth of Shelter Cove and bearing approximately 160 degrees T to Flashing Red light "28" (Fl R 4s "28") then all those waters lying between the western shoreline (mainland) and the Thomas A. Mathis Bridge and a straight line bearing approximately 152 degrees T to Quick Green light (QG "29") which forms a common point of termination with the Seasonal area line described in (a)1i above.
3. Manahawkin Bay, Mallard Island, Beach Haven West (Village Harbor) area: Seasonal—Special Restricted May 1 through December 31 yearly, Approved January 1 through April 30 yearly:
- i. All those waters of Manahawkin and Little Egg Harbor Bays lying between the Special Restricted waters described in N.J.A.C. 7:12-3.2(a)14 and a straight line beginning on the westernmost end of the most westerly island along the Manahawkin Causeway (Route 72), then bearing approximately 173 degrees T to the most easterly point of Thorofare Island, then bearing approximately 218 degrees T to Department maintained marker "J", then bearing approximately 275 degrees T to Department maintained marker "K", then bearing approximately 032 degrees T and terminating on the southeasternmost point of Oyster Point.
4. Cedar Run area: Seasonal—Special Restricted May 1 through December 31 yearly, Approved January 1 through April 30 yearly:
- i. (Reserved)
5. Tuckerton area: Seasonal—Special Restricted May 1 through December 31 yearly, Approved January 1 through April 30 yearly:
- i. All those waters of Tuckerton Cove between the line described in N.J.A.C. 7:12-3.2(a) 18 and a line connecting the east and west banks of the cove formed by the alignment of the range (Department maintained) located on the west bank of the Tuckerton Cove and the telephone pole (P-35877) on the east bank. When the range is aligned, the bearing it creates is approximately 227 degrees T (reciprocal 47 degrees).
6. Mullica River—Great Bay area: Seasonal—Special Restricted May 1 through December 31 yearly, Approved January 1 through April 30 yearly:
- i. All of Landing Creek to its confluence with the man-made ditch leading to Scotts Landing.
7. Brigantine area: Seasonal—Special Restricted May 1 through December 31 yearly, Approved January 1 through April 30 yearly:
- i. An area adjacent to the city of Brigantine inshore from a line beginning at the telephone pole (A4229) at the north end of 13th Street North and bearing approximately 325 degrees T through Steelman Bay to Flashing light 5 (Fl "5"), then to the northwest tip of George's Dock (1427 North Shore Drive), then proceeding in a westerly direction to the first pier end west of the Brigantine Country Club (1048 North Shore Drive), then to the pier end at 1002 North Shore Drive (next to dead end street), then to the third pier end west of the Lafayette Boulevard Street end (860 North Shore Drive), then from pier end to 800 West Shore Drive, then to pier end at 714 West Shore Drive and bearing approximately 173 degrees T into Shore Drive and bearing approximately 173 degrees T into Wading Thorofare until it intersects a line connecting Flashing lights 6 and 8 (Fl R "6" and Fl R "8") in Wading Thorofare, then along the line connecting Flashing lights 6 and 8 (Fl "6" and Fl "8") to Flashing light 8, then bearing approximately 211 degrees T to a point of land on the west shore of Bonita Tideway, then along the shoreline in a southerly direction to the first unnamed creek past Sand Creek, then bearing approximately 030 degrees T to the point of land on the opposite shore and terminating.
- ii. That portion of Broad Creek immediately south of Sunflower Island (U.S.G.S. quad designation), between the Brigantine shoreline and a line from a Department maintained marker on Boot Island (U.S.G.S. quad designation) and bearing approximately 238 degrees T across Broad Creek, to another Department maintained marker on the opposite shore and terminating.
8. Great Egg Harbor River and Middle River: Seasonal Special Restricted May 1 through December 31 yearly, Approved January 1 through April 30 yearly:
- i. All that portion of Great Egg Harbor River and Middle River contained within a line beginning at Fl R "4" and bearing approximately 215 degrees T to the western shoreline in a northwesterly direction to Middle River, then along the entire shoreline of Middle River and including its tributaries, then along the shore of Great Egg Harbor River to a Department maintained marker, then bearing approximately 028 degrees T to Fl R "8", then along the northern and/or eastern shore of Great Egg Harbor River in a downstream direction to the point of origin at Fl R "4".

R.1982 d.182, effective June 21, 1982.
See: 14 N.J.R. 310(a), 14 N.J.R. 655(a).
Amended by R.1983 d.249, effective June 20, 1983.

See: 15 N.J.R. 595(a), 15 N.J.R. 1020(a).

Substantially amended.

Amended by R.1986 d.234, effective June 16, 1986.

See: 18 N.J.R. 784(a), 18 N.J.R. 1275(a).

Substantially amended.

Amended by R.1987 d.488, effective November 16, 1987.

See: 19 N.J.R. 1129(a), 19 N.J.R. 2136(a).

Recodified from 1.5 and substantially amended.

Amended by R.1989 d.390, effective July 17, 1989.

See: 21 N.J.R. 1041(b), 21 N.J.R. 2032(a).

(a)5i amended and (a)8 deleted Ocean City-Somers Point area and replaced with Great Egg Harbor River and Middle River.

Amended by R.1990 d.399, effective August 6, 1990.

See: 22 N.J.R. 1304(a), 22 N.J.R. 2285(a).

Bearing corrected at (a)5i.

Amended by R.1991 d.592, effective December 16, 1991 (operative January 1, 1992).

See: 23 N.J.R. 2993(a), 23 N.J.R. 3751(a).

Deleted (a)4i, Cedar Run Cove; added (a)7ii, portion of Broad Creek.

Amended by R.1992 d.508, effective December 21, 1992 (operative January 1, 1993).

See: 24 N.J.R. 3657(a), 24 N.J.R. 4518(b).

Technical changes made upon adoption to (a)1i and ii; 2i and ii.

Amended by R.1995 d.81, effective February 6, 1995.

See: 26 N.J.R. 4475(b), 27 N.J.R. 484(a).

SUBCHAPTER 5. SEASONAL SPECIAL RESTRICTED SHELLFISH GROWING WATERS

7:12-5.1 Seasonal Special Restricted growing waters (Special Restricted Area: May 1 through September 30 yearly, Prohibited Area: October 1 through April 30 yearly)

The Seasonal Special Restricted waters described below shall be Prohibited for the harvest of shellfish from October 1 through April 30 yearly, and Special Restricted Areas for the harvest of shellfish only in conjunction with the approved resource recovery programs described in N.J.A.C. 7:12-9 during the period of May 1 through September 30 yearly. These waters will not be utilized, that is, will not be available for the harvest of any shellfish, within any resource recovery program until the levels of contamination in shellfish tissue from certain heavy metal are found to be within those recommended by the U.S. Food and Drug Administration (FDA) as determined by the Department from analyses of ongoing studies.

R.1984 d.42, effective February 21, 1984.

See: 15 N.J.R. 2103(a), 16 N.J.R. 365(b).

Amended by R.1986 d.234, effective June 16, 1986.

See: 18 N.J.R. 784(a), 18 N.J.R. 1275(a).

Dates changed.

Amended by R.1987 d.488, effective November 16, 1987.

See: 19 N.J.R. 1129(a), 19 N.J.R. 2136(a).

Recodified from 1.6.

Amended by R.1988 d.206, effective May 2, 1988.

See: 20 N.J.R. 450(a), 20 N.J.R. 980(b).

Substituted condemned for prohibited.

Amended by R.1989 d.390, effective July 17, 1989.

See: 21 N.J.R. 1041(b), 21 N.J.R. 2032(a).

Deleted reference to specific area, Raritan Bay Area.

Amended by R.1992 d.508, effective December 21, 1992 (operative January 1, 1993).

See: 24 N.J.R. 3657(a), 24 N.J.R. 4518(b).

Corrected terminology from "condemned" to "prohibited" and corrected typographical error in the April date in the body of the rule.

SUBCHAPTER 6. (RESERVED)

SUBCHAPTER 7. SANCTUARIES

7:12-7.1 Sanctuaries

The Department may establish areas known as sanctuaries to be utilized for research purposes such as spawner areas. Sanctuaries shall be delineated by the Department. Shellfish may be relocated to such an area to supply brood stock to re-establish populations elsewhere. When shellfish from waters other than Approved are relocated to areas classified as Approved or Seasonal Approved, the relocation site (sanctuary) will be Prohibited to the harvest of all shellfish.

New Rule R.1986 d.234, effective June 26, 1986.

See: 18 N.J.R. 784(a), 18 N.J.R. 1275(a).

Amended by R.1987 d.488, effective November 16, 1987.

See: 19 N.J.R. 1129(a), 19 N.J.R. 2136(a).

Recodified from 1.8 and (a)1 added.

Amended by R.1991 d.592, effective December 16, 1991 (operative January 1, 1992).

See: 23 N.J.R. 2993(a), 23 N.J.R. 3751(a).

Deleted (a)1, spawner sanctuaries.

