

# DIVISION OF FISH AND WILDLIFE RULES

N.J. STATE LIBRARY  
P.O. BOX 520  
TRENTON, NJ 08625-0520

## CHAPTER 25

### DIVISION OF FISH AND WILDLIFE RULES

#### Authority

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

#### Source and Effective Date

R.2001 d.73, effective January 30, 2001.  
See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).

#### Executive Order No. 66(1978) Expiration Date

Chapter 25, Division of Fish, Game and Wildlife Rules, expires on January 30, 2006.

#### Chapter Historical Note

Chapter 25, Division of Fish, Game and Wildlife Rules, was adopted and became effective prior to September 1, 1969.

Subchapter 2, Use of All Land and Water Areas Under the Control of the Division of Fish, Game and Wildlife, was adopted as R.1975 d.292, effective October 1, 1975. See: 7 N.J.R. 411(a), 7 N.J.R. 499(c).

Pursuant to Executive Order No. 66(1978), Chapter 25, Division of Fish, Game and Wildlife Rules, was readopted as R.1991 d.132, effective February 15, 1991. See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).

Pursuant to Executive Order No. 66(1978), Chapter 25, Division of Fish and Wildlife Rules, was readopted as R.1996 d.119, effective February 2, 1996. See: 27 N.J.R. 4514(a), 28 N.J.R. 1378(b).

Pursuant to Executive Order No. 66(1978), Chapter 25, Division of Fish and Wildlife Rules, was readopted as R.2001 d.73, effective January 30, 2001. See: Source and Effective Date. See, also, section annotations.

### CHAPTER TABLE OF CONTENTS

#### SUBCHAPTER 1. GENERAL PROVISIONS

- 7:25-1.1 Scope
- 7:25-1.2 Construction
- 7:25-1.3 Practice where rules do not govern
- 7:25-1.4 Definitions
- 7:25-1.5 License, permit and stamp fees
- 7:25-1.6 (Reserved)
- 7:25-1.7 Penalties

#### SUBCHAPTER 2. USE OF ALL LAND AND WATER AREAS UNDER THE CONTROL OF THE DIVISION

- 7:25-2.1 Cutting or damaging vegetation
- 7:25-2.2 All motor vehicles and other forms of conveyances
- 7:25-2.3 Vehicle traffic controls in Wildlife Management Areas
- 7:25-2.4 Alcoholic beverages
- 7:25-2.5 Restricted areas and hours
- 7:25-2.6 Division Fish Hatcheries
- 7:25-2.7 Outboard motors
- 7:25-2.8 Horseback riding
- 7:25-2.9 Swimming
- 7:25-2.10 Camping, picnicking and vending
- 7:25-2.11 Fires
- 7:25-2.12 Target practice
- 7:25-2.13 Daily use permit
- 7:25-2.14 Field trial activities
- 7:25-2.15 Rental of clubhouses
- 7:25-2.16 Revocation

- 7:25-2.17 Securing permits
- 7:25-2.18 Wildlife Management Areas
- 7:25-2.19 Higbee Beach
- 7:25-2.20 Dog training
- 7:25-2.21 Waterfowl blinds
- 7:25-2.22 Special Events Permits
- 7:25-2.23 Boat Ramp Maintenance Permit
- 7:25-2.24 Fishing tournaments
- 7:25-2.25 Severability
- 7:25-2.26 Restrictions on use

#### SUBCHAPTER 3. USE OF MECHANICAL NOISEMAKING DEVICES

- 7:25-3.1 Procedure for securing permit
- 7:25-3.2 Devices
- 7:25-3.3 Standards on distance
- 7:25-3.4 Hours of operation
- 7:25-3.5 Revocation

#### SUBCHAPTER 4. ENDANGERED, NONGAME AND EXOTIC WILDLIFE

- 7:25-4.1 Definitions
- 7:25-4.2 Permit required
- 7:25-4.3 Exotic species and nongame species requiring a permit for possession
- 7:25-4.4 Exempted species
- 7:25-4.5 Additional species
- 7:25-4.6 Categories of permits, expiration, fees, sales receipts required, records and reports required
- 7:25-4.7 General possession criteria
- 7:25-4.8 Potentially dangerous species
- 7:25-4.9 Criteria for the possession of potentially dangerous species
- 7:25-4.10 Endangered species prohibited
- 7:25-4.11 Miscellaneous provisions
- 7:25-4.12 Notice of a denial of permit, procedure, review, time limitations, hearing
- 7:25-4.13 List of endangered species
- 7:25-4.14 Requirements for possession of endangered wildlife species
- 7:25-4.15 Protection of animal and welfare of public
- 7:25-4.16 Violations
- 7:25-4.17 Defining status of indigenous wildlife species of New Jersey
- 7:25-4.18 Endangered and Nongame Species Advisory Committee
- 7:25-4.19 Criteria for possession of wild-caught bird species for breeding, zoological, scientific or educational purposes
- 7:25-4.20 Birds which must be banded; criteria for identifying and marking birds; permitted alterations of appearance; miscellaneous

#### SUBCHAPTER 5. 2003-2004 GAME CODE

- 7:25-5.1 General provisions
- 7:25-5.2 Pheasant—Chinese ringneck (*Phasianus colchicus torquatus*), English or blackneck (*P.c. colchicus*), Mongolian (*P. mongolicus*), Japanese green (*Phasianus versicolor*); including mutants and crosses of above
- 7:25-5.3 Cottontail rabbit (*Sylvilagus floridanus*), black-tailed jack rabbit (*Lepus californicus*), white-tailed jack rabbit (*Lepus townsendii*), European hare (*Lepus europeus*), chukar partridge (*Alectoris graeca*), and quail (*Colinus virginianus*)
- 7:25-5.4 Ruffed grouse (*Bonasa umbellus*)
- 7:25-5.5 Eastern gray squirrel (*Sciurus carolinensis*)
- 7:25-5.6 Black bear (*Ursus americanus*), bobcat (*Felis rufus*)
- 7:25-5.7 Wild turkey (*Meleagris gallapavo*)
- 7:25-5.8 Mink (*Mustela vison*), muskrat (*Ondatra zibethicus*) and nutria (*Myocaster coypus*) trapping only
- 7:25-5.9 Beaver (*Castor canadensis*) trapping
- 7:25-5.10 River otter (*Lutra canadensis*) trapping
- 7:25-5.11 Raccoon (*Procyon lotor*), red fox (*Vulpes vulpes*), gray fox (*Urocyon cinereoargenteus*), Virginia opossum (*Didel-*

phis virginiana), striped skunk (*Mephitis mephitis*), long-tailed weasel (*Mustela frenata*), short-tailed weasel (*Mustela erminea*), and coyote (*Canis latrans*) trapping only

- 7:25-5.12 General trapping
- 7:25-5.13 Migratory birds
- 7:25-5.14 Special regulation limiting use of shotguns and shotgun shells containing lead pellets
- 7:25-5.15 Crow (*Corvus* spp.)
- 7:25-5.16 General falconry rules
- 7:25-5.17 Raccoon (*Procyon lotor*) and Virginia opossum (*Didelphis virginiana*) hunting
- 7:25-5.18 Woodchuck (*Marmota monax*) hunting
- 7:25-5.19 Red fox (*Vulpes vulpes*), gray fox (*Urocyon cinereoargenteus*) and coyote (*Canis Latrans*) hunting
- 7:25-5.20 Dogs
- 7:25-5.21 Squirrel (*Sciurus* spp.), raccoon (*Procyon lotor*), opossum (*Didelphis virginianus*), skunk (*Mephitis mephitis*), weasel (*Mustela* spp.), woodchuck (*Marmota monax*), coyote (*Canis latrans*), gray fox (*Urocyon cinereoargenteus*) and red fox (*Vulpes vulpes*) damage
- 7:25-5.22 Wild animals; possession, killing
- 7:25-5.23 Firearms and missiles, etc.
- 7:25-5.24 Bow and arrow, general provisions
- 7:25-5.25 White-tailed deer (*Odocoileus virginianus*) fall bow season
- 7:25-5.26 White-tailed deer winter bow season
- 7:25-5.27 White-tailed deer six-day firearm season
- 7:25-5.28 White-tailed deer muzzleloader rifle permit season
- 7:25-5.29 White-tailed deer shotgun permit season
- 7:25-5.30 White-tailed deer bow permit season
- 7:25-5.31 White-tailed deer permit shotgun season and permit muzzleloader season, Great Swamp National Wildlife Refuge (Zone 38)
- 7:25-5.32 Special Wildlife Management Permits
- 7:25-5.33 Pheasants and quail stamp designated areas
- 7:25-5.34 Controlled hunting—hunting restrictions on wildlife management areas
- 7:25-5.35 Special wildlife salvage permit
- 7:25-5.36 White-tailed deer (*Odocoileus virginianus*) special biological permit
- 7:25-5.37 Special permit to inhibit wildlife reproduction
- 7:25-5.38 Fish and Game Law Enforcement Region Headquarters
- 7:25-5.39 Severability

**SUBCHAPTER 6. 2004-2005 FISH CODE**

- 7:25-6.1 General provisions
- 7:25-6.2 Definitions
- 7:25-6.3 Trout season and angling in trout stocked waters
- 7:25-6.4 Special regulation trout fishing areas—fly-fishing waters
- 7:25-6.5 Special regulation trout fishing areas—Seasonal Trout Conservation Areas
- 7:25-6.6 Special regulation trout fishing areas—Wild Trout Streams
- 7:25-6.7 Special regulation trout fishing areas—Year-Round Trout Conservation Areas
- 7:25-6.8 Special regulation trout fishing areas—Trophy Trout Lakes
- 7:25-6.9 Special regulation trout fishing areas—Holdover Trout Lakes
- 7:25-6.10 Baitfish
- 7:25-6.11 Nets
- 7:25-6.12 Snagging prohibited
- 7:25-6.13 Warmwater fish
- 7:25-6.14 Ice fishing
- 7:25-6.15 Bow and arrow fishing
- 7:25-6.16 Closed waters
- 7:25-6.17 Emergency closure notice
- 7:25-6.18 Wanton waste of fish prohibited
- 7:25-6.19 Greenwood Lake
- 7:25-6.20 Delaware River between New Jersey and Pennsylvania
- 7:25-6.21 Fresh tidal tributaries of the Delaware River and Bay
- 7:25-6.22 Snapping turtles, bull frogs and green frogs
- 7:25-6.23 Special permit to organizations providing care for disabled persons
- 7:25-6.24 Permits issued to educational or scientific organizations
- 7:25-6.25 Revocation of permits; penalties

7:25-6.26 Requests for adjudicatory hearings

**SUBCHAPTER 7. MISCELLANEOUS SHELLFISH RULES**

- 7:25-7.1 through 7:25-7.9 (Reserved)
- 7:25-7.10 Taking of oysters
- 7:25-7.11 Mussels
- 7:25-7.12 through 7:25-7.13 (Reserved)

**SUBCHAPTER 8. CLAM LICENSES**

- 7:25-8.1 Scope and authority
- 7:25-8.2 Purpose
- 7:25-8.3 Construction
- 7:25-8.4 Applicability
- 7:25-8.5 Licenses
- 7:25-8.6 License fees

**SUBCHAPTER 9. HARD CLAM SIZE LIMITS**

- 7:25-9.1 Scope
- 7:25-9.2 Purpose
- 7:25-9.3 Construction
- 7:25-9.4 Definitions
- 7:25-9.5 Taking of hard clams
- 7:25-9.6 Penalties

**SUBCHAPTER 10. POSSESSION, PROPAGATION, LIBERATION, SALE AND IMPORTATION OF GAME ANIMALS AND GAME BIRDS**

- 7:25-10.1 Scope
- 7:25-10.2 Construction
- 7:25-10.3 Purpose
- 7:25-10.4 Definitions
- 7:25-10.5 Permit required
- 7:25-10.6 Game animals and game birds for which a permit is required for possession
- 7:25-10.7 Categories of permits, expiration, fees, sales receipt required, records and reports required
- 7:25-10.8 General possession criteria
- 7:25-10.9 Emergency possession
- 7:25-10.10 Potentially dangerous species
- 7:25-10.11 Criteria for the possession of potentially dangerous species
- 7:25-10.12 Denial, suspension, revocation, and hearings
- 7:25-10.13 Miscellaneous provisions

**SUBCHAPTER 11. (RESERVED)**

**SUBCHAPTER 12. SURF CLAMS**

- 7:25-12.1 Scope and authority
- 7:25-12.2 Purpose
- 7:25-12.3 Construction
- 7:25-12.4 Severability
- 7:25-12.5 Definitions
- 7:25-12.6 Applicability
- 7:25-12.7 General control methods
- 7:25-12.8 Season
- 7:25-12.9 Prohibited surf clam harvest areas; reopening of closed surf clam harvest areas
- 7:25-12.10 Harvest limitations; surf clam harvest quota
- 7:25-12.11 Bait clams
- 7:25-12.12 Landing fees, tags, transfers of tags
- 7:25-12.13 Weekly reporting
- 7:25-12.14 Issuance of surf clam licenses
- 7:25-12.15 Issuance of bait clam vessel licenses
- 7:25-12.16 Licensing fees
- 7:25-12.17 Renewal of surf clam licenses and bait clam vessel licenses
- 7:25-12.18 Signatories; certification
- 7:25-12.19 Penalties
- 7:25-12.20 Hearings

## **DIVISION OF FISH AND WILDLIFE RULES**

### **SUBCHAPTER 13. LEASED TIDAL GROUNDS**

7:25-13.1 Marking of leased tidal grounds; Delaware River and Bay

### **SUBCHAPTER 14. CRAB AND LOBSTER MANAGEMENT**

- 7:25-14.1 Definitions
- 7:25-14.2 Use of crab pots and trot lines
- 7:25-14.3 Hours of fishing
- 7:25-14.4 Commercial licenses for crab pots/trot lines and crab dredges
- 7:25-14.5 Noncommercial licenses for crab pots/trot lines and crab dredges
- 7:25-14.6 Placement and marking of pots and trot lines
- 7:25-14.7 Use of crab dredges
- 7:25-14.8 Landing crabs
- 7:25-14.9 Female crabs with eggs attached
- 7:25-14.10 Size of crabs taken
- 7:25-14.11 Harvesting crabs
- 7:25-14.12 Filing of reports
- 7:25-14.13 Size of lobsters taken
- 7:25-14.14 Lobster possession limits
- 7:25-14.15 Prohibitions
- 7:25-14.16 Eligibility for lobster pot permit and pot allocation
- 7:25-14.17 Lobster pot tag program
- 7:25-14.18 Exceptions for research
- 7:25-14.19 Administrative notice
- 7:25-14.20 Penalties

### **SUBCHAPTER 15. CLAM RELAY PROGRAM**

7:25-15.1 Relay of hard clams

### **SUBCHAPTER 16. DEFINING FISHING LINES**

7:25-16.1 Defining lines upstream of which license is required to fish with handline, rod and line or long bow and arrow

### **SUBCHAPTER 17. DISPOSAL AND POSSESSION OF DEAD DEER**

- 7:25-17.1 Scope
- 7:25-17.2 Purpose
- 7:25-17.3 Construction
- 7:25-17.4 Authorized persons and disposal or possession
- 7:25-17.5 Dead deer on private property
- 7:25-17.6 Possession of dead deer
- 7:25-17.7 Information required

### **SUBCHAPTER 18. MARINE FISHERIES**

- 7:25-18.1 Size, season and possession limits
- 7:25-18.2 Pound nets
- 7:25-18.3 Net identification tags
- 7:25-18.4 Spearfishing
- 7:25-18.5 General net regulations
- 7:25-18.6 Delaware Bay commercial and non-commercial gill net permit
- 7:25-18.7 Eligibility for Delaware Bay commercial and non-commercial gill net permits during the 60-days following June 3, 1991
- 7:25-18.8 Eligibility for Delaware Bay commercial and non-commercial gill net permits after the 60-day period following June 3, 1991
- 7:25-18.9 Application for Delaware Bay commercial and non-commercial gill net permits
- 7:25-18.10 Issuance of Delaware Bay commercial and non-commercial gill net permits after August 2, 1991
- 7:25-18.11 Transfer of Delaware Bay commercial and non-commercial gill net permits
- 7:25-18.12 Commercial fishing seasons and quotas
- 7:25-18.13 Striped bass bonus program
- 7:25-18.14 Otter and beam trawls
- 7:25-18.15 Atlantic sturgeon management
- 7:25-18.16 Horseshoe crab (*Limulus polyphemus*)

### **SUBCHAPTER 18A. FISHERIES CLOSURES AND ADVISORIES FOR STRIPED BASS, AMERICAN EEL, BLUEFISH, WHITE PERCH AND WHITE CATFISH TAKEN FROM THE NORTHEAST REGION OF THE STATE**

- 7:25-18A.1 Authority
- 7:25-18A.2 Scope and construction
- 7:25-18A.3 Definitions
- 7:25-18A.4 Closure of fisheries
- 7:25-18A.5 Public advisories concerning fisheries
- 7:25-18A.6 Public notice of fisheries closures and advisories
- 7:25-18A.7 Violations

### **SUBCHAPTER 19. ATLANTIC COAST HARVEST SEASON**

- 7:25-19.1 Scope
- 7:25-19.2 Purpose
- 7:25-19.3 Construction
- 7:25-19.4 Definitions
- 7:25-19.5 Method and season of harvest

### **SUBCHAPTER 20. (RESERVED)**

### **SUBCHAPTER 21. TERRAPIN REGULATIONS**

- 7:25-21.1 Designation of terrapin season
- 7:25-21.2 Taking of terrapin
- 7:25-21.3 Size requirement

### **SUBCHAPTER 22. FISHERY MANAGEMENT IN NEW JERSEY**

- 7:25-22.1 Menhaden season
- 7:25-22.2 Purse seine fishing of Atlantic menhaden
- 7:25-22.3 Taking of Atlantic menhaden for bait
- 7:25-22.4 Vessel boarding

### **SUBCHAPTER 23. PERMIT TO KILL WILD DEER**

- 7:25-23.1 Scope
- 7:25-23.2 Purpose
- 7:25-23.3 Construction
- 7:25-23.4 Definitions
- 7:25-23.5 Permit required; authorized permittee; agents
- 7:25-23.6 Permit conditions
- 7:25-23.7 Liability
- 7:25-23.8 Penalties

### **SUBCHAPTER 24. LEASING OF ATLANTIC COAST BOTTOM FOR AQUACULTURE**

- 7:25-24.1 Scope and authority
- 7:25-24.2 Construction
- 7:25-24.3 Severability
- 7:25-24.4 Definitions
- 7:25-24.5 Lease applications for new ground
- 7:25-24.6 Consideration of lease applications for new ground
- 7:25-24.7 Hydrographic survey charges; annual lease fees
- 7:25-24.8 Lease renewal
- 7:25-24.9 Lease transfers
- 7:25-24.10 Staking of leases
- 7:25-24.11 Improper staking of leases
- 7:25-24.12 Protection of leased lands from invasion
- 7:25-24.13 Disposition of condemned lease areas
- 7:25-24.14 Disposition of terminated lease areas
- 7:25-24.15 Research/educational activities
- 7:25-24.16 Signatories; certification
- 7:25-24.17 Penalties

## SUBCHAPTER 1. GENERAL PROVISIONS

## 7:25-1.1 Scope

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

## Case Notes

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

## 7:25-1.2 Construction

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

Amended by R.2001 d.73, effective March 5, 2001.  
See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).

## 7:25-1.3 Practice where rules do not govern

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

## 7:25-1.4 Definitions

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

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

"Code" means the New Jersey Administrative Code.

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

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

"Council" means the Fish and Game Council in the Division.

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

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

Amended by R.2001 d.73, effective March 5, 2001.  
See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).

## 7:25-1.5 License, permit and stamp fees

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

Resident Fishing	\$ 16.50
Jr/Sr Fishing	7.75
Family Fishing	27.50
Family Supplement	2.25
Non-Resident Fishing	25.25
Non-Resident 7-Day Fishing	16.50
Resident Trout Stamp	7.75
Non-Resident Trout Stamp	15.50
Resident Hunting	22.00
Jr/Sr Hunting	10.75
Juvenile Hunting	3.00
Non-Resident 2-Day Hunting	27.50
1 Day Hunting	7.75
Resident Bow and Arrow	26.25
Jr/Sr Bow and Arrow	12.00
Juvenile Bow and Arrow	3.00
All Around Sportsman	60.50
Pheasant/Quail Stamp	22.00
Woodcock Stamp	2.75
Rifle Permit	14.00
Deer Permit	21.75
Turkey Permit	16.25
Semi-Wild	57.00
Commercial Hunt	222.00
Propagation	7.50
Fish Preserve	167.00

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

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

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

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

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

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

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

Lease and surveying fees deleted.

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

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

Section 1.5—Fee schedule—deleted.

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

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

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

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

Petition for Rulemaking.

See: 35 N.J.R. 5308(b).

## 7:25-1.6 (Reserved)

## 7:25-1.7 Penalties

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

(b) Pursuant to N.J.S.A. 50:2-2, no person shall take or catch more than 150 clams a day with only a recreational license or no license. Any person violating this provision

shall be liable to a penalty of \$100.00 for the first offense and \$200.00 for each subsequent offense.

Amended "Commercial crab pot".  
 Amended by R.1998 d.255, effective May 18, 1998.  
 See: 30 N.J.R. 763(a), 30 N.J.R. 1809(a).  
 Rewrote "Commercial crab pot" definition.  
 Amended by R.1999 d.52, effective February 16, 1999.  
 See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).  
 Inserted "Lobster".  
 Amended by R.2000 d.10, effective January 3, 2000.  
 See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).  
 Rewrote "Crab dredge area".  
 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.346, effective September 17, 2001.  
 See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).  
 Added "Blind crab pot line".  
 Amended by R.2002 d.277, effective August 19, 2002.  
 See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).  
 Rewrote "Crab dredge area".

### 7:25-14.2 Use of crab pots and trot lines

(a) No individual shall tend or remove crabs from any pot or trot line unless he or she is the holder of a valid license, or as otherwise herein provided.

1. An individual tending crab pots or trot lines shall have in his or her possession his or her numbered license which corresponds to the vessel number and the number marker on the pots or trot lines tended;

2. A commercial licensee may authorize an agent to tend his or her pots or trot lines provided the agent is in possession of his or her own license, the license of the individual whose pots are to be tended and a letter of authorization from said licensee, issued and notarized by the Division indicating the number marker of the pots or trot lines that the agent is authorized to tend. In cases of hardship due to illness or vessel repairs, an authorized agent is not required to possess his or her own license, and can, for a maximum of 30 days, tend said licensee's pots or trot lines upon satisfying all other conditions of this paragraph.

