

## DIVISION OF FISH AND WILDLIFE

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## 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).

Petition for Rulemaking.

See: 36 N.J.R. 222(a), 4329(a).

Petition for Rulemaking.

See: 37 N.J.R. 1089(a).

## 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.

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 the 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 previous year.

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 Depart-

ment. 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 crab dredge license held by the applicant from the previous year.

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.

(c) An applicant who is otherwise eligible for a license under (a)1, 3 or 5 above, but who fails to provide a copy of his or her license before the December 31 expiration of that license, may request an extension of time to renew in accordance with this subsection and (d) through (f) below.

1. The written request, along with any supporting documentation, shall be submitted to:

New Jersey Division of Fish and Wildlife  
PO Box 400  
Trenton, New Jersey 08625

2. The request shall:

i. Identify the specific license for which the extension of time to renew is requested;

ii. Explain in detail why the extension of time to renew is needed, including a statement of the type and degree of hardship that prevented the timely renewal of the license, and the hardship that will result to the applicant if the license is not renewed; and

iii. Provide appropriate documentation as necessary to support the request for the extension.

(d) The Department shall approve an extension request under (c) above only if it determines that the request and documentation demonstrate that:

1. By reason of extraordinary hardship or exceptional situation or condition, the applicant was precluded from renewing his or her commercial crab pot and/or dredge license(s) during the 12-month application period preceding the year for which the license is requested;

2. By reason of extraordinary or exceptional situation or condition, strict compliance with the deadline in (a)1, 3 or 5 above would result in exceptional and undue hardship upon the applicant; and

3. The circumstances supporting (d)1 and 2 above were not created by the applicant or persons under his or her control, and the approval of the extension will not unreasonably interfere with the orderly administration of this licensing program.

(e) The Department shall provide written notice to the applicant of its decision to approve or deny the request for extension.

(f) The denial of an extension request may be appealed pursuant to the procedures outlined in N.J.A.C. 7:25-14.21, Request for adjudicatory hearing.

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.  
Amended by R.2004 d.20, effective January 5, 2004.  
See: 35 N.J.R. 4224(b), 36 N.J.R. 174(b).  
In (a), deleted the last sentence in 1 and 3; added (c) through (f).

#### 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 licenses 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 maxi-

mum 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 the said licensee's 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 or conchs 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. The possession of dredges and crabs or conchs simultaneously in the boat of any person when the crab dredge season is closed shall constitute prima facie evidence of the violation of this section.

(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); in (d), substituted "December" for "November".

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

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

In (a), substituted "the said licensee's" for "a" in the introductory paragraph; in (d), inserted "or conchs" following "take crabs", and added the last sentence.

#### 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.

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.  
 Administrative change and correction.  
 See: 37 N.J.R. 502(d).

**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).

(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 readopted as R.1985 d.386, effective July 8, 1985. See: 17 N.J.R. 1188(a), 17 N.J.R. 1883(b).

Subchapter 18, Marine Fisheries, was repealed and 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 group of species, except as otherwise specified elsewhere in this subchapter.

<u>Common Name</u>	<u>Scientific Name</u>
American Eel	Anquilla rostrata
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	Busycon carica
	Busycotypus canaliculatum
	Busycon contrarium
Goosefish (Monkfish)	Lophius americanus
Haddock	Melanogrammus aeglefinus
Kingfish	Menticirrhus saxatilis
	Menticirrhus americanus
King Mackerel	Scomberomorus cavalla
Pollock	Pollachius virens
Red Drum	Sciaenops ocellatus
River herring	Alosa aestivalis (alewife)

<u>Common Name</u>	<u>Scientific Name</u>
Scup (Porgy)	Alosa pseudoharengus (blueback herring)
Shad	Stenotomus chrysops
	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)
	Hepranchias 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
Spider crab	Libinia dubia
	Libinia emarginata
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.