SUBCHAPTER 8. (RESERVED)

SUBCHAPTER 9. SPECIAL PERMIT

7:12-9.1 General provisions; all programs

(a) The State Department of Environmental Protection may issue permits to take or harvest shellfish, as hereinafter provided from waters condemned or otherwise restricted by the regulations contained herein. (NOTE: Under the authority of N.J.S.A. 50:2-1 et seq., any person taking shellfish from Approved waters must have a license from the Department.)

(b) Said permits may be issued to persons above the age of 18 making application for purposes of transplanting, relaying, depletion, bait harvesting, depuration/controlled purification, research or other purposes approved by the Department.

(c) Each application shall be accompanied by a fee in the amount of \$25.00 (check or money order made payable to Treasurer, State of New Jersey). Forms may be obtained from the New Jersey Department of Environmental Protection, Bureau of Marine Water Classification and Analysis, Stoney Hill Road, P.O. Box 405, Leeds Point, New Jersey 08220, and New Jersey Marine Police stations located throughout the State. Duplicate permits may be issued upon written request to the Bureau of Marine Water Classification and Analysis at the aforementioned address if accompanied by a \$10.00 check or money order payable to the Treasurer, State of New Jersey.

(d) Said permits may contain special conditions relating to their purpose, duration, area limitations, time limitations, methods of handling, identification and disposition of the shellfish, limitation on species and/or size of shellfish, and/or any other conditions deemed necessary by the Department to protect the health, safety and welfare of the public.

(e) Conviction of a shellfish violation as provided in N.J.S.A. 58:24-1 et seq., N.J.S.A. 24:2-1 et seq. and N.J.S.A. 50:2-1 et seq. shall be adequate cause for the suspension, revocation, and denial of all special permits issued by the New Jersey Department of Environmental Protection involving the harvesting, possession, and/or processing of shellfish from the waters of the State.

(f) Any participant violating the regulations or the terms of the special permits issued by the Division of Water Resources may be subject to prosecution under the provisions of N.J.S.A. 58:24-3 and may incur the penalties prescribed for the offenses specified by N.J.S.A. 58:24-9 and 58:24-10.

(g) Any person who shall gather any oysters, clams or other shellfish from a place which has been condemned by the department pursuant to N.J.S.A. 58:24-2 or who shall distribute, sell, offer or expose for sale or have in his possession any such shellfish so gathered unless he shall first have secured a permit in writing from the department to distribute, sell, offer or expose for sale or have in his possession any such shellfish so taken, is guilty of a petty disorderly persons offense and any subsequent offense is guilty of a disorderly persons offense (N.J.S.A. 58:24-9). Additionally, the vessel, vehicle and all equipment used to violate this law, regulation or permit may be subject to seizure or forfeiture (N.J.S.A. 58:24-10).

(h) Due to the necessity to closely monitor this program for the purpose of protecting public health, the Division of Water Resources shall immediately suspend the Special Permit of any participant who violates any condition of the permit or any provision of this chapter and thereby creates a threat to public health by compromising the purity of shellfish as a food product. The Division of Water Resources may suspend the Special Permit of any participant who violates any other condition of the permit or any other provision of this chapter. The right to post-suspension

hearing shall be granted by the Department in accordance with the procedures established by 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. Requests for post-suspension hearings shall be submitted to the Department at the following address:

Office of Legal Affairs
ATTENTION: Adjudicatory Hearing Requests
Department of Environmental Protection and Energy
CN 402
Trenton, New Jersey 08625-0402

The hearing shall be held on an expedited basis, unless an adjournment is requested by the participant.

(i) Discrimination against any harvester on the basis of race, sex, creed, domicile, or any other non-work related factor shall be adequate cause for revocation of this permit.

(j) The Department may apply more restrictive delineations to harvest areas that are described in N.J.A.C. 7:12-3 and 5 by specifying the sections available for harvest on the special permit. These limitations will be made at the discretion of the Department when deemed necessary to protect the health, safety, and welfare of the public.

(k) It shall be unlawful for any person issued a special permit or license, or any person on board a vessel to which a permit or license has been issued, under the provisions of N.J.S.A. 58:24-1 et seq. and 50:2-1 et seq. to:

1. Throw or dump into the water or otherwise dispose of the contents of any pail, bag, basket, or any matter whatsoever after being hailed by any member of the designated enforcement unit(s), before the authorized officer has inspected the same; or

2. Interfere with, obstruct, delay, or prevent by any means the lawful investigation or search of the vessel by any member of the designated enforcement unit(s).

(l) The operator of any vessel and all others onboard issued a special permit or license shall immediately comply with all lawful instructions issued by any member of the designated enforcement unit(s) to facilitate safe boarding and inspection of the vessel, its gear, and catch for the purpose of enforcing this chapter.

(m) The hours listed in this subchapter are Eastern Standard Time (EST) or Eastern Daylight Time (EDT) at date and are based on Trenton Time. Time tables for Trenton Time are published in the annual Summary of Game Regulations issued by the New Jersey Division of Fish, Game and Wildlife. Trenton Time shall be the Statewide official time.

As amended, R.1980 d.230, effective May 23, 1980.
See: 12 N.J.R. 179(b), 12 N.J.R. 391(a).
As amended, R.1983 d.249, effective June 20, 1983.
See: 15 N.J.R. 595(a), 15 N.J.R. 1020(a).

(c): address for obtaining forms changed from Trenton to Absecon.
(e) added.

Amended by R.1985 d.64, effective February 19, 1985.

See: 16 N.J.R. 3112(a), 16 N.J.R. 3379(a), 17 N.J.R. 433(a).

Section substantially amended.

Amended by R.1986 d.234, effective June 16, 1986.

See: 18 N.J.R. 784(a), 18 N.J.R. 1275(a).

(j) added.

Amended by R.1987 d.488, effective November 16, 1987.

See: 19 N.J.R. 1129(a), 19 N.J.R. 2136(a).

Recodified from 2.1 and Shellfish Control changed to Marine Water Classification and Analysis.

Amended by R.1988 d.206, effective May 2, 1988.

See: 20 N.J.R. 450(a), 20 N.J.R. 980(b).

Added "above the age of 18" to (b) and amended the address.

Amended by R.1989 d.390, effective July 17, 1989.

See: 21 N.J.R. 1041(b), 21 N.J.R. 2032(a).

Added reference to ... "provisions of this chapter" ... and deleted reference to the right to a hearing "within 10 days" ...

Amended by R.1990 d.548, effective November 19, 1990.

See: 22 N.J.R. 97(a), 22 N.J.R. 3508(a).

Added text at (k), (l), and (m).

Administrative change and correction to (h).

See: 23 N.J.R. 3325(b).

Amended by R.1994 d.201, effective April 18, 1994.

See: 26 N.J.R. 789(a), 26 N.J.R. 1632(a).

Amended by R.1995 d.81, effective February 6, 1995.

See: 26 N.J.R. 4475(b), 27 N.J.R. 484(a).

7:12-9.2 General provisions; hard and soft clam depuration only

(a) Any person(s) wishing to construct and/or operate a soft or hard clam depuration plant shall comply with the Hard and Soft Shell Clam Depuration requirements set forth at N.J.A.C. 8:13-2.4.

(b) Any person(s) wishing to construct and/or operate a soft or hard clam depuration plant shall be required to submit a detailed plan to the SRRSC outlining the means of transportation and the distance to the depuration plant from the landing site(s). The overland transportation system and site selection must be approved by the SRRSC and the designated enforcement unit(s). The criteria to be considered include, but are not limited to:

1. Security;
2. Pilferage prevention;
3. Travel time, for the purpose of increasing effective enforcement; and
4. Prevention of environmental stress and contamination of shellfish.

(c) If an overland transportation plan is approved, the SRRSC, in conjunction with the designated enforcement unit(s), will issue written approval containing specified guidelines which shall be followed. Violation of the conditions of this permit shall subject the holder to prosecution under the appropriate statutes and rules. The need for such enforcement shall be determined solely by the SRRSC and designated enforcement unit(s).

(d) In addition to compliance with N.J.A.C. 8:13-2.4 and (b) above, any person(s) wishing to operate a soft and/or hard clam depuration plan shall obtain the following:

1. Provisional certification to operate a soft and/or hard clam depuration plant issued by the New Jersey State Department of Health pursuant to N.J.A.C. 8:13-2.1 and a food/cosmetic license as required by N.J.S.A. 24:15-13;

2. Depuration plant possession permit No. 8b entitled "Special Permit For A Certified Depuration or Controlled Purification Facility To Possess Soft Clams (*Mya arenaria*) From Special Restricted And Seasonal Special Restricted Waters For Further Processing" issued by the Department's Bureau of Marine Water Classification and Analysis; and

3. Depuration plant possession permit No. 10 entitled "Special Permit For A Certified Depuration or Controlled Purification Facility To Possess Hard Clams (*Mercenaria mercenaria*) From Special Restricted And Seasonal Special Restricted Waters For Further Processing" issued by the Department's Bureau of Marine Water Classification and Analysis.

(e) All special permits are non-transferable and shall be valid only for the person named on such permit and only for the location stated on such permit.

