

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 limits

(a) 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.

Species	Scientific Name	Minimum Size (inches)
Atlantic Mackerel	<i>Scomber scombrus</i>	7
Atlantic Sturgeon	<i>Acipenser oxyrinchus</i>	60
Black Sea Bass	<i>Centropristis striata</i>	10
Bluefish	<i>Pomatomus saltatrix</i>	9
Conch	<i>Busycon carica</i>	5
	<i>Busycotypus canaliculatum</i>	
	<i>Busycon contrarium</i>	
Kingfish	<i>Menticirrhus saxatilis</i>	8
	<i>Menticirrhus americanus</i>	
Goosefish (Monkfish)	<i>Lophius americanus</i>	17
Porgy (Scup)	<i>Stenotomus chrysops</i>	9
Tautog (Blackfish)	<i>Tautoga onitis</i>	14
Winter Flounder	<i>Pleuronectes americanus</i>	12

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 goosfish size, all goosfish 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 goosfish livers landed shall not be more than 30 percent of the total weight of all goosfish tails landed or 12 percent of the total weight of all goosfish landed.

3. A person may not possess a dressed Atlantic sturgeon for sale less than 36 inches in length, subject to the additional provisions in N.J.A.C. 7:25-18.15. Dressed length is the length of an Atlantic sturgeon after the entire head, collar, tail and viscera have been removed.

(b) A person shall not take from the marine waters in the State or have in his or her possession 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. Fish length shall be measured from the tip of the snout to the tip of the tail (total length), except as noted below.

Species	Scientific Name	Minimum Size Inches
American Eel	Anquilla rostrarata	6
Atlantic Cod	Gadus morhua	21
Atlantic Sturgeon	Acipenser oxyrhynchus	60
Black Sea Bass	Centropristis striata	9
Bluefish	Pomatomus saltatrix	No limit
Cobia	Rachycentron canadum	37
Haddock	Melanogrammus aeglefinus	21
King Mackerel	Scomberomorus cavalla	23
Pollock	Pollachius virens	19
Porgy (Scup)	Stenotomus chrysops	7
Red Drum	Sciaenops ocellatus	18
Spanish Mackerel	Scomberomorus maculatus	14
Summer Flounder (Fluke)	Paralichthys dentatus	14½
Tautog (Blackfish)	Tautoga onitis	13
Weakfish	Cynoscion regalis	14
	Cynoscion nebulosus	
Winter Flounder	Pleuronectes americanus	10

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.

(c) A person angling with a hand line or with rod and line or using a bait net or spearfishing shall not take in any one day or possess more than the possession limit specified below for each species listed during the open season except as may be provided elsewhere in this subchapter, and subject to the provisions of any such section. A person angling or bait netting or spearfishing shall not possess any species listed below during the closed season for that species.

Species	Open Season	Possession Limit
Black sea bass	Jan. 1-Dec. 31	No limit
Bluefish	Jan. 1-Dec. 31	10
King Mackerel	Jan. 1-Dec. 31	3
Scup	Jan. 1-Dec. 31	No limit
Spanish Mackerel	Jan. 1-Dec. 31	10
Summer Flounder	Jan. 1-Dec. 31	10

Species	Open Season	Possession Limit
Tautog	Jan. 1-Dec. 31	No limit
Weakfish	Jan. 1-Dec. 31	14
Winter Flounder	March 1-May 31 and Sept. 15-Dec. 31	No limit

(d) 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.

Species	Possession Limit
Atlantic Sturgeon	0
Cobia	2
Red Drum	5, only 1 of which may be greater than 27 inches

(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) 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.

(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 shall be less than seven 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 or part 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 <u>part length</u>
Atlantic cod	14 inches
Black sea bass	5 inches
Bluefish	No limit
Cobia	26 inches
Haddock	14 inches
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 Trenton Falls 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 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.

(o) 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.

(p) 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).

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.

(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, September 3 through October 19 and October 27 through December 31

2. A person shall not possess or land by the gear specified in (a)1 above any weakfish less than 13 inches in length except as provided elsewhere in this subchapter.

