

3. Clipped flight feathers of wing; or

4. Surgical or other medical procedure mandated in writing by a licensed veterinarian to preserve the life or health of the bird.

(c) Captive-bred birds hatched in New Jersey shall have seamless bands slipped onto one of their legs. A properly-sized seamless band slipped onto the leg of a hatchling shall be of such a size as to later fit a full-grown adult comfortably, but must not be so large that it could have been slipped over the foot of an older or full-grown bird. The Division shall publish and distribute a list of those species of birds exempt from the banding requirements because of adverse health effects.

(d) Captive-bred birds hatched outside the State of New Jersey and wild-caught birds (except for zebra finches, society finches, canaries, budgerigars and cockatiels) which remain in New Jersey for more than 48 hours and are not wearing seamless bands shall have butt-end bands placed around one of their legs upon arrival in New Jersey. All aviculturally recognized color mutations of any parrot species will be exempt from banding due to their captive-bred origin.

(e) In lieu of or in addition to banding as set forth in (a) through (d) above, birds may be identified by micro-chips (subcutaneous implants or coded information) obtained solely from manufacturers expressly authorized by the Department.

New Rule, R.1995 d.48, effective January 17, 1995.
See: 26 N.J.R. 1040(a), 27 N.J.R. 329(a).

SUBCHAPTER 5. 1997-98 GAME CODE

Subchapter Historical Note

The Game Code is revised annually to reflect changing conditions in the State's wildlife resource. Previous revisions in the Code were as follows:

R.1971 d.74, effective May 21, 1971.
See: 3 N.J.R. 58(a), 3 N.J.R. 108(a).
R.1972 d.115, effective September 1, 1972.
See: 4 N.J.R. 101(a), 4 N.J.R. 158(a).
R.1972 d.202, effective October 13, 1972.
See: 4 N.J.R. 213(b), 4 N.J.R. 265(a).
R.1972 d.211, effective November 1, 1972.
See: 4 N.J.R. 232(b), 4 N.J.R. 264(a).
R.1973 d.164, effective August 1, 1973.
See: 5 N.J.R. 139(c), 5 N.J.R. 221(b).
R.1973 d.226, effective September 1, 1973.
See: 5 N.J.R. 221(a), 5 N.J.R. 304(b).
R.1973 d.263, effective September 17, 1973.
See: 5 N.J.R. 261(b), 5 N.J.R. 336(b).
R.1973 d.293, effective October 15, 1973.
See: 5 N.J.R. 304(a), 5 N.J.R. 370(a).
R.1974 d.149, effective August 1, 1974.