(f) The following documents are required for soft and/or hard clam harvesters participating in the depuration program:

1. A valid commercial shellfish harvesting license to be issued by the Department's Division of Fish, Game and Wildlife pursuant to N.J.S.A. 50:2-1; and

2. Depuration Harvester Permit No. 4 entitled "Special Permit To Harvest Soft Clams (*Mya arenaria*) From Special Restricted And Seasonal Special Restricted Waters For Further Processing At A State Permitted and Certified Depuration or Controlled Purification Facility" issued by the Department's Bureau of Marine Water Classification and Analysis; and/or,

3. Depuration Harvester Permit No. 9 entitled "Special Permit To Harvest Hard Clams (*Mercenaria mercenaria*) From Specified Special Restricted And Seasonal Special Restricted Waters of New Jersey For Further Processing At A State Permitted Depuration or Controlled Purification Facility" issued by the Bureau of Marine Water Classification and Analysis.

(g) A person shall not receive a depuration harvester permit unless the depuration plan owner/operator has been issued a valid provisional or permanent shellfish certification by the New Jersey State Department of Health pursuant to N.J.A.C. 8:13-2.1.

(h) At such time as it may become necessary in the event of excessive depletion or threat thereof to the shellfish stocks, the Department may limit the harvest of soft and hard clams below total plant capacity, limit the total harvest of any harvester, restrict the harvest from specific clamming areas or terminate the program in its entirety.

New Rule, R.1990 d.548, effective November 19, 1990.

See: 22 N.J.R. 97(a), 22 N.J.R. 3508(a).

Text on applications recodified to 9.3; text on general provision for hard and soft shell clam depuration added.

7:12-9.3 Applications

(a) Applications for said permits shall be submitted on forms supplied by the Department as follows:

1. Bait permit application (WR-002);
2. Depletion permit application (WR-003);
3. Depuration/Harvester (WR-004);
4. Relaying permit application (WR-005);
5. Transfer permit application (WR-006);
6. Transplant permit application (WR-007);
7. Possession and/or processing plant permit application (WR-008);
8. Hard clam Depuration/Harvester program (WR-009);
9. Hard clam possession and/or processing plant program (WR-010).

(b) Applicants shall provide a copy of their valid commercial shellfish harvesters license with the application.

(c) It is the responsibility of the permittee to keep the Bureau of Marine Water Classification and Analysis informed of his current mailing address. A change of address from that submitted on the aforementioned application, as well as subsequent changes therefrom, must be reported by the permittee, in writing, to the Leeds Point office within one week of the change.

Amended by R.1983 d.249, effective June 20, 1983.

See: 15 N.J.R. 595(a), 15 N.J.R. 1020(a).

(a)8 and 9 added.

Amended by R.1985 d.64, effective February 19, 1985.

See: 16 N.J.R. 3112(a), 16 N.J.R. 3379(a), 17 N.J.R. 433(a).

(b)-(c) added.

Amended by R.1987 d.488, effective November 16, 1987.

See: 19 N.J.R. 1129(a), 19 N.J.R. 2136(a).

Recodified from 2.2 and Shellfish Classification changed to Marine Water Classification and Analysis.

Recodified by R.1990 d.548, effective November 19, 1990.

See: 22 N.J.R. 97(a), 22 N.J.R. 3508(a).

Text on bait programs for sea clams recodified to 9.4; text on applications recodified from 9.2.

7:12-9.4 Bait program; sea clams

(a) The purpose of Permit No.2a ("Sea Clam Bait Permit") is to allow Sea or Surf Clams to be harvested from the

Condemned waters in the Atlantic Ocean within the State of New Jersey jurisdictional three mile limit and ultimately sold for bait purposes only (N.J.S.A. 58:24-3).

(b) Permit No. 2a shall be valid only under the following specific requirements or conditions. Violations may subject the holder to prosecution under N.J.S.A. 58:24-3.

1. Species limited under said permit to sea or surf clams (*Spisula solidissima*).

2. Areas of harvest are limited to the Condemned waters in the Atlantic Ocean within the State of New Jersey jurisdictional three nautical mile limit as described in the most recent revision of the Regulations Concerning Classification of Certain Shellfish Beds.

3. This permit shall apply only to the water areas specified above.

4. The inclusive dates of the permit shall be from January 1st through December 31st of the same year unless revoked or suspended prior to that date for cause.

5. The permit does not supersede current laws, regulations and rules promulgated by other agencies of the State of New Jersey including, but not limited to, N.J.S.A. 50:2-6.1 et seq. and N.J.A.C. 7:25.

6. The harvester shall possess a valid Bait Boat License to Dredge Sea Clams issued by the Division of Fish, Game and Wildlife.

7. The harvester shall have this permit (permit No. 2a) in his possession while working in said specified areas.

8. While harvesting in the specified areas, a yellow pennant, visible at a one (1) nautical mile distance shall be flown.

9. All clams taken from the specified area shall be containerized with a tag (at least 2 $\frac{3}{8}$ " x 4 $\frac{3}{4}$ "; yellow with dark printing) affixed to each container stating: "CLAMS HARVESTED FROM CONDEMNED WATERS FOR BAIT PURPOSES ONLY. NOT TO BE USED FOR HUMAN CONSUMPTION. TAG NOT TO BE REMOVED FROM CONTAINER UNTIL CONTAINER IS EMPTY." In addition, the tag shall state the NAME and ADDRESS of the harvester and the DATE and QUANTITY of the sale. Said tag shall remain affixed to each container until the container is empty.

10. All clams to be utilized for bait shall remain on the harvest vessel or in a storage area specified by the permittee to preclude their removal by unauthorized persons.

11. Areas such as walk-in boxes, truck bodies, etc., which are used for the storage of clams harvested from the condemned area, shall not be used for the storage of other food products if such food products are to be utilized for human consumption.

12. Signs (1" lettering, yellow background with dark printing) stating, "CLAMS HARVESTED FROM CONDEMNED WATERS FOR BAIT PURPOSES ONLY. NOT TO BE USED FOR HUMAN CONSUMPTION," shall be prominently displayed in your establishment and in each customer's establishment at the point of sale and the storage area.

13. Bait clams are not to be harvested on the same date as edible clams.

14. The vessel shall be sanitized between bait clam and edible clam harvesting.

15. Records of daily catches including area harvested, date and quantity; and sales including customer's name, date and quantity of sale shall be maintained for a period of not less than 90 days, and shall be available for inspection by any authorized agent of the State.

16. The harvester shall, prior to harvesting, verbally notify, on a day to day basis, the designated enforcement unit(s) as to the area and hours he intends to work under the provisions of this permit.

17. Said clams harvested from condemned waters shall not be used or sold as food for human consumption.

18. This permit shows on its face specific conditions that are deemed necessary for the proper operations of the Sea Clam Bait program. These permit conditions are hereby incorporated in this paragraph by reference, and violation(s) of said conditions shall be deemed violation(s) of these regulations. The permittee is also required to comply with all other applicable statutes and regulations.

EDITOR'S NOTE: Form WR 002a was filed with these rules but is not reproduced herein. Further information on this form may be obtained from the Department of Environmental Protection, P.O. Box 2809, Trenton, N.J. 08625.

As amended, R.1980 d.230, effective May 23, 1980.

See: 12 N.J.R. 179(b), 12 N.J.R. 391(a).

As amended, R.1983 d.249, effective June 20, 1983.

See: 15 N.J.R. 595(a), 15 N.J.R. 1020(a).

(a)5: N.J.A.C. 7:25 cited in place of N.J.S.A. 50:2-6.1 et seq.

(a)6: "Bait Boat License to Dredge Sea Clams" was "Bait Clam license".

Amended by R.1985 d.64, effective February 19, 1985.

See: 16 N.J.R. 3112(a), 16 N.J.R. 3379(a), 17 N.J.R. 433(a).

(a)18 added.

Recodified by R.1990 d.548, effective November 19, 1990.

See: 22 N.J.R. 97(a), 22 N.J.R. 3508(a).

Text on bait programs for soft/hard shell clams recodified to 9.5; text on bait programs for sea clams recodified from 9.3.

7:12-9.5 Bait program; soft clams and/or hard clams

(a) The purpose of Permit No. 2b ("Soft Clam and/or Hard Clam Bait Permit") is to allow a depuration/controlled purification facility holding Permit Nos. 8b and/or 10 to sell, for bait purposes only, unmarketable soft clams and/or hard clams that have been damaged during harvesting or depuration/controlled purification processing.

(b) Permit No. 2b shall be valid only under the following specific requirements or conditions. Violation may subject the holder to prosecution under N.J.S.A. 58:24-3.

1. Species limited under said permit to soft clams (*Mya arenaria*) and hard clams (*Mercenaria mercenaria*).

2. The inclusive dates of the permit shall be from January 1st through December 31st of the same year unless revoked or suspended prior to that date for cause.

3. Clams shall have been originally acquired from the harvester holding a duly issued Permit No. 4 and/or Permit No. 9.

4. The harvester shall possess a valid commercial shellfish harvesting license issued by the New Jersey Division of Fish, Game and Wildlife.