3. A dealer shall not accept any 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 (e) below.

(b) The following provisions are applicable to the commercial harvest of bluefish:

1. A person shall not sell any bluefish unless they possess a Federal bluefish permit.

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 person 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 (e) below.

<u>Gear</u>	<u>Open Season</u>
Gill Net	January 1 through November 6
Pound Net	January 1 through December 31
Otter Trawl	January 1 through December 7
Hook and Line	June 16 through August 7

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 (e) 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. A person angling with a handline or with rod and line shall not possess more than the possession limit for bluefish set forth at N.J.A.C. 7:25-18.1(c) except during the open commercial hook and line season and provided that the angler is in possession of a valid National Marine Fisheries Service commercial bluefish permit in the angler's name.

7. 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 January 1 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) For the purpose of this section, "land" shall mean to begin offloading fish, to offload fish or to enter port with fish.

(e) 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).

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

P.O. Box 418

Port Republic, NJ 08241

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) 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.

1. 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 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.

i. Applicants for a New Jersey Summer Flounder Permit shall complete an application provided by the Department. Applicants applying to use hook and line shall submit their applications no later than May 31, 1994. Applications for a New Jersey Summer Flounder Permit for hook and line received after the above date shall be denied.

ii. To be eligible for a New Jersey Summer Flounder Permit the vessel's owner shall meet the following criteria:

(1) The vessel shall have landed and sold at least 1,000 pounds of summer flounder in New Jersey in each of two years during the period of 1985-1992;

(2) The vessel shall have possessed a valid New Jersey otter trawl, pound net, or gill net license or a valid Federal summer flounder permit during each of the two years it qualified based upon the pounds of summer flounder landed and sold in (l)4ii(1) above. Vessels providing documentation regarding the amount of summer flounder landed for two years between January 1, 1985 to November 2, 1988 or vessels providing documentation of harvest by hook and line are exempt from this requirement; and

(3) Applicants shall provide weigh out slips to document the amount of summer flounder landed and copies of their New Jersey otter trawl, pound net or gill net license or Federal summer flounder permit for the respective years.

iii. The New Jersey Summer Flounder Permit shall be on board the vessel to which it is issued at all times. The permit is valid from the date of issuance and for any subsequent years unless revoked as part of a penalty action. The vessel, when engaged in the directed summer flounder fishery, may only have on board the gear type(s) listed on the New Jersey Summer Flounder Permit.

(1) The owner of a permitted vessel may transfer his or her New Jersey Summer Flounder Permit, upon application to the Department, as follows:

(A) To his or her replacement vessel, provided the replacement vessel is of equal or less gross registered tonnage and vessel registered length. The vessel being replaced shall no longer be eligible for a New Jersey Summer Flounder Permit, or

(B) Along with the sale of his or her vessel to a new owner. The owner selling the vessel shall no longer be eligible for a New Jersey Summer Flounder Permit based on the harvesting history of the vessel being sold.

(2) Transfer of a permit to a new vessel shall be limited to the same gear type(s) of the originally permitted vessel.

(3) Applicants for permit transfer shall complete an application provided by the Department, and no permit may be transferred without the prior approval of the Department.

iv. A vessel possessing a valid New Jersey Summer Flounder Permit to commercially harvest summer flounder by angling or hook and line and when operating under the permit shall be subject to the following:

(1) Crew size shall be limited to no more than five persons, including the captain;

(2) The vessel shall not carry any passengers for hire. When carrying passengers for hire the New Jersey Summer Flounder Permit is not valid and the recreational possession limits and seasonal restrictions as specified in N.J.A.C. 7:25-18.1 apply.

v. A vessel that does not possess a New Jersey Summer Flounder Permit shall be permitted to land not more than 100 pounds of summer flounder during the period of May 1 through October 31, or not more than 200 pounds of summer flounder during the period of November 1 through April 30 on any trip, except that vessels taking summer flounder by angling or hook and line shall be subject to the possession limits established in N.J.A.C. 7:25-18.1.

