

CHAPTER 25

DIVISION OF FISH, GAME AND WILDLIFE RULES

Authority

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

Source and Effective Date

R.1996 d.119, effective February 2, 1996.
See: 27 N.J.R. 4514(a), 28 N.J.R. 1378(b).

Executive Order No. 66(1978) Expiration Date

Chapter 25, Division of Fish, Game and Wildlife Rules, expires on February 2, 2001.

Chapter Historical Note

Chapter 25, Division of Fish, Game and Wildlife Rules, was filed and became effective prior to September 1, 1969. Subchapter 2, Use of All Land and Water Areas Under the Control of the Division of Fish, Game and Wildlife, was adopted as R.1975 d.292, effective October 1, 1975. See: 7 N.J.R. 411(a), 7 N.J.R. 499(c). Subchapter 12, Surf Clams, was repealed and replaced by R.1990 d.46, effective January 16, 1990. See: 21 N.J.R. 3214(a), 22 N.J.R. 183(a). Pursuant to Executive Order No. 66(1978), Chapter 25 was readopted as R.1991 d.132, effective February 15, 1991. See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).

Pursuant to Executive Order No. 66(1978), Chapter 25 was readopted as R.1996 d.119, effective February 2, 1996. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

7:25-1.1 Scope

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

Case Notes

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

7:25-1.2 Construction

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

7:25-1.3 Practice where rules do not govern

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

7:25-1.4 Definitions

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

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

"Code" means the New Jersey Administrative Code.

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

"Conservation officer" means a law enforcement officer of the division.

"Council" means the Fish and Game Council in the Division of Fish, Game and Shellfisheries.

"Division" means the Division of Fish, Game and Shellfisheries in the Department of Environmental Protection.

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

7:25-1.5 License, permit and stamp fees

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

Resident Fishing	\$ 16.50
Jr/Sr Fishing	7.75
Family Fishing	27.50
Family Supplement	2.25
Non-Resident Fishing	25.25

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

R.1973 d.13, effective January 8, 1973.

See: 5 N.J.R. 38(c).

Amended by R.1989 d.26, effective January 3, 1989.

See: 20 N.J.R. 2666(a), 20 N.J.R. 55(a).

Deleted (a)5 and 6 and renumbered 7-11. as 5-9.

Amended by R.1989 d.502, effective September 18, 1989.

See: 21 N.J.R. 1482(b), 21 N.J.R. 2963(a).

Lease and surveying fees deleted.

Repealed by R.1991 d.132, effective March 18, 1991.

See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).

Section 1.5—Fee schedule—deleted.

New Rule, R.1993 d.360, effective July 19, 1993.

See: 25 N.J.R. 1928(a), 25 N.J.R. 3154(a).

7:25-1.6 (Reserved)

7:25-1.7 Penalties

(a) Pursuant to N.J.S.A. 50:2-1 no person shall take or catch any clams without either a recreational or commercial license. Any person violating this provision shall be liable to a penalty of \$20.00 for the first offense and \$40.00 for each subsequent offense.

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

(c) Pursuant to N.J.S.A. 50:2-5, each licensee, while at all times engaged in operating under his license who fails to have his clamming license in his possession or who fails to exhibit his clamming license for inspection upon proper request, shall be liable to a penalty of \$10.00 for the first offense and \$20.00 for each subsequent offense.

R.1980 d.395, effective September 17, 1980.

See: 12 N.J.R. 456(a), 12 N.J.R. 576(d).

R.1988 d.339, effective July 18, 1988.

See: 19 N.J.R. 2358(a), 20 N.J.R. 1743(b).

This section expired and new rules were adopted.

Amended by R.1991 d.132, effective March 18, 1991.

See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).

Monetary amount of penalty changed in (b). Deleted (d) and (e).

SUBCHAPTER 2. USE OF ALL LAND AND
WATER AREAS UNDER THE CONTROL OF
THE DIVISION OF FISH, GAME AND
WILDLIFE

7:25-2.1 Cutting or damaging vegetation

No person or persons shall at any time cut, fell, dig up, pull up, damage, gather, carry away, take, remove or destroy

any tree, shrub, vine or other vegetation or part thereof without written permission or other authorization of the Division of Fish, Game and Wildlife. Nothing in this section shall apply to public utility companies or their agents engaged in the maintenance of existing utility company rights-of-way, provided that prior notice is given to the Division.

Amended by R.1983 d.336, effective August 15, 1983.

See: 15 N.J.R. 840(a), 15 N.J.R. 1374(c).

Current text replaced existing text.

Amended by R.1995 d.578, effective November 6, 1995.

See: 27 N.J.R. 1890(a), 27 N.J.R. 4283(a).

7:25-2.2 All motor vehicles and other forms of conveyances

(a) No person shall operate any motor vehicle, motorboat, or other conveyance on or over any State Wildlife Management Area unless the motor vehicle or motorboat is properly registered and displays the proper and valid registration numbers. All boats used on the waters under the control of the Division of Fish, Game and Wildlife are subject to N.J.S.A. 12:7-1 et seq. and N.J.A.C. 13:82 and shall be operated in accordance with those provisions.

(b) All motor vehicles or other conveyances are restricted to established roads or designated parking areas. Motor vehicles or other conveyances shall not be operated at any time on or over any road, trail, survey line, dam, boundary or transmission line or other area designated as "closed" by signs or barriers, nor shall a vehicle or other conveyance be operated on or over any cultivated or planted areas or woods and fields in any Wildlife Management Area unless written permission or other authorization is granted by the Division.

1. Special permits may be granted to organized motorcyclists to operate on an established course or trail under regulations prescribed by the Division for a fee of \$100.00, plus a charge of \$1.00 for each participating motorcycle.

(c) No person shall operate motor vehicles, including conveyances, commonly known as off-road vehicles, all terrain vehicles, snowmobiles, dog sleds, dog carts or trail bikes, on State Wildlife Management Areas at any time without first obtaining a written permit or other authorization from the Division.

(d) No motor vehicle or other conveyances shall be stopped or parked so as to block any travelled portion of any road or restrict the free movement of any vehicle thereon, in any State Wildlife Management Area.

(e) A person operating a motor vehicle or other conveyance in any State Wildlife Management Area shall comply with all posted speed limits or other vehicle control signs. See N.J.A.C. 7:25-2.3 for specific vehicle control restrictions.

As amended, R.1971 d.124, effective July 22, 1971.

See: 3 N.J.R. 106(a), 3 N.J.R. 149(c).

As amended, R.1983 d.336, effective August 15, 1983.

See: 15 N.J.R. 840(a), 15 N.J.R. 1374(c).

(a) and (b): "or other conveyances" added, Wildlife Management Area specified as jurisdictional unit, (b)1 added.

(c): current text replaced existing text.

(d) and (e) added.

Amended by R.1995 d.578, effective November 6, 1995.

See: 27 N.J.R. 1890(a), 27 N.J.R. 4283(a).

7:25-2.3 Vehicle traffic controls in Wildlife Management Areas

(a) In the Assunpink Wildlife Management Area, the following motor vehicle speed limits are established:

1. Clarksburg-Robbinsville Road speed limits are as follows:

i. Zone 1—15 mph between Englishtown Road and Millstone-Hightstown Road.

ii. Zone 2—25 mph between Millstone-Hightstown Road and Sharon Station-East Branch Road (AKA Eldridge Road).

iii. Zone 3—35 mph between Sharon Station-East Branch Road (AKA Eldridge Road) and Roosevelt Road.

2. East Branch-Stone Tavern Road—35 mph.

3. Millstone-Hightstown Road—25 mph.

4. Roosevelt Road speed limits are as follows:

i. Zone 1—15 mph between the southernmost jurisdictional line and Clarksburg-Robbinsville Road.

ii. Zone 2—35 mph between Clarksburg-Robbinsville Road and the northernmost jurisdictional line.

5. Sharon Station-East Branch Road (AKA Eldridge Road)—25 mph.

(b) In the Assunpink Wildlife Management Areas the following intersections are designated as stop intersections:

1. Clarksburg-Robbinsville Road and Roosevelt Road (southerly approach), stop on Roosevelt Road.

2. Clarksburg-Robbinsville Road and Sharon Station, stop on Sharon Station-East Branch Road (AKA Eldridge Road).

3. Sharon Station-East Branch Road (AKA Eldridge Road) and East Branch-Stone Tavern Road, stop on East Branch-Stone Tavern Road.

4. Millstone-Hightstown Road and Clarksburg-Robbinsville Road (westerly approach), stop on Clarksburg-Robbinsville Road.

(c) In the Assunpink Wildlife Management Area the following intersection is designated as a stop and yield intersection:

1. Clarksburg-Robbinsville Road and Roosevelt Road (northerly approach), stop sign on the left turn lane of Roosevelt Road (northerly approach) and yield sign on the right turn lane of Roosevelt Road (northerly approach).

(d) In the Prospertown Lake Wildlife Management Area, all vehicles over 30,000 Gross Vehicle Weight Rating are prohibited from using the parking area.

As amended, R.1983 d.336, effective August 15, 1983.
See: 15 N.J.R. 840(a), 15 N.J.R. 1374(c).

Current text replaced text on drugs and marijuana.
Amended by R.1995 d.578, effective November 6, 1995.
See: 27 N.J.R. 1890(a), 27 N.J.R. 4283(a).

7:25-2.4 Alcoholic beverages

No person or persons shall consume or have in possession or control any intoxicating beverage or any beverage containing alcohol while on any land or water area under the control of the Division of Fish, Game and Wildlife, except that organized groups may, with written permission or other authorization from the Division, possess or consume alcoholic beverages on designated Wildlife Management Areas.

As amended, R.1983 d.336, effective August 15, 1983.

See: 15 N.J.R. 840(a), 15 N.J.R. 1374(c).
Exception for "organized groups" added.

7:25-2.5 Restricted areas and hours

(a) No unauthorized person or persons shall enter upon in any manner any land or water areas controlled by the Division of Fish, Game and Wildlife between the hours of 9:00 P.M. and 5:00 A.M. (2100 and 0500 hours) EST or EDT as listed in Trenton, New Jersey, whichever is in effect on the given date.

1. This shall not preclude a person engaged in lawful and proper hunting, trapping or fishing activity or other activities authorized by the Division.

2. No person shall enter any area designated with signs by the Division as "restricted" or "closed" without first obtaining written permission from the Division.

As amended, R.1983 d.336, effective August 15, 1983.

See: 15 N.J.R. 840(a), 15 N.J.R. 1374(c).
(a)1 and 2 clarified.

7:25-2.6 Division Fish Hatcheries

(a) No unauthorized person shall take or attempt to take fish by any means, or feed, molest, disturb, kill, net or attempt to net any fish in or from the waters of State Fish Hatcheries, except the public may take or attempt to take fish in or from those waters specifically posted for public fishing by the Division of Fish, Game and Wildlife.

(b) In the Pequest Wildlife Management Area, no unauthorized person shall take or attempt to take fish by any means, or feed, molest, disturb, kill, net or attempt to net any fish within the restricted area posted as being a portion of, or adjacent to, the outflow of the Pequest Trout Hatchery.

(c) In the Pequest Trout Hatchery, the taking or attempting to take fish by any means, or feeding, molesting, disturbing, killing, netting or attempting to net any fish in the "Fishing Education Pond" is prohibited unless specifically authorized by the Division.

As amended, R.1983 d.336, effective August 15, 1983.

See: 15 N.J.R. 840(a), 15 N.J.R. 1374(c).

"No unauthorized person" was "No person"; posting exceptior added.

Amended by R.1995 d.578, effective November 6, 1995.

See: 27 N.J.R. 1890(a), 27 N.J.R. 4283(a).

7:25-2.7 Outboard motors

(a) No person shall operate or use any boat or other flotation device using an engine commonly known as an outboard motor, inboard motor or inboard-outboard motor on any freshwater lake or pond located within a Wildlife Management Area (note (c) below) without written permission from the Division.

1. This section does not preclude the use of battery-powered electric motor on these areas, with exception as noted in (b) below.

(b) On Prospertown Lake in Ocean County only manually operated boats are permitted.

(c) On Union Lake Wildlife Management Areas in Cumberland County, a person may operate a boat equipped with not more than one outboard motor, and this motor shall not exceed 10 horsepower.

As amended, R.1983 d.336, effective August 15, 1983.

See: 15 N.J.R. 840(a), 15 N.J.R. 1374(c).

(a), (b) and (c) replaced existing (a) and (b).

7:25-2.8 Horseback riding

(a) No person shall ride a horse in or on any land or water area controlled by the Division without first procuring a proper and valid permit from the Division of Fish, Game and Wildlife. The permit is to be in the possession of the horseback rider at all times when riding a horse in these areas.

1. The riding of horses on or over any wildlife food area, dams, cultivated fields, gardens or lawns shall be unlawful at all times.

2. On State Wildlife Management Areas where such activity may be permitted, it shall be done only in designated areas.

(b) The fee for any individual permit for horseback riding on State Wildlife Management Areas shall be \$25.00 per calendar year. All horseback riding permits will expire on December 31, of each year.

1. The prospective permittee shall maintain public liability and property damage insurance for the period of authorized use, with an insurance company recognized to do business in the State of New Jersey, in the amount of \$100,000/\$300,000 personal liability and \$50,000 property damage, or \$300,000 aggregate.

2. Each application to ride horseback must be accompanied by a statement from the applicant's insurance carrier denoting the insurance coverage as it applies to the riding of a horse on a State Wildlife Management Area.

(c) The Division may issue group horseback riding permits, covering a specified time period, to the Equine Advisory Board of the State Department of Agriculture. No fee will be charged for these permits.

1. The Department of Agriculture when applying for such a permit will provide the Division with a complete application for a permit, on a form to be provided by the Division. A copy of the valid permit must be posted at the New Jersey Horse Park facility or in possession of the event coordinator. Each participant must possess a copy of a completed registration form, which will be provided by the Division.

i. The Department of Agriculture will be required to provide proof of insurance in the amounts specified at (b)1 above for the group permits they sponsor.

(d) The Division may also issue group horseback riding permits to clubs or organizations on a daily basis. The fee for such a permit will be \$75.00 per day.

1. The prospective group permittee shall maintain public liability and property damage insurance according to the insurance requirements delineated at (b)1 above.

2. At least five days before the event, the club or organization applying for such a permit will provide the Division with an application for a permit which includes a roster of riders who will be participating in the event.

3. Each group permit application must be accompanied by a statement from the applicant's insurance company specifying the insurance coverage as it applies to the riding of horses on State WMA's.

4. A copy of the valid permit and roster must be in possession of at least one of the participating riders. For the purpose of this section, a group will be defined as two or more riders.

(e) The Division may determine and designate the areas where the riding of horses is permitted and the number of permits to be issued per area during any one time period. Permittees shall be liable for any damage that may occur as a result of their horseback riding activities.

(f) This section shall not preclude a person participating in a field trial, during the period of time stated in the field trial permit under authority of N.J.A.C. 7:25-2.14, from riding a horse in designated Wildlife Management Areas without a horseback riding permit.

(g) The use of horse drawn carriages on all designated wildlife management areas will require an individual or group permit from the Division. The insurance coverage

requirements set forth in (b)1 above for horseback riders shall apply to horse drawn carriage riders.

As amended, R.1983 d.336, effective August 15, 1983.
See: 15 N.J.R. 840(a), 15 N.J.R. 1374(c).

Permit text clarified; (b)2, (c), (d) and (e) added.
Amended by R.1995 d.578, effective November 6, 1995.
See: 27 N.J.R. 1890(a), 27 N.J.R. 4283(a).

7:25-2.9 Swimming

(a) Swimming and bathing are prohibited on all State Wildlife Management Areas except those designated by the Division where a State appointed lifeguard is on duty.

1. No wading is permitted except for the purpose of hunting, trapping or fishing.

2. For the purpose of this section, the use of such devices as vehicle inner tubes, surf boards, inflatable mats or underwater breathing devices commonly known as "scuba" (self contained underwater breathing apparatus) gear shall be considered as swimming or bathing.

As amended, R.1983 d.336, effective August 15, 1983.
See: 15 N.J.R. 840(a), 15 N.J.R. 1374(c).

(a)2 added.

Case Notes

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

7:25-2.10 Camping, picnicking and vending

(a) Camping or picnicking is prohibited on all Division controlled areas, including State Wildlife Management Areas. For the purpose of this section, "camping" means any temporary shelter such as a tent, trailer, recreation vehicle, sleeping bag, hut or other structure that a person or persons use as sleeping, resting, or living quarters.

(b) This shall not preclude a person with proper permission or other authorization from the Division from picnicking on the designated areas of the Pequest Trout Hatchery.

(c) No person shall sell or offer for sale any food, beverage or other merchandise on any State Wildlife Management Area without first obtaining a written permit from the Division of Fish, Game and Wildlife.

As amended, R.1983 d.336, effective August 15, 1983.
See: 15 N.J.R. 840(a), 15 N.J.R. 1374(c).

(a): picnicking prohibited; "structure" was "lodging place" under "camping".
(b) and (c) added.

7:25-2.11 Fires

No person shall set or cause to be set, start, build or maintain any fire on any State Wildlife Management Area

without written permission of the Division of Fish, Game and Wildlife. This shall not preclude State Fire wardens from setting fires as required to check or extinguish any fire on such areas, under authority of N.J.S.A. 13:9-15.

As amended, R.1983 d.336, effective August 15, 1983.
See: 15 N.J.R. 840(a), 15 N.J.R. 1374(c).
Current text replaced text on picnicking.

7:25-2.12 Target practice

(a) No target practice of any kind is permitted on State Wildlife Management Areas except within designated areas provided by the Division. This shall not preclude the use of shotguns, muzzleloaders, .22 rifles, or bow and arrows for the purpose of authorized hunter education or other authorized purposes in designated areas.

(b) The following regulations apply to all activities on the archery range, shotgun range, muzzleloading rifle and shotgun slugs range, and rifle range:

1. Hours of operation are from 8:00 A.M. to sunset daily.
2. No person shall stand beyond the shooting line while shooters are firing.
3. At least one member of each shooting group shall have a valid New Jersey hunting license in his or her possession.
4. No littering shall be permitted.
5. All spectators shall stand behind all firing positions at the range.
6. All hunter education classes shall have priority use of the range facility.
7. Violation of any of the foregoing restrictions, or of any requirement listed in (c), (d), (e) or (f) below, may result in expulsion from the range, the imposition of fines, or license revocation pursuant to N.J.S.A. 23:3-22.

(c) In addition to the requirements listed in (b) above, the following requirements shall apply to all training activities on the archery range:

1. No arrows other than field tips or target points shall be used.
2. No broadheads shall be used.
3. All targets used shall be paper, foam or straw. Targets constructed of other materials are prohibited.
4. No damaged or unsafe equipment shall be used. Prior to shooting all shooters shall be sure of their target and beyond.
5. Archers shall shoot only from marked shooting positions and shall shoot only at backstops.

6. No archer shall nock an arrow or draw a bow when any other person is in front of him or her or is down range.

7. When drawing his or her bow, no archer shall raise his or her arrow point higher than the top of the backstop.

8. All shooting shall cease when a cease fire is called.

(d) In addition to the restrictions listed in (b) above, the following requirements shall apply to all training activities on the shotgun range:

1. No weapons other than shotguns and muzzleloading shotguns shall be used at the range.
2. Only fine shot smaller than No. 4 Lead or No. T Steel ammunition shall be used.
3. No slugs or buckshot shall be used.
4. Only clay birds and paper pattern boards shall be used. All other forms of targets are prohibited.
5. The pointing of a firearm loaded or unloaded at anything except a target is prohibited.
6. Muzzles shall always be kept pointed in a safe direction and prior to shooting all shooters shall be sure of their target and beyond.
7. Shooting shall only occur from marked firing positions into marked shotfall areas.
8. All shotgun actions shall be kept open at all times except when on the firing line.
9. All uncased shotguns being carried to or from the firing line shall be unloaded and shall have their actions open.
10. Eye and ear protection equipment shall be used.
11. When any person is down range of the firing line, the handling of shotguns is prohibited. In addition, all shotguns shall be unloaded and shall have their actions opened.
12. No person shall smoke on the firing line when a black powder shotgun is being used.
13. When a cease fire is called, all shooting shall stop and all firearms shall be unloaded and shall have their actions open.
14. A target change may be made by calling a cease fire on the hour and the half hour.

(e) In addition to the requirements listed in (b) above the following requirements shall apply to all activities on the muzzleloading rifle and shotgun slugs range:

1. No weapons other than muzzleloading rifles and shotguns shall be permitted at the range.

2. Only paper type targets are permitted to be used. All other forms of targets are prohibited.

3. All persons using the range shall observe the primary safety rule of treating every gun as if it were loaded.

4. All muzzles shall be kept pointed in a safe direction and prior to shooting all shooters shall be sure of their target and beyond.

5. Eye and ear protection equipment shall be used.

6. All shooting shall occur only from marked firing line positions into the designated backstop area.

7. No muzzle of a loaded firearm shall be raised higher than the top of the backstop.

8. All firearms actions shall be kept open at all times except when the shooter is on the firing line.

9. All uncased firearms being carried to or from the firing line shall be unloaded and shall have their actions opened.

10. When any person is down range of the firing line, all firearms shall be unloaded and shall have their actions opened.

11. When any person is down range, no handling of firearms shall occur, including the adjustment of sights.

12. When a cease fire is called, all shooting shall stop and all firearms shall be unloaded and shall have their actions open.

13. A target change may be made by calling a cease fire on the hour and the half hour.

14. No smoking shall occur on the firing line when a black powder firearm is being used.

(f) In addition to the requirements listed in (b) above, the following requirements shall apply to all activities on the rifle range:

1. No firearms shall be used except modern action rim-fire or center fire rifles and muzzleloading rifles.

2. Shooters may load and fire only one round at a time.

3. Only paper type targets are permitted to be used. All other types of targets are prohibited.

4. The primary safety rule of treating every gun as if it were loaded shall be observed.

5. All shooters shall keep all muzzles pointed in a safe direction and prior to shooting shall be sure of their target and beyond.

6. Eye and ear protection equipment shall be used.

7. No shooting shall occur except from marked firing line positions into the designated backstop area.

8. No muzzle of a loaded firearm shall be raised higher than the top of the backstop.

9. All firearms actions shall be kept open at all times except when the shooter is on the firing line.

10. When any person is down range of the firing line, all firearms shall be unloaded and all firearms actions shall be opened.

11. All uncased firearms being carried to or from the firing line shall be unloaded and shall have their actions opened.

12. When any person is down range, no handling of a firearm, including the adjusting of sights, shall occur.

13. When a cease fire is called, all shooting shall stop and all firearms shall be unloaded and all firearm actions shall be opened.

14. Target changes may be made by calling a cease fire on the hour and on the half hour.

15. No smoking shall occur on the firing line when a black powder firearm is being used.

As amended, R.1983 d.336, effective August 15, 1983.

See: 15 N.J.R. 840(a), 15 N.J.R. 1374(c).

Second sentence added.

Amended by R.1995 d.578, effective November 6, 1995.

See: 27 N.J.R. 1890(a), 27 N.J.R. 4283(a).

7:25-2.13 Daily use permit

On designated State Wildlife Management Areas, a charge of not more than \$2.00 per each passenger vehicle other than a bus, and not more than \$10.00 for each bus shall be charged. This section shall not apply to properly licensed hunters, anglers or trappers.

As amended, R.1983 d.336, effective August 15, 1983.

See: 15 N.J.R. 840(a), 15 N.J.R. 1374(c).

Fee schedule revised.

7:25-2.14 Field trial activities

(a) Permits for the use of State Fish and Wildlife Management Areas for conducting field trials or retrieving field trials as defined in (c) below may be granted by the Division of Fish, Game and Wildlife in accordance with the provisions of this section. General authority for this section is found in N.J.S.A. 23:4-26.

(b) No person shall conduct a field trial or retrieving field trial on any fish and wildlife management area without a permit from the Division.

(c) Definitions include the following.

1. "Field trial" means an organized training or competitive event in which dogs are used to locate and/or pursue game animals while their performance is evaluated in a manner as prescribed by the standards set forth by the sponsoring organization. Retrieving and firearms are not employed.

2. "Retrieving field trial" means a training or competitive event in which dogs are used to locate and/or pursue game animals culminated by the retrieving of said animals. The performance of each dog is evaluated as prescribed by the standards set forth by the sponsoring organization. Firearms may be employed in this type of event.

3. "Division" means the Division of Fish, Game and Wildlife or its successor in the Department of Environmental Protection.

(d) Application procedures are:

1. A permit for a field trial or retrieving field trial may be issued to an organization that is organized as a "field trial club". The Division shall describe the form of the permit and the form of the application.

2. An application for the holding of a spring field trial or retrieving field trial shall be made no later than January 1. An application for the holding of a fall field trial or retrieving field trial shall be filed no later than August 1.

3. Fees: A fee of \$100.00 per day shall be charged for all field trials or retrieving field trials using the designated course or areas and building facilities provided by the Division on Wildlife Management Areas. A fee of \$50.00 per day shall be charged for all field trials or retrieving field trials using only the designated course or area on the Wildlife Management Areas.

(e) Field trials and retrieving field trials may be authorized during the period of February 15 to April 30 and September 1 to October 31 except, however, field trials and retrieving field trials may be authorized for the Assunpink wildlife management area from February 15 through October 31 inclusive. A permit will specify the location within the wildlife management area in which the permitted event shall be conducted.

(f) General provisions include:

1. Only birds in excellent physical condition shall be liberated for any event. Birds with clipped wings or otherwise mutilated shall not be liberated. Birds are not to be mishandled, handled cruelly, or injured at the time of liberation. The club is responsible for the liberation of the birds.

2. At retrieving field trials, only pen reared game birds and domestic mallards may be used. Only birds specified in the permit may be liberated. Any bird carcass must be tagged before it is removed from the event location. Tags shall be secured from the Division at a fee of \$ 0.25 each. All bird carcasses shall be properly disposed of by the permittee at another location outside the designated Wildlife Management Area in use.

3. All individuals using firearms shall possess and display a firearms hunting license valid for the current calendar year.

4. The riding of horses by field trial judges, entrants, handlers and trainers without riding permits required by Regulation No. 4 (N.J.A.C. 7:25-2.8) is allowed, providing the field trial sponsoring organization or association has first obtained the proper field trial permit, and promulgates and maintains a written roster of the names of persons participating in the field trial in the listed capacities, who will be horseback riding on the dates listed in the field trial permit.

i. The valid roster shall be available for inspection by conservation officers, deputy conservation officers or other law enforcement officers at any time during the dates listed on the field trial permit.

ii. Spectators, gallery and observers of field trials who ride horses, or persons engaged in leasing or renting of riding horses at field trials, must obtain and, while riding, have in their possession a valid horseback riding permit.

(g) These regulations are not intended to prohibit the running of coonhound trials utilizing a laid trial and live raccoon placed in a tree at the end of the chase. The owner of a raccoon utilized for the laid trail must be licensed by the Division of Fish, Game and Wildlife for the possession of a live raccoon.

(h) Liability rules are:

1. The prospective permittee shall maintain public liability and property damage insurance for the requested period of use, with an insurance company recognized to do business in the State of New Jersey, in the amount of \$100,000/300,000 personal liability and \$50,000 property damage. Certificate for such coverage shall be submitted with the application for field trial permits and/or the application for retrieving field trial permits.

2. All persons shall use every precaution to prevent damage, destruction, or fire. The permittee shall be completely responsible for any damage occurring in the location and at the time the field trial or retrieving field trial is being conducted. No permit shall be issued to any organization or persons who have damaged or destroyed state lands or property and who have failed to reimburse the state.

(i) The organization or persons sponsoring the event shall be responsible for the removal of all litter, trash, the cleaning of barns, the cleaning of dog kennels, clubhouse facilities including kitchen facilities and sanitary facilities. The permittee shall be billed by the state for any expenses necessary to clean the facilities used by the permittee. No permit shall be issued to any organization or person who has failed to reimburse the state.

As amended, R.1975 d.291, effective October 1, 1975.
 See: 7 N.J.R. 412(a), 7 N.J.R. 499(b).
 As amended, R.1979 d.189, effective May 11, 1979.
 See: 11 N.J.R. 172(a), 11 N.J.R. 276(b).
 As amended, R.1983 d.185, effective June 6, 1983.
 See: 15 N.J.R. 387(a), 15 N.J.R. 894(b).

(a)6 added.
 Amended by R.1995 d.578, effective November 6, 1995.
 See: 27 N.J.R. 1890(a), 27 N.J.R. 4283(a).

7:25-2.15 Rental of clubhouses

(a) Use of clubhouses or designated facilities for outings, trap shoots, or other events will be authorized at a fee of \$100.00 a day: use for meeting purposes will be permitted at a \$50.00 daily fee. Permittee shall be responsible and liable for any damage which may occur.

(b) The prospective permittee shall maintain public liability and property damage insurance for the period of authorized use, with an insurance company recognized to do business in the State of New Jersey, in the amount of \$100,000/\$300,000 personal liability and \$50,000 property damage. Certificates of such coverage shall be submitted with each application before a permit is issued.

As amended, R.1983 d.336, effective August 15, 1983.
 See: 15 N.J.R. 840(a), 15 N.J.R. 1374(c).
 (a): "facilities" was "areas".
 Amended by R.1995 d.578, effective November 6, 1995.
 See: 27 N.J.R. 1890(a), 27 N.J.R. 4283(a).

7:25-2.16 Revocation

The Division may revoke any permit or other authorization issued hereunder for due cause or for violation of any provision set forth herein, whether or not prosecution is brought as provided in N.J.S.A. 23:7-9.

As amended, R.1983 d.336, effective August 15, 1983.
 See: 15 N.J.R. 840(a), 15 N.J.R. 1374(c).
 "or other authorization" and "for due cause or" added.

7:25-2.17 Securing permits

Information on securing any of the permits described in this subchapter may be obtained by writing or telephoning the Division of Fish, Game and Wildlife, CN 400, Trenton, New Jersey 08625. Telephone (609) 984-1401.

As amended, R.1983 d.336, effective August 15, 1983.
 See: 15 N.J.R. 840(a), 15 N.J.R. 1374(c).
 Information updated.
 Amended by R.1995 d.578, effective November 6, 1995.
 See: 27 N.J.R. 1890(a), 27 N.J.R. 4283(a).

7:25-2.18 Wildlife Management Areas

(a) This subchapter applies to the following designated Wildlife Management Areas:

1. Absecon
2. Amwell Lake
3. Assunpink
4. Baldwin Lake

5. Beaver Swamp
6. Belvidere
7. Berkshire Valley
8. Berrytown
9. Millville
10. Black River
11. Butterfly Bogs
12. Capoolong Creek
13. Cedarville Pond
14. Clarks Pond
15. Clinton
16. Colliers Mills
17. Corson
18. Kingwood
19. Holland Church
20. Dennis Creek
21. Dix
22. Egg Island
23. Flatbrook
24. Forked River Game Farm
25. Fortescue
26. Glassboro
27. Great Bay Boulevard
28. Greenwood Forest
29. Greenwood Pond
30. Hackettstown
31. Hainesville
32. Hamburg Mountain
33. Harrisonville Lake
34. Heislerville
35. Higbee Beach
36. Imlaystown Lake
37. Ken Lockwood Gorge
38. Logan Pond
39. Tuckahoe
40. Mad Horse Creek
41. Manahawkin
42. Manasquan River

43. Manchester
44. Marmora
45. Maskels Mill Pond
46. Medford
47. Menantico Ponds
48. Nantuxent
49. New Sweden
50. Old Wharf
51. Osborne
52. Oyster Creek
53. Pasadena
54. Peaslee
55. Pequest
56. Port Republic
57. Prospertown Lake
58. Rockport Game Farm
59. Round Valley Angler Access
60. Rowands Ponds
61. Roy
62. Saw Mill Creek
63. Sedge Islands
64. Stafford Forge
65. Swan Bay
66. Turkey Swamp
67. Union Lake
68. Van Nest Refuge
69. Walpack
70. Wanaque
71. Whiting
72. Whittingham
73. Winslow
74. Bear Swamp
75. Cape May Wetlands
76. Columbia Lake
77. Hummers Beach
78. Knowlton
79. Lebanon Laboratory
80. Makepeace Lake

81. Mannington
82. New Sweden
83. Oyster Creek
84. Elmer Lake
85. Pemberton Lake
86. Maple Lake
87. Point Pleasant Canal Access
88. Budd Lake
89. Feather Bed Lane
90. Musconetcong River Access
91. Pork Island

(b) Interested persons may obtain information on Wildlife Management Areas by contacting the Division at (609) 292-2965. A Guide to Wildlife Management Areas, containing maps of each area, is available from:

Division of Fish, Game and Wildlife
New Jersey Department of Environmental Protection
CN 400
Trenton, New Jersey 08625

As amended, R.1983 d.336, eff. August 15, 1983.

See: 15 N.J.R. 840(a), 15 N.J.R. 1374(c).

Section was "Reserved".

Amended by R.1987 d.250, effective June 15, 1987.

See: 19 N.J.R. 398(a), 19 N.J.R. 1090(a).

Moved 71. Belvidere to # 6; added 48. Musconetcong and renumbered everything else to coincide.

Amended by R.1989 d.215, effective April 17, 1989.

See: 21 N.J.R. 267(b), 21 N.J.R. 1002(a).

New # 50. New Sweden added, renumbered existing 50 and 51 as 51 and 52, added new # 53. Oyster Creek, renumbered existing text accordingly; added (b) containing address to obtain information.

Amended by R.1995 d.578, effective November 6, 1995.

See: 27 N.J.R. 1890(a), 27 N.J.R. 4283(a).

Case Notes

State was absolutely immune from liability in personal injury and wrongful death action arising from boating accident on lake. Troth v. State, 222 N.J.Super. 420, 537 A.2d 315 (A.D.1988), certification granted 111 N.J. 565, 546 A.2d 496, reversed 117 N.J. 258, 566 A.2d 515.

7:25-2.19 Higbee Beach

(a) In addition to all regulations prescribed in this subchapter affecting the designated Wildlife Management Areas listed at N.J.A.C. 7:25-2.18, the following additional regulations shall apply to the public use of the Higbee Beach Wildlife Management Area (HBWMA):

1. From 12:01 A.M. on September 15 until 8:00 A.M. on November 1 of each year, use of the HBWMA shall be limited to trails designated on the map posted at the HBWMA parking lot, and on maps available at the division's Endangered and Nongame Species Program office located at the HBWMA.

1. Any security submitted by the permittee to the Department shall be forfeited and retained by the Department to the extent necessary to remedy or compensate the Department for the damage(s);

2. The permittee shall be liable for any additional sum necessary to correct or compensate the Department for such damage; and

3. Neither forfeiture of any security nor payment for such damage shall in any way relieve the permittee of civil or criminal liability arising from the permittee's actions.

(d) The Superintendent and the Regional Captain of the Bureau of Law Enforcement shall, jointly, issue a permit within 10 days of receipt of a complete permit application.

(e) Such permit shall be issued unless:

1. A prior permit application for a permit for the same time and location has been made to the Division and will be granted and such permitted activities do not allow multiple occupancy or use of the designated area;

2. The Division has scheduled an event for the same time and location which does not allow multiple occupancy or use of the designated areas;

3. The event is expected to include activities which will present a clear and present danger to the public health or safety or which are prohibited pursuant to Federal or State law;

4. The event is of such a scale or duration that it may result in damage or disruption to the Wildlife Management Area's environment, resources or facilities; or

5. Within the preceding four years, the applicant has been granted a permit and did, on that prior occasion, knowingly violate a material term or condition of the permit, or any law, ordinance, statute or regulation or cause damage to a WMA or its facilities.

(f) If a permit application is denied, the applicant shall be informed, in writing, within five days of the reason(s) for such denial.

(g) A permit may contain conditions consistent with the protection and continued use of the Wildlife Management Area in conformance with the purpose for which such WMAs were established; to provide wildlife oriented recreation through the proper protection and management of fish and wildlife habitat for the benefit of all New Jersey's citizens. It may also contain limitations on the type(s) of equipment to be used. Any permittee aggrieved by the conditions contained within a permit may request an administrative hearing pursuant to the procedures delineated at (n) below.

(h) A permit shall be issued for a period not to exceed seven days. A permit, however, may be extended for another seven day period upon the submission of a new

application and provided that another applicant has not previously requested use of the same location for an activity for which multiple occupancy of said location is impossible.

(i) Activities authorized pursuant to a permit will be allowed within the WMA only if such activities are performed in strict accordance with the terms and conditions set forth in the permit. Permittees and their agents, employees and invitees shall comply with all applicable local, State and Federal laws, rules and regulations.

(j) All persons participating in an event permitted by a Special Events Permit including, but not limited to, the permittee and its agents, employees and/or invitees, shall comply with the lawful direction or command of any Police Officer, Conservation Officer, WMA or Department Employee and any, written or printed, WMA sign, except upon order of a Police Officer, Conservation Officer or WMA or Department Employee.

(k) Permittees and their agents, employees and invitees shall not obstruct or impede pedestrians or vehicle and may not prevent any person from engaging in activities authorized to be conducted within the WMA.

(l) Violation of any of the provisions of this section may result in revocation or suspension of a permit and imposition of penalties as provided in N.J.S.A. 23:7-9. Notice of such revocation or suspension shall be made in writing and shall clearly set forth the reason(s) for the revocation or suspension.

(m) Violation of the terms and conditions of a permit issued in accordance with this section may result in suspension or revocation of the permit in addition to the penalties provided in N.J.S.A. 23:7-9.

(n) Any applicant or permittee who is aggrieved by the conditions placed upon a Special Events Permit issued to them, by the denial of their application for the same, or the suspension or revocation of their Special Events permit may request an administrative hearing. Requests for administrative hearings shall be submitted in writing within 10 days from the date of the issuance of the permit or other Department decision and shall set forth the reasons why the Department's action is improper, specifying all legal and factual issues to be raised in support of the applicant's position. A request for a hearing shall be sent to:

Office of Legal Affairs
 ATTENTION: Adjudicatory Hearing Requests
 Department of Environmental Protection
 401 East State Street
 CN 402
 Trenton, NJ 08625-0402

Upon receipt of such a request, the Commissioner may conduct the hearing or refer the matter to the Office of Administrative Law which shall conduct a hearing on the

matter pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. Within 45 days of receipt of the Administrative Law Judge's decision, the Commissioner shall affirm, reject, or modify the decision. The Commissioner's final decision affirming, rejecting or modifying the recommended findings by the Office of Administrative Law shall constitute final agency action pursuant to R.2:2-3(a)2 and shall be subject only to judicial review as provided in the Rules of Court.

New Rule, R.1995 d.578, effective November 6, 1995.
See: 27 N.J.R. 1890(a), 27 N.J.R. 4283(a).
Former 7:25-2.22 recodified as 7:25-2.26.

7:25-2.23 Boat Ramp Maintenance Permit

(a) Any vehicle used to transport or launch a vessel or water conveyance on the following wildlife management areas must have affixed to the lower corner of the driver's side rear window a boat ramp maintenance permit or receipt from a valid hunting, fishing or trapping license. The boat ramp maintenance permit shall be purchased for a fee of \$15.00 from the Division.

1. Round Valley Angler Access;
2. Kingwood;
3. Assunpink;
4. Dennis Creek;
5. Tuckahoe;
6. Mad Horse Creek;
7. Union Lake;
8. Menantico Ponds; or
9. Prospertown Lake.

(b) Any vehicle found in violation of N.J.A.C. 7:25-2.23 shall subject the driver or registered owner to prosecution under N.J.S.A. 23:7-9, possible license revocation pursuant to N.J.S.A. 23:3-22 and penalties in the amount of \$50.00 to \$200.00.

New Rule, R.1995 d.578, effective November 6, 1995.
See: 27 N.J.R. 1890(a), 27 N.J.R. 4283(a).

7:25-2.24 Fishing tournaments

(a) No person or persons shall conduct a fishing tournament on or from any fish and wildlife management area without a permit from the Division.

(b) "Fishing tournament" means any organized competitive fishing event, from shoreline or from boat, with or without remuneration of any form, that is engaged in by more than 10 anglers or five boats, whichever is less.

(c) Permits for the use of any fish and wildlife management area for conducting fishing tournaments may be granted by the Division in accordance with the provisions of this section.

(d) Application procedures are as follows:

1. A permit for a fishing tournament may be issued to any organization, including, but not limited to, sportsmen's organizations, civic organizations and governmental councils or agencies.

2. An application for the holding of a fishing tournament shall be made to the N.J. Division of Fish, Game and Wildlife at CN 400, Trenton, NJ 08625, no later than 60 days in advance of the proposed date for the event.

3. Such application will contain the following information:

- i. The name of the tournament organizer and/or sponsor;
- ii. The address and telephone number of the tournament organizer and/or sponsor;
- iii. The proposed date of the tournament;
- iv. The number of participants and boats;
- v. The starting time and ending time; and
- vi. The rules and restrictions placed on the event by the organizer and/or sponsor.

4. A \$15.00 per day fee shall be included with the application for all fishing tournaments conducted on or from a Wildlife Management Area. The fee may be waived for charitable-oriented events.

(e) The organizer or sponsor of the tournament will be responsible for, and required to report, the number of tournament participants, hours fished and the species, number and sizes of fish caught and released, and the species, number and sizes of fish harvested. Failure to report this information will result in future denial of fishing tournament permits.

(f) Issuance of a permit for a fishing tournament does not convey any special privileges in regards to the taking of fish or in the use of boat motors. All tournament participants must comply with all of the provisions of the Fish Code and Wildlife Management Area regulations in effect at the time of the tournament. All tournament participants, that fish, must possess and display a fishing license valid for the calendar year in which the tournament occurs.

(g) Issuance of a permit does not grant an exclusive right to use the designated area. Tournament organizers, sponsors and/or participants shall not impede the rights of others to use the area.

(h) By issuing a permit, the Division does not assume any responsibility or liability for such fishing tournament. Judging and awarding of prizes is the sole responsibility of the permittee, organizer and/or sponsor.

(i) The permittee organizer and/or sponsor of the tournament shall be responsible for the proper disposal of all litter and trash generated by the event.

(j) All persons shall use every precaution to prevent damage, destruction, or fire to the Wildlife Management Area. The permittee shall be completely responsible for any damage as a result of the fishing tournament. No permit shall be issued to any organization or persons who have damaged or destroyed State lands or property and who have failed to reimburse the State for such damage and/or destruction.

New Rule, R.1995 d.578, effective November 6, 1995.
See: 27 N.J.R. 1890(a), 27 N.J.R. 4283(a).

7:25-2.25 Severability

If any clause, sentence, paragraph, or part of this subchapter or the application thereof to any person or circumstances, shall for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this subchapter.

R.1983 d.336, effective August 15, 1983.
See: 15 N.J.R. 840(a), 15 N.J.R. 1374(c).
Recodified from 7:25-2.20.
Recodified from 7:25-2.21 by R.1995 d.578, effective November 6, 1995.
See: 27 N.J.R. 1890(a), 27 N.J.R. 4283(a).

7:25-2.26 Restrictions on use

(a) Nothing contained in N.J.A.C. 7:25-2 shall preclude the Division of Fish, Game and Wildlife from limiting, or closing from, public use any specific land and water areas under its control, effective immediately upon making the finding that prevailing conditions warrant such restriction to protect the users, or to protect and preserve the land and water areas, or both, and continuing for so long as such conditions warrant.

(b) Notice of the restrictions shall be given by the posting of signs on or about the restricted area or other appropriate location and one of the following:

1. Distribution of a press release to the news media;
2. Public notice published in the New Jersey Register;
or
3. Public notice published in a newspaper in the locale.

New Rule, R.1987 d.250 effective June 15, 1987.
See: 19 N.J.R. 398(a), 19 N.J.R. 1090(a).
Public Notice: Prohibits all public access and use of the south-end beach area, except upon prior approval from the Department of

Environmental Protection and all dune areas of the Higbee Wildlife Management Area in Lower Township, Cape May County.
See: 20 N.J.R. 815(d).
Recodified from 7:25-2.22 by R.1995 d.578, effective November 6, 1995.
See: 27 N.J.R. 1890(a), 27 N.J.R. 4283(a).

SUBCHAPTER 3. USE OF MECHANICAL NOISEMAKING DEVICES

7:25-3.1 Procedure for securing permit

(a) A formal application form as prepared by the Division of Fish, Game and Wildlife will be completed by the landowner, who will then arrange an on-site inspection with the Division to determine the facts and approve or disapprove a permit. Upon approval by the conservation officer or a wildlife control representative, the application shall be forwarded to the Trenton office of the Division of Fish, Game and Wildlife. If disapproved, the property owner may apply to the Director of the Division of Fish, Game and Wildlife for timely review of the application.

(b) In case of emergency, the conservation officer or wildlife control representative may give verbal approval for use of the device for a period of five days pending processing of the application.

(c) The need for protection of agricultural crops must be established prior to the issuance of any permit. The term of the permit will be the period for which protection of the crop specified will actually be necessary.

(d) The application shall state the type of device to be used, location of farm where device will be in operation, bird or animal threatening or causing damage, crop or crops to be protected, period for which protection is needed, and name and address of the owner of the agricultural land to be protected.

Amended by R.1991 d.132, effective March 18, 1991.
See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).
Removed permit issuance, fee assessment. Added Division wildlife control representative as contact agent in permit process in (a) and (b). Deleted (d). Recodified (e) to (d).

7:25-3.2 Devices

(a) Only LP exploders, acetylene exploders, carbide exploders and such other devices as are approved by the Division of Fish and Game shall be permitted. The permit shall not authorize use of firecrackers.

(b) No device shall be used which has a sound level in excess of 128 decibels at 100 feet from the device.

(c) Any mechanical repelling device to be used is to be provided by the landowner.

7:25-3.3 Standards on distance

(a) No device shall be set in any manner or in any location that will endanger the public.

(b) No device shall be set within 25 feet of any public road and the exhaust from any device shall be directed away from the road.

(c) No device shall be set, erected or maintained within 300 feet of any dwelling occupied by another person except with permission of that occupant.

7:25-3.4 Hours of operation

(a) Noise devices to repel or scare birds may be operated from ½ hour before sunrise to ½ hour after sunset only.

(b) Noise devices to repel or scare deer or other marauding wild animals may be operated 24 hours daily if necessary.

7:25-3.5 Revocation

The Division of Fish and Game shall have the right to revoke a permit issued pursuant to this regulation for violation of any provision set forth in this subchapter.

SUBCHAPTER 4. ENDANGERED, NONGAME AND EXOTIC WILDLIFE

Subchapter Historical Note

Subchapter 4, Endangered, Nongame and Exotic Wildlife was filed and became effective prior to September 1, 1969. Subchapter 4 was amended on July 22, 1971 by R.1971 d.125. See: 3 N.J.R. 107(a), 3 N.J.R. 149(d). Further amendments were made on January 10, 1979 by R.1979 d.9. See: 10 N.J.R. 532(b), 11 N.J.R. 63(b).

7:25-4.1 Definitions

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

“Butt-end band” means a band with an open seam locked around the leg of a bird of any age using pliers or a similar tool and which is obtained from a source approved by the Department, inscribed with a code approved by the Department in sizes stipulated by the Department for each species of bird.

“Captive-bred bird” means any bird that is hatched in captivity from eggs produced by captive parent birds.

“Color mutation” means a color which is different and distinctive from the normal, natural color for that species of animal, as defined in reference texts commonly recognized as authoritative in the field of zoology, ornithology or aviculture, which is produced by breeding together animals with aberrant (mutated) color-producing genes.

“Declining” (D) means a species which has exhibited a continued decline in population numbers over the years.

“Department” means the State’s Department of Environmental Protection.