5. Harvesting from the specified Special Restricted and Seasonal Special Restricted waters may be permitted Monday through Sunday of each week and the hours limited as conditions of the harvester's permit.

6. Areas such as walk-in boxes, truck bodies, etc., which are used for storage of shellfish harvested from Special Restricted and Seasonal Special Restricted Areas, shall not be used for storage of other food products if such food products are to be utilized for human consumption.

7. Areas such as walk-in boxes, truck bodies, etc., which are used for the storage of shellfish harvested from the Condemned Special Restricted area, shall not be used for storage of other food products if such food products are to be utilized for human consumption.

8. Signs (1" lettering, yellow background with dark printing) stating: "CLAMS HARVESTED FROM CONDEMNED WATERS FOR BAIT PURPOSES ONLY. NOT TO BE USED FOR HUMAN CONSUMPTION." Shall be prominently displayed in your establishment and in each customer's establishment, at the point of sale and the storage area.

9. Records of sales including customer's name, date and quantity of sale, shall be maintained for a period of not less than 90 days, and shall be available for inspection by any authorized agent of the State.

10. Said damaged clams from Special Restricted and Seasonal Special Restricted waters shall not be used or sold as food for human consumption.

11. Said damaged soft clams from Condemned Special Restricted waters shall not be used or sold as food for human consumption.

12. This permit shows on its face specific conditions that are deemed necessary for the proper operations of the Soft Clam and Hard Clam Bait Programs. These permit conditions are hereby incorporated in this paragraph by reference, and violation(s) of said conditions shall be deemed violation(s) of these regulations. The permittee also required to comply with all other applicable statutes and regulations.

EDITOR'S NOTE: Form WR 002b was filed with these rules but is not reproduced herein. Further information on this form may be obtained from the Department of Environmental Protection, P.O. Box 2809, Trenton, N.J. 08625.

Amended by R.1980 d.230, effective May 23, 1980.

See: 12 N.J.R. 189(b), 12 N.J.R. 391(a).

Amended by R.1983 d.249, effective June 20, 1983.

See: 15 N.J.R. 595(a), 15 N.J.R. 1020(a).

(b)4: "commercial" added. (b)12: "and 11" added.

Amended by R.1985 d.64, effective February 19, 1985.

See: 16 N.J.R. 3112(a), 16 N.J.R. 3379(a), 17 N.J.R. 433(a).

Section substantially amended.

Recodified by R.1990 d.548, effective November 19, 1990.

See: 22 N.J.R. 97(a), 22 N.J.R. 3508(a).

Text on depletion program recodified to 9.6; text on bait programs for soft/hard shell clams recodified from 9.4.

7:12-9.6 Depletion program

The Department shall continue to issue special permits for the depletion program. The purpose of this program is to allow for the harvest of clams, oysters or mussels from areas affected by intermittent pollution sources when conditions are favorable. This program provides for the safe utilization of an otherwise unusable resource and also diminishes the possibility of illegal harvesting.

Recodified by R.1990 d.548, effective November 19, 1990.

See: 22 N.J.R. 97(a), 22 N.J.R. 3508(a).

Text on soft clam depuration harvester program deleted; text on depletion program recodified from 9.5. See below for amendments under old section 9.6.

As amended, R.1983 d.249, effective June 20, 1983.

See: 15 N.J.R. 595(a), 15 N.J.R. 1020(a).

Substantially amended.

Amended by R.1985 d.64, effective February 19, 1985.

See: 16 N.J.R. 3112(a), 16 N.J.R. 3379(a), 17 N.J.R. 433(a).

Section substantially amended.

7:12-9.7 Soft clam and hard clam depuration programs

(a) The purpose of harvesters permit numbers 4 and 9 (Soft Clam Depuration Harvester's and Hard Clam Depuration Harvester's Permit, respectively) is to allow soft and hard clams to be harvested from Special Restricted and Seasonal Special Restricted Areas and ultimately marketed after processing through a State permitted and certified depuration or controlled purification facility. Permit numbers 4 and 9 shall be valid only under the following specific conditions:

1. Only soft clams (*Mya arenaria*) and hard clams (*Mercenaria mercenaria*) shall be harvested under harvester permit numbers 4 and 9 respectively.

2. Area(s) of harvest are limited to those specified on the charts attached to each permit or amended charts sent by the Bureau to the current mailing address of the permittee on record at the Bureau's Leeds Point office. These areas specified for harvest may consist of Special Restricted and Seasonal Special Restricted waters as classified by the Department. All harvesters transferring clams to a depuration or controlled purification plant shall at all times work within the designated areas.

3. The harvester permit shall be valid for the period set forth on the face of the permit and shall allow for harvesting only in the waters specified on the charts attached to the permit (as amended where applicable) and as further restricted on a day-to-day basis by the designated enforcement unit(s).

4. The harvester shall possess a valid commercial shellfish harvesting license issued by the Department's Division of Fish, Game and Wildlife pursuant to N.J.S.A. 50:2-1.

5. The harvester shall have the harvester permit in his possession while operating in the specified waters.

6. Vessels used by special permit holders shall be marked with signs having a daylight fluorescent orange background with legible black lettering (minimum six inches in height) giving the permittee's first initial and last name and special permit number on both sides (amidships) of the permittee's harvest vessel, while participating in all phases of the program.

7. The harvester shall also display on his vessel a color coded pennant assigned by the Department to the depuration plant which he is working for. This pennant shall be at least eight feet above the waterline and displayed during all phases of the program. This pennant shall meet the minimum dimensions as follows: 30 inches in length by 12 inches in height at its widest edge.

8. Harvesters shall report in person each day, prior to any harvest activities, to the depuration plant, to advise the owner/operator of their intentions to work that day and obtain the specific number of approved harvest containers.

i. The owner/operator of the depuration plant shall issue each harvester a specific number of Department of Health approved containers based on the plant capacity. A stamped/validated waterproof serially numbered harvester-allocation tag approved by the State Department of Health shall be issued by the plant and affixed to each harvest container in the plant as part of the daily harvest allocation. No other containers or bags may be possessed in or on the harvest vessels during any phase of the program.

ii. The owner/operator of the depuration plant shall notify the Marine Enforcement Office of the Department's Division of Fish, Game and Wildlife by telephone in order to provide the list of all harvesters' names, the areas they will be harvesting and number of containers issued each harvester. Notification shall be made to the Nacote Creek Office each day by 8:30 A.M., or prior to any harvesting activities, whichever earlier. Any subsequent harvest activity shall be also reported to the Marine Enforcement Office prior to that harvest activity commencing.

iii. Shellfish shall be transported directly from the harvest area to the designated depuration landing site(s) by the most direct route without making any stops or landings along the way. Each participant shall land his entire day's catch at the designated depuration landing site(s) and at the time(s) specified by the designated enforcement unit. A participant may sell and/or purchase part of his daily catch to a person who holds a valid relay permit only at the designated relay landing site and at the designated relay landing time.

iv. Should an emergency arise or adverse weather conditions exist, the harvest vessels may dock at the depuration facility when necessary, except that off loading of shellfish shall not be initiated until the specified landing times.

v. Upon landing at the designated depuration landing site(s) the harvester shall complete a State provided receipt in triplicate containing at least the following information: harvester name, date, harvest area, total number of containers and total number of clams. Receipts shall be date and time stamped upon receipt of shellfish by the plant owner/operator into the depuration plant. The plant owner/operator shall retain two copies of the receipt form, one for forwarding on a monthly basis to the Marine Enforcement Office of the Department's Division of Fish, Game and Wildlife, Nacote Creek Office. The harvester shall retain one copy of the receipt for his records. All unused containers will be accounted for and so noted on the receipt.

vi. Once off-loading of the shellfish to the depuration plant commences, the containers of shellfish shall immediately be moved into the plant and the attached Harvester Allocation Tag shall be dated and time stamped for a second time upon receipt by the plant on that harvest day.

9. Harvesting by methods not permitted pursuant to any State laws and rules are prohibited.

10. All soft and hard clams harvested under this permit shall be landed at the depuration plant for further processing at the designated landing times except those hard clams sold to a relayer. All other species of shellfish shall not be removed from the harvest site but shall be immediately deposited at the location from which they were harvested. Only Department of Health specified and approved serially numbered containers shall be used for the harvesting, transportation, and receiving of clams at the depuration plant. All reasonable measures shall be taken to assure that the containers of clams received at the plant are filled to capacity.

11. Under adverse weather conditions (for example, bay and river icing), as determined by the designated enforcement unit(s), alternative methods of harvest and transportation of clams may be developed jointly by the harvester and depuration industry and the Departments of Environmental Protection and Health for as long as the adverse weather conditions continue. Under no circumstances shall any shellfish be harvested or transported using such alternate methods without first having obtained expressed written permission from the designated enforcement unit(s). These alternative methods, once approved, will become part of the SOP, required under Department of Health rules at N.J.A.C. 8:13-2.5.

12. Violations of these permit conditions shall subject the violator to prosecution under N.J.S.A. 58:24-1 et seq. and any other applicable statute or rule and may result in immediate permit suspension or revocation. In the event of a suspension or revocation of the shellfish certificate issued by the Department of Health pursuant to N.J.A.C. 8:13-2.1, all permits issued under this subchapter will no longer be valid for the plant(s) that no longer holds a valid shellfish certificate.

