

“Approved waters” means waters meeting established sanitary standards for approved shellfish harvesting, as delineated at N.J.A.C. 7:12.

“Bait clams” means surf clams taken from condemned waters, not for human consumption but only for use as bait.

“Bait clam vessel” means a vessel holding a bait clam vessel license issued pursuant to N.J.A.C. 7:25-12.15.

“Bushel” means 1.88 cubic feet of clams within the shell.

“Cage” means a container with a standard unit of measure containing 60 cubic feet (1,700 liters). The outside dimensions of a standard cage generally are three feet (91 cm) wide, four feet (122 cm) long, and five feet (152 cm) high.

“Commissioner” means the Commissioner of Environmental Protection or his or her designee.

“Condemned waters” means waters not meeting established sanitary standards for approved shellfish harvesting, including waters designated as Prohibited, Specially Restricted, Seasonal Special Restricted and Seasonal, as delineated at N.J.A.C. 7:12.

“Council” means the Atlantic Coast Section and the Delaware Bay Section of the New Jersey Shell Fisheries Council.

“Department” means the Department of Environmental Protection.

“Division” means the Division of Fish, Game and Wildlife in the Department of Environmental Protection.

“Fishing trip” means a departure from port, transit to the fishing grounds, fishing and return to port.

“Land” means to transfer the catch of surf clams from any vessel to any land, pier, wharf, dock, or other man-made structure.

“Licensee” means the holder of a surf clam license or a bait clam vessel license or his or her agent.

“Offload” or “offloading” means to separate physically a cage from a vessel.

“Person” includes the captain, owner or other person responsible for the operation of a vessel.

“Season quota” means the total amount of surf clams, excluding bait clams, that may be harvested by all surf clam license holders from State waters during the annual surf clam season.

“Standing stock” means the amount of the surf clam resource in State waters, measured in bushels as determined by surf clam inventories conducted by the Division.

“Surf clams” means the species *Macra solidissima* also known as *Spisula solidissima*. Unless otherwise specified, the term “surf clams” includes bait clams.

“Surf clam vessel” means a vessel equipped to harvest surf clams by means of a dredge or dredges.

“Vessel,” in addition to its normal meaning, includes the captain, owner or other person responsible for the operation of a vessel.

7:25-12.6 Applicability

(a) The rules in this subchapter shall apply to all taking, attempting to take, harvesting, or dredging of surf clams, or the participation therein, in State waters, except the following:

1. Research, inventory or educational activities involving surf clams conducted under a certificate issued by the Division pursuant to N.J.S.A. 23:4-52 or a permit issued by the Department pursuant to N.J.S.A. 50:2-6.1 for research, inventory or educational purposes;
2. Gathering from beaches of surf clams cast there by the sea, in areas adjacent to approved waters. Such harvest activities are subject to the provisions of N.J.S.A. 50:2-1 through 50:2-5 and 50:4-2, and a clamming license is required therefor as described in N.J.A.C. 7:25-8; and
3. Harvest of surf clams for personal consumption and not for sale from areas in approved waters. Such harvest activities are subject to the provisions of N.J.S.A. 50:2-1 through 50:2-5 and 50:4-2, and a clamming license is required therefor as described in N.J.A.C. 7:25-8.

(b) Compliance with this subchapter shall not exempt any person from compliance with shellfish rules adopted to protect the public health by the Department, under authority of N.J.S.A. 58:24-1 et seq., or by any department of State government or any Federal agency.

7:25-12.7 General control methods

(a) Except as provided at N.J.A.C. 7:25-12.6(a), a person or vessel shall not take, attempt to take, harvest, or dredge for surf clams, or participate therein, in any State waters without first obtaining a surf clam license and harvest tags as described in N.J.A.C. 7:25-12.12 and 7:25-12.14, or bait clam vessel license as described in N.J.A.C. 7:25-12.15.

(b) The general methods by which the Department shall control the harvest of surf clams from State waters are as follows:

1. The captain of a surf clam vessel possessing a surf clam license, or of a licensed bait clam vessel, or his or her designee, shall notify the Department of the intended

fishing location of the vessel and the intended port and time of landing each day it fishes in State waters. The notification shall be made by calling the Division's Marine Enforcement Unit, Bureau of Law Enforcement, at (609) 748-2050, prior to fishing in State waters and prior to change of location. Changes in port of landing or time of landing must be given four hours prior to landing.