“Director” means the Director of the Division of Fish, Game and Wildlife or its successor within the Department of Environmental Protection.

“Division” means the Division of Fish, Game and Wildlife or its successor within the Department of Environmental Protection.

“Endangered” (E) means a species whose prospects for survival within the State are in immediate danger due to one or many factors: A loss of or change in habitat, overexploitation, predation, competition, disease. An endangered species requires immediate assistance or extinction will probably follow. See N.J.A.C. 7:25-4.12(b) for listing.

“Exotic mammal, bird, reptile or amphibian”, means any nongame species or mammal, bird, reptile or amphibian not indigenous to New Jersey.

“Extirpated” (Ex) means a species that formerly occurred in New Jersey, but is not known to exist within the State.

“Increasing” (INC) means a species whose population has exhibited a significant increase beyond the normal range of its cycle, over a long term period.

“Introduced” (I) means a species not native to New Jersey, that could not have established itself here without the assistance of man.

“Nongame species” means any wildlife for which a legal hunting or trapping season has not been established in New Jersey or which has not been classified as an endangered species by statute or regulation of this State.

“Peripheral” (P) means a species whose occurrence in New Jersey is at the extreme edge of its present natural range.

“Person” shall be defined to include but not limited to corporations, companies, associations, societies including non-profit organizations, firms, partnerships, joint stock companies, individuals and governmental entities.

“Seamless leg band” means a solid ring leg band from a source approved by the Department, inscribed with a code approved by the Department, in sizes stipulated by the Department for each species of bird, which is slipped onto the leg of a newly hatched captive-bred bird and which is incapable of being removed or reopened when the bird has reached adult size without either destroying the band or injuring the bird.

"Special case" means a species not known to nest regularly in New Jersey (marine reptiles) but that does occur off our shores, some occurring with regularity close to our shore or in our bays (marine reptiles and mammals).

"Stable" (S) means a species whose population is not undergoing any long term increase/decrease within its natural cycle.

"Threatened" (T) means a species that may become endangered if conditions surrounding it begin to or continue to deteriorate.

"Undetermined" (U) means a species about which there is not enough information available to determine the status.

"Wild bird" means any bird other than a native, introduced, or feral game bird as defined in N.J.S.A. 23:4-49 and other than a domesticated bird such as a chicken, turkey, guinea fowl, goose, duck, pigeon, or peafowl. "Wild bird" also means the egg of a wild bird.

Amended by R.1984 d.132, effective April 16, 1984.
See: 16 N.J.R. 97(b), 16 N.J.R. 889(a).

"Special case" and definitions with a letter code recodified from 7:25-20.1.

Amended by R.1995 d.48, effective January 17, 1995.
See: 26 N.J.R. 1040(a), 27 N.J.R. 329(a).

7:25-4.2 Permit required

(a) Except as hereinafter provided, no person shall possess any nongame species or exotic species of any mammal, bird, reptile or amphibian unless such person has first received both the appropriate permit from the Department as listed in N.J.A.C. 7:25-4.6(a) as well as any other state, municipal, or Federal permits or licenses which may be required to possess such species. Any permit issued to an applicant by the Department for the possession of any animal shall not exempt that applicant from compliance with any other law of the State of New Jersey or any municipal or Federal law. An application to the Department for a permit shall be made using the form prescribed by the Department. Any false representation by the applicant or a permittee who knows or reasonably should know that the representation is false, and who has submitted the representation to induce the Department to issue a permit or take any other action, shall subject the applicant or permittee to all penalties available under State law, including revocation of any permit obtained based upon false information. All permits issued by the Department under this chapter are valid only when used by the permittee in accordance with the terms and conditions of the permit and the regulations governing that permit. The Department shall, upon written notice to the permittee, revoke any permit listed in N.J.A.C. 7:25-4.6(a) issued to any person who ceases to consistently meet the eligibility criteria for that particular permit and may, in its discretion, seek an order from the Director or a court of competent jurisdiction allowing immediate removal of any animal possessed under that permit. Written notices of violation against a permittee shall set forth the terms of

the permit or the regulation which the Department alleges the permittee has violated and the penalty sought. Notices of violation shall be brought and if not settled, contested, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14-1 et seq., or the rules of the court with jurisdiction over the claim of violation. The Department may settle all claims for penalties pursuant to N.J.S.A. 23:2A-10. Revocation of all Department-issued permits for repeated violations shall occur as set forth in (c) below.

(b) No person shall liberate within this State any nongame species or exotic mammal, bird, reptile or amphibian unless such person has first received a permit from the Department which explicitly allows the release of nongame species or exotic mammals, birds, reptiles or amphibians.

(c) Upon written notice to the permittee, the Department may suspend any type of exotic or nongame species permit described in (a) above as listed in N.J.A.C. 7:25-4.6 for six months based upon final agency action establishing that a violation of a permit condition has occurred or that a violation of any regulation appearing in this subchapter has occurred as a result of a plea of guilt, court conviction or final agency action establishing guilt. A notice of suspension may be mailed to the permittee together with any administrative notice of violation on which it is based, but the suspension shall not take effect until the deadline to request a hearing concerning the notice of violation has elapsed. In the event of a timely request to the Department for a hearing on an administrative notice of violation, no proposed suspension shall take effect until final agency action on the notice of violation and, if appealed, until all appeals of the final agency action have been concluded and the violation has been affirmed. In the event of municipal or Superior Court conviction of a violation of any regulation in this subchapter, no proposed suspension mailed to the permittee shall take effect until all appeals from the conviction have been concluded and conviction of the violation has been affirmed. If the permit expires during the period of its suspension, no application for any other permit to reacquire possession of any animal possessed pursuant to the suspended permit may be made until the six month suspension period has elapsed. During the suspension period, all animals possessed pursuant to any suspended permit must be removed from the custody and control of the permittee and placed in the custody of an individual licensed by the Division or, as permitted by Federal law, with a person residing outside of New Jersey in accordance with that state's laws, at the sole expense of the permittee.

(d) Upon written notice to the permittee, the Department may revoke all Division-issued permits described in (a) above as listed in N.J.A.C. 7:25-4.6 upon a finding that in any five year period, two or more violations of any permit condition or any regulations appearing in this subchapter have occurred. Except by order of the Division Director as provided below, no permit whatsoever shall be issued by the Division to the violator of permit conditions or regulations within two years from the date of the final agency action

affirming a violation or within two years of a conviction or guilty plea in municipal or Superior Court, whichever constitutes the second violation or within three years from the date of the final agency action affirming a violation or within three years of a conviction or guilty plea in municipal or superior court, whichever constitutes the third or subsequent violation. The two and three year period of disqualification above shall be computed beginning from the date of any court order or final agency action affirming the violation which is not appealed, or, if appealed, from the filing date of the order as entered by the last court of competent jurisdiction to which any party has appealed which affirms the conviction or final agency action. In the event of the imposition of a two or three year period of disqualification, a permittee whose violations do not arise from possession of animals authorized pursuant to a hobby permit previously issued to the now-disqualified permittee may petition the Division Director to retain the hobby permit and the animal specifically authorized for possession pursuant to that permit which was in the physical possession of the permittee prior to the date of the Notice of Revocation if the Director determines, in his or her sole discretion and based upon the evidence submitted by the permittee, that there is a high probability that the animal's well-being will be jeopardized or its life endangered if the animal is separated from daily contact with the permittee during the course of the disqualification period. In the event the Director denies this petition, the former permittee may petition the Director for permission to reapply for a hobby permit to regain possession of the animal if the Division Director determines that there is physical evidence verified by an affidavit from a licensed veterinarian submitted by the former permittee that the animal's life is plainly in danger or its well-being is jeopardized solely as a result of its separation from the former permittee. The permittee may not possess any animals under a hobby permit issued or extended at the discretion of the Director other than those animals authorized by the Director and originally possessed by the permittee and the offspring from interbreeding between those individual animals. No animal may be possessed pursuant to a hobby permit extended by discretion of the Director if possession of the animal violates any Federal, state or local law.

1. The violator may request a hearing to contest an administrative notice of violation, proposed suspension or revocation, as the case may be, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules of Practice, N.J.A.C. 1:1. No administrative hearing shall be afforded a violator in order to contest a notice of proposed suspension or revocation based upon repeated violations as set forth in (c) above when the objection to the proposed suspension or revocation constitutes a challenge to the facts underlying a violation for which an opportunity for a hearing and appeal has already been afforded the permittee.

2. The request for an administrative hearing must be received in writing by the Department within 20 days from the date of mailing of the Division's notice of violation or intent to suspend or revoke the permit. If a timely request for a hearing concerning any notice of proposed agency action is not received by the Department, any alleged violation contained in the notice shall be deemed admitted by the permittee and any suspension or revocation proposed in that notice, or in any separately-mailed notice, shall become effective without further action by the agency on the date stipulated in the notice of suspension or revocation.

Amended by R.1985 d.251, effective May 20, 1985.

See: 17 N.J.R. 516(a), 17 N.J.R. 1289(a).

(c) added.

Amended by R.1991 d.132, effective March 18, 1991.

See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).

Clarification of types of animals to which permits apply in (b).

Amended by R.1995 d.48, effective January 17, 1995.

See: 26 N.J.R. 1040(a), 27 N.J.R. 329(a).

7:25-4.3 Exotic species and nongame species requiring a permit for possession

(a) Exotic species and nongame species requiring a permit for possession include, but are not limited to the following:

1. Birds:
 - i. Red-fronted parrot—*Amazona viridigenalis*;
 - ii. Turquoise-fronted parrot—*Amazona aestiva*;
 - iii. Yellow-cheeked parrot—*Amazona a. autumnalis*;
 - iv. Half-moon conure—*Aratinga canicularis eburnirostrum*;
 - v. Jenday parrot—*Aratinga jendays*;
 - vi. African gray parrot—*Psittacus erithacus*;
 - vii. Macaws—*Ara* spp. & *Anodorhynchus* spp.
(Except endangered forms).
2. Mammals:
 - i. Ferrets—*Mustela putorius furo*;
 - ii. Kinkajou—*Potos flavus*;
 - iii. Coatimundi—*Nasua* spp.;
 - iv. European hedgehog—*Erinaceus europeus*;
 - v. Llama—*Lama glama*;
 - vi. Exotic Sheep—Except *Ovis aries*;
 - vii. Exotic Goats—except *Capra hircus*.
3. Reptiles:
 - i. Pythons—Family *Pythonidae*;
 - ii. Rat Snakes—*Elaphe* spp.;

- iii. Bosas—Family Boidae (other than Boa Constrictors);
- iv. King Snakes—Lampropeltis spp.;
- v. Racer—Coluber spp.;
- vi. Ringneck Snakes—Diadophis punctatus;
- vii. Green Snakes—Opheodrys spp.;
- viii. Collared Lizard—Crotaphytus collaris;
- ix. Monitor—Varanus spp.;
- x. Skinks—Family Scincidae;
- xi. Ameiva—Ameiva spp.;
- xii. Chuckwalla—Sauromalus obesus;
- xiii. Alligator Lizard—Gerrhonitus spp.;
- xiv. Geckos-family—Gekkonidae other than Tokay Gecko;
- xv. Armadillo Lizard—Cordylus cataphractus;

- v. Mice and Rats—Mus spp. and Rattus spp.;
 - vi. Chipmunk—Tamias spp. & Eutamias spp.;
 - vii. Red Squirrel—Tamiasciurus hudsonicus & douglasii;
 - viii. Flying Squirrel—Glaucomys spp.
3. Reptiles:
- i. American anole—Anolis carolinensis;
 - ii. Common iguana—Iguana iguana;
 - iii. Boa Constrictor—Constrictor constrictor;
 - iv. Eastern painted turtles—Chrysemys picta picta;
 - v. Snapping turtles—Chelydra serpentina;
 - vi. Fence lizard—Sceloporus occidentalis & undulatus;
 - vii. Garter snake—Thamnophis spp. (except T. sirtalis tetrataenia);
 - viii. Tokay gecko—Gekko gecko;
 - ix. Ribbon snake—Thamnophis spp. (except T. sirtalis tetrataenia).

(b) The Department may issue a permit for the possession of the above exotic mammals, birds, reptiles or amphibians or nongame species provided the applicant has satisfactorily met the criteria contained within N.J.A.C. 7:25-4.7.

Amended by R.1991 d.132, effective March 18, 1991.
See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).
Clarification of types of animals to which permits apply in (b).

7:25-4.4 Exempted species

(a) The following listed species of exotic or nongame mammals, birds, reptiles or amphibians may be possessed in this State without a permit.

- 1. Birds:
 - i. Budgerigar—Melopsittacus undulatus;
 - ii. Cockatiel—Nymphicus hollandicus;
 - iii. Peafowl—Pavo cristatus;
 - iv. Rock dove—Columba livia;
 - v. Canary—Serinus canaria;
 - vi. House sparrow—Passer domesticus;
 - vii. European starling—Sturnis vulgaris;
 - viii. Zebra finch—Poephila guttatus;
 - ix. Society finch—Lonchura domesticus.
- 2. Mammals:
 - i. Hamster—Mesocricetus auratus;
 - ii. Gerbil—Meriones mongolinensis;
 - iii. Guinea pig—Cavia porcellus;
 - iv. Pigmy goats—Capra hircus;

- 4. Amphibians:
 - i. Leopard frogs—Rana pipiens;
 - ii. Green frogs—Rana clamitans;
 - iii. American toad—Bufo woodhousei americana;
 - iv. Fowlers toad—B.w.fowleri;
 - v. Bullfrogs—Rana catesbiana;
 - vi. Red Newts—Notophthalmus viridescens;
 - vii. Dusky salamanders—Desmognathus fuscus.

(b) Such exotic or nongame mammals, birds, reptiles or amphibians must be housed or caged in such a manner as to prevent liberation.

Amended by R.1995 d.48, effective January 17, 1995.
See: 26 N.J.R. 1040(a), 27 N.J.R. 329(a).

7:25-4.5 Additional species

A permit shall be required for any other exotic mammals, birds, reptiles or amphibians or nongame species not specifically exempted by N.J.A.C. 7:25-4.4.

Amended by R.1991 d.132, effective March 18, 1991.
See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).
Clarification of types of animals to which permits apply.

7:25-4.6 Categories of permits, expiration, fees, sales receipts required, records and reports required

(a) The Division may issue, but shall not be limited to, the following categories of permits:

1. Individual hobby—issued to persons holding exotic mammals, birds, reptiles or amphibians or nongame species for hobby purposes or as pets.

2. Scientific holding—issued to qualified persons holding exotic mammals, birds, reptiles or amphibians or nongame species for scientific observation, captive breeding attempts and other scientific or educational study.

3. Zoological holding—issued to private and public institutions which exhibit exotic mammals, birds, reptiles or amphibians or nongame species, including possession, importation, exportation and sale of species listed in the permit.

4. Pet shop—issued to individuals and establishments engaged in the retail sale of exotic mammals, birds, reptiles or amphibians or nongame species, including importation, exportation and sale of species listed in the permit.

5. Animal Dealer—issued to individuals and establishments engaged in the wholesale of exotic mammals, birds, reptiles or amphibians or nongame species, including importation, exportation and sale of species listed in the permit.

6. Animal Exhibitor—issued to exhibitors of exotic mammals, birds, reptiles or amphibians or nongame species other than zoos. Traveling exhibits, small exhibitions not qualifying as zoos, and circuses are included, including importation, exportation, and sale of species listed in the permit.

7. Animal Theatrical Agencies—issued to persons owning exotic mammals, birds, reptiles or amphibians or nongame species to be hired for advertising, acting or theatrical appearances, including importation, exportation and sale of species listed in the permit.

8. Scientific Collecting—issued to persons to collect nongame species or escaped exotic mammals, birds, reptiles or amphibians for scientific studies or other approved purposes, when such activity is shown to have a beneficial effect on the conservation of the species, the public welfare or the environment.

9. Special Purpose Salvage—issued to persons or institutions to salvage dead migratory birds or parts thereof for scientific or educational purposes.

10. Special Wildlife Salvage—issued to persons or institutions to salvage dead nongame species or parts thereof, other than migratory birds, for scientific or educational purposes.

11. Endangered Species—issued to persons or institutions for the possession of endangered species for conservation or research purposes.

12. Depredation Control—issued to persons or establishments to control nongame species which are creating a hazard to public safety, crops, livestock or similar concerns.

13. Rehabilitation—issued to persons to rescue, rehabilitate and release nongame and endangered birds.

14. Bird Breeder—issued to persons meeting the regulatory criteria for possessing wild-caught bird species to acquire birds for use as new breeding stock to increase genetic variety (see N.J.A.C. 7:25-4.19). This permit does not authorize the resale of wild-caught birds acquired under this permit except with the permission of the Department to another holder of a bird breeder permit. Those engaged in the retailing or wholesaling of birds must also have a pet shop or animal dealer permit.

(b) All possession permits shall expire on December 31 of the year of issue, unless otherwise indicated.

(c) The possession permits shall require an annual application and inspection fee as listed:

Categories of Permits	Annual Application and Inspection Fee
Individual Hobby	\$ 10.00
Individual Hobby/Birds	\$ 20.00
Scientific Holding	\$ 35.00
Zoological Holding	
—less than 10 animals	\$ 60.00
Zoological Holding	
—more than 10 animals	\$110.00
Pet Shop	\$100.00
Animal Dealer	\$100.00
Animal Exhibitor	
Single Exhibit	\$ 35.00
Annual	\$110.00
Animal Theatrical Agency	\$110.00
Scientific Collecting	\$ 22.00
Special Purpose Salvage	\$ 7.00
Special Wildlife Salvage	\$ 7.00
Endangered Species	\$ 7.00
Depredation Control	\$ 22.00
Rehabilitation	\$ 7.00
Bird Breeder	\$150.00

(d) Pet shop, animal dealer, zoo, nature center and animal theatrical agency possession permits must be displayed in a prominent place. The sale of exotic mammals, birds, reptiles or amphibians, or nongame species to any individual must be accompanied by an "Exotic or Nongame Sales Receipt" the form of which shall be prescribed by the Department, and an application packet. This "Exotic or Nongame Sales Receipt" will be a temporary possession permit valid for a period of 20 days after the date of sale.

(e) Pet shops and animal dealers shall submit to the Division an annual inventory of acquisitions, sales and exchanges, and white copies of temporary permits issued for sale of any regulated species, upon expiration or renewal of their permits.

2. To use as food, or to utilize the hide, skin, or other body parts;
3. Euthanasia by an agent of the Division or as ordered by the Commissioner;
4. When an animal creates a danger or serious threat to persons or other animals as determined by the Commissioner; or
5. Euthanasia of research animals held under the scientific holding permits or scientific collecting permit.

Amended by R.1984 d.132, effective April 16, 1984.

See: 16 N.J.R. 97(b), 16 N.J.R. 889(a).

Amended by R.1991 d.132, effective March 18, 1991.

See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).

Added (c).

Amended by R.1995 d.48, effective January 17, 1995.

See: 26 N.J.R. 1040(a), 27 N.J.R. 329(a).

7:25-4.12 Notice of a denial of permit, procedure, review, time limitations, hearing

(a) In the event of a denial of an application for any permit required by this subchapter or the revocation of any permit, the Division shall issue to the applicant or prior permittee a written statement setting forth the reasons for the denial or revocation.

(b) Any such person may request a hearing for a review of such determination within 30 days from the date of issuance of the denial, pursuant to the applicable provisions of the Administrative Procedure Act. The request for a hearing shall be sent to the Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, CN 402, Trenton, New Jersey 08625-0402.

(c) Any permittee shall permit division personnel, at any reasonable time to inspect the housing facilities of the animal or animals to determine compliance with the permit requirements and criteria.

Administrative change in (b).

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

Amended by R.1995 d.48, effective January 17, 1995.

See: 26 N.J.R. 1040(a), 27 N.J.R. 329(a).

7:25-4.13 List of endangered species

(a) Section 23:2A-4 of the revised statutes provides that the Department shall conduct investigations concerning wildlife in order to develop information relating to populations, distributions, habitat needs, limiting factors and other biological and ecological factors. On the basis of such investigations of wildlife and other available scientific and commercial data, the Department may by regulation promulgate a list of those species and subspecies of wildlife indigenous to the State which are determined to be endangered, giving their common and scientific names by species and subspecies.

(b) In accordance therewith, the following species are determined to be endangered:

1. Shortnose Sturgeon, *Acipenser brevirostrum*
2. Tremblay's Salamander, *Ambystoma tremblayi*
3. Blue-spotted Salamander, *Ambystoma laterale*
4. Eastern Tiger Salamander, *Ambystoma tigrinum tigrinum*
5. Pine Barrens Treefrog, *Hyla andersoni*
6. Southern Gray Treefrog, *Hyla chrysocelis*
7. Bog Turtle, *Clemmys muhlenbergi*
8. Timber Rattlesnake, *Crotalus horridus horridus*
9. Corn Snake, *Elaphe guttata guttata*
10. Bald Eagle, *Haliaeetus leucocephalus*
11. Peregrine Falcon, *Falco peregrinus*
12. Northern Goshawk, *Accipiter gentilis*
13. Northern Harrier, *Circus cyaneus*
14. Red-shouldered Hawk, *Buteo lineatus* (Breeding population)
15. Short-eared Owl, *Asio flammeus*
16. Pied-billed Grebe, *Podilymbus podiceps*
17. Upland Sandpiper, *Bartramia longicauda*
18. Sedge Wren, *Cistothorus platensis*
19. Loggerhead Shrike, *Lanius ludovicianus*
20. Henslow's Sparrow, *Ammodrammus henslowii*
21. Vesper Sparrow, *Pooecetes gramineus*
22. Piping Plover, *Charadrius melodus*
23. Roseate Tern, *Sterna dougallii*
24. Least Tern, *Sterna abifrons*
25. Black Skimmer, *Rynchops niger*
26. Atlantic Hawksbill, *Eretmochelys imbricata imbricata*
27. Atlantic Loggerhead, *Caretta caretta*
28. Atlantic Ridley, *Lepidochelys kempi*
29. Atlantic Leatherback, *Dermochelys coriacea coriacea*
30. Sperm Whale, *Physeter catodon*
31. Blue Whale, *Balaenoptera musculus*
32. Finback Whale, *Balaenoptera physalus*
33. Sei Whale, *Balaenoptera borealis*
34. Humpback Whale, *Megaptera novaeangliae*
35. Right Whale, *Eubalaena glacialis*
36. Bobcat, *Lynx rufus*
37. Eastern Woodrat, *Neotoma floridana*

38. Mitchell's Satyr, *Neonympha mitchellii mitchellii*
39. Northeastern Beach Tiger Beetle, *Cicindela dorsalis dorsalis*
40. American Burying Beetle, *Nicrophorus americanus*
41. Dwarf Wedge Mussel, *Alasmidonta heteredon*
42. American Bittern, *Botaurus lentiginosus* (Breeding population)

R.1974 d.348, effective December 19, 1974.

See: 7 N.J.R. 6(c).

Amended by R.1975 d.164, effective June 13, 1975.

See: 7 N.J.R. 146(b), 7 N.J.R. 311(a).

Amended by R.1979 d.128, effective March 29, 1979.

See: 11 N.J.R. 10(a), 11 N.J.R. 229(a).

Amended by R.1983 d.638, effective January 17, 1984.

See: 15 N.J.R. 1623(a), 16 N.J.R. 131(b).

(b): Indiana bat delisted; (b)9 and 14 through 23 added.

Amended by R.1984 d.132, effective April 16, 1984.

See: 16 N.J.R. 97(b), 16 N.J.R. 889(a).

Section recodified from 7:25-11-1.

Amended by R.1985 d.215, effective May 6, 1985.

See: 17 N.J.R. 350(a), 17 N.J.R. 1091(a).

Deleted (b)12; renumbered 13-35 as 12-34.

Amended by R.1987 d.308, effective July 20, 1987.

See: 19 N.J.R. 491(a), 19 N.J.R. 1293(a).

New (b)19; old 19-34. renumbered 20-35.

Amended by R.1991 d.277, effective June 3, 1991.

See: 22 N.J.R. 1308(a), 23 N.J.R. 1788(a).

Added new 14 in (b); redesignated existing 14 through 16 as 15 through 17. Deleted existing 17—"Cliff Swallow." Added 36 through 41.

Amended by R.1999 d.235, effective July 19, 1999.

See: 31 N.J.R. 580(a), 31 N.J.R. 1923(b).

In (b), rewrote 12 and added 42.

7:25-4.14 Requirements for possession of endangered wildlife species

(a) Individuals wishing to apply for a permit to possess endangered wildlife must meet all criteria for a Federal endangered species permit (issued by the United States Fish and Wildlife Service), when applicable, and for the New Jersey nongame and exotic species permit pursuant to N.J.A.C. 7:25-4.7 (issued by the Division of Fish, Game and Wildlife). The Department will require and review the Federal permit before issuing a State permit.

(b) The Division shall issue a permit for possession of specific individual animals classified as endangered wildlife to an applicant who fulfills the criteria in (a) above, and who:

1. Has obtained a sponsoring organization and designated professional who have submitted to the Division all information required in (a)2 and 3 below;
2. Has submitted to the Division a detailed written proposal for scientific research to be completed by the applicant within the time stated by the applicant which, in the judgment of the Division, requires use of the species in question, will not jeopardize the animal's health and has a reasonable probability of yielding, when performed by the applicant under the supervision of the Division and the sponsor pursuant to scientific protocol approved in writing by the Division, scientifically-reliable, new information of use to researchers or zoologists specializing in the study or conservation of the species in question;

i. All proposals shall stipulate the intervals at which the applicant shall submit periodic reports to the Division stating the applicant's progress with the research and improvements in the applicant's expertise in handling and caring for the animals; and

3. Has submitted to the Division written records of the applicant's relevant education, past and current research, publications, funding, equipment and any other information (including personal demonstration as may be required by the Division) which demonstrates to the satisfaction of the Division that the applicant has working knowledge and expertise in handling and caring for the species in question, and that it is reasonably probable that the applicant will accept guidance from both the sponsor and the Division to improve that expertise and that the applicant will accomplish the research within the time stated to the Division in accordance with the scientific protocol approved by the Division.

(c) Amateur attempts or intent to propagate an endangered species will not be considered as sufficient purpose for an individual to be issued a permit to keep an endangered species.

(d) Applicants for a permit to possess endangered wildlife species in New Jersey must be sponsored by a scientific institution, zoological society or similar organization accredited by its professional peers. The goal of sponsorship is to improve the applicant's expertise in the handling, care and breeding of the animal in question, to ensure that the applicant's research requires use of the species in question and has a reasonable probability of producing scientifically-reliable, new data useful to other researchers or zoologists specializing in the study and conservation of the species in question. All research proposals, scientific protocols (including the frequency of reports to the Division by the applicant), and supervisory procedures must be described in writing to the Division by the applicant and receive written approval from both the Division, the sponsor, and the monitoring professional for a permit to be issued. Any permit issued pursuant to this section is conditioned upon the applicant's consistent compliance with instruction from the Division and the professional monitoring the applicant's research as well as the diligent pursuit and timely completion of the Division-approved research project by the applicant pursuant to the scientific protocols approved by the Division. Applicants shall produce their research and exhibit their animals to Division personnel on 24 hours notice. Should the Division determine that the applicant has failed to meet these conditions, the Division shall suspend or revoke the applicant's permit and place the animals possessed pursuant to that permit under immediate constructive seizure, pending permanent removal of the animals by the Division from the possession of the applicant at the applicant's own expense. All research by the applicant shall cease immediately upon receipt of a notice of suspension or revocation, except as approved in writing by the Division.

(e) An offer of sponsorship must contain the following:

1. An agreement to commit the organization to the responsibilities of sponsorship as defined in this section, executed by the president, director or other employee of the organization with authority to so bind the organization;

2. Confirmation that the organization is acquainted with the relevant training and experience of the applicant, has reviewed the applicant's proposed research and has determined that it is reasonably probable that the proposed research, as performed by the applicant pursuant to the supervision and scientific protocol described by the sponsor shall yield scientifically-reliable, new information which will be useful to other researchers or zoologists specializing in the study or conservation of the species in question. All scientific protocol and supervisory practices proposed are subject to approval by the Division. Any Division modification of the proposed protocol or practices shall be resubmitted to the sponsoring organization for its comment;

3. The name and address of a professional with well-established, recently-practiced expertise in the handling, care and breeding of the species at issue (or a species closely related) who has agreed to monitor all aspects of the applicant's research on behalf of the organization in accordance with the procedures approved in advance of commencement of the work by the Division and fulfill all the obligations set forth in (e)4 below. The sponsoring organization shall acknowledge its responsibility to locate another professional with credentials acceptable to the Division who shall monitor the applicant's work, report to the Division, and fulfill all the obligations set forth in (e)4 below in the event the professional initially chosen and approved by the Division is unable, for reasons unrelated to the performance of the applicant, to continue in assisting the Division in monitoring the applicant's work;

4. A letter from the professional identified in (e)3 above which lists his or her professional qualifications, verifies that he or she has personally met the applicant, reviewed the applicant's relevant training and experience as well as the proposed research, finds the research meritorious and believes, based upon his or her experience, that it is reasonably probable that the proposed research, as performed by the applicant within the time stated by the applicant pursuant to the supervision and scientific protocol described by the professional, shall yield scientifically-reliable, new information which will be useful to the other researchers or zoologists specializing in the study or conservation of the species in question. All scientific protocol and supervisory practices proposed are subject to approval by the Division. Any Division modification of the proposed protocol or practices shall be resubmitted for the professional's comment. The professional shall agree in writing to guide the applicant in the proper handling, care and breeding of the animals in question and review the applicant's research protocol

and data as frequently as needed to ensure the applicant's research meets the criteria for the issuance of this permit. The professional shall agree to personally meet with the applicant and review the applicant's work no less than once every three months and to submit a written report to the Division on the applicant's progress every three months. The applicant may prepare and submit this report as long as the report is approved in writing by the professional in advance of its submission to the Division. Reports must be submitted to the Division no later than the 15th day following the end of each three month reporting period;

5. A written statement that the professional agrees to notify the Division and the sponsoring organization in writing if the applicant fails to follow the professional's or the Division's guidance or the scientific protocol approved by the Division and the professional believes that such failure is jeopardizing the probability that scientifically-reliable, useful, new information shall be produced as a result of the applicant's research or that the research cannot be accomplished within the time stated by the applicant; and

6. The applicant shall execute a written acknowledgment releasing the Department, the sponsoring organization and any professionals monitoring the applicant's work from liability for any damages of whatsoever nature arising from the suspension or revocation of any permit issued by the Division. The applicant shall be solely responsible for all costs of maintaining and relocating at the direction of the Division all the animals possessed under this permit when a permit is suspended, revoked or expires.

R.1977 d.39, effective February 22, 1977.

See: 8 N.J.R. 175(a), 9 N.J.R. 118(c).

Amended by R.1984 d.132, effective April 16, 1984.

See: 16 N.J.R. 97(b), 16 N.J.R. 889(a).

Section recodified from 7:25-11.2.

Amended by R.1985 d.251, effective May 20, 1985.

See: 17 N.J.R. 516(a), 17 N.J.R. 1289(a).

(f) added.

Administrative correction and change in (f) and (f)1.

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

Amended by R.1995 d.48, effective January 17, 1995.

See: 26 N.J.R. 1040(a), 27 N.J.R. 329(a).

7:25-4.15 Protection of animal and welfare of public

(a) Individuals applying for a permit to possess endangered wildlife species must supply a written description of the housing and caging facilities for the species requested. A summary must be submitted of a continuous feed source available for the specific diet of the animals. Department personnel will inspect the completed facilities and determine if the facilities are suitable for the animal. Facilities must be constructed to prevent the possible escape of the animal.

(b) The housing facilities must be constructed to prevent public access to and contact with the animal, including all animals used for exhibition purposes. The animal may not be kept as a pet, for hobby purposes or in situations which,

in the judgment of the Department, could adversely affect or provide no net benefit to the health of the animal or the welfare of the species. The individual must demonstrate to the satisfaction of Division personnel that the security of the housing and caging facilities protects the animal and the public.

(c) Qualified veterinarian service must be readily available to the animal at all times.

R.1977 d.39, effective February 22, 1977.

See: 8 N.J.R. 175(a), 9 N.J.R. 118(c).

Amended by R.1984 d.132, effective April 16, 1984.

See: 16 N.J.R. 97(b), 16 N.J.R. 889(a).

Section recodified from 7:25-11.3.

Amended by R.1995 d.48, effective January 17, 1995.

See: 26 N.J.R. 1040(a), 27 N.J.R. 329(a).

7:25-4.16 Violations

Any person violating any provision of these rules and regulations will be subject to the penalties imposed by N.J.S.A. 23:2A-1 et seq.

R.1977 d.39, effective February 22, 1977.

See: 8 N.J.R. 175(a), 9 N.J.R. 118(c).

Amended by R.1984 d.132, effective April 16, 1984.

See: 16 N.J.R. 97(b), 16 N.J.R. 889(a).

Section recodified from 7:25-11.4.

7:25-4.17 Defining status of indigenous wildlife species of New Jersey

The following table defines the status of indigenous non-game wildlife species of New Jersey:

Species	Scientific Name	Species Status
REPTILES		
Common Musk Turtle	Kinosternon odoratum	S
Eastern Mud Turtle	Kinosternon s. subrubrum	U
Spotted Turtle	Clemmys guttata	U
Wood Turtle	Clemmys insculpta	T
Eastern Box Turtle	Terrapene c. carolina	S
Map Turtle	Graptemys geographica	U
Red-bellied Turtle	Pseudemys rubriventris	U
Eastern Painted Turtle	Chrysemys p. picta	S
Midland Painted Turtle	Chrysemys picta marginata	U
Atlantic Green Turtle	Chelonia mydas	T
Northern Fence Lizard	Sceloporus undulatus hyacinthinus	S
Five-lined Skink	Eumeces fasciatus	U
Ground Skink	Scincella lateralis	U
Northern Water Snake	Nerodia s. sipedon	S
Queen Snake	Regina septemvittata	U
Northern Brown Snake	Storeria d. dekayi	S
Northern Red-bellied Snake	Storeria o. occipitamaculata	S
Eastern Garter Snake	Thamnophis s. sirtalis	S
Eastern Ribbon Snake	Thamnophis s. sauritus	S
Eastern Smooth Earth Snake	Virginia v. valeriae	U
Eastern Hognose Snake	Heterodon Platyrrhinus	D
Northern Ringneck Snake	Diadophis punctatus edwardsi	S
Southern Ringneck Snake	Diadophis p. punctatus	S
Eastern Worm Snake	Carphophis a. amoenus	U
Northern Black Racer	Coluber c. constrictor	U
Rough Green Snake	Opheodrys aestivus	S
Eastern Smooth Green Snake	Opheodrys v. vernalis	U
Black Rat Snake	Elaphe o. obsoleta	U
Northern Pine Snake	Pituophis m. melanoleucus	T
Eastern King Snake	Lampropeltis g. getulus	U
Eastern Milk Snake	Lampropeltis t. triangulum	S
Northern Scarlet Snake	Cemophora coccinea copei	U
Northern Copperhead	Agkistrodon contortrix mokasen	U

Species	Scientific Name	Species Status
AMPHIBIANS		
Marbled Salamander	Ambystoma opacum	D
Jefferson Salamander	Ambystoma jeffersonianum	D
Silvery Salamander	Ambystoma platineum	D
Spotted Salamander	Ambystoma maculatum	D
Red-spotted Newt	Notophthalmus v. viridescens	S
Northern Dusky Salamander	Desmognathus f. fuscus	S
Mountain Dusky Salamander	Desmognathus ochrophaeus	U
Red-backed Salamander	Plethodon c. cinereus	S
Slimy Salamander	Plethodon g. glutinosus	S
Four-toed Salamander	Hemidactylum scutatum	D
Northern Spring Salamander	Gyrinophilus p. porphyriticus	D
Northern Red Salamander	Pseudotriton r. ruber	D
Eastern Mud Salamander	Pseudotriton m. montanus	T
Northern Two-lined Salamander	Eurycea b. bislineata	S
Long-tailed Salamander	Eurycea l. longicauda	T
Eastern Spadefoot Toad	Scaphiopus h. holbrookii	D
American Toad	Bufo americanus	S
Fowler's Toad	Bufo woodhouseii fowleri	S
Northern Cricket Frog	Acris c. crepitans	U
Northern Spring Peeper	Hyla c. crucifer	S
Barking Treefrog	Hyla gratiosa	U
Northern Gray Treefrog	Hyla versicolor	S
New Jersey Chorus Frog	Pseudacris triseriata kalmi	S
Upland Chorus Frog	Pseudacris triseriata feriarum	U
Carpenter Frog	Rana varigatipes	U
Wood Frog	Rana sylvatica	S
Southern Leopard Frog	Rana spenocephala	S
Pickerel Frog	Rana palustris	S
MAMMALS		
Masked Shrew	Sorex cinereus	S
Tuckahoe Masked Shrew	Sorex cinereus nigriculus	U
Water Shrew	Sorex palustris	U
Smokey Shrew	Sorex fumeus	U
Long-tailed Shrew	Sorex dispar	U
Short-tailed Shrew	Blarina brevicauda	S
Least Shrew	Cryotis parva	U
Hairy-tailed Mole	Parascalops breweri	U
Eastern Mole	Scalopus aquaticus	S
Star-nosed Mole	Condylura cristata	U
Little Brown Bat	Myotis Lucifugus	S
Keen Myotis	Myotis keenii	U
Small-footed Myotis	Myotis subulatus	U
Silver-haired Bat	Lasiorycteris noctivagans	U
Eastern Pipistrel	Pipistrellus subflavus	U
Big Brown Bat	Eptesicus fuscus	S
Red Bat	Lasiurus borealis	S
Northern Yellow Bat	Lasiurus intermedius	P
Hoary Bat	Lasiurus cinereus	U
New England Cottontail	Sylvilagus transitionalis	U
Eastern Chipmunk	Tamias striatus	S
Red Squirrel	Tamiasciurus hudsonicus	S
Southern Flying Squirrel	Glaucomys volans	U
Northern Flying Squirrel	Glaucomys sabrinus	U
Marsh Rice Rat	Oryzomys palustris	S
White-footed Mouse	Peromyscus leucopus	S
Red-backed Mouse	Clethrionomys gapperi	S
Meadow Vole	Microtus pennsylvanicus	S
Pine Vole	Pitymys pinetorum	S
Southern Bog Lemming	Synaptomys cooperi	U
Woodland Jumping Mouse	Napaeozapus isignis	U
Meadow Jumping Mouse	Zapus hudsonius	U
Porcupine	Erethizon dorsatum	INC
Harbor Seal	Phoca vitulina	S
Harp Seal	Pagophilus groenlandica	P
Gray Seal	Halichoerus grypus	P
Hooded Seal	Cystophora cristata	P
Goose-beaked Whale	Ziphius cavirostris	U
Dense Beaked Whale	Mesoplodon densirostris	U
Gervais Beaked Whale	Mesoplodon europaeus	U
True's Beaked Whale	Mesoplodon mirus	U
Pygmy Sperm Whale	Kogia breviceps	U
Dwarf Sperm Whale	Kogia simus	U
Beluga Whale	Delphinapterus leucas	P
Bridled Spotted Dolphin	Stenella frontalis	U
Spotted Dolphin	Stenella plagiodon	U
Striped Dolphin	Stenella coeruleoalba	U
Saddle-backed Dolphin	Delphinus delphis	U
Bottle-nosed Dolphin	Tursiops truncatus	S
Atlantic Killer Whale	Orcinus orca	U

Species	Scientific Name	Species Status	Non-Breed Status	Species	Scientific Name	Breeding Status	Non-Breed Status
Risso's Dolphin	Grampus griseus	U		Sanderling	Calidris alba		D
Long-finned Pilot Whale	Globicephala malaena	U		Semipalmated Sandpiper	Calidris pusillus		S
Short-finned Pilot Whale	Globicephala macrohynchus	U		Western Sandpiper	Calidris mauri		S
Harbor Porpoise	Phocoena phocoena	U		Least Sandpiper	Calidris minutilla		S
Minke Whale	Balaenoptera acutorostrata	U		White-rumped Sandpiper	Calidris fuscicollis		S
				Baird's Sandpiper	Calidris bairdii		D
				Pectoral Sandpiper	Calidris melanotos		S
				Purple Sandpiper	Calidris maritima		INC
				Dunlin	Calidris alpina		INC
				Curlew Sandpiper	Calidris ferruginea		S
				Stilt Sandpiper	Calidris himantopus		INC
				Buff-breasted Sandpiper	Tryngites subruficollis		S
				Ruff	Philomachus pugnax		INC
				Short-billed Dowitcher	Limnodromus griseus		S
				Long-billed Dowitcher	Limnodromus scolopaceus		S
				Wilson's Phalarope	Phalaropus tricolor		INC
				Red-necked Phalarope	Phalaropus lobatus		S
				Red Phalarope	Phalaropus fulicarius		S
				Pomarine Jaeger	Stercorarius pomarinus		S
				Parasitic Jaeger	Stercorarius parasiticus		S
				Long-tailed Jaeger	Stercorarius longicaudus		S
				Laughing Gull	Larus atricilla	S	S
				Little Gull	Larus minutus		S
				Common Black-headed Gull	Larus ridibundus		S
				Bonaparte's Gull	Larus philadelphia		S
				Ring-billed Gull	Larus delawarensis		INC
				Herring Gull	Larus argentatus	S	S
				Iceland Gull	Larus glaucoides		S
				Lesser Black-backed Gull	Larus fuscus		INC
				Glaucous Gull	Larus hyperboreus		S
				Great Black-backed Gull	Larus marinus	INC	S
				Black-legged Kittiwake	Rissa tridactyla		S
				Gull-billed Tern	Sterna nilotica		S
				Caspian Tern	Sterna caspia		S
				Royal Tern	Sterna maximus		S
				Common Tern	Sterna hirundo	D	S
				Forster's Tern	Sterna forsteri	INC	S
				Black Tern	Chlidonias niger		S
				Dovekie	Alle alle		D
				Thick-billed Murre	Uria lomvia		D
				Razorbill	Alca torda		D
				Mourning Dove	Zenaida macroura	INC	S
				Black-billed Cuckoo	Coccyzus erythrophthalmus	S	S
				Yellow-billed Cuckoo	Coccyzus americanus	S	S
				Common Barn Owl	Tyto alba	S	S
				Eastern Screech Owl	Otus asio	S	S
				Great Horned Owl	Bubo virginianus	INC	S
				Snowy Owl	Nyctea scandiaca		S
				Barred Owl	Strix varia	T	T
				Long-eared Owl	Asio otus	T	T
				Short-eared Owl	Asio flammeus	E	U
				Northern Saw-whet Owl	Aegolius acadicus	S	S
				Common Nighthawk	Chordeiles minor	S	S
				Chuck-will's-widow	Caprimulgus carolinensis	INC	S
				Whippoorwill	Caprimulgus vociferus	D	S
				Chimney Swift	Chaetura pelagica	S	S
				Ruby-throated Hummingbird	Archilochus colubris	D	S
				Belted Kingfisher	Ceryle alcyon	S	S
				Red-headed Woodpecker	Melanerpes erythrocephalus	T	T
				Red-bellied Woodpecker	Melanerpes carolinus	INC	S
				Yellow-bellied Sapsucker	Sphyrapicus varius		S
				Downy Woodpecker	Picoides pubescens	S	S
				Hairy Woodpecker	Picoides villosus	S	S
				Northern Common Flicker	Colaptes auratus	S	S
				Pileated Woodpecker	Dryocopus pileatus	S	S
				Olive-sided Flycatcher	Contopus borealis		S
				Eastern Wood Pewee	Contopus virens	S	S
				Yellow-bellied Flycatcher	Empidonax flaviventris		S
				Acadian Flycatcher	Empidonax flavescens	INC	S
				Alder Flycatcher	Empidonax alnorum	S	S
				Willow Flycatcher	Empidonax traillii	INC	S
				Least Flycatcher	Empidonax minimus	S	S
				Eastern Phoebe	Sayornis phoebe	S	S
				Great Crested Flycatcher	Myiarchus cineritus	S	S
				Western Kingbird	Tyrannus verticalis		S
				Eastern Kingbird	Tyrannus tyrannus	D	D
				Horned Lark	Eremophila alpestris	D	S