13. Any change of permittee's home or mailing address shall be reported by the permittee in writing to the Bureau's Leeds Point office within one week of the change.

(b) The permittee harvesting from the specified area(s) shall be subject to all State laws and rules applicable to the harvest of oysters, clams or mussels from Approved waters.

(c) The harvesting of soft and hard clams from the specified area(s) shall be permitted Monday through Saturday of each week between the hours of sunrise and one hour before sunset. Depending on the location of the depuration plant, the harvesting may be further restricted by designated landing times established by the Department.

(d) The purpose of permit numbers 8b and 10 (Depuration Plant Permit To Possess Soft Clams and Hard Clams, respectively) is to allow a depuration or controlled purification facility to possess soft and hard clams harvested from Special Restricted and Seasonal Special Restricted waters for further processing. This permit also completes the control link between the initial or harvest phase of the depuration or controlled purification program at (a) above and the processing phase, which is regulated by the New Jersey Department of Health. Permit numbers 8b and 10 shall be valid only under the following specific conditions:

1. Only soft clams (*Mya arenaria*) and/or hard clams (*Mercenaria mercenaria*) shall be possessed under their respective permits.

2. The owner/operator shall notify the Marine Enforcement Office of the Department's Division of Fish, Game and Wildlife by telephone in order to provide the names of the designated harvesters names, the area(s) to be worked and the number of containers issued to each harvester. Notification shall be made to the Nacote Creek Office on each harvest day by 8:30 A.M. or prior to any harvest activities. Any additions or changes to the initial notification must also be reported to the Marine Enforcement Office prior to any additions or changes to the harvesters working.

3. The depuration plant permit shall be valid for the period set forth on the face of the permit and shall apply only to the waters specified on the charts attached to the permit (as amended where applicable) and as further restricted on a day to day basis by the designated enforcement unit(s).

4. The harvester from which the shellfish are purchased shall possess a valid New Jersey Commercial Shellfish Harvesting License issued by the Department's Division of Fish, Game and Wildlife pursuant to N.J.S.A. 50:2-1 and a valid Permit No. 4 for soft clam depuration or No. 9 for hard clam depuration issued by the Bureau.

5. The permittee shall comply with all laws including rules promulgated by the Department and other agencies of the State of New Jersey.

6. Purchases of clams from the specified Special Restricted Waters shall be subject to all State laws including applicable to the purchaser of oysters, clams or mussels from approved areas.

7. All records of purchases, including the harvesters names, address, date, quantity of purchase, harvest site and all harvester allocation tags and harvester depuration receipts shall be maintained at the plant for a period of not less than one year and shall be available for inspection by any authorized agent of the State.

8. The plant operator shall provide weekly reports to the Department's Division of Fish, Game and Wildlife. Reporting forms and charts of the designated harvest area(s) shall be provided by the Division of Fish, Game and Wildlife. Such reports shall be submitted within five working days of the week's end (Saturday) and shall contain the following information for each day:

- i. The area(s) worked;
- ii. The total number of men working each area;
- iii. The total number of clams harvested from each area(s);
- iv. One copy of each harvester's daily receipt for the week shall be attached to the weekly report.

9. This permit and this subchapter do not supersede current laws, regulations and rules promulgated by other agencies of the State of New Jersey.

10. Upon completion of the day's harvesting, all clams shall be off-loaded at the depuration plant for storage and/or processing. Only Department of Health specified and approved serially numbered containers shall be used for the harvesting, transportation, and receiving of clams at the depuration plant.

11. All containers shall have attached to them a serially numbered harvester allocation tag which has been validated by the plant stamp prior to harvest showing the time and date. This shall again be stamped at the completion of harvest and landing by the plant showing the time, date, depuration harvester's permit number and number of clams in that container. These tags shall remain attached to specified serially numbered containers through the depuration process.

12. Once the depuration and bacteriological approvals are complete, all harvester allocation tags shall be re-

moved from the specified serially numbered containers and maintained on file at the plant for one year.

13. All such tags and records shall be available for inspection by any authorized agent of the State.

14. Violation of these permit conditions shall subject the holder to prosecution under N.J.S.A. 58:24-1 et seq. and any other applicable statute and may result in immediate permit suspension or revocation. In the event of a suspension or revocation of the shellfish certificate issued by the Department of Health pursuant to N.J.A.C. 8:13-2.1, permits issued under this subchapter regulations will no longer be valid for the plant(s) that no longer holds a valid shellfish certificate.

15. Should overland transportation be utilized on a regular basis for the movement of soft or hard clams from State waters to the depuration plant site, the operational plan for such a movement shall be approved by the SRRSC.

New Rule, R.1990 d.548, effective November 19, 1990.

See: 22 N.J.R. 97(a), 22 N.J.R. 3508(a).

Text on relay program recodified to 9.8; new text on soft clam and hard clam depuration program added.

7:12-9.8 Relay program

(a) The purpose of this program is to harvest market size hard clams from areas other than Approved Areas, for replanting in Approved Areas on special leased lots for purposes of natural purification prior to marketing. Two different types of permits are issued depending on participant request.

1. Permit 5a (Harvest, Buy, Sell, and Relay Hard Clam Permit) allows hard clams to be harvested, purchased, sold and relayed from specified Special Restricted, Seasonal Special Restricted or Condemned Waters in conjunction with a State approved shellfish relay program. All applicants are required to possess a special relay lease issued by the department (see N.J.A.C. 7:25-15.1) as a condition of this permit. The applicant is solely responsible for maintenance of all signs, stakes and markers as established in N.J.S.A. 50:1-5.

2. Permit 5b (Harvest Hard Clams For Sale Purposes Only Permit) allows hard clams to be harvested from specified Special Restricted, Seasonal Special Restricted, or Condemned Waters for sale purposes only (thus eliminating the requirement for obtaining a special relay leased plot in Approved waters) in conjunction with a state approved shellfish relay program.

(b) Permits 5a and 5b shall be valid only under the following specific requirements or conditions. Violations may subject the holder to prosecution under N.J.S.A. 58:24-3. These rules must be read together with the shellfisheries rules which appear at N.J.A.C. 7:25-15.1.

1. Species limited under said permit to hard clams (*Mercenaria mercenaria*).

2. Sections of harvest are limited to those delineated on the chart attached to each permit or amended charts sent to current mailing address of permittee on record at the Leeds Point office. These areas specified for harvest may consist of Special Restricted, Seasonal Special Restricted or Condemned waters as classified by the department.

3. The inclusive dates of the permit shall be specified on the face of the special permit unless revoked or suspended by the Department prior to the dates indicated and for cause. A schedule of harvest dates by section and landing sites will be sent by the Department to the permittee at the address on file with the Bureau of Marine Water Classification and Analysis (Leeds Point). A change of address must be reported to the Bureau of Marine Water Classification and Analysis (Leeds Point) by the permittee within one week of the change.

4. The harvester must possess a valid NEW JERSEY COMMERCIAL SHELLFISH HARVESTING LICENSE issued by the New Jersey Division of Fish, Game and Wildlife.

5. Harvesting from waters designated for relay purposes shall be subject to all state laws and regulations applicable to the harvest of hard clams from Approved waters.

6. The relay of hard clams from the waters designated for relay purposes shall be permitted as established by N.J.A.C. 7:25-15.1. Hard clams shall be planted on the specified leased plots in Approved waters as scheduled by the Department. The shellfish shall be removed from the bags at time of planting.

7. The participant must have this permit in his possession while working in all phases of the relay program.

8. This permit shall apply only to the waters specified on an attached chart provided with each permit and further specified on a schedule determined by the department to manage the resource and protect the public health, safety and welfare.

9. All hard clams taken from the designated relay waters shall be relayed to the special leased plots on a schedule set by the Department and shall remain upon said leased plots until written permission for harvest has been granted by the Bureau of Marine Water Classification and Analysis. Relayed hard clams are required to remain for a minimum of 30 days in the special relay leased plots. The minimum 30-day purging period will begin on a schedule established by the Department. Additionally, the water temperature of the Approved waters during the minimum 30-day purging period shall be at or above 10 degrees Celsius (50 degrees Fahrenheit) as determined by the Bureau of Marine Water Classification and Analysis. Reharvesting of the relayed shellfish will be regulated by the Department of Environmental Protection's Division of Water Resources, Bureau of Marine Water Classification and Analysis. Reharvesting of shellfish from the special relay leased plots may commence only after receipt of written permission from this office.

10. The State Department of Environmental Protection reserves the right to suspend or revoke this permit at any time that, in the department's judgement, its continued use may imperil the public health.

11. Signs having a white background with 6 inch legible black lettering, giving the participant's first initial and last name and Special Relay permit number shall be placed and maintained (amidships) on both sides of the participants boat while participating in any phase of the program.

12. Said boats shall remain in the designated relay section during the time harvesting operations are underway. Harvesting beyond the designated section is prohibited.

