

CHAPTER 25A

OYSTERS

Authority

N.J.S.A. 13:1D-9, 50:1-5, 50:1-23, 50:1-27.

Source and Effective Date

R.2000 d.199, effective April 19, 2000. See: 32 N.J.R. 625(a), 32 N.J.R. 1807(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 25A, Oysters, expires on October 16, 2005. See: 37 N.J.R. 1593(a).

Chapter Historical Note

Chapter 25A, Oysters, was adopted as emergency new rules by R.1981 d.94, effective March 11, 1981, expired May 21, 1981. See: 13 N.J.R. 195(a).

Chapter 25A, Oysters, was adopted as new rules by R.1981 d.188, effective June 4, 1981. See: 13 N.J.R. 192(b), 13 N.J.R. 340(c).

Subchapter 3, Oyster Seed Beds, was originally codified in Title 7 as Chapter 36, Oyster Seed Beds. Chapter 36 was adopted as R.1972 d.79, effective May 15, 1973. See: 4 N.J.R. 102(a). Chapter 36 expired on June 9, 1972. N.J.A.C. 7:25-7.2, Oyster seed beds, was adopted by R.1973 d.86, effective May 14, 1973. See: 5 N.J.R. 141(a). N.J.A.C. 7:25-7.2 expired on June 30, 1974. N.J.A.C. 7:25-7.2, Oyster seed beds, was adopted as a new rule by R.1975 d.74, effective May 19, 1975. N.J.A.C. 7:25-7.2, Oyster seed beds, was recodified as N.J.A.C. 7:25A-3 by R.1981 d.189, effective June 4, 1981. See: 13 N.J.R. 193(a), 13 N.J.R. 340(b).

Subchapter 2, Oyster Management in Delaware Bay, was adopted as R.1981 d.197, effective July 9, 1981. See: 13 N.J.R. 192(c), 13 N.J.R. 405(b).

Subchapter 4, Oyster Cultch Program, was adopted as R.1983 d.590, effective December 19, 1983. See: 15 N.J.R. 1416(a), 15 N.J.R. 2159(a).

Subchapter 1, Oyster Dredging Licenses, Subchapter 2, Oyster Management in Delaware Bay, and Subchapter 3, Oyster Seed Beds, were repealed, and Subchapter 1, Oyster Management, was adopted as new rules by R.1985 d.216, effective May 6, 1985. See: 17 N.J.R. 352(a), 17 N.J.R. 1092(a).

Pursuant to Executive Order No. 66(1978), Chapter 25A, Oysters, was readopted as R.1990 d.250, effective April 23, 1990. See: 22 N.J.R. 283(a), 22 N.J.R. 1573(a).

Pursuant to Executive Order No. 66(1978), Chapter 25A, Oysters, was readopted as R.1995 d.250, effective April 20, 1995. See: 27 N.J.R. 798(a), 27 N.J.R. 1979(a).

Pursuant to Executive Order No. 66(1978), Chapter 25A, Oysters, was readopted as R.2000 d.199, effective April 19, 2000. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. OYSTER MANAGEMENT

7:25A-1.1 Scope

The following shall constitute the rules governing the issuance and renewal of oyster dredging licenses, the leasing of oyster ground in Section E in Delaware Bay, and the taking of seed oysters from the State's natural seed beds.

Amended by R.1983 d.351, effective September 6, 1983. See: 15 N.J.R. 990(a), 15 N.J.R. 1473(a).

7:25A-1.2 Purpose

The purpose of this subchapter is to provide an orderly procedure for the licensing of oyster vessels, the leasing of oyster grounds in Section E in Delaware Bay, and the taking of seed oysters from the State's natural seed beds and the possible direct sale of those oysters.

Amended by R.1983 d.351, effective September 6, 1983. See: 15 N.J.R. 990(a), 15 N.J.R. 1473(a).

Amended by R.1983 d.591, effective December 19, 1983. See: 15 N.J.R. 1415(a), 15 N.J.R. 2158(a).

Amended by R.1994 d.450, effective September 6, 1994. See: 26 N.J.R. 1562(a), 26 N.J.R. 3714(a).

7:25A-1.3 Construction

These rules shall be liberally construed to permit the Department to effectuate the purposes of N.J.S.A. 50:1-5, 50:1-23, and 50:1-27.

7:25A-1.4 Definitions

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

"Bay season" means April 1 to June 30, the season, as established at N.J.S.A. 50:3-8, during which the natural seed beds are legally open for the taking of seed oysters.

"Council" means the Delaware Bay Section of the Shellfisheries Council.

"Department" means the Department of Environmental Protection.

"Division" means the Division of Fish and Wildlife.