<u>Species</u>	<u>Minimum Size (inches)</u>
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.

<u>Species</u>	<u>Possession Limit</u>
Cobia	2
Red Drum	1, no more than 27 inches

(c) A person angling with a hand line or with a 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 limits 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 shall be

subject to the specific provisions of any such section. Fish length shall measure from the tip of the snout to the tip of the tail (total length), except as noted below:

<u>Species</u>	<u>Minimum Size In Inches</u>	<u>Open Season</u>	<u>Possession Limit</u>
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 Sea Bass	12	Jan. 1—Dec. 31	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)	9	Jan. 1—Feb. 28 and 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 7—Oct. 10	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	12	March 23—May 21	10

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

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:

<u>Species</u>	<u>Scientific Name</u>
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 \$30.00 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).

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

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

In (a), amended the table of Common Name and Scientific Name; in (g), substituted "\$30.00" for "\$20.00".

Administrative change.

See: 36 N.J.R. 1191(c).

Administrative change.

See: 36 N.J.R. 2420(c).

Administrative change.

See: 37 N.J.R. 1177(b).

Administrative change.

See: 37 N.J.R. 3696(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.

(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 2.625 inches (66.7 mm) in diameter;

(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 or fish pot may be used for the taking of conchs or whelks and spider crabs 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.

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

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

In (g)2, deleted former vii and viii, and recodified former ix as new vii; in (g)11ix, inserted "and spider crabs" following "conchs or whelks".

Administrative change.

See: 37 N.J.R. 1177(b).

#### **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.

(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).

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

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

In (c), deleted ", except as provided in (c)1 below" following "drifting grill nets" in the introductory paragraph and deleted 1.

#### **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:

1. Weigh-out slips issued to the applicant by a wholesaler(s) that acquired fish from the applicant establishing that the applicant sold 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 of the five years; or

2. Notarized statements of wholesaler(s) that the wholesaler(s) records establish that the applicant sold 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 of the five years and that such records are available for inspection by the Division.

(d) An individual who does not meet any of the requirements in (a) or (b) above may apply for a maximum of two Delaware Bay non-commercial gill net permits during the 60-day period following June 3, 1991. The Delaware Bay non-commercial gill net permits shall allow the holder to use in or possess on the waters of Delaware Bay or its tributaries no more than one drifting gill net not to exceed 360 feet in length or two staked or anchored gill nets not to exceed 180 feet in length each.

New Rule, R.1991 d.278, effective June 3, 1991.  
See: 22 N.J.R. 1311(a), 23 N.J.R. 1792(a).

**7:25-18.8 Eligibility for Delaware Bay commercial and non-commercial gill net permits after the 60-day period following June 3, 1991**

(a) To be eligible for a Delaware Bay commercial gill net permit issued after the 60-day period following June 3, 1991, the applicant shall, at the time that the application is submitted to the Division, have three years of commercial fishery experience. The applicant shall include with the application a notarized affidavit by a commercial fisherman that the applicant has served as a crew member on a commercial fishing boat for a minimum of three years.

(b) If, at the time that an application for a Delaware Bay gill net permit is submitted to the Division, the applicant does not satisfy the eligibility requirement for a Delaware Bay commercial gill net permit set forth in (a) above, the applicant shall be eligible for a Delaware Bay non-commercial gill net permit.

New Rule, R.1991 d.278, effective June 3, 1991.  
See: 22 N.J.R. 1311(a), 23 N.J.R. 1792(a).

**Case Notes**

Fisherman denied gill net permit and wait-listed; untimely application. *Shelton v. Department of Environmental Protection*. 93 N.J.A.R.2d (EPE) 191.