2. Any person fishing for surf clams at any time, or who has reported his intention to fish, in State waters shall have the vessel's entire harvest for that fishing trip counted as part of the licensed season allocation of surf clams.

3. A person shall not transfer surf clams from a surf clam vessel or bait clam vessel to any other vessel. All surf clams harvested in State waters shall be landed in this State. Specific hours of landing may be designated by the Division. A person shall not operate a surf clam vessel or bait clam vessel to fish in or land surf clams from both State and Federal waters on a single fishing trip. A surf clam vessel shall not land any quahogs or surf clams taken from Federal waters during the same fishing trip for which the Division's Marine Enforcement Unit, Bureau of Law Enforcement, has received notification of intent to use that vessel in State waters to harvest surf clams.

4. All surf clams shall be landed in their shells and offloaded in cages. All surf clam cages containing surf clams shall be tagged with tags obtained from the Division before offloading. The tags must be used sequentially as issued. Tags shall not be removed until cages are emptied at the processing plant, at which point the removed tags shall be destroyed and discarded.

5. It shall be unlawful to possess an empty cage to which a tag required at (b)4 above is affixed.

Amended by R.1995 d.632, effective December 4, 1995.
See: 27 N.J.R. 3269(a), 27 N.J.R. 4888(a).

7:25-12.8 Season

Except for bait purposes as provided in N.J.A.C. 7:25-12.11, the annual season for taking surf clams in State waters shall begin on October 1 and extend through and including May 31.

7:25-12.9 Prohibited fishing areas

(a) The areas in which surf clams may not be taken are as follows:

1. Those waters enclosed within the following descriptions as delineated by the Division by reference to the National Oceanic and Atmospheric Administration Nautical Chart 12318 (35th, August 11/84) available for inspection at the Nacote Creek Shellfish Office:

i. From the shore on the bay side of Little Beach, latitude 39 degrees 28.3 minutes N, longitude 74 degrees 19.4 minutes W;

ii. Thence seaward 090.5 degrees T one nautical mile to a point, latitude 39 degrees 28.3 minutes N, longitude 74 degrees 17.2 minutes W, LORAN C 9960-X-26958, 9960-Y-43099;

iii. And thence south following the line of the beach one nautical mile offshore to a point, latitude 39 degrees 21.0 minutes N, longitude 74 degrees 23.6 minutes W, LORAN C 9960-X-26983, 9960-Y-43020 (generally marked by a buoy charted as "1" F1 G 4 GONG);

iv. Thence 333 degrees T to latitude 39 degrees 21.5 minutes N, longitude 74 degrees 23.9 minutes W, LORAN C 9960-X-26986, 9960-Y-43026 (generally marked by a buoy charted as R "2" F1 R 2.5s); and

v. Thence 309 degrees T to the light charted as F1 G 4 sec. 29 ft. "7" at the end of the southernmost jetty in Absecon Inlet, latitude 39 degrees 21.8 minutes N, longitude 74 degrees 24.5 minutes W, LORAN C 9960-X-26990, 9960-Y-43029;

2. Those waters enclosed within the following description, as delineated by the Division by reference to the National Oceanic and Atmospheric Administration Nautical Chart 12323 (19th Edition, November 15/80), available for inspection at the Nacote Creek Shellfish Office:

i. The area off Island Beach from a point on the southern boundary of the area closed for shellfishing by N.J.A.C. 7:12 with latitude 39 degrees 53.6 minutes N, Longitude 74 degrees 03.5 minutes W, LORAN C 9960-X-26925, 9960-Y-43364;

ii. Thence south following the line of the beach one nautical mile off shore to a point; latitude 39 degrees 45.9 minutes N, longitude 74 degrees 4.5 minutes W, LORAN C 9960-X-26914, 9960-Y-43283;

iii. Thence to the shore 270 degrees T to the abandoned lighthouse with a latitude 39 degrees 45.8 minutes N, longitude 74 degrees 6.4 minutes W; and

3. Those areas closed to shellfishing by N.J.A.C. 7:12.

Amended by R.1995 d.632, effective December 4, 1995.
See: 27 N.J.R. 3269(a), 27 N.J.R. 4888(a).

7:25-12.10 Harvest limitations; surf clam harvest quota

(a) The Commissioner, with the advice of Council, shall establish annually a season quota of between 250,000 and 700,000 bushels of surf clams. The season quota shall be set at approximately 10 percent of the State's estimated standing stock of surf clams.