Species	Scientific Name	Breeding Status	Non-Breed Status	Species	Scientific Name	Breeding Status	Non-Breed Status
Purple martin	<i>Progne subis</i>	D	S	Summer Tanager	<i>Piranga rubra</i>		S
Tree Swallow	<i>Tachycineta bicolor</i>	S	S	Scarlet Tanager	<i>Piranga olivacea</i>	S	S
Northern Rough-winged Swallow	<i>Stelgidopteryx serripennis</i>	S	S	Northern Cardinal	<i>Cardinalis cardinalis</i>	INC	INC
Bank Swallow	<i>Riparia riparia</i>	S	S	Rose-breasted Grosbeak	<i>Pheucticus ludovicianus</i>	S	S
Cliff Swallow	<i>Hirundo pyrrhonota</i>	S	S	Blue Grosbeak	<i>Guiraca caerulea</i>	INC	S
Barn Swallow	<i>Hirundo rustica</i>	S	S	Indigo Bunting	<i>Passerina cyanea</i>	S	S
Blue Jay	<i>Cyanocitta cristata</i>	INC	S	Dickcissel	<i>Spiza americana</i>	EX	U
Fish Crow	<i>Corvus ossifragus</i>	INC	S	Rufous-sided Towhee	<i>Pipilo erythrophthalmus</i>	S	S
Black-capped Chickadee	<i>Parus atricapillus</i>	INC	S	American Tree Sparrow	<i>Spizella arborea</i>		S
Carolina Chickadee	<i>Parus carolinensis</i>	S	S	Chipping Sparrow	<i>Spizella passerina</i>	S	S
Boreal Chickadee	<i>Parus hudsonicus</i>		S	Field Sparrow	<i>Spizella pusilla</i>	S	S
Tufted Titmouse	<i>Parus bicolor</i>	INC	S	Lark Sparrow	<i>Chondestes grammacus</i>		S
Red-breasted Nuthatch	<i>Sitta canadensis</i>	S	S	Savannah Sparrow	<i>Passerculus sandwichensis</i>	T	T
White-breasted Nuthatch	<i>Sitta carolinensis</i>	S	S	Ipswich Sparrow	<i>Passerculus sandwichensis princeps</i>		S
Brown Creeper	<i>Certhia americana</i>	S	S	Grasshopper Sparrow	<i>Ammodramus savannarum</i>	T	S
Carolina Wren	<i>Thryothorus ludovicianus</i>	S	S	Sharp-tailed Sparrow	<i>Ammodramus caudacuta</i>	S	S
House Wren	<i>Troglodytes aedon</i>	S	S	Seaside Sparrow	<i>Ammodramus maritima</i>	S	S
Winter Wren	<i>Troglodytes troglodytes</i>		S	Fox Sparrow	<i>Passerella iliaca</i>		S
Marsh Wren	<i>Cistothorus palustris</i>	D	S	Song Sparrow	<i>Melospiza melodia</i>	S	S
Golden-crowned Kinglet	<i>Regulus satrapa</i>	S	S	Lincoln's Sparrow	<i>Melospiza lincolni</i>		S
Ruby-crowned Kinglet	<i>Regulus calendula</i>	S	S	Swamp Sparrow	<i>Melospiza georgiana</i>	S	S
Blue-gray Gnatcatcher	<i>Polioptila caerulea</i>	INC	S	White-throated Sparrow	<i>Zonotrichia albicollis</i>	S	S
Eastern Bluebird	<i>Sialia sialis</i>	S	S	White-crowned Sparrow	<i>Zonotrichia leucophrys</i>		INC
Veery	<i>Catharus fuscescens</i>	S	S	Dark-eyed Junco	<i>Junco hyemalis</i>	S	S
Gray-cheeked Thrush	<i>Catharus minimus</i>		S	Lapland Longspur	<i>Calcarius lapponicus</i>		S
Swainson's Thrush	<i>Catharus ustulatus</i>		S	Snow Bunting	<i>Plectrophenax nivalis</i>		S
Hermit Thrush	<i>Catharus guttatus</i>	S	S	Bobolink	<i>Dolichonyx oryzivorus</i>	T	T
Wood Thrush	<i>Hylocichla mustelina</i>	S	S	Red-winged Blackbird	<i>Agelaius phoeniceus</i>	S	S
American Robin	<i>Turdus migratorius</i>	S	S	Eastern Meadowlark	<i>Sturnella magna</i>	D	S
Catbird	<i>Dumetella carolinensis</i>	S	S	Rusty Blackbird	<i>Euphagus carolinus</i>		S
Northern Mockingbird	<i>Mimus polyglottos</i>	INC	S	Boat-tailed Grackle	<i>Quiscalus major</i>	INC	S
Brown Thrasher	<i>Toxostoma rufum</i>	D	S	Common Grackle	<i>Quiscalus quiscula</i>	INC	S
Water Pipit	<i>Anthus spinoletta</i>		S	Brown-headed Cowbird	<i>Molothrus ater</i>	INC	S
Cedar Waxwing	<i>Bombycilla cedrorum</i>	S	S	Orchard Oriole	<i>Icterus spurius</i>	S	S
Northern Shrike	<i>Lanius excubitor</i>		S	Northern Oriole	<i>Icterus galbula</i>	S	S
White-eyed Vireo	<i>Vireo griseus</i>	D	S	Pine Grosbeak	<i>Pinicola enucleator</i>		S
Solitary Vireo	<i>Vireo solitarius</i>	S	S	Purple Finch	<i>Carpodacus purpureus</i>	S	S
Yellow-throated Vireo	<i>Vireo flavifrons</i>	S	S	House Finch	<i>Carpodacus mexicanus</i>	INC	S
Warbling Vireo	<i>Vireo gilvus</i>	S	S	Red Crossbill	<i>Loxia curvirostra</i>		S
Philadelphia Vireo	<i>Vireo philadelphicus</i>		S	White-winged Crossbill	<i>Loxia leucoptera</i>		S
Red-eyed Vireo	<i>Vireo olivaceus</i>	INC	INC	Common Redpoll	<i>Carduelis flammea</i>		S
Blue-winged Warbler	<i>Vermivora pinus</i>	INC	S	Pine Siskin	<i>Carduelis pinus</i>		S
Golden-winged Warbler	<i>Vermivora chrysoptera</i>	D	S	American Goldfinch	<i>Carduelis tristis</i>	S	S
Tennessee Warbler	<i>Vermivora peregrina</i>		S	Evening Grosbeak	<i>Hesperiphona vespertina</i>		INC
Orange-crowned Warbler	<i>Vermivora celata</i>		S				
Nashville Warbler	<i>Vermivora ruficapilla</i>	S	S	As amended, R.1983 d.638, effective January 17, 1984.			
Northern Parula	<i>Parula americana</i>	P	S	See: 15 N.J.R. 1623(a), 16 N.J.R. 131(b).			
Yellow Warbler	<i>Dendroica petechia</i>	S	S	As amended, R.1984 d.132, eff. April 16, 1984.			
Chestnut-sided Warbler	<i>Dendroica pensylvanica</i>	S	S	See: 16 N.J.R. 97(b), 16 N.J.R. 889(a).			
Magnolia Warbler	<i>Dendroica magnolia</i>	S	S	Section recodified from 7:25-20.2.			
Cape May Warbler	<i>Dendroica tigrina</i>		S	Amended by R.1985 d.215, effective May 6, 1985.			
Black-throated Blue Warbler	<i>Dendroica caerulescens</i>	S	S	See: 17 N.J.R. 350(a), 17 N.J.R. 1091(a).			
Yellow-rumped Warbler	<i>Dendroica coronata</i>		S	Amended by R.1985 d.251, effective May 20, 1985.			
Black-throated Green Warbler	<i>Dendroica virens</i>	S	S	See: 17 N.J.R. 516(a), 17 N.J.R. 1289(a).			
Blackburnian Warbler	<i>Dendroica fusca</i>	S	S	(a): Added text "and endangered".			
Yellow-throated Warbler	<i>Dendroica dominica</i>	S	S	Amended by R.1986 d.230, effective June 16, 1986.			
Pine Warbler	<i>Dendroica pinus</i>	S	S	See: 18 N.J.R. 601(a), 18 N.J.R. 1280(b).			
Prairie Warbler	<i>Dendroica discolor</i>	S	S	"S" substituted for "T".			
Palm Warbler	<i>Dendroica palmarum</i>		S	Amended by R.1987 d.308, effective July 20, 1987.			
Bay-breasted Warbler	<i>Dendroica castanea</i>		S	See: 19 N.J.R. 491(a), 19 N.J.R. 1293(a).			
Blackpoll Warbler	<i>Dendroica striata</i>		S	Substantially amended.			
Cerulean Warbler	<i>Dendroica cerulea</i>	S	S	Repeal and New Rule, R.1991 d.277, effective June 3, 1991.			
Black and White Warbler	<i>Miniotilta varia</i>	S	S	See: 22 N.J.R. 1308(a), 23 N.J.R. 1788(a).			
American Redstart	<i>Setophaga ruticilla</i>	S	S	Repealed section—"Defining status of indigenous nongame and endangered wildlife species of New Jersey."			
Prothonotary Warbler	<i>Protonotaria citrea</i>	INC	S	Amended by R.1999 d.235, effective July 19, 1999.			
Worm-eating Warbler	<i>Helminthos vermivorus</i>	S	S	See: 31 N.J.R. 580(a), 31 N.J.R. 1923(b).			
Ovenbird	<i>Seiurus aurocapillus</i>	S	S	In REPTILES, deleted references to Common Snapping Turtles, Red-eared Turtles and Eastern Spiny Softshells; in AMPHIBIANS, deleted references to Bullfrogs and Green Frogs; in MAMMALS, deleted references to European Hares, Black-tailed Jackrabbits, Black Rats, Brown Rats, and House Mice; and in BIRDS, changed Breeding Status for American Bitterns, Great Blue Herons, Little Blue Herons, Black-crowned Night Herons, Cliff Swallows, and Ipswich Sparrows, changed Non-Breeding Status for Red Knots, Ipswich Sparrows and Grasshopper Sparrows, deleted references to Mute Swans, Northern Goshawks, Rock Doves, European Starlings and House Sparrows, and inserted a reference to Copper's Hawks.			
Northern Waterthrush	<i>Seiurus noveboracensis</i>	S	S				
Louisiana Waterthrush	<i>Seiurus motacilla</i>	S	S				
Kentucky Warbler	<i>Oporornis formosus</i>	S	S				
Connecticut Warbler	<i>Oporornis agilis</i>	S	S				
Mourning Warbler	<i>Oporornis philadelphia</i>	S	S				
Common Yellowthroat	<i>Geothlypis trichas</i>	S	S				
Hooded Warbler	<i>Wilsonia citrina</i>	D	S				
Wilson's Warbler	<i>Wilsonia pusilla</i>		S				
Canada Warbler	<i>Wilsonia canadensis</i>	S	S				
Yellow-breasted Chat	<i>Icteria virens</i>	D	S				

7:25-5.39 Severability

If any provision of this Code adopted hereunder or the application thereof to any person or circumstances is held invalid, the remainder of this Code and the application of such provisions to persons and circumstances other than those to which it is held invalid, shall not be affected thereby.

Recodified from 7:25-5.38 by R.1996 d.404, effective August 19, 1996 (operative August 24, 1996).
See: 28 N.J.R. 2434(b), 28 N.J.R. 3934(a).

R.1991 d.527, effective November 18, 1991 (operative January 1, 1992).
See: 23 N.J.R. 2115(a), 23 N.J.R. 3446(c).
R.1992 d.439, effective November 2, 1992 (operative January 1, 1993).
See: 24 N.J.R. 2539(a), 24 N.J.R. 4122(a).
R.1993 d.526, effective November 1, 1993 (operative January 1, 1994).
See: 25 N.J.R. 3053(b), 25 N.J.R. 4905(a).
R.1996 d.493, effective October 21, 1996 (operative January 1, 1997).
See: 28 N.J.R. 3495(a), 28 N.J.R. 4602(a).
R.1997 d.538, effective December 15, 1997 (operative January 1, 1998).
See: 29 N.J.R. 3217(a), 29 N.J.R. 5289(a).
R.1998 d.541, effective November 16, 1998 (operative January 1, 1999).
See: 30 N.J.R. 2552(a), 30 N.J.R. 4037(b).
R.1999 d.420, effective December 6, 1999 (operative January 1, 2000).
See: 31 N.J.R. 1839(a), 31 N.J.R. 4013(a).
R.2000 d.462, effective November 20, 2000 (operative January 1, 2001).
See: 32 N.J.R. 2532(a), 32 N.J.R. 4103(b).

SUBCHAPTER 6. 2001-2002 FISH CODE

Authority

N.J.S.A. 13:1B-10 et seq. and 23:1-1 et seq.

Subchapter Historical Note

The Fish Code is revised annually to reflect changing conditions in the State's game fish resource. Previous revisions in the code were as follows:

R.1972 d.184, effective January 1, 1973.
See: 4 N.J.R. 186(a), 4 N.J.R. 234(a).
R.1973 d.25, effective January 18, 1973.
See: 5 N.J.R. 39(a).
R.1973 d.264, effective September 17, 1973.
See: 5 N.J.R. 261(a), 5 N.J.R. 336(c).
R.1973 d.265, effective January 1, 1974.
See: 5 N.J.R. 260(c), 5 N.J.R. 337(a).
R.1973 d.347, effective January 1, 1974.
See: 5 N.J.R. 369(c), 6 N.J.R. 6(b).
R.1974 d.253, effective January 1, 1975.
See: 6 N.J.R. 305(a), 6 N.J.R. 394(a).
R.1975 d.301, effective January 1, 1976.
See: 7 N.J.R. 359(c), 7 N.J.R. 499(d), 8 N.J.R. 460(a).
R.1976 d.316, effective January 1, 1977.
See: 8 N.J.R. 379(a), 8 N.J.R. 510(a).
R.1977 d.384, effective January 1, 1978.
See: 9 N.J.R. 361(a), 9 N.J.R. 513(a).
R.1978 d.351, effective January 1, 1979.
See: 10 N.J.R. 324(a), 10 N.J.R. 479(a).
R.1979 d.403, effective January 1, 1980.
See: 11 N.J.R. 370(a), 11 N.J.R. 543(a).
R.1980 d.400, effective January 1, 1981.
See: 12 N.J.R. 457(a), 12 N.J.R. 577(a).
R.1981 d.470, effective December 7, 1981.
See: 13 N.J.R. 483(a), 13 N.J.R. 887(a).
R.1982 d.429, effective December 6, 1982 (operative January 1, 1983).
See: 14 N.J.R. 872(a), 14 N.J.R. 1336(c).
R.1983 d.542, effective November 21, 1983 (operative January 1, 1984).
See: 15 N.J.R. 1217(a), 15 N.J.R. 1942(a).
R.1984 d.498, effective November 5, 1984 (operative January 1, 1985).
See: 16 N.J.R. 2034(a), 16 N.J.R. 3011(a).
R.1985 d.646, effective December 16, 1985 (operative January 1, 1986).
See: 17 N.J.R. 2187(a), 17 N.J.R. 2972(a).
R.1987, d.41, effective January 5, 1987.
See: 18 N.J.R. 1644(a), 19 N.J.R. 110(a).
R.1988 d.15, effective January 4, 1988.
See: 19 N.J.R. 1385(a), 20 N.J.R. 72(a).
R.1988 d.531, effective November 7, 1988 (operative January 1, 1989).
See: 20 N.J.R. 1627(a), 20 N.J.R. 2758(a).
R.1989 d.567, effective November 6, 1989 (operative January 1, 1990).
See: 21 N.J.R. 1775(b), 21 N.J.R. 3483(a).
R.1990 d.616, effective December 17, 1990 (operative January 1, 1991).
See: 22 N.J.R. 2071(a), 22 N.J.R. 3746(a).

7:25-6.1 General provisions

(a) Authority. This Code is adopted pursuant to the provisions of N.J.S.A. 13:1B-29 et seq. and the provisions of N.J.S.A. 23:1-1 et seq.

(b) Judicial notice. N.J.S.A. 13:1B-34 provides in pertinent part, "(C)opies of the State Fish & Game Code, and its amendments, duly certified by the chairman of the council, shall be received in evidence in all court or other judicial proceedings in the State."

(c) Time. The hours listed in this Code are EST or EDT at date.

7:25-6.2 Definitions

The following words and terms shall have the following meanings unless the context clearly indicates otherwise.

"Baitfish" means the following species:

- | | |
|--|--|
| 1. Alewife (anadromous and land-locked forms) | Alosa pseudoharengus; |
| 2. Blueback herring | Alosa acstivalis; |
| 3. Golden shiner | Notemigonus crysoleucas; |
| 4. Banded killifish | Fundulus diaphanus; |
| 5. Mummichog | Fundulus heteroclitus; |
| 6. Spotfin killifish | Fundulus luciae; |
| 7. Rainwater killifish | Lucania parva; |
| 8. American brook lamprey | Lampetra lamottei; |
| 9. Fathead minnow | Pimephales promelas; |
| 10. Bluntnose minnow | Pimephales notatus; |
| 11. Stonecat | Noturus flavus; |
| 12. Tadpole madtom | Noturus gyrinus; |
| 13. Margined madtom | Noturus insignis; |
| 14. All shiner, dace, and minnows of the following genera: | Notropis, Rhinichthys, Luxilus, Cyprinella, and Semotilus. |
| 15. American eel | Anguilla rostrata, greater than six inches in length |

"Closed season" shall mean a period of time during which the taking of one or more species of fish is not permitted.

"Closed waters" means those waters in which angling is not permitted, particularly in reference to time.

"Code" means the State Fish Code.

“Creel or possession limit” means the total number of fish that are legally retainable. Most normally this is expressed on a daily basis.

“Creedled trout” shall mean any trout which a fisherman has in his possession.

“Director” means the Director of the Division of Fish and Wildlife.

“Division” means the Division of Fish and Wildlife.

“Fathom” shall mean a unit of measure equal to six feet.

“Foodfish” for the purpose of N.J.A.C. 7:25-6.11 only, means the following species:

- | | |
|---|------------------------|
| 1. Atlantic sturgeon | Acipenser oxyrhynchus; |
| 2. White sucker | Catostomus commersoni; |
| 3. Carp | Cyprinus carpio; |
| 4. American eel | Anguilla rostrata; |
| 5. Blueback herring | Alosa aestivalis; |
| 6. Hickory shad | Alosa mediocris; |
| 7. American shad | Alosa sapidissima; |
| 8. Gizzard shad | Dorosoma cepedianum; |
| 9. Alewife (anadromous form) | Alosa pseudoharengus; |
| 10. Yellow perch | Perca flavescens; |
| 11. White perch | Morone americana; |
| 12. White catfish | Ameiurus catus; |
| 13. Black bullhead | Ameiurus melas; |
| 14. Brown bullhead | Ameiurus nebulosus; |
| 15. Yellow bullhead | Ameiurus natalis; |
| 16. Channel catfish | Ictalurus punctatus; |
| 17. Bowfin | Amia calva; and |
| 18. Any other marine fish species that is legal for taking with net in marine waters. | |

“Natural bait” means any bait that in its live, preserved or original form would be consumed by fish.

“Open waters” (all sections except N.J.A.C. 7:25-6.9) means those waters in which angling is permitted, particularly in reference to time.

“Open waters” (N.J.A.C. 7:25-6.9) means those waters not covered with ice.

“Other fish species,” and all hybrids and strains thereof, which are provided for by the provisions of this Code, either directly or implied, are as follows:

- | | |
|------------------------|------------------------------------|
| 1. Shortnose sturgeon | Acipenser brevirostrum |
| 2. Atlantic sturgeon | Acipenser oxyrhynchus |
| 3. Striped bass hybrid | Morone saxatilis x Morone chrysops |
| 4. White sucker | Catostomus commersoni |
| 5. Creek chubsucker | Erimyzon oblongus |
| 6. American eel | Anguilla rostrata |
| 7. Blueback herring | Alosa aestivalis |
| 8. Hickory shad | Alosa mediocris |
| 9. American shad | Alosa sapidissima |
| 10. Gizzard shad | Dorosoma cepedianum |

- | | |
|-------------------------------|--------------------------|
| 11. Alewife (anadromous form) | Alosa pseudoharengus |
| 12. Chinook salmon | Oncorhynchus tshawytscha |
| 13. Sea lamprey | Petromyzon marinus |

“Possession” means all fish, live or dead, under the control of the fisherman. No more than the daily creel limit of any fish for one person may be held on a stringer or in a container. On board containers, in boats, may only contain the combined daily creel limit of any fish for each legal fisherman aboard.

“Size limit” means the legal length of fish and may be expressed as a minimum size or a maximum size of a fish that may be retained. Length shall be the maximum total length.

“Snagging” means the hooking of fish other than inside the mouth, through the action of the fisherman.

“Trout” shall include the following species and all hybrids and strains thereof:

- | | |
|------------------|-----------------------|
| 1. Brook trout | Salvelinus fontinalis |
| 2. Lake trout | Salvelinus namaycush |
| 3. Brown trout | Salmo trutta |
| 4. Rainbow trout | Oncorhynchus mykiss |

“Unattended” means user not available for questioning by officer at the time of inspection.

“Warmwater fish” includes the following species and all hybrids and strains thereof:

- | | |
|----------------------|------------------------------|
| 1. Largemouth bass | Micropterus salmoides |
| 2. Smallmouth bass | Micropterus dolomieu |
| 3. Black crappie | Pomoxis nigromaculatus |
| 4. White crappie | Pomoxis annularis |
| 5. Rock bass | Ambloplites rupestris |
| 6. Redbreast sunfish | Lepomis aaritis |
| 7. Green sunfish | Lepomis cyanellus |
| 8. Pumpkinseed | Lepomis gibbosus |
| 9. Bluegill | Lepomis macrochirus |
| 10. Longear sunfish | Lepomis megalotis |
| 11. Redear sunfish | Lepomis microlophus |
| 12. Yellow perch | Perca flavescens |
| 13. Walleye | Stizostedion vitreum vitreum |
| 14. White perch | Morone americana |
| 15. White catfish | Ameiurus catus |
| 16. Black bullhead | Ameiurus melas |
| 17. Brown bullhead | Ameiurus nebulosus |
| 18. Yellow bullhead | Ameiurus natalis |
| 19. Channel catfish | Ictalurus punctatus |
| 20. Redfin | Esox americanus americanus |
| 21. Northern pike | Esox lucius |
| 22. Muskellunge | Esox masquinongy |
| 23. Chain pickerel | Esox niger |
| 24. Bowfin | Amia calva |
| 25. Carp | Cyprinus carpio |
| 26. Striped bass | Morone saxatilis |

Amended by R.1995 d.573, effective November 6, 1995 (operative January 1, 1996).

See: 27 N.J.R. 2657(a), 27 N.J.R. 4288(a).

Amended by R.1996 d.493, effective October 21, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3495(a), 28 N.J.R. 4602(a).

Amended by R.1998 d.541, effective November 16, 1998 (operative January 1, 1999).

See: 30 N.J.R. 2552(a), 30 N.J.R. 4037(b).

In "Other fish species", added 13; and in "Possession", added the second and third sentences.

Amended by R.2000 d.462, effective November 20, 2000 (operative January 1, 2001).

See: 32 N.J.R. 2532(a), 32 N.J.R. 4103(b).

In "Baitfish", added "greater than six inches in length" following "Anguilla rostrata" in 15; rewrote "Closures" as "Closed Waters"; inserted "Closed season"; and in "Warmwater fish", added 26.

7:25-6.3 Trout season and angling in trout stocked waters

(a) Except as provided in N.J.A.C. 7:25-6.4, 6.6 to 6.9, 6.19, 6.20 and (i) below, the trout season for 2001 shall commence 12:01 A.M. January 1, 2001 and extend to midnight March 18, 2001. The trout season shall re-open at 8:00 A.M. Saturday, April 7, 2001 and extend to include March 17, 2002.

(b) Except as provided in N.J.A.C. 7:26-6.4, 6.6 to 6.9 and (i) below, it shall be unlawful to fish for any species of fish from midnight March 18, 2001 to 8:00 A.M. on April 7, 2001 in ponds, lakes or those portions of streams that are listed herein for stocking during 2001.

(c) Except as provided in N.J.A.C. 7:25-6.6 to 6.9, waters with listed stocking dates shall be closed to all fishing from 5:00 A.M. to 5:00 P.M. on listed dates; included in these waters are all feeder and tributary streams for a distance of 100 feet from the main channel.

(d) Except as provided in N.J.A.C. 7:25-6.6 to 6.9, in trout-stocked waters for which in-season closures will be in force, waters will be closed from 5:00 A.M. to 5:00 P.M. on dates indicated, provided that in the event of emergent conditions, the Division may suspend stocking of any or all of the following:

1. Big Flat Brook—100 feet above Stream Mill Bridge on Crigger Road in Stokes State Forest to Delaware River—April 13, 20, 27; May 4, 11, 18, 25.
2. Black River—Route 206 Chester, to the posted Black River Fish and Game club property at the lower end of Hacklebarney State Park—April 12, 19, 26; May 3, 10, 17, 24.
3. Manasquan River—Route 9 bridge downstream to Bennetts Bridge, Manasquan Wildlife Management Area—April 9, 16, 23, 30; May 7, 14, 21.
4. Metedeconk River, N. Br. Aldrich Road Bridge to Ridge Avenue—April 9, 16, 23, 30; May 7, 14, 21.
5. Metedeconk River, S. Br. Bennetts Mills dam to twin wooden foot bridge, opposite Lake Park Boulevard,

on South Lake Drive, Lakewood—April 9, 16, 23, 30; May 7, 14, 21.

6. Musconetcong River—Lake Hopatcong Dam to Delaware River including all main stem impoundments, but excluding Lake Musconetcong, Netcong—April 13, 20, 27; May 4, 11, 18, 25.

7. Paulinskill River and E. Br. and W. Br. Limecrest Railroad Spur Bridge on E. Br., Sparta Township, and Warbasse Junction Road, Route 663, on W. Br., Lafayette Twp., to Columbia Lake—April 12, 19, 26; May 3, 10, 17, 24.

8. Pequest River—Source to Delaware River—April 13, 20, 27; May 4, 11, 18, 25.

9. Pohatcong Creek—Route 31 to Delaware River—April 10, 17, 24; May 1, 8, 15, 22.

10. Ramapo River—State line to Pompton Lake—April 12, 19, 26; May 3, 10, 17, 24.

11. Raritan River, N. Br. Peapack Road Bridge in Far Hills to Jct. with S. Br. Raritan River—April 11, 18, 25; May 2, 9, 16, 23.

12. Raritan River, S. Br. Budd Lake dam through Hunterdon and Somerset Counties to Jct. with N. Br. Raritan River—April 10, 17, 24; May 1, 8, 15, 22.

13. Rockaway River—Longwood Lake dam to Jersey City Reservoir in Boonton—April 9, 16, 23, 30; May 7, 14, 21.

14. Tom's River—Ocean County Route 528, Holmansville, to confluence with Maple Root Branch and Route 70 to County Route 571—April 9, 16, 23, 30; May 7, 14, 21.

15. Wallkill River—Lake Mohawk Dam to Route 23, Hamburg—April 9, 16, 23, 30; May 7, 14, 21.

16. Wanaque River—Greenwood Lake Dam to Jct. with Pequannock River, excluding Wanaque Reservoir, Monksville Reservoir and Lake Inez—April 13, 20, 27; May 4, 11, 18, 25.

(e) Except as provided in N.J.A.C. 7:25-6.6 to 6.8, no person shall catch, take, kill or possess trout during the closed period (5:00 A.M. to 5:00 P.M.) on any of the waters listed for in-season closures.

(f) This subsection sets forth trout stocked waters for which no in-season closures will be in force. The figure in parenthesis indicates the anticipated number of stockings to be carried out from April 15 through May 28, provided that, in the event of emergency conditions, the Division may suspend stocking of any or all of the following:

1. Atlantic County

Birch Grove Park Pond—Northfield—(4)

Hammonton Lake—Hammonton—(4)

2. Bergen County

Hackensack River—Lake Tappan to Harriot Avenue, Harrington Park—(4)
 Hohokus Brook—Forest Road to Whites Pond—(4)
 Indian Lake—Little Ferry—(4)
 Mill Pond—Park Ridge—(3)
 Pascack Creek—Orchard Street, Hillsdale, to Lake Street, Westwood—(4)
 Saddle River—State Line to Dunkerhook Road, Fair Lawn—(5)
 Scarlet Oak Pond—Mahway—(0)
 Tenkill Creek—Closter, entire length—(3)
 Whites Pond—Waldwick—(4)

3. Burlington County

Crystal Lake—Willingboro—(4)
 Laurel Pond—Mt. Laurel—(3)
 Rancocas Creek, South Branch—Medford, Mill Street Park to Branch St. Bridge—(4)
 Sylvan Lake—Burlington—(3)

4. Camden County

Haddon Lake—Audubon—(0)
 Oak Pond—Sicklerville—(4)
 Rowands Pond—Clementon—(4)

5. Cape May County

Dennisville Lake—Dennisville—(3)
 West Pond—Cape May Courthouse—(4)

6. Cumberland County

Bostwick Lake—Friesburg—(3)
 Cohansey River—Dam at Seeley's Pond to powerline above Sunset Lake, Bridgeton—(4)
 Giampietro Park Lake—Vineland—(3)
 Mary Elmer Lake—Bridgeton—(3)
 Maurice River—Willow Grove Lake dam to Sherman Avenue, Vineland—(4)
 Shaw's Mill Pond—Newport—(3)

7. Essex County

Branch Brook Park Lake—Newark—(4)
 Clarks Pond—Bloomfield—(0)
 Diamond Mill Pond—Millburn—(3)
 Verona Park Lake—Verona—(4)

8. Gloucester County

Greenwich Lake—Gibbstown—(3)
 Grenloch Lake—Turnersville—(3)
 Harrisonville Lake—Harrisonville—(3)
 Iona Lake—Iona—(3)
 Mullica Hill Pond—Mullica Hill—(3)
 Swedesboro Lake—Swedesboro—(3)

Westville Lake—Westville—(0)

9. Hudson County

West Hudson County Park Pond—Harrison—(0)
 Woodcliff Lake—North Bergen, James J. Braddock Park—(4)

10. Hunterdon County

Amwell Lake—East Amwell—(3)
 Beaver Brook—Clinton Township, entire length—(2)
 Capoolong Creek—Pittstown, entire length—(5)
 Delaware—Raritan Feeder Canal—Bulls Island to Hunterdon—Mercer County line—(6)
 Hakihokake Creek—Holland Township, entire length—(2)
 Lockatong Creek—Opdyke Road Bridge, Kingwood Township to Delaware Raritan Feeder Canal—(5)
 Mulhockaway Creek—Pattenburg, source to Spruce Run Reservoir—(5)
 Neshanic River—Kuhl Road to Hunterdon County Route 514—(2)
 Nishisakawick Creek—Frenchtown/Everittstown, entire length—(2)
 Rockaway Creek—Readington Township, entire length—(4)
 Rockaway Creek, S/Br. Lebanon to Whitehouse, entire length—(5)
 Round Valley Reservoir—Clinton Township—(3)
 Sidney Brook—Grandin, entire length—(1)
 Spring Mills Brook—Spring Mills, entire length—(2)
 Spruce Run—Glen Gardner and Lebanon Township, entire length—(5)
 Spruce Run Reservoir—Clinton—(3)
 Wickecheoke Creek—Covered Bridge County Rt. 604, Sergeantsville to Delaware River—(2)

11. Mercer County

Assunpink Creek—Assunpink Site 5 dam upstream of Rt. 130 Bridge to Carnegie Road, Hamilton Township—(4)
 Colonia Lake—Lawrence Township—(3)
 Delaware—Raritan Canal—Mulberry Street, Trenton, to Alexander St., Princeton—(4)
 Delaware—Raritan Feeder Canal—Hunterdon—Mercer County line to Upper Ferry Road Bridge—(6)
 Rosedale Lake—Rosedale—(3)
 Stony Brook—Woodsville to Port Mercer—(4)

12. Middlesex County

Farrington Lake—North Brunswick—(3)
 Hook's Creek Lake—Cheesequake State Park—(4)
 Ireland Brook—Farrington Lake to point 500 feet upstream of Riva Avenue—(2)
 Lake Papaianni—Edison—(0)
 Lawrence Brook—Dam at Farrington Lake to 2nd RR Bridge (Raritan Railroad) below Main St.—Milltown—(4)

5. During the period extending from 8:00 A.M. April 8, 2000 to September 15, 2000, no person shall have in possession while fishing any more than two legally sized dead, creeled or otherwise appropriated trout. No trout may be killed or possessed during other times of the year. Any number of trout may be caught provided they are immediately returned to the water unharmed.

6. Size limits and creel limits on species other than trout are in accordance with Statewide rules.

Amended by R.1995 d.573, effective November 6, 1995 (operative January 1, 1996).
 See: 27 N.J.R. 2657(a), 27 N.J.R. 4288(a).
 Amended by R.1996 d.493, effective October 21, 1996 (operative January 1, 1997).
 See: 28 N.J.R. 3495(a), 28 N.J.R. 4602(a).
 Amended by R.1997 d.538, effective December 15, 1997 (operative January 1, 1998).
 See: 29 N.J.R. 3217(a), 29 N.J.R. 5289(a).
 Amended by R.1998 d.541, effective November 16, 1998 (operative January 1, 1999).
 See: 30 N.J.R. 2552(a), 30 N.J.R. 4037(b).
 In (b)5, changed dates.
 Amended by R.1999 d.420, effective December 6, 1999 (operative January 1, 2000).
 See: 31 N.J.R. 1839(a), 31 N.J.R. 4013(a).
 In (b)5, changed dates.
 Amended by R.2000 d.462, effective November 20, 2000 (operative January 1, 2001).
 See: 32 N.J.R. 2532(a), 32 N.J.R. 4103(b).
 In (b)5, changed dates.

7:25-6.7 Special regulation trout fishing areas—Year-Round Trout Conservation Areas

(a) The following stream segments are designated as Year-Round Trout Conservation Areas and are subject to the provisions at (b) below governing these areas on a year-round basis:

1. Toms River, Ocean County—a one mile stretch of river from the downstream end of Riverwood Park in Dover Township, defined by markers, downstream to the Route 571 bridge;
2. East Branch of Paulinskill River, Sussex County—from the Limecrest Railroad Spur Bridge downstream to its confluence with the West Branch of the Paulinskill at Warbasse Junction, a distance of approximately 2.25 miles; and
3. South Branch Raritan River, Morris County—an approximate 1.1 mile stretch of river, locally known as the Claremont Stretch extending from the downstream end of the posted Anglers Anonymous property downstream to its junction with Electric Brook.

(b) The following shall apply to the Year-Round Trout Conservation Areas designated at (a) above:

1. Fishing in Year-Round Trout Conservation Areas is permitted year-round;
2. Only artificial lures and flies may be used. While fishing, the use or possession of any natural bait, live or preserved, is prohibited;

3. A person shall not kill or have in possession, while fishing, any trout less than 15 inches in total length;

4. A person shall not have in possession, while fishing, any substance, either as a natural or synthetic compound, that contains a concentration of bait scent or such scent enhanced bait;

5. A person shall not have in possession, while fishing, any more than one dead, creeled or otherwise obtained trout, except that trout may not be retained during pre-season and in-season stocking closures which apply to the remainder of the respective rivers where these areas exist. Additional trout may be caught provided they are returned to the water immediately and unharmed; and

6. Size limits and creel limits on species other than trout are in accordance with Statewide rules.

7:25-6.8 Special regulation trout fishing areas—Trophy Trout Lakes

(a) The following lakes are designated as Trophy Trout Lakes:

1. Round Valley Reservoir; and
2. Merrill Creek Reservoir.

(b) The following shall apply to the Trophy Trout Lakes designated at (a) above:

1. The minimum size of brown trout and rainbow trout shall be 15 inches. Daily bag and possession limit for brown trout and rainbow trout shall be two in total.
2. There shall be no closed season for brown trout and rainbow trout.
3. The minimum size for lake trout shall be 20 inches at Round Valley Reservoir and 15 inches at Merrill Creek Reservoir. The daily bag and possession limit shall be one at Round Valley Reservoir and two at Merrill Creek Reservoir.
4. The season for lake trout shall extend from 12:01 A.M., January 1, 2001 to midnight September 15, 2001 and from December 1, 2001 to midnight September 15, 2002.
5. A person shall not have in possession, while on the waters or adjacent lands of any designated Trophy Trout Lake, any fish, or any part thereof, which has been mutilated so that its size at capture cannot be determined, or so that it is unidentifiable as to species, except that this restriction shall not apply to fish which are being prepared for immediate on-site consumption.

Amended by R.1995 d.573, effective November 6, 1995 (operative January 1, 1996).
 See: 27 N.J.R. 2657(a), 27 N.J.R. 4288(a).
 Amended by R.1996 d.493, effective October 1, 1996 (operative January 1, 1997).
 See: 28 N.J.R. 3495(a), 28 N.J.R. 4602(a).

Amended by R.1997 d.538, effective December 15, 1997 (operative January 1, 1998).

See: 29 N.J.R. 3217(a), 29 N.J.R. 5289(a).

Amended by R.1998 d.541, effective November 16, 1998 (operative January 1, 1999).

See: 30 N.J.R. 2552(a), 30 N.J.R. 4037(b).

In (b), substituted "Round Valley Reservoir and two at Merrill Creek Reservoir" for "both lakes" at the end of 3, and changed dates in 4.

Amended by R.1999 d.420, effective December 6, 1999 (operative January 1, 2000).

See: 31 N.J.R. 1839(a), 31 N.J.R. 4013(a).

In (b)4, changed dates throughout.

Amended by R.2000 d.462, effective November 20, 2000 (operative January 1, 2001).

See: 32 N.J.R. 2532(a), 32 N.J.R. 4103(b).

In (b), substituted "20" for "24" preceding "inches in 3, and changed dates in 4.

7:25-6.9 Special regulation trout fishing areas—Holdover Trout Lakes

(a) The following lakes are designated as Holdover Trout Lakes:

1. Clinton Reservoir;
2. Swartswood Lake;
3. Monksville Reservoir;
4. Wawayanda Lake;
5. Sheppard's Lake;
6. Aeroflex Lake; and
7. White Lake, Warren County.

(b) The following regulations shall apply to the Holdover Trout Lakes designated at (a) above:

1. Fishing is permitted year-round.
2. There shall be a seven inch minimum size limit for any species of brook, brown or rainbow trout, or any hybrids thereof.
3. A person shall not take, kill or have in possession, in one day, more than four in total of brook trout, brown trout, rainbow trout, lake trout or hybrids thereof, during the period extending from 8:00 A.M. April 7, 2001 until May 31 2001 or more than two of these species during the periods of January 1, 2001 to midnight March 18, 2001 and June 1, 2001 through midnight March 17, 2002. Trout, if taken during the period commencing at midnight, March 18, 2001 and extending to 8:00 A.M. April 7, 2001 must be returned to the water immediately and unharmed.

Amended by R.1995 d.573, effective November 6, 1995 (operative January 1, 1996).

See: 27 N.J.R. 2657(a), 27 N.J.R. 4288(a).

Amended by R.1996 d.493, effective October 21, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3495(a), 28 N.J.R. 4602(a).

Amended by R.1997 d.538, effective December 15, 1997 (operative January 1, 1998).

See: 29 N.J.R. 3217(a), 29 N.J.R. 5289(a).

Amended by R.1998 d.541, effective November 16, 1998 (operative January 1, 1999).

See: 30 N.J.R. 2552(a), 30 N.J.R. 4037(b).

In (b), changed dates in 3.

Amended by R.1999 d.420, effective December 6, 1999 (operative January 1, 2000).

See: 31 N.J.R. 1839(a), 31 N.J.R. 4013(a).

In (a), added 7; and in (b)3, changed dates throughout.

Amended by R.2000 d.462, effective November 20, 2000 (operative January 1, 2001).

See: 32 N.J.R. 2532(a), 32 N.J.R. 4103(b).

In (b)3, changed dates throughout.

7:25-6.10 Baitfish

(a) Any person, who has a fishing license or is entitled to fish without a license, may take up to 35 baitfish per day from the freshwaters of the State.

(b) Except as provided for in trout-stocked waters listed in N.J.A.C. 7:25-6.3 to 6.9 and (c) and (d) below, up to 35 baitfish per person per day may be taken from the freshwaters of the State with a seine not over 50 feet in length in all ponds and lakes which have an area of over 100 acres, and in all other waters with a seine not to exceed 30 feet in length, or half the width of the stream at the point of use, whichever is less, year-round. Minnow traps not larger than 24 inches in length with a funnel mouth no greater than two inches in diameter, and an umbrella net no greater than 3.5 feet square may be used in any of the freshwaters of the State.

(c) In waters listed in N.J.A.C. 7:25-6.3 to be stocked with trout, it is prohibited to net, trap or attempt to net or trap baitfish from March 18 to June 15 except where the taking is otherwise provided for. For the remainder of the year, up to 35 baitfish per person per day may be taken with a seine not over 10 feet in length and four feet in depth or a minnow trap not larger than 24 inches in length with a funnel mouth no greater than two inches in diameter or an umbrella net no greater than 3.5 feet square.

(d) Up to 35 per day of alewife or blueback herring in the aggregate, may be taken per person with a dip net not more than 24 inches in diameter, hook and line or as otherwise provided for. Possession limit is one day's limit, regardless of the intent to use these fish, so taken, as bait or food.

(e) Baitfish may be taken from the freshwater of the State in numbers greater than 35 per day, under special permits issued by the Division in its discretion.

1. Required permit information shall be as follows:

- i. Permittee's name;
- ii. Permittee's address;
- iii. The location to be fished; and
- iv. The method to be used.

2. Applications shall be directed to:

New Jersey Division of Fish and Wildlife
 Bureau of Freshwater Fisheries
 PO Box 394
 Lebanon, NJ 08833-0394

3. The permittee shall agree to:
 - i. All reporting requirements;
 - ii. Return species, other than baitfish, to the water immediately and unharmed;
 - iii. Display name and address on any devices left in the water unattended;
 - iv. Operate only one device per permit;
 - v. Be present during the operation of the device;
 - vi. Not transfer the permit to other operators;
 - vii. Notification of, and permission from, the owner of the waterbody named in the application or the administering agency if that waterbody is publicly owned; and
 - viii. Comply with any local ordinances or other State laws or regulations.

Amended by R.1995 d.573, effective November 6, 1995 (operative January 1, 1996).

See: 27 N.J.R. 2657(a), 27 N.J.R. 4288(a).

Amended by R.1996 d.493, effective October 21, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3495(a), 28 N.J.R. 4602(a).

Amended by R.1997 d.538, effective December 15, 1997 (operative January 1, 1998).

See: 29 N.J.R. 3217(a), 29 N.J.R. 5289(a).

Amended by R.1998 d.541, effective November 16, 1998 (operative January 1, 1999).

See: 30 N.J.R. 2552(a), 30 N.J.R. 4037(b).

Added a new (a); recodified former (a) through (d) as (b) through (e); in the new (b), changed N.J.A.C. and internal citation references in the first sentence; and in the new (c), substituted a reference to March 21 for a reference to March 23 in the first sentence.

Amended by R.1999 d.420, effective December 6, 1999 (operative January 1, 2000).

See: 31 N.J.R. 1839(a), 31 N.J.R. 4013(a).

In (c), substituted a reference to March 19 for a reference to March 21.

Amended by R.2000 d.462, effective November 20, 2000 (operative January 1, 2001).

See: 32 N.J.R. 2532(a), 32 N.J.R. 4103(b).

In (c), substituted a reference to March 18 for a reference to March 19.

7:25-6.11 Nets

(a) Except as provided for the taking of baitfish, it shall be illegal to take fish from the freshwaters of the State by means of nets except under special permit issued by the division at its discretion and as hereafter provided for in the tidal freshwaters of New Jersey, other than the Delaware River:

1. No person shall catch or take or attempt to catch and take fish of any kind or description by means of a net, or use a net of any character except for fyke nets and bait seines used for the purpose of taking of baitfish, from

Saturday at 2:00 P.M. until the following Sunday at 12 midnight.

2. It shall be legal to take foodfish as defined in N.J.A.C. 7:25-6.2 by the following means:

- i. Haul seines, the mesh of which shall not be less than two and three quarter inches stretched while being fished and not to exceed 70 fathoms in length, whether singly or attached, for all species except striped bass may be used from November 1 to April 30.
- ii. Fykes, with leaders shall not exceed 30 feet in length and no part of the net or leaders to be larger than three inches stretched mesh or less than three quarter inch stretched measure while being fished for all species except striped bass may be used from November 1 to April 30.
- iii. Miniature fykes or pots for the taking of carp, catfish, suckers and eels, the same not to exceed 16 inches in diameter may be used from March 15 to December 15. All other species of fish which may be caught must be immediately returned, unharmed, to the waters from which they were taken.

iv. Drifting gill nets, the smallest mesh of which shall be five and one quarter inches stretched measure while being fished, and shall not exceed 100 feet in length, for all species excepting striped bass may be used from March 1 to June 15.

v. Gill nets with a mesh not smaller than two and three quarters inches stretched measure, while being fished and not exceeding 200 feet in length may be used from March 1 to June 10 for the purpose of taking blueback herring only.

3. Not more than one gill net or hauling seine shall be used from a boat.

Amended by R.1996 d.493, effective October 21, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3495(a), 28 N.J.R. 4602(a).

7:25-6.12 Snagging prohibited

The foul hooking of largemouth bass, smallmouth bass, striped bass, chain pickerel, northern pike, muskellunge, walleye, brook trout, brown trout, lake trout and rainbow trout or any of the hybrids thereof, shall be prohibited in open waters. Any of the aforementioned fish so hooked must be immediately returned to the water. This shall not apply to fish so taken through the ice during the ice fishing season. Snagging of any species is prohibited in Monksville Reservoir and its tributaries, including the Wanaque River.

7:25-6.13 Warmwater fish

(a) Except as provided in N.J.A.C. 7:25-6.3, 6.19 and 6.20, closed seasons are hereby eliminated on all freshwater fish except walleye in Monksville Reservoir, Wanaque Reservoir and the Wanaque River between Greenwood Lake and Monksville Reservoir.

(b) Except as provided in N.J.A.C. 7:25- 6.19 and 6.20, size limits prescribed for chain pickerel are hereby eliminated in all waters except in Lake Hopatcong and Swartswood Lake (Sussex County) and Hammonton Lake (Atlantic County) where there shall be a minimum size of 15 inches prescribed for chain pickerel.

(c) For those species of warmwater fish, which do not have specific daily creel and possession limits, the daily creel and possession limit shall be 25 in total.

(d) The minimum size of smallmouth bass shall be 12 inches, except for Boonton Reservoir where it shall be 15 inches.

(e) The minimum size of largemouth bass shall be 12 inches, except for Parvin Lake, Ryker Lake, Delaware Lake and Assunpink Lake where it shall be 15 inches.

(f) The daily creel and possession limit for largemouth bass and smallmouth bass shall be five in total, except for Parvin Lake, Boonton Reservoir, Split Rock Reservoir, Delaware Lake, and Assunpink Lake where it shall be three and Ryker Lake where it shall be two. During the period of April 15 through June 15 the possession of these bass is prohibited and all bass caught shall be immediately returned to the water unharmed.

(g) Warmwater fish in excess of the daily limit may be caught provided they are returned to the water immediately and unharmed.

(h) Eels may not be taken from non-tidal waters of this state by use of eel baskets, fykes, or traps of any kind, except that eel weirs may be operated under permit of the Division in accordance with N.J.S.A. 23:3-55.

(i) The minimum length prescribed for northern pike shall be 24 inches, and 30 inches for the muskellunge and tiger muskie, and the daily creel and possession limit for these species shall be two in aggregate except for Lake Hopatcong (Morris and Sussex Counties) and Monksville Reservoir (Passaic County) where the minimum length for muskellunge and tiger muskie shall be 36 inches and the daily creel and possession limit shall be one and Mountain Lake (Warren County) and Echo Lake Reservoir (Passaic County) where the minimum length shall be 40 inches and the daily creel and possession limit shall be one.

(j) Fishing for all species of freshwater fish is permitted 24 hours daily except on those days that certain trout waters are closed for stocking during March, April and May.

(k) The daily creel and possession limit for chain pickerel shall be five.

(l) The minimum length prescribed for walleye shall be 18 inches.

(m) The daily creel and possession limit for walleye shall be three, with a closed season during the period of March 1 to April 30.

(n) The minimum length for striped bass x white bass hybrid shall be 16 inches and the daily creel and possession limit shall be two, except for the Raritan River downstream of the Duke Island Park dam where the minimum length shall be 28 inches and the daily creel and possession limit shall be two.

(o) The minimum length for channel catfish shall be 12 inches. The daily creel and possession limit shall be five.

(p) The minimum length for black crappie and white crappie shall be eight inches. The daily creel and possession limit for these species shall be 10 in aggregate.

(q) The daily creel and possession limit for striped bass shall be two, one fish between 24 and 28 inches in length and one fish of 28 inches or larger.

(r) Striped bass may not be taken or possessed during the period of January 1 to February 28.

(s) Hybrid striped bass may not be taken in the Raritan River downstream of the Duke Island Park dam during the period of January 1 to February 28.

(t) The daily creel and possession limit for shad (including both American shad and hickory shad) shall be six in total.

(u) For Ryker Lake the daily creel and possession limit for sunfish and for yellow perch shall be 10 and the minimum size for sunfish shall be seven inches.

Amended by R.1993 d.139, effective April 5, 1993.

See: 25 N.J.R. 224(a), 25 N.J.R. 1556(b).

Prohibits the harvest of largemouth bass and smallmouth bass from April 15 through June 15 by establishing a catch-and-release fishery during this period.

Amended by R.1995 d.573, effective November 6, 1995 (operative January 1, 1996).

See: 27 N.J.R. 2657(a), 27 N.J.R. 4288(a).

Amended by R.1996 d.493, effective October 21, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3495(a), 28 N.J.R. 4602(a).

Amended by R.1997 d.538, effective December 15, 1997 (operative January 1, 1998).

See: 29 N.J.R. 3217(a), 29 N.J.R. 5289(a).

Amended by R.1999 d.67, effective March 1, 1999.

See: 30 N.J.R. 4203(a), 31 N.J.R. 639(a).

Added (t).

Amended by R.1999 d.420, effective December 6, 1999 (operative January 1, 2000).

See: 31 N.J.R. 1839(a), 31 N.J.R. 4013(a).

In (e), inserted references to Ryker Lake and Delaware Lake; in (f), inserted references to Delaware Lake and Ryker Lake; and added (u).

Amended by R.2000 d.462, effective November 20, 2000 (operative January 1, 2001).

See: 32 N.J.R. 2532(a), 32 N.J.R. 4103(b).

In (f), inserted a reference to Split Rock Reservoir; rewrote (i) and (q).

7:25-6.14 Ice fishing

(a) Except as provided in N.J.A.C. 7:25-6.3, ice fishing shall be permitted whenever ice is present.