See: 6 N.J.R. 174(a), 6 N.J.R. 262(c).
R.1974 d.150, effective August 1, 1974.
See: 6 N.J.R. 175(a), 6 N.J.R. 263(a).
R.1975 d.178, effective August 1, 1975.
See: 7 N.J.R. 204(a), 7 N.J.R. 310(c).
R.1975 d.277, effective September 18, 1975.
See: 7 N.J.R. 359(b), 7 N.J.R. 464(a).
R.1975 d.281, effective September 24, 1975.
See: 7 N.J.R. 308(b), 7 N.J.R. 464(b).
R.1975 d.290, effective October 1, 1975.
See: 7 N.J.R. 413(a), 7 N.J.R. 499(a).
R.1976 d.187, effective August 1, 1976.
See: 8 N.J.R. 221(b), 8 N.J.R. 328(a), 8 N.J.R. 460(a).
R.1976 d.307, effective October 1, 1976.
See: 8 N.J.R. 378(b), 8 N.J.R. 509(b).
R.1977 d.85, effective March 15, 1977.
See: 9 N.J.R. 170(a).
R.1977 d.86, effective March 15, 1977.
See: 9 N.J.R. 170(b).
R.1977 d.219, effective August 1, 1977.
See: 9 N.J.R. 213(a), 9 N.J.R. 322(a).
R.1977 d.355, effective October 3, 1977.
See: 9 N.J.R. 360(c), 9 N.J.R. 465(a).
R.1978 d.199, effective August 1, 1978.
See: 10 N.J.R. 186(a), 10 N.J.R. 279(c).
R.1979 d.329, effective August 16, 1979.
See: 11 N.J.R. 324(b), 11 N.J.R. 434(b).
R.1979 d.404, effective October 12, 1979.
See: 11 N.J.R. 433(a), 11 N.J.R. 544(a).
R.1980 d.266, effective August 1, 1980.
See: 12 N.J.R. 259(a), 12 N.J.R. 392(a).
R.1981 d.253, effective July 9, 1981 (operative August 1, 1981).
See: 13 N.J.R. 262(a), 13 N.J.R. 403(c).
R.1982 d.212, effective July 19, 1982 (operative August 1, 1982).
See: 14 N.J.R. 302(b), 14 N.J.R. 755(d).
R.1982 d.351, effective October 18, 1982.
See: 14 N.J.R. 871(a), 14 N.J.R. 1158(a).
R.1983 d.302, effective August 1, 1983.
See: 15 N.J.R. 7118(a), 15 N.J.R. 1247(b).
R.1985 d.419, effective August 19, 1985.
See: 17 N.J.R. 1177(a), 17 N.J.R. 2021(c).
R.1986 d.325, effective August 4, 1986.
See: 18 N.J.R. 1026(b), 18 N.J.R. 1566(a).
R.1987 d.321, effective August 3, 1987.
See: 19 N.J.R. 808(a), 19 N.J.R. 1434(a).
R.1988 d.376, effective August 1, 1988.
See: 20 N.J.R. 1035(b), 20 N.J.R. 1895(a).
R.1989 d.418, effective August 7, 1989.
See: 21 N.J.R. 1289(b), 21 N.J.R. 2356(a).
R.1990 d.404, effective August 6, 1990.
See: 22 N.J.R. 1459(a), 22 N.J.R. 2288(a).
R.1991 d.416, effective August 5, 1991.
See: 23 N.J.R. 1494(a), 23 N.J.R. 2347(a).
R.1992 d.315, effective August 3, 1992.
See: 24 N.J.R. 1847(a), 24 N.J.R. 2715(b).
R.1993 d.390, effective August 2, 1993.
See: 25 N.J.R. 1930(a), 25 N.J.R. 3519(a).
R.1994 d.412, effective August 1, 1994 (operative August 6, 1994).
See: 26 N.J.R. 1913(b), 26 N.J.R. 3193(a).

See section annotations for subsequent revisions.

7:25-5.1 General provisions

(a) Judicial Notice. N.J.S.A. 13:1B-34 provides in pertinent part, "(C)opies of the State Fish and Game Code, and its amendments, duly certified by the Chairman of the council shall be received in evidence in all court or other judicial proceedings in the State."

(b) Time: The hours listed in this Code are EST or EDT at date and are based on Trenton time. A copy of the official time table for Trenton is on file at the Office of Administrative Law and is available from that agency or the Division. Time tables for Trenton time are also published in the annual Summary of Game Regulations and Trenton time shall be the Statewide official time.

(c) This Code, when adopted and when effective, shall supersede the provisions of 1996-97 Game Code.

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

1. "Bag limit" means the amount of permitted take per person per season except in a permit season the "bag limit" is the amount of permitted take per permit per season.

2. "Leftover permits" means those permits within the amount presented as the permit quota remaining after closure of the initial permit-granting process.

3. "Permit quota" means the maximum amount of permits allocated for a given locality, season, or species category.

4. "Possession tag" means the tag or metal seal affixed to the animal by Division personnel or designated agent.

5. "Transportation tag" means the tag portion of the hunting license or special permit which is removed and affixed to the animal immediately upon kill or removal from the trap. It is also a tag supplied by the Division with the beaver and otter trapping license.

6. "New Jersey Supplemental Deer Permit and Transportation Tag" means the paper deer permit and transportation tag issued by mandatory deer check stations after registration of a deer taken on a regular license or special season permit. The "New Jersey Supplemental Deer Permit and Transportation Tag" will allow the hunter to continue hunting and take one additional deer subject to applicable sections of this Code. The transportation tag portion is completed and affixed to a deer immediately upon killing by the hunter.