(b) By September 15 of each year the Department shall send notice to all license holders by first class mail, and file notice for publication in the New Jersey Register, of the season quota for the upcoming surf clam harvest season.

(c) If the Department does not give notice of the season quota for the surf clam harvest season pursuant to (b) above, the season quota for the upcoming season shall be 500,000 bushels.

(d) Each surf clam license allocation shall be 1/57th of the season quota.

Public Notice: 1993-94 harvest quota set at 600,000 bushels.
See: 25 N.J.R. 4795(c).
Public Notice: 1994-95 harvest quota set at 600,000 bushels.
See: 26 N.J.R. 4218(a).
Public Notice: Increase in surf clam harvest quota.
See: 27 N.J.R. 4011(c).
Public Notice: 1997-98 harvest quota set at 600,000 bushels.
See: 29 N.J.R. 5334(b).

7:25-12.11 Bait clams

(a) A person or vessel shall not take, attempt to take, harvest, or dredge for bait clams, or participate therein, in any State waters without first obtaining:

1. A bait clam vessel license as provided for at N.J.A.C. 7:25-12.15; and
2. A special permit for bait clam harvest from the Division of Water Resources, as provided for at N.J.A.C. 7:12.

(b) Bait clam vessel licensees shall harvest bait clams only from condemned waters, as delineated at N.J.A.C. 7:12 and illustrated in the current Shellfish Growing Water Classification Charts, but not from condemned waters located within the prohibited fishing areas delineated at N.J.A.C. 7:25-12.9(a)1 and 2.

(c) Bait clam vessel licensees shall report fishing area daily as provided at N.J.A.C. 7:25-12.7(b)1 and file weekly harvest reports as provided at N.J.A.C. 7:25-12.13.

(d) The season for taking bait clams shall extend throughout the year.

(e) The time for taking bait clams shall be as follows:

1. October 1 through May 31: Daily, between 6:00 A.M. and 6:00 P.M. Eastern Standard Time; and
2. June 1 through September 30: Monday through Saturday, between one half-hour before sunrise (Trenton Time) and 4:00 Eastern Standard Time.

(f) A weekly bait clam vessel quota may be set by the Commissioner with notice by mail to all license holders.

(g) A person shall not operate the identical vessel to take surf clams in the waters of this State for bait purposes and for human consumption on the same day.

Adopted Concurrent Proposal, R.1991 d.173, effective April 1, 1991.
See: 23 N.J.R. 223(a), 23 N.J.R. 1001(a).

Provisions of new rule R.1991 d.49 readopted with text added to (b) "as delineated at N.J.A.C. 7:12 and illustrated in the current Shellfish Growing Water Classification Charts".

7:25-12.12 Landing fees, tags, transfers of tags

(a) Holders of surf clam license shall pay a landing fee of 15 cents (\$0.15) for each bushel landed by the purchase of tags to be attached to each 32 bushel cage (\$4.80 for each tag). Tags will be available from the Division's Nacote Creek Shellfish Office, Port Republic, New Jersey, in batches of 50 or more tags. Tags provided under this section shall be valid only for the season for which issued.

(b) Bait clam vessel licensees shall pay a landing fee of 15 cents (\$0.15) for each bushel of bait clams harvested from the waters of this State at the time of providing to the Division their weekly surf clam harvest report as required at N.J.A.C. 7:25-12.13.

(c) A licensee may transfer part or all of his or her assigned surf clam tags to another licensee, provided that the other licensee meets all statutory and regulatory criteria for licensing, and receives the Department's approval of a notarized statement of transferor's intent to transfer such tags. The statement of intent shall be signed by the transferor, and shall include the respective sequential surf clam tag numbers. Each license holder shall be limited to a maximum of three tag transfer actions during the term of the license. A transfer which would result in an allocation of tags to a single vessel greater than that allowed under three licenses is prohibited and will not be approved by the Department.

(d) For the 1990-91 season, any surf clams harvested during the season prior to adoption of these new rules shall be deducted from the licensee's seasonal allocation under these new rules.

7:25-12.13 Weekly reporting

(a) All surf clam licensees and bait clam vessel licensees shall provide to the Division weekly surf clam harvest reports on forms supplied by the Division. Weekly reports shall include the following:

1. The harvest vessel name and New Jersey surf clam license or bait clam vessel license number;
2. The dates fished and, for each date fished, the fishing time in hours, the numbers of bushels harvested and the number of the New Jersey Inshore Surf Clam Harvest Zone fished;
3. For each surf clam or bait clam landing, the port at which the clams were landed;
4. The name and signature of the captain of the surf clam vessel or bait clam vessel, or the captain's agent, attesting to the validity of the report (see N.J.A.C. 7:25-12.18); and
5. Sequential listing of surf clam tags used.

