

(c) A person shall not use any spear, gig, gaff or other penetrating device as a method of capture of lobsters.

New Rule, R.1999 d.52, effective February 16, 1999.  
See: 30 N.J.R. 3881(a), 31 N.J.R. 538(a).

#### 7:25-14.16 Eligibility for lobster pot permit and pot allocation

(a) As of December 31, 2001, a vessel shall not land lobster harvested by a lobster pot unless such vessel is in the possession of a valid New Jersey Lobster Pot Permit issued in the name of the vessel and owner.

1. To be eligible for a Type A, B, C and F Lobster Pot Permit allowing the use or possession in Federal and/or State waters of an allotted number of lobster pots as defined under N.J.A.C. 7:25-18.5(g)11, a complete application including the required documentation must be received by the Department no later than December 31, 2001. To be eligible for a Type E Lobster Pot Permit allowing the use or possession in Federal and/or State waters of an allotted number of lobster pots as defined under N.J.A.C. 7:25-18.5(g)11, a complete application including the required documentation must be received by the Department no later than December 31, 2002. Applications may be mailed to:

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

i. For a Type A Lobster Pot Permit, the applicant shall document that the vessel owner possesses a current valid Federal Lobster Permit, had landed and sold a minimum of 2,000 pounds of lobster in New Jersey in any one calendar year during the period from March 25, 1991 to September 3, 1998, and participated in the harvest of lobster by lobster pot, pursuant to (a)4 below, during the year of documented landings submitted by the applicant.

(1) A Type A Lobster Pot Permittee shall receive an allocation for 1,000 lobster pots or if the applicant can provide valid documentation, pursuant to (a)4 below, that he or she had fished a greater number of pots in any one calendar year during the period from March 25, 1991 to September 3, 1998, the permittee will receive an allocation for that number of lobster pots to be fished in Federal and/or State waters as provided for in (a)1i(2), (3) and (4) below. For the purpose of this section, lobster pots will be assumed to last for five years with a 10 percent loss of pots per year.

(2) The maximum number of pots that will be allocated for ASMFC Management Area 3 waters is 3,250.

(3) The maximum number of pots that will be allocated for ASMFC Management Areas 4 and/or 5

will be the maximum number of pots the vessel owner can document as being fished in ASMFC Management Area 4 and/or 5 in any one calendar year during the period from March 25, 1991 to September 15, 1998.

(4) Documented proof of participation in an ASMFC Management Area pot fishery shall consist of one or more of the following:

(A) Federal logbook reporting forms identifying the vessel, number of pots fished, date of landings and National Marine Fisheries Service Statistical Area from where lobster were harvested;

(B) A personal logbook in combination with a notarized statement from the applicant attesting to its authenticity; and/or

(C) Gear damage compensation reports.

ii. For a Type B Lobster Pot Permit, the applicant shall document that the vessel owner possesses a current valid Federal Lobster Permit, had landed and sold a minimum of 2,000 pounds of lobster in New Jersey in any one calendar year during the period from January 1, 1980 to March 25, 1991 and participated in the harvest of lobster by lobster pot pursuant to (a)4 below, during the year of documented landings submitted by the applicant.

(1) A Type B Lobster Pot Permittee shall receive an allocation for 1,000 lobster pots to be fished in Federal and/or State waters.

iii. For a Type C Lobster Pot Permit, the applicant shall document that the vessel owner has possessed a valid New Jersey Lobster/Fish Pot License in any one calendar year during the period from January 1, 1980 to September 3, 1998 and landed and sold a minimum of 2,000 pounds of lobster in New Jersey during the year of the valid New Jersey Lobster and Fish Pot License submitted by the applicant.

(1) A Type C Commercial Lobster Pot permittee shall receive an allocation for 500 lobster pots to be fished in State waters only.

(2) An applicant seeking eligibility for a Type C New Jersey Lobster Pot Permit and pot allocation shall not have received or applied for pot or trap tags from any other lobster pot or trap tag issuing jurisdiction.

iv. For a Type D Recreational Pot Permit, the applicant must purchase a New Jersey Lobster or Fish Pot License.

(1) A Type D Recreational Lobster Pot permittee shall receive an allocation for 10 lobster pots to be fished in State waters only and limited to six lobsters per person per day.

(A) Lobsters taken under provisions of a Type D Recreational Pot Permit may not be sold, offered for sale or used for barter.