5. The annual summer flounder harvest quota for New Jersey shall be determined by the Mid-Atlantic Fishery Management Council as implemented by the National Marine Fisheries Service. All landings of summer flounder in New Jersey shall be applied to the New Jersey annual summer flounder quota unless New Jersey enters into an agreement with another state(s) to transfer or combine summer flounder commercial quotas, as provided for pursuant to (l)6 below and such agreement indicates otherwise.

i. Ten percent, but not more than 200,000 pounds of the New Jersey annual summer flounder quota, shall be allocated each year for by-catch landings when any of the three seasons for the directed commercial fishery are closed. The by-catch landings shall be divided between the three seasons (January-April, May-August, September-December) at the same percentage as for the directed fishery specified at (j)5ii below or as modified by the Commissioner.

(1) Any by-catch not landed during the season allocated shall be added to the directed fishery of the following season except during the last season (September-December).

(2) If any of the by-catch allowance has not been landed by December 1 in any calendar year the remaining amount shall be added to the directed summer flounder fishery quota.

ii. The balance of the New Jersey annual quota for the summer flounder fishery remaining after deducting the by-catch allowance specified in (j)5i above shall be divided into three seasons and daily trip limits as follows:

(1) January-April: 39.28 percent, 7,500 pound trip limit until such time as 50 percent of the quota is projected to be taken, then a 4,000 pound trip limit.

(2) May-August: 16.83 percent, 750 pound trip limit until such time as 40 percent of the quota is projected to be taken, then a 500 pound trip limit.

(3) September-December: 43.89 percent, 1,000 pound trip limit.

iii. No vessel shall have in possession or land and no dealer shall accept from any one vessel more than the daily trip limit of summer flounder in any one calendar day.

iv. Any vessel participating in a directed summer flounder fishery shall notify the Department of the time and place of unloading of the vessel at least two hours in advance of such unloading. Such unloading shall not occur except between the hours of 6:00 A.M. and 6:00 P.M. Notification shall include a phone call to (609) 748-2050 unless changed by notice to permit holders via first class mail.

v. If a minimum of 100,000 pounds of the New Jersey summer flounder quota remains unlanded as of December 1 in any calendar year, then there shall be an unlimited daily trip limit for the remainder of that calendar year or until the quota specified in (j)5ii above is landed, whichever occurs first.

vi. The Commissioner, or his or her designee, shall close the season for the directed and/or by-catch commercial summer flounder fishery upon four days public notice of the projected date the season quota shall be caught. Public notice shall include letters by first class mail to all permitted New Jersey Summer Flounder Dealers and New Jersey Summer Flounder Permit holders.

vii. Once the season has been closed for the directed commercial summer flounder fishery, no vessel shall land any summer flounder and no dealer shall accept any summer flounder landed in New Jersey in excess of the by-catch allowances specified in (l) 1 and 4 above and provided the amount of summer flounder landed from any vessel shall not exceed 10 percent, by weight of the total weight of all species landed and sold. If the entire season and/or annual quota including the by-catch allowance has been landed, then no vessel or person shall land or sell any summer flounder and no dealer or person shall accept or buy any summer flounder landed in New Jersey.

viii. If the Commissioner, or his or her designee, 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 (l)5vi above.

(1) The Commissioner or his or her designee may set daily trip limits when reopening a prematurely closed season.

ix. If the quota for a particular season is not taken, the balance shall be reallocated for the following season, except that any balance existing as of December 31 of any year shall not be reallocated.

x. If the quota for either of the first two seasons is exceeded, the amount overharvested shall be deducted from the third season.

xi. If the quota for any year is exceeded, the amount overharvested will be deducted from the following year's annual quota. The remaining annual quota will then be allocated as defined in (l)5i and ii above.

xii. Beginning in 1994, the Department shall notify the holders of New Jersey Summer Flounder Permits of the season allocations no later than January 31 of the year to which the allocation applies. Notification shall be accomplished by first class mail to permit holders.

xiii. All New Jersey Summer Flounder Permit holders shall be required to complete monthly reports supplied by the Department. The monthly report shall be signed by the permittee attesting to the validity of the information and be submitted so it is received by the Department no later than 15 working days following the end of the reported month at the following address:

New Jersey Summer Flounder 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, New Jersey Summer Flounder Permit number of the vessel, total amount (in pounds) of each species taken, dates caught, time at sea, duration of fishing time, gear type used to harvest, number of tows, area fished, crew size, landing port, date sold and buyer. This information shall be provided for any trip in which summer flounder are landed. New Jersey Summer Flounder Permit holders who also possess a Federal summer flounder permit and are required to report monthly to the Federal government may submit the "STATE" copy of their Federal log book in satisfaction of the New Jersey reporting requirements.