**7:25-18.9 Application for Delaware Bay commercial and noncommercial gill net permits**

(a) An individual who wishes to enter the Delaware Bay gill net fishery shall submit an application for a Delaware Bay gill net permit to the Division. All applications shall be

submitted on forms available from the Division and shall be accepted yearround. All permit application forms shall be obtained from and mailed to the Division at:

Department of Environmental Protection  
Division of Fish and Wildlife  
Marine Fisheries Permits  
PO Box 400  
501 East State Street  
Trenton, New Jersey 08625-0400

(b) A complete Delaware Bay gill net permit application shall consist of:

1. A completed application form signed by the applicant; and

2. For a Delaware Bay commercial gill net permit to be issued during the 60-day period following June 3, 1991, full documentation establishing that the applicant satisfies the requirements for issuance of a commercial gill net permit set forth in N.J.A.C. 7:25-18.7(a) or (b), as appropriate; or

3. For a Delaware Bay commercial gill net permit to be issued after August 2, 1991 full documentation establishing that the applicant satisfies the requirements for issuance of a commercial gill net permit set forth in N.J.A.C. 7:25-18.8(a).

(c) The Division shall review each application received to determine whether the application is complete as provided in (b) above. If the Division determines that an application is not complete, the application shall be returned to the applicant.

(d) If the Division determines that an application for a Delaware Bay gill net permit received by the Division at the address set forth in (a) above during the 60-day period following June 3, 1991 is complete and that the applicant satisfies the eligibility requirements for issuance of a Delaware Bay commercial gill net permit set forth in N.J.A.C. 7:25-18.7(a) or (b), the applicant shall be issued Delaware Bay commercial gill net permits up to the limits set forth in N.J.A.C. 7:25-18.7(a) or (b) as appropriate. If the applicant does not satisfy the eligibility requirements for issuance of a Delaware Bay commercial gill net permit set forth in N.J.A.C. 7:25-18.7(a) or (b), the applicant shall be issued Delaware Bay non-commercial gill net permits up to the limits set forth in N.J.A.C. 7:25-18.7(d).

(e) If the Division determines that an application for a Delaware Bay gill net permit received by the Division at the address set forth in (a) above after August 2, 1991 is complete, the applicant shall be placed on the waiting list maintained by the Division under (f) below based on whether the Division determines that the applicant qualifies for a Delaware Bay commercial or non-commercial gill net permit. If the Division determines that an applicant for a Delaware Bay commercial gill net permit has not document-

ed that the applicant satisfies the requirement for issuance of a commercial gill net permit set forth in N.J.A.C. 7:25-18.8(a), the applicant shall be placed on the non-commercial gill net permit waiting list. Delaware Bay commercial and non-commercial gill net permits shall be issued in accordance with the procedures set forth in N.J.A.C. 7:25-18.10.

(f) The Division shall maintain separate waiting lists for Delaware Bay commercial and noncommercial gill net permits based on the chronological order of the date that each complete permit application is postmarked. Applications shall not be placed on both the commercial and the non-commercial gill net permit list.

(g) An applicant shall annually confirm that the applicant wants to remain on the permit waiting list. Confirmation shall be made by letter postmarked between January 1 and January 31 sent to the Division at the address set forth in (a) above. Failure to send confirmation to the Division as above provided shall result in cancellation of the application and removal of the applicant from the permit waiting list without the Division giving notice to the applicant.

New Rule, R.1991 d.278, effective June 3, 1991.  
See: 22 N.J.R. 1311(a), 23 N.J.R. 1792(a).  
Amended by R.2001 d.73, effective March 5, 2001.  
See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).

#### Case Notes

Fisherman denied gill net permit and wait-listed; untimely application. Shelton v. Department of Environmental Protection. 93 N.J.A.R.2d (EPE) 191.

#### **7:25-18.10 Issuance of Delaware Bay commercial and non-commercial gill net permits after August 2, 1991**

(a) When, after August 2, 1991, the combined number of Delaware Bay commercial and non-commercial gill net permits for staked, anchored or drifting gill nets falls below 800 for staked or anchored gill nets or 200 drifting gill nets as set forth in N.J.A.C. 7:25-18.6(c), the Commissioner may issue new permits for the type of net allowed by the available permit.