13. Upon completion of the day's harvesting, all shellfish shall be transferred to the authorized vehicle(s). No clams are to remain in the marked clam boats or transferred to other vehicles or boats. The location(s) of all loading and unloading sites associated with the transfer of shellfish from one vehicle/vessel to another, shall be assigned by the enforcement unit(s) designated in the Bureau of Shellfisheries regulations appearing at N.J.A.C. 7:25-15.1. There shall be no variance from said designated area unless so authorized by same.

14. Dredging and other illegal methods of harvesting are prohibited.

15. Shellfish taken from the designated relay section shall be bagged by the participant, to the imprinted line on the bag, in bags available to the participant from the Department. These bags will be provided, at cost, to the participant through the Leeds Point office of this bureau. No unmarked bags will be allowed in the harvesters' or buyers' vehicles or boat except during reharvest. Each bag shall have a tag attached, marked with the harvester's name and/or buyer's name and permit number. Shellfish not in compliance with the bagging requirements will be seized and returned to Condemned waters by the designated enforcement unit. Participants will place the shellfish in vehicles provided by them and approved by the Department. The vehicles will be sealed by the Department, or an agent designated by the Department, at the harvest landing site and opened by the Department or a designated agent at the off-loading site. The enforcement unit may specify the route to be taken from the harvest landing site to the planting off-loading site. Shellfish purchased from a holder of a valid Hard clam depuration permit (Number 9) shall be handled under the same conditions.

16. The bags will be counted by the relay harvester and listed on the numbered three-part relay receipt forms which shall be certified by the harvester. The forms must be filled out in their entirety before the clams are transported. Receipts for all clams must be in the transporting vehicle. When clams are sold to the holder of a 5a permit, the form shall be signed by both the harvester and the buyer-planter at the landing site. The possession or submission of incomplete, fraudulent or misleading relay receipt forms shall be a violation of this permit.

17. Participants shall not harvest approved clams from their leased plots on the same trip they plant clams from the day's relay. Persons harvesting clams from relay lots after written permission has been received from the Bureau of Marine Water Classification and Analysis shall not have any "RELAY" transport bags, as described in N.J.A.C. 7:25-15.1 of the relay rules, in their vehicles or vessels at the time they harvest.

18. The department shall have the authority to inspect and collect shellfish from any phase of the relay to ensure compliance with all relay program regulations. Shellfish found under participant's control contrary to these and other applicable statutes and regulations shall be subject to seizure.

19. Only the lessee or a substitute harvester shall remove clams from the leased plots. A substitute harvester must possess a Letter of Permission (issued by the Division of Fish, Game and Wildlife) from the lessee giving the dates for which he is allowed harvest privileges, and the lessee's permit number from the Division of Water Resources Permit 5a.

20. Violations of these conditions may subject the violator to prosecution under N.J.S.A. 58:24.

21. This permit shows on its face specific conditions that are deemed necessary for the proper operation of the shellfish relay program. These permit conditions are hereby incorporated in this paragraph by reference, and violation(s) of said conditions shall be deemed violation(s) of these regulations. All permittees are also required to comply with all other applicable statutes and regulations. Included with every permit are charts of the harvest sites showing specific sections within the estuaries that may be harvested on a particular day as determined by the department.

As amended, R.1978 d.299, eff. September 5, 1978.

See: 10 N.J.R. 422(a).

As amended, R.1980 d.230, eff. May 23, 1980.

See: 12 N.J.R. 179(b), 12 N.J.R. 391(a).

As amended, R.1983 d.249, eff. June 20, 1983.

See: 15 N.J.R. 595(a), 15 N.J.R. 1020(a).

Substantially amended.

As amended, R.1984 d.199, eff. May 7, 1984.

See: 16 N.J.R. 558(a), 16 N.J.R. 1199(a).

Originally adopted as Emergency R. 1984 d.66, eff. March 1, 1984, repealing original rule and adopting current text.

Amended by R.1985 d.64, effective February 19, 1985.

See: 16 N.J.R. 3112(a), 16 N.J.R. 3379(a), 17 N.J.R. 433(a).

Substantially amended.

Amended by R.1985 d.634, effective December 16, 1985.

See: 17 N.J.R. 2185(a), 17 N.J.R. 2971(b).

(b)15 substantially amended.

Amended by R.1987 d.488, effective November 16, 1987.

See: 19 N.J.R. 1129(a), 19 N.J.R. 2136(a).

Recodified from 2.7 and Shellfish Control changed to Marine Water Classification and Analysis.

Amended by R.1989 d.390, effective July 17, 1989.

See: 21 N.J.R. 1041(b), 21 N.J.R. 2032(a).

Changed temperature minimum from 13° centigrade to 10° Celsius and 55° to 50° Fahrenheit.

Recodified by R.1990 d.548, effective November 19, 1990.

See: 22 N.J.R. 97(a), 22 N.J.R. 3508(a).

Recodified from 9.8.

Amended by R.1991 d.592, effective December 16, 1991 (operative January 1, 1992).

See: 23 N.J.R. 2993(a), 23 N.J.R. 3751(a).

At (b)15 amended to reflect the use of bags imprinted with line on bag to measure amount.

7:12-9.9 Transfer program

(a) The purpose of Permit No. 6 (Transfer Permit) is to allow for the harvest and transfer of shellfish from leased lots in waters classified other than Approved to other leased lots for culturing and/or purging of pollutants and ultimate marketing.

(b) Permit No. 6 shall be valid only under the following specific requirements or conditions. Violations may subject the holder to prosecution under N.J.S.A. 58:24-3.

1. Species is limited under said permit to oysters (*Crassostrea virginica*), hard clams (*Mercenaria mercenaria*), mussels (*Mytilus edulis*) and soft clams (*Mya arenaria*).

2. This permit is limited to person having leased shellfish lots and a valid New Jersey Commercial Shellfish Harvesting License issued by the New Jersey Division of Fish, Game and Wildlife. The applicant shall provide a chart delineating the leased grounds from which the shellfish are to be harvested and the leased grounds to which the shellfish are to be transferred. This chart shall be validated by the appropriate Bureau of Shellfisheries office at Nacote Creek or Bivalve.

3. This permit does not supersede current laws, rules and regulations promulgated by this and other agencies of the State of New Jersey.

4. Records of transfers including harvest lot, quantity of shellfish transferred, date of transfer and transfer lot number shall be maintained for period of not less than 90 days, and shall be available for inspection by any authorized agent of the State.

5. Lots being planted shall be staked, by the lessee, and maintained in that condition during the effective period of the permit.

6. Shellfish transferred to leased lots in Approved or Seasonal Approved waters shall remain upon said transfer lots until written approval for reharvest has been granted by the Department's Division of Water Resources, Bureau of Marine Water Classification and Analysis.

7. To facilitate compliance with (b)6 above, the permittee shall notify the Bureau of Marine Water Classification and Analysis by letter after the final transfer to the leased lots has been completed and validated in accordance with (b)2 above. The minimum 30-day purging period shall begin after the Bureau of Marine Water Classification and Analysis has received written notice of the final transfer date and has determined that the water temperature of the Approved waters have stabilized at or above 10 degrees Celsius (50 degrees Fahrenheit).

8. From the time the transfer permit is issued until written notification for reharvest is received by the permittee, the transfer lot(s) which appear on the permit shall be considered condemned for the harvest of shellfish. Transfer lots located in water that may be approved during the purging period shall be marked at the corners with Condemned Area signs (supplied by the Bureau of Marine Water Classification and Analysis) during the Condemned period.

9. The permittee shall notify the designated enforcement unit(s) 24 hours prior to each day's harvesting from lots in Condemned waters.

10. The special Transfer Permit shall be in the permittee's possession at all times when harvesting in Condemned waters and while transporting shellfish taken from Condemned waters.

11. This permit shows on its face specific conditions that are deemed necessary for the proper operation of the shellfish transfer program. These permit conditions are hereby incorporated in this paragraph by reference, and violation(s) of said conditions shall be deemed violation(s) of these regulations. All permittees are also required to comply with all other applicable statutes and regulations.

(c) Any permittee violating these regulations or the terms of N.J.S.A. 58:24-3 by taking shellfish from Condemned waters in violation of the permit may incur the penalties prescribed by N.J.S.A. 58:24-9. In addition, conviction of a shellfish violation as provided in N.J.S.A. 58:24-1 et seq., or N.J.S.A. 50:2-1 et seq., shall be adequate cause for the suspension and denial of all special permits issued by the New Jersey Department of Environmental Protection involving the harvesting of shellfish from the waters of this State.

Editor's Note: Form WR006 and Permit Number 6 were filed with these rules but are not reproduced herein. Further information on these items may be obtained from the Department of Environmental Protection, Shellfish Control Unit, P.O. Box CN 029, Trenton, New Jersey 08625.

As amended, R.1979 d.184, effective May 9, 1979.

See: 11 N.J.R. 170(b), 11 N.J.R. 276(a).

As amended, R.1980 d.230, effective May 23, 1980.

See: 12 N.J.R. 179(b), 12 N.J.R. 391(a).

As amended, R.1983 d.249, effective June 20, 1983.

