

"Condemned waters" means waters not meeting the established sanitary standards for approved shellfish harvesting, including waters designated as Prohibited, Special Restricted, Seasonal Special Restricted and Seasonal, as delineated at N.J.A.C. 7:12.

"Council" means the Atlantic Coast Section of the New Jersey Shell Fisheries Council.

"Department" means the Department of Environmental Protection.

"Division" means the Division of Fish 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 *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.

Amended by R.2001 d.73, effective March 5, 2001.

See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).

Amended by R.2001 d.477, effective December 17, 2001.

See: 33 N.J.R. 3288(a), 33 N.J.R. 4340(a).

In "Condemned waters", substituted "Special" for "Specially" preceding "Restricted,"; in "Council", deleted "and the Delaware Bay Section"; in "Surf clams", deleted "Mactra solidissima also known as".

#### 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 surf clam harvest areas; reopening of closed surf clam harvest areas

(a) The area in which surf clams may not be taken are as follows:

1. Those areas closed to shellfishing by N.J.A.C. 7:12; and

2. For the purpose of surf clam resource conservation, the Commissioner, with the advice of the Council, may close surf clam harvest areas in regions in which the average size of the surf clams is less than four inches in length (longest dimension) as determined by the Department's annual New Jersey surf clam stock assessment survey, by filing a public notice for publication in the New Jersey Register and sending notice to all license holders by first class mail.

i. At such time as the average size of surf clams within these prohibited surf clam harvest areas exceeds four inches in length (longest dimension) as determined by the Department's annual New Jersey surf clam stock assessment survey, the Commissioner, with the advice of the Council, may reopen these areas, by filing a public notice for publication in the New Jersey Register and sending notice to all license holders by first class mail.

Amended by R.1995 d.632, effective December 4, 1995.  
See: 27 N.J.R. 3269(a), 27 N.J.R. 4888(a).  
Amended by R.2001 d.477, effective December 17, 2001.  
See: 33 N.J.R. 3288(a), 33 N.J.R. 4340(a).  
Rewrote the section.

#### 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

1,000,000 bushels of surf clams. The season quota shall not exceed 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).  
Public Notice: 2001-2002 harvest quota set at 700,000 bushels.  
See: 33 N.J.R. 3767(a).  
Amended by R.2001 d.477, effective December 17, 2001.  
See: 33 N.J.R. 3288(a), 33 N.J.R. 4340(a).

In (a), substituted "1,000,000" for "700,000", and "not exceed" for "be set at approximately".

Public Notice: 2002-2003 harvest quota set at 600,000 bushels.  
See: 34 N.J.R. 3539(a).  
Public Notice: 2003-2004 Surf Clam Harvest Quota.  
See: 35 N.J.R. 4789(a).  
Public Notice: 2004-2005 Surf Clam Harvest Quota.  
See: 36 N.J.R. 4850(a).  
Public Notice: 2005-2006 Surf Clam Harvest Quota.  
See: 37 N.J.R. 4075(a).  
Public Notice: 2006-2007 Surf Clam Harvest Quota.  
See: 38 N.J.R. 4253(b).  
Public Notice: 2007-2008 Surf Clam Harvest Quota.  
See: 39 N.J.R. 4451(a).  
Public Notice: 2008-2009 Surf Clam Harvest Quota.  
See: 40 N.J.R. 5847(c).  
Public Notice: 2009-2010 Surf Clam Harvest Quota.  
See: 41 N.J.R. 3852(a).  
Public Notice: 2010-2011 Surf Clam Harvest Quota.  
See: 42 N.J.R. 2332(b).  
Public Notice: 2011-2012 Surf Clam Harvest Quota.  
See: 43 N.J.R. 2626(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.