3. In addition to the agent, the commercial licensee shall be held liable and subject to the penalty provisions provided in N.J.A.C. 7:25-14.20 for the violation of provisions of this subchapter actually committed by the agent based upon the apparent authority of the agent to act for his or her principal.

(b) No person shall cut or break the lines or otherwise tamper with or damage in any way, any pot, trot line or buoy which he does not own or is not authorized to tend.

(c) All other organisms other than crabs and conchs shall be immediately released to the waters from which such organisms were taken.

(d) All crab pots must be checked and emptied of all crabs and other organisms at least once every 72 hours.

(e) No license holder shall fish more than 600 crab pots in Delaware Bay nor more than 400 crab pots in all other waters.

(f) No license holder shall set any crab pots except between April 6 to December 4 in Delaware Bay and between March 15 to November 30 in all other waters.

(g) All gear associated with crab potting must be removed from the water within three days of the end of the season.

Amended by R.1985 d.560, effective November 4, 1985.  
 See: 17 N.J.R. 1830(a), 17 N.J.R. 2608(a).

(a)3 added.

Amended by R.1994 d.152, effective March 21, 1994.  
 See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Added hardship provision in (a)2.

Amended by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

In (a)3, substituted "In addition to the agent, the commercial licensee shall" for "The commercial licensee may" at the beginning, and changed N.J.A.C. reference.

Amended by R.2002 d.277, effective August 19, 2002.

See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).

Changed dates in (f).

### 7:25-14.3 Hours of fishing

Crab pots and trot lines may be tended only from 0400 hours (4:00 A.M.) to 2100 hours (9:00 P.M.) prevailing time, in Delaware Bay and 24 hours a day in all other waters.

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Expanded hours for waters outside of Delaware Bay.

### 7:25-14.4 Commercial licenses for crab pots/trot lines and crab dredges

(a) No individual shall take or attempt to take crabs by any means for the purpose of sale or barter without having in his or her possession his or her valid commercial crab pot/trot lines or crab dredge license issued by the Division pursuant to N.J.S.A. 23:5-35.2. A Delaware Bay commercial crab dredge license is valid to harvest crabs only within that portion of the "Delaware Bay" defined at N.J.A.C. 7:25-14.1 as part of the "crab dredge area." An Atlantic Coast commercial crab dredge license is valid to harvest crabs in all areas defined at N.J.A.C. 7:25-14.1 as the "crab dredge area" except that area defined as the "Delaware Bay."

1. To be eligible for a commercial crab pot license, the applicant must provide a copy of a previously valid commercial crab pot license held by the applicant from the preceding year. Any person on active military service during any part of the period from January 1, 1991 through July 8, 1993, will also be eligible for a license provided application is made to the Department within a 90 day period following completion of that active military service, upon submission of official documentation indicating duration of military service and date of discharge.

2. No additional crab pot licenses will be issued until the number of licenses issued decreases below the number issued in 1991 (312 licenses).

i. When additional licenses are available, unsuccessful applicants from the previous lottery will be given the first right to the license provided they purchase a license within 30 days of being notified by the Department. Notification by the Department shall be by first class mail. It is the responsibility of the applicant to provide the Department with written notification of any change in mailing address. Once a lottery list is exhausted, the Department shall notify commercial docks and fishing organizations as to the availability of licenses. Applications for a license shall be available from the Department; and successful applicants shall be chosen by lottery, if necessary, from all completed applications received by the Department.

3. To be eligible for an Atlantic Coast commercial crab dredge license, the applicant must provide a copy of a previously valid Atlantic Coast commercial crab dredge license held by the applicant from the preceding year. Any person on active military service during any part of the period from January 1, 1991 through July 8, 1993, will also be eligible for a license provided application is made to the Department within a 90 day period following completion of that active military service, upon submission of official documentation of military service and date of discharge.

4. No additional Atlantic Coast commercial crab dredge licenses will be issued until the number of licenses issued decreases below the number issued in 1993 plus 20 percent (338 licenses). When additional licenses are available, the Department will issue available licenses pursuant to (a)2i above.

5. To be eligible for a Delaware Bay commercial crab dredge license, the applicant shall provide a copy of a previously valid Delaware Bay commercial crab dredge license held by the applicant from the preceding year.

6. No additional Delaware Bay commercial crab dredge licenses shall be issued until the number of licenses issued decreases below the number sold in 1997 (93 licenses). When additional licenses are available, the Department shall issue available licenses pursuant to (a)2i above.

7. Commercial crab pot and crab dredge licenses are non-transferable except that the holder of a valid license not pending revocation due to violation of provisions of this subchapter may transfer the right to the license at any time to the license holder's spouse, father, mother, son or daughter upon application to the Division. The new licensee shall have a license issued in their name after payment of the fee specified at (a)8 below.

8. The license fee for New Jersey residents shall be \$100.00 for a commercial crab pot/trot line license, \$100.00 for a Delaware Bay commercial crab dredge license and \$100.00 for an Atlantic Coast commercial crab dredge license. The license fee for non-residents will be the same as that for a resident if a New Jersey fisherman can obtain a license to harvest crabs in the state of residence of the non-resident applicant for the same fee as a resident of that state. Otherwise, the non-resident license fee shall be an amount equal to five times the \$100.00 New Jersey resident license fee. All licenses shall expire on December 31 of the calendar year for which they were issued.

9. For crab pots and trot lines, the gear number shall be displayed on both sides of the crabber's boat amidship, in numerals not less than 12 inches high of a color contrasting with the background, and such numerals shall be illuminated during the hours of darkness.

(b) For the purposes of this section and N.J.S.A. 23:5-35.1, the possession of more than one bushel of crabs shall be considered as taking for the purpose of sale or barter. A bushel shall be defined as a U.S. standard bushel equivalent to four pecks or 32 quarts.

Amended by R.1994 d.152, effective March 21, 1994.

See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Substantially amended section.

Amended by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a)

In (a), rewrote 5, inserted "(93 licenses)" at the end of the first sentence in 6, and rewrote the first sentence in 7.

#### 7:25-14.5 Non-commercial licenses for crab pot/trot line and crab dredges

(a) No individual shall take or attempt to take crabs by means of crab pots, trot lines or crab dredges without having in his or her possession a valid license issued by the Division.

1. The Division will issue a noncommercial crab pot/trot line license for no more than two crab pots or two trot lines. Trot lines shall not exceed 150 feet in length with a maximum of 25 baits attached. Pots and trot lines shall be marked with the license number. There is no fee for this noncommercial license. All licenses shall expire on December 31 of the calendar year for which they were issued.

2. The Division shall issue a non-commercial crab dredge license subject to the following provisions:

i. The number of dredges on any one vessel shall not exceed two;

ii. The maximum weight of each dredge shall be 80 pounds;

- iii. The maximum length of the tooth bar shall be 38 inches;
- iv. The maximum length of teeth shall be three inches;
- v. The minimum space between teeth shall be two and three-quarters inches measured at the base;
- vi. Mechanical dredge haulers are prohibited;
- vii. No person shall catch, take or attempt to catch or take crabs by means of a crab dredge except during the times and seasons set forth in N.J.A.C. 7:25-14.7(d) and (e);
- viii. All organisms other than crabs taken by crab dredge shall be immediately returned to the water; and
- ix. There is a fee of \$15.00 for this noncommercial license.

3. Crabs taken under provisions of a noncommercial license may not be sold or used for barter. The maximum harvest and/or possession of crabs for the noncommercial crabber is one bushel per day per person.

Amended by R.1994 d.152, effective March 21, 1994.  
 See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).  
 Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).  
 See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).  
 Applied section to crab dredges; recodified (a)2 as (a)3; and inserted new (a)2.  
 Administrative correction.  
 See: 30 N.J.R. 3025(a).  
 Amended by R.2000 d.10, effective January 3, 2000.  
 See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).  
 In (a)2v substituted a reference to two and three-quarters inches for a reference to three inches.

**7:25-14.6 Placement and marking of pots and trot lines**

(a) Each crab pot shall be clearly and visibly marked with a buoy, stake or permanent identification tag bearing the license number of the owner, and all blind crab pot lines shall be clearly and visibly marked with a stake or buoy at both ends of the line. All crab pot buoys and all blind crab pot line buoys and stakes shall be marked with fluorescent or reflective paint, tape or other reflective material or reflectors. Floating line shall not be used or any crab pot or crab pot buoys.

(b) Each trot line shall be marked at both ends with a clearly visible stake or buoy. No trot line shall be set within 100 feet of another trot line.

(c) No pot shall be placed in a creek, ditch or tributary less than 50 feet wide at mean low water unless approved by the Division. No pot, blind crab pot line or trot line shall be placed in any man-made lagoon or in any marked or charted channel except noncommercially licensed pots fastened to a pier or other shore connected structure by a line no larger than twice the depth of the water at that point. Any pot placed in any body of water less than 150 feet wide from

shoreline to shoreline at mean low water or in any man-made lagoon shall contain terrapin excluder devices pursuant to N.J.A.C. 7:25-14.1.

(d) No pot or trot line shall be placed in areas designated by the Division after consultation with the Shellfisheries Council and the Marine Fisheries Council, as off limits for the catching of crabs by means of pots or trot lines, except noncommercially licensed pots fastened to a pier or other shore connected structure by a line no longer than twice the depth of the water at that point.

(e) At no time shall any pot or trot line be placed to obstruct or impede navigation.

Amended by R.1985 d.560, effective November 4, 1985.  
 See: 17 N.J.R. 1830(a), 17 N.J.R. 2608(a).  
 "Stake" substituted for "state".  
 Amended by R.1994 d.152, effective March 21, 1994.  
 See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).  
 Petition for Rulemaking.  
 See: 27 N.J.R. 944(b), 27 N.J.R. 1478(c).  
 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).  
 Recodified (a)2 as (a)3 and inserted new (a)2; and in (c), added provision relating to terrapin excluder devices.  
 Amended by R.2001 d.346, effective September 17, 2001.  
 See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).  
 In (a), rewrote the first sentence and inserted "and all blind crab pot line buoys and stakes" in the second sentence; in (c), inserted "blind crab pot line".

**7:25-14.7 Use of crab dredges**

(a) An individual shall not catch or take crabs by dredges without having his or her valid crab dredge license in his or her possession. A Delaware Bay commercial crab dredge licensee may authorize an agent to operate a crab dredge vessel if the agent is in possession of the said licensee's license and a letter of authorization from said licensee, issued and notarized by the Division, indicating the license number and vessel registration number of the vessel that the agent is authorized to operate. In addition to the agent, the commercial licensee shall be held liable and subject to the penalty provisions provided in N.J.A.C. 7:25-14.20 for the violation of provisions of this subchapter actually committed by the agent based upon the apparent authority of the agent to act for his or her principal.

1. No boat shall have more than four dredges working at the same time, except in Delaware Bay where no boat shall have more than two dredges working at the same time.

2. The maximum length of each tooth bar shall be 75 inches north of Route 36 (Highlands Bridge) and in the Atlantic Ocean, but if two or fewer dredges are in possession north of Route 36 (Highlands Bridge) or in the Atlantic Ocean then the maximum length of each tooth bar shall be 96 inches. The maximum length of each tooth bar shall be 54 inches in Delaware Bay, but if no more than one dredge is in possession in Delaware Bay then the maximum length of each tooth bar shall be 96

inches. The maximum length of the tooth bar in all other crab dredge areas shall be 38 inches.

3. The maximum weight of each dredge shall be 400 pounds north of Route 36 (Highlands Bridge) and in the Atlantic Ocean, but if two or fewer dredges are in possession north of Route 36 (Highlands Bridge) or in the Atlantic Ocean then the maximum weight of each dredge shall be 500 pounds. There is no weight limit for dredges used in Delaware Bay. The maximum weight of each dredge in all other crab dredge areas shall be 80 pounds. All weights refer to the weight of the dredge and collecting bag.

4. The maximum length of teeth shall be six inches north of Route 36 (Highlands Bridge), the Delaware Bay and in the Atlantic Ocean and three inches in all other crab dredge areas.

5. Shellfish harvested from Delaware Bay Areas 2 and 3 may be retained as provided under N.J.S.A. 50:3-16.13 and N.J.S.A. 50:3-16.20. Simultaneous possession of shellfish and a dredge larger than specified in N.J.S.A. 50:3-16.20 shall be prima facie evidence of a violation of this section.

6. The minimum space between teeth shall be two and three-quarters inches in all crab dredge areas, measured at the base.

7. A toothless bar shall be allowed in place of a tooth bar in all waters, provided each toothless bar is no greater in length than the tooth bar lengths, specified at (a)2 above.

8. Chains shall be allowed in place of a tooth bar or toothless bar in all waters provided that the width of each dredge opening or mouth and the distance between the chain attachment points on the dredge are no greater in width than the tooth bar lengths specified at (a)2 above.

9. The collecting bag of a dredge, if material, shall have mesh not less than two inches bar measure or four inches stretched measure; if wire, shall not be less than two inches bar mesh (inside measurement) or two and one-half inches inside diameter if circular; if metal, the O-rings shall not be less than two inches in diameter and shall be connected with no more than six "S" hooks that measure not less than two inches in length as measured to the inside of the "S" configuration.

10. Each dredge shall be independently and separately attached to a vessel by a single cable or tow line; except that two dredges can be towed by a single line in the Atlantic Ocean, Delaware Bay and north of Route 36 (Highlands Bridge) provided that the dredges are not solidly attached to each other in any way and are fastened to the tow line by a bridle that allows the dredges to act independently of each other.

(b) No person shall catch, take, or attempt to take crabs by dredge from any area except the "crab dredge area" as defined in the definitions section. No person shall dredge or attempt to dredge crabs on any marked leased shellfish grounds. No person shall dredge or attempt to dredge crabs within 50 yards of any marked leased shellfish grounds.

(c) No person, while engaged in the catching and taking of crabs by dredge, shall have in his or her boat or possession any organisms other than crabs and conchs obtained from any source, except as provided under N.J.S.A. 50:3-16.13. Conchs may be retained in the crab dredge fishery. The possession of dredges and any organisms other than crabs and conchs simultaneously in the boat of any person shall constitute prima facie evidence of the violation of this section.

(d) No person shall catch, take or attempt to catch or take crabs by means of a crab dredge except from one-half hour after sunrise to one-half hour before sunset from November 15 through April 15 in Delaware Bay; and from December 1 through March 31 in all other waters.

(e) No person shall catch, take or attempt to catch or take crabs by means of a crab dredge at any time on Sunday except north of Route 36 (Highlands Bridge), in Delaware Bay, or in the Atlantic Ocean.

New Rule, R.1994 d.152, effective March 21, 1994.

See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Inserted references to Delaware Bay; inserted (a)5; and recodified former (a)5 through (a)8 as (a)6 through (a)9.

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)8 and recodified (a)8 and 9 as 9 and 10.

Amended by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

In (a), inserted the last sentence in the introductory paragraph, and substituted a reference to two and three-quarters inches for a reference to three inches in 6; and rewrote (c).

Amended by R.2002 d.277, effective August 19, 2002.

See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).

Rewrote (b).

#### 7:25-14.8 Landing crabs

All crabs harvested commercially in State waters shall be landed in this State.

New Rule, R.1994 d.152, effective March 21, 1994.

See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).

#### 7:25-14.9 Female crabs with eggs attached

No person shall take from any of the waters of this State, or have in his possession any female crustacean, commonly known as crab, with eggs or spawn attached thereto, or from which the egg pouch or bunion has been removed.

i. To his or her replacement vessel. The vessel being replaced shall no longer be eligible for a New Jersey Lobster Pot Permit or pot allocation based upon the vessel's history, but shall be eligible for a permit transfer from another permitted vessel.

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 New Jersey Lobster Pot Permit based on the harvesting history of the vessel being sold.

iii. Transfer of a permit to a new vessel shall be limited to the same pot allocation and Lobster Permit Type as the original permitted vessel or as modified by the Commissioner pursuant to N.J.A.C. 7:25-14.19.

iv. No permit shall be transferred without the prior approval of the Department, based upon satisfaction of (a)7i through iii above.

9. Any harvester or vessel landing lobster in New Jersey for the purpose of sale shall sell all lobster only to a permitted Federal lobster dealer.

10. All New Jersey Lobster Permit holders landing lobster in New Jersey shall be required to complete monthly reports signed by the permittee attesting to the validity of the information. The monthly report forms shall be supplied by and returned to the Federal or State agency given authority for the Pot Tag Program and shall include all information required by said agency.

11. All New Jersey Lobster Permit holders shall allow research personnel from the Department or a person designated by the Department aboard the permitted vessel at any time following a 48 hour notification to sample lobster pot catches at sea.

New Rule, R.2000 d.395, effective October 2, 2000.  
See: 31 N.J.R. 2555(a), 32 N.J.R. 3592(b).  
Amended by R.2001 d.346, effective September 17, 2001.  
See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).  
Rewrote the section.  
Amended by R.2002 d.277, effective August 19, 2002.  
See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).  
Rewrote the section.

#### 7:25-14.17 Lobster pot tag program

(a) All lobster pots as defined under N.J.A.C. 7:25-18.5(g)11 in State or Federal waters or aboard a vessel shall be tagged with appropriate tags to be issued by the Federal or State agency given authority for the pot tag program.

1. Pot tags shall be placed on the pot bridge or main cross member clearly visible for inspection.

2. Pot tags shall be a permanently affixed and not transferable to another pot once attached to a pot.

3. A person or permitted lobster pot vessel shall only have on board or lift pots that have the valid identification as assigned to said person or vessel.

4. A person or vessel shall not have on board or fish more lobster pots than that vessel is allocated under the permittee's New Jersey Lobster Pot Permit.

5. Pot tags shall be issued annually and shall be valid for one year.

6. Permit holders shall be issued tags based upon their allocation of tags plus 10 percent to cover routine losses.

7. Catastrophic tag loss shall be defined as losses above the 10 percent routine loss rate established by the issuing authority due to gear conflicts, storms or other circumstance which may be accepted at the discretion of the Federal or State agency given authority for the pot tag program.

i. When a catastrophic loss occurs, an entirely new allotment of tags shall be dispersed and the original tags shall be invalid upon replacement.

ii. Permittees shall be allowed to fish new pots with a letter of exemption from the issuing authority until new tags are re-issued for a time period not to exceed two months.

iii. The issuing authority shall have the right to invoke emergency measures to suspend pot tag regulations in the event of area-wide catastrophic losses, for a time period not to exceed two months.

8. Permittees shall purchase pot tags only from the issuing authority.

New Rule, R.2000 d.395, effective October 2, 2000.  
See: 31 N.J.R. 2555(a), 32 N.J.R. 3592(b).

#### 7:25-14.18 Exceptions for research

N.J.A.C. 7:25-14.13(a), 14.13(b), 14.15(a) and 14.15(b) shall not apply to the taking or possession of lobster bearing a tag that has been issued or affixed by the Department of Environmental Protection or by any other state or Federal agency with which the Department cooperates in a research project.

New Rule, R.1999 d.52, effective February 16, 1999.  
See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).  
Recodified from N.J.A.C. 7:25-14.16 by R.2000 d.10, effective January 3, 2000.  
See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

#### 7:25-14.19 Administrative notice

The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify minimum or maximum size limits, pot and trap limits, trip limits and possession limits 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 a notice of administrative change in the New Jersey Register and a notice 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.

New Rule, R.1999 d.52, effective February 16, 1999.

See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

Recodified from N.J.A.C. 7:25-14.17 by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

Amended by R.2001 d.346, effective September 17, 2001.

See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).

Inserted "pot and trap limits," preceding "trip limits".

Amended by R.2002 d.277, effective August 19, 2002.

See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).

Inserted "or maximum" after "minimum".

#### 7:25-14.20 Penalties

(a) Any person violating any of the provisions of this subchapter relating to crabs shall be liable to the penalties provided by N.J.S.A. 23:2B-14 except for (b), (c) and (d) below.

(b) Any person not having a valid license in possession or failing to exhibit same for inspection by an authorized law enforcement officer while tending a pot or trot line or dredging crabs, or violating the provisions of N.J.A.C. 7:25-14.5(a)1 or 2 or 14.6 shall be liable to a penalty of \$20.00 for the first offense and \$40.00 for each subsequent offense.

(c) Any person failing to check crab pots at least once every 72 hours pursuant to N.J.A.C. 7:25-14.2(d) shall be liable to a penalty of \$20.00 for each pot in violation.

(d) Any person violating the provisions of N.J.A.C. 7:25-14.9 or N.J.A.C. 7:25-14.10 shall be liable to a penalty of \$20.00 for each crab taken or had in possession.

(e) Any person using or possessing a crab pot which does not contain a biodegradable panel or other mechanism specified in N.J.A.C. 7:25-14.1 shall be subject to a penalty of \$20.00 for each pot in violation.

(f) Any person dredging crabs outside of the "crab dredge area" or dredging crabs on unauthorized marked leased shellfish grounds pursuant to N.J.A.C. 7:25-14.7(b) shall be subject to the penalties provided by N.J.S.A. 23:2B-14 in addition to a mandatory 12 month crab dredge license privilege revocation and seizure of the entire catch in possession. The commercial licensee shall be held liable and subject to license privilege revocation and catch seizure for violations actually committed by an agent based upon the apparent authority of the agent to act for his or her principal.

(g) Any person violating the provisions of N.J.A.C. 7:25-14.13, lobster size, tail size and landing of lobster parts; N.J.A.C. 7:25-14.14, possession limits; N.J.A.C. 7:25-14.15, prohibition of egg-bearing lobsters, v-notched female lobsters and the prohibition of the use of a penetrating device; N.J.A.C. 7:25-14.16, eligibility for a lobster pot permit and pot allocation; N.J.A.C. 7:25-14.17, lobster pot tag program; N.J.A.C. 7:25-18.5(g)11i; lobster pot maximum size or N.J.A.C. 7:25-18.5(g)11iv, escape vents, shall be subject to a penalty of \$20.00 for each lobster, lobster part or lobster pot in violation.

(h) Failure to comply with the provisions of N.J.A.C. 7:25-14.13, lobster size, tail size, and landing of lobster parts; N.J.A.C. 7:25-14.15, prohibition of egg-bearing lobsters, v-notched female lobster; N.J.A.C. 7:25-14.16, eligibility for a lobster pot permit and pot allocation; N.J.A.C. 7:25-14.17, lobster pot tag program; N.J.A.C. 7:25-18.5(g)11i, lobster pot maximum size; or N.J.A.C. 7:25-18.5(g)11iv, escape vents, shall result in the suspension or revocation of the vessel's lobster pot permit and/or the lobster pot license of the operator according to the following schedule:

1. First offense: 60 days suspension;
2. Second offense: 120 days suspension;
3. Third offense: permanent revocation.

(i) Pursuant to N.J.S.A. 23:10-21 and 21.1, any gear used in violation of the provisions of this subchapter may be seized and forfeited.