See: 15 N.J.R. 595(a), 15 N.J.R. 1020(a).

Substantially amended.

Amended by R.1985 d.64, effective February 19, 1985.

See: 16 N.J.R. 3112(a), 16 N.J.R. 3379(a), 17 N.J.R. 433(a).

Section substantially amended.

Amended by R.1987 d.488, effective November 16, 1987.

See: 19 N.J.R. 1129(a), 19 N.J.R. 2136(a).

Recodified from 2.8 with changes of Shellfish Control to Marine Water Classification and Analysis.

Amended by R.1989 d.390, effective July 17, 1989.

See: 21 N.J.R. 1041(b), 21 N.J.R. 2032(a).

Changed parameter of 30 day surge period and added change to 10° Celsius and 50° Fahrenheit at (b)7.

Amended by R.1990 d.548, effective November 19, 1990.

See: 22 N.J.R. 97(a), 22 N.J.R. 3508(a).

Text on transplant program recodified to 9.10; text on transfer program recodified from 9.8.

7:12-9.10 Transplant program

(a) The purpose of Permit No. 7 (Transplant Permit Seed Oysters) is to allow for the harvest and possession of seed oysters from waters classified other than Approved for transplanting to leased lots in Approved waters for purging of pollutants, growth and ultimate marketing after written release by the Bureau of Marine Water Classification and Analysis. The purging period will be for a minimum of 30 days at which the water temperature of the approved waters have stabilized at or above 10 degrees Celsius (50 degrees Fahrenheit) as determined by the Bureau of Marine Water Classification and Analysis.

(b) Permit No. 7 shall be valid only under the following specific requirements or conditions. Violations may subject the holder to prosecution under N.J.S.A. 58:24-3.

1. Species is limited under said permit to oysters (*Crassostrea virginica*).

2. This permit is limited to persons having a leased shellfish lot(s) in Approved waters and/or Seasonally Approved waters and a valid commercial shellfish harvesting license issued by the New Jersey Division of Fish, Game and Wildlife. The applicant shall provide a chart delineating the leased grounds to which the shellfish are to be transplanted. This chart shall be validated by the appropriate Bureau of Shellfisheries Office at Nacote Creek or Bivalve. Additionally, a chart showing the area from which the shellfish are to be harvested shall be provided by the applicant.

3. The permit does not supersede current laws, rules and regulations promulgated by this and other agencies of the State of New Jersey.

4. The permittee shall verbally notify the designated enforcement unit(s) 24 hours prior to each day's harvesting from waters other than Approved.

5. The permittee shall have this permit in his possession while working in specified waters and while transporting seed oysters taken from specified waters.

6. Seed oysters transplanted to leased lots in Approved waters shall remain upon said lots until written approval for reharvest has been granted by the Department's Division of Water Resources, Bureau of Marine Water Classification and Analysis.

7. To facilitate compliance with (b)6 above the permittee shall notify the Bureau of Marine Water Classification and Analysis by letter after the final transplanting to a particular leased lot. The minimum 30 day purging period shall begin after the Bureau of Marine Water Classification and Analysis has received written notice of the final transfer date and has determined that the water temperature of the Approved waters have stabilized at or above 10 degrees Celsius (50 degrees Fahrenheit).

8. Lots being planted will be staked, by the lessee, and maintained in that condition during the effective period of the special permit. Transplant lot(s) located in waters that may be approved during the purging period shall be marked at the corners with Condemned Area signs (supplied by the Bureau of Marine Water Classification and Analysis) during the Condemned period.

9. From the time the Transplant Permit is issued until written notification for reharvest is received by the permittee, the transplant lot(s) which appear on the permit shall be considered condemned for the harvest of shellfish.

10. This special permit shows on its face specific conditions that are deemed necessary for the proper operation of the shellfish transplant program. These permit conditions are hereby incorporated in this paragraph by reference, and violation(s) of said conditions shall be deemed violation(s) of these regulations. All permittees are also required to comply with all other applicable statutes and regulations.

(c) Any permittee violating these regulations or the terms of the special transplant permit issued by the Division of Water Resources shall be subject to prosecution under the provisions of N.J.S.A. 58:24-3, taking shellfish from Condemned waters in violation of the permit, and may incur the penalties prescribed by N.J.S.A. 58:24-9. Conviction of a shellfish violation as provided in N.J.S.A. 58:24-1 et seq., and N.J.S.A. 50:2-1 et seq., shall be adequate cause for the suspension and denial of all special permits issued by the New Jersey Department of Environmental Protection involving the harvesting of shellfish from the waters of this State.

Editor's Note: Form WR007 and Permit Number 7 were filed with these rules but are not reproduced herein. Further information on these items may be obtained from the Department of Environmental Protection, Shellfish Control Unit, P.O. Box CN 029, Trenton, New Jersey 08625.

As amended, R.1979 d.184, effective May 9, 1979.
See: 11 N.J.R. 170(b), 11 N.J.R. 276(a).
As amended, R.1980 d.230, effective May 23, 1980.
See: 12 N.J.R. 179(b), 12 N.J.R. 391(a).
As amended, R.1983 d.249, effective June 20, 1983.
See: 15 N.J.R. 595(a), 15 N.J.R. 1020(a), 15 N.J.R. 1761(a).
Substantially amended.
Amended by R.1985 d.64, effective February 19, 1985.
See: 16 N.J.R. 3112(a), 16 N.J.R. 3379(a), 17 N.J.R. 433(a).
Section substantially amended.
Amended by R.1987 d.488, effective November 16, 1987.
See: 19 N.J.R. 1129(a), 19 N.J.R. 2136(a).
Recodified from 2.9 and Shellfish Control changed to Marine Water Classification and Analysis.
Amended by R.1989 d.390, effective July 17, 1989.
See: 21 N.J.R. 1041(b), 21 N.J.R. 2032(a).
Changed temperature minimum from 13° centigrade (55° Fahrenheit) to 10° Celsius (50° Fahrenheit).
Amended by R.1990 d.548, effective November 19, 1990.
See: 22 N.J.R. 97(a), 22 N.J.R. 3508(a).

Text on possession and/or plant program, bait store recodified to 9.11; text on transplant program recodified from 9.9.
Amended by R.1991 d.592, effective December 16, 1991 (operative January 1, 1992).

See: 23 N.J.R. 2993(a), 23 N.J.R. 3751(a).

At (b) added requirement of chart showing the area from which the shellfish are to be harvested.

7:12-9.11 Possession and/or plant program; bait store

(a) The purpose of Permit No. 8a ("Bait Store Permit") is to allow sea or surf clams, soft clams and hard clams that have been harvested from waters other than Approved to be sold, for bait purposes only, by a person other than the original harvester or depuration/controlled purification plant processor.

(b) Permit No. 8a shall be valid only under the following specific requirements or conditions. Violation may subject the holder to prosecution under N.J.S.A. 58:24-3.

1. Species limited under said permit to sea or surf clams (*Spisula solidissima*), soft clams (*Mya arenaria*) and hard clams (*Mercenaria mercenaria*).

2. Permittees shall purchase sea or surf clams, soft clams and hard clams solely from State-permitted harvesters, other bait stores, or depuration/controlled purification facilities that have been authorized to harvest and/or sell shellfish harvested from waters other than Approved.

3. The inclusive dates of the permit shall be from January 1st through December 31st of the same year unless revoked or suspended prior to that date for cause.

4. The yellow tags from holders of Permit No. 2a, 2b and/or 8a that state: "CLAMS HARVESTED FROM CONDEMNED WATERS FOR BAIT PURPOSES ONLY. NOT TO BE USED FOR HUMAN CONSUMPTION. TAG NOT TO BE REMOVED FROM CONTAINER UNTIL CONTAINER IS EMPTY." Name, address, date of sale, and quantity of sale shall be printed on tag.

5. Signs (1" lettering, yellow background with dark printing) stating: "CLAMS HARVESTED FROM CONDEMNED WATERS FOR BAIT PURPOSES ONLY. NOT TO BE USED FOR HUMAN CONSUMPTION," shall be prominently displayed in the permit holder's establishment at the point of sale and the storage area.

6. Said clams shall remain in a storage area specified by the permittee, to preclude their removal by unauthorized persons.

7. Storage areas which are used for the storage of clams harvested from waters other than Approved shall not be used for the storage of other food products if the latter are to be utilized for human consumption.

8. Records of purchase of said clams, including: harvester's, other bait store's or depuration/controlled purification facility's name, date of purchase, quantity of purchase, and wholesale sales shall be maintained for a

period of not less than 90 days and made available for inspection by any authorized agent of the State.

9. Said clams shall not be used or sold as food for human consumption.

10. This permit shows on its face specific conditions that are deemed necessary for the proper operations of the bait store program. These permit conditions are hereby incorporated in this paragraph by reference and violation(s) of said conditions shall be deemed violation(s) of these regulations. The permittee is also required to comply with all other applicable statutes and regulations.

Editor's Note: Form WR008a and Permit Number 8a were filed with these rules but are not reproduced herein. Further information on these items may be obtained from the Department of Environmental Protection, P.O. Box 2809, Trenton, New Jersey 08625.