(B) An applicant for a Type D Recreational Pot Permit will be exempt from qualifying criteria and application deadline as established under this paragraph and (a)2 through 11 below.

v. For a Type E Lobster Pot Permit, the applicant shall document that the vessel owner possesses a current valid Federal Lobster Permit, landed and sold a minimum of 500 pounds of lobster in New Jersey in any one calendar year during the period from January 1, 1980 to September 3, 1998, and participated in the harvest of lobster by otter trawl or lobster pot, pursuant to (a)4 or (a)5 below, during the year of documented landings submitted by the applicant.

(1) A Type E Lobster Pot Permittee shall receive a lobster pot allocation based on the remaining New Jersey lobster pot allocation as established by the ASMFC Lobster Management Board after the Type A, B, C and F Lobster Permit allocations have been established. The pot allocation for the Type E lobster permit shall not exceed 500 pots to be fished in Federal and/or State waters and may be divided equally among the qualified applicants so that New Jersey shall not exceed the ASMFC's established lobster pot allocation of 117,000 pots.

(2) A Type E Lobster Pot Permittee shall not possess otter trawl gear aboard his or her permitted vessel when fishing with pot gear. The simultaneous possession of otter trawl gear and lobster pot gear on board a vessel shall constitute prima facie evidence of a violation of this section.

vi. For a Type F Lobster Pot Permit, the applicant shall document that the vessel owner possesses a current valid Federal Lobster Permit, landed and sold a minimum of 2,000 pounds of lobster in New Jersey in any one calendar year during the period from September 3, 1998 to December 31, 2000 and participated in the harvest of lobster by lobster pot pursuant to (a)4 below during the year of documented landings submitted by the applicant.

(1) A Type F Lobster Pot Permittee shall receive a lobster pot allocation based on the remaining New Jersey lobster pot allocation as established by the ASMFC Lobster Management Board after the Type A, B and C Lobster Permit allocations have been established. The pot allocation for the Type F lobster permit will not exceed 800 pots to be fished in Federal and/or State waters and may be divided equally among the qualified applicants so that New Jersey will not exceed the ASMFC's established lobster pot allocation of 117,000 pots.

2. Documented proof of a Federal Lobster Permit or State Lobster/Fish Pot License shall consist of a copy of said permit or license submitted with the application that can be confirmed by Federal and State records.

3. Documented proof of landings shall consist of one or more of the following:

i. Weigh-out slips from the purchaser totaling the weight and the date the lobster was harvested; or

ii. A notarized statement from the applicant and the purchaser(s), attesting to the weight and date the lobster were landed and sold. A copy of the business records supporting the statement(s) must accompany the application.

4. Documented proof of participation in the lobster pot fishery shall be established through one or more of the following:

i. Federal logbook reporting forms identifying the vessel, number of pots fished and date of landings in New Jersey;

ii. A personal logbook in combination with bait and pot receipts;

iii. Gear damage compensation reports; or

iv. A notarized statement from the applicant and pot manufacturer or retailer attesting to the number of lobster pots and the date that the pots were purchased. A copy of the business records supporting the statement(s) must accompany the application.

5. Documented proof of participation in the lobster otter trawl fishery shall be established through one or more of the following:

i. Federal logbook reporting forms identifying the vessel, fishing gear and date of landings in New Jersey; or

ii. A copy of New Jersey license to fish with an otter trawl that can be confirmed by State records.

6. Other documentation similar to that in (a)3, 4 and 5 above may be accepted at the discretion of the Commissioner after his or her review.

7. The applicable New Jersey Lobster Pot Permit shall be on board the vessel to which it is issued at all times. The permit and pot allocation is valid upon issuance and in subsequent years unless revoked as part of a penalty action pursuant to N.J.A.C. 7:25-14.19 or as modified by the Commissioner, pursuant to N.J.A.C. 7:25-14.19. The applicable permit is issued to a specific vessel in the name of the owner.

8. The owner of a vessel permitted pursuant to this subsection may transfer his or her Lobster Pot Permit, upon application to Department as follows:

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 \$30.00 for the first offense and \$50.00 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 \$30.00 for each pot in violation.

(d) Any person violating the provisions of N.J.A.C. 7:25-14.9 or 14.10 shall be liable to a penalty of \$30.00 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 \$30.00 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 \$30.00 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)11ii, lobster part maximum size; or N.J.A.C. 7:25-18.5(g)11vii, 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).

Amended by R.2004 d.20, effective January 5, 2004.

See: 35 N.J.R. 4224(b), 36 N.J.R. 174(b).

Amended the reference for dollar amount throughout, amended N.J.A.C. reference in (d).

Administrative correction.

See: 36 N.J.R. 3276(a).