(j) The assessment of any administrative penalty shall not preclude the Department from prosecuting for a larger amount in the event the administrative penalty is not paid by the time requested.

(k) Nothing in this section shall require the Department to assess an administrative penalty before instituting prosecution.

Amended by R.1982 d.169, effective June 7, 1982.  
See: 13 N.J.R. 645(a), 14 N.J.R. 578(a).

(c) added.

Amended by R.1985 d.560, effective November 4, 1985.  
See: 17 N.J.R. 1830(a), 17 N.J.R. 2608(a).

"Or" substituted for "of".

Recodified from 7:45-14.8 and amended by R.1994 d.152, effective March 21, 1994.

See: 25 N.J.R. 4831(a), 26 N.J.R. 1337(b).

Recodified from N.J.A.C. 7:25-14.13 and amended by R.1999 d.52, effective February 16, 1999.

See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

Rewrote the section.

Recodified from N.J.A.C. 7:25-14.18 and amended by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

In (a) and (b), changed N.J.A.C. references; an in (f), inserted references to N.J.A.C. 7:25-14.16 and N.J.A.C. 7:25-14.17.

Administrative correction.

See: 32 N.J.R. 801(a).

Amended by R.2000 d.395, effective October 2, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 3592(b).

In (a) and (b), changed N.J.A.C. references; inserted a new (f); recodified former (f) as (g), and inserted references to N.J.A.C. 7:25-14.16 and 7:25-14.17; inserted a new (h); and recodified former (h) through (j) as (i) through (k).

## SUBCHAPTER 15. CLAM RELAY PROGRAM

### Subchapter Historical Note

Subchapter 15, Clam Relay Program, was adopted as new rules by R.1977 d.167, effective May 11, 1977. See: 9 N.J.R. 264(b).

Subchapter 15, Clam Relay Program, was repealed, and Subchapter 15, Clam Relay Program, was adopted as emergency new rules by R.1982 d.309, effective August 27, 1982. See: 14 N.J.R. 1055(a). The provisions of R.1982 d.309 were readopted as R.1982 d.411, effective October 28, 1982. See: 14 N.J.R. 1055(a), 14 N.J.R. 1300(d).

Subchapter 15, Clam Relay Program, was adopted as emergency new rules by R.1983 d.519, effective October 27, 1983, expired November 18, 1983.

Subchapter 15, Clam Relay Program, was adopted as emergency new rules by R.1984 d.65, effective March 1, 1984, to expire April 30, 1984. See: 16 N.J.R. 560(a). The provisions of R.1984 d.65 were readopted as R.1984 d.165, effective May 7, 1984. See: 16 N.J.R. 560(a), 16 N.J.R. 1086(a).

### 7:25-15.1 Relay of hard clams

(a) This rule is intended to implement the hard clam relay program administered statewide by the Department of Environmental Protection (department). This rule must be read together with the shellfish growing water classification rules and definitions which appear at N.J.A.C. 7:12 and are subject to amendment at anytime. N.J.S.A. 58:24-2 requires the department to condemn immediately shellfish beds subject to pollution.

(b) The general intent of this rule is to control the relay of hard clams, (*Ercenaria mercenaria*) from Special Restricted, Seasonal Special Restricted, or Condemned Waters within the Atlantic Coast Section. These designated Special Restricted, Seasonal Special Restricted, or Condemned Waters will be charted by the department and such charts will be issued to participants and available to the public. Anyone who meets the requirements set forth below in this rule may participate in this program. If it becomes necessary to limit the number of participants, then applicants will be admitted in order of their application.

(c) The department will schedule areas for harvest and designate the landing site and so notify the participants. The department will designate certain specific areas as off limits to the use of clam rakes and tongs for the harvest of hard clams in such shallow water areas as it deems abundant with soft clams. Charts of the designated soft clam areas will be provided to all participants by the department. In these designated soft clam areas, the harvest of hard clams shall be permitted only by treading.

(d) Participants shall be furnished numbered receipt forms, with the date they are to be used, by the Division. These forms shall be completed in their entirety and signed by the harvester and also signed by the buyer if the shellfish are to be sold at the landing site, for each date used. Completed and all used receipt forms shall be sent to the Division's Bureau of Shellfisheries' Nacote Creek Office no later than one week after the forms are completed.

(e) Any person who wishes to participate in this program must comply with the following conditions in order to be eligible for participation:

1. Possess a current, valid, commercial clamming license issued by the division (see N.J.S.A. 50:2 et seq.);

2. Possess one of the following special permits issued by the Division of Water Resources (N.J.S.A. 58:24-3 and N.J.A.C. 7:12-2) to harvest and/or buy and/or sell hard clams from condemned waters:

i. Permit 5a: SPECIAL PERMIT TO HARVEST, BUY, SELL AND RELAY HARD CLAMS FROM SPECIFIED SPECIAL RESTRICTED SEASONAL SPECIAL RESTRICTED OR CONDEMNED WATERS IN CONJUNCTION WITH A STATE APPROVED SHELLFISH RELAY PROGRAM; or

ii. Permit 5b: SPECIAL PERMIT TO HARVEST HARD CLAMS FROM SPECIFIED SPECIAL RESTRICTED, SEASONAL SPECIAL RESTRICTED, OR CONDEMNED WATERS FOR SALE PURPOSES ONLY IN CONJUNCTION WITH A STATE APPROVED SHELLFISH RELAY PROGRAM; and

3. The above permits will show on their face the specific conditions that are deemed necessary for the proper operation of the shellfish relay program. All permittees are also required to comply with all other applicable statutes and regulations. Included with every permit will be department charts of the harvest areas showing specific sections within the estuaries that may be harvested on any particular day, as determined by the department.

(f) Any person applying for a permit 5a must have acquired a special relay lease from the department for three one-half acre lots of shellfish cleansing grounds on which the relayed shellfish are to be planted by the means herein-after set forth. No person shall hold more than one relay lease. Applications for leases must be made in person at the Nacote Creek Shellfish Office for the department. The lease shall be subject to the following additional conditions:

1. This special relay lease shall be issued for only one year and shall be reapplied for annually on or before December 31 for the following calendar year.

2. The annual fee for this lease, to be paid at the time of application, shall be \$5.00.

3. Once the lease lots have been marked by the division, the lessee shall be solely responsible for the placement and maintenance of the stakes marking same, or their necessary replacement.

4. This special relay lot shall be used for relay from the specified harvest areas only. No special relay lease will be renewed if the lessee did not actively participate in the previous year's program unless such inactivity was due to unusual hardship, as determined by the department, or was due to the department's failure to administrate or operate a hard clam relay program during the previous year.

i. Upon termination of the program by the department, special relay lessees, subject to (h) below shall retain exclusive rights, for a period of 18 months, to the clams planted on their leased grounds before the termination date and may thereafter reapply to lease the grounds;

5. A lessee vacating a relay lot shall have exclusive right to hard clams planted before the date of vacation for a period of six months from that date.

6. Signs, having a white background with six-inch black lettering giving the participant's special relay permit number or code symbol and relay lot "Section A" "B," or "C," shall be placed and maintained on the participant's relay lot corners. Failure to mark lots as specified shall be deemed a violation of these rules.

7. The participant's harvest boat shall be marked on both sides, amidships, with six-inch black letters on a white background giving the participant's first initial, last name, and special relay permit number while he is engaged in any phase of the program.

8. The designated enforcement unit shall have the authority to inspect any relay lot to ensure compliance with all relay program rules. Shellfish found on any relay lot contrary to these and other applicable statutes and rules shall be subject to seizure.

9. Nonleased lots within designated relay lease areas are not open to harvest of shellfish at any time. No person shall harvest or attempt to harvest shellfish within 50 yards of any designated relay planting area except the lessee of any leased grounds that may exist within the prohibited area who may harvest on his own leasehold.

(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.

Amended by R.2001 d.73, effective March 5, 2001.  
See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).

**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 Division on a quarterly basis of the following information on forms provided by the Division:

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.

Amended by R.2001 d.74, effective March 5, 2001.  
See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).

**SUBCHAPTER 18. MARINE FISHERIES**

**Subchapter Historical Note**

Subchapter 18, Marine Fisheries, was adopted as R.1980 d.394, effective September 17, 1980. See: 12 N.J.R. 312(a), 12 N.J.R. 576(c).

Pursuant to Executive Order No. 66(1978), Subchapter 18 was re-adopted 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 Subchapter 18, Marine Fisheries, was adopted as new rules 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) For the purpose of this subchapter, the following common names shall mean the following scientific name(s) for a species or a group of species, except as otherwise specified elsewhere in this subchapter.

<u>Common Name</u>	<u>Scientific Name</u>
American Eel	Anquilla rostrarata
Atlantic Cod	Gadus morhua
Atlantic Croaker	Micropogon undulatus
Atlantic Mackerel	Scomber scombrus
Black Drum	Pogonias cromis
Black Sea Bass	Centropristis striata
Bluefish	Pomatomus saltatrix
Cobia	Rachycentron canadum
Conch	Busucon carica
	Busucon contrarium
Goosefish (Monkfish)	Lophius americanus
Haddock	Melanogrammus aeglefinus
Kingfish	Menticirrhus saxatilis
	Menticirrhus americanus

<u>Common Name</u>	<u>Scientific Name</u>
King Mackerel	Scomberomorus cavalla
Pollock	Pollachius virens
Red Drum	Sciaenops ocellatus
River herring	Alosa aestivalis (alewife)
	Alosa pseudoharengus (blueback herring)
Scup (Porgy)	Stenotomus chrysops
Shad	Alosa sapidissima
	Alosa mediocris
Shark	Large Coastal Group
	Sphyrna mokarran (Great Hammerhead)
	Sphyrna lewini (Scalloped Hammerhead)
	Sphyrna zygaena (Smooth Hammerhead)
	Ginglymostoma cirratum (Nurse Shark)
	Carcharhinus altimus (Bignose Shark)
	Carcharhinus limbatus (Blacktip Shark)
	Carcharhinus leucas (Bull Shark)
	Carcharhinus perezi (Caribbean Reef Shark)
	Carcharhinus obscurus (Dusky Shark)
	Carcharhinus galapagensis (Galapagos Shark)
	Negaprion brevirostris (Lemon Shark)
	Carcharhinus brachyurus (Narrowtooth Shark)
	Carcharhinus signatus (Night Shark)
	Carcharhinus plumbeus (Sandbar Shark)
	Carcharhinus falciformis (Silky Shark)
	Carcharhinus brevipinna (Spinner Shark)
	Galeocerdo cuvieri (Tiger Shark)
	Small Coastal Group
	Squatina dumerili (Atlantic Angle Shark)
	Sphyrna tiburo (Bonnethead)
	Rhizoprionodon terraenovae (Atlantic Sharpnose Shark)
	Carcharhinus acronotus (Blacknose Shark)
	Rhizoprionodon porosus (Caribbean Sharpnose Shark)
	Carcharhinus isodon (Finetooth Shark)
	Carcharhinus porosus (Smalltail Shark)
	Pelagic Group
	Hexanchus vitulus (Bigeye Sixgill Shark)
	Heptranchias perlo (Sevengill Shark)
	Hexanchus griseus (Sixgill Shark)
	Isurus paucus (Longfin Mako)
	Lamna nasus (Porbeagle Shark)
	Isurus oxyrinchus (Shortfin Mako)
	Prionace glauca (Blue Shark)
	Carcharhinus longimanus (Oceanic Whitetip Shark)
	(Alopias superciliosus (Bigeye Thresher)
	Alopias vulpinus (Thresher Shark)
Smooth Dogfish	Mustelus canis
Spanish Mackerel	Scomberomorus maculatus
Spiny Dogfish	Squalus acanthias
Summer Flounder (Fluke)	Paralichthys dentatus
Tautog (Blackfish)	Tautoga onitis
Weakfish	Cynoscion regalis
	Cynoscion nebulosus
Winter Flounder	Pleuronectes americanus

(b) A person shall not purchase, sell, offer for sale, or expose for sale any species listed below less than the minimum length, measured in inches, except as may be provided elsewhere in this subchapter, and subject to the specific provisions of any such section. Any commercially licensed vessel or person shall be presumed to possess the following species for sale purposes and shall comply with the minimum sizes below. Fish length shall be measured from the tip of the snout to the tip of the tail (total length), except as noted below.

Species	Minimum Size (inches)
American Eel	6
Atlantic Cod	21
Atlantic Croaker	No Limit
Atlantic Mackerel	7
Black Drum	16
Black Sea Bass	11
Bluefish	9
Cobia	37
Conch	5
Goosefish (Monkfish)	17
Haddock	21
Kingfish	8
King Mackerel	23
Pollock	19
Red Drum	18
River herring (Alewife, blueback herring)	No Limit
Scup (Porgy)	9
Shad	No Limit
Shark	48
Spanish Mackerel	14
Summer Flounder	14
Tautog (Blackfish)	14
Weakfish	13
Winter Flounder	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 goosefish size, all goosefish tails possessed must be at least 11 inches in length from the anterior portion of the fourth cephalic dorsal spine to the end of the caudal fin. The total weight of all goosefish livers landed shall not be more than 30 percent of the total weight of all goosefish tails landed or 12 percent of the total weight of all goosefish landed.

3. A person shall not take in any one day or possess more than the possession limit specified below for each species listed, except as may be provided elsewhere in this subchapter, and subject to the specific provisions of any such section.

Species	Possession Limit
Cobia	2
Red Drum	1, no more than 27 inches

(c) A person angling with a hand line or with rod and line or using a bait net or spearfishing shall not have in his or her possession any species listed below less than the minimum length, nor shall such person take in any one day or possess more than the possession limit as provided below, nor shall such person possess any species listed below during the closed season for that species. Exceptions to this section as may be provided elsewhere in this subchapter, and shall be subject to the specific provisions of any such section. Fish length shall be measured from the tip of the snout to the tip of the tail (total length), except as noted below:

Species	Minimum Size in Inches	Open Season	Possession Limit
American Eel	6	Jan. 1-Dec. 31	50
Atlantic Cod	21	Jan. 1-Dec. 31	No Limit
Atlantic Croaker	No Limit	Jan. 1-Dec. 31	No Limit
Black Drum	16	Jan. 1-Dec. 31	3
Black Sea Bass	12	Jan. 1-Sep. 1 and Sep. 16-Nov. 30	25
Bluefish	No Limit	Jan. 1-Dec. 31	15
Cobia	37	Jan. 1-Dec. 31	2
Haddock	21	Jan. 1-Dec. 31	No Limit
Kingfish	No Limit	Jan. 1-Dec. 31	No Limit
King Mackerel	23	Jan. 1-Dec. 31	3
Pollock	19	Jan. 1-Dec. 31	No Limit
Red Drum	18	Jan. 1-Dec. 31	1, not greater than 27 inches
River herring (Alewife, blueback herring)	No Limit	Jan. 1-Dec. 31	35
Scup (Porgy)	10	July 1-Dec. 31	50
Shad	No Limit	Jan. 1-Dec. 31	6
Shark	48	Jan. 1-Dec. 31	2 per vessel
Spanish Mackerel	14	Jan. 1-Dec. 31	10
Summer Flounder (Fluke)	16½	May 3-Oct. 13	8
Tautog	14	Jan. 1-May 31 Jun. 1-Nov. 14 Nov. 15-Dec. 31	4 1 8
Weakfish	13	Jan. 1-Dec. 31	8
Winter Flounder	10	Mar. 1-May 31 and Sep. 15-Dec. 31	No Limit

(11 effective Jan. 1, 2001)

1. Total length for black sea bass shall be measured along the midline from the tip of the snout to the end of the central portion of the tail, not to include tail filaments.

2. The possession limit for shark, as listed at (a) above, shall be as enumerated at (c) above on a per vessel basis regardless of the number of individuals on board said vessel. If a person is fishing from shore or a land based structure, the possession limit shall be as enumerated at (c) above on a per person basis.

3. Anglers may take no more than 50 eels per day; however, anglers may keep more than 50 eels in storage for personal use, provided they possess no more than 50 eels per person for bait purposes while fishing.

(d) A person shall not take, possess, land, purchase, sell or offer for sale any of the following species:

Species	Scientific Name
Atlantic Sturgeon	Acipenser oxyrinchus
Basking Shark	Cetorhinidae maximus
Bigeye Sand Tiger Shark	Odontaspis noronhai
Sand Tiger Shark	Odontaspis taurus
Shortnose Sturgeon	Acipenser brevirostrum
Whale Shark	Rhincodon typus
White Shark	Carcharodon carcharias

(e) Except as provided in (f) below, a person shall not remove the head, tail or skin, or otherwise mutilate to the extent that its length or species cannot be determined, any species with a minimum size limit specified at (b) or (c) above or any other species of flatfish, or possess such mutilated fish, except after fishing has ceased and such species have been landed to any ramp, pier, wharf or dock or other shore feature where it may be inspected for compliance with the appropriate size limit.

1. A shark may be eviscerated and the head and tail removed prior to landing, provided that the alternate length as measured from the origin of the first dorsal fin to the precaudal pit (located just forward of the origin of the upper lobe of the caudal or tail fin) is not less than 23 inches in length. The fins may not be removed from a shark or dogfish, except after fishing has ceased and such shark or dogfish has been landed as specified in (e) above.

(f) Special provisions applicable to a Special Fillet Permit are as follows:

1. A party boat owner may apply to the Commissioner for a permit for a specific vessel, known as a Special Fillet Permit to fillet species specified at (c) 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 (c) above and no flatfish parts or carcasses shall be discarded overboard; of the species specified at (c) above, only whole live fish may be returned to the water;

ii. No carcasses of any flatfish or species listed at (c) above shall be mutilated to the extent that its length or species cannot be determined;

iii. All fish carcasses of species specified at (c) above shall be retained until such time as the vessel has docked and been secured at the end of the fishing trip adequate to provide a law enforcement officer access to inspect the vessel and catch;

iv. No fillet of any flounder or other flatfish shall be less than eight inches in length during the period of May 1 through October 31 or less than five inches in length during the period of November 1 through April 30;

v. No fillet of any species listed below shall have the skin removed and no fillet shall be less than the minimum length in inches specified below.

Species	Minimum Fillet or Part Length
Atlantic Cod	14 inches
Atlantic Croaker	No Limit
Black Drum	9 inches
Black Sea Bass	5 inches
Bluefish	No Limit
Cobia	26 inches
Haddock	14 inches
Kingfish	No Limit
King Mackerel	16 inches
Pollock	13 inches
Red Drum	13 inches
Scup	4 inches
Spanish Mackerel	10 inches
Tautog	7 inches
Weakfish	9 inches

vi. Fish carcasses from the previous trip shall be disposed of prior to commencing fishing on a subsequent trip;

vii. Violation of any of the provisions of the Special Fillet Permit shall subject the captain and permit holder to the penalties established pursuant to N.J.S.A. 23:2B-14 and shall result in a suspension or revocation, applicable to both the vessel and the owner, of the Special Fillet Permit according to the following schedule:

- (1) First offense: 30 days suspension;
- (2) Second offense: 90 days suspension; and
- (3) Third offense: Revocation of permit, rendering the vessel and the owner not eligible for permit renewal regardless of vessel ownership.

viii. Upon receipt of the notice of suspension but prior to the suspension or revocation of the Special Fillet Permit, the permittee has 20 days to request a hearing from the Department. The hearing shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1.1. If a request for a hearing is not received by the Department within 20 days of the permittee's receipt of the notice of suspension, the permit suspension or revocation will be effective on the date indicated in such notice.

(g) Any person violating the provisions of (b), (c), (d), (e) or (f) 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 Delaware River or its tributaries from the upstream side of the U.S. Route 1 Bridge to and including the Salem River and its tributaries from April 1 through May 31 of each year, or from any waters of the State, except the Atlantic Ocean, from January 1 through February 28 of each year as set forth in N.J.S.A. 23:5-45.2.

1. Hook and line fishermen are hereby restricted to the use of non-offset circle hooks while fishing with any natural bait within the Delaware River or its tributaries from April 1 through May 31 of each year. This restriction shall apply only to hooks of size two and larger and shall not apply to hooks of smaller sizes (such as those normally used for white perch fishing).

(i) Except for the 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 the 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 increasing size.

2. For the 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 or less than the minimum size limits 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) Wanton waste of fish is prohibited.

1. Fish of any species, taken by any means, which are purposely killed shall become part of the fisherman's daily possession limit and shall be removed from the waters from which they were taken and from adjacent lands. This subsection shall not apply to those fish which are released while still alive and subsequently die or to those fish taken inadvertently by net (bycatch) and subsequently die.

(n) 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.

(o) The following provision is applicable to the recreational harvest of bluefish.

1. Any party/charter vessel carrying recreational fishermen for hire to fish for bluefish shall have a valid Federal party/charter vessel permit.

(p) 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 outdoor writers' mailing list.

(q) 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.

(r) 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.

Amended by R.1990 d.607, effective December 3, 1990.

See: 22 N.J.R. 3078(a), 22 N.J.R. 3628(b).

Added new (e) through (h), redesignated existing (e) as (i).

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

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

Size limit for marine fish changed in (a). Added (f), (g), (h), (i) and (j).

Amended by R.1991 d.348, effective July 1, 1991.

See: 23 N.J.R. 43(a), 23 N.J.R. 2011(a).

Deleted "winter flounder measuring less than six inches in length, or measuring less than 13 inches in length" with stylistic changes in (a). Added "winter flounder under 10 inches in length, or red drum under 14 inches in length" with stylistic changes in (b). Added (d). Redesignated (d) as (e); added reference to "(d)". Redesignated (e)-(n) as (f)-(o).

Amended by R.1992 d.143, effective March 16, 1992.

See: 24 N.J.R. 4(c), 24 N.J.R. 1113(a).

Added requirements for weakfish management.

Petition for Rulemaking: Request for reduction of size limit; denied.

See: 24 N.J.R. 2957(a).

Public Notice: Announcement of fish checking stations for the Striped Bass Trophy Program.

See: 24 N.J.R. 3767(c).

Amended by R.1992 d.476, effective December 7, 1992.

See: 24 N.J.R. 1456(a), 24 N.J.R. 4368(b).

New (e) and (f) added prohibiting the filleting of any flatfish at sea in order to prevent circumvention of size limits on fluke and winter flounder; recodification of existing (e)-(o) as (g)-(q).

Amended by R.1993 d.56, effective January 19, 1993.

See: 24 N.J.R. 4249(a), 25 N.J.R. 303(a).

(c) repealed and replaced in accordance with the Summer Flounder Fishery Management Plan developed by the Mid-Atlantic Fishery Management Council and Atlantic States Marine Fisheries Commission. Amended by R.1993 d.77, effective February 16, 1993.

See: 24 N.J.R. 205(a), 25 N.J.R. 689(a).