(b) After August 2, 1991, the combined number of Delaware Bay commercial and non-commercial gill net permits for staked, anchored or drifting gill nets issued under (a) above shall be limited to no more than 800 for staked or anchored gill nets and 200 drifting gill nets.

(c) Delaware Bay commercial and non-commercial gill net permits shall be issued in the name of the applicant that appears at the top of the permit waiting lists maintained by the Division of Fish, Game, and Wildlife under N.J.A.C. 7:25-18.9(f).

(d) Applicants for commercial and non-commercial gill net permits shall remain at the top of the permit waiting list and shall be issued permits as they become available until the applicant has been offered the type and number of new gill net permits that the applicant applied for not to exceed the limits in (d)1 and 2 for each type of permit. Upon reaching the limits in (d)1 and 2 below, as appropriate, the applicant's name shall be removed from the permit waiting list.

1. Delaware Bay commercial gill net permits shall be issued for no more than four drifting gill nets and/or 25 staked or anchored gill nets.

2. Delaware Bay non-commercial gill net permits shall be issued for no more than one drifting gill net not to exceed 360 feet in length or two staked or anchored gill nets not to exceed 180 feet in length each.

(e) Delaware Bay non-commercial gill net permits shall not be issued to an individual in possession of one or more Delaware Bay commercial gill net permits.

(f) Delaware Bay commercial gill net permits shall not be issued to an individual in possession of one or more Delaware Bay non-commercial gill net permits.

New Rule, R.1991 d.278, effective June 3, 1991.  
See: 22 N.J.R. 1311(a), 23 N.J.R. 1792(a).

#### **7:25-18.11 Transfer of Delaware Bay commercial and noncommercial gill net permits**

(a) Except as provided in (b) below, Delaware Bay commercial and non-commercial gill net permits are non-transferable.

(b) The Commissioner shall transfer a Delaware Bay commercial or noncommercial gill net permit to the son or daughter of the holder of the commercial or noncommercial permit provided that:

1. The Division receives a written request at the address set forth in N.J.A.C. 7:25-18.9(a) signed by the holder of a Delaware Bay commercial or noncommercial gill net permit requesting transfer of the holder's permit to a designated son or daughter;

2. For the transfer of a Delaware Bay commercial gill net permit, the written request required under (b)1 above shall be accompanied by documentation that establishes that the designated son or daughter has three years of commercial fishing experience; and

3. The number and type of commercial or non-commercial permits transferred shall be the same number and type issued to the holder.

New Rule, R.1991 d.278, effective June 3, 1991.  
See: 22 N.J.R. 1311(a), 23 N.J.R. 1792(a).  
Amended by R.2001 d.73, effective March 5, 2001.  
See: 32 N.J.R. 4435(a), 33 N.J.R. 874(a).

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, except that no person shall harvest or land from the Atlantic Ocean or possess while on the waters of the Atlantic Ocean any amount of shad which exceeds five percent, by weight, of all species taken or possessed.

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)2ii and iii 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, except that no person shall harvest or land from the Atlantic Ocean or possess while on the waters of the Atlantic Ocean any amount of shad which exceeds five percent, by weight, of all species taken or possessed. 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)5ii and iii 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; 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 100 pounds of black sea bass during the period of January 1 through March 31 or more than 50 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 than the originally permitted vessel. 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. A vessel that does not possess a New Jersey Black Sea Bass Permit shall be permitted to land not more than 100 pounds of black sea bass during the period of January 1 through March 31, or not more than 50 pounds of black sea bass during the period of April 1 through December 31 on any trip provided the amount of black sea bass landed from any vessel shall not exceed 10 percent, by weight, of the total weight of all species landed and sold. Vessels taking black sea bass by angling or hook and line that do not possess a New Jersey Black Sea Bass Permit shall be subject to the possession limits established in N.J.A.C. 7:25-18.1 and the seasonal by-catch limits and 10 percent criteria specified above.