7. "New Jersey Bonus Deer Permit and Transportation Tag" means the paper deer permit and transportation tag issued by mandatory deer check stations after registration of an antlerless deer taken pursuant to N.J.A.C. 7:25-5.25(b)1. The "New Jersey Bonus Deer Permit and Transportation Tag" will allow the hunter to continue hunting and take one additional deer subject to applicable provisions of N.J.A.C. 7:25-5.25(b)1. It is not valid on the day of issuance. The transportation tag portion is completed and affixed to a deer immediately upon killing by the hunter.

8. "Traditional muzzleloader rifle" means a single shot, single barrel, side lock percussion or flintlock firearm with iron or peep sights and a wooden stock. In-line ignition, center hammer and under hammer muzzleloaders are not included in this definition. Scopes, Sabot slugs and jacketed projectiles are prohibited for the purposes of this definition.

9. An "antler point" is defined as at least one inch long from its tip to its base line, and the length must exceed the width at some location at least one inch down from the tip.

(e) For the purpose of this subchapter, "Trenton Office" shall mean the Bureau of Wildlife Management, Division of Fish, Game and Wildlife, New Jersey Department of Environmental Protection, 501 East State Street, 5 Station Plaza, PO BOX 400, Trenton, New Jersey 08625.

Amended by R.1995 d.427, effective August 7, 1995.

See: 27 N.J.R. 1897(a), 27 N.J.R. 2889(a).

Amended by R.1996 d.404, effective August 19, 1996 (operative August 24, 1996).

See: 28 N.J.R. 2434(b), 28 N.J.R. 3934(a).

Amended by R.1997 d.327, effective August 4, 1997 (operative August 9, 1997).

See: 29 N.J.R. 2213(a), 29 N.J.R. 3462(a).

In (b), inserted second sentence; and in (c), substituted "1996-97 Game Code" for "1995-96 Game Code"

Case Notes

Shell fisherman did not have right to adjudicatory hearing on proposed coastal development by reason of his occupation. *Spalt v. New Jersey Dept. of Environmental Protection*, 237 N.J.Super. 206, 567 A.2d 264 (A.D.1989), certification denied 122 N.J. 140, 584 A.2d 213.

7:25-5.2 Pheasant—Chinese ringneck (*Phasianus colchicus torquatus*), English or blackneck (*P.c. colchicus*), Mongolian (*P. mongolicus*), Japanese green (*Phasianus versicolor*); including mutants and crosses of above

(a) The duration for the male pheasant season is November 8 to December 6, 1997 inclusive, and December 15, 1997 through January 3, 1998 except closed during the December portion of the permit shotgun deer season in those management zones on the prescribed dates that the season is open and also excluding any extra permit deer season day(s) in December if declared open.

(b) The duration for the male pheasant season for properly licensed persons engaged in falconry is September 1 to December 6, 1997 and December 15, 1997 through March 31, 1998 except closed on November 7, 1997 and during the December portion of the permit shotgun deer season in those management zones on the prescribed dates that the season is open and also excluding any extra permit deer season day(s) in December if declared open.

(c) The daily bag limit is two male pheasants, except as hereinafter in this section provided.

7:25-18.16 Horseshoe crab (*Limulus polyphemus*)

(a) An individual shall not catch, take, or attempt to catch or take horseshoe crabs except by hand collection or while using other gear allowed under this chapter and/or N.J.S.A. Titles 23 and 50 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 and Energy. Any individual who wishes to harvest horseshoe crabs may obtain a permit by completing an application available from the: Division of Fish, Game and Wildlife, Bureau of Marine Fisheries, PO Box 400, Trenton, NJ 08625. 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 of Fish, Game and Wildlife.

(b) The season for taking horseshoe crabs shall be January 1 through December 31, subject to the following provisions:

1. A person shall not harvest horseshoe crabs from the beaches and shoreline of the Delaware Bay waterfront and the adjacent waters within 1,000 feet bayward of the mean high water line extending from the Cape May Canal in Cape May County to Stow Creek in Cumberland County at any time.