(b) The week for surf clam and bait clam harvest reporting purposes shall begin on Sunday and run through the following Saturday.

(c) Weekly surf clam bait harvest reports shall be mailed, together with a check or money order for the proper amount of the landing fee, as determined pursuant to N.J.A.C. 7:25-12.12, made payable to the "Treasurer, State of New Jersey," to:

Nacote Creek Shellfish Office
New Jersey Department of Environmental Protection
PO Box 418, Route 9
Port Republic, New Jersey 08241

(d) Weekly surf clam harvest and bait clam harvest reports shall be submitted to the Division by Saturday, 6:00 P.M. of the week following the week fished.

(e) If a surf clam vessel or bait clam vessel does not fish in State waters during a given week, the licensee shall provide a weekly report to that effect. If a surf clam licensee has harvested his or her total season allocation, a final report shall be filed to that effect.

(f) The Division will furnish total State surf clam harvest information to all licensees on an annual basis.

(g) Except for the total State surf clam harvest in bushels, information provided on weekly surf clam and bait clam harvest reports is confidential and shall not be available for public inspection.

7:25-12.14 Issuance of surf clam licenses

(a) An applicant for a surf clam license or licenses shall be the bona fide owner of a surf clam vessel or vessels and a resident of New Jersey.

(b) The holder of a valid 1990 New Jersey surf clam vessel license shall be issued, upon proper application, a 1991 season surf clam license, good until June 30, 1992.

(c) No more than three surf clam licenses may be fished by a single license holder on a single surf clam vessel, to be identified at the time of application. The top and sides of the surf clam vessel shall be marked with the New Jersey surf clam license number or numbers in markings at least 18 inches in size, clearly legible and in good repair with no obstruction.

(d) Application for a surf clam license shall be made in person by the vessel owner or agent of the owner to:

Nacote Creek Shellfish Office
Division of Fish, Game and Wildlife
New Jersey Department of Environmental Protection
PO Box 418, Route 9
Port Republic, New Jersey 08241
(609) 748-2040

(e) The license year for surf clam licenses shall be July 1 to June 30.

(f) A licensee may transfer a surf clam license to a new licensee, provided that the new licensee meets all statutory and regulatory criteria for licensing (including, without limitation, application for a license under (d) above and payment of the fee prohibited in N.J.A.C. 7:25-12.16(a) below), and receives the Department's approval of a notarized statement of transferor's intent to transfer such tags. The statement of intent shall be signed by the transferor. A license may be transferred no more than three times during its term.

(g) A person shall not transfer a surf clam license or surf clam tags while an enforcement action by the Department for violation of this subchapter is pending. An enforcement action is pending against a license holder from the time the Department issues a Summons or Notice of Violation to the license holder until such time as a final legal disposition of the enforcement action has been rendered. If the final legal disposition of the enforcement action requires that a monetary penalty be paid or orders a suspension of the surf clam license, the surf clam license or surf clam tags shall not be transferred until the monetary penalty has been paid or the suspension time has run, whichever is later.

Amended by R.1995 d.632, effective December 4, 1995.
See: 27 N.J.R. 3269(a), 27 N.J.R. 4888(a).

7:25-12.15 Issuance of bait clam vessel licenses

(a) An applicant for a bait clam vessel license shall be the bona fide owner of the bait clam vessel and a resident of New Jersey, as required by N.J.S.A. 50:2-6.1. Applicants shall submit proof of vessel ownership and proof of residency as part of the bait clam vessel license application.

(b) Application for a bait clam vessel license shall be made in person by the bait clam vessel owner or agent of the vessel owner to:

Nacote Creek Shellfish Office
Division of Fish, Game, Wildlife
New Jersey Department of Environmental Protection
PO Box 418, Route 9
Port Republic, New Jersey 08241

(c) The license year for bait clam vessel license shall be July 1 to June 30.

(d) The top and sides of the bait clam vessel shall be marked with the New Jersey bait clam vessel license number in markings at least 18 inches in size, clearly legible and in good repair and with no visual obstruction.

Amended by R.1995 d.632, effective December 4, 1995.
See: 27 N.J.R. 3269(a), 27 N.J.R. 4888(a).