8. 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. Ten percent of the New Jersey annual black sea bass quota shall be allocated each year for by-catch landings when any of the seasons for the directed commercial fishery defined in (h)8iii below are closed. The by-catch landings shall be divided between seasons as identified in (h)8iii below at the same percentage apportioned to each season specified at (h)8iii below.

(1) Any by-catch not landed during the season allocated shall be added to the directed fisheries quota 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 black sea bass fishery quota.

iii. The balance of the New Jersey annual quota for the black sea bass fishery remaining after deducting the by-catch allowance specified in (h)8ii above 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, 2,500 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.

(5) If a minimum of 50,000 pounds of the New Jersey black sea bass 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.

(6) Any daily landing of black sea bass not exceeding 100 pounds during the period of January 1 through March 31 or 50 pounds during the period of April 1 through December 31 shall not be applied to maximum weekly landing days during any season as specified in (h)8iii(1) through (4) above, provided the amount of black sea bass landed from any vessel shall not exceed 10 percent, by weight, of the total weight of all species landed and sold.

iv. No vessel shall have in possession or land and no dealer 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.

v. The Commissioner, or his or her designee, shall close the season for the commercial black sea bass fishery upon two days public notice of the projected date the seasonal 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.

vi. Once the season has been closed for the directed 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 in excess of the by-catch allowances specified in (h)1 and 7 above and provided the amount of black sea bass landed from any vessel shall not exceed 10 percent, by 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 black sea bass and no dealer or person shall accept or buy any black sea bass landed in New Jersey.

vii. 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 two days public notice. Public notice shall be made as specified in (h)7v above.

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

viii. 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.

ix. If the quota for any season is exceeded, the amount overharvested shall be deducted from the following season. The amount overharvested shall also be deducted from the following years seasonal quota in pounds and reallocated to the season from which it was deducted the previous year.

x. Any vessel participating in the black sea bass 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.

9. 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

10. 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.

11. 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.

12. All permitted New Jersey Black Sea Bass Dealers shall provide daily reports during the period January 1 through April 15 and weekly reports during the period April 16 through December 31 to the Division listing the amount of black sea bass landed on a daily basis and any other information that may be required by the Commissioner. If no black sea bass were landed, a report to that effect shall be required. Such report shall be faxed to the Division at the number listed on the reporting form no 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.

13. 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)8 above, exceeding daily trip limits and landing black sea bass after the season has been closed, (h)9 above, accepting or purchasing black sea bass without a New Jersey Black Sea Bass Dealers Permit, (h)10 above, accepting or purchasing from any non-permitted vessel more than the amount of black sea bass stipulated pursuant to (h)1 and 7 above, and (h)11 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 and/or dealer'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. Any person who has had his or her New Jersey Black Sea Bass Dealers Permit suspended or revoked shall not land or permit the landing of any black sea bass at his or her facility during the suspension or revocation under the provisions of another permittee's New Jersey Black Sea Bass 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.

(i) The following provisions are applicable to the commercial harvest of summer flounder:

1. 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 (i)3 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 (i)1ii(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 pursuant to this subsection not pending revocation or court action 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 than the originally permitted vessel. 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; and

(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.

2. 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 (i)3 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 at (i)2ii below at the same percentage as for the directed fishery specified at (i)2ii 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 (i)2ii 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 (i)2i above 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-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;

(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; and

(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 (i)2ii(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 (i)2 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 seasonal percentage of the annual 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 (i)1 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 two days public notice. Public notice shall be made as specified in (i)2vi 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 (i)2i 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.

3. 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.

4. 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

5. No dealer shall accept from any vessel more than the amounts of summer flounder specified at (i)1 above unless said vessel is in possession of its valid New Jersey Summer Flounder Permit.