2. Collection of horseshoe crabs by hand, without the aid of any implements (nets, rakes, spears, shovels, forks, etc.), may occur in areas other than specified in (b)1 above, only on Tuesday and Thursday.

3. A person shall not harvest or land any horseshoe crabs during the month of May except when taken as provided in (b)2 above. Simultaneous possession of horseshoe crabs and any harvest gear, with the exception of miniature fykes, conch pots, lobster pots or fish pots, shall be prima facie evidence of violation of this section.

(c) Any person harvesting horseshoe crabs by any method permitted by the Commissioner shall 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, the gear utilized 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.

(d) Any person violating the provisions of this section shall be subject to the penalties prescribed in N.J.S.A. 23:2B-14 in addition to the suspension or revocation of the permittee's horseshoe crab harvesting privileges, according to the following procedures:

1. The Division shall notify the permittee in writing of the Division's intention to revoke the permittee's horseshoe crab harvesting privilege for the reasons stipulated in the notice, effective 20 business days after the date on the written notice (excluding the date on the notice) and of the Division's suspension of the permittee's horseshoe crab harvesting privileges in the interim, effective on a date stipulated in the notice but not sooner than 10 business days after the date of the notice (excluding the date on the notice).

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

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

4. The Division shall reinstate horseshoe crab harvesting privileges suspended for late or incomplete reports, but no more than one time per permittee in any single permit year, if that permittee personally delivers any missing reports, completed, along with a credible written

explanation for the delay and/or omissions to the Division within 20 business days from the date on the notice of suspension.

5. Any permittee who has had his or her horseshoe crab harvesting privilege revoked shall be disqualified from exercising any privilege associated with a horseshoe crab harvesting permit for 24 months following the effective date of an uncontested notice of proposed revocation of privileges, or whichever of the following is applicable:

i. The date of the Commissioner's Final Decision affirming revocation of horseshoe crab harvesting privileges, or

ii. The filing date of the court order affirming the Commissioner's Final Decision revoking horseshoe crab harvesting privileges.

6. The Division shall issue a horseshoe crab permit to an applicant pending resolution of a contested Division proposal to revoke that applicant's horseshoe crab harvesting privilege, but that permittee shall not exercise or enjoy any horseshoe crab harvesting privilege pending resolution of a proposed revocation until, as appropriate, one of the following occurs:

i. The Division Director lifts the suspension of that permittee's horseshoe crab harvesting privilege;

ii. The Commissioner issues a Final Decision reinstating that permittee's horseshoe crab harvesting privilege; or

iii. A court of competent jurisdiction orders reinstatement of that permittee's horseshoe crab harvesting privileges.

New Rule, R.1993 d.185, effective May 3, 1993.

See: 24 N.J.R. 2978(a), 25 N.J.R. 1876(b).

Amended by R.1996 d.218, effective May 6, 1996.

See: 28 N.J.R. 245(a), 28 N.J.R. 2375(a).

Emergency amendment R.1997 d.268, effective May 30, 1997 (expired July 29, 1997).

See: 29 N.J.R. 3084(a).

The emergency amendment substantially amended (a); rewrote (b) and (c); and deleted (d).

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

Authority

Marine Fisheries Management and Commercial Fisheries Act, N.J.S.A. 23:2B-1 et seq.

Source and Effective Date

R.1983 d.102, effective March 17, 1983.

See: 15 N.J.R. 39(a), 15 N.J.R. 543(c).

Subchapter Historical Note

Subchapter 18A, Fisheries Closures and Advisories for Striped Bass, American Eel, Bluefish, White Perch and White Catfish Taken from the Northeast Region of the State, was originally adopted as emergency new rules by R.1982 d.477, effective December 15, 1982. The concurrent proposal of Subchapter 18A was readopted with changes to N.J.A.C. 7:25-18A.6.

7:25-18A.1 Authority

This subchapter has been promulgated pursuant to the Marine Fisheries Management and Commercial Fisheries Act, N.J.S.A. 23:2B-1 et seq.

7:25-18A.2 Scope and construction

(a) The following shall constitute the rules governing the issuance by the Department, of fisheries closures and advisories concerning PCB contaminated fish taken from the waters of the Northeast Region of the State.