(2) If no trips for summer flounder were taken and no summer flounder were landed during the month, a report to that effect shall be required.

6. Pursuant to Amendment 5 of the Mid-Atlantic Fishery Management Council's Summer Flounder Management Plan, the Commissioner may enter into agreements with other states to transfer or combine summer flounder commercial quotas. Such agreements shall specify the terms and conditions under which vessels not in possession of a New Jersey Summer Flounder Permit may land summer flounder 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.

7. No fish dealer shall accept any summer flounder from any vessel or harvester unless such dealer is in possession of a valid New Jersey Summer Flounder Dealers Permit. A New Jersey Summer Flounder Dealers Permit may be obtained by completing an application supplied by the Department and submitting it to:

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

8. No dealer shall accept from any vessel more than the by-catch amounts of summer flounder specified at (j)4 above unless said vessel is in possession of its valid New Jersey Summer Flounder Permit.

9. No vessel shall land and no dealer shall accept any summer flounder which have been frozen, filleted or processed in any way. Only whole, fresh summer flounder may be landed.

10. Any harvester or vessel landing summer flounder in New Jersey for the purpose of sale shall sell all summer flounder to a permitted New Jersey Summer Flounder Dealer.

11. All permitted New Jersey Summer Flounder Dealers shall provide weekly reports to the Division listing the amount of summer flounder landed on a daily basis by size category and any other information that may be required by the Commissioner or as a result of an agreement with other states pursuant to (j)6 above. Such report shall be FAXed to the Division at 609-984-1408 no later than two days following the week's end or sent by any other method approved by the Department. For the purpose of this provision, the week shall begin on Sunday and end on Saturday.

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 application by June 30, 1993 for use of otter trawls, pound nets, gill nets or scallop dredges or by May 31, 1994 for use of hook and line or to attach 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 summer flounder landed as specified in (l)4 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 (l)3 above, minimum mesh size, (l)5iii above, landing, possession or accepting in excess of the daily trip limit for summer flounder, (l)5iv, failure of notification of landing of summer flounder, (l)5vii above, landing summer flounder after the directed fishery and/or by-catch sea-

son has been closed, or (l)5xiii above, failure to submit accurate and timely monthly reports, (l)8 accepting more than by-catch amounts from non-permitted vessels, (l)9 accepting any summer flounder other than fish product, or (a), (b), (d), (e), (f) above or N.J.S.A. 23:3-46 through 23:3-47 shall result in the suspension or revocation of the vessel's New Jersey Summer Flounder permit or the dealers New Jersey Summer Flounder Dealers Permit according to the following schedule:

(1) First offense: 60 days suspension

(2) Second offense: 120 days suspension

(3) Third offense: permanent revocation

iv. Any person who has had his or her New Jersey Summer Flounder Dealers Permit suspended or revoked shall not land or permit the landing of any summer flounder at his or her facility during the suspension or revocation under the provisions of another permittee's New Jersey Summer Flounder Dealers Permit.

v. Prior to revocation of the permit, the permittee shall have the opportunity to request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(m) Special provisions applicable to a directed weakfish fishery are as follows:

1. The possession of more than 100 pounds of weakfish on board a vessel or landed from a vessel shall constitute a directed fishery for weakfish.

2. A person shall not possess any weakfish less than 12 inches in length that have been harvested by otter or beam trawl during the period from September 1 through December 31. During the period of January 1 through August 31, the minimum size limit for weakfish harvested by otter or beam trawl is 13 inches in length pursuant to N.J.A.C. 7:25-18.12(a).

3. A person utilizing a beam or otter trawl in a directed fishery for weakfish shall not use a net of less than 3.75 inches stretched diamond mesh or 3.375 inches 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 mesh specified above in this paragraph on board a vessel in a directed fishery for weakfish is prohibited.