6. 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 (i)1 above may be landed frozen provided that each fish is individually frozen whole and can be individually weighed and measured without thawing.

7. 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.

8. 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 any agreement with other states pursuant to (i)3 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.

9. 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 to attach the required documentation to the application shall result in the denial of the permit.

ii. Falsification or misrepresentation of any information on the application including documentation provided to verify the amount of summer flounder landed as specified in (i)1iii(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 N.J.A.C. 7:25-18.14(i)2, minimum mesh sizes, (i)2iii above, landing, possession or accepting in excess of the daily trip limit for summer flounder, (i)2iv above, failure of notification of landing of summer flounder, (i)2vii above, landing summer flounder after the directed fishery and/or by-catch season has been closed, (i)2xiii above, failure to submit accurate and timely monthly reports, (i)5 above accepting more than by-catch amounts from nonpermitted vessels, (i)6 above accepting any summer flounder other than fresh product, or N.J.A.C. 7:25-18.14(a), (b), (d), (e), (f) or N.J.S.A. 23:3-46 through 47 shall result in the suspension during open seasons 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.

(j) The following provisions are applicable to the commercial harvest of winter flounder:

1. No person shall fish for or land any winter flounder taken by any 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 net is subject to the provisions of N.J.A.C. 7:25-18.5(g)2.

(k) The following provisions are applicable to the commercial harvest of scup:

1. 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 Commission upon two 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 two days public notice of the projected date the New Jersey seasonal quota shall be caught. Public notice shall include letters by first class mail to all New Jersey Scup Dealer Permit holders and Federal scup moratorium permit holders that are New Jersey residents.

iv. 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.

v. 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 two days public notice. Public notice shall be made as specified in (k)1iii above.

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

2. 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 season 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 (k)2i 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 (k)1i above.

ii. The trip limit for scup shall be two trips per week (Sunday through Saturday) with landings not to exceed 30,000 pounds during any two-week period from January 1 through April 30 and 3,500 pounds daily from November 1 through December 31. During the period of January 1 through April 30, the daily trip limit will be reduced to 1,000 pounds when it is projected that 80 percent of the period quota will be harvested.

3. 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

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

5. 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.

6. 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 (k)9 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 on Saturday.

7. 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 the Federal log book in satisfaction of the New Jersey reporting requirements.

8. 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 (k)1iv above, landing or accepting scup after the season has been closed; (k)2 above, landing or accepting more than the daily trip limit; (k)3 above, accepting scup from a vessel without first having obtained a valid New Jersey Scup Dealer Permit; (k)4 above, landing for the purpose of sale or selling scup without first having obtained a valid scup moratorium permit; (k)5 above, selling scup to a non-permitted fish dealer; or (k)6 and 7 above, 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 (k)1 above.

(3) Third offense: 120 days suspension during the open season as provided in (k)1 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.

9. 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.

(l) 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.

(m) Dealer business records may be used as admissible evidence in any proceeding to document violations of trip limits, weekly landing limits or closed seasons specified in this section.

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

(o) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify quotas, trip limits and/or seasons specified in the 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 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).

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

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

Rewrote the section.

Administrative change.

See: 36 N.J.R. 1191(c).

Administrative correction and change.

See: 36 N.J.R. 2420(c).

Administrative correction.

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

Administrative change.

See: 37 N.J.R. 589(c).

### 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

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).

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

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

Rewrote the section.

Administrative change.

See: 37 N.J.R. 589(c).

Administrative change.

See: 37 N.J.R. 3696(a).

### 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 weight 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).

**7:25-22.1 Menhaden season**

The season for taking Atlantic menhaden (*Brevoortia tyrannus*) from the marine waters of the State of New Jersey by purse seine for fish meal reduction shall begin on the third Monday in May and end on the third Friday in October. This provision shall not impose a limited season for the taking of menhaden for bait, chum or purposes other than for fish meal reduction.