As amended, R.1980 d.230, effective May 23, 1980.

See: 12 N.J.R. 179(b), 12 N.J.R. 391(a).

As amended, R.1983 d.249, effective June 20, 1983.

See: 15 N.J.R. 595(a), 15 N.J.R. 1020(a).

(a) and (b)1: hard clams included.

Amended by R.1985 d.64, effective February 19, 1985.

See: 16 N.J.R. 3112(a), 16 N.J.R. 3379(a), 17 N.J.R. 433(a).

Section substantially amended.

Amended by R.1990 d.548, effective November 19, 1990.

See: 22 N.J.R. 97(a), 22 N.J.R. 3508(a).

Text on transfer program recodified to 9.9; text on relay program added.

Amended by R.1990 d.548, effective November 19, 1990.

See: 22 N.J.R. 97(a), 22 N.J.R. 3508(a).

Text on possession and/or processing plant program, depuration plant deleted; previous annotations as follows:

Amended by R.1980 d.230, effective May 23, 1980.

See: 12 N.J.R. 179(b), 12 N.J.R. 39(a).

Amended by R.1981 d.190, effective June 4, 1981.

See: 13 N.J.R. 19(b), 13 N.J.R. 339(b).

(b)7: "one year" was "90 days"; (b)11: "designated enforcement unit(s)" was "New Jersey Marine Police";

(b)14: "designated enforcement units" was "Monmouth Beach Marine Police Station";

(b)16: "designated enforcement units" was "New Jersey Marine Police";

(b)18 added.

OAL NOTE: "Approved Area Charts" concerning shellfish growing water classification were filed as part of R.1981 d.190 but are not reproduced in the Code.

Amended by R.1983 d.249, effective June 20, 1983.

See: 15 N.J.R. 595(a), 15 N.J.R. 1020(a).

Substantially amended.

Amended by R.1985 d.64, effective February 19, 1985.

See: 16 N.J.R. 3112(a), 16 N.J.R. 3379(a), 17 N.J.R. 433(a).

(b)17 deleted and new text substituted.

Amended by R.1987 d.448, effective November 16, 1987.

See: 19 N.J.R. 1129(a), 19 N.J.R. 2136(a).

Recodified from 2.11 and Shellfish Control renamed Marine Water Classification and Analysis.

Text on possession and/or plant programs, bait store added.

7:12-9.12 Possession and/or processing plant program; seed oysters

(a) The purpose of Permit No. 8c ("Possession Permit for Seed Oysters") is to allow the lessee of shellfish grounds to purchase seed oysters harvested in waters classified other than Approved for planting on his leased lots in Approved waters for purging of pollutants, growth and ultimate marketing after written release by the Bureau of Marine Water Classification and Analysis.

(b) Permit No. 8c shall be valid only under the following specific requirements or conditions. Violations may subject the holder to prosecution under N.J.S.A. 58:24-3.

1. Species is limited under said permit to oysters (*Crassostrea virginica*).

2. This permit is limited to persons having leased shellfish lots in Approved and/or Seasonally Approved waters. The applicant shall provide a chart delineating the leased grounds upon which the shellfish are to be planted. This chart shall be validated by the appropriate Bureau of Shellfisheries Office at Nacote Creek or Bivalve.

3. The harvester from which said seed oysters are purchased shall possess a valid Permit No. 7 issued by the Bureau of Marine Water Classification and Analysis.

4. The permit does not supersede current laws, rules and regulations promulgated by this and other agencies of the State of New Jersey.

5. Records of purchases including the harvester's name and permit number, date, quantity of purchase, harvest site and transplant lot numbers shall be maintained by the permittee for a period of not less than 90 days and shall be available for inspection by any authorized agent of the State.

6. Seed oysters transplanted to leased lots in Approved waters and/or Seasonal Approved waters shall remain upon said lots until written approval for reharvest has been granted by the Department's Division of Water Resources, Bureau of Marine Water Classification and Analysis.

7. To facilitate compliance with (b)6 above, the permittee shall notify the Bureau of Marine Water Classification and Analysis by letter after the final planting on the leased lot. The minimum 30-day period shall begin after the Bureau of Marine Water Classification and Analysis has received written notice of the final planting date and has determined that the water temperature of the Approved waters has stabilized at or above 10 degrees Celsius (50 degrees Fahrenheit).

8. From the time the Possession Permit for Seed Oysters is issued until written notification for reharvest is received by the permittee, the transplant lot(s) which appear on the permit shall be considered condemned for the harvest of shellfish. Transplant lots located in waters that may be approved during the purging period shall be staked and marked at the corners with Condemned area signs (supplied by the Bureau of Marine Water Classification and Analysis) during the Condemned period.

9. This permit shows on its face specific conditions that are deemed necessary for the proper operation of the shellfish transplant program. These permit conditions are hereby incorporated in this paragraph by reference, and violation(s) of said conditions shall be deemed violation(s) of these regulations. All permittees are also required to comply with all other applicable statutes and regulations.

(c) Any permittee violating these regulations or the terms of the special transfer permit issued by the Division of Water Resources shall be subject to prosecution under the provisions of N.J.S.A. 58:24-3, taking shellfish from the Condemned waters in violation of the permit, and may incur the penalties prescribed by N.J.S.A. 58:24-9. Conviction of a shellfish violation as provided in N.J.S.A. 58:24-1 et seq., and N.J.S.A. 50:2-1 et seq., and shall be adequate cause for the suspension and denial of all special permits issued by the New Jersey Department of Environmental Protection involving the harvesting of shellfish from the waters of this State.

EDITOR'S NOTE: Form WR008 and Permit Number 8c were filed with these rules but are not reproduced herein. Further information on these items may be obtained from the Department of Environmental Protection, Shellfish Control Unit, P.O. Box CN 029, Trenton, New Jersey 08625.

As amended, R.1979 d.184, eff. May 9, 1979.
See: 11 N.J.R. 170(b), 11 N.J.R. 276(a).
As amended, R.1980 d.230, eff. May 23, 1980.
See: 12 N.J.R. 179(b), 12 N.J.R. 391(a).
As amended, R.1983 d.249, eff. June 20, 1983.
See: 15 N.J.R. 595(a), 15 N.J.R. 1020(a), 15 N.J.R. 1761(a).
Amended by R.1985 d.64, effective February 19, 1985.
See: 16 N.J.R. 3112(a), 16 N.J.R. 3379(a), 17 N.J.R. 433(a).

Section substantially amended.
Amended by R.1987 d.488, effective November 16, 1987.
See: 19 N.J.R. 1129(a), 19 N.J.R. 2136(a).
Recodified from 2.12 and Shellfish Control changed to Marine Water Classification and Analysis.
Amended by R.1989 d.390, effective July 17, 1989.
See: 21 N.J.R. 1041(b), 21 N.J.R. 2032(a).
Temperature minimums changed from 13° centigrade (55° Fahrenheit) to 10° Celsius (50° Fahrenheit).

7:12-9.13 Scientific Collection and Non-Human Consumption Program

The department may continue to issue special permits for the collection of shellfish from waters classified other than

Approved for the purpose of non-human consumption and scientific research. Conditions of the permit will be tailored as necessary to the specific program(s) requested. This permit is issued in conjunction with, and to the holder of, the collection permit issued by the Division of Fish, Game, and Wildlife pursuant to authority granted at N.J.S.A. 23:4-52.

New Rule, R.1986 d.234, effective June 16, 1986.
See: 18 N.J.R. 784(a), 18 N.J.R. 1275(a).
Amended by R.1988 d.206, effective May 2, 1988.
See: 20 N.J.R. 450(a), 20 N.J.R. 980(b).

Section heading changed from Scientific and Non-Human Collection Program.

Amended by R.1990 d.548, effective November 19, 1990.
See: 22 N.J.R. 97(a), 22 N.J.R. 3508(a).

Text on hard clam depuration/harvester (pilot) program depuration harvester permit deleted; annotations were as follows:

As amended, R.1981 d.190, effective June 4, 1981.

See: 13 N.J.R. 191(b), 13 N.J.R. 339(b).

OAL NOTE: "Approved Area Charts" concerning shellfish growing water classification were filed as part of R.1981 d.190 but are not reproduced in the Code.

Text on scientific collection and non-human consumption program added.

7:12-9.14 (Reserved)

Amended by R.1981 d.190, effective June 4, 1981.
See: 13 N.J.R. 191(b), 13 N.J.R. 339(b).

OAL NOTE: "Approved Area Charts" concerning shellfish growing water classification were filed as part of R.1981 d.190 but are not reproduced in the Code.

Repealed by R.1990 d.548, effective November 19, 1990.

See: 22 N.J.R. 97(a), 22 N.J.R. 3508(a).

Text on hard clam possession and/or processing plant (pilot) program; depuration plant deleted.

7:12-9.15 (Reserved)

Repealed by R.1990 d.548, effective November 19, 1990.

See: 22 N.J.R. 97(a), 22 N.J.R. 3508(a).

Text on scientific collection and non-human consumption program added.

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