4. A person shall not land any weakfish harvested by otter trawl except during the open seasons of January 1 through July 31 and October 13 through December 31. No dealer shall accept any weakfish landed in New Jersey taken by otter trawl except during such open seasons.

(n) Special provisions applicable to a directed winter flounder fishery are as follows:

1. The possession of more than 100 pounds of winter flounder on board a vessel or landed from a vessel shall constitute a directed fishery for winter flounder.

2. A person shall not possess any winter flounder less than 12 inches in length that have been harvested by otter or beam trawl, or any other net, trap, dredge or commercial gear.

3. A person utilizing an otter or beam trawl in a directed fishery for winter flounder shall not use a net of less than 5.0 inches stretched mesh inside measurement applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net.

4. No person shall fish for or land any winter flounder taken by otter trawl or by any other net, trap, dredge or commercial gear in New Jersey waters, except during the open season of December 1 through May 31. No dealer shall accept any winter flounder taken in New Jersey waters except during such open season. The harvest of winter flounder by the use of fyke nets is subject to the provisions of N.J.A.C. 7:25-18.5(g)2.

5. Except during the open season specified at (l)4 above, a vessel with any winter flounder on board shall not have any otter or beam trawl available for immediate use while on the marine waters of this State. An otter or beam trawl that conforms to the provisions at (b)1 through 3 above is considered not "available for immediate use."

(o) Special provisions concerning the harvest of bluefish are as follows:

1. The annual bluefish allocation to the otter trawl fishery shall be 14.7 percent of New Jersey's annual commercial bluefish quota as allocated by the National Marine Fisheries Service.

2. A person shall not land any bluefish by otter trawl except during the open season of January 1 through December 7.

(p) Special provisions applicable to a directed scup fishery are as follows:

1. The possession of more than 4,000 pounds of scup during the period of November 1 through April 30 and more than 1,000 pounds of scup during the period of May 1 through October 31 on board a vessel or landed from a vessel shall constitute a directed fishery for scup.

2. A person utilizing an otter or beam trawl in a directed fishery for scup shall not use a net of less than 4.5 inches stretched mesh inside measurement applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net.

3. The possession of any net with a mesh less than the minimum specified in (p)2 above on board a vessel in a directed fishery for scup is prohibited unless it is not available for immediate use as defined in (b) above.

4. Annual coastwide scup quotas for the periods of January 1 through April 30 and November 1 through December 31 and an annual New Jersey scup quota for the period from May 1 through October 31 shall be determined by the Mid-Atlantic Fishery Management Council as implemented by the National Marine Fisheries Service. All landings of scup in New Jersey during the period from May 1 through October 31 shall be applied to the New Jersey scup quota.

i. The Commissioner, or his or her designee, shall close the season for the commercial scup 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 New Jersey Scup Dealer Permit holders, New Jersey Scup Permit holders and Federal scup moratorium permit holders that are New Jersey residents.

ii. Once the season has been closed for the commercial scup fishery, no vessel shall land any scup and no dealer shall accept any scup landed in New Jersey.

iii. 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 (p)4i above.

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

5. No vessel shall have in possession or land and no dealer shall accept from any one vessel more than the daily trip limit set by the National Marine Fisheries Service for the seasons of January 1 through April 30 and November 1 through December 31 and no vessel shall have in possession or land and no dealer shall accept from any one vessel more than the daily trip limit of 1,000 pounds of scup during the season of May 1 through October 31 or as provided for in (p)5i below.

i. If a minimum of 25 percent of the New Jersey scup quota is projected to remain unlanded as of October 1 in any calendar year, then there shall be a 4,000 pound trip limit for the remainder of the season or until the season is closed as provided in (p)4i above.