Added Atlantic Sturgeon under 60 inches in height.

Administrative Correction.

See: 25 N.J.R. 4495(a).

Amended by R.1994 d.44, effective January 18, 1994.

See: 25 N.J.R. 2167(a), 26 N.J.R. 353(a).

Emergency Amendment, R.1994 d.230, effective April 13, 1994 (to expire June 12, 1994).

See: 26 N.J.R. 1885(a).

Amended by R.1994 d.248, effective May 16, 1994.

See: 26 N.J.R. 291(a), 26 N.J.R. 2021(b).

Adopted Concurrent Proposal, R.1994 d.339, effective June 10, 1994.

See: 26 N.J.R. 1885(a), 26 N.J.R. 2792(a).

Provisions of emergency amendment R.1994 d.230 readopted, with a change effective July 5, 1994.

Amended by R.1994 d.615, effective December 19, 1994.

See: 26 N.J.R. 1931(a), 26 N.J.R. 5011(a).

Amended by R.1995 d.82, effective February 6, 1995.

See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

Administrative Change.

See: 27 N.J.R. 1793(a).

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Changed section name from "Size and possession limits"; added species and changed size and possession limits throughout; in (a) and (b), inserted provisions relating to presumed possession; and in (c), inserted reference to bait nets.

Administrative change.

See: 29 N.J.R. 2278(a).

In (b), increased minimum size of Summer Flounder and Tautog; and in (c), increased possession limit of Summer Flounder.

Amended by R.1997 d.246, effective June 2, 1997.

See: 29 N.J.R. 285(a), 29 N.J.R. 2555(a).

In (a) and (b), added "(total length), except as noted below"; in (a), in table, changed minimum size for "Black sea bass" from 8 to 9 inches and added "Tautog (blackfish)"; inserted new (a)1, and recodified former (a)1 and (a)2 as (a)2 and (a)3; in (b), added "Black sea bass" to table; added (b)1; in (c), added "Black sea bass" to table; in (e), inserted "or possess such mutilated fish,"; and in (f)3v, added "Black sea bass" and "Scup" to table.

Amended by R.1998 d.40, effective January 5, 1998.

See: 29 N.J.R. 4595(a), 30 N.J.R. 226(a).

Added Bluefish to size limits; in (b) changed minimum size for Atlantic Cod and Haddock from 19 inches to 21 inches; in (f)3v, changed minimum length of Atlantic Cod and Haddock from 13 inches to 14 inches.

Administrative change.

See: 30 N.J.R. 1319(b).

Administrative change.

See: 30 N.J.R. 1402(b).

Amended by R.1999 d.52, effective February 16, 1999.

See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

Rewrote (a) through (f).

Administrative change.

See: 31 N.J.R. 1084(a).

Amended by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

In (c), changed minimum size for Winter Flounder; in (h), substituted "upstream side of the U.S. Route 1 Bridge" for "Trenton Falls" following "from the".

Administrative change.

See: 32 N.J.R. 1387(a).

Amended by R.2000 d.395, effective October 2, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 3592(b).

In (c), increased minimum size for Winter Flounder; in (h), substituted "upstream side of the U.S. Route 1 Bridge" for "Trenton Falls"; inserted a new (n); and recodified former (n) through (p) as (o) through (q).

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

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

Administrative change.

See: 33 N.J.R. 1589(a).

Amended by R.2001 d.346, effective September 17, 2001.

See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).

Rewrote the section.

Administrative change.

See: 34 N.J.R. 921(a).

Administrative change.

See: 34 N.J.R. 1023(b).

Administrative change.

See: 34 N.J.R. 1669(a).

Amended by R.2002 d.277, effective August 19, 2002.

See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).

In (a) to (c), added "River herring"; in (g), deleted "(a)," "or" preceding (e), inserted "or (f)" after (e); rewrote (h).

Administrative change.

See: 35 N.J.R. 708(a).

Administrative correction.

See: 35 N.J.R. 1561(a).

Administrative change.

See: 35 N.J.R. 1927(a).

Administrative correction.

See: 35 N.J.R. 5619(a).

## 7:25-18.2 Pound nets

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

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

"Heart" means an upright fence of netting forming a heart-shaped (round or square) compartment located between the leader and the pocket. It is designed to cause fish to circle in front of and eventually enter the pocket of a pound net.

"Leader" means an upright fence of netting that acts as a barrier to fish and guides them toward a trap; the netting is made of heavy twine, not designed to catch fish by the gills.

"Navigable channel" means a channel marked with navigational markers including poles, piling or buoys, by the Coast Guard or the State.

"Pocket" means an upright fence of netting forming the final compartment of a pound net in which trapped fish accumulate.

"Pound net" means a large fish trap, consisting of a leader, pocket and one or more hearts, held in place with poles, the netting of which reaches from the bottom to above the surface of the water.

"Staked or anchored gill net" means an upright fence of monofilament or nylon netting, held in place at each end by stakes or anchors, that catches fish by snagging their gill covers as they try to pass through the mesh of the net.

"Submarine pound net" means a pound net that is totally submerged beneath the water and held in place by anchors.

(b) General requirements for all pound net users are as follows:

1. No person may install, operate or maintain a pound net in the marine waters of the State without having first obtained a license from the Department.
2. The Department may establish limits on the number of licenses to be issued for pound nets in Raritan Bay and Sandy Hook Bay and in the Atlantic Ocean within three nautical miles of the coastline.
3. Licenses must be renewed annually.
4. Holders of pound net licenses from the previous year shall have first priority in obtaining a new license, provided they apply before March 1 of the current year.

5. Any person operating any fish pound net in the marine waters of New Jersey, must, at the time of emptying the net, return to the waters wherein the net is located all species less than the minimum size limits specified pursuant to N.J.A.C. 7:25-18.1.

6. No person may, by boat, anchor, dredge or otherwise, willfully and without reasonable cause, interfere with, break, damage or destroy any fish net or associated equipment being lawfully used by a license holder.

7. The Department may require any licensee to submit a money surety bond to insure removal of pound net poles and apparatus as required by these rules.

8. Violation of the rules in this section will subject the violator to money penalties, loss of license and/or injunctive relief under N.J.S.A. 23:2B-14.

(c) Specific requirements for pound net users in Raritan, Sandy Hook and Delaware Bays are as follows:

1. Any person applying for a pound net license must indicate the specific proposed site for the net, as designated by a chart developed by the Department. Sites which have not previously been located on the approved chart must be approved by the Department prior to issuance of a license.

2. New pound net sites must be at least 3,000 feet from a previously located pound net site, when measured parallel to the shoreline, and must be at least 1,000 feet from any navigable channel.

3. Any pound net license holder has priority in retaining a pound net site previously licensed by him or her, provided that he or she has actively and lawfully fished that site during the previous year and has submitted a license application prior to March 1 of the current year. After March 1, any citizen may apply for any available site on a first-come basis.

4. No staked or anchored shad net may be placed within 3,000 feet of an operating pound net. However, shad nets may be set on licensed pound net sites by the license holder or on unoccupied, approved pound net sites, provided the shad nets are set end-to-end with and in line with any existing pound nets.

5. Pound nets must be placed end-to-end so as to form a straight line, perpendicular to the shoreline.

6. The maximum allowable length of a pound net, including leader and hearts, is 750 feet.

7. A minimum distance of 50 feet must be maintained between any two pound nets, shad nets or combination thereof, when measured perpendicular to the shoreline.

8. A pound net license holder must maintain a nameplate, on the offshore pole of the net not less than six

inches square, on which shall be legibly marked the identification number of the pound, as assigned by the Department.

9. A flashing, amber light must be displayed between sunset and sunrise on each of the two end poles of a pound net or a continuous row of pound nets. These lights must be placed at least 10 feet above the mean high water level and must be of sufficient brightness to be visible for at least three miles in all directions (360 degrees) at such times and under such weather conditions as would allow visibility of 10 miles.

10. Within 30 days of the termination of fishing activities for that year, all poles and stakes must be removed by the pound net license holder.

11. The pound net license holder will be responsible for the cost of pole and/or stake removal where the Department accepts responsibility for such removal, due to the licensee's failure to comply with 10 above.

(d) Specific requirements for pound net users in the Atlantic Ocean are as follows:

1. When submitting a request for an ocean or submarine pound net license, the applicant must specify the specific proposed site-location for placement of each net. Upon site approval, the Department may issue the license. (Note: Permission for location of ocean pound nets is also required from the United States Army Corps of Engineers.)

2. No portion of a pound net may be set within 1,500 feet or greater than 7,000 feet from the mean low water line on the ocean shoreline.

3. No row of pound nets may be erected or operated within one and one-half miles of any other row of pound nets, when measured parallel with the coastline.

4. No more than two pound nets may be joined together.

5. A minimum distance of 1,000 feet, when measured perpendicular to the coastline, must be maintained between individual or paired pound nets set in a row.

6. A row of ocean or submarine pound nets must form a straight line with the nets placed end-to-end.

7. The maximum allowable length of an ocean or submarine pound net, including leader and pocket, is 1,100 feet.

8. The minimum mesh size for ocean or submarine pound nets is two inches, stretched.

9. Ocean pound nets shall be maintained in compliance with the following additional requirements:

i. White reflectors must be placed around the top of each pole so as to reflect in all directions;

ii. Flashing amber lights must be displayed on the inshore and offshore poles of nets or rows of nets, between sunset and sunrise; these lights must be placed at least 10 feet above the mean high water level and must be of sufficient brightness to be visible for at least three miles in all directions (360 degrees) at such times and under such weather conditions as would allow visibility of 10 miles.

10. Submarine pound nets shall be maintained in compliance with the following additional requirements:

i. At least eight fluorescent orange floats, at least 12 inches in diameter, shall be maintained along the length of each net, including the inshore and offshore ends.

ii. The pound net license holder shall maintain a nameplate, not less than 12 inches square, on which shall be legibly marked the identification number of the pound, as assigned by the Department.

11. The license holder must completely remove all pound net poles and stakes, within ten months of the termination of fishing activities.

12. The pound net license holder will be responsible for the cost of pole and/or stake removal, where the Department accepts responsibility for such removal, due to the licensee's failure to comply with 11 above.

Amended by R.1984 d.439, effective October 1, 1984.  
See: 16 N.J.R. 1866(a), 16 N.J.R. 2543(b).  
Amended by R.1991 d.132, effective March 18, 1991.  
See: 23 N.J.R. 37(a), 23 N.J.R. 848(b).

Lighting requirements affecting pound nets increased on (c)9 and (d)9ii.  
Amended by R.1994 d.248, effective May 16, 1994.  
See: 26 N.J.R. 291(a), 26 N.J.R. 2021(b).

**7:25-18.3 Net identification tags**

(a) Any identification tag furnished by the Division for a licensed net shall be displayed in a prominent and easily accessible place on such net.

(b) No identification tag furnished by the division may be counterfeited or transferred.

**7:25-18.4 Spearfishing**

It shall be lawful to take, catch, or kill all species of fish by means of spearfishing, during the respective open season, except for those species of fish specifically protected. For the purpose of this rule, spearfishing shall mean the taking of fish by means of a spear, harpoon, or other missile, or by hand, while completely submerged in the marine waters of the State.

Amended by R.1985 d.609, effective January 7, 1985.  
See: 16 N.J.R. 2478(a), 17 N.J.R. 79(a).  
Amended by R.1995 d.82, effective February 6, 1995.  
See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

**7:25-18.5 General net regulations**

(a) No person shall take, catch, kill or attempt to take, catch or kill any fish within the marine waters of the State by any means except in the manner commonly known as angling with hand line or with rod and line unless specifically permitted by statute or regulation.

(b) All stakes used in fyke nets, pound nets, parallel nets or gill nets shall be marked with at least one of the following which shall be placed at least two feet above mean high water and be visible from all sides:

1. Reflectors of not less than two inches in diameter;
  2. Reflecting tape not less than two inches in width;
  3. Light colored flags not less than two square feet;
- or
4. Light colored jugs or buoys not less than 12 inches in diameter.

(c) It shall be illegal to catch fish or attempt to catch fish by means of a rod and line or hand line, commonly called angling, within 300 feet of a set (operating) fish net as licensed pursuant to this section.

(d) It shall be illegal to set a fish net as licensed pursuant to this section within 300 feet of any person actively fishing with a rod and line or hand line, commonly called angling.

(e) All nets licensed pursuant to this section must be legibly and indelibly marked with the gear identification number of the owner.

(f) No person shall set, tend, tamper with or damage in any way or remove fish or other organisms from any net requiring a license without having in his possession the numbered license issued to said person which corresponds to the gear identification number marked on such net.

(g) Individuals intending to take fish with a net in the marine waters of this State pursuant to N.J.S.A. 23:5-24.2 shall, as required, apply to the Commissioner for a license and/or permit. To be eligible for a gill net license in 2003, an applicant must provide a copy of a previously valid New Jersey gill net license held by the applicant between January 1, 1997 and July 13, 2000. Individuals may purchase the greatest number of each type of gill license they held in any one calendar year between January 1, 1997 and July 13, 2000. To be eligible for a gill net license in all subsequent years, an applicant must provide a copy of a previously valid gill net license held by the applicant from the preceding year. Individuals must purchase the maximum number of gill net licenses to which they are entitled annually. Any licenses not purchased will be forfeited. The holder of a valid gill net license not pending revocation or court action due to violation of provisions of this subchapter may transfer the right to purchase all of the gill net licenses to which he is entitled to purchase to another individual at any time, upon notification to the Department. The new licensee shall have a

license(s) issued in his or her name after payment of the fee specified in (g)5vi or (g)6ix below. Any license not purchased by the new entrant will be forfeited. Individuals who applied to the gill net delayed entry program prior to July 13, 2000 and who obtained gill net licenses after the July 13th control date in 2000 or in 2001 or who obtained gill net licenses or are eligible to obtain gill net licenses in 2002, will be restricted to purchase a maximum of two drifting and/or six staked or anchored gill net licenses. Any licenses not purchased in any year will be forfeited. Availability of Delaware Bay Gill Net Permits shall be determined pursuant to N.J.A.C. 7:25-18.6 through 18.11. Upon receipt of the application, and the prescribed license fee, the Commissioner may, in his or her discretion, issue single season licenses and/or permits as specified for each net type for the taking of fish with nets only as follows:

1. Haul seines shall have a mesh not smaller than 2.75 inches stretched and shall not exceed 70 fathoms in length, whether used singly or in series. Haul seines may be used for all species except those specifically protected.

i. The haul seine season shall begin on November 1 and end on April 30;

ii. A person shall not use or attempt to use a haul seine for any species in Lake Takanassee, Spring Lake, Wreck Pond and Deal Lake;

iii. The haul seine resident fee shall be \$25.00 per net.

2. Fykes shall have a length, including leaders, which shall not exceed 30 fathoms and no part of the net or leaders shall be constructed of monofilament or have a mesh larger than five inches stretched or smaller than three eighth inches stretched (inside measurement). Fyke nets may be used for all species except those specifically protected.

i. The fyke season shall begin on November 1 and end on April 30;

ii. A person shall not use or attempt to use a fyke net for any species in Lake Takanassee, Spring Lake, Wreck Pond and Deal Lake, or in the area commonly known as Collins Cove off the Mullica River between a line starting at aid to navigation channel marker flashing red number 8 (latitude 39°33.36'N, longitude 74°28.39'W), bearing approximately 229°T to a point on the western shore of Collins Cove at latitude 39°33.09'N, longitude 74°28.72'W and the Garden State Parkway where it crosses the Mullica River;

iii. No fyke net nor any part of a fyke net shall be set in the middle one third of any river, stream or tributary.

iv. All stakes used for the setting of fyke nets must be removed within 30 days of the close of the season;

v. Submerged anchored fyke nets shall be marked at each end with a fluorescent orange float at least 12 inches in diameter or a fluorescent orange flag at least 12 inches by 12 inches and suspended at least three feet above the water, measured from the surface of the water to the bottom of the flag. No less than 24 square inches of any reflective material shall be attached and maintained on each marker.

vi. Winter flounder may be taken by fyke net during the season of November 1 through February 19. Any winter flounder taken by fyke net from February 20 through April 30 shall not be retained and must be immediately returned to the water.

vii. A person shall not possess, purchase, sell, offer for sale or expose for sale any winter flounder less than 12 inches in length taken by fyke nets during the open season specified in (g)2v above.

viii. The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify the fishing seasons and minimum size limits for winter flounder specified at (g)2v and vi above by notice in order to maintain and/or to come into compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. § 5104(b). The Department shall publish notice of any such modification in the Division's commercial regulation publication and the New Jersey Register.

ix. The fyke resident fee shall be \$12.00 per net. Each licensee shall notify the Department in their license application of the specific estuary in which they intend to fish the fyke net(s). Licensees shall notify the Department as to any change in the specific estuary within which the fyke net is located no later than seven days following the change in estuary. Such notice shall be in writing to:

Division of Fish and Wildlife  
Marine Fisheries Administration  
PO Box 400  
Trenton, New Jersey 08625-0400.

3. Miniature fykes or pots shall only be used for the taking of catfish, suckers, killifish (Cyprinodontidae) and eels. The mesh of this net type shall be no smaller than three sixteenth inches bar, inside measurement. This net type shall not have leaders or wings and shall not exceed 16 inches in diameter if cylindrical or 201 square inches in cross section if any other configuration in any of the marine waters of this State.

i. The miniature fyke or pot season shall begin on January 1 and end on December 31;

ii. The miniature fyke or pot resident fee shall be \$100.00 regardless of the number of miniature fykes or pots employed;

iii. One or two miniature fykes or pots may be used for the taking of killifish or eels only for bait without application for or granting of a license, provided, however, that killifish or eels taken without having a valid license in possession may not be sold or used for barter.

iv. No miniature fyke or pot shall be placed in any man-made lagoon or in any marked or charted channel except noncommercial pots or miniature fykes fastened to a pier or other shore connected structure by a line no longer than twice the depth of the water at that point.

4. The bait net season shall begin on January 1 and shall end on December 31. Except as provided in N.J.S.A. 23:5-24.2, bait net resident fees shall be \$10.00 per license.

i. Bait nets shall be limited to one or more of the following types:

(1) Hand held dip nets 24 inches in diameter or less;

(2) Bait seines not exceeding 150 feet and mesh not less than three eighths inches stretched, inside measurements, and not more than 2.5 inches stretched;

(3) Cast nets not exceeding 30 feet in diameter;

(4) Lift or umbrella nets not exceeding four feet square; and

(5) Killipots with mesh not less than three sixteenth inches bar, inside measurements, and not exceeding 10 inches in diameter or 25 inches in length if cylindrical or 2,000 cubic inches for any other conformation for the taking of killifish (*Cyprinodontidae* spp.) only;

ii. No person shall harvest or attempt to harvest fish by any means from the Deal Lake flume, the Lake Takanassee spillway or Wreck Pond spillway on Monday, Wednesday, and Friday, during the months of April and May in any year.

iii. No person shall take more than 35 river herring (alewife and blueback herring in the aggregate) per day with any dip net, cast net, lift or umbrella net or bait seine; and

iv. The simultaneous possession of greater than 35 alewife or blueback herring in the aggregate and any dip net, cast net, lift or umbrella net or bait seine shall constitute prima facie evidence of the violation of this rule.

5. Drifting gill nets shall be used only in the Atlantic Ocean, Delaware Bay, and the tributaries of Delaware Bay. The smallest mesh of any drifting gill net shall be not less than five inches stretched beginning February 12 through February 29. From March 1 through December 15 the smallest mesh of any drifting gill net shall be not

less than 3.25 inches stretched except in the tributaries of Delaware Bay and in Delaware Bay and the Atlantic Ocean within two nautical miles of the mean high water line where the smallest mesh shall be not less than 2.75 inches stretched and subject to the permitting and reporting requirements specified in (g)5vii below and in N.J.A.C. 7:25-18.12. These nets shall not individually exceed 200 fathoms in length. Individual drifting gill nets shall not be fastened together to form a series of nets exceeding 400 fathoms in length beginning February 12 through May 15 or exceeding 200 fathoms in length beginning May 16 through December 15. Drifting gill nets may be used for all species except those specifically protected.

i. Separate drifting gill nets or a series of joined drifting gill nets shall not be set or fished closer than 100 fathoms from any other net or series of nets;

ii. Separate drifting gill nets or a series of joined drifting gill nets shall be marked at each end with a fluorescent orange float at least 12 inches in diameter or a fluorescent orange flag at least 12 inches by 12 inches and suspended at least three feet above the water, measured from the surface of the water to the bottom of the flag. No less than 24 square inches of any reflective material shall be attached and maintained on each end marker. A white float measuring at least eight inches in diameter shall be located approximately 20 feet inside of each end marker;

iii. Drifting gill nets shall be used in the Atlantic Ocean only from February 12 through December 15. Drifting gill nets shall not be used in the Atlantic Ocean within 100 fathoms of the marked channel of any inlet. Drifting gill nets between 2.75 inches stretched mesh and 3.25 inches stretched mesh shall be subject to the permitting and reporting requirements specified in (g)5vii below, and

(1) Shall only be fished within two miles of the MHWL;

(2) Shall only be fished between the hours of sunrise and sunset;

(3) Shall be no higher than eight feet (off the bottom) while fishing; and

(4) A maximum of 200 fathoms per licensed fisherman shall be in the water at any one time;

iv. Drifting gill nets shall be used in the tributaries of Delaware Bay only for the season extending from February 12 through May 15 and July 15 through December 15;

v. Drifting gill nets shall be used in Delaware Bay only from February 12 through December 15, subject to the additional conditions specified in N.J.A.C. 7:25-18.12. For the purpose of this section, that portion of Delaware Bay defined by the New Jersey-Delaware boundary on the west, Loran C27180 on the east, and Loran C42830 on the north, during the period from May 15 through June 15, shall be known as the Brandywine Shoal Restricted Area.

(1) No more than two drifting gill nets shall be permitted to be set or operated within the Brandywine Shoal Restricted Area by any vessel.

(2) No more than one drifting gill net shall be permitted to be set or operated, nor shall any net be left unattended, within the Brandywine Shoal Restricted Area by any vessel at night (from sunset to sunrise) or on any public holiday as specified at N.J.S.A. 36:1-1 or weekend. For the purpose of this section, "unattended" means that set of circumstances where the operator is more than 100 feet from the nearest portion of his net.

vi. The drifting gill net resident fee shall be \$20.00 per net.

vii. Individuals utilizing drifting, staked or anchored gill nets less than 3.25 inches stretched mesh in the Atlantic Ocean or in the Delaware Bay after February 29 in any calendar year shall possess a Gill Net Mesh Exemption Permit.

(1) An individual shall apply annually for the permit.