(b) A person, while fishing through the ice, may use not more than five devices for the taking of fish. The types of devices that may be used are:

1. Ice supported tip-ups or lines with one single pointed hook attached;
2. An artificial jigging lure with not more than one burr of three hooks that measure not more than ½ inch from point to point;
3. An artificial jigging lure with not more than three single hooks measuring not more than ½ inch from point to shaft;
4. An artificial jigging lure with a combination of the hook limitations described in (b)2 and 3 above.

(c) Expressly prohibited are any devices with automatic hook setting capability. Natural bait may be used on the hooks of the artificial jigging lure. All devices that are not hand-held must be clearly marked with the name and address of the user and shall not be left unattended.

Amended by R.1995 d.573, effective November 6, 1995 (operative January 1, 1996).

See: 27 N.J.R. 2657(a), 27 N.J.R. 4288(a).

7:25-6.15 Bow and arrow fishing

(a) Except as provided in N.J.A.C. 7:25-6.3, 6.18 and 6.19, it shall be legal to take any species of fish except brook trout, lake trout, brown trout, rainbow trout, landlocked Atlantic salmon, largemouth bass, smallmouth bass, striped bass, chain pickerel, northern pike, walleye, muskellunge, or any hybrids of any of these species, at any time by use of bow and arrow with line attached, provided a person has a proper fishing license. For the purpose of this section a bow means any longbow, recurved bow or compound bow that is hand-held and hand-drawn.

7:25-6.16 Closed waters

(a) During the period of March 1 through June 30, it is illegal to fish, place any contrivance for the taking of fish, or attempt to catch or kill fish by any manner or means in any fish ladder or within 100 feet or as posted feet of any fish ladder entrance or exit.

(b) It is illegal to fish or attempt to catch or kill fish by any manner or means in waters within the boundaries of the State Fish Hatcheries, except where specifically permitted, that is, the Musconetcong River and Pequest River.

Amended by R.1997 d.538, effective December 15, 1997 (operative January 1, 1998).

See: 29 N.J.R. 3217(a), 29 N.J.R. 5289(a).

Amended by R.1999 d.420, effective December 6, 1999 (operative January 1, 2000).

See: 31 N.J.R. 1839(a), 31 N.J.R. 4013(a).

In (a), substituted a reference to March 1 for a reference to April 1.

7:25-6.17 Emergency closure notice

It shall be illegal to fish or attempt to catch or kill fish by any manner or means in any waters for which the Director of the Division of Fish, Game and Wildlife, upon approval of the Fish and Game Council, issues an Emergency Closure Notice. Such notice shall be effective and/or rescinded immediately upon public notification. It shall be based upon imminent threat to the well-being of the fishery resource and/or its users, and may include any exceptions to the total ban on fishing that the Director deems practical.

7:25-6.18 Wanton waste of fish prohibited

(a) Fish, of any species, taken, by any means, which are purposely killed, become part of the fisherman's daily creel or possession limit and must be removed from the waters from which they were taken, and adjacent lands, pursuant to N.J.S.A. 23:5-28. This section shall not apply to those fish which are released while still alive, by the angler, and subsequently die as a result of stress or hooking mortality.

(b) No person may tag or mark and release fish without first obtaining a special permit issued by the Division of Fish and Wildlife after a determination that the action will provide information that will be beneficial to the management of the fisheries resource and will not detract from any studies being planned or conducted by the Division of Fish and Wildlife or other scientific or educational organization. "Educational or scientific organization" means a governmental unit or a private institution that provides environmental or natural resource education to its students or a governmental unit or private institution whose primary service is the evaluation of environmental or natural resource conditions.

1. Required permit information shall be as follows:
 - i. The permittee's name;
 - ii. The permittee's address;
 - iii. The species of fish to be tagged or marked;
 - iv. The type of tag or mark to be used;
 - v. The location in which the marked fish will be released; and
 - vi. The purpose of the tagging or marking of fish.
2. Applications shall be directed to:

New Jersey Division of Fish and Wildlife
Bureau of Freshwater Fisheries
PO Box 394
Lebanon, NJ 08833-0394
3. The permittee shall agree to:
 - i. Submit a report of the results of the tagging study to the Division of Fish and Wildlife;

ii. Display permittee's name and address or phone number on fish tags;

iii. Notification of, and permission from, the owner of the waterbody named in the application or the administering agency if that waterbody is publicly owned; and

iv. Comply with any local ordinances or other State laws or regulations.

Amended by R.1998 d.541, effective November 16, 1998 (operative January 1, 1999).

See: 30 N.J.R. 2552(a), 30 N.J.R. 4037(b).

Recodified the former section as (a); and added (b).

Amended by R.2000 d.462, effective November 20, 2000 (operative January 1, 2001).

See: 32 N.J.R. 2532(a), 32 N.J.R. 4103(b).

7:25-6.19 Greenwood Lake

(a) In cooperation with the New York State Department of Environmental Conservation, Division of Fish, Wildlife and Marine Resources, the following regulations for Greenwood Lake, which lies partly in Passaic County, New Jersey, and partly in Orange County, New York, are made a part of the New Jersey State Fish and Game Code and will be enforced on the whole lake by the conservation authorities of both states.

1.

Species	Season	Size	Daily Bag Limit
Trout	No closed season	No minimum	3
Largemouth bass and smallmouth bass	Jan. 1-April 14, and June 16-Dec. 31 April 15-June 15	12 inch minimum	5 singly or in aggregate
Chain pickerel	No closed season	15 inch minimum	5
Muskellunge and any hybrid thereof	No closed season	36 inch minimum	1
Walleye	Jan. 1-Feb. 28 and May 1, 2001-Feb. 28, 2002	18 inches	3
Channel catfish	No closed season	12 inches	5
Black crappie and white crappie	No closed season	8 inches	10 singly or in total
All other species	No closed season	No minimum	No limit

2. On Greenwood Lake, it shall be legal for any ice fisherman to use up to five tip-ups and two hand-held devices for the taking of fish. All devices that are not hand-held must be plainly marked with the name and address of the angler. The ice fishing season is from ice-in to ice-out (when ice is present in a sufficient quantity to support fishing activities).

3. On Greenwood Lake, fishing will be permitted 24 hours a day.

4. Either New York or New Jersey fishing licenses will be honored on all of Greenwood Lake.

5. Bow and arrow fishing for carp, suckers, herring, catfish and eels by properly licensed fishermen, will be permitted on Greenwood Lake.

Amended by R.1995 d.573, effective November 6, 1995 (operative January 1, 1996).

See: 27 N.J.R. 2657(a), 27 N.J.R. 4288(a).

Amended by R.1996 d.493, effective October 21, 1996 (operative January 1, 1996).

See: 28 N.J.R. 3495(a), 28 N.J.R. 4602(a).

Amended by R.1997 d.538, effective December 15, 1997 (operative January 1, 1998).

See: 29 N.J.R. 3217(a), 29 N.J.R. 5289(a).

Amended by R.1998 d.541, effective November 16, 1998 (operative January 1, 1999).

See: 30 N.J.R. 2552(a), 30 N.J.R. 4037(b).

In (a)1, changed dates for walleye.

Amended by R.1999 d.420, effective December 6, 1999 (operative January 1, 2000).

See: 31 N.J.R. 1839(a), 31 N.J.R. 4013(a).

In (a)1, changed dates for walleye season.

Amended by R.2000 d.462, effective November 20, 2000 (operative January 1, 2001).

See: 32 N.J.R. 2532(a), 32 N.J.R. 4103(b).

In (a)1, changed dates for walleye season.

7:25-6.20 Delaware River between New Jersey and Pennsylvania

(a) In cooperation with the Pennsylvania Fish Commission, the following regulations for the Delaware River between New Jersey and Pennsylvania are made a part of the New Jersey State Fish and Game Code and will be enforced by the conservation authorities of each state.

1.

Species	Season	Size	Daily Bag Limit
Trout	April 8-Sept. 30	No minimum	5
American Shad and Hickory Shad	No closed season	No minimum	6 singly or in aggregate
Largemouth bass and smallmouth bass	No closed season	12 inch minimum	5 in total
Walleye	No closed season	18 inch minimum	3
Chain pickerel	No closed season	12 inch minimum	5
Muskellunge, and any hybrid thereof	No closed season	30 inch minimum	2
Northern pike	No closed season	24 inch minimum	2
Baitfish, fish bait	No closed season	No minimum	50
Shortnose sturgeon	Closed—endangered species		
Striped bass	Downstream of Route 1	24 inches to	2 in total
and striped bass X white	Bridge March 1-30 and June 1-Dec. 31	28 inches or 28 inches or	1
bass hybrid	Upstream of Route 1	greater	1
	Bridge March 1-Dec. 31		
All other freshwater species	No closed season	No minimum	No limit

2. Angling may be done with two rods each with one line or two lines or one of each. Not more than three single hooks or three burrs of three hooks each may be used per line.

3. Ice fishing shall be legal whenever ice is present. Open (unfrozen) water creel and size limits shall apply. The maximum size of the ice hole shall not exceed 10 inches in diameter. Five tip-ups or any combination of five devices that will include tip-ups of not more than two rods and lines or two hand lines or one of each may be used.

4. Spears (not mechanically propelled) and longbows may be used to take shad, eels, carp, suckers, herring and bullheads by properly licensed fishermen, except within 50 rods (825 feet) of an eel weir.

5. Bait fish, including alewife and blueback herring, may be taken and possessed for personal uses but not to exceed 50 per day.

6. Eel weirs for the catching of carp, catfish, eels, and suckers only, may be operated under permit from the Division of Fish and Wildlife at any time of the year and at any time of day.

Amended by R.1995 d.573, effective November 6, 1995 (operative January 1, 1996).

See: 27 N.J.R. 2657(a), 27 N.J.R. 4288(a).

Amended by R.1996 d.493, effective October 21, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3495(a), 28 N.J.R. 4602(a).

Amended by R.1997 d.538, effective December 15, 1997 (operative January 1, 1998).

See: 29 N.J.R. 3217(a), 29 N.J.R. 5289(a).

Amended by R.1998 d.541, effective November 16, 1998 (operative January 1, 1999).

See: 30 N.J.R. 2552(a), 30 N.J.R. 4037(b).

In (a)1, changed dates for trout.

Amended by R.1999 d.67, effective March 1, 1999.

See: 30 N.J.R. 4203(a), 31 N.J.R. 639(a).

In (a)1, inserted a reference to American Shad and Hickory Shad.

Amended by R.1999 d.420, effective December 6, 1999 (operative January 1, 2000).

See: 31 N.J.R. 1839(a), 31 N.J.R. 4013(a).

In (a)1, changed April date in trout season, and substituted references to the Route 1 Bridge for references to Trenton Falls in striped bass and striped bass x white bass hybrid season.

Amended by R.2000 d.462, effective November 20, 2000 (operative January 1, 2001).

See: 32 N.J.R. 2532(a), 32 N.J.R. 4103(b).

In (a)1, changed daily bag limit by size in reference to striped bass and striped bass x white bass hybrids.

7:25-6.21 Fresh Tidal Tributaries of the Delaware River and Bay

Atlantic sturgeon may not be taken or possessed at any time.

Amended by R.1998 d.541, effective November 16, 1998 (operative January 1, 1999).

See: 30 N.J.R. 2552(a), 30 N.J.R. 4037(b).

Rewrote the section.

7:25-6.22 Snapping turtles, bull frogs and green frogs

(a) Any person who has a fishing license or is entitled to fish without a license may in the waters of the State, take snapping turtles, bull frogs and green frogs by means of spears, hooks, dip nets not more than 24 inches in diameter,

traps or by hand. Turtles shall not be taken with a gun or bow and arrow. The use of set lines is prohibited.

(b) The daily limit for snapping turtles shall be three and the daily limit for both bull frogs and green frogs shall be 15 in total.

(c) The open season for taking of snapping turtles shall extend from January 1, 2001 through April 30, 2001 and from June 16, 2001 through April 30, 2002. The open season for the taking of bull frogs and green frogs shall be from January 1, 2001 through March 31, 2001 and from July 1, 2001 and through March 31, 2002.

(d) Snapping turtles, bull frogs and green frogs may be taken in numbers greater than the daily limit under special permit issued by the Division at its discretion.

1. Required permit information is as follows:

i. The applicant's name;

ii. The applicant's address and telephone number; and

iii. The time period for permit.

2. Applications shall be directed to:

New Jersey Division of Fish and Wildlife

Bureau of Freshwater Fisheries

PO Box 400

Trenton, New Jersey 08625-0400

3. The following information will be needed by the Division to grant the permit:

i. Why is the extension necessary;

ii. How long will the extension be needed;

iii. Where will the trapping activity take place; and

iv. What method will be used.

4. The permittee shall agree to:

i. Comply with all reporting requirements in this subchapter;

ii. Display his or her name and address on any traps left in the water unattended;

iii. Notification of, and permission from, the owner of the waterbody where the trap is set;

iv. Tend all traps at least once every 24 hours;

v. Use only those traps that provide a means of escape, or survival, of species of turtles other than snapping turtles; and

vi. Comply with any local ordinances.

(e) Those species of frogs and turtles listed as State Threatened or Endangered may not be pursued, taken,

killed or possessed. The possession of other species of frogs and turtles is regulated under N.J.S.A. 23:2A-6.

Amended by R.1994 d.234, effective May 16, 1994.

See: 26 N.J.R. 1047(a), 26 N.J.R. 2021(a).

Amended by R.1995 d.573, effective November 6, 1995 (operative January 1, 1996).

See: 27 N.J.R. 2657(a), 27 N.J.R. 4288(a).

Amended by R.1996 d.493, effective October 21, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3495(a), 28 N.J.R. 4602(a).

Amended by R.1997 d.538, effective December 15, 1997 (operative January 1, 1998).

See: 29 N.J.R. 3217(a), 29 N.J.R. 5289(a).

Amended by R.1998 d.541, effective November 16, 1998 (operative January 1, 1999).

See: 30 N.J.R. 2552(a), 30 N.J.R. 4037(b).

In (c), changed dates.

Amended by R.1999 d.420, effective December 6, 1999 (operative January 1, 2000).

See: 31 N.J.R. 1839(a), 31 N.J.R. 4013(a).

In (c), changed dates throughout.

Amended by R.2000 d.462, effective November 20, 2000 (operative January 1, 2001).

See: 32 N.J.R. 2532(a), 32 N.J.R. 4103(b).

In (c), changed dates throughout.

7:25-6.23 Special permit organizations providing care for disabled persons

(a) The Director of the Division of Fish and Wildlife may issue a permit to organizations that provide care for disabled persons authorizing those disabled persons to fish in a specified body of water, on a designated date, provided they are escorted by the staff of the organization, without a license or stamp as required by Title 23 of the New Jersey Statutes. This permit allows the taking of any species at any location at any time, subject to the following requirements. For the purposes of this section, an "organization that provides care for the disabled" shall mean a governmental or licensed private care facility that is responsible for the physical or mental developmental health of persons who have a lifelong need of supervised care. "Disabled person" shall mean a person who has a condition that substantially limits one or more of the major life functions such as caring for themselves, or limited mental development that prevents a person's caring for themselves, seeing, hearing, or speaking.

(b) Applications shall be made to the Division of Fish and Wildlife, Bureau of Freshwater Fisheries, PO Box 400, Trenton, New Jersey 08625-0400. Applications shall be submitted at least 21 days prior to the event upon the organization's letterhead stationery. Applications shall contain the date or dates of the proposed event, the body of water involved, the number of disabled persons who will be authorized by the permit, and the number of care providers. Angling under the authority of this permit shall be in accordance to season, size, creel limit and equipment restrictions. The permit shall be issued when the Director determines that the event will provide a natural resource educational experience for disabled persons consistent with the goals of the Division of Fish and Wildlife.

New Rule, R.1997 d.538, effective December 15, 1997 (operative January 1, 1998).

See: 29 N.J.R. 3217(a), 29 N.J.R. 5289(a).

Amended by R.2000 d.462, effective November 20, 2000 (operative January 1, 2001).

See: 32 N.J.R. 2532(a), 32 N.J.R. 4103(b).

7:25-6.24 Permits issued to educational or scientific organizations

(a) Educational or scientific organizations may apply to the Director, subject to approval by the Fish and Game Council, for a permit that shall authorize their participation in fisheries notwithstanding the requirements of N.J.A.C. 7:25-6. This permit would allow the taking of any species at any location at any time, subject to the requirements of this section. This permit shall satisfy any licensing requirement associated with such activity. Such permit shall be effective and/or rescinded immediately upon public notification. For the purposes of this section, "educational or scientific organization" shall mean a governmental unit or private institution that provides environmental or natural resource education to its students or a governmental unit or private institution whose primary service is the evaluation of environmental or natural resource conditions.

(b) Applications shall be submitted to the Division of Fish and Wildlife, Bureau of Freshwater Fisheries, PO Box 400, Trenton, New Jersey 08625-0400. Applications shall contain the dates of the proposed event, the body or bodies of water involved, the details of the activity, including a listing of any equipment that is expected to be used, the disposition of any aquatic life collected, and the number of persons who will be authorized by the permit. The Director shall grant the permit after a determination that the event will provide a natural resource educational experience or a scientific investigation consistent with the goals of the Division that cannot otherwise be accomplished in conformance with N.J.A.C. 7:25-6.

New Rule, R.1997 d.538, effective December 15, 1997 (operative January 1, 1998).

See: 29 N.J.R. 3217(a), 29 N.J.R. 5289(a).

Amended by R.2000 d.462, effective November 20, 2000 (operative January 1, 2001).

See: 32 N.J.R. 2532(a), 32 N.J.R. 4103(b).

SUBCHAPTER 7. MISCELLANEOUS SHELLFISH RULES

Subchapter Historical Note

All provisions of Subchapter 7 became effective prior to September 1, 1969. Subchapter 7 expired on March 13, 1984 pursuant to Executive Order No. 6(1978). N.J.A.C. 7:25-7.13 was filed and became effective as an emergency new rule on October 31, 1984 (operative November 1, 1984, to expire December 31, 1984), as R.1984 d.537. See: 16 N.J.R. 3216(a). N.J.A.C. 7:25-7.13 was readopted effective March 18, 1985 as R.1985 d.131. See: 16 N.J.R. 3216(a), 17 N.J.R. 697(a). N.J.A.C. 7:25-7.10 and 7:25-7.11 were filed as new rules effective August 5, 1985 as R.1985 d.401. See: 16 N.J.R. 3385(a), 17 N.J.R. 1883(a). See chapter and section levels for further amendments.

7:25-7.1 through 7:25-7.9 (Reserved)

7:25-7.10 Taking of oysters

(a) No person shall catch, take or attempt to catch or take by tonging or by any hand-operated device any oysters in the waters of this State unless such person has in his or her possession a valid oyster license issued by the Bureau of Shellfisheries of the Division of Fish, Game and Wildlife.

1. The fee for an oyster license shall be \$10.00 and it shall expire at the end of the calendar year in which it was issued, except that no fee shall be charged for a recreational license issued to a resident of this State who is 62 or more years old.

R.1981 d.199, effective July 9, 1981.
 See: 13 N.J.R. 125(a), 13 N.J.R. 403(d).
 Amended by R.1982 d.337, effective October 18, 1982.
 See: 14 N.J.R. 629(a), 14 N.J.R. 1158(b).

(a)1: free "recreational license" provided for residents 62 and over. New Rule, R.1985 d.401, effective August 5, 1985.
 See: 16 N.J.R. 3385(a), 17 N.J.R. 1883(b).

This section expired March 13, 1984 pursuant to Executive Order 66(1978). The adoption reinstated the rule.

7:25-7.11 Mussels

(a) No person shall take mussels (*Mytilus edulis*) by any means whatsoever upon any of the lands lying under the tidal waters of this State before sunrise or after sunset or at any time on Sunday.

(b) "Person," as used in this section, shall include, but not be limited to, the captain or other person responsible for the operation of any vessel.

R.1975 d.133, effective May 19, 1975.
 See: 7 N.J.R. 146(a), 7 N.J.R. 261(b).
 New Rule, R.1985 d.401, effective August 5, 1985.
 See: 16 N.J.R. 3385(a), 17 N.J.R. 1883(b).

This section expired March 13, 1984 pursuant to Executive Order 66(1978). The adoption reinstated the rule.

7:25-7.12 through 7:25-7.13 (Reserved)

SUBCHAPTER 8. CLAM LICENSES

Subchapter Historical Note

All provisions of Subchapter 8, Clam Dredging, were filed and became effective January 7, 1973 as R.1972 d.3. Subchapter 8, Clam Dredging, was repealed by R.1986 d.234, effective June 16, 1986. See: 18 N.J.R. 784(a), 18 N.J.R. 1279(b). Subchapter 8, Clam Licenses, became effective January 3, 1989 as R.1989 d.26. See: 20 N.J.R. 2666(a), 21 N.J.R. 55(a).

7:25-8.1 Scope and authority

This subchapter constitutes the rules governing the issuance and use of recreational resident and non-resident, juvenile and commercial clam licenses pursuant to the authority of N.J.S.A. 13:1D-9, 50:1-5, P.L. 1988 c.35, and N.J.S.A. 50:2-1 et seq.

7:25-8.2 Purpose

The purpose of this subchapter is to establish the fees for recreational resident and non-resident, juvenile and commercial clam licenses, to provide necessary restrictions on the use of these licenses, and to establish the Shellfisheries Enforcement Fund, into which these fees shall be deposited.

7:25-8.3 Construction

This subchapter shall be liberally construed to permit the Department to effectuate the purposes of N.J.S.A. 13:1D-9, 50:1-5, P.L. 1988 c.35, and N.J.S.A. 50:2-1 et seq.

7:25-8.4 Applicability

This subchapter applies to the harvest of clams from any of the natural clam grounds in the waters of the State.

7:25-8.5 Licenses

(a) Any person engaged in the harvest of clams from any of the natural clam grounds in the waters of the State shall first obtain the appropriate license, as set forth in (b)1 to 3 below, issued by the Division of Fish, Game and Wildlife, Bureau of Shellfisheries, or its designated agents. Licenses to harvest clams shall only be available to natural persons and only licensees may harvest clams from the natural clam grounds of the State.

(b) The following licenses are available for the harvest of clams:

1. Any person harvesting clams not in excess of 150 clams per day shall first obtain either a resident recreational clam license or a nonresident recreational clam license;
2. Any person under 14 years of age harvesting clams not in excess of 150 clams per day shall obtain a juvenile recreational clam license; and
3. Any person of any age harvesting more than 150 clams per day shall first obtain a commercial clam license.

(c) Whenever a person in possession of a commercial clam license in any vessel or vehicle is engaged in any clamming activity, all other persons on or in that vessel or vehicle harvesting clams shall also possess a commercial clam license.

(d) Clams harvested by a person in possession of a recreational clam license shall not be commingled with clams harvested by a person in possession of a commercial clam license.

7:25-8.6 License fees

(a) The license fees for the license described in N.J.A.C. 7:25-8.5 shall be as follows:

1. Resident recreational clam license, persons under 62 years of age: \$10.00;
2. Resident recreational clam license, persons 62 or more years of age: No Fee;
3. Nonresident recreational clam license: \$20.00;
4. Juvenile clam license: \$2.00; and
5. Commercial clam license: \$50.00.

(b) All clam license fees collected pursuant to this subchapter shall be deposited into the Shellfisheries Law Enforcement Fund.

SUBCHAPTER 9. HARD CLAM SIZE LIMITS

Subchapter Historical Note

All provisions of Subchapter 9, Resolutions of Shellfisheries Council, became effective prior to September 1, 1969. Amendments became effective December 15, 1975 as R.1975 d.365. See: 8 N.J.R. 14(a). Further amendments became effective September 6, 1977 as R.1977 d.338. See: 9 N.J.R. 464(b). Further amendments became effective September 27, 1977 as R.1977 d.363. See: 9 N.J.R. 512(b). Further amendments became effective September 17, 1980 as R.1980 d.395. See: 12 N.J.R. 456(a), 12 N.J.R. 576(d). Further amendments became effective October 7, 1980 as R.1980 d.433. See: 12 N.J.R. 454(b), 12 N.J.R. 643(a). Further amendments became effective July 9, 1981 as R.1981 d.256. See: 13 N.J.R. 126(a), 13 N.J.R. 404(c). Further amendments became effective October 8, 1981 as R.1981 d.362. See: 13 N.J.R. 404(b), 13 N.J.R. 706(a). Further amendments became effective July 5, 1983 as R.1983 d.270. See: 14 N.J.R. 689(a), 15 N.J.R. 1095(a). Further amendments became effective October 17, 1983 as R.1983 d.461. See: 15 N.J.R. 1220(a), 15 N.J.R. 1762(a). Subchapter 9, Resolutions of Shellfisheries Council, expired pursuant to Executive Order 66(1978) on September 17, 1985. A new Subchapter 9, Hard Clam Size Limits, became effective June 16, 1986 as R.1986 d.231. See: 18 N.J.R. 146(a), 18 N.J.R. 1280(a).

7:25-9.1 Scope

This subchapter constitutes the rules governing the minimum size of hard clams allowed to be harvested in New Jersey. Nothing in this subchapter or in N.J.A.C. 7:12 or 7:17 shall prevent the harvest and replanting of hard clams with shell length less than one and one-half inches when such harvest and replanting are an express part of a program designed and directed by the department to prevent the loss of hard clams which might occur under conditions such as channel dredging or other destructive action.

7:25-9.2 Purpose

The purpose of this subchapter is to provide a means to control the minimum size of hard clams harvested in New Jersey.

7:25-9.3 Construction

These rules shall be liberally construed to permit the Department to effectuate the purposes of N.J.S.A. 50:1-5.

7:25-9.4 Definitions

The following term, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

“Clam hatchery” means any operation which obtains clams through the process of artificial spawning and culture methods.

7:25-9.5 Taking of hard clams

(a) No person shall take, attempt to take, possess, sell, offer for sale, purchase, or attempt to purchase hard clams. Mercenaria mercenaria, with a shell length less than one and one-half inches provided, however, where all clams are in containers, no violation shall be deemed to have occurred where no more than three percent of the number of clams in possession in any single container have a shell length less than one and one-half inches, and where non-containerized clams are in possession, no violation shall be deemed to have occurred where no more than three percent of total number of clams in possession have a shell length less than one and one-half inches.

(b) Clams shall be culled by the harvester where taken, and all clams less than one and one-half inches in shell length shall be redeposited immediately on the bottom from where they were harvested.

(c) Possession and sale of hatchery-reared clams by a clam hatchery and purchase and possession of hatchery-reared clams from a clam hatchery shall be exempt from the provisions of (a) and (b) above provided that the purpose of this possession and sale or purchase is for planting and rearing hard clams to market size (that is, not less than one and one-half inches). Possession and/or sale of hatchery-reared seed clams less than one and one-half inches in length for the purpose of marketing and consumption shall not be exempt from the provisions of (a) and (b) above and shall not be permitted.

(d) Enforcement personnel shall seize all hard clams less than one and one-half inches in length which are in violation of N.J.A.C. 7:25-9.5 and return them to estuarine waters.

7:25-9.6 Penalties

(a) The penalty for a first offense violation of N.J.A.C. 7:25-9.5, where no more than 100 hard clams fail to meet the regulatory minimum, shall be as follows:

Number of clams	Penalty
1- 20	\$ 20.00
21- 40	\$ 50.00
41-100	\$100.00

(b) The penalty for a first offense violation of N.J.A.C. 7:25-9.5, where more than 100 hard clams fail to meet the regulatory minimum, shall be as prescribed at N.J.S.A. 23:2B-14a(1) for the first offense, that is, not less than \$100.00 or more than \$3,000 for the first offense.

(c) The penalty for any subsequent offense, regardless of number of hard clams involved, shall be as prescribed at N.J.S.A. 23:2B14(a)1 for any subsequent offense, that is, not less than \$200.00 or more than \$5,000.

SUBCHAPTER 10. POSSESSION, PROPAGATION, LIBERATION, SALE AND IMPORTATION OF GAME ANIMALS AND GAME BIRDS

Subchapter Historical Note

All provisions of Subchapter 10, Maurice River Oyster Cove Resolution, became effective October 23, 1973 as R.1973 d.302. See: 5 N.J.R. 371(a). Amendments became effective October 7, 1980 as R.1980 d.433. See: 12 N.J.R. 454(b), 12 N.J.R. 643(a). Subchapter 10, Maurice River Oyster Cove Resolution, was repealed September 19, 1973. A new Subchapter 10, Possession, Propagation, Liberation, Sale and Importation of Game Animals and Game Birds, became effective June 16, 1986 as R.1986 d.233. See: 18 N.J.R. 533(a), 18 N.J.R. 1280(b).

7:25-10.1 Scope

This subchapter shall constitute the rules governing the possession, propagation, liberation, sale and importation of game mammals and game birds pursuant to N.J.S.A. 23:3-28 through 39.

7:25-10.2 Construction

This subchapter shall be liberally construed to permit the department to discharge its statutory functions.

7:25-10.3 Purpose

This subchapter is promulgated to regulate the possession, propagation, liberation, sale, and importation of game mammals and game birds through a permit system, with conditions associated therewith, to be issued at the discretion of the division.

7:25-10.4 Definitions

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

“Department” means the New Jersey Department of Environmental Protection.

“Division” means the Division of Fish, Game and Wildlife or its successor within the Department of Environmental Protection.

“Director” means the Director of Fish, Game and Wildlife or his successor within the Department of Environmental Protection.

“Game animal” means any mammal for which a legal hunting or trapping season has been established in New Jersey, identified in this subchapter, or designated a game animal by the Fish and Game Council in the annual game code.

“Game bird” means any bird for which a legal hunting season has been established in New Jersey, identified in this subchapter, or designated a game bird by the Fish and Game Council in the annual game code.

“Person” shall include, but is not limited to, corporations, companies, associations, societies including nonprofit organizations, firms, partnerships, joint stock companies, individuals, and governmental entities.

“Qualified person” means a natural person presenting to the division the written testimonials from two well-known scientists certifying to the good character and fitness of the person to be entrusted with the privilege of holding the relevant permit.

7:25-10.5 Permit required

(a) Except as hereinafter provided, no person shall have in possession any game animal or game bird unless that person has first received a permit from the division. The permit form and permit application form shall be prescribed by and be obtainable from the division.

(b) No person shall liberate within this state any game animal or game bird unless that person has first received a permit therefor from the division.

(c) No person shall import into this state any game animal or game bird unless that person has first received a permit therefor from the division.

(d) The permit requirement pursuant to this section shall not apply to game animals and game birds legally taken or killed pursuant to the general hunting and fishing license statutes, N.J.S.A. 23:3-1 through 22, and during the season therefor.

7:25-10.6 Game animals and game birds for which a permit is required for possession

(a) A permit shall be required for possession of game animals including the following mammals:

1. Eastern cottontail rabbit (*Sylvilagus floridanus*);
2. Whitetail jackrabbit (*Lepus townsendi*);

3. Blacktail jackrabbit (*Lepus californicus*);
4. European hare (*Lepus europaeus*);
5. Eastern gray squirrel (*Sciurus carolinensis*);
6. Woodchuck (*Marmota monax*);
7. Beaver (*Castor canadensis*);
8. River otter (*Lutra canadensis*);
9. Muskrat (*Ondatra zibethicus*);
10. Nutria (*Myocaster coypus*);
11. Mink (*Mustela vison*);
12. Weasel (*Mustela spp.*);
13. Virginia opossum (*Didelphis virginiana*);
14. Striped skunk (*Mephitis mephitis*);
15. Raccoon (*Procyon lotor*);
16. Red fox (*Vulpes vulpes*);
17. Gray fox (*Urocyon cinereoargenteus*);
18. Coyote (*Canis latrans*);
19. Black bear (*Ursus americanus*);
20. Bobcat (*Felis rufus*);
21. Whitetail deer (*Odocoileus virginianus*).

(b) A permit shall be required for possession of the following game birds:

1. Family Anatidae:
 - i. Geese;
 - ii. Brant;
 - iii. Tundra swans; and
 - iv. Whistling, dabbling, diving, and sea ducks;
2. Family Rallidae:
 - i. Rails;
 - ii. Moorhens;
 - iii. Coots; and
 - iv. Mud hens;
3. Family Charadriidae:
 - i. Plovers;
 - ii. Surf birds; and
 - iii. Shorebirds;
4. Family Scolopacidae:
 - i. Sand pipers;
 - ii. Woodcock;
 - iii. Snipe;

6. Protection of the public: The housing facilities must also be constructed to prevent public access to, and contact with, the animal. The potentially dangerous species may not be kept as a household pet except when compelled by the infancy of the animal. The public must not be allowed access to the animal, including animals used for exhibition purposes.

7:25-10.12 Denial, suspension, revocation, and hearings

(a) The department may suspend the permits described in N.J.A.C. 7:25-10.7 and 7:25-10.10 for periods of time up to their duration upon the violation of any permit condition or any regulation appearing in this subchapter. The department may revoke the permits described in N.J.A.C. 7:25-10.7 and 7:25-10.10 upon finding in any five-year period two or more violations of any permit condition(s) or any regulation appearing in this subchapter. After revocation, no permit shall be issued to the violator within two years from the date of the second violation, or within three years from the date of the third or subsequent violation.

(b) In the event the department determines the necessity for denial of a permit application for, suspension of, or revocation of, any permit described in N.J.A.C. 7:25-10.7 and 7:25-10.10, the department shall issue a notice of intent to deny, suspend, or revoke, setting forth the reasons for such action. Where appropriate, a compliance directive shall accompany the notice of intent.

(c) The recipient of the notice of intent may request a contested case hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, by filing a written request with the Department therefor within 20 days from the receipt of the notice of intent described above at (b). The request for a hearing shall be sent to the Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, CN 402, Trenton, New Jersey 08625-0402.

1. A request for a contested case hearing shall clearly state:

- i. The name of the recipient;
- ii. The departmental decision from which the recipient seeks relief;
- iii. The details of how the departmental decision aggrieves the recipient; and
- iv. The findings of fact incorporated within the notice of intent that the recipient contests.

2. The department shall review each hearing request and, upon a determination that the matter constitutes a contested case, grant a hearing. The denial of a request for a contested case hearing shall be considered to be final agency action on the matter.

3. The granting of a request for a contested case hearing shall not automatically stay the suspension or revocation.

(d) In the case of a notice of suspension or revocation of a permit issued pursuant to N.J.A.C. 7:25-10.10(b), the recipient of such notice shall immediately comply with any departmental directive as to disposal of the captive potentially dangerous species.

(e) Notwithstanding the provision at (c)3 above, in the case of a notice of suspension or revocation of a permit issued pursuant to N.J.A.C. 7:25-10.7, the recipient of such notice shall comply with any departmental directive as to disposal of the captive species upon final suspension or revocation.

Administrative correction and change in (c).
See: 23 N.J.R. 3325(b).

7:25-10.13 Miscellaneous provisions

(a) Any person who transfers possession, as distinguished from ownership, or location of any game animal or game bird for which a permit has been issued, shall, within 48 hours, report in writing to the division exactly which animal(s) was transferred, the name and address of the person to whom the animal(s) was transferred and the location to which the animal(s) was transferred. No transfer shall be permitted without prior written approval of the division of a potentially dangerous species as defined at N.J.A.C. 7:25-10.10.

(b) Any person, issued a permit, who violates or fails to continually conform to the criteria established for the issuance of his permit, shall be considered to have violated an express condition of the permit and shall be deemed to be in possession of the animal or bird without a permit. Permit violators shall be subject to prosecution for possession of the animal or bird without a permit, and may be subject to the penalty prescribed by statute.

(c) No person shall acquire additional game animals or game birds under any one permit without prior written permission from the division. Progeny of permitted captive game animals or game birds are exempt from this requirement provided the permittee can biologically substantiate the increase in numbers from permitted captive game animals or game birds and reports the increase on the annual inventory report.

(d) As a condition of any permit issued under this subchapter the division may require the permitted game animal or game bird be quarantined for the period specified by the division.

(e) Any permittee shall allow division personnel, at any reasonable time, to inspect the housing facilities of the permitted species to determine compliance with the permit requirements and criteria.

(f) Nothing in this subchapter relative to the possession of Game Animals and Game Birds is intended to preempt any federal, state, or local requirement that is more stringent nor exempt any person from obtaining any permit required by these governmental entities.

(g) Game animals and birds possessed under these permits may be dispatched in a manner as directed by N.J.S.A. 23:3-31 for legitimate purpose, including, but not limited to, the following:

1. Euthanasia of sick, injured or surplus animals, in order to cull individuals to prevent overcrowding or spread of disease; such euthanasia can also be ordered by the Commissioner when necessary to prevent spread of disease;
2. To utilize as food, or to utilize the hide, skin, or other body parts; record-keeping and tagging requirements must comply with those described in N.J.S.A. 23:3-28 to 39;
3. Euthanasia by an agent of the Division or as ordered by the Commissioner;
4. When an animal creates a danger or serious threat to persons or other animals as determined by the Commissioner; or
5. Euthanasia of research animals held under the scientific holding permit.

Amended by R.1991 d.132, effective March 18, 1991.
See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).
Added (g).

SUBCHAPTER 11. (RESERVED)

Subchapter Historical Note

Subchapter 11, Endangered Species, was filed pursuant to N.J.S.A. 23:2A-4 as R.1974 d.348, effective December 19, 1974. See: 7 N.J.R. 6(c). Amendments and additional rules became effective June 13, 1975 as R.1975 d.164; February 22, 1977 as R.1977 d.39; March 29, 1979 as R.1979 d.128; and January 17, 1984 as R.1983 d.638. See: 7 N.J.R. 146(b), 7 N.J.R. 311(a); 8 N.J.R. 175(a), 9 N.J.R. 118(c); 11 N.J.R. 10(a), 11 N.J.R. 229(a); 15 N.J.R. 1623(a), 16 N.J.R. 131(b). On April 16, 1984, R.1984 d.132 recodified N.J.A.C. 7:25-11.1 through 7:25-11.4 as a part of 7:25-4, Endangered, Nongame and Exotic Wildlife. See 16 N.J.R. 97(b), 16 N.J.R. 889(a).

SUBCHAPTER 12. SURF CLAMS

Authority

N.J.S.A. 13:1B-3; 13:1D-9; 23:2B-9; 23:2B-14;
23:4-52; 50:2-6.1 through 50:2-6.3.

Source and Effective Date

Emergency Repeal and New Rules, R.1991 d.49, effective January 4, 1991 (operative January 6, 1991). See: 23 N.J.R. 223(a).
Adopted Concurrent Repeal and New Rules,
R.1991 d.173, effective March 5, 1991.
See: 23 N.J.R. 223(a), 23 N.J.R. 1001(a).

Subchapter Historical Note

Subchapter 12, Sea Clams, was repealed and replaced by Subchapter 12, Surf Clams, by R.1990 d.46, effective January 16, 1990. See: 21 N.J.R. 3214(a), 22 N.J.R. 183(a).

7:25-12.1 Scope and authority

This subchapter constitutes the rules of the Department of Environmental Protection governing the protection, conservation, management and improvement of the surf clam resource and industry in New Jersey.

Case Notes

New Jersey has no statutory or regulatory prohibition on the creation of security interests in clamming licenses; creditor entitled to proceeds of clamming license sale to satisfy its perfected security interest in general intangibles of the debtor. First Pennsylvania Bank, N.A. v. Wildwood Clam Co., Inc., 535 F.Supp. 266 (E.D.Pa.1982).

7:25-12.2 Purpose

The purpose of this subchapter is to regulate the harvest of surf clams from New Jersey waters in order to conserve, protect, manage and improve the surf clam resource and industry. The surf clam harvest regulatory program includes a limitation on the number of available licenses, a limitation on harvest to specific fishing times and areas, establishment of a seasonal harvest quota and other control methods as may be necessary.

7:25-12.3 Construction

These rules shall be liberally construed to permit the Department to effectuate the purposes of N.J.S.A. 50:1.5, 50:2-6.1 through 50:2-6.3 and 23:2B-14.

7:25-12.4 Severability

If any section, subsection, provision, clause or portion of this subchapter, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the section, subsection, provision, clause, portion or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the remainder of this subchapter or the application thereof to other persons.

7:25-12.5 Definitions

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

“Approved waters” means waters meeting established sanitary standards for approved shellfish harvesting, as delineated at N.J.A.C. 7:12.

“Bait clams” means surf clams taken from condemned waters, not for human consumption but only for use as bait.

“Bait clam vessel” means a vessel holding a bait clam vessel license issued pursuant to N.J.A.C. 7:25-12.15.

“Bushel” means 1.88 cubic feet of clams within the shell.

“Cage” means a container with a standard unit of measure containing 60 cubic feet (1,700 liters). The outside dimensions of a standard cage generally are three feet (91 cm) wide, four feet (122 cm) long, and five feet (152 cm) high.

“Commissioner” means the Commissioner of Environmental Protection or his or her designee.

“Condemned waters” means waters not meeting established sanitary standards for approved shellfish harvesting, including waters designated as Prohibited, Specially Restricted, Seasonal Special Restricted and Seasonal, as delineated at N.J.A.C. 7:12.

“Council” means the Atlantic Coast Section and the Delaware Bay Section of the New Jersey Shell Fisheries Council.

“Department” means the Department of Environmental Protection.

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

“Fishing trip” means a departure from port, transit to the fishing grounds, fishing and return to port.

“Land” means to transfer the catch of surf clams from any vessel to any land, pier, wharf, dock, or other man-made structure.

“Licensee” means the holder of a surf clam license or a bait clam vessel license or his or her agent.

“Offload” or “offloading” means to separate physically a cage from a vessel.

“Person” includes the captain, owner or other person responsible for the operation of a vessel.

“Season quota” means the total amount of surf clams, excluding bait clams, that may be harvested by all surf clam license holders from State waters during the annual surf clam season.

“Standing stock” means the amount of the surf clam resource in State waters, measured in bushels as determined by surf clam inventories conducted by the Division.

“Surf clams” means the species *Macra solidissima* also known as *Spisula solidissima*. Unless otherwise specified, the term “surf clams” includes bait clams.

“Surf clam vessel” means a vessel equipped to harvest surf clams by means of a dredge or dredges.

“Vessel,” in addition to its normal meaning, includes the captain, owner or other person responsible for the operation of a vessel.

7:25-12.6 Applicability

(a) The rules in this subchapter shall apply to all taking, attempting to take, harvesting, or dredging of surf clams, or the participation therein, in State waters, except the following:

1. Research, inventory or educational activities involving surf clams conducted under a certificate issued by the Division pursuant to N.J.S.A. 23:4-52 or a permit issued by the Department pursuant to N.J.S.A. 50:2-6.1 for research, inventory or educational purposes;
2. Gathering from beaches of surf clams cast there by the sea, in areas adjacent to approved waters. Such harvest activities are subject to the provisions of N.J.S.A. 50:2-1 through 50:2-5 and 50:4-2, and a clamming license is required therefor as described in N.J.A.C. 7:25-8; and
3. Harvest of surf clams for personal consumption and not for sale from areas in approved waters. Such harvest activities are subject to the provisions of N.J.S.A. 50:2-1 through 50:2-5 and 50:4-2, and a clamming license is required therefor as described in N.J.A.C. 7:25-8.

(b) Compliance with this subchapter shall not exempt any person from compliance with shellfish rules adopted to protect the public health by the Department, under authority of N.J.S.A. 58:24-1 et seq., or by any department of State government or any Federal agency.

7:25-12.7 General control methods

(a) Except as provided at N.J.A.C. 7:25-12.6(a), a person or vessel shall not take, attempt to take, harvest, or dredge for surf clams, or participate therein, in any State waters without first obtaining a surf clam license and harvest tags as described in N.J.A.C. 7:25-12.12 and 7:25-12.14, or bait clam vessel license as described in N.J.A.C. 7:25-12.15.

(b) The general methods by which the Department shall control the harvest of surf clams from State waters are as follows:

1. The captain of a surf clam vessel possessing a surf clam license, or of a licensed bait clam vessel, or his or her designee, shall notify the Department of the intended

fishing location of the vessel and the intended port and time of landing each day it fishes in State waters. The notification shall be made by calling the Division's Marine Enforcement Unit, Bureau of Law Enforcement, at (609) 748-2050, prior to fishing in State waters and prior to change of location. Changes in port of landing or time of landing must be given four hours prior to landing.

2. Any person fishing for surf clams at any time, or who has reported his intention to fish, in State waters shall have the vessel's entire harvest for that fishing trip counted as part of the licensed season allocation of surf clams.

3. A person shall not transfer surf clams from a surf clam vessel or bait clam vessel to any other vessel. All surf clams harvested in State waters shall be landed in this State. Specific hours of landing may be designated by the Division. A person shall not operate a surf clam vessel or bait clam vessel to fish in or land surf clams from both State and Federal waters on a single fishing trip. A surf clam vessel shall not land any quahogs or surf clams taken from Federal waters during the same fishing trip for which the Division's Marine Enforcement Unit, Bureau of Law Enforcement, has received notification of intent to use that vessel in State waters to harvest surf clams.

4. All surf clams shall be landed in their shells and offloaded in cages. All surf clam cages containing surf clams shall be tagged with tags obtained from the Division before offloading. The tags must be used sequentially as issued. Tags shall not be removed until cages are emptied at the processing plant, at which point the removed tags shall be destroyed and discarded.

5. It shall be unlawful to possess an empty cage to which a tag required at (b)4 above is affixed.

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

7:25-12.8 Season

Except for bait purposes as provided in N.J.A.C. 7:25-12.11, the annual season for taking surf clams in State waters shall begin on October 1 and extend through and including May 31.

7:25-12.9 Prohibited fishing areas

(a) The areas in which surf clams may not be taken are as follows:

1. Those waters enclosed within the following descriptions as delineated by the Division by reference to the National Oceanic and Atmospheric Administration Nautical Chart 12318 (35th, August 11/84) available for inspection at the Nacote Creek Shellfish Office:

i. From the shore on the bay side of Little Beach, latitude 39 degrees 28.3 minutes N, longitude 74 degrees 19.4 minutes W;

ii. Thence seaward 090.5 degrees T one nautical mile to a point, latitude 39 degrees 28.3 minutes N, longitude 74 degrees 17.2 minutes W, LORAN C 9960-X-26958, 9960-Y-43099;

iii. And thence south following the line of the beach one nautical mile offshore to a point, latitude 39 degrees 21.0 minutes N, longitude 74 degrees 23.6 minutes W, LORAN C 9960-X-26983, 9960-Y-43020 (generally marked by a buoy charted as "1" F1 G 4s GONG);

iv. Thence 333 degrees T to latitude 39 degrees 21.5 minutes N, longitude 74 degrees 23.9 minutes W, LORAN C 9960-X-26986, 9960-Y-43026 (generally marked by a buoy charted as R "2" F1 R 2.5s); and

v. Thence 309 degrees T to the light charted as F1 G 4 sec. 29 ft. "7" at the end of the southernmost jetty in Absecon Inlet, latitude 39 degrees 21.8 minutes N, longitude 74 degrees 24.5 minutes W, LORAN C 9960-X-26990, 9960-Y-43029;

2. Those waters enclosed within the following description, as delineated by the Division by reference to the National Oceanic and Atmospheric Administration Nautical Chart 12323 (19th Edition, November 15/80), available for inspection at the Nacote Creek Shellfish Office:

i. The area off Island Beach from a point on the southern boundary of the area closed for shellfishing by N.J.A.C. 7:12 with latitude 39 degrees 53.6 minutes N, Longitude 74 degrees 03.5 minutes W, LORAN C 9960-X-26925, 9960-Y-43364;

ii. Thence south following the line of the beach one nautical mile off shore to a point; latitude 39 degrees 45.9 minutes N, longitude 74 degrees 4.5 minutes W, LORAN C 9960-X-26914, 9960-Y-43283;

iii. Thence to the shore 270 degrees T to the abandoned lighthouse with a latitude 39 degrees 45.8 minutes N, longitude 74 degrees 6.4 minutes W; and

3. Those areas closed to shellfishing by N.J.A.C. 7:12.

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

7:25-12.10 Harvest limitations; surf clam harvest quota

(a) The Commissioner, with the advice of Council, shall establish annually a season quota of between 250,000 and 700,000 bushels of surf clams. The season quota shall be set at approximately 10 percent of the State's estimated standing stock of surf clams.