6. No fish dealer shall accept any scup from any vessel or harvester unless such dealer is in possession of a valid New Jersey Scup Dealer Permit. A New Jersey Scup Dealer Permit may be obtained by completing an application supplied by the Department and submitting it to:

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

7. A harvester or vessel shall not land scup for the purpose of sale or sell any scup unless such harvester or vessel is in the possession of a valid New Jersey Scup Permit or a valid scup moratorium permit issued by the National Marine Fisheries Service.

i. Applicants for a New Jersey Scup Permit shall complete an application provided by the Department including information on name, address, vessel name, vessel documentation number or registration number, gear type and landing criteria as specified in (p)7ii below:

ii. To be eligible for a New Jersey Scup Permit, the vessel's owner shall meet the following criteria:

(1) The vessel shall have landed and sold at least 1,000 pounds of scup in New Jersey during the period from January 1, 1993 through December 31, 1996;

(2) Documented proof of landings shall consist of one or more the following:

(A) Weight-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); and/or

(C) Other documentation similar to that in (p)7ii(2)(A) or (B) above may be accepted at the discretion of the Commissioner after his or her review.

iii. Completed applications should be submitted to:

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

iv. Applications submitted after August 25, 1997 shall be denied.

v. The New Jersey Scup Permit shall be on board the vessel to which it is issued at all times. The permit is valid in 1997 and subsequent years unless revoked as part of a penalty action. The New Jersey Scup Permit is issued to a specific vessel in the name of the owner.

(1) The owner of a permitted vessel may transfer his or her New Jersey Scup Permit, upon application to the Department, as follows:

(A) To his or her replacement vessel. The vessel being replaced shall no longer be eligible for a New Jersey Scup Permit; or

(B) Along with the sale of his or her vessel to a new owner. The owner selling the vessel shall no longer be eligible for a New Jersey Scup Permit based on the harvesting history of the vessel being sold.

(2) No Permit shall be transferred without the prior approval of the Department.

vi. A vessel possessing a New Jersey Scup Permit to commercially harvest scup by angling or hook and line or spearfishing and when operating under the permit shall be subject to the following:

(1) Crew size shall be limited to no more than five persons, including the captain; and

(2) The vessel shall not carry any passengers for hire. When carrying passengers for hire, the New Jersey Scup Permit is not valid and any possession limits and seasonal restrictions as specified in N.J.A.C. 7:25-18.1 apply.

8. Any harvester or vessel landing scup in New Jersey for the purpose of sale shall sell all scup to a permitted New Jersey Scup Dealer.

9. All permitted New Jersey Scup Dealers shall provide weekly reports to the Division listing the amount of scup landed on a daily basis and any other information that may be required by the Commissioner or as a result of an agreement with other states pursuant to (p)10 below. Such report shall be faxed to the Division at 609-984-1408 no later than two days following the week's end or sent by any other method approved by the Department. For the purpose of this provision, the week shall begin on Sunday and end on Saturday.

10. All New Jersey Scup Permit holders and any scup moratorium permit holders landing scup in New Jersey 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 15 working days following the end of the reported month at the following address:

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

i. The monthly report shall include, but not be limited to, the following information: name, New Jersey Scup Permit number or scup moratorium permit number, total amount (in pounds) of each species taken, dates caught, time at sea, duration of fishing time, gear type used to harvest, number of tows, area fished, crew

size, landing port, date sold and buyer. This information shall be provided for any trip in which scup are landed. New Jersey Scup Permit holders and scup moratorium permit holders may submit the "STATE" copy of their Federal log book in satisfaction of the New Jersey reporting requirements.

11. 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 comply with the provisions of (p)4ii, landing or accepting scup after the season has been closed; (p)5, landing or accepting more than the daily trip limit; (p)6, accepting scup from a vessel without first having obtained a valid New Jersey Scup Dealer Permit; (p)7, landing for the purpose of sale or selling scup without first having obtained a valid New Jersey Scup Permit or valid scup moratorium permit; (p)8, selling scup to a non-permitted fish dealer; or (p)9 and (p)10, failure to submit accurate and timely reports shall result in the suspension or revocation of the dealer's New Jersey Scup Dealer Permit or the vessel's New Jersey Scup Permit according to the following schedule:

(1) First offense: No suspension.

(2) Second offense: 60 days suspension during the open season as provided in (p)4 above.

(3) Third offense: 120 days suspension during the open season as provided in (p)4 above.

(4) Fourth offense: Permanent revocation.

ii. 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.

iii. Any person who has had his or her New Jersey Scup Dealer Permit suspended or revoked, shall not land or permit the landing of any scup at his or her facility during the suspension or revocation under the provisions of another permittee's New Jersey Scup Dealer 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 100 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.

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 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.

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).

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.