(2) All permittees shall submit monthly reports of their catch and effort and other information as may be determined by the Department on forms provided by the Department. These reports shall be filed with the Division no later than 10 calendar days after each monthly reporting period. If no fishing activity was conducted under this permit during the month, a report to that effect shall be provided. Gill Net Mesh Exemption permittees shall be personally responsible for guaranteeing the timely delivery of reports to the Division as well as the accuracy of all information contained therein. The Department may demand that a permittee provide proof of the truth of any data contained in any report submitted to the Division under this program. If the permittee fails to file a true, complete monthly report with the Division by the 15th day of any month, the Division, in its discretion, may contact the permittee by the most expeditious method available in order to secure a complete report.

(3) If the Division is unable to secure a true, complete monthly report from the permittee by such informal means or the Division has credible evidence that the data on any report is false, the Division shall notify the permittee in writing of the Division's intention to revoke the permittee's Mesh Exemption privilege for the reasons stipulated in the notice, effective 20 business days after the date on the written notice (excluding the date on the notice) and of the Division's suspension of the permittee's Mesh Exemption privileges in the interim, effective on a date stipulated in the notice but no sooner than 10 business days after the date of the notice (excluding the date on the notice).

(4) The permittee may request a hearing to contest a proposed revocation of Mesh Exemption privileges in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The request for an administrative hearing must be received in writing by the Department within 20 business days from the date on the Division's notice of suspension and intention to revoke, excluding the date on the notice. However, if a timely request for a hearing is not received by the Department, any allegation contained in the notice shall be deemed admitted by the permittee and Mesh Exemption privileges shall be revoked as of the date stipulated in the notice, without any further action by the Division.

(5) The Division Director may, in his or her sole discretion, stay the suspension of Mesh Exemption privileges pending a hearing on the notice of proposed revocation of Mesh Exemption privileges for any good cause set forth in a written petition from the permittee, including sworn statements from the permittee or other persons with knowledge relevant to the allegations on which the Division action is based. The petition and its supporting statements and documentation shall be made available to the court and all parties in advance of any hearing.

(6) The Division shall reinstate Mesh Exemption privileges suspended for late or incomplete reports, but no more than three times per permittee in any single permit year, if that permittee personally delivers any missing reports, completed, along with a credible written explanation for the delay and/or omissions to the Division within 20 business days from the date on the notice of suspension.

(7) Any permittee who has had a Mesh Exemption privilege revoked shall be disqualified from exercising any privilege associated with a Mesh Exemption permit for 24 months following:

(A) The effective date of an uncontested notice of proposed revocation of privileges;

(B) The date of the Commissioner's Final Decision affirming revocation of Mesh Exemption privileges; or

(C) The filing date of the court order affirming the Commissioner's Final Decision revoking Mesh Exemption privileges, whichever is applicable.

(8) The Division shall issue a Mesh Exemption permit to an applicant pending resolution of a contested Division proposal to revoke that applicant's Mesh Exemption privilege, but that permittee shall not exercise or enjoy any Mesh Exemption privilege if the Division has already suspended that permittee's Mesh Exemption privilege pending resolution of a proposed revocation until:

(A) The Division Director lifts the suspension of that permittee's Mesh Exemption privileges;

(B) The Commissioner issues a Final Decision reinstating that permittee's Mesh Exemption privileges; or

(C) A court of competent jurisdiction orders reinstatement of that permittee's Mesh Exemption privileges, as the case may be.

6. Staked and anchored gill nets shall be used only in the Atlantic Ocean, Raritan Bay, Sandy Hook Bay, and the Delaware Bay and its tributaries. No unattended, overnight staked or anchored gill net shall be set in the Atlantic Ocean from June 15 through October 31. No unattended, overnight anchored gill net shall be set in Delaware Bay from June 15 through September 30. For the purpose of this section, "unattended" means that set of circumstances where the operator is more than  $\frac{1}{2}$  nautical mile (3,040 feet) from the nearest portion of his net. Staked or anchored gill nets shall not be fastened together to form a series of net exceeding 400 fathoms in length from the beginning of the season through May 15 or exceeding 200 fathoms in length beginning May 16 through December 15, subject to the additional conditions specified in N.J.A.C. 7:25-18.12.

i. Separate staked or anchored gill nets or a series of joined staked or anchored gill nets shall not be set closer than 20 fathoms from any other net or series of nets;

ii. Separate staked or anchored gill nets or a series of joined staked or anchored gill nets shall be marked at each end with a fluorescent orange float at least 12 inches in diameter or a fluorescent orange flag at least 12 inches by 12 inches and suspended at least three feet above the water, measured from the surface of the water to the bottom of the flag. No less than 24 square inches of any reflective material shall be attached and maintained on each marker. A white float measuring at least eight inches in diameter shall be located approximately 20 feet inside of each end marker;

iii. Staked and anchored gill nets may be used in the Atlantic Ocean for any species except those specifically protected only beginning February 12 through December 15, where individual gill net length shall not exceed 50 fathoms. The smallest mesh of any such net used in the Atlantic Ocean shall not be less than five inches stretched beginning February 12 through February 29 and not less than 3.25 inches stretched beginning March 1 through December 15. Staked or anchored gill nets shall not be used in the Atlantic Ocean within 100 fathoms of the marked channel of any inlet;

iv. Staked and anchored gill nets shall be used only for shad in the Raritan Bay or Sandy Hook Bay and only beginning February 1 through May 15, where individual gill net length shall not exceed 30 fathoms. The smallest mesh of any such net used in Raritan Bay

or Sandy Hook Bay shall not be less than five inches stretched;

v. Staked gill nets may be used in the tributaries of Delaware Bay for any species except those specifically protected only beginning January 1 through May 15 and July 15 through December 15, where individual gill net length shall not exceed 30 fathoms. The mesh of any such net used in the tributaries of Delaware Bay shall not be less than 2.75 inches stretched nor greater than 3.25 inches stretched beginning January 1 through February 29 and no mechanical means shall be utilized to retrieve such net. The mesh of any net shall not be less than 2.75 inches from March 1 through May 15 and July 15 through December 15. No net shall be set across the middle one third of any tributary or the mouth of any tributary, nor shall any net be set in a manner that impedes navigation;

vi. Staked gill nets may be used in Delaware Bay only from February 1 through December 15, except as further defined by statute and/or rule. Individual staked gill net length shall not exceed 30 fathoms. The mesh of any such net used in Delaware Bay shall be 2.75 inches stretched beginning February 1 through February 29 except that staked gill nets of a mesh not less than 2.75 inches stretched or greater than 3.25 inches stretched may be used within one half nautical mile of the MHWL from January 1 through February 29 provided no mechanical means are utilized to retrieve such nets. From March 1 through December 15 the smallest mesh of any staked gill net shall not be less than 3.25 inches stretched except within two nautical miles of the mean high water line where the smallest mesh shall not be less than 2.75 inches stretched and subject to the permitting and reporting requirements specified in (g)5vii above and N.J.A.C. 7:25-18.12. Staked gill nets shall not be used in that portion of Delaware Bay known as the Brandywine Shoal Restricted Area as defined in (g)5v above;

vii. The use of anchored gill nets is permitted in the tributaries of Delaware Bay for any species, except those specifically protected, only beginning January 1 through May 15 and July 15 through December 15, where individual gill net length shall not exceed 30 fathoms. The mesh of any such net used in the tributaries of Delaware Bay shall not be less than 2.75 inches stretched nor greater than 3.25 inches stretched beginning January 1 through February 29 and no mechanical means shall be utilized to retrieve such net. The mesh of any net shall not be less than 2.75 inches from March 1 through May 15 and July 15 through December 15. No net shall be set across the middle one third of any tributary or mouth of any tributary, nor shall any net be set in a manner that impedes navigation;

viii. The use of anchored gill nets is permitted in the Delaware Bay only from February 1 through De-

ember 15, except as further defined by statute and/or rule. Individual anchored gill net length shall not exceed 30 fathoms. The smallest mesh of any such net used in the Delaware Bay shall not be less than five inches stretched beginning February 1 through February 29 except that anchored gill nets of a mesh not less than 2.75 inches stretched or greater than 3.25 inches stretched may be used within one half mile of the mean high water line from January 1 through February 29 provided no mechanical means are utilized to retrieve such nets. From March 1 through December 15 the smallest mesh of any anchored gill net shall not be less than 3.25 inches stretched except within two nautical miles of the mean high water line where the smallest mesh shall not be less than 2.75 inches stretched and subject to the additional conditions specified in N.J.A.C. 7:25-18.12. Anchored gill nets shall not be used in that portion of the Delaware Bay known as the Brandywine Shoal Restricted Area as defined in (g)5v above;

ix. The staked and anchored gill net resident fee shall be \$3.00 per net.

7. Pound nets shall have a mesh not smaller than two inches stretched and may be used for all species except those specifically protected. These nets shall be used only in Raritan Bay, Sandy Hook Bay, Delaware Bay and the Atlantic Ocean.

i. The pound net season shall begin on February 15 and end on May 15 in the Delaware Bay and begin on January 1 and end on December 31 in all other areas;

ii. The pound net resident fee shall be \$100.00 per net.

8. Wire pound nets shall not extend into the Delaware Bay further than 300 feet from the mean low water mark nor 300 feet from the outside of the flats which fall bare at low water and may be set and used in the Delaware Bay only.

i. The wire pound net season shall begin on March 1 and end on December 31.

ii. The wire pound net resident fee shall be \$25.00 per net.

9. Parallel net may be used to take carp, catfish and suckers only and shall be used only in Delaware Bay and its tributaries. Parallel nets shall have a mesh not smaller than 3.5 inches stretched and not exceed 100 fathoms in length. They shall be set approximately parallel to the shore and only at the low water mark. No net shall be set across any tributary or mouth of any tributary, nor shall any net be set in a manner that impedes navigation.

i. The parallel net season shall begin on September 1 and end on May 31;

ii. The parallel net resident fee shall be \$10.00 per net.

10. Shrimp trawls shall be used for the taking of grass shrimp (*Palaemonetes* spp.) or sand shrimp (*Crangon* spp.) only. Any organisms other than these shrimp taken with a shrimp trawl shall immediately be returned to the waters from which such organisms were taken. The internal opening of the trawl shall have a maximum width of 60 inches and a maximum height of 12 inches. The mesh of the net shall not be greater than one-half inch stretched. No boat shall have more than two trawls working at the same time, and each trawl shall be independently and separately attached to the vessel by a single cable or tow line.

i. The shrimp trawl season shall begin on April 15 and end on December 15;

ii. The shrimp trawl resident fee shall be \$12.00 per net.

11. Lobster or fish pots may be used for the taking of all species except those specifically protected and pursuant to the specific requirements of N.J.A.C. 7:25-14.13 through 14.20 and shall be used only in the Atlantic Ocean, Delaware Bay, Raritan Bay and Sandy Hook Bay except as provided on (g)11ix below.

i. To be eligible for a lobster or fish pot license in 2003, an applicant must provide a copy of a previously valid New Jersey lobster or fish pot license held by the applicant in one of the years from 1995 through h 31, 2002. To be eligible for a lobster or fish pot license in all subsequent years, an applicant must provide a copy of a previously valid lobster or fish pot license held by the applicant from the preceding year.

(1) No additional lobster or fish pot licenses shall be issued until the number of licenses decreases below the number issued in 2003.

(2) Applications for a license shall be available from the Department; and successful applicants shall be chosen by lottery, if necessary, from all completed applications received by the Department. When additional licenses are available, unsuccessful applicants from the previous lottery will be given the first right to the license provided they purchase a license within 30 days of being notified by the Department. Notification by the Department shall be by first class mail. It is the responsibility of the applicant to provide the Department with written notification of any change in mailing address. Once a lottery list is exhausted, the Department shall notify commercial docks and fishing organizations as to the availability of licenses.

(3) The holder of a valid lobster or fish pot license not pending revocation or court action due to violation of provisions of this subchapter may transfer the right to the license at any time, upon application to the Department. The new licensee shall have a license issued in his or her name after payment of the fee specified at (g)11xi below and pursuant to the specific requirements of N.J.A.C. 7:25-14.13 through 14.20.

(4) Applicants for a fish and lobster pot license to recreationally take lobster pursuant to N.J.A.C. 7:25-14.6(a)1iv shall be exempt from this subsection. Fish and lobster pot licenses issued pursuant to N.J.A.C. 7:25-14.6(a)1iv for 2003 and subsequent years shall be used only for the purpose of harvesting not more than six lobster per licensee per day.

(5) Fish and lobster pots issued pursuant to N.J.A.C. 7:25-14.6(a)1iv shall not be included in the total of fish and lobster pot licenses identified in (g)11i(1) above.

ii. All lobster and fish pots shall have a maximum size less than a volume equivalent to 22,950 cubic inches (376,082 cubic cm) when deployed in the waters as specified in (g)11 above, except as provided in (g)11ix below.

iii. Any fish or lobster pot license holder shall have priority in retaining the same license number previously issued to him or her provided that he or she has submitted a license application requesting the previously issued license number prior to March 1 of the current year and that the license number applied for was assigned to an active license not more than two years prior to the application;

iv. Effective January 1, 1986, each fishing vessel subject to this regulation must display its license number on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be visible from above. The license number affixed to each vessel subject to this paragraph must be of block Arabic numerals at least 10 inches in height and of a color contrasting the background;

v. Effective January 1, 1986, all lobster or fish pots or traps and associated buoys and other gear deployed in the salt waters of this State and not permanently attached to the vessel must be legibly and indelibly marked with one of the following codes of identification:

(1) The State lobster or fish pot gear identification number; or

(2) The full name and address of the State lobster or fish pot license holder.

vi. No person other than the license holder shall remove fish or lobsters from any pot or trap. Anyone tending fish or lobster pots or traps after January 1, 1986, shall have in his or her possession the numbered license which corresponds to the gear identification number on the vessel and the gear identification number or name and address affixed to the pots and buoys being tended. The license must be displayed for inspection upon request of any authorized officer. No one shall cut or break the lines or otherwise tamper with or damage any pot, trap, or buoy which he or she does not own;

vii. All lobster and fish pots shall be constructed to include one of the following escape vents in the parlor section of the pot located in such a manner that it would not be blocked or obstructed in normal use by any portion of the pot, associated gear, or the sea floor:

(1) In a fishery in which the possession of lobster on board a vessel or landed from a vessel exceeds 100 lobsters per trip day (based on a 24-hour period) up to a maximum of 500 lobster per trip for trips of five days or longer, the escape vent(s) shall be not less than:

(A) A rectangular portal with an unobstructed opening not less than 1.9375 inches (49.2 mm) by 5.75 inches (146.0 mm). Effective July 1, 2003 the unobstructed opening shall be increased to not less than 2 inches (50.8 mm) by 5.75 inches (146.0 mm); or

(B) Two circular portals with unobstructed openings not less than 2.4375 inches (61.9 mm) in diameter. Effective July 1, 2003 the diameter of the two circular portals shall be increased to not less than 2.5 inches (63.5 mm);

(2) In a fishery in which the possession of more than 100 pounds of scup on board a vessel or landed from a vessel occurs, the escape vent(s) shall be not less than:

(A) A rectangular portal with an unobstructed opening not less than 2.25 inches (57.2 mm) by 2.25 inches (57.2 mm); or

(B) A circular portal with an unobstructed opening not less than 3.1 inches (78.7 mm) in diameter.

(3) In a fishery in which the possession of black sea bass on board a vessel or landed from a vessel occurs, the escape vent(s) shall be not less than:

(A) A square portal with an unobstructed opening not less than 2.0 inches (50.8 mm) by 2.0 inches (50.8 mm);

(B) A rectangular portal with an unobstructed opening not less than 1.375 inches (34.9 mm) by 5.75 inches (146.0 mm); or

(C) A circular portal with an unobstructed opening not less than 2.375 inches (60.3 mm) in diameter.

(4) In a fishery in which more than one of the escape vents listed in (g)11vii(1) through (3) above is applicable, the pots shall be constructed with the largest of the applicable escape vents.

viii. All lobster and fish pots shall be constructed to include a ghost panel or other mechanism which is designed to create an opening to allow the escape of lobsters and fish after a pot has been abandoned or lost, and which meets the following specifications:

(1) The opening covered by the panel or created by other approved mechanism shall be located in the outer parlor section(s) of the pot, shall be in a position which allows the unobstructed exit of lobsters or fish from the pot and shall be of the following dimensions:

(A) Not less than 3.75 inches (95.25 mm) by 3.75 inches (95.25 mm), or

(B) Not less than three inches (76.2 mm) by six inches (152.4 mm) when used in a fishery in which the possession of black sea bass on board a vessel or landed from a vessel occurs.

(2) The panel shall be constructed of, or fastened to the pots with, one of the following materials: untreated wood lath; untreated cotton, hemp, sisal or jute twine not greater than  $\frac{3}{16}$  inch (4.76 mm) in diameter; non-stainless, ungalvanized, uncoated ferrous metal not greater than  $\frac{3}{32}$  inch (2.4 mm) in diameter; or magnesium alloy, timed float release (pop-up device), or similar magnesium alloy fasteners;

(3) The door of the pot may serve as the ghost panel if the door is fastened to the pot with a material specified in (g)11viii(2) above;

(4) The escape vent specified in (g)11vii above may serve as a ghost panel if the escape vent is incorporated into a panel constructed of, or attached to the pot with, a material specified in (g)11viii(2) above, and, upon breakdown of the degradable materials, will create an opening of at least the dimensions specified in (g)11viii(1)(A) and (B) above for the exit of lobster and fish; and

(5) Pots constructed entirely or partially of wood shall be considered to be in compliance with this subparagraph if constructed of wood lath to the extent that deterioration of wooden component(s) will result in an unobstructed opening as specified in (g)11viii(1)(A) and (B) above.

ix. A modified lobster of fish pot may be used for the taking of conchs or whelks in all marine waters of the State including the Atlantic Ocean with the exception of the Newark Bay Complex.

(1) Any such conch pot is defined as a rectangular shaped device no larger than 30 inches on any side; or a cylindrical shaped device not greater than 34 inches in diameter and 30 inches in height. Conch pots must allow for an unobstructed opening on their top surface measuring not less than eight by eight inches square or nine inches in diameter. Conch pots using horseshoe crabs as bait must contain a bait-saving device containing a horseshoe crab or parts of a horseshoe crab as bait which, by design, extends the effective fishing time of the horseshoe crab bait in the water. Conch pots cannot contain a parlor, funnel, or other entrapping mechanism in the interior of the pot. Any similar configuration may be approved for use upon application to the Division and receipt of written approval. Such applications must contain a diagram detailing the shape and dimensions of the requested conch pot configuration.

(2) Conch pots may be tended only from 0400 hours (4:00 A.M.) to 2100 hours (9:00 P.M.).

(3) No conch pot shall be placed in a creek, ditch or tributary less than 50 feet wide at mean low water, in any marked or charted channel or in any man-made lagoon;

x. The lobster or fish pot season shall begin on January 1 and end on December 31;

xi. The resident fee for lobster or fish pots shall be \$100.00 regardless of the number of pots employed.

12. Shad nets for the Hudson River shall be held in place by either stakes or anchors and shall not exceed 200 fathoms in length. The smallest mesh of any shad net shall not be less than five inches stretched.

i. Shad nets shall be marked at each end with a fluorescent orange float at least 12 inches in diameter or a fluorescent orange flag at least 12 inches square and suspended at least two feet above the mean high waterline.

ii. Shad nets shall be used in the Hudson River for the taking of shad only.

(h) Nonresident license fees shall be the same as resident fees established in this section if a resident of this State may obtain a license to fish for similar species of fish with similar gear in the nonresident applicant's state for the same fee as a resident of that state. Otherwise, the license fee for a nonresident is 10 times the license fee charged to a resident.

(i) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify seasons, mesh sizes, maximum net lengths, species allowed to be harvested by specific gear types, escape vent sizes, ghost panel sizes and acceptable materials for fastening ghost panels to pot and traps specified in this section, by notice in order to maintain and/or to come into compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. § 5104(b). The Department shall publish notice of any such modification in the Division's commercial regulation publication and as a notice of administrative change in the New Jersey Register.

Amended by R.1988 d.285, effective June 20, 1988.  
See: 19 N.J.R. 1610(a), 20 N.J.R. 1344(b).

Substantially amended.

Amended by R.1988 d.286, effective June 20, 1988.  
See: 20 N.J.R. 866(a), 20 N.J.R. 1345(a).

Amended (g)4.

Administrative Correction to (g)6vi: Added text.

See: 22 N.J.R. 2301(a).

Amended by R.1991 d.278, effective June 3, 1991.

See: 22 N.J.R. 1311(a), 23 N.J.R. 1792(a).

Changed "persons" to "individuals"; added reference to "permits" in (g).

Amended by R.1992 d.143, effective March 16, 1992.

See: 24 N.J.R. 4(c), 24 N.J.R. 1113(a).

Further eligibility qualifications for certain fishing with nets added at (g); specifications regarding the tributaries of the Delaware Bay.  
Amended by R.1992 d.449, effective November 16, 1992.

See: 24 N.J.R. 207(a), 24 N.J.R. 4256(a).

Requirements to eliminate fyke netting and haul seining from certain small bodies of water.

Amended by R.1994 d.202, effective April 18, 1994.

See: 25 N.J.R. 5397(a), 26 N.J.R. 1633(a).

Amended by R.1994 d.615, effective December 19, 1994.

See: 26 N.J.R. 1931(a), 26 N.J.R. 5011(a).

Amended by R.1995 d.82, effective February 6, 1995.

See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

Administrative correction.

See: 27 N.J.R. 1794(a).

Administrative correction.

See: 27 N.J.R. 2212(a).

Administrative change.

See: 27 N.J.R. 4916(c).

Amended by R.1996 587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Made changes to mesh sizes throughout; inserted (g)2iii, (g)4ii, and (g)11vi; and recodified from (g)2iii through (g)2viii as (g)2iv through (g)2ix, (g)4ii and (g)4iii as (g)4iii and (g)4iv, and (g)11vi through (g)11x as (g)11vii through (g)11xi.

Amended by R.1997 d.246, effective June 2, 1997.

See: 29 N.J.R. 285(a), 29 N.J.R. 2555(a).

In (g), made nonsubstantive changes; and substantially amended (g)11.

Amended by R.1999 d.52, effective February 16, 1999.

See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

Rewrote (g)11; and added (i).

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.346, effective September 17, 2001.

See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).

In (g), rewrote the second sentence and deleted the fifth sentence in the introductory paragraph, inserted 3iv, rewrote the first sentence in 9 and substituted "exceeds 100 lobsters" for "occurs" in 11vi(1).

Administrative change.

See: 34 N.J.R. 921(a).

Amended by R.2002 d.277, effective August 19, 2002.

See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).

Rewrote (g).

Emergency amendment, R.2003 d.223, effective May 1, 2003 (to expire June 30, 2003).