(b) By September 15 of each year the Department shall send notice to all license holders by first class mail, and file notice for publication in the New Jersey Register, of the season quota for the upcoming surf clam harvest season.

(c) If the Department does not give notice of the season quota for the surf clam harvest season pursuant to (b) above, the season quota for the upcoming season shall be 500,000 bushels.

(d) Each surf clam license allocation shall be 1/57th of the season quota.

Public Notice: 1993-94 harvest quota set at 600,000 bushels.

See: 25 N.J.R. 4795(c).

Public Notice: 1994-95 harvest quota set at 600,000 bushels.

See: 26 N.J.R. 4218(a).

Public Notice: Increase in surf clam harvest quota.

See: 27 N.J.R. 4011(c).

Public Notice: 1997-98 harvest quota set at 600,000 bushels.

See: 29 N.J.R. 5334(b).

Public Notice: 1998-99 harvest quota set at 600,000 bushels.

See: 30 N.J.R. 3973(a).

Public Notice: 1999-2000 harvest quota set at 700,000 bushels.

See: 31 N.J.R. 4125(a).

Public Notice: 2000-2001 harvest quota set at 700,000 bushels.

See: 32 N.J.R. 3872(a).

7:25-12.11 Bait clams

(a) A person or vessel shall not take, attempt to take, harvest, or dredge for bait clams, or participate therein, in any State waters without first obtaining:

1. A bait clam vessel license as provided for at N.J.A.C. 7:25-12.15; and

2. A special permit for bait clam harvest from the Division of Water Resources, as provided for at N.J.A.C. 7:12.

(b) Bait clam vessel licensees shall harvest bait clams only from condemned waters, as delineated at N.J.A.C. 7:12 and illustrated in the current Shellfish Growing Water Classification Charts, but not from condemned waters located within the prohibited fishing areas delineated at N.J.A.C. 7:25-12.9(a)1 and 2.

(c) Bait clam vessel licensees shall report fishing area daily as provided at N.J.A.C. 7:25-12.7(b)1 and file weekly harvest reports as provided at N.J.A.C. 7:25-12.13.

(d) The season for taking bait clams shall extend throughout the year.

(e) The time for taking bait clams shall be as follows:

1. October 1 through May 31: Daily, between 6:00 A.M. and 6:00 P.M. Eastern Standard Time; and

2. June 1 through September 30: Monday through Saturday, between one half-hour before sunrise (Trenton Time) and 4:00 Eastern Standard Time.

(f) A weekly bait clam vessel quota may be set by the Commissioner with notice by mail to all license holders.

(g) A person shall not operate the identical vessel to take surf clams in the waters of this State for bait purposes and for human consumption on the same day.

Adopted Concurrent Proposal, R.1991 d.173, effective April 1, 1991.

See: 23 N.J.R. 223(a), 23 N.J.R. 1001(a).

Provisions of new rule R.1991 d.49 readopted with text added to (b) "as delineated at N.J.A.C. 7:12 and illustrated in the current Shellfish Growing Water Classification Charts".

7:25-12.12 Landing fees, tags, transfers of tags

(a) Holders of surf clam license shall pay a landing fee of 15 cents (\$0.15) for each bushel landed by the purchase of tags to be attached to each 32 bushel cage (\$4.80 for each tag). Tags will be available from the Division's Nacote Creek Shellfish Office, Port Republic, New Jersey, in batches of 50 or more tags. Tags provided under this section shall be valid only for the season for which issued.

(b) Bait clam vessel licensees shall pay a landing fee of 15 cents (\$0.15) for each bushel of bait clams harvested from the waters of this State at the time of providing to the Division their weekly surf clam harvest report as required at N.J.A.C. 7:25-12.13.

(c) A licensee may transfer part or all of his or her assigned surf clam tags to another licensee, provided that the other licensee meets all statutory and regulatory criteria for licensing, and receives the Department's approval of a notarized statement of transferor's intent to transfer such tags. The statement of intent shall be signed by the transferor, and shall include the respective sequential surf clam tag numbers. Each license holder shall be limited to a maximum of three tag transfer actions during the term of the license. A transfer which would result in an allocation of tags to a single vessel greater than that allowed under three licenses is prohibited and will not be approved by the Department.

(d) For the 1990-91 season, any surf clams harvested during the season prior to adoption of these new rules shall be deducted from the licensee's seasonal allocation under these new rules.

7:25-12.13 Weekly reporting

(a) All surf clam licensees and bait clam vessel licensees shall provide to the Division weekly surf clam harvest reports on forms supplied by the Division. Weekly reports shall include the following:

1. The harvest vessel name and New Jersey surf clam license or bait clam vessel license number;

2. The dates fished and, for each date fished, the fishing time in hours, the numbers of bushels harvested and the number of the New Jersey Inshore Surf Clam Harvest Zone fished;

3. For each surf clam or bait clam landing, the port at which the clams were landed;

4. The name and signature of the captain of the surf clam vessel or bait clam vessel, or the captain's agent, attesting to the validity of the report (see N.J.A.C. 7:25-12.18); and

5. Sequential listing of surf clam tags used.

(b) The week for surf clam and bait clam harvest reporting purposes shall begin on Sunday and run through the following Saturday.

(c) Weekly surf clam bait harvest reports shall be mailed, together with a check or money order for the proper amount of the landing fee, as determined pursuant to N.J.A.C. 7:25-12.12, made payable to the "Treasurer, State of New Jersey," to:

Nacote Creek Shellfish Office
New Jersey Department of Environmental Protection
PO Box 418, Route 9
Port Republic, New Jersey 08241-0418

(d) Weekly surf clam harvest and bait clam harvest reports shall be submitted to the Division by Saturday, 6:00 P.M. of the week following the week fished.

(e) If a surf clam vessel or bait clam vessel does not fish in State waters during a given week, the licensee shall provide a weekly report to that effect. If a surf clam licensee has harvested his or her total season allocation, a final report shall be filed to that effect.

(f) The Division will furnish total State surf clam harvest information to all licensees on an annual basis.

(g) Except for the total State surf clam harvest in bushels, information provided on weekly surf clam and bait clam harvest reports is confidential and shall not be available for public inspection.

7:25-12.14 Issuance of surf clam licenses

(a) An applicant for a surf clam license or licenses shall be the bona fide owner of a surf clam vessel or vessels and a resident of New Jersey.

(b) The holder of a valid 1990 New Jersey surf clam vessel license shall be issued, upon proper application, a 1991 season surf clam license, good until June 30, 1992.

(c) No more than three surf clam licenses may be fished by a single license holder on a single surf clam vessel, to be identified at the time of application. The top and sides of the surf clam vessel shall be marked with the New Jersey surf clam license number or numbers in markings at least 18 inches in size, clearly legible and in good repair with no obstruction.

(d) Application for a surf clam license shall be made in person by the vessel owner or agent of the owner to:

Nacote Creek Shellfish Office
Division of Fish, Game and Wildlife
New Jersey Department of Environmental Protection
PO Box 418, Route 9
Port Republic, New Jersey 08241-0418
(609) 748-2040

(e) The license year for surf clam licenses shall be July 1 to June 30.

(f) A licensee may transfer a surf clam license to a new licensee, provided that the new licensee meets all statutory and regulatory criteria for licensing (including, without limitation, application for a license under (d) above and payment of the fee prohibited in N.J.A.C. 7:25-12.16(a) below), and receives the Department's approval of a notarized statement of transferor's intent to transfer such tags. The statement of intent shall be signed by the transferor. A license may be transferred no more than three times during its term.

(g) A person shall not transfer a surf clam license or surf clam tags while an enforcement action by the Department for violation of this subchapter is pending. An enforcement action is pending against a license holder from the time the Department issues a Summons or Notice of Violation to the license holder until such time as a final legal disposition of the enforcement action has been rendered. If the final legal disposition of the enforcement action requires that a monetary penalty be paid or orders a suspension of the surf clam license, the surf clam license or surf clam tags shall not be transferred until the monetary penalty has been paid or the suspension time has run, whichever is later.

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

7:25-12.15 Issuance of bait clam vessel licenses

(a) An applicant for a bait clam vessel license shall be the bona fide owner of the bait clam vessel and a resident of New Jersey, as required by N.J.S.A. 50:2-6.1. Applicants shall submit proof of vessel ownership and proof of residency as part of the bait clam vessel license application.

(b) Application for a bait clam vessel license shall be made in person by the bait clam vessel owner or agent of the vessel owner to:

Nacote Creek Shellfish Office
Division of Fish, Game, Wildlife
New Jersey Department of Environmental Protection
PO Box 418, Route 9
Port Republic, New Jersey 08241-0418

(c) The license year for bait clam vessel license shall be July 1 to June 30.

(d) The top and sides of the bait clam vessel shall be marked with the New Jersey bait clam vessel license number in markings at least 18 inches in size, clearly legible and in good repair and with no visual obstruction.

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

7:25-12.16 Licensing fees

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

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

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

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

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

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

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

7:25-12.18 Signatories; certification

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

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

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

7:25-12.19 Penalties

Violation of any section of this subchapter, or any license or order issued pursuant to it, shall subject the violator to the penalties set forth in the Marine Fisheries Management and Commercial Fisheries Act, N.J.S.A. 23:2B-1 et seq., at N.J.S.A. 23:2B-14. Penalties may include monetary penalties of \$100.00 to \$3,000 for a first violation, and \$200.00 to \$5,000 for any further violations. Penalties may also include confiscation of any vessel or equipment used in committing a violation, and revocation of any license issued under this subchapter and N.J.S.A. 50:2-6.1 through 50:2-6.3. The Department may compromise and settle any claim for a penalty under this subsection in such amount as in the discretion of the Department may appear appropriate and equitable under all the circumstances.

7:25-12.20 Hearings

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

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

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

SUBCHAPTER 13. LEASED TIDAL GROUNDS

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

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

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

SUBCHAPTER 14. CRAB AND LOBSTER MANAGEMENT

Authority

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

Subchapter Historical Note

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

7:25-14.1 Definitions

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

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

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

1. Effective January 1, 1998, no person shall possess on marine waters or sell or offer for sale a commercial crab pot which does not include a biodegradable panel or other mechanism which is designed to create an opening to allow the escape of crabs or other marine organisms after a pot has been abandoned or lost, and which meets the following criteria:

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

ii. The panel shall be constructed of, or fastened to the pot with one of the following materials: wood lath; cotton, hemp, sisal or jute twine not greater than $\frac{3}{16}$ inch in diameter; or nonstainless, uncoated ferrous metal not greater than $\frac{3}{32}$ inch in diameter, except that plastic floatable panels may be fastened to the pot on the top side only by nonbiodegradable material and fastened on any other side by one of the biodegradable materials listed above;

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

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

2. Effective January 1, 1998, all commercial crab pots set in any body of water, less than 150 feet wide from shoreline to shoreline at mean low water or in any man made lagoon shall include terrapin excluder devices attached to the inside of all pot entrance funnels which meet the following criteria:

i. The terrapin excluder device shall be rectangular or diamond shaped and no larger than six inches wide and two inches high; and

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

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

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

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

1. Beginning at a point (Corner 1) on the shore line of Cape May County (Lat. 39 deg 04.35' N; Long 74 deg 54.81' W) thence running 247 deg 38.08' (T) 21,127 feet to a point (Corner 2) where the Clam Line intersects the Brandywine Dennis Creek Line (Lat. 39 deg 05.67' N; Long 74 deg 58.94' W);

2. Thence running 221 deg 14.32' (T) 4,871 feet to a point (Corner 3) (Lat. 39 deg 05.07' N; Long 74 deg 59.62' W) located on the Dennis Creek Range Line;

3. Thence running 320 deg 02.38' (T) 17,346 feet to a point (Corner 4) (Lat. 39 deg 07.25' N; Long 75 deg 01.98' W) located in Delaware Bay;

4. Thence running 270 deg 16.30' (T) 36,190 feet to a point (Corner 5) (Lat. 39 deg 07.25' N; Long 75 deg 09.64' W) in Delaware Bay;

5. Thence running 323 deg 58.08' (T) 16,354 feet to a point (Corner 6) (Lat. 39 deg 09.42' N; Long 75 deg 11.69' W) located in the Delaware Bay; and

6. Thence running 199 deg 15.29' (T) 11,735 feet to Miah Maull Shoal Lighthouse in Delaware Bay.

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

"Department" means the Department of Environmental Protection.

"Division" means the Division of Fish, Game and Wildlife.

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

"Lobster" means the American lobster *Homarus americanus*.

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

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

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

Section was "Crab pots and trot lines defined".
Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).
Inserted definitions for "blue crab" and "crab", and amended definitions of "crab dredge area" and "commercial crab pot".
Administrative correction.

See: 29 N.J.R. 497(a).
Amended "Commercial crab pot".
Amended by R.1998 d.255, effective May 18, 1998.
See: 30 N.J.R. 763(a), 30 N.J.R. 1809(a).

Rewrote "Commercial crab pot" definition.
Amended by R.1999 d.52, effective February 16, 1999.
See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

Inserted "Lobster".
Amended by R.2000 d.10, effective January 3, 2000.
See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).
Rewrote "Crab dredge area".

7:25-14.2 Use of crab pots and trot lines

(a) No individual shall tend or remove crabs from any pot or trot line unless he or she is the holder of a valid license, or as otherwise herein provided.

1. An individual tending crab pots or trot lines shall have in his or her possession his or her numbered license which corresponds to the vessel number and the number marker on the pots or trot lines tended;

2. A commercial licensee may authorize an agent to tend his or her pots or trot lines provided the agent is in possession of his or her own license, the license of the individual whose pots are to be tended and a letter of authorization from said licensee, issued and notarized by the Division indicating the number marker of the pots or

trot lines that the agent is authorized to tend. In cases of hardship due to illness or vessel repairs, an authorized agent is not required to possess his or her own license, and can, for a maximum of 30 days, tend said licensee's pots or trot lines upon satisfying all other conditions of this paragraph.

3. In addition to the agent, the commercial licensee shall be held liable and subject to the penalty provisions provided in N.J.A.C. 7:25-14.20 for the violation of provisions of this subchapter actually committed by the agent based upon the apparent authority of the agent to act for his or her principal.

(b) No person shall cut or break the lines or otherwise tamper with or damage in any way, any pot, trot line or buoy which he does not own or is not authorized to tend.

(c) All other organisms other than crabs and conchs shall be immediately released to the waters from which such organisms were taken.

(d) All crab pots must be checked and emptied of all crabs and other organisms at least once every 72 hours.

(e) No license holder shall fish more than 600 crab pots in Delaware Bay nor more than 400 crab pots in all other waters.

(f) No license holder shall set any crab pots except between April 16 to December 14 in Delaware Bay and between March 15 to November 30 in all other waters.

(g) All gear associated with crab potting must be removed from the water within three days of the end of the season.

Amended by R.1985 d.560, effective November 4, 1985.
See: 17 N.J.R. 1830(a), 17 N.J.R. 2608(a).

(a)3 added.
Amended by R.1994 d.152, effective March 21, 1994.
See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).
Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).
See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).
Added hardship provision in (a)2.
Amended by R.2000 d.10, effective January 3, 2000.
See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

In (a)3, substituted "In addition to the agent, the commercial licensee shall" for "The commercial licensee may" at the beginning, and changed N.J.A.C. reference.

7:25-14.3 Hours of fishing

Crab pots and trot lines may be tended only from 0400 hours (4:00 A.M.) to 2100 hours (9:00 P.M.) prevailing time, in Delaware Bay and 24 hours a day in all other waters.

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).
See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).
Expanded hours for waters outside of Delaware Bay.

7:25-14.4 Commercial licenses for crab pots/trot lines and crab dredges

(a) No individual shall take or attempt to take crabs by any means for the purpose of sale or barter without having in his or her possession his or her valid commercial crab pot/trot lines or crab dredge license issued by the Division pursuant to N.J.S.A. 23:5-35.2. A Delaware Bay commercial crab dredge license is valid to harvest crabs only within that portion of the "Delaware Bay" defined at N.J.A.C. 7:25-14.1 as part of the "crab dredge area." An Atlantic Coast commercial crab dredge license is valid to harvest crabs in all areas defined at N.J.A.C. 7:25-14.1 as the "crab dredge area" except that area defined as the "Delaware Bay."

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

2. No additional crab pot licenses will be issued until the number of licenses issued decreases below the number issued in 1991 (312 licenses).

i. When additional licenses are available, unsuccessful applicants from the previous lottery will be given the first right to the license provided they purchase a license within 30 days of being notified by the Department. Notification by the Department shall be by first class mail. It is the responsibility of the applicant to provide the Department with written notification of any change in mailing address. Once a lottery list is exhausted, the Department shall notify commercial docks and fishing organizations as to the availability of licenses. Applications for a license shall be available from the Department; and successful applicants shall be chosen by lottery, if necessary, from all completed applications received by the Department.

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

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

5. To be eligible for a Delaware Bay commercial crab dredge license, the applicant shall provide a copy of a previously valid Delaware Bay commercial crab dredge license held by the applicant from the preceding year.

6. No additional Delaware Bay commercial crab dredge licenses shall be issued until the number of licenses issued decreases below the number sold in 1997 (93 licenses). When additional licenses are available, the Department shall issue available licenses pursuant to (a)2i above.

7. Commercial crab pot and crab dredge licenses are non-transferable except that the holder of a valid license not pending revocation due to violation of provisions of this subchapter may transfer the right to the license at any time to the license holder's spouse, father, mother, son or daughter upon application to the Division. The new licensee shall have a license issued in their name after payment of the fee specified at (a)8 below.

8. The license fee for New Jersey residents shall be \$100.00 for a commercial crab pot/trot line license, \$100.00 for a Delaware Bay commercial crab dredge license and \$100.00 for an Atlantic Coast commercial crab dredge license. The license fee for non-residents will be the same as that for a resident if a New Jersey fisherman can obtain a license to harvest crabs in the state of residence of the non-resident applicant for the same fee as a resident of that state. Otherwise, the non-resident license fee shall be an amount equal to five times the \$100.00 New Jersey resident license fee. All licenses shall expire on December 31 of the calendar year for which they were issued.

9. For crab pots and trot lines, the gear number shall be displayed on both sides of the crabber's boat amidship, in numerals not less than 12 inches high of a color contrasting with the background, and such numerals shall be illuminated during the hours of darkness.

(b) For the purposes of this section and N.J.S.A. 23:5-35.1, the possession of more than one bushel of crabs shall be considered as taking for the purpose of sale or barter. A bushel shall be defined as a U.S. standard bushel equivalent to four pecks or 32 quarts.

Amended by R.1994 d.152, effective March 21, 1994.

See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Substantially amended section.

Amended by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a)

(f) Any person dredging crabs outside of the "crab dredge area" or dredging crabs on unauthorized marked leased shellfish grounds pursuant to N.J.A.C. 7:25-14.7(b) shall be subject to the penalties provided by N.J.S.A. 23:2B-14 in addition to a mandatory 12 month crab dredge license privilege revocation and seizure of the entire catch in possession. The commercial licensee shall be held liable and subject to license privilege revocation and catch seizure for violations actually committed by an agent based upon the apparent authority of the agent to act for his or her principal.

(g) Any person violating the provisions of N.J.A.C. 7:25-14.13, lobster size, tail size and landing of lobster parts; N.J.A.C. 7:25-14.14, possession limits; N.J.A.C. 7:25-14.15, prohibition of egg-bearing lobsters, v-notched female lobsters and the prohibition of the use of a penetrating device; N.J.A.C. 7:25-14.16, eligibility for a lobster pot permit and pot allocation; N.J.A.C. 7:25-14.17, lobster pot tag program; N.J.A.C. 7:25-18.5(g)11i; lobster pot maximum size or N.J.A.C. 7:25-18.5(g)11iv, escape vents, shall be subject to a penalty of \$20.00 for each lobster, lobster part or lobster pot in violation.

(h) Failure to comply with the provisions of N.J.A.C. 7:25-14.13, lobster size, tail size, and landing of lobster parts; N.J.A.C. 7:25-14.15, prohibition of egg-bearing lobsters, v-notched female lobster; N.J.A.C. 7:25-14.16, eligibility for a lobster pot permit and pot allocation; N.J.A.C. 7:25-14.17, lobster pot tag program; N.J.A.C. 7:25-18.5(g)11i, lobster pot maximum size; or N.J.A.C. 7:25-18.5(g)11iv, escape vents, shall result in the suspension or revocation of the vessel's lobster pot permit and/or the lobster pot license of the operator according to the following schedule:

1. First offense: 60 days suspension;
2. Second offense: 120 days suspension;
3. Third offense: permanent revocation.

(i) Pursuant to N.J.S.A. 23:10-21 and 21.1, any gear used in violation of the provisions of this subchapter may be seized and forfeited.

(j) The assessment of any administrative penalty shall not preclude the Department from prosecuting for a larger amount in the event the administrative penalty is not paid by the time requested.

(k) Nothing in this section shall require the Department to assess an administrative penalty before instituting prosecution.

Amended by R.1982 d.169, effective June 7, 1982.
See: 13 N.J.R. 645(a), 14 N.J.R. 578(a).

(c) added.
Amended by R.1985 d.560, effective November 4, 1985.
See: 17 N.J.R. 1830(a), 17 N.J.R. 2608(a).

"Or" substituted for "of".

Recodified from 7:45-14.8 and amended by R.1994 d.152, effective March 21, 1994.

See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).

Recodified from N.J.A.C. 7:25-14.13 and amended by R.1999 d.52, effective February 16, 1999.

See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

Rewrote the section.

Recodified from N.J.A.C. 7:25-14.18 and amended by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

In (a) and (b), changed N.J.A.C. references; an in (f), inserted references to N.J.A.C. 7:25-14.16 and N.J.A.C. 7:25-14.17.

Administrative correction.

See: 32 N.J.R. 801(a).

Amended by R.2000 d.395, effective October 2, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 3592(b).

In (a) and (b), changed N.J.A.C. references; inserted a new (f); recodified former (f) as (g), and inserted references to N.J.A.C. 7:25-14.16 and 7:25-14.17; inserted a new (h); and recodified former (h) through (j) as (i) through (k).

SUBCHAPTER 15. CLAM RELAY PROGRAM

Authority

N.J.S.A. 50:1-5.

Subchapter Historical Note

Rules concerning the taking of hard clams were originally codified at N.J.A.C. 7:25-9.2, effective June 18, 1974 as R.1974 d.148. See: 6 N.J.R. 262(b). New rules were adopted on May 11, 1977 as R.1977 d.167 and codified at N.J.A.C. 7:25-15 as the Clam Relay Program. See: 9 N.J.R. 264(b). Amendments to the program became effective September 5, 1978 as R.1978 d.198. See: 10 N.J.R. 275(a), 10 N.J.R. 421(a). Further amendments became effective September 16, 1978 as R.1978 d.326. See: 10 N.J.R. 425(a). Subsequent amendments were filed as R.1979 d.156, effective April 20, 1979, and as R.1980 d.161, effective April 16, 1980. See: 11 N.J.R. 230(e), 12 N.J.R. 260(a). Additional revisions became effective April 19, 1982 as R.1982 d.117. See: 13 N.J.R. 645(b), 14 N.J.R. 387(a).

On August 27, 1982 an emergency amendment replaced the existing text and became effective as R.1982 d.309. See: 14 N.J.R. 1055(a). On October 28, 1982 the new text was readopted as R.1982 d.411. See: 14 N.J.R. 1300(d). Subsequently, on October 27, 1983, R.1983 d.519 concerning the operation of the clam relay program was filed as an emergency adoption, but on November 18, 1983 expired without being readopted. See: 15 N.J.R. 1959(a). On March 1, 1984, R.1984 d.65 was in turn effective on an emergency basis to expire on April 30, 1984. See: 16 N.J.R. 560(a). Concurrently, a new rule proposed at 16 N.J.R. 186(a) was adopted on May 7, 1984 as R.1984 d.165. See: 16 N.J.R. 1086(a). See, also, Chapter Historical Note.

7:25-15.1 Relay of hard clams

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

(b) The general intent of this rule is to control the relay of hard clams, (*Ercenaria mercenaria*) from Special Restricted, Seasonal Special Restricted, or Condemned Waters

within the Atlantic Coast Section. These designated Special Restricted, Seasonal Special Restricted, or Condemned Waters will be charted by the department and such charts will be issued to participants and available to the public. Anyone who meets the requirements set forth below in this rule may participate in this program. If it becomes necessary to limit the number of participants, then applicants will be admitted in order of their application.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10. As a condition precedent to participation in the relay program, participants consent to the following: The designated enforcement unit may stop and inspect any vehicles involved in the hard clam relay program from the time loading begins at the landing site until the off

loading at the planting site. All such stops and inspections shall be expressly for the purpose of ensuring compliance with the hard clam relay regulations and protection of the public's health.

(g) All clams harvested from the Special Restricted, Seasonal Special Restricted or Condemned Waters shall be landed at the site and at the time specified by the enforcement unit.

(h) All clams harvested by the participant shall be bagged, three-quarter bushel to the bag, in bags approved by the department. All bags shall be marked "RELAY CLAMS," with two-inch letters stenciled on the side. No unstenciled bags will be allowed in the harvester's or buyer's vehicle or boat at the harvest, landing, planting, off-loading, or transplant sites. Each bag shall be marked with the harvester's name and permit number.

1. 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. In the event that the clams are to be sold to the holder of a Permit 5a, the form shall be signed by both the harvester and the buyer-planner at the landing site. The department shall provide receipt forms and seals and designate procedures for their use.

2. The harvester shall retain one copy, forward one copy to the Bureau of Shellfisheries' Nacote Creek Office each Friday, and give the third copy to the buyer who shall carry it with the bagged clams directly to the relay lot. Unused, spoiled, or voided forms shall be returned to the Bureau of Shellfisheries' Nacote Creek Office with the completed forms each Friday.

3. Participants will place their counted bags in the truck, said vehicle provided by the participants and approved by the enforcement unit, for transportation to the planting area. The truck will be sealed by department personnel or their designated agents at the harvest landing site and opened by same at the planting off-loading site. The enforcement unit may specify the route to be taken from the harvest landing site to the planting off-loading site. Deviation from a specified route will not be tolerated except in an emergency. In the case of a mechanical failure or act of God interrupting this process, the transporter will notify the enforcement unit immediately in order to receive further instructions with which he shall comply.

4. Clams in bags shall be transported to the participant's leased lots and planted within the time frame specified by the enforcement unit. The bags of clams will be directly transported to the respective planting lots and immediately planted thereon. All clams shall be removed from the bags as they are planted on the relay lots.

5. Participants shall not harvest any shellfish on the same trip they plant clams from the day's relay. Persons harvesting clams from relay lots after receipt of written permission from the Bureau of Shellfish Control shall not have any stenciled transport bags in their boats at the time they harvest.

6. The Bureau of Shellfisheries shall notify the participants of the dates the relay shall be conducted, the area to be harvested, the hours clams must be landed and planted, and the landing site to be used. Relay clams shall be planted on the subplot designated by the department.

(i) Clams shall be relayed to the leased lots on a schedule set by the department and shall remain upon said leased lots until written permission for harvest has been granted by the Division of Water Resources, Bureau of Shellfish Control. Further, relay clams shall only be planted on the subplot designated by the department. Planting on sublots already in the cleansing period, or released for harvest, is a violation of these regulations and will jeopardize the entire program.

(j) Only the lessee or his designated substitute harvester shall remove clams from the leased lots. The designated substitute harvester must process a letter of permission, issued by the division's Bureau of Shellfisheries, from the lessee giving the dates for which he is allowed harvest privileges and the lessee's Division of Water Resources Permit 5a number at all times during harvest operations.

(k) The department shall establish a schedule of dates and times for the relay and the areas of the Special Restricted, Seasonal Special Restricted, or Condemned Waters which shall be opened to participants in this program for the harvest of clams. The truck will be sealed at the landing site and unsealed at the planting off-loading site at times established and announced to all participants by the enforcement unit. Any truck carrying relay clams not under seal, or with a broken seal shall be in violation of these regulations.

(l) The department may terminate this program, or anyone's participation therein, at any time for just cause and upon notice to the affected participants. Just cause shall include, but not be limited to, peril to public health, excessive depletion or threat thereof to the shellfish stocks, lack of industry participation, and violation of the rules of the relay program deemed by the department detrimental to the program. Possession of any unmarked bag of clams, or loose clams, in a vessel which has left the relay lots after planting, or any misrepresentation on the receipt form by the harvester or buyer, shall be prima facie evidence of a violation of these rules.

(m) Penalty:

1. Any participant violating this rule or the terms of the special relay permit issued by the Division of Water Resources may have his permits revoked or suspended. This participant may also be subject to prosecution, including fine, imprisonment, and forfeiture of vessel, vehicle, and all equipment.

2. Any lessee who is convicted of an offense which results in the revocation of a Shellfish Harvesting License or Special Permit mentioned in (e)2 above shall have this lease terminated by the department; provided, however, that upon lessee's giving notice to the division within 10 days of departmental notice of termination of said lease, the lessee shall be given the opportunity to show why his lease should not be terminated. Upon issuance of summons to lessee, any transfer of lease will be stayed pending final disposition of said summons. If notice is given within the aforementioned 10-day period, termination of the lease will not be effective until the next regularly scheduled meeting of the Atlantic Coast Section of the Shell Fisheries Council. The Atlantic Coast Section of the Shell Fisheries Council shall have the authority to permanently suspend such termination for good cause shown.

3. Nothing in this section shall allow the termination of a lease because of a violation of N.J.S.A. 50:2-1 or N.J.S.A. 50:2-5. A violation of this rule is a violation of N.J.S.A. 50:1-5 and is subject to a penalty under N.J.S.A. 23:2B-14a (first offense \$100.00 to \$3,000.00; subsequent offense \$200.00 to \$5,000.00); except that anyone in violation of N.J.A.C. 7:25-15.1(d) and (h)1 (failure to complete report), (f)6 (failure to properly post lot), and (f)7 (failure to mark harvest boat) shall be subject to a penalty of \$20.00 for the first offense and \$40.00 for each subsequent offense.

Amended by R.1985 d.633, effective December 16, 1985.

See: 17 N.J.R. 2191(a), 17 N.J.R. 2976(a).

Substantially amended.

Correction: At (f)4 Language inserted; (m)2 "termination of the lease will not be . . . , "not" added.

See: 21 N.J.R. 751(a).

SUBCHAPTER 16. DEFINING FISHING LINES

Subchapter Historical Note

All provisions of Subchapter 16, became effective January 1, 1979 as R.1978 d.295. See: 10 N.J.R. 143(c), 10 N.J.R. 384(b). Subchapter 16, Defining Fishing Lines, was adopted as new rules pursuant to Executive Order No. 66(1978), effective November 18, 1985 as R.1985 d.597. See: 17 N.J.R. 2193(a), 17 N.J.R. 2755(a). See chapter and section levels for further amendments.

7:25-16.1 Defining lines upstream of which license is required to fish with handline, rod and line or long bow and arrow

(a) The following table defines lines upstream of which license is required to fish with handline, rod and line or long bow and arrow:

Name of Water	License required upstream of this location	Name of Water	License required upstream of this location
ATLANTIC COUNTY			
Absecon Creek	Dam at Lower Atlantic City Reservoir	Fortescue Cr., Br. or Oranoken Cr.	None—all saline water
Great Egg Harbor River	Power lines at confluence of Gravelly Run	Manumuskin River	Required whole length
Middle River	None—all saline water	Maurice River	Mouth of Manumuskin River near Port Elizabeth
Mullica River	Seventh Ave. Sweetwater and ramp at Crowley's Landing	Menantico Creek	Required whole length
Nacote Creek	Port Republic Dam	Mill Cr.—Tributary of Cohansey at Fairton	Route 553 Bridge, Fairton
Patcong Creek	Bargaintown Lake Dam	Muskee Creek	S. side of bridge on Weatherby Rd.
South River	Power Lines immediately below Route 50	Nantuxent Creek (Pages Run)	Route 553, North of Frames Corner
Tuckahoe River	First northerly tributary downstream of Rt. 49 Bridge (McNeal's Branch)	Oranoken Creek	Whitecar Mill, North of Beaver Dam
BERGEN COUNTY		Oyster Creek	None—all saline water
Hackensack River	Cedar Lane Bridge between Hackensack and Teaneck	Riggins Ditch	Route 47
Hudson River	None—all saline water	Sow and Pigs Br. of Nantuxent	None—all saline water
Passaic River	Required whole length	Stow Creek	Buckhorn Rd. Bridge, Jericho
BURLINGTON COUNTY		Straight Creek	None—all saline water
Assicunk Creek	Required whole length	West Creek	100 Ft. below West Creek Lake Dams (Pickle Factory Pond)
Bass River	Fir Bridge on State Road in Bass River State Forest	ESSEX COUNTY	
Batsto River	Required whole length	Passaic River	Erie Railroad Bridge between Newark (at Verona Ave.) and Kearny
Blacks Creek	Required whole length	Peddie Ditch	None—all saline water
Crafts Creek	Required whole length	GLOUCESTER COUNTY	
Crosswicks Creek	Required whole length	Big Timber Creek	Required whole length
Delaware River	Required whole length	Delaware River	Required whole length
Mullica River	Line between Seventh Ave. Sweetwater and ramp at Crowley's Landing	Mantua Creek	Commodore Barry Bridge at Bridgeport
Pennsauken Creek	Required whole length	Oldmans Creek	Required whole length
Pompeston Creek	Required whole length	Raccoon Creek	Route I-295 Bridge
Rancocas Creek	Required whole length	Woodbury Creek	Required whole length
Swedes Run	Required whole length	HUDSON COUNTY	
Wading River	Charcoal Landing, Chips Folly Campground	Hackensack River	None—all saline water
CAMDEN COUNTY		Hudson River	None—all saline water
License required on Delaware River and all other waters.		Passaic River	Railroad bridge between Newark (at Verona Ave.) and Kearny
CAPE MAY COUNTY		HUNTERDON COUNTY	
Bidwell's Creek	None—all saline water	License required on Delaware River and all other waters.	
Cedar Swamp Creek	None—all saline water	MERCER COUNTY	
Dennis Creek	None—all saline water	License required on Delaware River and all other waters.	
East Creek	100 ft. below East Creek Lake Dams, Eldora	MIDDLESEX COUNTY	
Tuckahoe River	First Northerly tributary downstream of lower Rt. 49 Bridge (McNeal's Br.)	Cheesequake Creek	Dam at Cheesequake Lake, Cheesequake State Park
West Creek	100 feet below West Creek Lake Dams (Pickle Factory Pond)	Lawrence Brook	N.J. Turnpike Bridge, East Brunswick
CUMBERLAND COUNTY		Raritan River	Landing Lane Bridge on Franklin Blvd., New Brunswick
Andrews Creek	None—all saline water	South River	Route 527 Bridge (New Brunswick-Old Bridge Tpk.)
Back Creek	None—all saline water	Woodbridge River	N.J. Turnpike Bridge
Cedar Creek	100 ft. downstream of Cedar Lake Dam	MONMOUTH COUNTY	
Cohansey River	Route 49 Bridge at Bridgeton	Black Creek	Spillway at Ocean Rd.
Dividing Creek	Route 55 Bridge	Branchport Creek	Mouth of Turtle Mill Brook
Fishing Creek	None—all saline water		

Name of Water	License required upstream of this location	Name of Water	License required upstream of this location
Deal Lake	Top of Dam		
Hockhocks (Pine) Brook	Garden State Parkway, Northbound Bridge	License required on all waters.	
Little Silver Creek	Little Silver Creek Brook	SUSSEX COUNTY	
Manasquan River	Bennetts Bridge, Manasquan Wildlife Management Area	License required on all waters.	
Matawan Creek	Lefferts Lake Dam	UNION COUNTY	
Oceanport Creek	Mouth of Husky Brook	Elizabeth River	West Grand St., Elizabeth
Parkers Creek	Mouth of Parkers Creek Brook	Great Ditch	None—all saline water
Shark River	Remsen Mills Road	Morses Creek	Old Morses Mill Rd.
Swimming River	Swimming River Road Bridge	Oyster Creek	None—all saline water
Wreck Pond Creek	Old Mill Road Bridge	Peddie Ditch	None—all saline water
		Piles Creek	None—all saline water
		Rahway River	Lawrence St. (Route 514) Bridge, Rahway
OCEAN COUNTY		WARREN COUNTY	
Beaver Dam Creek	Route 88	License required on all waters.	
Cedar Creek	Route 9		
Cedar Run	Route 9		
Dinner Point Creek	None—all saline water		
Double Creek	None—all saline water		
Forked River	All Branches, Route 9		
Gunning River	None—all saline water		
Jakes Branch	Above Atlantic City Blvd.		
Jeffrey's Creek	Ocean Gate Road at Ocean Gate		
Kettle Creek	Route 549		
Lake of Lillies	Entire Lake		
Long Swamp Creek	Washington Street Bridge		
Manahawkin Creek	Dams for Manahawkin Fish and Wildlife Management Area Impoundments, Bayside		
Metedeconk River	Route 70 Bridge, Laurelton		
Mill Creek	Mouth of Creek at Lagoons In Beach Haven West		
Mill Creek	Pine Beach-Ocean Gate Road		
Oyster Creek	Route 9		
Parkers Run	None—all saline water		
Potters Creek	None—all saline water		
Stouts Creek	None—all saline water		
Stouts Creek; S. Br.	Bayside East Parkway		
Toms River	Garden State Parkway, Northbound Bridge		
Tuckerton Creek	Dam at Route 9		
Waretown Creek	Route 9		
West Creek	Route 9		
PASSAIC COUNTY			
License required on all waters.			
SALEM COUNTY			
Alloway Creek	Route 540 Bridge at Alloway		
Black Ditch	None—all saline water		
Delaware River	None—all saline water		
Fishing Creek	None—all saline water		
Hope Creek	None—all saline water		
Mad Horse Creek	None—all saline water		
Mill Creek	None—all saline water		
Oldmans Creek	Route I-295 Southbound Bridge		
Salem River	Upstream of Dupont Dam near Cedar Crest Manor		
Salem Canal	Dam at Deepwater		
Stow Creek	Buckhorn Rd. Bridge, Jericho		
Straight Ditch	None—all saline water		
SOMERSET COUNTY			

(b) Absence of a river, creek, brook or other waterway from subsection (a) does not preclude the requirement of possessing a license to fish in the fresh waters thereof.

(c) Names of waters conform to those given on the United States Geological Survey 7.5 Minute Topographic Series Maps.

As amended, R.1979 d.405, effective October 12, 1979.

See: 11 N.J.R. 370(b), 11 N.J.R. 544(c).

As amended, R.1981 d.469, effective December 7, 1981.

See: 13 N.J.R. 484(a), 13 N.J.R. 887(b).

(a) Monmouth County: "Deal Lake" added; Ocean County: "Long Swamp Creek" added.

As amended, R.1982 d.454, effective December 20, 1982.

See: 14 N.J.R. 882(a), 14 N.J.R. 1451(b).

Manasquan River lines redefined.

Amended by R.1985 d.597, effective November 18, 1985.

See: 17 N.J.R. 2193(a), 17 N.J.R. 2755(a).

Amendments to Maurice River, Manumuskin River, Menantico Creek and Mill Creek—Tributary.

Correction: Subsection (a) Monmouth County, Deal Lake should read "Top of Dam" instead of "Lake Spilling to Ocean Outlet Flume".

See: 20 N.J.R. 2936(b).

Amended by R.1993 d.116, effective March 15, 1993.

See: 24 N.J.R. 2977(a), 25 N.J.R. 1231(a).

Union County—Rahway River lines redefined.

SUBCHAPTER 17. DISPOSAL AND POSSESSION OF DEAD DEER

Subchapter Historical Note

All provisions of Subchapter 17 became effective May 2, 1980 as R.1980 d.193. See: 12 N.J.R. 111(a), 12 N.J.R. 314(c). Amendments became effective August 20, 1984 as R.1984 d.352. See: 16 N.J.R. 1148(a), 16 N.J.R. 2270(a). Subchapter 17 expired on May 2, 1985 pursuant to Executive Order No. 66(1978) and a new Subchapter 17, Disposal and Possession of Dead Deer, was adopted effective February 18, 1986 as R.1986 d.41. See: 17 N.J.R. 2715(a), 18 N.J.R. 415(a). See chapter and section levels for further amendments.

7:25-17.1 Scope

This subchapter shall constitute the rules governing the disposal and possession of dead deer found on or along any New Jersey public highway or on private property.

7:25-17.2 Purpose

The purpose of this subchapter is to provide for efficient, effective and utilitarian removal of dead deer found on or along any New Jersey public highway or on private property.

7:25-17.3 Construction

These rules shall be liberally construed to permit the department to effectuate the purposes of N.J.S.A. 23:4-43.

7:25-17.4 Authorized persons and disposal or possession

Deer found dead on or along any New Jersey public highway shall be disposed of by New Jersey State or municipal police officers or persons authorized by them at a sanitary landfill or other site approved by the Division of Waste Management of the Department of Environmental Protection or the police agency may authorize possession, as conditioned in N.J.A.C. 7:25-17.6.

7:25-17.5 Dead deer on private property

Deer found dead on any private property shall be disposed of by State or municipal police officers, or personnel authorized by them, upon request of the property owner, in the manner prescribed in N.J.A.C. 7:25-17.4. The owner or lessee of cultivated lands who kills deer under permit of the Division of Fish, Game and Wildlife on such property shall dispose of the dead deer as directed by the Division of Fish, Game and Wildlife.

7:25-17.6 Possession of dead deer

(a) New Jersey State or municipal police officers shall issue a written permit to possess the accidentally killed deer for consumption, or to transfer the deer carcass to another person for consumption, on forms provided by the Division of Fish, Game and Wildlife upon satisfaction of both of the following conditions:

1. The deer was killed by an accidental collision with a motor vehicle; and
2. The accidental collision was reported to the New Jersey State or municipal police as soon as possible.

(b) The permit described in (a) above shall be valid for 90 days from date of issue.

(c) A deer that has been so severely injured by a collision with a motor vehicle that it must be killed shall be considered as accidentally killed for the purposes of this subchapter.

7:25-17.7 Information required

(a) Any State or municipal officer disposing of or authorizing the disposal or possession of accidentally killed deer shall notify the New Jersey Division of Fish, Game and Wildlife on a quarterly basis of the following information on forms provided by the Division of Fish, Game and Wildlife:

1. The location where the deer was killed;
2. The sex of the deer;
3. The date of the accidental deer kill; and
4. The name and address of the permittee.

SUBCHAPTER 18. MARINE FISHERIES

Subchapter Historical Note

Pursuant to the authority of N.J.S.A. 23:2B-6, Subchapter 18, Marine Fisheries, was filed and became effective September 17, 1980 as R.1980 d.394. See: 12 N.J.R. 312(a), 12 N.J.R. 576(c). Subchapter 18 was readopted as R.1985 d.386, effective July 8, 1985. See: 17 N.J.R. 1188(a), 17 N.J.R. 1883(b). Subchapter 18, Marine Fisheries, was repealed and a new subchapter on the same subject matter was adopted by Emergency Rule R.1985 d.674, effective December 17, 1985. This emergency new rule expired on February 15, 1986. See: 18 N.J.R. 102(a). The provisions of the concurrent proposal were adopted with changes by R.1986 d.121, effective April 7, 1986. See: 18 N.J.R. 102(a), 18 N.J.R. 657(b). See, also, section annotations.

7:25-18.1 Size, season and possession limit

(a) For the purpose of this subchapter, the following common names shall mean the following scientific name(s) for a species or a group of species, except as otherwise specified elsewhere in this subchapter.

<u>Common Name</u>	<u>Scientific Name</u>
American Eel	Anquilla rostrarata
Atlantic Cod	Gadus morhua
Atlantic Croaker	Micropogon undulatus
Atlantic Mackerel	Scomber scombrus
Black Drum	Pogonias cromis
Black Sea Bass	Centropristis striata
Bluefish	Pomatomus saltatrix
Cobia	Rachycentron canadum
Conch	Busycon carica
	Busycotypus canaliculatum
	Busycon contrarium
Goosefish (Monkfish)	Lophius americanus
Haddock	Melanogrammus aeglefinus
Kingfish	Menticirrhus saxatilis
	Menticirrhus americanus
King Mackerel	Scomberomorus cavalla
Pollock	Pollachius virens
Red Drum	Sciaenops ocellatus
Scup (Porgy)	Stenotomus chrysops
Shad	Alosa sapidissima
	Alosa mediocris
Shark	Large Coastal Group
	Sphyrna mokarran (Great Hammerhead)
	Sphyrna lewini (Scalloped Hammerhead)
	Sphyrna zygaena (Smooth Hammerhead)
	Ginglymostoma cirratum (Nurse Shark)
	Carcharhinus altimus (Bignose Shark)
	Carcharhinus limbatus (Blacktip Shark)

<u>Common Name</u>	<u>Scientific Name</u>	<u>Species</u>	<u>Minimum Size (inches)</u>
	Carcharhinus leucas (Bull Shark)	Pollock	19
	Carcharhinus perezi (Caribbean Reef Shark)	Red Drum	18
	Carcharhinus obscurus (Dusky Shark)	Scup (Porgy)	9
	Carcharhinus galapagensis (Galapagos Shark)	Shad	No Limit
	Negaprion brevirostris (Lemon Shark)	Shark	48
	Carcharhinus brachyurus (Narrowtooth Shark)	Spanish Mackerel	14
	Carcharhinus signatus (Night Shark)	Summer Flounder	14
	Carcharhinus plumbeus (Sandbar Shark)	Tautog (Blackfish)	14
	Carcharhinus falciformis (Silky Shark)	Weakfish	13
	Carcharhinus brevipinna (Spinner Shark)	Winter Flounder	12
	Galeocerdo cuvieri (Tiger Shark)		
	Small Coastal Group		
	Squatina dumerili (Atlantic Angle Shark)		
	Sphyrna tiburo (Bonnethead)		
	Rhizoprionodon terraenovae (Atlantic Sharpnose Shark)		
	Carcharhinus acronotus (Blacknose Shark)		
	Rhizoprionodon porosus (Caribbean Sharpnose Shark)		
	Carcharhinus isodon (Finetooth Shark)		
	Carcharhinus porosus (Smalltail Shark)		
	Pelagic Group		
	Hexanchus vitulus (Bigeye Sixgill Shark)		
	Heptranchias perlo (Sevengill Shark)		
	Hexanchus griseus (Sixgill Shark)		
	Isurus paucus (Longfin Mako)		
	Lamna nasus (Porbeagle Shark)		
	Isurus oxyrinchus (Shortfin Mako)		
	Prionace glauca (Blue Shark)		
	Carcharhinus longimanus (Oceanic Whitetip Shark)		
	Alopias superciliosus (Bigeye Thresher)		
	Alopias vulpinus (Thresher Shark)		
Spanish Mackerel	Scomberomorus maculatus		
Summer Flounder (Fluke)	Paralichthys dentatus	<u>Species</u>	<u>Possession Limit</u>
Tautog (Blackfish)	Tautoga onitis	Cobia	2
Weakfish	Cynoscion regalis	Red Drum	5, only one of which may be greater than 27 inches
Winter Flounder	Cynoscion nebulosus		
	Pleuronectes americanus		

1. Total length for black sea bass shall be measured along the midline from the tip of the snout to the end of the central portion of the tail, not to include tail filaments.