Amended by R.1989 d.394, effective July 17, 1989.

See: 21 N.J.R. 107(a), 21 N.J.R. 2035(a).

Reference to Atlantic menhaden specifically and latin name (*Brevoortia tyrannus*) added for clarity.

**Case Notes**

Commercial fishing organization had no rights, under the privileges and immunities clause of the Constitution, which could be violated as a result of state regulations prohibiting fishing. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing was within the scope of statute permitting regulation of fish and game. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing did not constitute impermissible disparate treatment. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing did not constitute impermissible use of "police power". *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing did not violate commercial fishing organization's rights under the commerce clause. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing was valid under supremacy clause. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation purporting to regulate fishing within Delaware Bay was severable from other regulations. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

**7:25-22.2 Purse seine fishing of Atlantic menhaden**

(a) Persons licensed to fish for Atlantic menhaden with a purse seine or shirred net in the marine waters of New Jersey pursuant to N.J.S.A. 23:3-51 and N.J.S.A. 23:3-52 who are taking Atlantic menhaden for purposes other than bait, as provided in N.J.A.C. 7:25-22.3, shall be subject to the following:

1. Fishing, for the purpose of this section, shall be defined as having a purse seine in the marine waters of this State.

2. Fishing shall be restricted to the Atlantic Ocean, not closer than 1.2 nautical miles of any point along the shore, jetties or piers. It will be incumbent upon the captain of a purse seine vessel to determine the possibility of drifting inside the 1.2 nautical mile limit while fishing, before setting his or her net. Drifting into the 1.2 nautical mile restricted area along the shore, or around a jetty or pier, while fishing shall constitute a violation of this subchapter.

3. A person shall not fish on Saturdays, Sundays, and the days on which Memorial Day, Independence Day, Labor Day and Columbus Day are officially observed by the State of New Jersey.

4. All pump outlets, except normal engine cooling water, shall discharge below the vessel's water line.

5. All discharge from fish pumps must be treated with a United States Coast Guard approved anti-foaming agent.

6. No refuse, litter or garbage of any kind, or any quantity of dead fish shall be thrown overboard or released from the vessel or its net(s).

7. The licensee is responsible for cleaning up any fish, fish-parts, refuse, litter, or garbage of any kind which is released during any fishing operation or as a result of a fishing operation and must initiate such cleanup no later than 24 hours after the release begins. Upon the licensee's failure to initiate such cleanup within the 24 hour period, the Department may conduct the cleanup or arrange for the performance of the cleanup. In addition to any other penalties and remedies provided by law, the licensee shall be liable for all costs associated with such cleanup, including any administrative costs incurred by the Department. Such cleanup shall include, but not be limited to, the marine and estuarine waters of the State and adjacent beaches, shorelines and marshes.

8. No markers or buoys designating channels, crab pots, lobster pots, fish pots, or traps shall be disturbed by the act of fishing.

9. Persons subject to this subchapter shall notify the Division's Marine Enforcement Office located at Nacote Creek, Star Route, Absecon, New Jersey when they intend to fish in State waters, by calling 609-441-3474. The notification shall be made both prior to and upon the completion of any fishing in State waters, by the Captain or his or her agent.

10. The possession of any fish, as defined at N.J.S.A. 23:2B-3e, other than Atlantic menhaden on a purse seine vessel harvesting menhaden is prohibited.

i. The simultaneous possession of Atlantic menhaden and any other fish, as defined at N.J.S.A. 23:2B-3e,

and a purse seine, aboard a vessel of any person holding an Atlantic menhaden bait permit or any vessel conducting menhaden fishing operations, shall constitute prima facie evidence of a violation of this subchapter.

R.1984 d.315, effective July 10, 1984.

See: 16 N.J.R. 2171(a).

Adopted on an emergency basis, to expire September 10, 1984. Also concurrently proposed.

Readopted, R.1984 d.473, eff. October 15, 1984.