See: 35 N.J.R. 2366(a).

In (g)11ix(1), inserted a new third sentence.

Adopted concurrent amendment, R.2003 d.305, effective June 30, 2003.

See: 35 N.J.R. 2366(a), 35 N.J.R. 3611(b).

Provisions of R.2003 d.223 adopted without change.

#### 7:25-18.6 Delaware Bay commercial and non-commercial gill net permit

(a) An individual utilizing a drifting, staked (or anchored) gill net in that portion of Delaware Bay or its tributaries defined as the area east of the New Jersey-Delaware boundary enclosed by a line from Cape Henlopen, Delaware to Cape May Point Light, New Jersey and the "southwest line" as defined in N.J.S.A. 50:3-11 shall have a commercial or non-commercial gill net permit for each gill net license in their possession. The person shall have the permit on his or her person at all times while fishing in that portion of Delaware Bay or its tributaries defined in this subsection.

(b) For a period of 60 days following June 3, 1991, Delaware Bay commercial and non-commercial gill net permits shall be issued in accordance with N.J.A.C. 7:25-18.5.

(c) No new Delaware Bay commercial or non-commercial gill net permits shall be issued after August 2, 1991 until the combined number of Delaware Bay commercial and non-commercial gill net permits falls below either 800 for staked or anchored gill nets or 200 for drifting gill nets, except as provided in (c)1 below.

1. Individuals returning from active military service after August 2, 1991, who were on active duty during the application period (June 3, 1991 through August 2, 1991) and who meet the requirements in N.J.A.C. 7:25-18.7(a) or (b) below, shall have 60 days from their date of discharge to apply for a permit to cover the number of licenses for which they qualify, upon submission of official documentation indicating duration of military service and date of discharge and a notarized statement from the applicant that said documentation is accurate.

(d) An individual possessing a Delaware Bay Gill Net Permit shall obtain the number of gill net licenses authorized by the Delaware Bay Gill Net Permit in each calendar year. Failure to do so will result in the number of nets authorized by the permit being reduced to the number of net licenses actually obtained in that calendar year beginning in 1994, or in the event no licenses are purchased, invalidation of the permit immediately following the end of that calendar year.

New Rule, R.1991 d.278, effective June 3, 1991.

See: 22 N.J.R. 1311(a), 23 N.J.R. 1792(a).

#### 7:25-18.7 Eligibility for Delaware Bay commercial and non-commercial gill net permits during the 60 days following June 3, 1991

(a) To be eligible for a Type A Delaware Bay commercial gill net permit during the 60-day period following June 3,

1991 allowing the use or possession on the waters of the Delaware Bay or its tributaries of no more than the maximum number of gill nets of the same type for which the applicant held valid New Jersey gill net licenses in any one calendar year during the period of January 1, 1985 through September 6, 1990 but no more than four drifting gill net permits and/or 25 staked or anchored gill net permits, the applicant shall, as part of the applicant's application for a commercial gill net permit:

1. Document that the applicant sold a minimum of 5,000 pounds of fish or 250 bushels of crabs or any combination thereof where one bushel of crabs is equal to 20 pounds of fish in any one year from 1985 through 1990; and

2. Provide a copy of a valid New Jersey gill net license(s) held by the applicant in any one calendar year from January 1, 1985 through September 6, 1990 for each gill net permit requested.

(b) To be eligible for a Type B Delaware Bay commercial gill net permit during the 60-day period following June 3, 1991 allowing the use or possession on the waters of the Delaware Bay or its tributaries of no more than two drifting gill nets and/or up to six staked or anchored gill nets, the applicant shall, as part of the applicant's application for a commercial gill net permit document that the applicant sold a minimum of 5,000 pounds of fish or 250 bushels of crabs or any combination thereof where one bushel of crabs is equal to 20 pounds of fish in any one year from 1985 through 1990.

(c) To comply with the requirement that to be eligible for a Delaware Bay commercial gill net permit under (a) or (b) above an applicant shall have sold a minimum of 5,000 pounds of fish or 250 bushels of crabs or any combination thereof where one bushel of crabs is equal to 20 pounds of fish in any one year from 1985 through 1990, an applicant shall include as part of the applicant's application:

**7:25-18.12 Commercial fishing seasons and quotas**

(a) The following provisions are applicable to the commercial harvest of weakfish:

1. A vessel shall not possess or land in any one day more than 150 pounds of weakfish harvested by the gear specified below, provided the amount of weakfish landed from any vessel shall not exceed 50 percent, by weight, of the total weight of all species landed and sold, 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 any gear any weakfish less than 13 inches in length except as provided elsewhere in this subchapter.

3. A vessel shall not possess or land by any gear other than the specified in (a)1 above more than 150 pounds of weakfish in any one day, provided the amount of weakfish landed from any vessel shall not exceed 50 percent, by weight, of the total weight of all species landed and sold.

4. A dealer shall not accept more than 150 pounds of weakfish landed in New Jersey taken by the respective gear specified in (a)1 above, provided the amount of weakfish landed from any vessel shall not exceed 50 percent, by weight, of the total weight of all species landed and sold, except during the respective open season specified above or as modified by the Commissioner pursuant to (f) below.

5. A dealer shall not accept more than 150 pounds of weakfish a day landed in New Jersey taken by gear other than that specified in (a)1 above at any time, provided the amount of weakfish landed from any vessel shall not exceed 50 percent, by weight, of the total weight of all species landed and sold.

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

1. A vessel shall not land for the purpose of sale nor sell any bluefish unless such vessel is in possession of a valid Federal commercial permit for bluefish.

2. New Jersey's annual allocation of bluefish as determined by the National Marine Fisheries Service shall be allocated according to gear type as follows:

- i. Gill Net: 60.9 percent;
- ii. Pound Net: 14.9 percent;
- iii. Otter Trawl: 14.7 percent;

- iv. Purse Seine: 7.5 percent; and
- v. Hook and Line: 1.8 percent.

3. A vessel shall not land nor sell any bluefish taken by the gear type specified in (b)2 above except during the respective open season specified below or as modified by the Commissioner pursuant to (g) below.

<u>Gear</u>	<u>Open Season</u>
Gill Net	Jan. 1 through Nov. 6
Pound Net	Jan. 1 through Dec. 31
Otter Trawl	Jan. 1 through Dec. 7
Hook and Line	Jun. 16 through Aug. 7
Purse Seine	Jan. 1 through Dec. 31

4. A dealer shall not accept any bluefish landed in New Jersey taken by the respective gear specified in (b)2 above except during the respective open season specified in (b)3 above or as modified by the Commissioner pursuant to (g) below.

5. As specified in (b)2 above, the annual bluefish quota for the purse seine fishery shall be 7.5 percent of New Jersey's annual commercial bluefish quota as allocated by the National Marine Fisheries Service. No purse seine vessel shall land and no dealer shall accept any bluefish landed in New Jersey that have been harvested by purse seine in excess of the annual purse seine quota or after the purse seine season has been closed. If the annual purse seine quota is exceeded in any one calendar year, the overharvest shall be deducted from the purse seine quota in the next subsequent calendar year(s).

6. No fish dealer shall accept any bluefish from any vessel or harvester unless such dealer is in possession of a valid Federal dealer permit.

7. No dealer shall accept any bluefish from any vessel unless said vessel is in possession of a valid Federal commercial permit for bluefish.

8. Any individual or vessel landing bluefish in New Jersey for the purpose of sale shall sell all bluefish to a Federally permitted bluefish dealer.

9. All permitted bluefish dealers shall provide weekly landing reports to the Division on a form supplied by the Commissioner.

10. A party or charter vessel possessing a Federal permit to commercially harvest bluefish by angling or hook and line or spearfishing and when operating under the permit shall be subject to the following:

- i. Crew size shall be limited to no more than five persons, including the captain; and
- ii. The vessel shall not carry any passengers for hire. When carrying passengers for hire, the bluefish permit is not valid and the possession limits and seasonal restrictions as specified in N.J.A.C. 7:25-18.1 apply.

11. The Commissioner, or his or her designee, may close the season for the respective gear in (b)3 above

upon four days public notice of the projected date the quota for the respective gear shall be landed. Such notice shall be sent by first class mail to all commercial docks and commercial fishing organizations on the mailing list of the Division.

(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 and submit their application no later than December 31, 2002 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 at least 1,000 pounds of tautog in New Jersey and subsequently sold at least 1,000 pounds of tautog in each of two years during the period 1982 through 1993;

(2) Documented proof of landings shall accompany the application and 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 (a copy of the business records supporting the statement(s) must accompany the application); or

(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 and submit their application no later than December 31, 2002 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 at least 100 pounds of tautog in New Jersey and subsequently sold at least 100 pounds of tautog in each of two years during the period 1982 through 1997.

(2) Documented proof of landings shall accompany the application and 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 (a copy of the business records supporting the statement(s) must accompany the application); 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 has no greater than 10 percent increase in length overall and 20 percent increase in shaft horsepower. 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 (i) below. All landings of tautog in New Jersey shall be applied to the New Jersey annual quota.
- i. The commercial season for tautog shall be from April 15 through June 30 and November 1 through January 15.
  - 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) and (c)5ii(1) above shall result in the denial or revocation of the permit in addition to any civil or criminal penalties prescribed by law.

iii. Failure to comply with the provisions of (c)11iii above, landing tautog after the season has been closed, or (c)11vii above, failure to submit accurate and timely monthly reports, shall result in the suspension or revocation of the vessel's tautog permit according to the following schedule:

- (1) First Offense: 60 days suspension
- (2) Second Offense: 120 days suspension
- (3) Third Offense: permanent revocation

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

(d) The following provisions are applicable to the commercial harvest of sharks:

1. A person shall not possess more than two sharks per vessel nor shall a person sell or attempt to sell more than two sharks without a valid annual vessel permit for sharks issued by the National Marine Fisheries Service.

i. Any harvester or vessel landing shark in New Jersey for the purpose of sale shall sell all shark only to a dealer with a valid permit for sharks issued by the National Marine Fisheries Service.

2. A dealer shall not purchase or receive a shark without a valid annual dealer permit for sharks issued by the National Marine Fisheries Service.

3. A person shall not sell and a dealer shall not receive any large coastal shark, any small coastal shark, or any pelagic shark, as identified in N.J.A.C. 7:25-18.1(a), after the effective date that the quota for that group of sharks has been reached or is projected to be reached by the National Marine Fisheries Service, for the remainder of that semi-annual period.

(e) The following provisions are applicable to the commercial harvest of shad:

1. An individual shall not take or attempt to take, possess or land any shad in the State, without a valid Shad Commercial Net Permit or a Shad Incidental Harvest Permit issued by the Department, except as provided in (e)1i below. No person shall harvest or possess more than 300 pounds of shad per day without a Shad Commercial Net Permit.

i. An individual may possess the recreational possession limit for shad as established in N.J.A.C. 7:25-18.1(c) provided that the shad are taken by hook and line only and are not sold, offered for sale, or exposed for sale.

2. To qualify for a Shad Commercial Net Permit, an applicant shall meet the following criteria:

i. The applicant shall complete an application provided by the Department including information regarding the name and address of the vessel owner, vessel name, vessel documentation or registration number and documented proof of landings as listed in (e)2i and ii below. Completed applications should be submitted to:

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

ii. The applicant shall have landed at least 3,000 pounds of shad in each of three years from 1994-1998 inclusive;

iii. Documented proof of landings shall be one of the following:

(1) Weigh-out slips issued to the applicant by a wholesaler(s) who acquired fish from the applicant;

(2) Notarized statement(s) of the wholesaler(s) that the wholesaler's records establish that the applicant sold at least 3,000 pounds of shad in each of three calendar years during the period from 1994 through 1998 inclusive. A copy of the business records supporting the statement(s) shall accompany the application and the original business records shall be made available for inspection by the Department; or

(3) Other documentation similar to that in (e)2iii(1) and (2) above may be accepted at the discretion of the Commissioner after his or her review; and

iv. The applicant shall sign an affidavit on the application certifying as to the validity of the information provided.

3. Failure to attach the required documentation under (e)2iii above to the application shall result in the denial of the permit.

4. Falsification or misrepresentation of any information on the Shad Commercial Net Permit application including documentation provided to verify the amount of shad harvested shall result in the denial or revocation of the permit in addition to any civil or criminal penalties prescribed by law.

5. A Shad Incidental Harvest Permit shall be issued to qualifying applicants which will allow the harvest or possession of not more than 300 pounds of shad per day from New Jersey's waters. To qualify for a Shad Incidental Harvest Permit, an application shall comply with the following provisions:

i. The applicant shall complete an application provided by the Department including information regarding the name and address of the vessel owner, vessel name, vessel documentation or registration number and documented proof of landings as listed in (e)5i and ii below. Completed applications should be submitted to:

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

ii. The applicant shall submit documented proof establishing that the applicant landed at least 150 pounds of shad in each of three calendar years during the period from 1994 through 1998 inclusive;

iii. Documented proof shall be one of the following:

(1) Weigh-out slips issued to the applicant by a wholesaler(s) who acquired fish from the applicant;

(2) Notarized statement(s) of the wholesaler(s) that the wholesaler's records establish that the applicant sold at least 150 pounds of shad during each of three calendar years during the period from 1994 through 1998 inclusive. A copy of the business records supporting the statement(s) shall accompany the application; or

(3) Other documentation similar to that in (e)5iii(1) and (2) above may be accepted at the discretion of the Commissioner after his or her review; and

iv. The applicant shall sign an affidavit on the application certifying as to the validity of the information provided.

6. Failure to attach the required documentation under (e)5iii to the application shall result in the denial of the permit.

7. Falsification or misrepresentation of any information on the Shad Incidental Harvest Permit application including documentation provided to verify the amount of shad harvested shall result in the denial or revocation of the permit in addition to any civil or criminal penalties prescribed by law.

8. All Shad Commercial Net Permit and Shad Incidental Harvest Permit holders shall have their permit on their person at all times when engaged in any phase of harvesting, transporting, selling or possessing shad.

9. Shad Commercial Net Permits and Shad Incidental Harvest Permits are non-transferable.

10. A person shall not land nor sell any shad taken in New Jersey waters except during the season from January 1 through December 31.

11. All Shad Commercial Net Permit and Shad Incidental Harvest Permit holders shall be required to complete annual reports on forms supplied by the Department. The annual report shall be signed by the permittee attesting to the validity of the information and be submitted so it is received by the Department no later than January 15 of the following calendar year at the following address:

Division of Fish and Wildlife  
American Shad Program  
PO Box 418  
Port Republic, NJ 08241

i. The annual report shall include:

(1) The daily harvest and sale, in pounds, of American shad;

(2) The buyer(s) name;

(3) The name and address of the permit holder; and

(4) Any other requested information pertinent to management of the American shad resource including catch/effort, length and sex data, by-catch data and tagging information from a representative size range of shad.

12. Research personnel from the Department shall be allowed to sail aboard any permitted vessel at any time, provided the Department notifies the permittee at least two days in advance.

13. Any person or permittee violating the provisions of this section shall be subject to the penalties described in N.J.S.A. 23:2B-14 in addition to the following:

i. Failure to comply with the provisions of (e)1 above, landing shad without the applicable shad permit or landing greater than the allowable limit authorized by the applicable shad limit, (e)10 above, landing shad outside the open season or (e)11 above, timely submission or annual reports, shall subject the violator to suspension or revocation of the Shad Commercial Net Permit or Shad Incidental Harvest Permit according to the following schedule:

(1) First offense: 30 day suspension;

(2) Second offense: 90 day suspension;

(3) Third offense: Permanent revocation of permit.

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

(f) The following provisions are applicable to the commercial harvest of black drum:

1. A vessel shall not possess or land by any gear more than 10,000 pounds of black drum in any one day;

2. A dealer shall not accept from a vessel or person more than 10,000 pounds of black drum a day landed in New Jersey;

3. The annual black drum harvest quota for New Jersey shall be 65,000 pounds or as modified by the Commissioner pursuant to (i) below; and

4. The Commissioner, or his or her designee, may close the season upon two days public notice of the projected date the quota 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 and Wildlife.

(g) The following provisions are applicable to the commercial harvest of spiny dogfish:

1. A person or vessel shall not possess for sale any spiny dogfish nor shall a person sell or attempt to sell spiny dogfish without a valid annual vessel permit for spiny dogfish issued by the National Marine Fisheries Service.

2. A dealer shall not purchase or receive spiny dogfish without a valid annual dealer permit for spiny dogfish issued by the National Marine Fisheries Service.

3. No person or 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 or the Atlantic State Marine Fisheries Commission.

4. Any closure of the spiny dogfish fishery by the National Marine Fisheries Service in adjacent Federal waters or recommended closure by the Atlantic States Marine Fisheries Commission for areas including New Jersey automatically closes New Jersey waters to the harvest of spiny dogfish and to the commercial landings of spiny dogfish.

(h) The following provisions are applicable to the commercial harvest of black sea bass:

1. After December 31, 2002, a vessel shall not land more than 500 pounds of black sea bass during the period of January 1 through March 31 or more than 100 pounds of black sea bass during the period April 1 through December 31 in New Jersey on any one trip unless said vessel is in possession of a valid New Jersey Black Sea Bass Permit. 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 Black Sea Bass Permit shall complete and submit an application provided by the Department by December 31, 2002 that includes information on name, address, vessel name, vessel documentation or registration number, gear and landings criteria as specified in (h)1ii below. Applications for a New Jersey Black Sea Bass Permit received after the above date shall be denied.

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

(1) The vessel shall have landed and sold a minimum cumulative total of 10,000 pounds of black sea bass in New Jersey during the period 1988 through May 3, 2001;

(2) The vessel shall have possessed a valid Federal Black Sea Bass Moratorium Permit or appropriate New Jersey gear license for each year of submitted landings documentation; and

(3) 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 (a copy of the business records supporting the statement(s) must accompany the application);

(C) Other documentation similar to that in (h)1ii(3)(A) or (B) above may be accepted at the discretion of the Commissioner after his or her review.

2. The New Jersey Black Sea Bass 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 a black sea bass fishery, may only have on board the gear type(s) listed on that vessel's New Jersey Black Sea Bass Permit.

3. The owner of a vessel permitted pursuant to this subsection not pending revocation or court action may transfer his or her Black Sea Bass Permit, upon application to the Department, as follows:

i. To his or her replacement vessel, provided the replacement vessel is not greater than 10 percent larger in vessel length, gross registered tonnage and net tonnage and not more than 20 percent greater in horsepower. The vessel being replaced shall no longer be eligible for a black sea bass 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 Black Sea Bass Permit based on the harvesting history of the vessel being sold.

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

5. 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.

6. A vessel possessing a valid Black Sea Bass Permit to commercially harvest black sea bass by angling or hook and line 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 Black Sea Bass Permit is not valid and the recreational possession limits and seasonal restrictions as specified in N.J.A.C. 7:25-18.1 apply.

7. Annual and seasonal black sea bass quotas and daily trip limits shall be determined by the Mid-Atlantic Fishery Management Council and implemented by the National Marine Fisheries Service or determined by the Atlantic States Marine Fisheries Commission.

i. The Commissioner, or his or her designee, shall implement annual and seasonal black sea bass quotas and daily trip limits determined by the Atlantic States Marine Fisheries Commission upon four days public notice. Public notice shall include letters by first class mail to all New Jersey Black Sea Bass Permit holders. The implemented quotas and limits shall also be reflected in this subsection through a notice of administrative change in the New Jersey Register, in accordance with N.J.A.C. 1:30-2.7.

ii. No vessel shall have in possession or land and no dealer or person shall accept from any one vessel or person more than the lesser of the daily trip limit of black sea bass set by the National Marine Fisheries Service or the Atlantic States Marine Fisheries Commission in any one calendar day. The New Jersey annual quota for the black sea bass fishery shall be divided into seasons, percentage of the annual quota apportioned to each season, daily trip limits and number of allowable landing days in each week (Sunday through Saturday) as follows:

(1) January 1-April 15: 38.8 percent, 7,000 pound trip limit;

(2) April 16-June 30: 20.6 percent, 1,500 pound trip limit and a maximum of three days per week that a vessel may land black sea bass;

(3) July 1-September 30: 13.5 percent, 1,000 pound trip limit and a maximum of three days per week that a vessel may land black sea bass;

(4) October 1-December 31: 27.1 percent, 1,500 pound trip limit and a maximum of three days per week that a vessel may land black sea bass.

iii. 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 the season percentage of the annual quota shall be caught. Public notice shall include letters by first class mail to all New Jersey Black Sea Bass Permit holders.

iv. Once the season has been closed for the commercial black sea bass fishery, no vessel or person shall land or sell any black sea bass and no dealer or person shall accept or purchase any black sea bass landed in New Jersey.

v. 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 (h)7iii above.

8. After December 31, 2002, no dealer shall accept or purchase any black sea bass from any vessel or harvester unless such dealer is in possession of a valid New Jersey Black Sea Bass Dealers Permit. A New Jersey Black Sea Bass Dealers Permit may be obtained by completing an application supplied by the Department and submitting it to:

New Jersey Black Sea Bass Dealers Permit  
Nacote Creek Research Station  
PO Box 418  
Port Republic, NJ 08241

9. After December 31, 2002, no dealer shall accept or purchase from any one vessel more than the amounts of black sea bass specified at (h)1 above unless said vessel is in possession of its valid New Jersey Black Sea Bass Permit.

10. After December 31, 2002, any harvester or vessel landing black sea bass in New Jersey for the purpose of sale shall sell all black sea bass to a permitted New Jersey Black Sea Bass Dealer.

11. After December 31, 2002, all permitted New Jersey Black Sea Bass Dealers shall provide weekly reports to the Division listing the amount of black sea bass landed on a daily basis by size category and any other information that may be required by the Commissioner. Such report shall be faxed to the Division at the number listed on the reporting form no later than 12:01 P.M. on Monday 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 required documentation to an application shall result in the denial of the permit.

ii. Falsification or misrepresentation of any information on an application including documentation provided to verify the amount of black sea bass landed as specified in (h)1ii(3) 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 (h)6 above, criteria under which a vessel may harvest black sea bass by angling or hook and line, (h)7 above, exceeding daily trip limits and landing black sea bass after the season has been closed, (h)8 above, accepting or purchasing black sea bass without a New Jersey Black Sea Bass Dealers Permit, (h)9 above, accepting or purchasing from any non-permitted vessel more than the amount of black sea bass stipulated pursuant to

(h)1 above and (h)10 above, selling black sea bass to a non-permitted dealer shall result in the suspension during open season(s) or revocation of the vessel's Black Sea Bass 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.

13. Dealer business records may be used as admissible evidence in any proceeding to document violations of trip limits, weekly landing limits or closed seasons.

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

(j) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify quotas, trip limits and/or seasons specified in this section, by notice in order to maintain and/or to come into compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. § 5104(b). The Department shall publish notice of any such modification in the Division's commercial regulation publication and the New Jersey Register.

New Rule, R.1992 d.143, effective March 16, 1992.

See: 24 N.J.R. 4(c), 24 N.J.R. 1113(a).

Amended by R.1993 d.56, effective January 19, 1993.

See: 24 N.J.R. 4249(a), 25 N.J.R. 303(a).

Former (a) and (i) recodified to new rule at 7:25-8.14; remaining subsections recodified as (a)-(g).

Administrative Correction to N.J.A.C. 7:25-18.12(b) through (g).

See: 25 N.J.R. 2001(d).

Administrative Correction to (c).

See: 25 N.J.R. 2281(a).

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

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

Repeal and New Rule, R.1995 d.82, effective February 6, 1995.

See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

Formerly "Weakfish management."

Administrative Correction.

See: 27 N.J.R. 1794(a).

Administrative Correction.

See: 27 N.J.R. 3420(a).

Administrative Correction.

See: 27 N.J.R. 3420(b).

Administrative Change.

See: 28 N.J.R. 3786(a).

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Inserted (b)1, (c), and (d); recodified former (b)1 through (b)6 as (b)2 through (b)7 and former (c) and (d) as (e) and (f); and made conforming changes throughout.

Amended by R.1998 d.40, effective January 5, 1998.

See: 29 N.J.R. 4595(a), 30 N.J.R. 226(a).

Inserted (a)2 and recodified (a)2 as 3; deleted (c)2iii through v, added (c)3 through 10 and recodified (c)3 and 4 as 11 and 12; deleted (d), and recodified (e) and (f) as (d) and (e).

Administrative change.

See: 30 N.J.R. 1402(b).

Amended by R.1999 d.52, effective February 16, 1999.

See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

In (a)3, substituted "more than 150 pounds of" for "any" following "accept"; inserted a new (d); and recodified former (d) and (e) as (e) and (f).

Administrative change.

See: 31 N.J.R. 1612(a).

Amended by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

Rewrote (a); inserted a new (e); and recodified former (e) and (f) as (f) and (g).

Amended by R.2000 d.395, effective October 2, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 3592(b).

Rewrote the section.

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.346, effective September 17, 2001.

See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).

Rewrote the section.

Amended by R.2002 d.277, effective August 19, 2002.

See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).

In (c)2i and (c)5i, inserted "and submit their application no later than December 31, 2002" after "Department"; in (c)7i, substituted "has no greater than 10 percent increase in length overall and 20 percent increase in shaft horsepower" for "is of equal or less gross registered tonnage and vessel registered length"; in (d)1, added i; added a new (h), recodify existing (h), (i) as (i), (j).

Administrative change.

See: 34 N.J.R. 3264(a).

Administrative change.

See: 35 N.J.R. 709(a).

Administrative change.

See: 35 N.J.R. 1927(a).

Administrative correction.

See: 35 N.J.R. 4285(a).

### 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 and Wildlife

Striped Bass Bonus Fish Program

Nacote Creek Research Station

PO Box 418

Port Republic, NJ 08241-0418

2. Fish checking stations, as authorized by the Division and identified by public notice in the New Jersey Register.

(c) The application form shall be completed to include the name, address and telephone number of the applicant.

(d) Applications for fish possession cards will be accepted for participation in the bonus fish program and processed in order of receipt by the Division.

(e) Successful applicants will receive two, color-coded, non-transferable fish possession cards. One card shall be filled out completely and the month and day numbers perforated immediately upon retention of bonus fish. A finite number of cards shall be available to participating party and charter boat captains in the name of the vessel owner.

(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 outdoor writers mailing list. A notice shall also be published in the New Jersey Register.

(m) The quota described in (l) above shall be 321,650 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 outdoor writers mailing list.

(o) Any person violating the striped bass size and 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 each offense. In addition, any person violating any provision of this section shall be subject to revocation, applicable to both the vessel and the owner, from the Striped Bass Bonus Program. Revocation would render the vessel and the owner ineligible for participation in the program regardless of vessel ownership. 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.

(p) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify the size limit, bag limit, season and/or quota 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 notice in the Division's Fish and Wildlife Digest publication and the New Jersey Register.

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.

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.346, effective September 17, 2001.

See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).

In (e), inserted "in the name of the vessel owner" following "boat captains"; in (o), inserted ", applicable to both the vessel and the

owner," in the second sentence and added the third sentence; added (p).

Amended by R.2002 d.277, effective August 19, 2002.

See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).

In (o), substituted "each" for "the first", deleted "and a penalty of \$200.00 per fish for each subsequent offense".

Administrative change.

See: 35 N.J.R. 1927(a).

#### 7:25-18.14 Otter and beam trawls

(a) Vessels greater than 165 feet in length and in excess of 3,000 horsepower shall not fish in the marine waters of this State with an otter or beam trawl nor may any such vessel have an otter or beam trawl available for immediate use while on the marine waters of this State as defined in (b) below.

1. All trawl net doors possessed on the waters of the State of New Jersey must contain the official documentation number or the state registration number of the vessel to whom they belong indelibly branded or stamped in block letters no less than two inches in height on the surface of each door.

i. Trawl doors shall be used only by the vessel which corresponds to the branded or stamped numbers. A vessel may utilize another vessel's trawl doors provided the vessel owner utilizing such doors contacts the Division's Bureau of Law Enforcement at 609-748-2050 in advance and provides the following information: name of owner and vessel borrowing doors, name of owner, vessel and branded or stamped number of borrowed doors. The vessel owner borrowing the trawl doors shall also be responsible for contacting the Bureau of Law Enforcement in advance to indicate when he will begin utilizing his own trawl doors.

(b) No vessel may have available for immediate use any otter or beam trawl while on the marine waters of this State during the hours between sunset and sunrise except on the Atlantic Ocean, at a distance of greater than two miles from the coast line. An otter or beam trawl that conforms to one of the following is considered not "available for immediate use":

1. A net stowed below deck, provided:
  - i. It is located below the main working deck from which the net is deployed and retrieved;
  - ii. The towing wires, including the "leg" wires are detached from the net; and
  - iii. It is fan-folded (flaked) and bound around its circumference;
2. A net stowed and lashed down on deck, provided;
  - i. It is securely fastened to the deck of the vessel;
  - ii. The towing wires, including the leg wires are detached from the net; and

iii. It is fan-folded (flaked) and bound around its circumference; or

3. A net is on a reel and is covered and secured; provided:

i. The entire surface of the net is covered with canvas or other similar material and held in place by line bound securely around the entire net in such a manner so that no section of the net is exposed;

ii. The towing wires or towing lines located between the net and the trawl doors shall be completely detached from the trawl doors; and

iii. The cod end closure rope shall be removed from the cod end.

(c) To determine compliance with any established minimum mesh requirement for an otter or beam trawl, the following procedures shall be employed. Stretched mesh sizes are measured by a wedge-shaped gauge having a taper of two centimeters in eight centimeters and a thickness of two and three-tenths millimeters, inserted into the meshes under pressure or pull of five kilograms. The mesh size of the cod end of the net will be the average measurement of any series of 20 consecutive meshes measured at least 10 meshes from the lacings, beginning at the after end and running parallel to the long axis.

(d) No person shall use any device or method which would have the effect of reducing an established minimum mesh size; provided, however, that chafing gear which does not obstruct the meshes of the top half of the cod end may be attached and net strengtheners may be attached to the cod end of the trawl net if such net strengtheners consist of mesh material similar to the material of the cod end and have a mesh size of at least twice the authorized minimum mesh size.

(e) A vessel or person utilizing a roller rig trawl gear shall not utilize rollers greater than 18 inches in diameter.

(f) The operator of, or any other person aboard, any fishing vessel shall immediately comply with instructions and signals issued by an authorized law enforcement officer and comply with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch, for the purpose of enforcement of this section.

(g) Any vessel in the act of fishing, upon being boarded and instructed by an authorized law enforcement officer, shall haul back, or retrieve from the waters for inspection, all gear being utilized. After being so instructed, the operator of the vessel, or any other person so instructed, shall have a 30 minute time period to commence haul back and shall continue haul back or retrieval at an ordinary rate and without interruption until the gear is on board and available for inspection.

(h) Possession of an otter trawl and doors shall subject said vessel to inspection for compliance with this section by authorized enforcement personnel. Any nets or doors possessed or used in violation of this section shall be subject to forfeiture under authority of N.J.S.A. 23:10-21.

(i) Violation of any section of this subchapter, or any license or order issued pursuant to it, shall subject the violator to the penalties prescribed in N.J.S.A. 23:2B-14, Penalties consist of \$100.00 to \$3,000 for the first offense and \$200.00 to \$5,000 for any subsequent offense.

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

(k) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify quotas, mesh sizes, minimum size limits, seasons, trip limits, by-catch allocations and the amount of fish that shall constitute a directed fishery specified in this section by notice in order to maintain compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. 5104(b). The Department shall publish notice of any such modification by filing and publishing in the New Jersey Register and in the Division's commercial regulation publication. All such notices shall be effective when the Department files the notice with the Office of Administrative Law or as specified otherwise in the notice.

(l) Special provisions applicable to the commercial harvest of summer flounder are as follows:

1. The possession of more than 100 pounds of summer flounder during the period of May 1 through October 31 or the possession of more than 200 pounds of summer flounder during the period of November 1 through April 30 on board a vessel or landed from a vessel shall constitute a directed fishery for summer flounder.

2. A person shall not possess any summer flounder less than 14 inches in length which have been harvested by vessels in a commercial fishery for summer flounder.

3. A person utilizing an otter or beam trawl in the directed fishery for summer flounder shall not use a net of less than 5.5 inches stretched diamond mesh or 6.0 inches minimum stretched square mesh, inside measurement. The mesh size shall be applied throughout the body, extensions and cod end portions of the net upon adoption in the Federal Register of essentially the same criteria. Until such time, the mesh size shall be applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net. The possession of any net less than the minimum specified above in this paragraph, on board a vessel engaged in a directed fishery for summer flounder is prohibited unless such net is not available for immediate use as defined in (b) above or is one of the following:

i. Vessels fishing in the fly net fishery are exempt from the minimum mesh size requirement. A fly net is a two seam otter trawl with the following configuration:

(1) The net has large mesh webbing in the wings with a stretch mesh measure of eight inches to 64 inches;

(2) The first body (belly) section of the net consists of 35 meshes or more of eight inch stretch mesh webbing or larger; and

(3) In the body section of the net the stretch mesh decreases in size relative to the wings and continues to decrease throughout the extensions to the cod end, which generally has a webbing of two inch stretch mesh.

4. A vessel shall not land more than 100 pounds of summer flounder during the period of May 1 through October 31 or more than 200 pounds of summer flounder during the period of November 1 through April 30 in New Jersey on any one trip unless said vessel is in possession of a valid New Jersey Summer Flounder Permit to participate in the directed fishery for summer flounder. Vessels fishing under the special terms of a quota transfer or combination program as provided in (l)6 below may be exempt from this requirement if such terms specify that a New Jersey Summer Flounder Permit is not necessary to land summer flounder in New Jersey. The permit shall be issued in the name of the vessel and the owner and for the specific gear type(s) used to qualify for the permit.

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. Applicants applying for a New Jersey Summer Flounder permit for any other gear type shall submit their applications no later than January 1, 2000. Applications for a New Jersey Summer Flounder Permit received after the above dates 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 not greater than 10 percent larger in vessel length, gross registered tonnage and net tonnage and not more than 20 percent greater in horsepower. 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 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, 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 indicated 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 six seasons for the directed commercial fishery are closed. The by-catch landings shall be divided between the six seasons as identified as (l)5ii below at the same percentage as for the directed fishery specified at (l)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.

(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.

(3) For the purpose of this section, all directed fishery seasons identified at (l)5ii below shall start on the first Sunday of the applicable month.

ii. The balance of the New Jersey annual quota for the summer flounder fishery remaining after deducting the by-catch allowance specified in (l)5i above shall be divided into seasons, daily trip limits and number of allowable landing days in each week (Sunday through Saturday) as follows:

(1) January-February: 28 percent, 7,500 pound trip limit and a maximum of two days a week that a vessel may land summer flounder.

(2) March-April: 11 percent, 1,000 pound trip limit and a maximum of five days per week that a vessel may land summer flounder;

(3) May-June: 10.5 percent, 500 pound trip limit and a maximum of five days per week that a vessel may land summer flounder;

(4) July-August: 10.5 percent, 500 pound trip limit and a maximum of five days per week that a vessel may land summer flounder;

(5) September-October: 29 percent, 1,000 pound trip limit and a maximum of four days that a vessel may land summer flounder, except as follows:

(A) A vessel may elect to land summer flounder only one day per week. If such an election is made, the trip limit shall be 4,000 pounds; and

(6) November-December: 11 percent, 1,000 pound trip limit and a maximum of five days per week that a vessel may land summer flounder.

(7) Any daily landing of summer flounder not exceeding 100 pounds during the period of May 1 through October 31 or 200 pounds during the period November 1 through April 30 shall not be applied to maximum weekly landing days during any season as specified in (l)5ii(1) through (6) above, 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.

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. from November 1 through April 30 and 6:00 A.M. and 8:00 P.M. from May 1 through October 31. The vessel shall also report how many times that week (Sunday through Saturday) the vessel will have landed, including the trip being called in. For example, "This will be my third landing this week." 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, the Commissioner, or his or her designee, may set a daily trip limit for the remainder of that calendar year or until the quota specified in (l)5iii 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 fishing season upon two 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 any of the first five seasons is exceeded, the amount overharvested shall be deducted from the following 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 amounts of summer flounder specified at (l)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, except that by-catch amounts of summer flounder as specified in (l)1 and 4 above may be landed frozen provided that each fish is individually frozen whole and can be individually weighed and measured without thawing.

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 daily reports during the period January 1 through February 28 and weekly reports during the period March 1 through December 31 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 (l)6 above. If no summer flounder were landed, a report to that effect shall be required. Such report shall be faxed to the Division at the number specified on the reporting forms supplied by the Division not later than 10:00 A.M. on the following day for daily reports and 12:01 P.M. on Monday following the week's end for weekly reports 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 May 31, 1994 for use of hook and line or the 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 bycatch season has been closed, or (l)5xiii above, failure to submit accurate and timely monthly reports, (l)8 accepting more than by-catch amounts from nonpermitted vessels, (l)9 accepting any summer flounder other than fresh 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.

13. Dealer business records may be used as admissible evidence in any proceeding to document violations of trip limits, weekly landing limits or closed seasons.

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

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

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 or Atlantic croaker 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 any vessel in a directed fishery for weakfish or Atlantic croaker is prohibited.

4. A person shall not land more than 150 pounds of 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 more than 150 pounds of 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 500 pounds of scup during the period of November 1 through April 30 and more than 100 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 for no more than 25 continuous meshes forward of the terminus of the net with at least 100 continuous meshes not less than 5.0 inches stretched mesh inside measurement forward of the 4.5 inch mesh in the cod end.

i. Nets not large enough to accommodate the number of minimum meshes listed in (p)2 above shall not contain any meshes less than 4.5 inches stretched mesh inside measurement throughout the entire 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 and daily trip limits 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 or determined by the Atlantic States Marine Fisheries Commission. 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. Any closure of the scup fishery by the National Marine Fisheries Service in adjacent Federal waters or any closure which includes New Jersey marine waters during the periods January 1 through April 30 and November 1 through December 31 would automatically close New Jersey to commercial landings of scup.

ii. The Commissioner, or his or her designee, shall implement annual and seasonal scup quotas and daily trip limits as determined by the Atlantic States Marine Fisheries Council upon four days public notice. The implemented quotas and limits shall also be reflected in this subsection through a notice of administrative change in the New Jersey Register, in accordance with N.J.A.C. 1:30-2.7.

iii. 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 the New Jersey seasonal quota shall be caught.

iv. Public notice shall include letters by first class mail to all New Jersey Scup Dealer holders and Federal scup moratorium permit holders that are New Jersey residents.

v. Once any 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.

vi. If the Commissioner, or his or her designee, closes the New Jersey season prematurely because of unanticipated events resulting in the quota not being landed by the project 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)4 iii above.

vii. 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 vessel more than the lesser of the daily trip limits set by the National Marine Fisheries Service or the Atlantic States Marine Fisheries Commission 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 dealers 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.

ii. The daily trip limit for scup shall be one trip per week (Sunday through Saturday) at no more than 15,000 pounds per trip or two trips per week (Sunday through Saturday) at no more than 7,500 pounds per trip from January 1 through April 30 and 1,500 pounds from November 1 through December 31.

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 scup moratorium permit issued by the National Marine Fisheries Service.

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 the number specified on the reporting forms supplied by the Division 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 of Saturday.

10. All 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, 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. 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 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 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 500 pounds of black sea bass during the period of January 1 through March 31 or more than 100 pounds of black sea bass during the period of April 1 through December 31 on board a vessel or landed from a vessel shall constitute a directed fishery for black sea bass for the purpose of requiring minimum mesh sizes as defined in (q)2 below.

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 4.5 inches stretched diamond mesh or 4.0 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.

i. Nets not large enough to accommodate the number of minimum meshes listed in (q)2 above shall not contain any meshes less than 4.5 inches stretched diamond mesh or 4.0 inches stretched square mesh inside measurement throughout the entire net.

(r) Special provisions applicable to an Atlantic herring fishery are as follows:

1. The possession of more than 5,000 pounds of Atlantic herring on board a vessel or landed from a vessel shall constitute a directed fishery for Atlantic herring.

2. A person shall not fish for or land any Atlantic herring in excess of 5,000 pounds using any vessel in excess of 165 feet in length and in excess of 3,000 horsepower in a directed fishery for Atlantic herring.

3. Atlantic herring taken in a directed fishery for Atlantic herring shall not be processed for use as fish meal or oil.

4. Any closure of the Atlantic herring fishery by the National Marine Fisheries Service or the Atlantic States Marine Fisheries Commission in adjacent Federal waters or in any area which includes New Jersey marine waters would automatically close New Jersey waters to the commercial harvest of Atlantic herring.

5. If any of the management areas identified in the joint New England Fishery Management Council Atlantic States Marine Fisheries Commission Fishery Management Plan for Atlantic Herring are closed by the National Marine Fisheries Service or the Atlantic States Marine Fisheries Commission, the landing of Atlantic herring harvested from any management area that is closed shall be prohibited in New Jersey.

New Rule, R.1993 d.56, effective January 19, 1993.  
See: 24 N.J.R. 4249(a), 25 N.J.R. 303(a).  
Amended by R.1994 d.44, effective January 18, 1994.

See: 25 N.J.R. 2167(a), 26 N.J.R. 353(a).  
Amended by R.1995 d.82, effective February 6, 1995.  
See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

Administrative Correction.

See: 27 N.J.R. 1794(a).

Administrative Change.

See: 27 N.J.R. 2390(b).

Administrative Correction.

See: 27 N.J.R. 3420(a).

Administrative Correction.

See: 27 N.J.R. 3420(b).

Administrative Change.

See: 27 N.J.R. 4916(c).

Emergency amendment R.1996 d.299, effective May 31, 1996 (to expire July 30, 1996).

See: 28 N.J.R. 3182(a).

Administrative Change.

See: 28 N.J.R. 3786(a).

Adopted concurrent proposal, R.1996 d.392, effective July 24, 1996.

See: 28 N.J.R. 3182(a), 28 N.J.R. 3956(a).

Administrative change.

See: 28 N.J.R. 4784(a).

Amended by R.1996 d.587, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 3998(a), 28 N.J.R. 5231(a).

Substantially amended section.

Administrative correction.

See: 29 N.J.R. 600(a).

Omitted recodification to (j)12v from a prior recodification corrected.

Administrative change.

See: 29 N.J.R. 1308(c).

In (j), changed the minimum length of summer flounder harvested in a commercial fishery from 13 inches to 14 inches.

Amended by R.1997 d.246, effective June 2, 1997.

See: 29 N.J.R. 285(a), 29 N.J.R. 2555(a).

Amended internal section references throughout; inserted new (j) and (k), recodified former (j) through (n) as (l) through (p), and deleted former (o) and (p); in (l)3, inserted “. The mesh size shall . . . . Until such time, the mesh size shall be” and deleted provisions relating to forfeiture of privilege of owners and vessels to land summer flounder of less than 14 inches upon violation of restrictions; in (m)3, (m)4, (n)4, and (o)2, deleted reference to modification by the Commissioner of the open season or mesh size; in (p)1, inserted “during the period . . . October 31”; in (p)2, substituted “4.5 inches” for “4.05 inches”; and added (p)3 through (p)12.

Administrative correction.

See: 29 N.J.R. 3251(a).

In (l)2, increased size of summer flounder from 13 to 14 inches; and in (p)4 and 5, substituted “November 1 through December 31” for “November 1 through October 31”.

Amended by R.1998 d.40, effective January 5, 1998.

See: 29 N.J.R. 4595(a), 30 N.J.R. 226(a).

Inserted (q)3 and (r).

Administrative change.

See: 30 N.J.R. 1402(b).

Amended by R.1999 d.52, effective February 16, 1999.

See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

In (l)12, deleted “by June 30, 1993 for use of otter trawls, pound nets, gill nets or scallop dredges or” following “application” in i, and substituted a reference to fresh product for a reference to fish product in the introductory paragraph of iii.

Administrative change.

See: 31 N.J.R. 1084(a).

Amended by R.2000 d.10, effective January 3, 2000.

See: 31 N.J.R. 2555(a), 32 N.J.R. 48(a).

Rewrote (a), (l) and (p); and in (r), added 4 and 5.

Administrative change.

See: 32 N.J.R. 2230(a).

Administrative change.

See: 32 N.J.R. 4107(a).

Administrative change.

See: 33 N.J.R. 45(a), 45(b).

Administrative change.

See: 33 N.J.R. 1209(b).

Administrative change.

See: 33 N.J.R. 1914(a).

Amended by R.2001 d.346, effective September 17, 2001.

See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).

In (l), rewrote 4, 5, 9 and 11; in (m), inserted references to Atlantic croaker throughout; rewrote (p); in (q), rewrote 3.

Administrative correction.

See: 33 N.J.R. 3740(a).

Administrative change.

See: 33 N.J.R. 3740(b).

Administrative change.

See: 34 N.J.R. 921(a).

Amended by R.2002 d.277, effective August 19, 2002.

See: 34 N.J.R. 1375(a), 34 N.J.R. 2995(a).

In (l)5i(3), inserted "directed fishery" after "all"; in (l)11, inserted a new sentence after "(l)6 above"; in (m) introductory paragraph substituted "commercial" for "directed"; in (m)4, substituted "more than 150 pounds of" for "any"; in (q)1, inserted "for the purpose of requiring minimum mesh sizes as defined in (q)2 below" after "sea bass"; deleted (q)3.