2. In addition to the total minimum goosefish size, all goosefish tails possessed must be at least 11 inches in length from the anterior portion of the fourth cephalic dorsal spine to the end of the caudal fin. The total weight of all goosefish livers landed shall not be more than 30 percent of the total weight of all goosefish tails landed or 12 percent of the total weight of all goosefish landed.

3. A person shall not take in any one day or possess more than the possession limit specified below for each species listed, except as may be provided elsewhere in this subchapter, and subject to the specific provisions of any such section.

(b) A person shall not purchase, sell, offer for sale, or expose for sale any species listed below less than the minimum length, measured in inches, except as may be provided elsewhere in this subchapter, and subject to the specific provisions of any such section. Any commercially licensed vessel or person shall be presumed to possess the following species for sale purposes and shall comply with the minimum sizes below. Fish length shall be measured from the tip of the snout to the tip of the tail (total length), except as noted below.

(c) A person angling with a hand line or with rod and line or using a bait net or spearfishing shall not have in his or her possession any species listed below less than the minimum length, nor shall such person take in any one day or possess more than the possession limit as provided below, nor shall such person possess any species listed below during the closed season for that species. Exceptions to this section as may be provided elsewhere in this subchapter, and shall be subject to the specific provisions of any such section. Fish length shall be measured from the tip of the snout to the tip of the tail (total length), except as noted below.

<u>Species</u>	<u>Minimum Size (inches)</u>	<u>Minimum Size in Inches</u>	<u>Open Season</u>	<u>Possession Limit</u>
American Eel	6	6	Jan. 1-Dec. 31	No Limit
Atlantic Cod	21	21	Jan. 1-Dec. 31	No Limit
Atlantic Croaker	No Limit	No Limit	Jan. 1-Dec. 31	No Limit
Atlantic Mackerel	7	No Limit	Jan. 1-Dec. 31	No Limit
Black Drum	No Limit	No Limit	Jan. 1-Dec. 31	No Limit
Black Sea Bass	10	10	Jan. 1-Dec. 31	No Limit
Bluefish	9	No Limit	Jan. 1-Dec. 31	10
Cobia	37	37	Jan. 1-Dec. 31	2
Conch	5	21	Jan. 1-Dec. 31	No Limit
Goosefish (Monkfish)	17	No Limit	Jan. 1-Dec. 31	No Limit
Haddock	21	23	Jan. 1-Dec. 31	3
Kingfish	8	19	Jan. 1-Dec. 31	No Limit
King Mackerel	23			

Species	Minimum Size in Inches	Open Season	Possession Limit
Red Drum	18	Jan. 1-Dec. 31	5, only 1 of which may be greater than 27 inches
Scup (Porgy)	7	Jan. 1-Dec. 31	50
Shad	No Limit	Jan. 1-Dec. 31	6
Shark	48	Jan. 1-Dec. 31	2 per vessel
Spanish Mackerel	14	Jan. 1-Dec. 31	10
Summer Flounder (Fluke)	15½	May 6-Oct. 20	8
Tautog	14	Oct. 10-May 31 Jun. 1-Oct. 9	10 1
Weakfish	14	Jan. 1-Dec. 31	14
Winter Flounder	10½ (11 effective Jan. 1, 2001)	Mar. 1-May 31 and Sep. 15-Dec. 31	No limit

1. Total length for black sea bass shall be measured along the midline from the tip of the snout to the end of the central portion of the tail, not to include tail filaments.

2. The possession limit for shark, as listed at (a) above, shall be as enumerated at (c) above on a per vessel basis regardless of the number of individuals on board said vessel. If a person is fishing from shore or a land based structure, the possession limit shall be as enumerated at (c) above on a per person basis.

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

Species	Scientific Name
Atlantic Sturgeon	Acipenser oxyrhynchus
Basking Shark	Cetorhinidae maximus
Bigeye Sand Tiger Shark	Odontaspis noronhai
Sand Tiger Shark	Odontaspis taurus
Shortnose Sturgeon	Acipenser brevirostrum
Whale Shark	Rhincodon typus
White Shark	Carcharodon carcharias

(e) Except as provided in (f) below, a person shall not remove the head, tail or skin, or otherwise mutilate to the extent that its length or species cannot be determined, any species with a minimum size limit specified at (b) or (c) above or any other species of flatfish, or possess such mutilated fish, except after fishing has ceased and such species have been landed to any ramp, pier, wharf or dock or other shore feature where it may be inspected for compliance with the appropriate size limit.

1. A shark may be eviscerated and the head removed prior to landing, provided that the alternate length as measured from the origin of the first dorsal fin to the pre-caudal pit (located just forward of the origin of the upper lobe of the caudal or tail fin) is not less than 23 inches in length. The fins may not be removed from a shark, except after fishing has ceased and such shark has been landed as specified in (e) above.

(f) Special provisions applicable to a Special Fillet Permit are as follows:

1. A party boat owner may apply to the Commissioner for a permit for a specific vessel, known as a Special Fillet Permit to fillet species specified at (b) above at sea;

2. For purposes of this section, party boats are defined as vessels that can accommodate 15 or more passengers as indicated on the Certificate of Inspection issued by the United States Coast Guard for daily hire for the purpose of recreational fishing;

3. The Special Fillet Permit shall be subject to the following conditions:

i. Once fishing commences, no parts or carcasses of any species specified in (b) above and no flatfish parts or carcasses shall be discarded overboard; of the species specified at (b) above, only whole live fish may be returned to the water;

ii. No carcasses of any flatfish or species listed at (b) above shall be mutilated to the extent that its length or species cannot be determined;

iii. All fish carcasses of species specified at (b) above shall be retained until such time as the vessel has docked and been secured at the end of the fishing trip adequate to provide a law enforcement officer access to inspect the vessel and catch;

iv. No fillet of any flounder or other flatfish shall be less than eight inches in length during the period of May 1 through October 31 or less than five inches in length during the period of November 1 through April 30;

v. No fillet of any species listed below shall have the skin removed and no fillet shall be less than the minimum length in inches specified below.

Species	Minimum Fillet or Part Length
Atlantic Cod	14 inches
Atlantic Croaker	No Limit
Black Drum	No Limit
Black Sea Bass	5 inches
Bluefish	No Limit
Cobia	26 inches
Haddock	14 inches
Kingfish	No Limit
King Mackerel	16 inches
Pollock	13 inches
Red Drum	13 inches
Scup	4 inches
Spanish Mackerel	10 inches
Tautog	7 inches
Weakfish	9 inches

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

vii. Violation of any of the provisions of the Special Fillet Permit shall subject the captain and permit holder

to the penalties established pursuant to N.J.S.A. 23:2B-14 and shall result in a suspension or revocation, applicable to both the vessel and the owner, of the Special Fillet Permit according to the following schedule:

- (1) First offense: 30 days suspension;
- (2) Second offense: 90 days suspension; and
- (3) Third offense: Revocation of permit, rendering the vessel and the owner not eligible for permit renewal regardless of vessel ownership.

viii. Upon receipt of the notice of suspension but prior to the suspension or revocation of the Special Fillet Permit, the permittee has 20 days to request a hearing from the Department. The hearing shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1.1. If a request for a hearing is not received by the Department within 20 days of the permittee's receipt of the notice of suspension, the permit suspension or revocation will be effective on the date indicated in such notice.

(g) Any person violating the provisions of (a), (b), (c), (d) or (e) above shall be liable to a penalty of \$20.00 for each fish taken or possessed. Each fish taken or possessed shall constitute an additional separate and distinct offense.

(h) A person shall not take, attempt to take or have in his or her possession any striped bass or striped bass hybrids, as defined in (i) below, while on or angling in the waters of the State of New Jersey within the Delaware River or its tributaries from the upstream side of the U.S. Route 1 Bridge to and including the Salem River and its tributaries from April 1 through May 31 of each year, or from any waters of the State, except the Atlantic Ocean, from January 1 through February 28 of each year as set forth in N.J.S.A. 23:5-45.2.

(i) Except for products of commercial aquaculture, no person shall take from the marine waters in this State or have in his or her possession while on or angling in the marine waters of this State any striped bass hybrids, being hybrids of the *Morone* genus, less than the striped bass minimum size limits established pursuant to N.J.S.A. 23:5-45.1.

1. For purposes of this section, commercial aquaculture shall mean the culture or husbandry of striped bass hybrids in non-wild systems for the purpose of egg and larval production and/or of increasing size.

2. For purposes of this section, parents of striped bass hybrids shall include *Morone saxatilis* (striped bass), *M. chrysops* (white bass), *M. americana* (white perch), and *M. mississippiensis* (Yellow bass).

(j) Except for striped bass hybrids that are the products of commercial aquaculture, a person shall not possess more than the possession limit established pursuant to N.J.S.A. 23:5-45.1, whether striped bass or striped bass hybrid, while on or angling in the marine waters of this State.

(k) A person shall not remove the head, tail or skin from any striped bass hybrid except immediately prior to preparation or serving as food.

(l) All hybrid striped bass which are the products of commercial aquaculture shall be accompanied by accurate and dated documentation of quantity, original description and destination.

(m) Any person violating the provisions of (h) through (l) above shall be liable for a penalty of \$100.00 for each fish taken or possessed. Each fish taken or possessed shall constitute a separate and distinct offense.

(n) The following provision is applicable to the recreational harvest of bluefish.

1. Any party/charter vessel carrying recreational fishermen for hire to fish for bluefish shall have a valid Federal party/charter vessel permit.

(o) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify the fishing seasons, minimum size limits and possession limits specified in this section by notice in order to maintain and/or to come into compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. § 5104(b). The Department shall publish notice of any such modification in the New Jersey Fish and Wildlife Digest and the New Jersey Register, and shall submit a news release to individuals on the Division of Fish, Game and Wildlife outdoor writers' mailing list.

(p) All persons aboard any fishing vessel subject to this rule shall immediately comply with instructions and signals issued by a conservation officer, a marine police officer or other law enforcement officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch for the purpose of enforcement of this rule.

(q) Pursuant to N.J.S.A. 23:10-21 and 21.1, any gear used in the violating of the provisions of this subchapter may be seized and forfeited to the Division of Fish, Game and Wildlife.

Amended by R.1990 d.607, effective December 3, 1990.
See: 22 N.J.R. 3078(a), 22 N.J.R. 3628(b).

Added new (e) through (h), redesignated existing (e) as (i).
Amended by R.1991 d.132, effective March 18, 1991.

See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).

Size limit for marine fish changed in (a). Added (f), (g), (h), (i) and (j).

Amended by R.1991 d.348, effective July 1, 1991.

See: 23 N.J.R. 43(a), 23 N.J.R. 2011(a).

Deleted “, winter flounder measuring less than six inches in length, or measuring less than 13 inches in length” with stylistic changes in (a). Added “, winter flounder under 10 inches in length, or red drum under 14 inches in length” with stylistic changes in (b). Added (d). Redesignated (d) as (e); added reference to “(d)”. Redesignated (e)-(n) as (f)-(o).

Amended by R.1992 d.143, effective March 16, 1992.

See: 24 N.J.R. 4(c), 24 N.J.R. 1113(a).

Added requirements for weakfish management.

Petition for Rulemaking: Request for reduction of size limit; denied.

See: 24 N.J.R. 2957(a).

Public Notice: Announcement of fish checking stations for the Striped Bass Trophy Program.

See: 24 N.J.R. 3767(c).

Amended by R.1992 d.476, effective December 7, 1992.

See: 24 N.J.R. 1456(a), 24 N.J.R. 4368(b).

New (e) and (f) added prohibiting the filleting of any flatfish at sea in order to prevent circumvention of size limits on fluke and winter flounder; recodification of existing (e)-(o) as (g)-(q).

Amended by R.1993 d.56, effective January 19, 1993.

See: 24 N.J.R. 4249(a), 25 N.J.R. 303(a).

(c) repealed and replaced in accordance with the Summer Flounder Fishery Management Plan developed by the Mid-Atlantic Fishery Management Council and Atlantic States Marine Fisheries Commission.

Amended by R.1993 d.77, effective February 16, 1993.

See: 24 N.J.R. 205(a), 25 N.J.R. 689(a).

Added Atlantic Sturgeon under 60 inches in height.

Administrative Correction.

See: 25 N.J.R. 4495(a).

Amended by R.1994 d.44, effective January 18, 1994.

See: 25 N.J.R. 2167(a), 26 N.J.R. 353(a).

Emergency Amendment, R.1994 d.230, effective April 13, 1994 (to expire June 12, 1994).

See: 26 N.J.R. 1885(a).

Amended by R.1994 d.248, effective May 16, 1994.

See: 26 N.J.R. 291(a), 26 N.J.R. 2021(b).

Adopted Concurrent Proposal, R.1994 d.339, effective June 10, 1994.

See: 26 N.J.R. 1885(a), 26 N.J.R. 2792(a).

Provisions of emergency amendment R.1994 d.230 readopted, with a change effective July 5, 1994.

Amended by R.1994 d.615, effective December 19, 1994.

See: 26 N.J.R. 1931(a), 26 N.J.R. 5011(a).

Amended by R.1995 d.82, effective February 6, 1995.

See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

Administrative Change.

See: 27 N.J.R. 1793(a).

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Changed section name from “Size and possession limits”; added species and changed size and possession limits throughout; in (a) and (b), inserted provisions relating to presumed possession; and in (c), inserted reference to bait nets.

Administrative change.

See: 29 N.J.R. 2278(a).

In (b), increased minimum size of Summer Flounder and Tautog; and in (c), increased possession limit of Summer Flounder.

Amended by R.1997 d.246, effective June 2, 1997.

See: 29 N.J.R. 285(a), 29 N.J.R. 2555(a).

In (a) and (b), added “(total length), except as noted below”; in (a), in table, changed minimum size for “Black sea bass” from 8 to 9 inches and added “Tautog (blackfish)”; inserted new (a)1, and recodified former (a)1 and (a)2 as (a)2 and (a)3; in (b), added “Black sea bass” to table; added (b)1; in (c), added “Black sea bass” to table; in (e), inserted “or possess such mutilated fish.”; and in (f)3v, added “Black sea bass” and “Scup” to table.

Amended by R.1998 d.40, effective January 5, 1998.

See: 29 N.J.R. 4595(a), 30 N.J.R. 226(a).

Added Bluefish to size limits; in (b) changed minimum size for Atlantic Cod and Haddock from 19 inches to 21 inches; in (f)3v, changed minimum length of Atlantic Cod and Haddock from 13 inches to 14 inches.

Administrative change.

See: 30 N.J.R. 1319(b).

Administrative change.

See: 30 N.J.R. 1402(b).

Amended by R.1999 d.52, effective February 16, 1999.

See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

Rewrote (a) through (f).

Administrative change.

See: 31 N.J.R. 1084(a).

Amended by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

In (c), changed minimum size for Winter Flounder; in (h), substituted “upstream side of the U.S. Route 1 Bridge” for “Trenton Falls” following “from the”.

Administrative change.

See: 32 N.J.R. 1387(a).

Amended by R.2000 d.395, effective October 2, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 3592(b).

In (c), increased minimum size for Winter Flounder; in (h), substituted “upstream side of the U.S. Route 1 Bridge” for “Trenton Falls”; inserted a new (n); and recodified former (n) through (p) as (o) through (q).

7:25-18.2 Pound nets

(a) The following words and terms shall have the following meanings unless the context clearly indicates otherwise.

“Department” means the New Jersey Department of Environmental Protection.

“Heart” means an upright fence of netting forming a heart-shaped (round or square) compartment located between the leader and the pocket. It is designed to cause fish to circle in front of and eventually enter the pocket of a pound net.

“Leader” means an upright fence of netting that acts as a barrier to fish and guides them toward a trap; the netting is made of heavy twine, not designed to catch fish by the gills.

“Navigable channel” means a channel marked with navigational markers including poles, piling or buoys, by the Coast Guard or the State.

“Pocket” means an upright fence of netting forming the final compartment of a pound net in which trapped fish accumulate.

“Pound net” means a large fish trap, consisting of a leader, pocket and one or more hearts, held in place with poles, the netting of which reaches from the bottom to above the surface of the water.

“Staked or anchored gill net” means an upright fence of monofilament or nylon netting, held in place at each end by stakes or anchors, that catches fish by snagging their gill covers as they try to pass through the mesh of the net.

“Submarine pound net” means a pound net that is totally submerged beneath the water and held in place by anchors.

(b) General requirements for all pound net users are as follows:

1. No person may install, operate or maintain a pound net in the marine waters of the State without having first obtained a license from the Department.

2. The Department may establish limits on the number of licenses to be issued for pound nets in Raritan Bay and Sandy Hook Bay and in the Atlantic Ocean within three nautical miles of the coastline.

3. Licenses must be renewed annually.

4. Holders of pound net licenses from the previous year shall have first priority in obtaining a new license, provided they apply before March 1 of the current year.

5. Any person operating any fish pound net in the marine waters of New Jersey, must, at the time of emptying the net, return to the waters wherein the net is located all species less than the minimum size limits specified pursuant to N.J.A.C. 7:25-18.1.

6. No person may, by boat, anchor, dredge or otherwise, willfully and without reasonable cause, interfere with, break, damage or destroy any fish net or associated equipment being lawfully used by a license holder.

7. The Department may require any licensee to submit a money surety bond to insure removal of pound net poles and apparatus as required by these rules.

8. Violation of the rules in this section will subject the violator to money penalties, loss of license and/or injunctive relief under N.J.S.A. 23:2B-14.

(c) Specific requirements for pound net users in Raritan, Sandy Hook and Delaware Bays are as follows:

1. Any person applying for a pound net license must indicate the specific proposed site for the net, as designated by a chart developed by the Department. Sites which have not previously been located on the approved chart must be approved by the Department prior to issuance of a license.

2. New pound net sites must be at least 3,000 feet from a previously located pound net site, when measured parallel to the shoreline, and must be at least 1,000 feet from any navigable channel.

3. Any pound net license holder has priority in retaining a pound net site previously licensed by him or her, provided that he or she has actively and lawfully fished that site during the previous year and has submitted a license application prior to March 1 of the current year. After March 1, any citizen may apply for any available site on a first-come basis.

4. No staked or anchored shad net may be placed within 3,000 feet of an operating pound net. However, shad nets may be set on licensed pound net sites by the license holder or on unoccupied, approved pound net sites, provided the shad nets are set end-to-end with and in line with any existing pound nets.

5. Pound nets must be placed end-to-end so as to form a straight line, perpendicular to the shoreline.

6. The maximum allowable length of a pound net, including leader and hearts, is 750 feet.

7. A minimum distance of 50 feet must be maintained between any two pound nets, shad nets or combination thereof, when measured perpendicular to the shoreline.

8. A pound net license holder must maintain a nameplate, on the offshore pole of the net not less than six inches square, on which shall be legibly marked the identification number of the pound, as assigned by the Department.

9. A flashing, amber light must be displayed between sunset and sunrise on each of the two end poles of a pound net or a continuous row of pound nets. These lights must be placed at least 10 feet above the mean high water level and must be of sufficient brightness to be visible for at least three miles in all directions (360 degrees) at such times and under such weather conditions as would allow visibility of 10 miles.

10. Within 30 days of the termination of fishing activities for that year, all poles and stakes must be removed by the pound net license holder.

11. The pound net license holder will be responsible for the cost of pole and/or stake removal where the Department accepts responsibility for such removal, due to the licensee's failure to comply with 10 above.

(d) Specific requirements for pound net users in the Atlantic Ocean are as follows:

1. When submitting a request for an ocean or submarine pound net license, the applicant must specify the specific proposed site-location for placement of each net. Upon site approval, the Department may issue the license. (Note: Permission for location of ocean pound nets is also required from the United States Army Corps of Engineers.)

2. No portion of a pound net may be set within 1,500 feet or greater than 7,000 feet from the mean low water line on the ocean shoreline.

3. No row of pound nets may be erected or operated within one and one-half miles of any other row of pound nets, when measured parallel with the coastline.

4. No more than two pound nets may be joined together.

5. A minimum distance of 1,000 feet, when measured perpendicular to the coastline, must be maintained between individual or paired pound nets set in a row.

6. A row of ocean or submarine pound nets must form a straight line with the nets placed end-to-end.

7. The maximum allowable length of an ocean or submarine pound net, including leader and pocket, is 1,100 feet.

8. The minimum mesh size for ocean or submarine pound nets is two inches, stretched.

9. Ocean pound nets shall be maintained in compliance with the following additional requirements:

i. White reflectors must be placed around the top of each pole so as to reflect in all directions;

ii. Flashing amber lights must be displayed on the inshore and offshore poles of nets or rows of nets, between sunset and sunrise; these lights must be placed at least 10 feet above the mean high water level and must be of sufficient brightness to be visible for at least three miles in all directions (360 degrees) at such times and under such weather conditions as would allow visibility of 10 miles.

10. Submarine pound nets shall be maintained in compliance with the following additional requirements:

i. At least eight fluorescent orange floats, at least 12 inches in diameter, shall be maintained along the length of each net, including the inshore and offshore ends.

ii. The pound net license holder shall maintain a nameplate, not less than 12 inches square, on which shall be legibly marked the identification number of the pound, as assigned by the Department.

11. The license holder must completely remove all pound net poles and stakes, within ten months of the termination of fishing activities.

12. The pound net license holder will be responsible for the cost of pole and/or stake removal, where the Department accepts responsibility for such removal, due to the licensee's failure to comply with 11 above.

Amended by R.1984 d.439, effective October 1, 1984.

See: 16 N.J.R. 1866(a), 16 N.J.R. 2543(b).

Amended by R.1991 d.132, effective March 18, 1991.

See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).

Lighting requirements affecting pound nets increased on (c)9 and (d)9ii.

Amended by R.1994 d.248, effective May 16, 1994.

See: 26 N.J.R. 291(a), 26 N.J.R. 2021(b).

7:25-18.3 Net identification tags

(a) Any identification tag furnished by the Division for a licensed net shall be displayed in a prominent and easily accessible place on such net.

(b) No identification tag furnished by the division may be counterfeited or transferred.

7:25-18.4 Spearfishing

It shall be lawful to take, catch, or kill all species of fish by means of spearfishing, during the respective open season, except for those species of fish specifically protected. For the purpose of this rule, spearfishing shall mean the taking of fish by means of a spear, harpoon, or other missile, or by hand, while completely submerged in the marine waters of the State.

Amended by R.1985 d.609, effective January 7, 1985.

See: 16 N.J.R. 2478(a), 17 N.J.R. 79(a).

Amended by R.1995 d.82, effective February 6, 1995.

See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

7:25-18.5 General net regulations

(a) No person shall take, catch, kill or attempt to take, catch or kill any fish within the marine waters of the State by any means except in the manner commonly known as angling with hand line or with rod and line unless specifically permitted by statute or regulation.

(b) All stakes used in fyke nets, pound nets, parallel nets or gill nets shall be marked with at least one of the following which shall be placed at least two feet above mean high water and be visible from all sides:

1. Reflectors of not less than two inches in diameter;

2. Reflecting tape not less than two inches in width;

3. Light colored flags not less than two square feet; or

4. Light colored jugs or buoys not less than 12 inches in diameter.

(c) It shall be illegal to catch fish or attempt to catch fish by means of a rod and line or hand line, commonly called angling, within 300 feet of a set (operating) fish net as licensed pursuant to this section.

(d) It shall be illegal to set a fish net as licensed pursuant to this section within 300 feet of any person actively fishing with a rod and line or hand line, commonly called angling.

(e) All nets licensed pursuant to this section must be legibly and indelibly marked with the gear identification number of the owner.

(f) No person shall set, tend, tamper with or damage in any way or remove fish or other organisms from any net requiring a license without having in his possession the numbered license issued to said person which corresponds to the gear identification number marked on such net.

(g) Individuals intending to take fish with a net in the marine waters of this State pursuant to N.J.S.A. 23:5-24.2 shall, as required, apply to the Commissioner for a license and/or permit. To be eligible to purchase a 1992 license for a drifting, staked or anchored gill net the applicant shall have purchased a gill net license during 1990 or 1991 or a 1992 license prior to May 1, 1992 or provide documented proof of active military service within one year of application. An applicant who does not meet the above requirements shall file an application, in person, with the Department in each of two consecutive years. Such an applicant shall be eligible for gill net licenses in the following calendar year. Beginning in the license year (January 1-December 31) 1993, an applicant for a gill net license shall have possessed a gill net license in one of the two previous years. Failure to purchase a gill net license in one of the prior two years shall subject the applicant to the two year waiting period described above. Availability of Delaware Bay Gill Net Permits shall be determined pursuant to N.J.A.C. 7:25-18.6 through 18.11. Upon receipt of the application, and the prescribed license fee, the Commissioner may, in his or her discretion, issue single season licenses and/or permits as specified for each net type for the taking of fish with nets only as follows:

1. Haul seines shall have a mesh not smaller than 2.75 inches stretched and shall not exceed 70 fathoms in length, whether used singly or in series. Haul seines may be used for all species except those specifically protected.

i. The haul seine season shall begin on November 1 and end on April 30;

ii. A person shall not use or attempt to use a haul seine for any species in Lake Takanassee, Spring Lake, Wreck Pond and Deal Lake;

iii. The haul seine resident fee shall be \$25.00 per net.

2. Fykes shall have a length, including leaders, which shall not exceed 30 fathoms and no part of the net or leaders shall be constructed of monofilament or have a mesh larger than five inches stretched or smaller than three eighth inches stretched (inside measurement). Fyke nets may be used for all species except those specifically protected.

i. The fyke season shall begin on November 1 and end on April 30;

ii. A person shall not use or attempt to use a fyke net for any species in Lake Takanassee, Spring Lake, Wreck Pond and Deal Lake, or in the area commonly known as Collins Cove off the Mullica River between a line starting at aid to navigation channel marker flashing red number 8 (latitude 39° 33.36'N, longitude 74° 28.39'W), bearing approximately 229° T to a point on the western shore of Collins Cove at latitude 39° 33.09'N, longitude 74° 28.72'W and the Garden State Parkway where it crosses the Mullica River;

iii. No fyke net nor any part of a fyke net shall be set in the middle one third of any river, stream or tributary.

iv. All stakes used for the setting of fyke nets must be removed within 30 days of the close of the season;

v. Submerged anchored fyke nets shall be marked at each end with a fluorescent orange float at least 12 inches in diameter or a fluorescent orange flag at least 12 inches by 12 inches and suspended at least three feet above the water, measured from the surface of the water to the bottom of the flag. No less than 24 square inches of any reflective material shall be attached and maintained on each marker.

vi. Winter flounder may be taken by fyke net during the season of November 1 through February 19. Any winter flounder taken by fyke net from February 20 through April 30 shall not be retained and must be immediately returned to the water.

vii. A person shall not possess, purchase, sell, offer for sale or expose for sale any winter flounder less than 12 inches in length taken by fyke nets during the open season specified in (g)2v above.

viii. The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify the fishing seasons and minimum size limits for winter flounder specified at (g)2v and vi above by notice in order to maintain and/or to come into compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. § 5104(b). The Department shall publish notice of any such modification in the Division's commercial regulation publication and the New Jersey Register.

ix. The fyke resident fee shall be \$12.00 per net. Each licensee shall notify the Department in their license application of the specific estuary in which they intend to fish the fyke net(s). Licensees shall notify the Department as to any change in the specific estuary within which the fyke net is located no later than seven days following the change in estuary. Such notice shall be in writing to:

Division of Fish, Game and Wildlife
Marine Fisheries Administration
PO Box 400
Trenton, New Jersey 08625-0400.

3. Miniature fykes or pots shall only be used for the taking of catfish, suckers, killifish (Cyprinodontidae) and eels. The mesh of this net type shall be no smaller than three sixteenth inches bar, inside measurement. This net type shall not have leaders or wings and shall not exceed 16 inches in diameter if cylindrical or 201 square inches in cross section if any other configuration in any of the marine waters of this State.

i. The miniature fyke or pot season shall begin on January 1 and end on December 31;

ii. The miniature fyke or pot resident fee shall be \$100.00 regardless of the number of miniature fykes or pots employed;

iii. One or two miniature fykes or pots may be used for the taking of killifish or eels only for bait without application for or granting of a license, provided, however, that killifish or eels taken without having a valid license in possession may not be sold or used for barter.

4. The bait net season shall begin on January 1 and shall end on December 31. Except as provided in N.J.S.A. 23:5-24.2, bait net resident fees shall be \$10.00 per license.

i. Bait nets shall be limited to one or more of the following types:

(1) Hand held dip nets 24 inches in diameter or less;

(2) Bait seines not exceeding 150 feet and mesh not less than three eighths inches stretched, inside measurements, and not more than 2.5 inches stretched;

(3) Cast nets not exceeding 30 feet in diameter;

(4) Lift or umbrella nets not exceeding four feet square; and

(5) Killipots with mesh not less than three sixteenth inches bar, inside measurements, and not exceeding 10 inches in diameter or 25 inches in length if cylindrical or 2,000 cubic inches for any other conformation for the taking of killifish (Cyprinodontidae spp.) only;

ii. No person shall harvest or attempt to harvest fish by any means from the Deal Lake flume, the Lake Takanassee spillway or Wreck Pond spillway on Monday, Wednesday, and Friday, during the months of April and May in any year.

iii. No person shall take more than 35 alewife or blueback herring in the aggregate per day with any dip net, cast net, lift or umbrella net or bait seine; and

iv. The simultaneous possession of greater than 35 alewife or blueback herring in the aggregate and any dip net, cast net, lift or umbrella net or bait seine shall constitute prima facie evidence of the violation of this rule.

5. Drifting gill nets shall be used only in the Atlantic Ocean, Delaware Bay, and the tributaries of Delaware Bay. The smallest mesh of any drifting gill net shall be not less than five inches stretched beginning February 12 through February 29. From March 1 through December 15 the smallest mesh of any drifting gill net shall be not less than 3.25 inches stretched except in the tributaries of Delaware Bay and in Delaware Bay and the Atlantic Ocean within two nautical miles of the mean high water line where the smallest mesh shall be not less than 2.75 inches stretched and subject to the permitting and reporting requirements specified in (g)5vii below and in N.J.A.C. 7:25-18.12. These nets shall not individually exceed 200 fathoms in length. Individual drifting gill nets shall not be fastened together to form a series of nets exceeding 400 fathoms in length beginning February 12 through May 15 or exceeding 200 fathoms in length beginning May 16 through December 15. Drifting gill nets may be used for all species except those specifically protected.

i. Separate drifting gill nets or a series of joined drifting gill nets shall not be set or fished closer than 100 fathoms from any other net or series of nets;

ii. Separate drifting gill nets or a series of joined drifting gill nets shall be marked at each end with a fluorescent orange float at least 12 inches in diameter or a fluorescent orange flag at least 12 inches by 12 inches and suspended at least three feet above the water, measured from the surface of the water to the bottom of the flag. No less than 24 square inches of any reflective material shall be attached and maintained on each end marker. A white float measuring at least eight inches in diameter shall be located approximately 20 feet inside of each end marker;

iii. Drifting gill nets shall be used in the Atlantic Ocean only from February 12 through December 15. Drifting gill nets shall not be used in the Atlantic Ocean within 100 fathoms of the marked channel of any inlet. Drifting gill nets between 2.75 inches stretched mesh and 3.25 inches stretched mesh shall be subject to the permitting and reporting requirements specified in (g)5vii below, and

(1) Shall only be fished within two miles of the MHWL;

(2) Shall only be fished between the hours of sunrise and sunset;

(3) Shall be no higher than eight feet (off the bottom) while fishing; and

(4) A maximum of 200 fathoms per licensed fisherman shall be in the water at any one time;

iv. Drifting gill nets shall be used in the tributaries of Delaware Bay only for the season extending from February 12 through May 15 and July 15 through December 15;

v. Drifting gill nets shall be used in Delaware Bay only from February 12 through December 15, subject to the additional conditions specified in N.J.A.C. 7:25-18.12. For the purpose of this section, that portion of Delaware Bay defined by the New Jersey-Delaware boundary on the west, Loran C27180 on the east, and Loran C42830 on the north, during the period from May 15 through June 15, shall be known as the Brandywine Shoal Restricted Area.

(1) No more than two drifting gill nets shall be permitted to be set or operated within the Brandywine Shoal Restricted Area by any vessel.

(2) No more than one drifting gill net shall be permitted to be set or operated, nor shall any net be left unattended, within the Brandywine Shoal Restricted Area by any vessel at night (from sunset to sunrise) or on any public holiday as specified at N.J.S.A. 36:1-1 or weekend. For the purpose of this section, "unattended" means that set of circumstances where the operator is more than 100 feet from the nearest portion of his net.

vi. The drifting gill net resident fee shall be \$20.00 per net.

vii. Individuals utilizing drifting, staked or anchored gill nets less than 3.25 inches stretched mesh in the Atlantic Ocean or in the Delaware Bay after February 29 in any calendar year shall possess a Gill Net Mesh Exemption Permit.

(1) An individual shall apply annually for the permit.

(2) All permittees shall submit monthly reports of their catch and effort and other information as may be determined by the Department on forms provided by the Department. These reports shall be filed with the Division of Fish, Game and Wildlife no later than 10 calendar days after each monthly reporting period. If no fishing activity was conducted under this permit during the month, a report to that effect shall be provided. Gill Net Mesh Exemption permittees shall be personally responsible for guaranteeing the timely

delivery of reports to the Division as well as the accuracy of all information contained therein. The Department may demand that a permittee provide proof of the truth of any data contained in any report submitted to the Division under this program. If the permittee fails to file a true, complete monthly report with the Division by the 15th day of any month, the Division, in its discretion, may contact the permittee by the most expeditious method available in order to secure a complete report.

(3) If the Division is unable to secure a true, complete monthly report from the permittee by such informal means or the Division has credible evidence that the data on any report is false, the Division shall notify the permittee in writing of the Division's intention to revoke the permittee's Mesh Exemption privilege for the reasons stipulated in the notice, effective 20 business days after the date on the written notice (excluding the date on the notice) and of the Division's suspension of the permittee's Mesh Exemption privileges in the interim, effective on a date stipulated in the notice but no sooner than 10 business days after the date of the notice (excluding the date on the notice).

(4) The permittee may request a hearing to contest a proposed revocation of Mesh Exemption privileges in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The request for an administrative hearing must be received in writing by the Department within 20 business days from the date on the Division's notice of suspension and intention to revoke, excluding the date on the notice. However, if a timely request for a hearing is not received by the Department, any allegation contained in the notice shall be deemed admitted by the permittee and Mesh Exemption privileges shall be revoked as of the date stipulated in the notice, without any further action by the Division.

(5) The Division Director may, in his or her sole discretion, stay the suspension of Mesh Exemption privileges pending a hearing on the notice of proposed revocation of Mesh Exemption privileges for any good cause set forth in a written petition from the permittee, including sworn statements from the permittee or other persons with knowledge relevant to the allegations on which the Division action is based. The petition and its supporting statements and documentation shall be made available to the court and all parties in advance of any hearing.

(6) The Division shall reinstate Mesh Exemption privileges suspended for late or incomplete reports, but no more than three times per permittee in any single permit year, if that permittee personally delivers any missing reports, completed, along with a credible written explanation for the delay and/or omissions to the Division within 20 business days from the date on the notice of suspension.

(7) Any permittee who has had a Mesh Exemption privilege revoked shall be disqualified from exercising any privilege associated with a Mesh Exemption permit for 24 months following:

(A) The effective date of an uncontested notice of proposed revocation of privileges;

(B) The date of the Commissioner's Final Decision affirming revocation of Mesh Exemption privileges; or

(C) The filing date of the court order affirming the Commissioner's Final Decision revoking Mesh Exemption privileges, whichever is applicable.

(8) The Division shall issue a Mesh Exemption permit to an applicant pending resolution of a contested Division proposal to revoke that applicant's Mesh Exemption privilege, but that permittee shall not exercise or enjoy any Mesh Exemption privilege if the Division has already suspended that permittee's Mesh Exemption privilege pending resolution of a proposed revocation until:

(A) The Division Director lifts the suspension of that permittee's Mesh Exemption privileges;

(B) The Commissioner issues a Final Decision reinstating that permittee's Mesh Exemption privileges; or

(C) A court of competent jurisdiction orders reinstatement of that permittee's Mesh Exemption privileges, as the case may be.

6. Staked and anchored gill nets shall be used only in the Atlantic Ocean, Raritan Bay, Sandy Hook Bay, and the Delaware Bay and its tributaries. Staked or anchored gill nets shall not be fastened together to form a series of net exceeding 400 fathoms in length from the beginning of the season through May 15 or exceeding 200 fathoms in length beginning May 16 through December 15, subject to the additional conditions specified in N.J.A.C. 7:25-18.12.

i. Separate staked or anchored gill nets or a series of joined staked or anchored gill nets shall not be set closer than 20 fathoms from any other net or series of nets;

ii. Separate staked or anchored gill nets or a series of joined staked or anchored gill nets shall be marked at each end with a fluorescent orange float at least 12 inches in diameter or a fluorescent orange flag at least 12 inches by 12 inches and suspended at least three feet above the water, measured from the surface of the water to the bottom of the flag. No less than 24 square inches of any reflective material shall be attached and maintained on each marker. A white float measuring at least eight inches in diameter shall be located approximately 20 feet inside of each end marker;

iii. Staked and anchored gill nets may be used in the Atlantic Ocean for any species except those specifically protected only beginning February 12 through December 15, where individual gill net length shall not exceed 50 fathoms. The smallest mesh of any such net used in the Atlantic Ocean shall not be less than five inches stretched beginning February 12 through February 29 and not less than 3.25 inches stretched beginning March 1 through December 15. Staked or anchored gill nets shall not be used in the Atlantic Ocean within 100 fathoms of the marked channel of any inlet;

iv. Staked and anchored gill nets shall be used only for shad in the Raritan Bay or Sandy Hook Bay and only beginning February 1 through May 15, where individual gill net length shall not exceed 30 fathoms. The smallest mesh of any such net used in Raritan Bay or Sandy Hook Bay shall not be less than five inches stretched;

v. Staked gill nets may be used in the tributaries of Delaware Bay for any species except those specifically protected only beginning January 1 through May 15 and July 15 through December 15, where individual gill net length shall not exceed 30 fathoms. The mesh of any such net used in the tributaries of Delaware Bay shall not be less than 2.75 inches stretched nor greater than 3.25 inches stretched beginning January 1 through February 29 and no mechanical means shall be utilized to retrieve such net. The mesh of any net shall not be less than 2.75 inches from March 1 through May 15 and July 15 through December 15. No net shall be set across the middle one third of any tributary or the mouth of any tributary, nor shall any net be set in a manner that impedes navigation;

vi. Staked gill nets may be used in Delaware Bay only from February 1 through December 15, except as further defined by statute and/or rule. Individual staked gill net length shall not exceed 30 fathoms. The mesh of any such net used in Delaware Bay shall be 2.75 inches stretched beginning February 1 through February 29 except that staked gill nets of a mesh not less than 2.75 inches stretched or greater than 3.25 inches stretched may be used within one half nautical mile of the MHWL from January 1 through February 29 provided no mechanical means are utilized to retrieve such nets. From March 1 through December 15 the smallest mesh of any staked gill net shall not be less than 3.25 inches stretched except within two nautical miles of the mean high water line where the smallest mesh shall not be less than 2.75 inches stretched and subject to the permitting and reporting requirements specified in (g)5vii above and N.J.A.C. 7:25-18.12. Staked gill nets shall not be used in that portion of Delaware Bay known as the Brandywine Shoal Restricted Area as defined in (g)5v above;

vii. The use of anchored gill nets is permitted in the tributaries of Delaware Bay for any species, except

those specifically protected, only beginning January 1 through May 15 and July 15 through December 15, where individual gill net length shall not exceed 30 fathoms. The mesh of any such net used in the tributaries of Delaware Bay shall not be less than 2.75 inches stretched nor greater than 3.25 inches stretched beginning January 1 through February 29 and no mechanical means shall be utilized to retrieve such net. The mesh of any net shall not be less than 2.75 inches from March 1 through May 15 and July 15 through December 15. No net shall be set across the middle one third of any tributary or mouth of any tributary, nor shall any net be set in a manner that impedes navigation;

viii. The use of anchored gill nets is permitted in the Delaware Bay only from February 1 through December 15, except as further defined by statute and/or rule. Individual anchored gill net length shall not exceed 30 fathoms. The smallest mesh of any such net used in the Delaware Bay shall not be less than five inches stretched beginning February 1 through February 29 except that anchored gill nets of a mesh not less than 2.75 inches stretched or greater than 3.25 inches stretched may be used within one half mile of the mean high water line from January 1 through February 29 provided no mechanical means are utilized to retrieve such nets. From March 1 through December 15 the smallest mesh of any anchored gill net shall not be less than 3.25 inches stretched except within two nautical miles of the mean high water line where the smallest mesh shall not be less than 2.75 inches stretched and subject to the additional conditions specified in N.J.A.C. 7:25-18.12. Anchored gill nets shall not be used in that portion of the Delaware Bay known as the Brandywine Shoal Restricted Area as defined in (g)5v above;

ix. The staked and anchored gill net resident fee shall be \$3.00 per net.

7. Pound nets shall have a mesh not smaller than two inches stretched and may be used for all species except those specifically protected. These nets shall be used only in Raritan Bay, Sandy Hook Bay, Delaware Bay and the Atlantic Ocean.

i. The pound net season shall begin on February 15 and end on May 15 in the Delaware Bay and begin on January 1 and end on December 31 in all other areas;

ii. The pound net resident fee shall be \$100.00 per net.

8. Wire pound nets shall not extend into the Delaware Bay further than 300 feet from the mean low water mark nor 300 feet from the outside of the flats which fall bare at low water and may be set and used in the Delaware Bay only.

i. The wire pound net season shall begin on March 1 and end on December 31.

ii. The wire pound net resident fee shall be \$25.00 per net.

9. Parallel net which may be used for all species except those specifically protected shall be used only in the Delaware Bay and its tributaries. Parallel nets shall have a mesh not smaller than 3.5 inches stretched and not exceed 100 fathoms in length. They shall be set approximately parallel to the shore and only at the low water mark. No net shall be set across any tributary or mouth of any tributary, nor shall any net be set in a manner that impedes navigation.

i. The parallel net season shall begin on September 1 and end on May 31;

ii. The parallel net resident fee shall be \$10.00 per net.

10. Shrimp trawls shall be used for the taking of grass shrimp (*Palaemonetes* spp.) or sand shrimp (*Crangon* spp.) only. Any organisms other than these shrimp taken with a shrimp trawl shall immediately be returned to the waters from which such organisms were taken. The internal opening of the trawl shall have a maximum width of 60 inches and a maximum height of 12 inches. The mesh of the net shall not be greater than one-half inch stretched. No boat shall have more than two trawls working at the same time, and each trawl shall be independently and separately attached to the vessel by a single cable or tow line.

i. The shrimp trawl season shall begin on April 15 and end on December 15;

ii. The shrimp trawl resident fee shall be \$12.00 per net.

11. Lobster or fish pots may be used for the taking of all species except those specifically protected and shall be used only in the Atlantic Ocean, Delaware Bay, Raritan Bay and Sandy Hook Bay except as provided in (g)11viii below.

i. All lobster and fish pots shall have a maximum size less than a volume equivalent to 22,950 cubic inches (376,082 cubic cm) when deployed in the waters as specified in (g)11 above, except as provided in (g)11viii below.

ii. Any fish or lobster pot license holder shall have priority in retaining the same license number previously issued to him or her provided that he or she has submitted a license application requesting the previously issued license number prior to March 1 of the current year and that the license number applied for was assigned to an active license not more than two years prior to the application;

iii. Effective January 1, 1986, each fishing vessel subject to this regulation must display its license number on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be visible from above. The license number affixed to each vessel subject to this paragraph must be of block Arabic numerals at least 10 inches in height and of a color contrasting the background;

iv. Effective January 1, 1986, all lobster or fish pots or traps and associated buoys and other gear deployed in the salt waters of this State and not permanently attached to the vessel must be legibly and indelibly marked with one of the following codes of identification:

(1) The State lobster or fish pot gear identification number; or

(2) The full name and address of the State lobster or fish pot license holder.

v. No person other than the license holder shall remove fish or lobsters from any pot or trap. Anyone tending fish or lobster pots or traps after January 1, 1986, shall have in his or her possession the numbered license which corresponds to the gear identification number on the vessel and the gear identification number or name and address affixed to the pots and buoys being tended. The license must be displayed for inspection upon request of any authorized officer. No one shall cut or break the lines or otherwise tamper with or damage any pot, trap, or buoy which he or she does not own;

vi. All lobster and fish pots shall be constructed to include one of the following escape vents in the parlor section of the pot located in such a manner that it would not be blocked or obstructed in normal use by any portion of the pot, associated gear, or the sea floor:

(1) In a fishery in which the possession of lobster on board a vessel or landed from a vessel occurs, the escape vent(s) shall be not less than;

(A) A rectangular portal with an unobstructed opening not less than 1.875 inches (47.6 mm) by 5.75 inches (146.0 mm). Effective March 1, 1999 the unobstructed opening shall be increased to not less than 1.9375 inches (49.2 mm) by 5.75 inches (146.0 mm); or

(B) Two circular portals with unobstructed openings not less than 2.375 inches (60.3 mm) in diameter. Effective March 1, 1999 the diameter of the two circular portals shall be increased to not less than 2.4375 inches (61.9 mm);

(2) In a fishery in which the possession of more than 100 pounds of scup on board a vessel or landed from a vessel occurs, the escape vent(s) shall be not less than:

(A) A rectangular portal with an unobstructed opening not less than 2.25 inches (57.2 mm) by 2.25 inches (57.2 mm); or

(B) A circular portal with an unobstructed opening not less than 3.1 inches (78.7 mm) in diameter.

(3) In a fishery in which the possession of black sea bass on board a vessel or landed from a vessel occurs, the escape vent(s) shall be not less than:

(A) A square portal with an unobstructed opening not less than 1.5 inches (38.1 mm) by 1.5 inches (38.1 mm);

(B) A rectangular portal with an unobstructed opening not less than 1.125 inches (28.6 mm) by 5.75 inches (146.0 mm); or

(C) A circular portal with an unobstructed opening not less than 2 inches (50.8 mm) in diameter.

(4) In a fishery in which more than one of the escape vents listed in (g)11vi(1) through (3) above is applicable, the pots shall be constructed with the largest of the applicable escape vents.

vii. All lobster and fish pots shall be constructed to include a ghost panel or other mechanism which is designed to create an opening to allow the escape of lobsters and fish after a pot has been abandoned or lost, and which meets the following specifications:

(1) The opening covered by the panel or created by other approved mechanism shall be located in the outer parlor section(s) of the pot, shall be in a position which allows the unobstructed exit of lobsters or fish from the pot and shall be of the following dimensions:

(A) Not less than 3.75 inches (95.25 mm) by 3.75 inches (95.25 mm), or

(B) Not less than three inches (76.2 mm) by six inches (152.4 mm) when used in a fishery in which the possession of black sea bass on board a vessel or landed from a vessel occurs.

(2) The panel shall be constructed of, or fastened to the pots with, one of the following materials: untreated wood lath; untreated cotton, hemp, sisal or jute twine not greater than $\frac{3}{16}$ inch (4.76 mm) in diameter; non-stainless, ungalvanized, uncoated ferrous metal not greater than $\frac{3}{32}$ inch (2.4 mm) in diameter; or magnesium alloy, timed float release (pop-up device), or similar magnesium alloy fasteners;

(3) The door of the pot may serve as the ghost panel if the door is fastened to the pot with a material specified in (g)11viii(2) above;

(4) The escape vent specified in (g)11vi above may serve as a ghost panel if the escape vent is incorporated into a panel constructed of, or attached to the pot with, a material specified in (g)11vii(2) above, and, upon breakdown of the degradable materials, will create an opening of at least the dimensions specified in (g)11vii(1)(A) and (B) above for the exit of lobster of fish; and

(5) Pots constructed entirely or partially of wood shall be considered to be in compliance with this subparagraph if constructed of wood lath to the extent that deterioration of wooden component(s) will result in an unobstructed opening as specified in (g)11vii(1)(A) and (B) above.

viii. A modified lobster or fish pot may be used for the taking of conchs or whelks in all marine waters of the State including the Atlantic Ocean with the exception of the Newark Bay Complex.

(1) Any such conch pot is defined as a rectangular shaped device not larger than 30 inches on any side; or a cylindrical shaped device not greater than 34 inches in diameter and 30 inches in height. Conch pots must allow for an unobstructed opening on their top surface measuring not less than eight by eight inches square or nine inches in diameter. Conch pots cannot contain a parlor, funnel, or other entrapping mechanism in the interior of the pot. Any similar configuration may be approved for use upon application to the Division and receipt of written approval. Such applications must contain a diagram detailing the shape and dimensions of the requested conch pot configuration.

(2) Conch pots may be tended only from 0400 hours (4:00 A.M.) to 2100 hours (9:00 P.M.).

(3) No conch pot shall be placed in a creek, ditch or tributary less than 50 feet wide at mean low water, in any marked or charted channel or in any man-made lagoon;

ix. The lobster or fish pot season shall begin on January 1 and end on December 31;

x. The resident fee for lobster or fish pots shall be \$100.00 regardless of the number of pots employed.

12. Shad nets for the Hudson River shall be held in place by either stakes or anchors and shall not exceed 200 fathoms in length. The smallest mesh of any shad net shall not be less than five inches stretched.

i. Shad nets shall be marked at each end with a fluorescent orange float at least 12 inches in diameter or a fluorescent orange flag at least 12 inches square and suspended at least two feet above the mean high waterline.

ii. Shad nets shall be used in the Hudson River for the taking of shad only.

(h) Nonresident license fees shall be the same as resident fees established in this section if a resident of this State may obtain a license to fish for similar species of fish with similar gear in the nonresident applicant's state for the same fee as a resident of that state. Otherwise, the license fee for a nonresident is 10 times the license fee charged to a resident.

(i) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify seasons, mesh sizes, maximum net lengths, species allowed to be harvested by specific gear types, escape vent sizes, ghost panel sizes and acceptable materials for fastening ghost panels to pot and traps specified in this section, by notice in order to maintain and/or to come into compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. § 5104(b). The Department shall publish notice of any such modification in the Division's commercial regulation publication and as a notice of administrative change in the New Jersey Register.

Amended by R.1988 d.285, effective June 20, 1988.
See: 19 N.J.R. 1610(a), 20 N.J.R. 1344(b).

Substantially amended.

Amended by R.1988 d.286, effective June 20, 1988.
See: 20 N.J.R. 866(a), 20 N.J.R. 1345(a).

Amended (g)4.

Administrative Correction to (g)6vi: Added text.
See: 22 N.J.R. 2301(a).

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

Changed "persons" to "individuals"; added reference to "permits" in (g).

Amended by R.1992 d.143, effective March 16, 1992.
See: 24 N.J.R. 4(c), 24 N.J.R. 1113(a).

Further eligibility qualifications for certain fishing with nets added at (g); specifications regarding the tributaries of the Delaware Bay.
Amended by R.1992 d.449, effective November 16, 1992.

See: 24 N.J.R. 207(a), 24 N.J.R. 4256(a).

Requirements to eliminate fyke netting and haul seining from certain small bodies of water.

Amended by R.1994 d.202, effective April 18, 1994.
See: 25 N.J.R. 5397(a), 26 N.J.R. 1633(a).

Amended by R.1994 d.615, effective December 19, 1994.

See: 26 N.J.R. 1931(a), 26 N.J.R. 5011(a).

Amended by R.1995 d.82, effective February 6, 1995.

See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

Administrative correction.

See: 27 N.J.R. 1794(a).

Administrative correction.

See: 27 N.J.R. 2212(a).

Administrative change.

See: 27 N.J.R. 4916(c).

Amended by R.1996 587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Made changes to mesh sizes throughout; inserted (g)2iii, (g)4ii, and (g)11vi; and recodified from (g)2iii through (g)2viii as (g)2iv through (g)2ix, (g)4ii and (g)4iii as (g)4iiv and (g)4iv, and (g)11vi through (g)11x as (g)11vii through (g)11xi.

Amended by R.1997 d.246, effective June 2, 1997.

See: 29 N.J.R. 285(a), 29 N.J.R. 2555(a).

In (g), made nonsubstantive changes; and substantially amended (g)11.

Amended by R.1999 d.52, effective February 16, 1999.

See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

Rewrote (g)11; and added (i).

7:25-18.6 Delaware Bay commercial and non-commercial gill net permit

(a) An individual utilizing a drifting, staked or anchored gill net in that portion of Delaware Bay or its tributaries defined as the area east of the New Jersey-Delaware boundary enclosed by a line from Cape Henlopen, Delaware to Cape May Point Light, New Jersey and the "southwest line" as defined in N.J.S.A. 50:3-11 shall have a commercial or non-commercial gill net permit for each gill net license in their possession. The person shall have the permit on his or her person at all times while fishing in that portion of Delaware Bay or its tributaries defined in this subsection.

(b) For a period of 60 days following June 3, 1991, Delaware Bay commercial and non-commercial gill net permits shall be issued in accordance with N.J.A.C. 7:25-18.5.

(c) No new Delaware Bay commercial or non-commercial gill net permits shall be issued after August 2, 1991 until the combined number of Delaware Bay commercial and non-commercial gill net permits falls below either 800 for staked or anchored gill nets or 200 for drifting gill nets, except as provided in (c)1 below.

1. Individuals returning from active military service after August 2, 1991, who were on active duty during the application period (June 3, 1991 through August 2, 1991) and who meet the requirements in N.J.A.C. 7:25-18.7(a) or (b) below, shall have 60 days from their date of discharge to apply for a permit to cover the number of licenses for which they qualify, upon submission of official documentation indicating duration of military service and date of discharge and a notarized statement from the applicant that said documentation is accurate.

(d) An individual possessing a Delaware Bay Gill Net Permit shall obtain the number of gill net licenses authorized by the Delaware Bay Gill Net Permit in each calendar year. Failure to do so will result in the number of nets authorized by the permit being reduced to the number of net licenses actually obtained in that calendar year beginning in 1994, or in the event no licenses are purchased, invalidation of the permit immediately following the end of that calendar year.

New Rule, R.1991 d.278, effective June 3, 1991.

See: 22 N.J.R. 1311(a), 23 N.J.R. 1792(a).

7:25-18.7 Eligibility for Delaware Bay commercial and non-commercial gill net permits during the 60 days following June 3, 1991

(a) To be eligible for a Type A Delaware Bay commercial gill net permit during the 60-day period following June 3, 1991 allowing the use or possession on the waters of the Delaware Bay or its tributaries of no more than the maximum number of gill nets of the same type for which the applicant held valid New Jersey gill net licenses in any one calendar year during the period of January 1, 1985 through September 6, 1990 but no more than four drifting gill net permits and/or 25 staked or anchored gill net permits, the applicant shall, as part of the applicant's application for a commercial gill net permit:

1. Document that the applicant sold a minimum of 5,000 pounds of fish or 250 bushels of crabs or any combination thereof where one bushel of crabs is equal to 20 pounds of fish in any one year from 1985 through 1990; and

2. Provide a copy of a valid New Jersey gill net license(s) held by the applicant in any one calendar year from January 1, 1985 through September 6, 1990 for each gill net permit requested.

(b) To be eligible for a Type B Delaware Bay commercial gill net permit during the 60-day period following June 3, 1991 allowing the use or possession on the waters of the Delaware Bay or its tributaries of no more than two drifting gill nets and/or up to six staked or anchored gill nets, the applicant shall, as part of the applicant's application for a commercial gill net permit document that the applicant sold a minimum of 5,000 pounds of fish or 250 bushels of crabs or any combination thereof where one bushel of crabs is equal to 20 pounds of fish in any one year from 1985 through 1990.

(c) To comply with the requirement that to be eligible for a Delaware Bay commercial gill net permit under (a) or (b) above an applicant shall have sold a minimum of 5,000 pounds of fish or 250 bushels of crabs or any combination thereof where one bushel of crabs is equal to 20 pounds of fish in any one year from 1985 through 1990, an applicant shall include as part of the applicant's application:

1. Weigh-out slips issued to the applicant by a wholesaler(s) that acquired fish from the applicant establishing that the applicant sold 5,000 pounds of fish or 250 bushels of crabs or any combination thereof where one bushel of crabs is equal to 20 pounds of fish in any one of the five years; or

2. Notarized statements of wholesaler(s) that the wholesaler(s) records establish that the applicant sold 5,000 pounds of fish or 250 bushels of crabs or any combination thereof where one bushel of crabs is equal to 20 pounds of fish in any one of the five years and that such records are available for inspection by the Division.

(d) An individual who does not meet any of the requirements in (a) or (b) above may apply for a maximum of two Delaware Bay non-commercial gill net permits during the 60-day period following June 3, 1991. The Delaware Bay non-commercial gill net permits shall allow the holder to use in or possess on the waters of Delaware Bay or its tributaries no more than one drifting gill net not to exceed 360 feet in length or two staked or anchored gill nets not to exceed 180 feet in length each.

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

7:25-18.8 Eligibility for Delaware Bay commercial and non-commercial gill net permits after the 60-day period following June 3, 1991

(a) To be eligible for a Delaware Bay commercial gill net permit issued after the 60-day period following June 3, 1991, the applicant shall, at the time that the application is submitted to the Division, have three years of commercial fishery experience. The applicant shall include with the application a notarized affidavit by a commercial fisherman that the applicant has served as a crew member on a commercial fishing boat for a minimum of three years.

(b) If, at the time that an application for a Delaware Bay gill net permit is submitted to the Division, the applicant does not satisfy the eligibility requirement for a Delaware Bay commercial gill net permit set forth in (a) above, the applicant shall be eligible for a Delaware Bay non-commercial gill net permit.

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

Case Notes

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

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

(a) An individual who wishes to enter the Delaware Bay gill net fishery shall submit an application for a Delaware Bay gill net permit to the Division of Fish, Game and Wildlife. All applications shall be submitted on forms available from the Division and shall be accepted year-round. All permit application forms shall be obtained from and mailed to the Division at:

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

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

1. A completed application form signed by the applicant; and

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

3. For a Delaware Bay commercial gill net permit to be issued after August 2, 1991 full documentation establishing that the applicant satisfies the requirements for issuance of a commercial gill net permit set forth in N.J.A.C. 7:25-18.8(a).

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

(d) If the Division determines that an application for a Delaware Bay gill net permit received by the Division at the address set forth in (a) above during the 60-day period following June 3, 1991 is complete and that the applicant satisfies the eligibility requirements for issuance of a Delaware Bay commercial gill net permit set forth in N.J.A.C. 7:25-18.7(a) or (b), the applicant shall be issued Delaware Bay commercial gill net permits up to the limits set forth in N.J.A.C. 7:25-18.7(a) or (b) as appropriate. If the applicant does not satisfy the eligibility requirements for issuance of a Delaware Bay commercial gill net permit set forth in N.J.A.C. 7:25-18.7(a) or (b), the applicant shall be issued Delaware Bay non-commercial gill net permits up to the limits set forth in N.J.A.C. 7:25-18.7(d).

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

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

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

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

Case Notes

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

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

(a) When, after August 2, 1991, the combined number of Delaware Bay commercial and non-commercial gill net permits for staked, anchored or drifting gill nets falls below 800 for staked or anchored gill nets or 200 drifting gill nets as set forth in N.J.A.C. 7:25-18.6(c), the Commissioner may issue new permits for the type of net allowed by the available permit.

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

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

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

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

2. Delaware Bay non-commercial gill net permits shall be issued for no more than one drifting gill net not to exceed 360 feet in length or two staked or anchored gill nets not to exceed 180 feet in length each.

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

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

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

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

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

(b) The Commissioner shall transfer a Delaware Bay commercial or non-commercial gill net permit to the son or daughter of the holder of the commercial or non-commercial permit provided that:

1. The Division of Fish, Game and Wildlife receives a written request at the address set forth in N.J.A.C. 7:25-18.9(a) signed by the holder of a Delaware Bay commercial or non-commercial gill net permit requesting transfer of the holder's permit to a designated son or daughter;
2. For the transfer of a Delaware Bay commercial gill net permit, the written request required under (b)1 above shall be accompanied by documentation that establishes that the designated son or daughter has three years of commercial fishing experience; and
3. The number and type of commercial or non-commercial permits transferred shall be the same number and type issued to the holder.

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

7:25-18.12 Commercial fishing seasons and quotas

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

1. A person shall not possess or land in any one day more than 150 pounds of weakfish harvested by the gear specified below except during the respective open season specified below or as modified by the Commissioner pursuant to (f) below.

<u>Gear</u>	<u>Open Season</u>
Otter trawl	January 1 through July 31 and October 13 through December 31
Pound net	January 1 through June 6 and July 1 through December 31
Gill net	January 1 through May 20, Septem- ber 3 through October 19 and Oc- tober 27 through December 31

2. A person shall not possess or land by any gear any weakfish less than 13 inches in length except as provided elsewhere in this subchapter.
3. A person shall not possess or land by any gear other than that specified in (a)1 above more than 150 pounds of weakfish in any one day.
4. A dealer shall not accept more than 150 pounds of weakfish landed in New Jersey taken by the respective gear specified in (a)1 above except during the respective open season specified above or as modified by the Commissioner pursuant to (f) below.
5. A dealer shall not accept more than 150 pounds of weakfish a day landed in New Jersey taken by gear other than that specified in (a)1 above at any time.

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

1. A vessel shall not land for the purpose of sale nor sell any bluefish unless such vessel is in possession of a valid Federal commercial permit for bluefish.
2. New Jersey's annual allocation of bluefish as determined by the National Marine Fisheries Service shall be allocated according to gear type as follows:
 - i. Gill Net: 60.9 percent;
 - ii. Pound Net: 14.9 percent;
 - iii. Otter Trawl: 14.7 percent;
 - iv. Purse Seine: 7.5 percent; and
 - v. Hook and Line: 1.8 percent.

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

<u>Gear</u>	<u>Open Season</u>
Gill Net	Jan. 1 through Nov. 6
Pound Net	Jan. 1 through Dec. 31
Otter Trawl	Jan. 1 through Dec. 7
Hook and Line	Jun. 16 through Aug. 7
Purse Seine	Jan. 1 through Dec. 31

4. A dealer shall not accept any bluefish landed in New Jersey taken by the respective gear specified in (b)2 above except during the respective open season specified in (b)3 above or as modified by the Commissioner pursuant to (g) below.
5. As specified in (b)2 above, the annual bluefish quota for the purse seine fishery shall be 7.5 percent of New Jersey's annual commercial bluefish quota as allocated by the National Marine Fisheries Service. No purse seine vessel shall land and no dealer shall accept any bluefish landed in New Jersey that have been harvested by purse seine in excess of the annual purse seine quota or after the purse seine season has been closed. If the annual purse seine quota is exceeded in any one calendar year, the overharvest shall be deducted from the purse seine quota in the next subsequent calendar year(s).
6. No fish dealer shall accept any bluefish from any vessel or harvester unless such dealer is in possession of a valid Federal dealer permit.
7. No dealer shall accept any bluefish from any vessel unless said vessel is in possession of a valid Federal commercial permit for bluefish.
8. Any individual or vessel landing bluefish in New Jersey for the purpose of sale shall sell all bluefish to a Federally permitted bluefish dealer.

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

10. A party or charter vessel possessing a Federal permit to commercially harvest bluefish by angling or hook and line or spearfishing and when operating under the permit shall be subject to the following:

i. Crew size shall be limited to no more than five persons, including the captain; and

ii. The vessel shall not carry any passengers for hire. When carrying passengers for hire, the bluefish permit is not valid and the possession limits and seasonal restrictions as specified in N.J.A.C. 7:25-18.1 apply.

11. The Commissioner, or his or her designee, may close the season for the respective gear in (b)3 above upon four days public notice of the projected date the quota for the respective gear shall be landed. Such notice shall be sent by first class mail to all commercial docks and commercial fishing organizations on the mailing list of the Division of Fish, Game and Wildlife.

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

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

2. A vessel shall not land more than 100 pounds of tautog in New Jersey on any one trip, after January 1, 1997 unless said vessel is in possession of its valid New Jersey Tautog Permit to participate in a directed fishery for tautog. The permit shall be issued in the name of the vessel and the owner, and for the specific gear type(s) used to qualify for the permit.

i. Applicants for a New Jersey Tautog Permit shall complete an application provided by the Department including information on name, address, vessel name, vessel documentation or registration number, gear and landings criteria as specified at (c)2ii below;

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

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

(2) Documented proof of landings shall consist of one or more of the following:

(A) Weigh-out slips totaling the weight harvested;

(B) A notarized statement, from the applicant and the purchaser(s), attesting to the weight harvested (records must be verifiable based upon inspection of the purchaser's business records);

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

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

4. A harvester or vessel shall not land tautog for the purpose of sale or sell any tautog after March 1, 1998 unless such harvester or vessel is in the possession of a valid New Jersey Tautog Permit or a valid New Jersey Non-Directed Fishery Tautog Permit.

5. A New Jersey Non-Directed Fishery Tautog Permit shall be issued in the name of the vessel and the owner, and for the specific gear type(s) used to qualify for the permit.

i. Applicants for a New Jersey Non-Directed Fishery Tautog Permit shall complete an application provided by the Department including information on name, address, vessel name, vessel documentation or registration number, gear and landings criteria as specified at (c)5ii below;

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

(1) The vessel or owner shall have landed and sold at least 100 pounds of tautog in New Jersey in each of two years during the period 1982 through 1997. Documented proof of landings shall consist of one or more of the following:

(A) Weigh-out slips totaling the weight harvested;

(B) A notarized statement, from the applicant and the purchaser(s), attesting to the weight harvested (records must be verifiable based upon inspection of the purchaser's business records); or

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

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

7. The owner of a vessel permitted pursuant to this subsection may transfer his or her tautog permit, upon application to the Department, as follows:

- i. To his or her replacement vessel, provided the replacement vessel is of equal or less gross registered tonnage and vessel registered length. The vessel being replaced shall no longer be eligible for a tautog permit; or
 - ii. Along with the sale of his or her vessel to a new owner. The owner selling the vessel shall no longer be eligible for a tautog permit based on the harvesting history of the vessel being sold.
8. Transfer of a permit to a new vessel shall be limited to the same gear type(s) of the originally permitted vessel.
9. No permit shall be transferred without the prior approval of the Department.
10. A vessel possessing a permit to commercially harvest tautog by angling or hook and line or spearfishing and when operating under the permit shall be subject to the following:
- i. Crew size shall be limited to no more than five persons, including the captain; and
 - ii. The vessel shall not carry any passengers for hire. When carrying passengers for hire, the tautog permit is not valid and the possession limits and seasonal restrictions as specified in N.J.A.C. 7:25-18.1 apply.
11. The annual tautog harvest quota for New Jersey shall be 103,000 pounds or as modified by the Commissioner pursuant to (f) below. All landings of tautog in New Jersey shall be applied to the New Jersey annual tautog quota.
- i. The commercial season for tautog shall be from April 1 through June 15 and from October 13 through December 31.
 - ii. The Commissioner, or his or her designee, shall close the season for the commercial tautog fishery upon four days public notice of the projected date the annual quota shall be caught. Public notice shall include letters by first class mail to all New Jersey Tautog Permit and New Jersey Non-Directed Fishery Tautog Permit holders.
 - iii. Once the season has been closed for the commercial tautog fishery, no vessel shall land any tautog in New Jersey and no dealer shall accept any tautog landed in New Jersey.
 - iv. If the Commissioner, or his or her designee, closes the season prematurely because of unanticipated environmental events resulting in the quota not being landed by the projected date and at least one month remains in the current season, then the Commissioner, or his or her designee, may reopen the season for a specified period of time upon four days public notice. Public notice shall be made as specified in (c)11ii above.
 - v. If the quota for any year is exceeded, the amount over harvested will be deducted from the following year's annual quota.
 - vi. Beginning in 1997, the Department shall notify the holders of New Jersey Tautog Permits and New Jersey Non-Directed Fishery Tautog Permits of the season allocations no later than January 31 of the year to which the allocation applies. Notification shall be by first class mail to permit holders.
 - vii. All New Jersey Tautog Permit and New Jersey Non-Directed Fishery Tautog Permit holders shall be required to complete monthly reports supplied by the Department. The monthly report shall be signed by the permittee attesting to the validity of the information and be submitted so it is received by the Department no later than five working days following the end of the reported month at the following address:

Tautog Program
Nacote Creek Research Station
PO Box 418
Port Republic, NJ 08241-0418
- (1) The monthly report shall include, but not be limited to, the following information: name, permit number, total amount (in pounds) of tautog taken, dates caught, time at sea, duration of fishing time, area fished, crew size, landing port, date sold, buyer. This information shall be provided for any trip in which tautog are landed.
 - (2) If no trips for tautog were taken and no tautog were landed during the month, a report to that effect shall be required.
12. Any person violating the provisions of this section shall be subject to the penalties prescribed in N.J.S.A. 23:2B-14 in addition to the following:
- i. Failure to submit the required documentation to the application shall result in the denial of the permit.
 - ii. Falsification or misrepresentation of any information on the application including documentation provided to verify the amount of tautog landed as specified in (c)2ii(2) above shall result in the denial or revocation of the permit in addition to any civil or criminal penalties prescribed by law.
 - iii. Failure to comply with the provisions of (c)11iii above, landing tautog after the season has been closed, or (c)11vii above, failure to submit accurate and timely monthly reports, shall result in the suspension or revocation of the vessel's tautog permit according to the following schedule:
 - (1) First Offense: 60 days suspension
 - (2) Second Offense: 120 days suspension
 - (3) Third Offense: permanent revocation

iv. Prior to revocation of the permit, the permittee shall have the opportunity to request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(d) The following provisions are applicable to the commercial harvest of sharks:

1. A person shall not possess more than two sharks per vessel nor shall a person sell or attempt to sell more than two sharks without a valid annual vessel permit for sharks issued by the National Marine Fisheries Service.

2. A dealer shall not purchase or receive a shark without a valid annual dealer permit for sharks issued by the National Marine Fisheries Service.

3. A person shall not sell and a dealer shall not receive any large coastal shark, any small coastal shark, or any pelagic shark, as identified in N.J.A.C. 7:25-18.1(a), after the effective date that the quota for that group of sharks has been reached or is projected to be reached by the National Marine Fisheries Service, for the remainder of that semi-annual period.

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

1. An individual shall not take or attempt to take, possess or land any shad, without a valid Shad Commercial Net Permit or a Shad Incidental Harvest Permit issued by the Department. No person shall harvest or possess more than 150 pounds of shad per day without a Shad Commercial Net Permit.

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

i. The applicant shall complete an application provided by the Department including information regarding the name and address of the vessel owner, vessel name, vessel documentation or registration number and documented proof of landings as listed in (e)2i and ii below. Completed applications should be submitted to:

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

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

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

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

(2) Notarized statement(s) of the wholesaler(s) that the wholesaler's records establish that the applicant sold at least 3,000 pounds of shad during any three of the years from 1994-1998 inclusive and that such records are available for inspection by the Department; or

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

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

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

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

5. A Shad Incidental Harvest Permit shall be issued to qualifying applicants which will allow the harvest of not more than 150 pounds of shad per day from New Jersey's waters. To qualify for a Shad Incidental Harvest Permit, an applicant shall comply with the following provisions:

i. The applicant shall complete an application provided by the Department including information regarding the name and address of the vessel owner, vessel name, vessel documentation or registration number and documented proof of landings as listed in (e)5i and ii below. Completed applications should be submitted to:

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

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

iii. Documented proof shall be one of the following:

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

(2) Notarized statement(s) of the wholesaler(s) that the wholesaler's records establish that the applicant sold at least 150 pounds of shad during any three of the years 1994-1998 inclusive and that such records are available for inspection by the Department; or

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

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

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

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

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

9. Shad Commercial Net Permits and Shad Incidental Harvest Permits are non-transferable.

10. A person shall not land nor sell any shad taken in New Jersey waters except during the season from January 1 through December 31.

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

Division of Fish, Game and Wildlife
American Shad Program
PO Box 418
Port Republic, NJ 08241-0418

i. The annual report shall include:

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

(2) The buyer(s) name;

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

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

12. Research personnel from the Department shall be allowed to sail aboard any permitted vessel at any time,

provided the Department notifies the permittee at least two days in advance.

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

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

(1) First offense: 30 day suspension;

(2) Second offense: 90 day suspension;

(3) Third offense: Permanent revocation of permit.

ii. Prior to the suspension or revocation of the permit, the permittee shall have the opportunity to request a hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

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

(g) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify quotas and/or seasons specified in this section, by notice in order to maintain and/or to come into compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. § 5104(b). The Department shall publish notice of any such modification in the Division's commercial regulation publication and the New Jersey Register.

New Rule, R.1992 d.143, effective March 16, 1992.

See: 24 N.J.R. 4(c), 24 N.J.R. 1113(a).

Amended by R.1993 d.56, effective January 19, 1993.

See: 24 N.J.R. 4249(a), 25 N.J.R. 303(a).

Former (a) and (i) recodified to new rule at 7:25-8.14; remaining subsections recodified as (a)-(g).

Administrative Correction to N.J.A.C. 7:25-18.12(b) through (g).

See: 25 N.J.R. 2001(d).

Administrative Correction to (c).

See: 25 N.J.R. 2281(a).

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

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

Repeal and New Rule, R.1995 d.82, effective February 6, 1995.

See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

Formerly "Weakfish management."

Administrative Correction.

See: 27 N.J.R. 1794(a).

Administrative Correction.

See: 27 N.J.R. 3420(a).

Administrative Correction.

See: 27 N.J.R. 3420(b).

Administrative Change.

See: 28 N.J.R. 3786(a).

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Inserted (b)1, (c), and (d); recodified former (b)1 through (b)6 as (b)2 through (b)7 and former (c) and (d) as (e) and (f); and made conforming changes throughout.

Amended by R.1998 d.40, effective January 5, 1998.

See: 29 N.J.R. 4595(a), 30 N.J.R. 226(a).

Inserted (a)2 and recodified (a)2 as 3; deleted (c)2iii through v, added (c)3 through 10 and recodified (c)3 and 4 as 11 and 12; deleted (d), and recodified (e) and (f) as (d) and (e).

Administrative change.

See: 30 N.J.R. 1402(b).

Amended by R.1999 d.52, effective February 16, 1999.

See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

In (a)3, substituted "more than 150 pounds of" for "any" following "accept"; inserted a new (d); and recodified former (d) and (e) as (e) and (f).

Administrative change.

See: 31 N.J.R. 1612(a).

Amended by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

Rewrote (a); inserted a new (e); and recodified former (e) and (f) as (f) and (g).

Amended by R.2000 d.395, effective October 2, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 3592(b).

Rewrote the section.

7:25-18.13 Striped bass bonus program

(a) Pursuant to N.J.S.A. 23:5-45.1(c), the possession of one "bonus sized" striped bass, measuring not less than 28 inches in length, will be allowed in addition to the possession limit allowed under N.J.S.A. 23:5-45.1(a), pursuant to (b) through (o) below.

(b) Any person intending to take one striped bass measuring not less than 28 inches in length in addition to his or her striped bass possession limit as specified at N.J.S.A. 23:5-45.1 shall apply to the Division for "fish possession cards." Applications may be obtained from the following:

1. Division of Fish, Game and Wildlife

Striped Bass Bonus Fish Program
Nacote Creek Research Station
PO Box 418
Port Republic, NJ 08241-0418

2. Fish checking stations, as authorized by the Division and identified by public notice in the New Jersey Register.

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

(d) Applications for fish possession cards will be accepted for participation in the bonus fish program and processed in order of receipt by the Division.

(e) Successful applicants will receive two, color-coded, non-transferable fish possession cards. One card shall be filled out completely and the month and day numbers perforated immediately upon retention of bonus fish. A finite number of cards shall be available to participating party and charter boat captains.

(f) Fish possession cards shall be valid in the calendar year for which they were issued except during those periods in which the Department has closed the State's waters to harvesting as provided at (l) below. All fish possession cards not utilized during the calendar year shall be returned to the address at (b) above by January 15 of the next subsequent calendar year.

(g) Successful applicants may keep and submit annual records of their striped bass fishing activity as requested on forms furnished by the Division. Such records shall include the name, address, and card number(s) of the fishermen, the days and hours fished, the lengths of striped bass caught, the location of fishing activity and the type of fishing. Party and charter boat captains shall be required to maintain and submit logbooks developed by the Division.

(h) A person shall not have in his or her possession at any time more than three striped bass, of which two shall be not less than the size provided for in N.J.S.A. 23:5-45.1 and the other shall be not less than 28 inches in length and said person shall have a properly completed and legal fish possession card, as provided for at (e) above.

(i) Any striped bass taken under this section may be transported to an authorized fish checking station by the person who caught the fish on the day so taken. A person shall not present for registration or permit to be registered in his or her name a striped bass which he or she did not catch. Any person who legally takes a striped bass under this section and who cannot arrive at a fish checking station shall immediately mail his her bonus card to the address presented at (b) above.

(j) A person shall not possess any striped bass taken or tagged under the provisions of this section which is damaged or mutilated to the extent that its length cannot be determined, other than immediately prior to preparation or being served as food.

(k) An additional fish possession card shall be provided to the angler upon recording of his or her prior legally harvested bonus striped bass at an authorized fish checking station or via mail as presented at (i) above, provided the season has not been closed pursuant to (l) below.

(l) When, at any time during the calendar year, the Division has projected that the quota established by the Atlantic States Marine Fisheries Commission for striped bass will have been harvested the Division will close the State's waters to any further harvesting upon two days public notice by distribution of a news release to individuals on the Division of Fish, Game and Wildlife outdoor writers mailing list. A notice shall also be published in the New Jersey Register.

(m) The quota described in (l) above shall be 225,000 pounds until such time as another quota is duly promulgated by the Atlantic States Marine Fisheries Commission. A portion of this quota will be allotted to party and charter boats.

(n) Upon promulgation of any change in the quota described in (l) above, the Division will provide public notice in the New Jersey Register and by distribution of a news release to individuals on the Division of Fish, Game and Wildlife outdoor writers mailing list.

(o) Any person violating the striped bass size or possession limits as provided for in N.J.S.A. 23:5-45.1, or this section shall be liable for penalty of \$100.00 per fish for the first offense and a penalty of \$200.00 per fish for each subsequent offense. In addition, any person violating any provision of this section shall be subject to revocation from the Striped Bass Bonus Program. Any fish possession cards in such person's possession shall be invalid and shall be returned to the Division upon such person's receipt of notification of such revocation. Failure to return the cards upon notification shall subject the violator to penalties prescribed pursuant to N.J.S.A. 23:2B-14.

New Rule, R.1995 d.82, effective February 6, 1995.

See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

Administrative Correction.

See: 27 N.J.R. 2739(a).

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Changed section name from "Striped bass trophy program"; and substantially amended section.

7:25-18.14 Otter and beam trawls

(a) Vessels greater than 165 feet in length and in excess of 3,000 horsepower shall not fish in the marine waters of this State with an otter or beam trawl nor may any such vessel have an otter or beam trawl available for immediate use while on the marine waters of this State as defined in (b) below.

1. All trawl net doors possessed on the waters of the State of New Jersey must contain the official documentation number or the state registration number of the vessel to whom they belong indelibly branded or stamped in block letters no less than two inches in height on the surface of each door.

i. Trawl doors shall be used only by the vessel which corresponds to the branded or stamped numbers. A vessel may utilize another vessel's trawl doors provided the vessel owner utilizing such doors contacts the Division's Bureau of Law Enforcement at 609-748-2050 in advance and provides the following information: name of owner and vessel borrowing doors, name of owner, vessel and branded or stamped number of borrowed doors. The vessel owner borrowing the trawl doors shall also be responsible for contacting the Bureau of

Law Enforcement in advance to indicate when he will begin utilizing his own trawl doors.

(b) No vessel may have available for immediate use any otter or beam trawl while on the marine waters of this State during the hours between sunset and sunrise except on the Atlantic Ocean, at a distance of greater than two miles from the coast line. An otter or beam trawl that conforms to one of the following is considered not "available for immediate use":

1. A net stowed below deck, provided:

i. It is located below the main working deck from which the net is deployed and retrieved;

ii. The towing wires, including the "leg" wires are detached from the net; and

iii. It is fan-folded (flaked) and bound around its circumference;

2. A net stowed and lashed down on deck, provided;

i. It is securely fastened to the deck of the vessel;

ii. The towing wires, including the leg wires are detached from the net; and

iii. It is fan-folded (flaked) and bound around its circumference; or

3. A net is on a reel and is covered and secured; provided:

i. The entire surface of the net is covered with canvas or other similar material and held in place by line bound securely around the entire net in such a manner so that no section of the net is exposed;

ii. The towing wires or towing lines located between the net and the trawl doors shall be completely detached from the trawl doors; and

iii. The cod end closure rope shall be removed from the cod end.

(c) To determine compliance with any established minimum mesh requirement for an otter or beam trawl, the following procedures shall be employed. Stretched mesh sizes are measured by a wedge-shaped gauge having a taper of two centimeters in eight centimeters and a thickness of two and three-tenths millimeters, inserted into the meshes under pressure or pull of five kilograms. The mesh size of the cod end of the net will be the average measurement of any series of 20 consecutive meshes measured at least 10 meshes from the lacings, beginning at the after end and running parallel to the long axis.

(d) No person shall use any device or method which would have the effect of reducing an established minimum mesh size; provided, however, that chafing gear which does not obstruct the meshes of the top half of the cod end may be attached and net strengtheners may be attached to the

cod end of the trawl net if such net strengtheners consist of mesh material similar to the material of the cod end and have a mesh size of at least twice the authorized minimum mesh size.

(e) A vessel or person utilizing a roller rig trawl gear shall not utilize rollers greater than 18 inches in diameter.

(f) The operator of, or any other person aboard, any fishing vessel shall immediately comply with instructions and signals issued by an authorized law enforcement officer and comply with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch, for the purpose of enforcement of this section.

(g) Any vessel in the act of fishing, upon being boarded and instructed by an authorized law enforcement officer, shall haul back, or retrieve from the waters for inspection, all gear being utilized. After being so instructed, the operator of the vessel, or any other person so instructed, shall have a 30 minute time period to commence haul back and shall continue haul back or retrieval at an ordinary rate and without interruption until the gear is on board and available for inspection.

(h) Possession of an otter trawl and doors shall subject said vessel to inspection for compliance with this section by authorized enforcement personnel. Any nets or doors possessed or used in violation of this section shall be subject to forfeiture under authority of N.J.S.A. 23:10-21.

(i) Violation of any section of this subchapter, or any license or order issued pursuant to it, shall subject the violator to the penalties prescribed in N.J.S.A. 23:2B-14. Penalties consist of \$100.00 to \$3,000 for the first offense and \$200.00 to \$5,000 for any subsequent offense.

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

(k) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify quotas, mesh sizes, minimum size limits, seasons, trip limits, by-catch allocations and the amount of fish that shall constitute a directed fishery specified in this section by notice in order to maintain compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. 5104(b). The Department shall publish notice of any such modification by filing and publishing in the New Jersey Register and in the Division's commercial regulation publication. All such notices shall be effective when the Department files the notice with the Office of Administrative Law or as specified otherwise in the notice.

(l) Special provisions applicable to the commercial harvest of summer flounder are as follows:

1. The possession of more than 100 pounds of summer flounder during the period of May 1 through October 31 or the possession of more than 200 pounds of summer flounder during the period of November 1 through April 30 on board a vessel or landed from a vessel shall constitute a directed fishery for summer flounder.

2. A person shall not possess any summer flounder less than 14 inches in length which have been harvested by vessels in a commercial fishery for summer flounder.

3. A person utilizing an otter or beam trawl in the directed fishery for summer flounder shall not use a net of less than 5.5 inches stretched diamond mesh or 6.0 inches minimum stretched square mesh, inside measurement. The mesh size shall be applied throughout the body, extensions and cod end portions of the net upon adoption in the Federal Register of essentially the same criteria. Until such time, the mesh size shall be applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net. The possession of any net less than the minimum specified above in this paragraph, on board a vessel engaged in a directed fishery for summer flounder is prohibited unless such net is not available for immediate use as defined in (b) above or is one of the following:

i. Vessels fishing in the fly net fishery are exempt from the minimum mesh size requirement. A fly net is a two seam otter trawl with the following configuration:

(1) The net has large mesh webbing in the wings with a stretch mesh measure of eight inches to 64 inches;

(2) The first body (belly) section of the net consists of 35 meshes or more of eight inch stretch mesh webbing or larger; and

(3) In the body section of the net the stretch mesh decreases in size relative to the wings and continues to decrease throughout the extensions to the cod end, which generally has a webbing of two inch stretch mesh.

4. A vessel shall not land more than 100 pounds of summer flounder during the period of May 1 through October 31 or more than 200 pounds of summer flounder during the period of November 1 through April 30 in New Jersey on any one trip unless said vessel is in possession of a valid New Jersey Summer Flounder Permit to participate in the directed fishery for summer flounder. Vessels fishing under the special terms of a quota transfer or combination program as provided in (l)6 below may be exempt from this requirement if such terms specify that a New Jersey Summer Flounder Permit is not necessary to land summer flounder in New Jersey. The permit shall be issued in the name of the vessel and the owner and for the specific gear type(s) used to qualify for the permit.

12. Pursuant to Amendment 8 of the Mid-Atlantic Fishery Management Council's Fishery Management Plan for the Summer Flounder and Scup Fishery, the Commissioner may enter into agreements with other states to transfer or combine scup commercial quotas. Such agreements shall specify the terms and conditions under which vessels may land scup in New Jersey, as well as how the landings will be applied to the quota. Any agreement developed by the Commissioner and any other state is not valid until such time as it has been reviewed and approved by the Northeast Regional Director of the National Marine Fisheries Service.

(q) Special provisions applicable to a directed black sea bass fishery are as follows:

1. The possession of more than 1,000 pounds of black sea bass on board a vessel or landed from a vessel shall constitute a directed fishery for black sea bass.

2. A person utilizing an otter or beam trawl in a directed fishery for black sea bass shall not use a net of less than four inches stretched diamond mesh or 3.5 inches minimum stretched square mesh, inside measurement applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net. The possession of any net less than the minimum specified in this paragraph on board a vessel in a directed fishery for black sea bass is prohibited unless it is not available for immediate use as defined in (b) above.

3. Annual and seasonal black sea bass quotas and trip limits shall be determined by the Mid Atlantic Fishery Management Council and implemented by the National Marine Fisheries Service.

i. No vessel shall have in possession or land and no dealer or person shall accept from any one vessel or person more than the daily trip limit of black sea bass in any one calendar day. The daily trip limit for black sea bass shall be 9,000 pounds from January 1 through March 31, 3,000 pounds from April 1 through June 30, 2,000 pounds from July 1 through September 30 and 2,000 pounds from October 1 through December 31. The daily trip limit from January 1 through March 31 shall be reduced to 4,500 pounds when the ASMFC projects that 75 percent of the quota will be caught. The daily trip limit from October 1 through December 31 shall be reduced to 1,000 pounds when the ASMFC projects that 50 percent of the quota will be caught. The Division of Fish and Wildlife will notify all New Jersey residents who hold Black Sea Bass Federal Moratorium Permits by letter of the ASMFC's projection and of the new trip limit.

ii. The Commissioner, or his or her designee, shall close the season for the commercial black sea bass fishery upon four days public notice of the projected date each seasonal quota shall be caught. Public notice shall include letters by first class mail to all Federal

black sea bass moratorium permit holders that are New Jersey residents.

iii. Once the season has been closed for the commercial black sea bass fishery, no vessel or person shall land any black sea bass and no dealer or person shall accept any black sea bass landed in New Jersey.

iv. If the Commissioner, or his or her designee, closes the season prematurely because of unanticipated events resulting in the quota not being landed by the projected date, then the Commissioner, or his or her designee, may reopen the season for a specified period of time upon four days public notice. Public notice shall be made as specified in (q)3i above.

(r) Special provisions applicable to an Atlantic herring fishery are as follows:

1. The possession of more than 5,000 pounds of Atlantic herring on board a vessel or landed from a vessel shall constitute a directed fishery for Atlantic herring.

2. A person shall not fish for or land any Atlantic herring in excess of 5,000 pounds using any vessel in excess of 165 feet in length and in excess of 3,000 horsepower in a directed fishery for Atlantic herring.

3. Atlantic herring taken in a directed fishery for Atlantic herring shall not be processed for use as fish meal or oil.

4. Any closure of the Atlantic herring fishery by the National Marine Fisheries Service or the Atlantic States Marine Fisheries Commission in adjacent Federal waters or in any area which includes New Jersey marine waters would automatically close New Jersey waters to the commercial harvest of Atlantic herring.

5. If any of the management areas identified in the joint New England Fishery Management Council Atlantic States Marine Fisheries Commission Fishery Management Plan for Atlantic Herring are closed by the National Marine Fisheries Service or the Atlantic States Marine Fisheries Commission, the landing of Atlantic herring harvested from any management area that is closed shall be prohibited in New Jersey.

New Rule, R.1993 d.56, effective January 19, 1993.

See: 24 N.J.R. 4249(a), 25 N.J.R. 303(a).

Amended by R.1994 d.44, effective January 18, 1994.

See: 25 N.J.R. 2167(a), 26 N.J.R. 353(a).

Amended by R.1995 d.82, effective February 6, 1995.

See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

Administrative Correction.

See: 27 N.J.R. 1794(a).

Administrative Change.

See: 27 N.J.R. 2390(b).

Administrative Correction.

See: 27 N.J.R. 3420(a).

Administrative Correction.

See: 27 N.J.R. 3420(b).

Administrative Change.

See: 27 N.J.R. 4916(c).

Emergency amendment R.1996 d.299, effective May 31, 1996 (to expire July 30, 1996).

See: 28 N.J.R. 3182(a).
 Administrative Change.
 See: 28 N.J.R. 3786(a).
 Adopted concurrent proposal, R.1996 d.392, effective July 24, 1996.
 See: 28 N.J.R. 3182(a), 28 N.J.R. 3956(a).
 Administrative change.
 See: 28 N.J.R. 4784(a).
 Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).
 See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).
 Substantially amended section.
 Administrative correction.
 See: 29 N.J.R. 600(a).

Omitted recodification to (j)12v from a prior recodification corrected.

Administrative change.

See: 29 N.J.R. 1308(c).

In (j), changed the minimum length of summer flounder harvested in a commercial fishery from 13 inches to 14 inches.

Amended by R.1997 d.246, effective June 2, 1997.

See: 29 N.J.R. 285(a), 29 N.J.R. 2555(a).

Amended internal section references throughout; inserted new (j) and (k), recodified former (j) through (n) as (l) through (p), and deleted former (o) and (p); in (l)3, inserted “. The mesh size shall Until such time, the mesh size shall be” and deleted provisions relating to forfeiture of privilege of owners and vessels to land summer flounder of less than 14 inches upon violation of restrictions; in (m)3, (m)4, (n)4, and (o)2, deleted reference to modification by the Commissioner of the open season or mesh size; in (p)1, inserted “during the period . . . October 31”; in (p)2, substituted “4.5 inches” for “4.05 inches”; and added (p)3 through (p)12.

Administrative correction.

See: 29 N.J.R. 3251(a).

In (l)2, increased size of summer flounder from 13 to 14 inches; and in (p)4 and 5, substituted “November 1 through December 31” for “November 1 through October 31”.

Amended by R.1998 d.40, effective January 5, 1998.

See: 29 N.J.R. 4595(a), 30 N.J.R. 226(a).

Inserted (q)3 and (r).

Administrative change.

See: 30 N.J.R. 1402(b).

Amended by R.1999 d.52, effective February 16, 1999.

See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

In (l)12, deleted “by June 30, 1993 for use of otter trawls, pound nets, gill nets or scallop dredges or” following “application” in i, and substituted a reference to fresh product for a reference to fish product in the introductory paragraph of iii.

Administrative change.

See: 31 N.J.R. 1084(a).

Amended by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

Rewrote (a), (l) and (p); and in (r), added 4 and 5.

Administrative change.

See: 32 N.J.R. 2230(a).

Administrative change.

See: 32 N.J.R. 4107(a).

Administrative change.

See: 33 N.J.R. 45(a), 45(b).

7:25-18.15 Atlantic sturgeon management

(a) An individual shall not take or attempt to take, possess or land any Atlantic sturgeon in the State, without a valid Atlantic Sturgeon Commercial Gill Net Permit or a valid Atlantic Sturgeon By-Catch Permit issued by the Department. No holder of either permit shall land an Atlantic sturgeon unless such sturgeon has a valid, properly affixed possession tag as specified at (g) and (h) below. No person shall possess any Atlantic sturgeon that does not have a valid, properly affixed possession tag. “Land” shall mean to begin offloading fish, to offload fish or to enter port with fish.

(b) An Atlantic Sturgeon Commercial Gill Net Permit may be transferred to another individual eligible for a gill net license for the purpose of taking Atlantic sturgeon with gill nets. The permittee shall request approval to transfer the permit in writing to the Department, and no such transfer shall be valid until the transferee has received a valid permit issued in his or her name from the Department. An Atlantic sturgeon commercial gill net possession tag may be transferred to another Atlantic Sturgeon Commercial Gill Net Permit holder. The permittees shall list on the permittee’s annual report pursuant to (l) below the name of the permittee or permittees to whom the permittee transferred any possession tag. The recipient of the transferred possession tag or tags shall list in the annual report pursuant to (l) below each such transferred tag received.

7:25-18.16 Horseshoe crab (*Limulus polyphemus*)

(a) An individual shall not catch, take, or attempt to catch or take, land or possess horseshoe crabs from any beach or shoreline or from the marine waters of this State unless such individual has in his or her possession a valid permit to take horseshoe crabs issued by the Commissioner of Environmental Protection. Any individual who wishes to harvest horseshoe crabs may be eligible to obtain a permit by completing an application available from the Division of Fish, Game and Wildlife, Bureau of Marine Fisheries, PO Box 400, Trenton, N.J. 08625. The following persons, in the following circumstances, are not subject to this prohibition.

1. Property owners, tenants or agents of property owners may, at any time, remove dead horseshoe crabs from their property for purposes of disposal. No sale, trade, or barter of horseshoe crabs is permitted under this paragraph.

2. Persons collecting horseshoe crabs for strictly scientific purposes only and operating under the terms and conditions specified by a required scientific collecting permit issued pursuant to N.J.S.A. 23:4-52 by the Administrator of the Marine Fisheries Administration within the Division of Fish, Game and Wildlife.

3. Individuals in possession of a valid New Jersey miniature fyke or a valid New Jersey lobster or fish pot license and in possession of bona fide written documentation that the horseshoe crabs were obtained from a legal source.

(b) An individual is eligible for a horseshoe crab permit if the individual in each of two calendar years during the period of January 1, 1993 through May 29, 1997:

1. Possessed a valid New Jersey miniature fyke or lobster or fish pot license;

2. Possessed a valid New Jersey horseshoe crab permit; and

3. Reported landings of horseshoe crabs in New Jersey as verified by the Department on the basis of the reports submitted by the individual to the Department as required under this section since May 3, 1993.

(c) Horseshoe crab permits shall be nontransferable except that a horseshoe crab permit holder may transfer the right to the horseshoe crab permit at any time to the permittee's spouse, father, mother, son or daughter upon application to the Division of Fish, Game and Wildlife. No permit shall be transferred without the prior determination by the Department that the transfer complies with this subsection.

(d) The season for horseshoe crabs shall be April 1 through August 15.

(e) A person shall not harvest horseshoe crabs from the beaches and shoreline and the adjacent waters and uplands

within 1,000 feet of the bayfront mean high water line in that portion of Delaware Bay extending from the Cape May Canal in Cape May County to Stow Creek in Cumberland County at any time.

(f) An individual shall not harvest or land horseshoe crabs that have been taken by any method other than by hand harvest. The use of any implement (nets, rakes, spears, shovels, forks, etc.) to assist hand harvest is prohibited. Hand harvest is permitted in areas other than specified in (e) above only on Tuesdays and Thursdays during the season established under (d) above.

(g) (Reserved)

(h) Any person harvesting horseshoe crabs shall provide monthly reports within five working days following the end of the reported month to the Department on forms supplied to the permit holder. The monthly report shall include the number of horseshoe crabs harvested, the area of collection and any other information as the Department may deem necessary for management of the horseshoe crab resource. If no horseshoe crabs were harvested during the month, a report to that effect shall be provided. The permittee shall be personally responsible for guaranteeing the timely delivery of reports to the Division as well as the accuracy of all information contained therein. The Department may demand that a permittee provide proof of the truth of any data contained in any report submitted to the Division under this program. If the permittee fails to file a true, complete monthly report with the Division by the fifth day of any month, the Division, in its discretion, may contact the permittee by the most expeditious method available in order to secure a complete report.

(i) Any person violating the provisions of this section shall be subject to the penalties prescribed in N.J.S.A. 23:2B-14 in addition to the suspension or revocation of the permittee's horseshoe crab harvesting privileges, according to the following procedures:

1. The Division shall notify the permittee in writing of the Division's intention to revoke the permittee's horseshoe crab harvesting privilege for the reasons stipulated in the notice, effective 20 business days after the date on the written notice (excluding the date on the notice) and of the Division's suspension of the permittee's horseshoe crab harvesting privileges in the interim, effective on a date stipulated in the notice but not sooner than 10 business days after the date of the notice (excluding the date on the notice).

2. The permittee may request a hearing to contest a proposed revocation of horseshoe crab harvesting privileges in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The request for an administrative hearing must be received in writing by the Department within 20 business days from the date on the Division's notice of suspension and intention to revoke,

excluding the date on the notice. However, if a timely request for a hearing is not received by the Department, any allegation contained in the notice shall be deemed admitted by the permittee and horseshoe crab harvesting privileges shall be revoked as of the date stipulated in the notice, without any further action by the Division.

3. The Division Director may, in his or her sole discretion, stay the suspension of horseshoe crab harvesting privileges pending a hearing on the notice of proposed revocation of horseshoe crab harvesting privileges for any good cause set forth in a written petition from the permittee, including sworn statements from the permittee or other persons with knowledge relevant to the allegations on which the Division action is based. The petition and its supporting statements and documentation shall be made available to the court and all parties in advance of any hearing.

4. The Division shall reinstate horseshoe crab harvesting privileges suspended for late or incomplete reports, but no more than one time per permittee in any single permit year, if that permittee personally delivers any missing reports, completed, along with a credible written explanation for the delay and/or omissions to the Division within 20 business days from the date on the notice of suspension.

5. Any permittee who has had his or her horseshoe crab harvesting privilege revoked shall be disqualified from exercising any privilege associated with a horseshoe crab harvesting permit for 24 months following the effective date of an uncontested notice of proposed revocation of privileges, or whichever of the following is applicable:

- i. The date of the Commissioner's Final Decision affirming revocation of horseshoe crab harvesting privileges, or
- ii. The filing date of the court order affirming the Commissioner's Final Decision revoking horseshoe crab harvesting privileges.

6. The Division shall issue a horseshoe crab permit to an applicant pending resolution of a contested Division proposal to revoke that applicant's horseshoe crab harvesting privilege, but that permittee shall not exercise or enjoy any horseshoe crab harvesting privilege pending resolution of a proposed revocation until, as appropriate, one of the following occurs:

- i. The Division Director lifts the suspension of that permittee's horseshoe crab harvesting privilege;
- ii. The Commissioner issues a Final Decision reinstating that permittee's horseshoe crab harvesting privilege; or
- iii. A court of competent jurisdiction orders reinstatement of that permittee's horseshoe crab harvesting privileges.

New Rule, R.1993 d.185, effective May 3, 1993.

See: 24 N.J.R. 2978(a), 25 N.J.R. 1876(b).
Amended by R.1996 d.218, effective May 6, 1996.
See: 28 N.J.R. 245(a), 28 N.J.R. 2375(a).
Emergency amendment R.1997 d.268, effective May 30, 1997 (expired July 29, 1997).

See: 29 N.J.R. 3084(a).
The emergency amendment substantially amended (a); rewrote (b) and (c); and deleted (d).

Emergency amendment R.1997 d.350, effective July 29, 1997 (to expire September 27, 1997).

See: 29 N.J.R. 3737(a).

In (a), substituted "land or possess horseshoe crabs" for "horseshoe crabs except by hand collection or while using other gear allowed under this chapter and/or N.J.S.A. Titles 23 and 50" and inserted "be eligible to" preceding "obtain a permit"; added (a)3; inserted new (b) and (c); added (f) and (g); recodified former (b), (b)1, (c) and (d) as (d), (e), (h) and (i), respectively; deleted former (d)2 and 3; in (e), inserted reference to uplands; and in (h), for contents of monthly report, deleted to gear utilized.

Adopted concurrent proposal, R.1997 d.446, effective September 25, 1997.

See: 29 N.J.R. 3737(a), 29 N.J.R. 4900(a).

Deleted (g); changes upon adoption effective November 17, 1997.

Amended by R.1998 d.185, effective April 6, 1998.

See: 30 N.J.R. 262(b), 30 N.J.R. 1320(a).

Rewrote (c); and in (d), extended the horseshoe crab season from May 1 through June 30 to April 1 through August 15.

Case Notes

Adoption of a permanent rule for harvesting horseshoe crabs rendered moot an appeal from a judgment determining that an emergency amendment, which extended prior emergency amendment's 60-day ban on taking horseshoe crabs for another 60 days, violated the Administrative Procedure Act (APA). *Delaware Bay Waterman's Ass'n of New Jersey v. New Jersey Dept. of Environmental Protection*, 709 A.2d 192, 153 N.J. 345 (N.J. 1998).

Emergency amendment to regulation, which extended prior emergency amendment's ban on taking horseshoe crabs, violated Administrative Procedure Act's requirement of legislative approval for such amendment continuation; although Department of Environmental Protection offered two different reasons for original and successive amendments, each amendment had same cause and same result, rendering successive amendment a continuation of first. *Delaware Bay Waterman's Ass'n of New Jersey v. New Jersey Dept. of Environmental Protection*, 304 N.J.Super. 20, 697 A.2d 957 (A.D. 1997.)

SUBCHAPTER 18A. FISHERIES CLOSURES AND ADVISORIES FOR STRIPED BASS, AMERICAN EEL, BLUEFISH, WHITE PERCH AND WHITE CATFISH TAKEN FROM THE NORTHEAST REGION OF THE STATE

Authority

Marine Fisheries Management and Commercial Fisheries Act, N.J.S.A. 23:2B-1 et seq.

Source and Effective Date

R.1983 d.102, effective March 17, 1983.
See: 15 N.J.R. 39(a), 15 N.J.R. 543(c).

Subchapter Historical Note

Subchapter 18A, Fisheries Closures and Advisories for Striped Bass, American Eel, Bluefish, White Perch and White Catfish Taken from the Northeast Region of the State, was originally adopted as emergency new rules by R.1982 d.477, effective December 15, 1982. The concurrent proposal of Subchapter 18A was readopted with changes to N.J.A.C. 7:25-18A.6.

7:25-18A.1 Authority

This subchapter has been promulgated pursuant to the Marine Fisheries Management and Commercial Fisheries Act, N.J.S.A. 23:2B-1 et seq.

sories concerning PCB contaminated fish taken from the waters of the Northeast Region of the State.

7:25-18A.2 Scope and construction

(a) The following shall constitute the rules governing the issuance by the Department, of fisheries closures and advi-

(b) These rules shall be liberally construed to permit the Department to effectuate the purpose of these rules.

7:25-18A.3 Definitions

“Advisory” means a Departmental warning to limit consumption of designated fish species taken from designated regions of the State’s waters.

“Closure” or “closed” means prohibition of sales of designated fish species taken from designated regions of the State’s waters.

“Commissioner” means the Commissioner of the Department of Environmental Protection.

“Department” means the Department of Environmental Protection.

“Limited consumption” or “limit consumption” means that in order to reduce exposure to and bioaccumulation of PCBs, persons of high risk, including but not limited to pregnant women, nursing mothers, women of child-bearing age, and young children, should not eat any designated fish species taken from designated regions of the State’s waters and all other persons should not consume more than one meal per week of any designated fish taken from designated regions of the State’s waters.

“Northeast Region” means the region encompassing the New Jersey portion of Sandy Hook and Raritan Bay; the tidal portions of the Raritan River upstream to the Route 1 Bridge in New Brunswick; the Arthur Kill and Newark Bay; the Passaic River upstream to the Dundee Dam; the Hackensack River up to Oradel Dam; the Kill Van Kull and Upper New York Bay; and the Hudson River upstream to the New Jersey–New York State border, approximately four miles above Alpine, New Jersey.

“PCBs” means polychlorinated biphenyls.

7:25-18A.4 Closure of fisheries

(a) The Commissioner finds, based upon specific investigations, that to protect the public health of the citizens of the State the following designated regions of the State’s waters shall be closed and the sale prohibited of the following fish species:

1. Prohibition of the sale of Striped Bass (*Morone saxatilis*) taken from the Hudson River, Upper New York Bay, Newark Bay, Lower Passaic River, Lower Hackensack River, Arthur Kill and Kill Van Kull; and
2. Prohibition of the sale of American Eels (*Anguilla rostrata*) taken from the Hudson River, Upper New York Bay, Newark Bay, Lower Passaic River, Lower Hackensack River, Arthur Kill and Kill Van Kull.

(b) No person may expose for sale, offer for sale, or sell striped bass (*Morone saxatilis*) in this State.

Amended by R.1987 d.126, effective March 2, 1987.
See: 18 N.J.R. 2170(a), 19 N.J.R. 408(b).
(b) added.

7:25-18A.5 Public advisories concerning fisheries

(a) The Commissioner finds, based upon scientific investigation, that to protect the citizens of the State, the following advisories concerning the taking of designated fish species from designated regions of the State’s waters shall be set forth below:

1. Advisory for the limited consumption of Striped Bass (*Morone saxatilis*) taken from the Northeast Region, including offshore State waters in the northern coastal area;
2. Advisory for the limited consumption of American Eel (*Anguilla rostrata*) taken from the entire State, especially the Northeast Region;
3. Advisory for the limited consumption of Bluefish (*Pomatomus saltatrix*) taken from the Northeast Region, including offshore State waters in the northern coastal area;
4. Advisory for the limited consumption of White Perch (*Morone american*) from the Northeast Region; and
5. Advisory for the limited consumption of White Catfish (*Ictalurus catus*) from the Northeast Region.

(b) The Department further advises that even said designated fish species to be consumed not more than one meal per week should be carefully prepared as set forth below:

1. Remove fat areas from designated fish species, for example, fish belly flaps or abdomens and dark meat portions; and
2. Bake or broil fish on an elevated rack, which allows PCB contaminated fat areas to drip free and away from the fish.

7:25-18A.6 Public notice of fisheries closures and advisories

(a) The Department shall utilize all reasonable and effective methods to publicize and educate the citizens of the State concerning all fishery closures and advisories pursuant to this subchapter, including but not limited to the following:

1. Schedule appropriate press conferences;
2. Prepare and distribute appropriate press releases on May 15 and August 15 of each year, and as otherwise deemed necessary;
3. Post informational notices and signs in appropriate locations;

4. Advertise public notices in State newspapers on May 15 and August 15 of each year, and as otherwise deemed necessary;

5. Distribute public informational notices according to appropriate Departmental mailing lists; and

6. Compliance with notification requirements of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the regulations promulgated thereto.

7:25-18A.7 Violations

Any person who violates any provision of this subchapter shall be liable to the full range of penalties set forth in Section 14 of the Marine Fisheries Management and Commercial Fisheries Act, N.J.S.A. 23:2B-14.

SUBCHAPTER 19. ATLANTIC COAST HARVEST SEASON

Subchapter Historical Note

All provisions of Subchapter 19 became effective August 22, 1980 as R.1980 d.373. See: 12 N.J.R. 312(b), 12 N.J.R. 575(d). Subchapter 19 expired on August 22, 1985 pursuant to Executive Order No. 66(1978) and a new Subchapter 19, Atlantic Coast Harvest Season, became effective July 7, 1986 as R.1986 d.273. See: 17 N.J.R. 2494(a), 18 N.J.R. 1378(a).

7:25-19.1 Scope

This subchapter shall constitute the rules governing the method and season for harvest of oysters from the Reef, Fitney Bit, Turtle Island, Oyster Bed Point beds in Great Bay; the Mullica River above Deep Point; the Great Egg Harbor River, the Tuckahoe River, and the Middle River on the Atlantic Coast.

7:25-19.2 Purpose

The purpose of these rules is to regulate the harvest of oysters from the beds enumerated at N.J.A.C. 7:25-19.1.

7:25-19.3 Construction

These rules shall be liberally construed to permit the department to effectuate the purposes of N.J.S.A. 50:1-5.

7:25-19.4 Definitions

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

"Commissioner" means the Commissioner of Environmental Protection.

"Division" means the Division of Fish, Game and Wildlife.

"Seed oysters" means all oysters planted on the beds listed at N.J.A.C. 7:25-19.1.

7:25-19.5 Method and season of harvest

(a) No person shall catch or take oysters or clams by any means from the Reef, Fitney Bit, Turtle Island, Oyster Bed Point beds in Great Bay; the Mullica River above Deep Point; the Great Egg Harbor River, the Tuckahoe River and the Middle River except with hand tongs during the harvest season.

(b) The harvest season for these oyster beds shall be determined by the size of the seed oysters planted, the time of planting, and the growth and survival rate of the seed oysters.

(c) Based upon the data referred to in (b) above, the harvest season for these oyster beds shall be established by the commissioner or his designee in the Division of Fish, Game and Wildlife, pursuant to N.J.S.A. 50:1-5, with the advice of the Atlantic Coast Section of the Shell Fisheries Council, except that no harvesting shall be permitted between June 30 and September 1 of any year.

(d) Nothing contained herein shall prevent or prohibit the harvest of oysters by mechanical power from any of the leased oyster grounds within the boundaries of the beds enumerated in (a) above by the lessee or his substitute harvester.

(e) Nothing contained herein shall prevent or prohibit the appropriate State authorities from conducting oyster management programs during the closed harvest season.

SUBCHAPTER 20. (RESERVED)

Subchapter Historical Note

Subchapter 20, Indigenous Nongame Wildlife Species of New Jersey, was filed pursuant to N.J.S.A. 23:2A-1 et seq. as R.1980 d.390, effective September 16, 1980. See: 12 N.J.R. 390(b), 12 N.J.R. 576(b). On April 16, 1984, R.1984 d.132 recodified N.J.A.C. 7:25-20.1 and 7:25-20.2 as a part of 7:25-4, Endangered, Nongame and Exotic Wildlife. See: 16 N.J.R. 97(b), 16 N.J.R. 889(a).

SUBCHAPTER 21. TERRAPIN REGULATIONS

Subchapter Historical Note

Subchapter 21, Terrapin Regulations, was adopted as R.1981 d.198, effective July 9, 1981. See: 13 N.J.R. 126(b), 13 N.J.R. 405(a).

7:25-21.1 Designation of terrapin season

No person shall take, catch, possess, expose for sale or attempt to catch or take any *Malaclemys palustris*, commonly known as diamondbacked terrapin, except between November 1 and March 31.

7:25-21.2 Taking of terrapin

No person shall catch, take or attempt to catch or take any terrapin from any of the waters of this State by means of a trap, pot, fyke, seine, weir or net of any description.

7:25-21.3 Size requirement

No person shall take, catch, or possess any terrapin less than five inches long, measured lengthwise along the under shell, nor take or destroy the eggs of any terrapin.

tion granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing was valid under supremacy clause. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation purporting to regulate fishing within Delaware Bay was severable from other regulations. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

SUBCHAPTER 22. FISHERY MANAGEMENT IN NEW JERSEY

Subchapter Historical Note

Subchapter 22, Fishery Management in New Jersey, was adopted as R.1983 d.137, effective May 2, 1983. See: 14 N.J.R. 945(a), 15 N.J.R. 690(b).

7:25-22.1 Menhaden season

The season for taking Atlantic menhaden (*Brevoortia tyrannus*) from the marine waters of the State of New Jersey by purse seine for fish meal reduction shall begin on the third Monday in May and end on the third Friday in October. This provision shall not impose a limited season for the taking of menhaden for bait, chum or purposes other than for fish meal reduction.

Amended by R.1989 d.394, effective July 17, 1989. See: 21 N.J.R. 107(a), 21 N.J.R. 2035(a).

Reference to Atlantic menhaden specifically and latin name (*Brevoortia tyrannus*) added for clarity.

Case Notes

Commercial fishing organization had no rights, under the privileges and immunities clause of the Constitution, which could be violated as a result of state regulations prohibiting fishing. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing was within the scope of statute permitting regulation of fish and game. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing did not constitute impermissible disparate treatment. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing did not constitute impermissible use of "police power". *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing did not violate commercial fishing organization's rights under the commerce clause. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certifica-

7:25-22.2 Purse seine fishing of Atlantic menhaden

(a) Persons licensed to fish for Atlantic menhaden with a purse seine or shirred net in the marine waters of New Jersey pursuant to N.J.S.A. 23:3-51 and N.J.S.A. 23:3-52 who are taking Atlantic menhaden for purposes other than bait, as provided in N.J.A.C. 7:25-22.3, shall be subject to the following:

1. Fishing, for the purpose of this section, shall be defined as having a purse seine in the marine waters of this State.

2. Fishing shall be restricted to the Atlantic Ocean, not closer than 1.2 nautical miles of any point along the shore, jetties or piers. It will be incumbent upon the captain of a purse seine vessel to determine the possibility of drifting inside the 1.2 nautical mile limit while fishing, before setting his or her net. Drifting into the 1.2 nautical mile restricted area along the shore, or around a jetty or pier, while fishing shall constitute a violation of this subchapter.

3. A person shall not fish on Saturdays, Sundays, and the days on which Memorial Day, Independence Day, Labor Day and Columbus Day are officially observed by the State of New Jersey.

4. All pump outlets, except normal engine cooling water, shall discharge below the vessel's water line.

5. All discharge from fish pumps must be treated with a United States Coast Guard approved anti-foaming agent.

6. No refuse, litter or garbage of any kind, or any quantity of dead fish shall be thrown overboard or released from the vessel or its net(s).

7. The licensee is responsible for cleaning up any fish, fish-parts, refuse, litter, or garbage of any kind which is released during any fishing operation or as a result of a fishing operation and must initiate such cleanup no later than 24 hours after the release begins. Upon the licensee's failure to initiate such cleanup within the 24 hour period, the Department may conduct the cleanup or arrange for the performance of the cleanup. In addition to any other penalties and remedies provided by law, the licensee shall be liable for all costs associated with such

cleanup, including any administrative costs incurred by the Department. Such cleanup shall include, but not be limited to, the marine and estuarine waters of the State and adjacent beaches, shorelines and marshes.

8. No markers or buoys designating channels, crab pots, lobster pots, fish pots, or traps shall be disturbed by the act of fishing.

9. Persons subject to this subchapter shall notify the Division of Fish, Game and Wildlife's Marine Enforcement Office located at Nacote Creek, Star Route, Absecon, New Jersey when they intend to fish in State waters, by calling 609-441-3474. The notification shall be made both prior to and upon the completion of any fishing in State waters, by the Captain or his or her agent.

10. The possession of any fish, as defined at N.J.S.A. 23:2B-3e, other than Atlantic menhaden on a purse seine vessel harvesting menhaden is prohibited.

i. The simultaneous possession of Atlantic menhaden and any other fish, as defined at N.J.S.A. 23:2B-3e, and a purse seine, aboard a vessel of any person holding an Atlantic menhaden bait permit or any vessel conducting menhaden fishing operations, shall constitute prima facie evidence of a violation of this subchapter.

R.1984 d.315, effective July 10, 1984.

See: 16 N.J.R. 2171(a).

Adopted on an emergency basis, to expire September 10, 1984. Also concurrently proposed.

Readopted, R.1984 d.473, eff. October 15, 1984.

See: 16 N.J.R. 2171(a), 16 N.J.R. 2805(a).

Amended by R.1989 d.394, effective July 17, 1989.

See: 21 N.J.R. 107(a), 21 N.J.R. 2035(a).

Restrictions increased to 1.2 nautical miles; cleanup liability further defined and new (a)9-11 added.

Case Notes

New Jersey regulations prohibiting fishing did not unconstitutionally discriminate against interstate commerce. *Ampro Fisheries, Inc. v. Yaskin*, 127 N.J. 602, 606 A.2d 1099 (1992), certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

New Jersey Marine Fishery Council had authority to regulate fishing state coastline. *Ampro Fisheries, Inc. v. Yaskin*, 127 N.J. 602, 606 A.2d 1099 (1992), certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

Compact between New Jersey and Delaware did not prohibit New Jersey from unilaterally regulating fishing in territorial waters of New Jersey in Delaware Bay. *Ampro Fisheries, Inc. v. Yaskin*, 127 N.J. 602, 606 A.2d 1099 (1992), certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

Commercial fishing organization had no rights, under the privileges and immunities clause of the Constitution, which could be violated as a result of state regulations prohibiting fishing. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing did not constitute impermissible disparate treatment. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing did not constitute impermissible use of "police power". *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing did not violate commercial fishing organization's rights under the commerce clause. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing was valid under supremacy clause. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing was within the scope of statute permitting regulation of fish and game. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation purporting to regulate fishing within Delaware Bay was severable from other regulations. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

7:25-22.3 Taking of Atlantic menhaden for bait

(a) Persons licensed to fish for or in any way participate in the fishery for Atlantic menhaden (*Brevoortia tyrannus*) with a purse seine or shirred net in the marine waters of New Jersey pursuant to N.J.S.A. 23:3-51 and N.J.S.A. 23:3-52, may apply between January 1 and March 1 for a permit for the purpose of taking Atlantic menhaden for bait purposes only.

1. All persons licensed to take Atlantic menhaden for bait purposes only shall keep, on forms furnished by the Division of Fish, Game and Wildlife's Bureau of Marine Fisheries, accurate records of the amount and location of Atlantic menhaden harvested. Forms are available from the Trenton Office of the Division of Fish, Game and Wildlife, Bureau of Marine Fisheries, 501 East State Street, Third Floor, Trenton, New Jersey 08625. These records shall be filed by the 10th day of each month with the Division of Fish, Game and Wildlife's Trenton office. If no Atlantic menhaden were harvested during the month, a report to that effect shall be provided to the Division of Fish, Game and Wildlife's Bureau of Marine Fisheries.

(b) Persons licensed to fish for Atlantic menhaden with a purse or shirred net in the marine waters of New Jersey, for the purpose of taking Atlantic menhaden for bait purposes only, shall be subject to the following:

1. Fishing, for the purpose of this section, shall be defined as having a purse seine in the marine waters of this State.

2. Fishing shall be restricted to not closer than 0.6 nautical miles of any point along the shore, jetties or fishing piers in the Atlantic Ocean, in the portion of the Delaware Bay south and east of LORAN C line 42850, and in Raritan Bay and Sandy Hook Bay. It will be incumbent upon the captain of a purse seine vessel to determine the possibility of drifting inside the limit while fishing, before setting his or her net. Drifting into the restricted area along the shore or around the jetty or pier while fishing shall be considered a violation of this subchapter.

i. Any vessel operating under a permit for the purpose of taking Atlantic menhaden for bait purposes outside the legal area of fishing as specified in (b)2 above shall be subject to the following penalties:

(1) A one month permit suspension shall be imposed on the permittee for a first offense.

(2) A two month permit suspension shall be imposed on the permittee for a second offense.

(3) A six month permit suspension shall be imposed on the permittee for a third offense.

ii. A permit suspension applicable to both the vessel and the owner must occur within the normal season of fishing operations which extends from May 15 to October 31 each year.

iii. If the duration of a permit suspension is not completed during the current year's normal season of fishing operations, the balance of the permit suspension shall be made up during the following year's normal season of fishing operations.

iv. A permit holder incurring a permit suspension who does not incur a second permit suspension for a three year period following the initial violation shall have the first permit suspension removed from consideration in determining a penalty for any subsequent violation.

3. The maximum length overall of any vessel fishing under the provisions of this section shall be 90 feet.

4. Purse seine or shirred nets shall not exceed 150 fathoms in length.

5. A person shall not fish on Saturdays, Sundays, and the days on which New Year's Day, Martin Luther King's Birthday, Lincoln's Birthday, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Election Day, Veteran's Day, Thanksgiving Day, Christmas Day are officially observed by the State of New Jersey.

6. Fishing shall be conducted only during the hours between sunrise and sunset.

7. Removal of fish from the purse seine shall be by brailing or dip net only. No fish pump shall be on board any vessel operating under a permit for the purpose of taking Atlantic menhaden for bait purposes.

8. The possession of any fish, as defined at N.J.S.A. 23:2B-3e, other than Atlantic menhaden on a purse seine vessel harvesting Atlantic menhaden for bait is prohibited.

i. The simultaneous possession of Atlantic menhaden and any other fish, as defined at N.J.S.A. 23:2B-3e, and a purse seine, aboard a vessel of any person holding an Atlantic menhaden bait permit or any vessel conducting menhaden fishing operations, shall constitute prima facie evidence of the violation of this subchapter.

9. No refuse, litter or garbage of any kind, or any quantity of dead fish shall be thrown overboard or released from the vessel or its net(s).

10. The licensee is responsible for cleaning up any fish, fish-part, refuse, litter, garbage of any kind which is released during any fishing operation or as a result of a fishing operation and must initiate such cleanup no later than 24 hours after the release begins. Upon the licensee's failure to initiate such cleanup within the 24 hour period, the Department may conduct or arrange for the performance of the cleanup. In addition to any other penalties and remedies provided by law, the licensee shall be liable for all costs associated with such cleanup, including any administrative costs incurred by the Department. Such cleanup shall include, but not be limited to, the marine and estuarine waters of the State and adjacent beaches, shorelines and marshes.

11. No stakes, markers, or buoys designating channels, crab pots, lobster pots, fish pots, or traps, or staked leased shellfish grounds, shall be disturbed by the act of fishing.

12. Any vessel engaged in fishing for Atlantic menhaden for bait under the provisions of this section shall display, on both sides of the vessel amidship, a yellow capital letter "B" not less than five feet in height on a black square background not less than six feet on a side. For any vessel where the gunnel height is less than eight feet above the waterline at amidship, the ratio of height of the letter "B" to height (or width) of the square black background of the display shall remain in the same proportion, that is, 5:6, but may be reduced in size. In all cases, however, each side of the black background shall be no less than three-quarters of the height of the gunnel at amidship from the waterline.

13. Any vessel operating under a permit for the purpose of taking Atlantic menhaden for bait purposes shall be required to notify the Department of the intended fishing location of the vessel. The notification shall be made by calling the Division's Marine Enforcement Unit, Bureau of Law Enforcement at (609) 748-2050, prior to fishing in State waters and prior to change of location.

14. No vessel or person shall fish or utilize any other gear type in the same day it has called in and declared that it is fishing for menhaden for bait purposes.

15. The annual purse seine quota for the purpose of taking menhaden for bait shall be unlimited.

(c) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify the annual quota or seasons specified in this subchapter by notice in order to maintain consistency with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. § 5104(b). The Department shall publish notice of any such modification by filing and publishing in the New Jersey Register and in the Division's commercial regulation publication. All such notices shall be effective when the Department files the notice with the Office of Administrative Law or as specified otherwise in the notice.

R.1989 d.394, effective July 17, 1989.

See: 21 N.J.R. 107(a), 21 N.J.R. 2035(a).

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Inserted (b)2i through (b)2iv, in (b)7 added provision relating to fish pumps, and added (b)13 and (b)14.

Amended by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

In (b), rewrote the first sentence of the introductory paragraph in 2, and added 15; and added (c).

Case Notes

State regulation prohibiting fishing did not violate commercial fishing organization's rights under the commerce clause. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

Commercial fishing organization had no rights, under the privileges and immunities clause of the Constitution, which could be violated as a result of state regulations prohibiting fishing. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing did not constitute impermissible disparate treatment. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing did not constitute impermissible use of "police power". *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

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State regulation prohibiting fishing was valid under supremacy clause. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation purporting to regulate fishing within Delaware Bay was severable from other regulations. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

7:25-22.4 Vessel boarding

The operator of, or any other person on board, a fishing vessel subject to this subchapter, shall immediately comply with instructions and signals issued by any law enforcement officer and facilitate a safe boarding and inspection of the vessel, its gear, equipment, catch, and any area where fish may be stored, for the purpose of enforcement of this subchapter.

R.1989 d.394, effective July 17, 1989.

See: 21 N.J.R. 107(a), 21 N.J.R. 2035(a).

Case Notes

State regulation prohibiting fishing did not violate commercial fishing organization's rights under the commerce clause. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

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SUBCHAPTER 23. PERMIT TO KILL WILD DEER

Subchapter Historical Note

Subchapter 23, Permit to Kill Wild Deer, was adopted as R.1985 d.250, effective May 20, 1985. See: 17 N.J.R. 350(b), 17 N.J.R. 1289(b).

7:25-23.1 Scope

This subchapter shall constitute the rules governing the killing of deer, reasonably believed to be causing damage to crops on lands under cultivation, which, absent these rules, would be proscribed by the State Game Code, N.J.A.C. 7:25-5. Provisions for this exception to the State Game Code appears therein at N.J.A.C. 7:25-5.31.

7:25-23.2 Purpose

These rules provide the owner or lessee of cultivated lands a permit to kill wild deer reasonably believed to be causing damage to seeded cultivated grasses or planted crops.

7:25-23.3 Construction

These rules shall be liberally construed to permit the Department and the division to effectuate the purpose of N.J.S.A. 23:4-42.

7:25-23.4 Definitions

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

“Agent” means the person designated on the permit as an authorized agent of the permittee and whose signature is affixed to the permit.

“Department” means the Department of Environmental Protection.

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

“Lands under cultivation” means pasture fields seeded with cultivated grass or land on which planted crops are growing.

“Permit” means the Permit to Kill Wild Deer.

“Permittee” means the owner or lessee or any member of the immediate family thereof of lands under cultivation to whom a permit is issued by the Division.

“State Game Code” means the regulations providing for the management of game birds, game animals and fur-bearing animals promulgated by the Fish and Game Council pursuant to N.J.S.A. 13:1B-30 and appearing at N.J.A.C. 7:25-5.

Amended by R.1991 d.132, effective March 18, 1991.

See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).

Revised definition of “Permittee”.

7:25-23.5 Permit required; authorized permittee; agents

(a) No person shall hunt for, pursue, shoot at, take, kill, wound or attempt to take, kill or wound a deer of any description prohibited by the provisions of the State Game Code N.J.A.C. 7:25-5 or hunt for, pursue, shoot at, take, kill, wound, or attempt to take, kill, or wound any wild deer at any time except during the period permitted by the State Game Code, or kill in any one year more than the number of deer permitted by the State Game Code unless having on their person a current, valid permit to kill wild deer issued by the division.

(b) No person shall be issued the permit unless he or she is the owner or lessee of any land, at least five acres of which constitutes lands under cultivation.

(c) A permit for anticipated damage may be issued upon demonstration to the satisfaction of the Division of documented history of damage.

(d) Except as provided at (c) above, a person shall not be issued the permit unless and until he makes a reasonable showing to the Division, confirmed by a field investigation performed by Division personnel, of substantial deer-caused damage to seeded, cultivated grasses or planted crops. Under exigent circumstances, the permit may be issued for one day only without prior confirmation of necessity by field investigation; provided that within seven days thereafter a field investigation shall be performed by Division personnel. Should the Division then determine that conditions failed to warrant the issuance of the permit, no permit shall subsequently be issued to the same person without a prior field investigation confirming the necessity therefor.

(e) Any permittee or agent shall be in possession of the permit or a copy of the permit at all times when attempting to shoot deer.

(f) A permittee convicted of any two violations of any laws or regulations pertaining to hunting of this or any other state during a five-year period shall not be allowed to shoot deer pursuant to a permit for a period of two years from the date of such second conviction or of three years from the date of the latter of a third or subsequent conviction. A person convicted of any two violations of any law or regulation pertaining to fish, game and wildlife of this State or any other state during a five-year period shall not be allowed to be an agent for a period of two years from the date of such second conviction or three years from the date of the latter of a third or subsequent conviction.

1. A permittee killing deer under the permit on lands on which he does not reside must possess a New Jersey firearm purchaser identification card.

2. An agent killing deer on any land under the permit must possess a valid and proper New Jersey firearm hunting license and New Jersey firearm purchaser identification card.

Amended by R.1991 d.132, effective March 18, 1991.

See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).

Added new (c), redesignated existing (c) as (d) with stylistic changes. Deleted (d). Added new (e), redesignated existing (e) as (f) specifying permittee prohibitions from shooting deer based on convictions of fish and game laws or regulations. Added new (f)2.

7:25-23.6 Permit conditions

(a) The permittee and the agent shall adhere to the following conditions:

1. Conform with all Federal, State, and local statutes, rules, codes, and ordinances pertaining to the discharge of firearms;

2. Use only 10, 12, 16, or 20 gauge shotguns loaded with rifled slugs or 10 or 12 gauge buckshot to kill wild deer;

3. Firearms shall not be discharged from any vehicle;

4. Hunt or kill deer pursuant to the permit only on those lands of the permittee specified on the permit and only during those hours specified on the permit;

5. Display the permit to any person requesting visual inspection thereof and provide any Division representative access to the land under permit at any reasonable time;

6. Keep a daily record of hunting activity and deer mortality during the permit period and submit it to the Division upon request; failure to comply may be cause for revocation of the permit;

7. Deer killed pursuant to the permit shall not be sold or bartered by the permittee or the agent; however, the Division may authorize the permittee to keep for consumption one deer shot under permit annually for each separate, non-contiguous parcel of land under permit;

8. Deer killed pursuant to the permit may be donated by the permittee only as authorized by the division;

9. Dead deer disposal shall be the responsibility of the permittee and shall be effected in compliance with State and local statutes, rules, codes, and ordinances;

10. Dead deer shall be transported for disposal only as authorized by the division;

11. The permit shall expire as specified on the permit;

12. Within two weeks of the expiration of the permit, the permittee shall file with the division a written report giving the date and sex of every deer killed under the permit;

13. Failure to comply with any of the provisions of this subchapter or requirements of a permit may be cause for denial of subsequent permits; and

14. Persons other than the permittee or agent are prohibited from assisting in any way in the shooting activities including, but not limited to, the driving of deer or the driving of a vehicle.

Amended by R.1991 d.132, effective March 18, 1991.

See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).

Substantive amendments assuring access by Division representative in (a)5 and mandating daily recording of hunting activity in (a)6. Permittee's deer allowance specified in (a)7. Added new (a)13 and 14.

7:25-23.7 Liability

The permittee shall assume all liability for any damage or injury caused while attempting to kill wild deer under the permit and shall keep, save, and hold the Division, the Department and the State of New Jersey harmless from loss from all claims, loss, liability, expense or damage in connection with the issuance of, and activities taken pursuant to, the permit.

7:25-23.8 Penalties

Pursuant to N.J.S.A. 23:4-48, any person violating any provision of this subchapter shall be liable to a penalty of not less than \$100.00 nor more than \$500.00 for the first offense and not less than \$300.00 nor more than \$1,000 for the second and each subsequent offense.

SUBCHAPTER 24. LEASING OF ATLANTIC COAST BOTTOM FOR AQUACULTURE

Subchapter Historical Note

Subchapter 24, Leasing of Atlantic Coast Bottom for Aquaculture, was adopted as R.1989 d.502, effective September 18, 1989. See: 21 N.J.R. 1482(b), 21 N.J.R. 2963(a).

7:25-24.1 Scope and authority

This subchapter constitutes the rules of the Department of Environmental Protection governing the leasing of bottom on New Jersey's Atlantic Coast for the culturing of shellfish as authorized by N.J.S.A. 50:1-18 and 50:1-23 through 50:1-31. The objective of the leasing program is to provide bottom for use in the planting and cultivating of shellfish, including aquaculture (growout of hatchery reared seed) and layout (wet storage). If bottom will be used for cleansing (relay) activities, its use is subject to the requirements of N.J.A.C. 7:12-9.7 and 7:25-15.1 instead of this subchapter.

7:25-24.2 Construction

This subchapter shall be liberally construed to permit the Department to effectuate the purposes of N.J.S.A. 50:1-5 et seq.

7:25-24.3 Severability

If any section, subsection, provision, clause, or portion of this subchapter, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the section, subsection, provision, clause, portion, or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the remainder of this subchapter or the application thereof to other persons.

7:25-24.4 Definitions

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

"Bottom" means lands of the State under the tidal waters of the State except in the tidal waters of the Delaware River, Delaware Bay and their tributaries.

"Bureau" means the Bureau of Shellfisheries in the Division of Fish, Game and Wildlife.

"Commercial Shellfish License" means the commercial clam license required and available as specified in N.J.S.A. 50:2-1 to 50:2-5 and N.J.A.C. 7:25-8.1; or the oyster dredge boat license available as specified in N.J.S.A. 50:3-1 and N.J.A.C. 7:25A; or the oyster shucker, planter or dealer license available as specified in N.J.S.A. 50:3-20.11.

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

"Council" means the Atlantic Coast Section of the New Jersey Shell Fisheries Council.

"Department" means the Department of Environmental Protection.

"Lessee" means that person or persons holding a lease of bottom to be exclusively used and enjoyed by the lessee for the planting and cultivating of shellfish, approved by a majority of the Council and approved and signed by the Commissioner.

"New ground" means bottom not leased as of September 18, 1989, and any leased bottom not subject to a valid lease after September 18, 1989.

"Overstaking" means the placement of stakes or buoys so as to delineate an area greater than that described in the lease.

"Productive" means a determination by the Bureau that the bottom surveyed exhibits significant natural recruitment of one or more shellfish species, as evidenced by one or more of the following factors: shellfish density, shellfish year class strength, presence of juvenile shellfish, size distribution of shellfish population, environmental parameters (such as salinity), and historical production record.

"Public bottom" means bottom not subject to a valid lease on which shellfish may be harvested by members of the public subject to the provisions of this subchapter and any other applicable statutes and regulations.

"Shellfish" means hard clams (*Mercenaria mercenaria*), soft clams (*Mya arenaria*), sea clams (surf clams) (*Mactra solidissima*, also known as *Spisula solidissima*) and oysters (*Crassostrea virginica*).

“Shellfish Certificate” means any of the classifications of licenses or certificates issued by the New Jersey Department of Health pursuant to N.J.A.C. 8:13.

“Staking” means the placement of stakes or buoys to mark the boundaries of a leased area.

7:25-24.5 Lease applications for new ground

(a) Lease applications for new ground shall be submitted in person, on forms provided by the Department, to:

Nacote Creek Shellfish Office
 P.O. Box 418, Route 9
 Port Republic, New Jersey 08241
 (609) 441-3284

(b) An application for a shellfish lease for new ground may be submitted by any person who must meet the statutory requirements for leasing specified at N.J.S.A. 50:1-23 through 50:1-31, who, in the five years prior to making application, has not been convicted of violation of N.J.S.A. 50:4-3 or N.J.S.A. 58:24-3 or of any administrative rule promulgated pursuant to those statutory provisions, and who also satisfies the following requirements:

1. Holds a valid New Jersey Commercial Shellfish License; or
2. Holds a valid New Jersey Shellfish Certificate.

(c) The biological survey fee for a lease of new ground is \$15.00 per application, payable upon application.

(d) Except pursuant to (e) below, no single lease application for new ground shall cover more than two acres.

(e) An application for a single lease of new ground of more than two acres will be accepted only for those lots located within the interior of a block of leased lots, containing more than two acres but less than three acres, which have already been mapped by the Department as of September 18, 1989.

(f) An individual may have only a single lease application for new ground pending at any time. Once an individual’s application is denied by the Council or granted by the Council and approved by the Commissioner, that individual may submit an additional lease application for new ground.

(g) Applications for leases of new ground in areas classified as Prohibited, Special Restricted, or Seasonal Special Restricted, as defined in N.J.A.C. 7:12, will not be accepted.

(h) Applications for leases of new ground in areas classified as Approved or Seasonal, as defined in N.J.A.C. 7:12, will be accepted subject to the provisions of this subchapter and N.J.S.A. 50:1-23.

Amended by R.1991 d.132, effective March 18, 1991.
 See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).

Specification of prior violations of shellfish laws and administrative rules as basis for denial of lease in (b).

7:25-24.6 Consideration of lease applications for new ground

(a) Once the Department has received a fully completed lease application and biological survey fee, submitted by a person satisfying the requirements at N.J.A.C. 7:25-24.5(b), (d), (f) and (g), the Department shall consider the area of new ground applied for closed to use by the public and the applicant until the Council decides to deny the lease or until the applicant receives the executed lease from the Department.

(b) Once an applicant satisfying the requirements at N.J.A.C. 7:25-24.5(b), (d), (f), and (g) has submitted a fully completed lease application and biological survey fee to the Department, the applicant shall delineate the approximate boundary of the proposed lease area with temporary corner stakes or buoys marked with the applicant’s last name, to enable the Bureau to conduct the biological survey specified in (c) below.

(c) Except as specified in (c)1 and 2 below, before the Council grants any lease application for new ground, the Bureau will conduct a biological survey to determine the shellfish productivity of the proposed lease area. If the applicant fails to place temporary stakes on the proposed lease area within six months of submitting the lease application, the Council shall automatically deny the application.

1. Any application to lease new ground in the area west of the exterior line delineated by lot numbers 2239, 2240, 2224, 2236.1, 2262.1, 2262, 2261, 2267, 2271, 2269, 2252, 2251, 2254, 2213.1, 2213, and 2282, on the Bureau’s Section B, Chart 24.2, available for public inspection at the Nacote Creek Shellfish Office, in the region known as Dry Bay/Hammock Cove shall be exempt from the requirement of a biological survey and from payment of the biological survey fee.

2. Any application to lease new ground in the following areas will be exempt from the requirement of a biological survey and from payment of the biological survey fee, provided, however, that after September 18, 1989 applications for new ground in the following areas will only be accepted from applicants who possess no other leases:

- i. Big Creek (Great Bay) lot numbers: 398, 399, 400.1, 401.1, 402.1, 403.1, 404.1, 405.1, 406, 407.1, 408.1, 409.1, 410, 411.1, 412.1, on the Bureau’s Section B, Chart 10, available for inspection at the Nacote Creek Shellfish Office; and

- ii. Mordecai Island (Little Egg Harbor Bay) lot numbers: 1136, 1137, 1138, 1139, 1140, 1141, 1142, 1143, 1144, 1145, on the Bureau’s Section B, Chart 13.1, available for inspection at the Nacote Creek Shellfish Office.

(d) The leasing of new ground in areas classified as productive is discouraged.

1. Applications to lease new ground will not be accepted for the following productive areas, as delineated by the Bureau by reference to the National Oceanic and Atmospheric Administration Nautical Chart 12316 (23rd Ed., November 15/86), available for inspection at the Nacote Creek Shellfish Office:

- i. Cape Horn (Great Bay);
- ii. Goosebar (Little Egg Harbor Bay);
- iii. Lakes Bay; and
- iv. Sunflower Island.

2. For lease applications in all other areas, the Bureau will classify the productivity of the proposed lease area based on the results of the biological survey, and provide this information to the Council to aid the Council's evaluation of the lease application.

(e) Consideration of lease applications by the Council shall be governed by the following:

1. Upon completion of the biological survey, the Bureau shall place the application to lease new ground on the agenda, filed with the Secretary of State pursuant to N.J.S.A. 10:4-6 et seq., of the next regularly scheduled Council meeting for the Council's consideration;

2. At each regularly scheduled meeting, the Council will receive public comment on all lease applications on its agenda; and

3. The Council shall render a decision to deny a lease application or grant a lease application subject to approval by the Commissioner by the second regularly scheduled meeting after receiving public comment on the lease application.

(f) The applicant shall attend at least one of the Council meetings at which the lease application is discussed in order to answer any questions that the Council might have about the lease application. Failure to attend at least one of the Council meetings at which the lease application is discussed shall constitute grounds for denial of the lease application, and the area applied for shall revert to public bottom.

(g) Once the Council and the Commissioner have decided whether to grant or deny the lease application, the applicant shall remove any temporary corner stakes or buoys placed pursuant to (b) above. If a lease application is approved by the Council and the Commissioner, the lessee is subject to the staking requirements of N.J.A.C. 7:25-24.10 upon receiving the executed lease from the Department.

7:25-24.7 Hydrographic survey charges; annual lease fees

(a) Following approval of a lease of new ground by the Council and the Commissioner, the Bureau shall perform a hydrographic survey of the lease area described in the application to verify its location and boundaries. Before the Department issues an executed lease to the applicant, the applicant shall reimburse the Bureau for the expense of the hydrographic survey at the rate of \$30.00 per corner. Failure to reimburse the Bureau within 30 days of the Council's approval of the lease will constitute grounds for denial of the lease application, and the area applied for shall revert to public bottom.

(b) The annual lease fee for Atlantic coast shellfish leases is \$2.00 per acre for those areas measured in acres.

(c) The annual lease fee for Atlantic coast shellfish leases is \$2.00 per 100 linear feet of shoreline for those areas measured in linear feet of shoreline (Mullica River and tributaries, Motts Creek and tributaries).

(d) Notwithstanding (b) and (c) above, the minimum annual lease fee for any lessee leasing bottom on the Atlantic Coast is \$5.00.

Amended by R.1995 d.202, effective April 3, 1995.
See: 26 N.J.R. 3109(a), 27 N.J.R. 1405(a).

7:25-24.8 Lease renewal

(a) Lessees may renew their leases by submitting the annual lease fee in person at the Nacote Creek Shellfish Office by December 31 for the following calendar year. If illness or other extenuating circumstances prevent a lessee from renewing a lease by December 31, the Council in its discretion may extend the payment deadline by one month if an extension is requested by the lessee or the lessee's agent at the January Council meeting. If a lessee does not either renew the lease by the payment deadline or receive an extension of the payment deadline from the Council, the lease shall be terminated for non-payment after the January Council meeting and the area described in the terminated lease shall revert to the public bottom.

(b) Renewal of the lease is subject to the lessee's meeting all statutory criteria for leasing, specified at N.J.S.A. 50:1-23 through 50:1-31.

(c) Renewal of the lease is subject to the lessee's maintaining a valid Commercial Shellfish License or Shellfish Certificate.

(d) Renewal of the lease is subject to the lessee's not having been convicted in the year prior to renewal of any violation of N.J.S.A. 50:4-3 or N.J.S.A. 58:24-3 or of any administrative rule promulgated pursuant to those statutory provisions.