"Natural seed beds" means any of the natural beds or grounds in Delaware Bay or Delaware River above the southwest line, except that area known as Section "E".

"Section 'E'" means all of the area within the boundaries described herein: Beginning at a point (X = 1820400) (Y = 146800) said point being Channel Buoy R "32" and corner # 1 of said section and running thence N 28°-14'-14.2" E 6612.18 feet to corner # 2 (X = 1826233) (Y = 149914); thence S 56°-32'-38.4" E 33401.27 feet to corner # 3 being also corner # 1 lot 530 section D leased oyster ground lot (X = 1854100) (Y = 131500) located on or near the southwest line; thence along the southwest line S 55°-16'-29.1" W 19222.67 feet to old Crossledge Lighthouse foundation being corner # 4 of the section (X = 1838301) (Y = 120550); thence N 16°-02'-14.0" W 17740.41 feet to corner # 5 being also BR "WR" buoy marking a wreck in the bay (X = 1833400) (Y = 137600); thence N 42°-42'-33.7" W 3538.36 feet to a point in Delaware Bay being corner # 6 of section E (X = 1831000) (Y = 140200); thence S 70°-17'-31.3" W 7116.88 feet to corner # 7 being a point on the east side of the Main Ship Channel in Delaware Bay (X = 1824300) (Y = 137800); thence N 23°-25'-43.3" W 9818.67 feet to corner # 1 the place of beginning.

"Seed oysters (seed)" means all oysters taken from the natural seed beds.

"Shellfish Office" means the Bureau of Shellfisheries office located on Miller Avenue, Port Norris, New Jersey. The office telephone number is (609) 785-0730 and marine contact during bay season will be VHF Channel 68.

"Southwest line" means a line running directly from the mouth of Straight Creek to Crossledge Lighthouse in Delaware Bay.

"Time" means Eastern Standard time (EST) or Eastern Daylight Savings time (EDT), whichever is in effect that date.

"Validly licensed" means those vessels:

1. Which are operable, that is, capable of taking oysters within the previous calendar year, unless exempted from this requirement by the Commissioner, upon the recommendation of the Council and its finding that exigent circumstances warranted such recommendation; and
2. Which have been licensed and operated as required by the provisions of this chapter.

Amended by R.1991 d.349, effective July 1, 1991.
See: 23 N.J.R. 1112(a), 23 N.J.R. 2012(b).

Added definitions for "Council," "Shellfish Office"; "Time"; "Validly licensed".

Amended by R.1995 d.250, effective May 15, 1995.

See: 27 N.J.R. 798(a), 27 N.J.R. 1979(a).

Amended by R.2000 d.199, effective May 15, 2000.

See: 32 N.J.R. 625(a), 32 N.J.R. 1807(a).

7:25A-1.5 Licenses

No licenses authorized by N.J.S.A. 50:3-1 shall be issued except as a renewal for those vessels validly licensed during the year prior to that of the license to be issued.

Amended by R.1991 d.349, effective July 1, 1991.

See: 23 N.J.R. 1112(a); 23 N.J.R. 2012(b).

Added "as a renewal for", "prior to that of the license to be issued"; deleted "new oyster", "previous".

7:25A-1.6 Substitution of vessels; license renewal

(a) Any person who owns a vessel validly licensed pursuant to N.J.S.A. 50:3-1 may substitute a new vessel for the previously licensed vessel, except that no substituted vessel shall have a greater gross tonnage than the previously licensed vessel.

(b) Two persons owning vessels validly licensed pursuant to N.J.S.A. 50:3-1 may exchange their vessels with the approval of the commissioner of Environmental Protection and the Delaware Bay Section of the Shellfisheries Council and be exempt from the tonnage limitation set forth in (a) above.

(c) A person transferring ownership of his licensed oyster vessel may do one of the following:

1. File a notarized Statement of Intent with the Department indicating that he has sold the vessel and wishes to replace it with another vessel within one year; or
2. File a notarized Statement of Intent with the Department indicating that he will waive all rights and conditions of that license, not apply for a replacement license, and transfer the right to a license with the vessel to its new owner who shall meet all statutory criteria for licensing.

(d) The new owner of a transferred vessel must have its license reissued in his own name. Application for reissue must include documentation as to ownership of the vessel and the current year's license.

(e) A licensed vessel that is lost, destroyed or disabled may be replaced within two years of December 31 of the year for which the lost, destroyed, or disabled vessel was licensed. The owner shall file a Statement of Intent with the Department, on or before December 31 of the year for which the lost, destroyed, or disabled vessel was licensed, that he will replace the vessel. The replacement vessel shall be licensed upon proof of loss and of replacement of the previously licensed vessel. No replacement vessels shall have more than a 10-percent greater gross tonnage than the previously-licensed vessel.