Administrative change.

See: 35 N.J.R. 709(b).

### 7:25-18.15 Atlantic sturgeon management

(a) An individual shall not take or attempt to take, possess or land any Atlantic sturgeon in the State, without a valid Atlantic Sturgeon Commercial Gill Net Permit or a valid Atlantic Sturgeon By-Catch Permit issued by the Department. No holder of either permit shall land an Atlantic sturgeon unless such sturgeon has a valid, properly affixed possession tag as specified at (g) and (h) below. No person shall possess any Atlantic sturgeon that does not have a valid, properly affixed possession tag. "Land" shall mean to begin offloading fish, to offload fish or to enter port with fish.

(b) An Atlantic Sturgeon Commercial Gill Net Permit may be transferred to another individual eligible for a gill net license for the purpose of taking Atlantic sturgeon with gill nets. The permittee shall request approval to transfer the permit in writing to the Department, and no such transfer shall be valid until the transferee has received a valid permit issued in his or her name from the Department. An Atlantic sturgeon commercial gill net possession tag may be transferred to another Atlantic Sturgeon Commercial Gill Net Permit holder. The permittees shall list on the permittee's annual report pursuant to (l) below the name of the permittee or permittees to whom the permittee transferred any possession tag. The recipient of the transferred possession tag or tags shall list in the annual report pursuant to (l) below each such transferred tag received.

(c) To qualify for an Atlantic Sturgeon Commercial Gill Net Permit, an applicant shall comply with the provisions below by April 2, 1993:

1. The applicant shall complete an application provided by the Department, listing the dressed weight of Atlantic sturgeon harvested by gill net during 1988, 1989 or 1990, whichever year he landed the greatest dressed weight, or the number of nine-inch or greater stretched mesh gill nets purchased between January 1, 1989 and January 10, 1991 with the intent of entering a directed Atlantic sturgeon fishery.

2. The applicant shall attach documented proof of the dressed weight of Atlantic sturgeon harvested by gill net during 1988, 1989 or 1990, whichever year he landed the greatest dressed weight, or the number of nine-inch or greater stretched mesh gill nets purchased between January 1, 1989 and January 10, 1991. Documented proof shall consist of one or more of the following:

i. Weigh-out slips totaling the dressed weight harvested;

ii. A notarized statement from the applicant and the purchaser(s) attesting to the dressed weight harvested (records must be verifiable based upon inspection of the purchaser's business records);

iii. Sales receipts for the number of nine-inch or greater stretched mesh gill nets purchased, including date of sale, length, and stretched mesh size;

iv. A notarized statement from the applicant and the seller(s) attesting to the number of nine-inch or greater stretched mesh gill nets purchased, including date of sale, length, and stretched mesh size; or

v. Other documentation similar to that in (c)2i, ii, iii or iv above may be accepted at the discretion of the Commissioner after his or her review; and

3. The applicant shall sign an affidavit on the application certifying as to the validity of the information provided.

(d) The application period closes April 2, 1993. Therefore, the Commissioner will determine an annual quota of Atlantic sturgeon (in pounds dressed) that may be harvested for each qualified applicant based upon the following:

1. The total allocation for the directed Atlantic sturgeon gill net fishery in 1993 shall equal the 1990 documented dressed weight landings provided by applicants on their applications, to be divided in the following way:

i. Applicants providing documentation of having purchased a minimum of 10 nine-inch or greater stretched mesh gill nets between January 1, 1989 and January 10, 1991 shall receive an equal share of 10 percent of the total gill net allocation, not to exceed 3,000 pounds each or;

ii. Applicants providing documentation of landings of at least 1,000 pounds dressed weight of Atlantic sturgeon during any one of the years 1988, 1989 or 1990 shall receive a minimum base of 3,000 pounds dressed weight plus a percentage of the remaining allocation determined as follows:

(1) Each applicant shall document to the Department the dressed weight of Atlantic sturgeon landed during 1988, 1989, or 1990, whichever year he landed the greatest dressed weight. The Department will divide the individual dressed weight documented by each applicant by the total amount documented by all applicants under this sub-subparagraph (d)1ii(1) to obtain each applicant's percentage of the remaining allocation.

(e) All qualified applicants will receive an "Atlantic Sturgeon Commercial Gill Net Permit" by May 2, 1993 which shall indicate that permittee's annual (calendar year) quota of Atlantic sturgeon that may be commercially harvested.

(f) An Atlantic Sturgeon By-Catch Permit and a harvest quota will be issued to each qualifying applicant who provides documentation of Atlantic sturgeon landed in New Jersey by otter trawl or pound net of at least 1,000 pounds dressed weight during any one of the years 1988, 1989, or 1990. The Atlantic Sturgeon By-Catch shall not exceed 5.8 percent of the State allocation for Atlantic sturgeon. This represents the percentage of Atlantic sturgeon landed in New Jersey by otter trawl and pound net in 1990 as reported by the National Marine Fisheries Service. To qualify for an Atlantic Sturgeon By-Catch Permit, an applicant shall comply with (f)1 through 4 below by March 23, 1995:

1. The applicant shall complete an application, provided by the Department, listing the dressed weight of Atlantic sturgeon he or she landed by otter trawl or pound net during any one of the years 1988, 1989, or 1990, whichever year the applicant landed the greatest dressed weight.

2. The applicant shall attach documented proof of the dressed weight of Atlantic sturgeon harvested by otter

trawl or pound net during any one of the years 1988, 1989, or 1990, whichever year the applicant landed the greatest dressed weight. Such proof shall consist of one or more of the following:

i. Weigh-out slips totaling the dressed weight harvested;

ii. A notarized statement from the applicant and the purchaser(s) attesting to the dressed weight harvested (records must be verifiable based upon inspection of the purchaser's business records);

iii. Other documentation similar to that specified in (f)2ii above may be accepted at the discretion of the Department.

3. The application period closes March 23, 1995.

4. By April 22, 1995, each qualified applicant will receive an "Atlantic Sturgeon By-Catch Permit" which shall indicate that permittee's annual (calendar year) harvest quota of Atlantic sturgeon that may be landed.

(g) The Department will issue serially numbered Atlantic sturgeon possession tags to each Atlantic sturgeon commercial gill net and by-catch permittee based upon the permittee's annual harvest quota percentage established pursuant to (d) and (f) above and an equivalent average weight per fish landed as determined through average weigh-out landing verifications. No person shall reuse or alter any tag, or use a broken tag. All unused tags must be returned to the Department by January 15 of the following year. Tags will be issued for each calendar year by February 15.

(h) An Atlantic sturgeon commercial gill net or Atlantic sturgeon by-catch permittee who takes and possesses an Atlantic sturgeon of legal size shall tag such sturgeon with a numbered tag issued by the Department. Such tag shall be attached and securely locked at the nape of the fish once such fish has been dressed and prior to tending another piece of gear. All Atlantic sturgeon not tagged or of less than the legal minimum size shall be returned uninjured to the water immediately.

(i) The possession of Atlantic sturgeon of a length less than 60 inches or a dressed length less than 36 inches is prohibited. Dressed length is the length of an Atlantic sturgeon after the entire head, collar, tail and viscera have been removed.

(j) All Atlantic Sturgeon Commercial Gill Net and Atlantic Sturgeon By-Catch Permit holders shall have their permit on their person at all times when engaged in any phase of harvesting, transporting, selling or possessing Atlantic sturgeon.

(k) All Atlantic sturgeon harvested under the Atlantic Sturgeon Commercial Gill Net Permit or Atlantic Sturgeon By-Catch Permit shall be landed in New Jersey.

(l) All permittees shall be required to complete annual reports on forms supplied by the Department. The annual report shall be signed by the permittee attesting to the validity of the information and be submitted so it is received by the Department no later than January 15 of the next subsequent calendar year at the following address:

Division of Fish and Wildlife  
Atlantic Sturgeon Program  
PO Box 418  
Port Republic, NJ 08241-0418

1. The annual report shall include:

i. The daily harvest and sale of Atlantic sturgeon (in pounds dressed) and possession tag number for each fish landed;

ii. The buyer(s) name;

iii. Name(s) and address(es) of the permit holder(s) who landed an Atlantic sturgeon that was tagged with the permittee's transferred possession tag;

iv. The cumulative total of Atlantic sturgeon (in pounds dressed) landed at the end of the year;

v. Weigh out slips or sales receipts verifying the amount (in pounds dressed) of Atlantic sturgeon sold; and

vi. Any other requested information pertinent to management of the Atlantic sturgeon resource including catch/effort data, length and sex data, by-catch data, and tagging information from a representative size range of Atlantic sturgeon.

(m) Adjustments in individual allocation for any calendar year subsequent to 1993 may be made annually by the Department, based upon recommendations of the Atlantic States Marine Fisheries Commission, annual commercial landings data from the National Marine Fisheries Service and an individual's historical harvest performance. If no such adjustment is made, each permittee's quota shall remain at the previous year's amount.

(n) Research personnel from the Department shall be allowed to sail aboard any permitted vessel at any time.

(o) Any person or permittee 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:

1. Failure to submit the application within 45 days of the effective date of this section or to attach the required documentation to the application will result in the denial of the permit.

2. Falsification or misrepresentation of any information on the application including documentation provided to verify the amount of Atlantic sturgeon harvested or number and size of gill nets purchased shall result in the denial or revocation of the permit in addition to any civil or criminal penalties prescribed by law.

3. Failure to comply with the provisions of (a), (h), or (l) above shall subject the violator to suspension or revocation of the Atlantic Sturgeon Commercial Gill Net Permit or the Atlantic Sturgeon By-Catch Permit.

4. Prior to the suspension or 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.

New Rule, R.1993 d.77, effective February 16, 1993.

See: 24 N.J.R. 205(a), 25 N.J.R. 689(a).

Amended by R.1995 d.82, effective February 6, 1995.

See: 26 N.J.R. 4277(b), 27 N.J.R. 487(a).

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

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

**7:25-18.16 Horseshoe crab (*Limulus polyphemus*)**

(a) An individual shall not catch, take, or attempt to catch or take, land or possess horseshoe crabs from any beach or shoreline or from the marine waters of this State unless such individual has in his or her possession a valid permit to take horseshoe crabs issued by the Commissioner of Environmental Protection. Any individual who wishes to harvest horseshoe crabs may be eligible to obtain a permit by completing an application available from the Division of Fish and Wildlife, Bureau of Marine Fisheries, PO Box 400, Trenton, N.J. 08625-0400. The following persons, in the following circumstances, are not subject to this prohibition.

1. Property owners, tenants or agents of property owners may, at any time, remove dead horseshoe crabs from their property for purposes of disposal. No sale, trade, or barter of horseshoe crabs is permitted under this paragraph.

2. Persons collecting horseshoe crabs for strictly scientific purposes only and operating under the terms and conditions specified by a required scientific collecting permit issued pursuant to N.J.S.A. 23:4-52 by the Administrator of the Marine Fisheries Administration within the Division.

3. Individuals in possession of a valid New Jersey miniature fyke or a valid New Jersey lobster or fish pot license and in possession of bona fide written documentation that the horseshoe crabs were obtained from a legal source.

(b) An individual is eligible for a horseshoe crab permit if the individual in each of two calendar years during the period of January 1, 1993 through May 29, 1997:

1. Possessed a valid New Jersey miniature fyke or lobster or fish pot license;
2. Possessed a valid New Jersey horseshoe crab permit; and

3. Reported landings of horseshoe crabs in New Jersey as verified by the Department on the basis of the reports submitted by the individual to the Department as required under this section since May 3, 1993.

(c) Horseshoe crab permits shall be nontransferable except that a horseshoe crab permit holder may transfer the right to the horseshoe crab permit at any time to the permittee's spouse, father, mother, son or daughter upon application to the Division. No permit shall be transferred without the prior determination by the Department that the transfer complies with this subsection.

(d) The annual horseshoe crab harvest quota for New Jersey shall be no more than 150,000 horseshoe crabs or as modified by the Commissioner pursuant to (h) below. All landings of horseshoe crabs in New Jersey shall be applied to the New Jersey annual horseshoe crab quota.

1. The season for horseshoe crabs shall be April 1 through April 30 and June 8 through August 15. No person shall harvest or take any horseshoe crabs, dead or alive, during the period May 1 through June 7.

2. The Commissioner, or his or her designee, shall close the season for the commercial horseshoe crab 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 Horseshoe Crab Permit holders.

3. 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 (d)2 above.

4. If the quota for any year is exceeded, the amount over harvested will be deducted from the following year's annual quota.

5. Beginning in 2001, the Department shall notify the previous year's holders of New Jersey Horseshoe Crab Permits of the current year's annual quota no later than January 31 of the year to which the annual quota applies. Notification shall be by first class mail to the previous year's permit holders.

(e) A person shall not harvest horseshoe crabs from the beaches and the adjacent waters and uplands within 1,000 feet of the bayfront mean high water line in that portion of Delaware Bay extending from the Cape May Canal in Cape May County to Stow Creek in Cumberland County at any

time. Additionally, a person shall not harvest horseshoe crabs from the beaches and shoreline and the adjacent waters and uplands in the back bay area near Thompson's Beach bordered by, but not including, Adlers Ditch and Riggins Ditch in Cumberland County.

(f) An individual shall not harvest or land horseshoe crabs that have been taken by any method other than by hand harvest. The use of any implement (nets, rakes, spears, shovels, forks, etc.) to assist hand harvest is prohibited. Hand harvest is permitted in areas other than specified in (e) above only on Tuesdays and Thursdays during the season established under (d) above.

(g) It shall be illegal to possess horseshoe crabs on any vessel while having in possession any harvest gear except miniature fykes, conch pots, lobster pots, fish pots or minnow pots. The simultaneous possession of horseshoe crabs and any other harvest gear except those listed shall be prima facie evidence of a violation of this section.

(h) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify the annual quota and/or season 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 by filing a notice of administrative change with the Office of Administrative Law for publication in the New Jersey Register and publishing notice of the modification 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.

(i) All horseshoe crab permit holders shall telephone the Division's designated telephone number for horseshoe crab harvest each Friday during the horseshoe crab season and report the number of horseshoe crabs harvested during the previous week. If no horseshoe crabs were harvested during the previous week, a telephone report to that effect shall be provided. Any person harvesting horseshoe crabs shall also provide monthly reports within five working days following the end of the reported month to the Department on forms supplied to the permit holder. The monthly report shall include the number of horseshoe crabs harvested, the area of collection and any other information as the Department may deem necessary for management of the horseshoe crab resource. If no horseshoe crabs were harvested during the month, a report to that effect shall be provided. The permittee shall be personally responsible for guaranteeing the timely delivery of reports to the Division as well as the accuracy of all information contained therein. The Department may demand that a permittee provide proof of the truth of any data contained in any report submitted to the Division under this program. If the permittee fails to file a true, complete monthly report with the Division by the fifth day of any month, the Division, in its discretion, may contact

the permittee by the most expeditious method available in order to secure a complete report.

(j) Any person violating the provisions of this section shall be subject to the penalties prescribed in N.J.S.A. 23:2B-14 in addition to the suspension or revocation of the permittee's horseshoe crab harvesting privileges, according to the following procedures:

1. The Division shall notify the permittee in writing of the Division's intention to revoke the permittee's horseshoe crab harvesting privilege for the reasons stipulated in the notice, effective 20 business days after the date on the written notice (excluding the date on the notice) and of the Division's suspension of the permittee's horseshoe crab harvesting privileges in the interim, effective on a date stipulated in the notice but not sooner than 10 business days after the date of the notice (excluding the date on the notice).

2. The permittee may request a hearing to contest a proposed revocation of horseshoe crab harvesting privileges in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The request for an administrative hearing must be received in writing by the Department within 20 business days from the date on the Division's notice of suspension and intention to revoke, excluding the date on the notice. However, if a timely request for a hearing is not received by the Department, any allegation contained in the notice shall be deemed admitted by the permittee and horseshoe crab harvesting privileges shall be revoked as of the date stipulated in the notice, without any further action by the Division.

3. The Division Director may, in his or her sole discretion, stay the suspension of horseshoe crab harvesting privileges pending a hearing on the notice of proposed revocation of horseshoe crab harvesting privileges for any good cause set forth in a written petition from the permittee, including sworn statements from the permittee or other persons with knowledge relevant to the allegations on which the Division action is based. The petition and its supporting statements and documentation shall be made available to the court and all parties in advance of any hearing.

4. The Division shall reinstate horseshoe crab harvesting privileges suspended for late or incomplete reports, but no more than one time per permittee in any single permit year, if that permittee personally delivers any missing reports, completed, along with a credible written explanation for the delay and/or omissions to the Division within 20 business days from the date on the notice of suspension.

5. Any permittee who has had his or her horseshoe crab harvesting privilege revoked shall be disqualified from exercising any privilege associated with a horseshoe crab harvesting permit for 24 months following the effective date of an uncontested notice of proposed revocation of privileges, or whichever of the following is applicable:

i. The date of the Commissioner's Final Decision affirming revocation of horseshoe crab harvesting privileges, or

ii. The filing date of the court order affirming the Commissioner's Final Decision revoking horseshoe crab harvesting privileges.

6. The Division shall issue a horseshoe crab permit to an applicant pending resolution of a contested Division proposal to revoke that applicant's horseshoe crab harvesting privilege, but that permittee shall not exercise or enjoy any horseshoe crab harvesting privilege pending resolution of a proposed revocation until, as appropriate, one of the following occurs:

i. The Division Director lifts the suspension of that permittee's horseshoe crab harvesting privilege;

ii. The Commissioner issues a Final Decision reinstating that permittee's horseshoe crab harvesting privilege; or

iii. A court of competent jurisdiction orders reinstatement of that permittee's horseshoe crab harvesting privileges.

New Rule, R.1993 d.185, effective May 3, 1993.

See: 24 N.J.R. 2978(a), 25 N.J.R. 1876(b).

Amended by R.1996 d.218, effective May 6, 1996.

See: 28 N.J.R. 245(a), 28 N.J.R. 2375(a).

Emergency amendment R.1997 d.268, effective May 30, 1997 (expired July 29, 1997).

See: 29 N.J.R. 3084(a).

The emergency amendment substantially amended (a); rewrote (b) and (c); and deleted (d).

Emergency amendment R.1997 d.350, effective July 29, 1997 (to expire September 27, 1997).

See: 29 N.J.R. 3737(a).

In (a), substituted "land or possess horseshoe crabs" for "horseshoe crabs except by hand collection or while using other gear allowed under this chapter and/or N.J.S.A. Titles 23 and 50" and inserted "be eligible to" preceding "obtain a permit"; added (a)3; inserted new (b) and (c); added (f) and (g); recodified former (b), (b)1, (c) and (d) as (d), (e), (h) and (i), respectively; deleted former (d)2 and 3; in (e), inserted reference to uplands; and in (h), for contents of monthly report, deleted to gear utilized.

Adopted concurrent proposal, R.1997 d.446, effective September 25, 1997.

See: 29 N.J.R. 3737(a), 29 N.J.R. 4900(a).

Deleted (g); changes upon adoption effective November 17, 1997.

Amended by R.1998 d.185, effective April 6, 1998.

See: 30 N.J.R. 262(b), 30 N.J.R. 1320(a).

Rewrote (c); and in (d), extended the horseshoe crab season from May 1 through June 30 to April 1 through August 15.

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.346, effective September 17, 2001.

See: 33 N.J.R. 453(a), 33 N.J.R. 3352(a).

Rewrote (d), (e), and (g); added new (h); recodified former (h) as (i) and rewrote first sentence as new first and second sentences; and recodified former (i) as (j).

Emergency amendment, R.2002 d.223, effective May 1, 2003 (to expire June 30, 2003).

See: 35 N.J.R. 2366(a).

In (d), substituted "150,000" for "297,680" in the introductory paragraph; in (d)1, specified season for horseshoe crab; in (i), rewrote the first sentence and added a second sentence.

Adopted concurrent amendment, R.2003 d.305, effective June 30, 2003.

See: 35 N.J.R. 2366(a), 35 N.J.R. 3611(b).  
Provisions of R.2002 d.223 adopted without change.

**Case Notes**

Adoption of a permanent rule for harvesting horseshoe crabs rendered moot an appeal from a judgment determining that an emergency amendment, which extended prior emergency amendment's 60-day ban on taking horseshoe crabs for another 60 days, violated the Administrative Procedure Act (APA). Delaware Bay Waterman's Ass'n of New Jersey v. New Jersey Dept. of Environmental Protection, 709 A.2d 192, 153 N.J. 345 (N.J. 1998).

Emergency amendment to regulation, which extended prior emergency amendment's ban on taking horseshoe crabs, violated Administrative Procedure Act's requirement of legislative approval for such amendment continuation; although Department of Environmental Protection offered two different reasons for original and successive amendments, each amendment had same cause and same result, rendering successive amendment a continuation of first. Delaware Bay Waterman's Ass'n of New Jersey v. New Jersey Dept. of Environmental Protection, 304 N.J.Super. 20, 697 A.2d 957 (A.D. 1997.)

**SUBCHAPTER 18A. FISHERIES CLOSURES AND ADVISORIES FOR STRIPED BASS, AMERICAN EEL, BLUEFISH, WHITE PERCH AND WHITE CATFISH TAKEN FROM THE NORTHEAST REGION OF THE STATE**

**Subchapter Historical Note**

Subchapter 18A, Fisheries Closures and Advisories for Striped Bass, American Eel, Bluefish, White Perch and White Catfish Taken from the Northeast Region of the State, was adopted as emergency new rules by R.1982 d.477, effective December 15, 1982.

**7:25-18A.1 Authority**

This subchapter has been promulgated pursuant to the Marine Fisheries Management and Commercial Fisheries Act, N.J.S.A. 23:2B-1 et seq.

**7:25-18A.2 Scope and construction**

(a) The following shall constitute the rules governing the issuance by the Department, of fisheries closures and advisories concerning PCB contaminated fish taken from the waters of the Northeast Region of the State.

(b) These rules shall be liberally construed to permit the Department to effectuate the purpose of these rules.

**7:25-18A.3 Definitions**

"Advisory" means a Departmental warning to limit consumption of designated fish species taken from designated regions of the State's waters.

"Closure" or "closed" means prohibition of sales of designated fish species taken from designated regions of the State's waters.

"Commissioner" means the Commissioner of the Department of Environmental Protection.

"Department" means the Department of Environmental Protection.

"Limited consumption" or "limit consumption" means that in order to reduce exposure to and bioaccumulation of PCBs, persons of high risk, including but not limited to pregnant women, nursing mothers, women of child-bearing age, and young children, should not eat any designated fish species taken from designated regions of the State's waters and all other persons should not consume more than one meal per week of any designated fish taken from designated regions of the State's waters.