See: 16 N.J.R. 2171(a), 16 N.J.R. 2805(a).

Amended by R.1989 d.394, effective July 17, 1989.

See: 21 N.J.R. 107(a), 21 N.J.R. 2035(a).

Restrictions increased to 1.2 nautical miles; cleanup liability further defined and new (a)9-11 added.

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

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

#### Case Notes

New Jersey regulations prohibiting fishing did not unconstitutionally discriminate against interstate commerce. *Ampro Fisheries, Inc. v. Yaskin*, 127 N.J. 602, 606 A.2d 1099 (1992), certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

New Jersey Marine Fishery Council had authority to regulate fishing state coastline. *Ampro Fisheries, Inc. v. Yaskin*, 127 N.J. 602, 606 A.2d 1099 (1992), certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

Compact between New Jersey and Delaware did not prohibit New Jersey from unilaterally regulating fishing in territorial waters of New Jersey in Delaware Bay. *Ampro Fisheries, Inc. v. Yaskin*, 127 N.J. 602, 606 A.2d 1099 (1992), certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

Commercial fishing organization had no rights, under the privileges and immunities clause of the Constitution, which could be violated as a result of state regulations prohibiting fishing. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing did not constitute impermissible disparate treatment. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing did not constitute impermissible use of "police power". *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing did not violate commercial fishing organization's rights under the commerce clause. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

State regulation prohibiting fishing was valid under supremacy clause. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

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State regulation purporting to regulate fishing within Delaware Bay was severable from other regulations. *Ampro Fisheries, Inc. v. Yaskin*, 247 N.J.Super. 111, 588 A.2d 879 (A.D.1991), certification granted 126 N.J. 340, 598 A.2d 896, affirmed in part, reversed in part 127 N.J. 602, 606 A.2d 1099, certiorari denied 113 S.Ct. 409, 506 U.S. 954, 121 L.Ed.2d 333.

#### 7:25-22.3 Taking of Atlantic menhaden for bait

(a) Persons licensed to fish for or in any way participate in the fishery for Atlantic menhaden (*Brevoortia tyrannus*) with a purse seine or shirred net in the marine waters of New Jersey pursuant to N.J.S.A. 23:3-51 and N.J.S.A. 23:3-52, may apply between January 1 and March 1 for a permit for the purpose of taking Atlantic menhaden for bait purposes only.

1. All persons licensed to take Atlantic menhaden for bait purposes only shall keep, on forms furnished by the Division's Bureau of Marine Fisheries, accurate records of the amount and location of Atlantic menhaden harvested. Forms are available from the Trenton Office of the Division, Bureau of Marine Fisheries, 501 East State Street, Third Floor, Trenton, New Jersey 08625. These records shall be filed by the 10th day of each month with the Division's Trenton office. If no Atlantic menhaden were harvested during the month, a report to that effect shall be provided to the Division's Bureau of Marine Fisheries.

(b) Persons licensed to fish for Atlantic menhaden with a purse or shirred net in the marine waters of New Jersey, for the purpose of taking Atlantic menhaden for bait purposes only, shall be subject to the following:

1. Fishing, for the purpose of this section, shall be defined as having a purse seine in the marine waters of this State.

2. Fishing shall be restricted to not closer than 0.6 nautical miles of any point along the shore, jetties or fishing piers in the Atlantic Ocean, in the portion of the Delaware Bay south and east of LORAN C line 42850, and in Raritan Bay and Sandy Hook Bay. It will be incumbent upon the captain of a purse seine vessel to determine the possibility of drifting inside the limit while fishing, before setting his or her net. Drifting into the restricted area along the shore or around the jetty or pier while fishing shall be considered a violation of this subchapter.

- i. Any vessel operating under a permit for the purpose of taking Atlantic menhaden for bait purposes outside the legal area of fishing as specified in (b)2 above shall be subject to the following penalties: