

CHAPTER 338

AN ACT concerning shellfisheries, amending and repealing various parts of the statutory law, and supplementing Title 50 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 8 of P.L.1997, c.236 (C.4:27-8) is amended to read as follows:

C.4:27-8 Policies for use of aquaculture leases.

8. Within 180 days after the effective date of P.L.1997, c.236 (C.4:27-1 et al.), the Department of Environmental Protection and the Department of Agriculture, in consultation with the Aquaculture Advisory Council, the Shellfisheries Council and the Pinelands Commission as it affects the pinelands area designated pursuant to section 10 of P.L.1979, c.111 (C.13:18A-11), jointly shall establish, according to rules and regulations adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), appropriate policies for the use of aquaculture leases in waters of the State and for lands underneath waters of the State, including but not limited to lease specifications, fees, royalty payments, and assignability and termination of lease agreements. The policies shall provide for an expeditious procedure for finalizing lease agreements. Lease agreements shall convey a necessary degree of exclusivity to minimize the risks to the aquaculturists caused by pollution, vandalism, theft, and other forms of encroachment, while protecting common use rights of the public, and assuring the integrity and protection of the natural wild stocks and their habitat.

2. Section 4 of P.L.1979, c.199 (C.23:2B-4) is amended to read as follows:

C.23:2B-4 Marine Fisheries Council.

4. There is hereby created in the department a Marine Fisheries Council, which shall consist of 11 members, nine of whom shall be appointed by the Governor, with the advice and consent of the Senate, of whom four shall represent and be knowledgeable of the interests of sports fishermen, two shall be active commercial fin fishermen, one shall be an active fish processor, and two shall represent the general public; the other two members shall be the chairmen of the two sections of the Shellfisheries Council.

Of the nine members first to be appointed by the Governor, three shall be appointed for a term of one year, three for a term of two years, and three for a term of three years. Thereafter, all appointments shall be made for terms of three years. All appointed members shall serve after the expiration of their terms until their respective successors are appointed and shall qualify, and any vacancy occurring in the appointed membership of the council, by expiration of term or otherwise, shall be filled in the same manner as the original appointment for the unexpired term only, notwithstanding that the previous incumbent may have held over and continued in office as aforesaid. The Governor may remove any member of the council for cause upon notice and opportunity to be heard.

Members of the council shall serve without compensation, but shall be reimbursed for expenses actually incurred in attending meetings of the council and in the performance of their duties as members thereof.

The Governor shall appoint a chairman, from the citizen members of the council, who shall serve at the Governor's pleasure. Six members of the council shall constitute a quorum to transact its business.

3. Section 63 of P.L.1979, c.199 (C.23:2B-13) is amended to read as follows:

C.23:2B-13 Review of previously adopted rules and regulations.

63. Within one year after the effective date of P.L.1979, c.199 (C.23:2B-1 et al.), the commissioner shall review all rules and regulations previously adopted pursuant to the provisions of Title 50 of the Revised Statutes for conformance to the revisions to that Title contained herein and shall, after consultation with the Shellfisheries Council, amend or repeal any rules and regulations which are not in conformance herewith.

4. Section 8 of P.L.1996, c.112 (C.23:3-12.2) is amended to read as follows:

C.23:3-12.2 "Oyster Resource Development Account."

8. a. There is established within the "hunters' and anglers' license fund," created pursuant to the provisions of R.S.23:3-11 and R.S.23:3-12, a separate and dedicated account to be known as the "Oyster Resource Development Account." This account shall be credited with all revenues received from oysters landed from the Delaware River, Delaware Bay and their tributaries, including, but not limited to, all fees collected pursuant to R.S.50:1-18, R.S.50:3-2, and section 4 of P.L.1945, c.39 (C.50:3-20.13), and as provided in subsection c. of this section. The moneys in the account shall be allocated to the Division of Fish and Wildlife within the Department of Environmental Protection and shall be disbursed only for the enhancement and management of the oyster resource in the Delaware Bay in the amounts and manner prescribed by the commissioner, after consultation with the Delaware Bay Section of the Shellfisheries Council.

b. The Department of Environmental Protection shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to administer the "Oyster Resource Development Account," established pursuant to subsection a. of this section.

c. Upon the adoption of the rules and regulations pursuant to subsection b. of this section, the Department of Environmental Protection shall repeal subchapter 4 of chapter 25A of Title 7 of the New Jersey Administrative Code establishing the "oyster cultch program" and the "Oyster Cultch Fund." The balance of the moneys remaining in the "Oyster Cultch Fund" upon the date of the repeal of the rules and regulations establishing the fund shall be deposited in the "Oyster Resource Development Account," established pursuant to subsection a. of this section.

5. The caption to chapter 1 of Title 50 of the Revised Statutes is amended to read as follows:

Caption amended.

Chapter 1. SHELLFISHERIES – POWERS AND DUTIES OF DEPARTMENT, SHELLFISHERIES COUNCIL, LEASING, AND PLANTING

6. R.S.50:1-5 is amended to read as follows:

Control, direction of shellfish industry, aquaculture; terms defined.

50:1-5. a. The Commissioner of Environmental Protection shall have full control and direction of the shellfish industry and resource and of the protection of shellfish throughout the entire State, subject to the provisions of this Title. The commissioner shall adopt,

pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary for the preservation and improvement of the shellfish industry and resource of the State, after consultation with the Shellfisheries Council and subject to the disapproval, as hereinbefore provided, of the Marine Fisheries Council. With respect to aquaculture, the commissioner, in consultation with the Secretary of Agriculture and the Shellfisheries Council, shall establish appropriate policies for the use of aquaculture leases in waters of the State and for lands underneath waters of the State, including but not limited to lease specifications, fees, and assignability and termination of lease agreements. The Department of Health and Senior Services, pursuant to R.S.24:2-1, shall regulate the safety of shellfish originating within the growing waters of the State, within interstate commerce and from international sources.

b. For purposes of this Title:

"Commissioner" means the Commissioner of Environmental Protection.

"Council" means the Shellfisheries Council created pursuant to R.S.50:1-18.

"Department" means the Department of Environmental Protection.

"Shellfish" means any species of benthic mollusks, except for conchs (*Busycon carica*, *Busycon contrarium* and *Busycotypus canaliculatum*), the harvest of which is regulated pursuant to section 6 of P.L.1979, c.199 (C.23:2B-6), section 2 of P.L.1941, c.211 (C.23:5-24.2) and the rules and regulations adopted pursuant thereto, and shall include, but not be limited to, hard clams (*Mercenaria mercenaria*), soft clams (*Mya arenaria*), surf clams (*Spisula solidissima*) and oysters (*Crassostrea virginica*).

7. The caption to article 4 of chapter 1 of Title 50 of the Revised Statutes is amended to read as follows:

Caption amended.

Article 4. SHELLFISHERIES COUNCIL

8. R.S.50:1-18 is amended to read as follows:

Shellfisheries Council, membership, duties, division into sections.

50:1-18. a. The Shellfisheries Council shall be composed of 10 members, each of whom shall be a resident of the counties of Atlantic, Burlington, Cape May, Cumberland, Monmouth, Ocean, or Salem.

Each member shall be a licensed and practicing shellfisherman and shall be chosen with due regard to the person's knowledge of and interest in the culture or harvesting of shellfish, the shellfish industry and the conservation and management of shellfish.

Each member of the council shall be appointed by the Governor, with the advice and consent of the Senate, for a term of four years and shall serve until a successor has been appointed and has qualified.

Any vacancies in the membership of the council occurring other than by expiration of term shall be filled by the Governor, with the advice and consent of the Senate, for the unexpired term only. Any member of the council may be removed from office by the Governor, for cause, upon notice and opportunity to be heard.

The members of the council shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

b. The council shall, subject to the approval of the commissioner, formulate comprehensive policies for the preservation and improvement of the shellfish industry and

resource of the State. The council shall also: (1) consult with and advise the commissioner and the Marine Fisheries Council with respect to the implementation of the shellfisheries program; (2) study the activities of the shellfisheries program and hold hearings with respect thereto as it may deem necessary or desirable; and (3) initiate, by resolution of the council, proposed rules and regulations concerning shellfish to the commissioner.

c. No lease of any of the lands of the State under the tidal waters thereof, to be exclusively used and enjoyed by the lessee for the planting and cultivating of shellfish, shall hereafter be allowed except when approved by a majority of the appropriate section of the council; and no such lease shall hereafter in any case be allowed except when approved and signed by the commissioner.

d. The council shall be divided into two sections, one to be known as the "Delaware Bay Section" and the other to be known as the "Atlantic Coast Section." The Delaware Bay Section shall consist of five members from the counties of Cape May, Cumberland, and Salem, with three members residing in Cumberland County and the remaining two members residing in the counties of Cape May or Salem. The Atlantic Coast Section shall consist of five members from the counties of Atlantic, Burlington, Cape May, Ocean, and Monmouth.

Except as provided in subsection e. of this section, the Delaware Bay Section shall, subject to the approval of the commissioner, exercise all the powers and perform all the duties of the council in matters relating to the shellfish industry in the tidal waters of the Delaware River, Delaware Bay and their tributaries.

The Atlantic Coast Section shall, subject to the approval of the commissioner, exercise all the powers and perform all the duties of the council in matters relating to the shellfish industry in all of the tidal waters of the State except in the tidal waters of the Delaware River, Delaware Bay and their tributaries.

Each section of the council shall annually elect a chairman and a vice-chairman of the council. If the chairman is absent, then the vice-chairman shall exercise the powers and perform the duties of the chairman.

e. The commissioner, in consultation with the Delaware Bay Section of the Shellfisheries Council, shall fix fees for all oysters harvested from the natural seed beds, Areas 1, 2 and 3 and those areas defined in R.S.50:3-14 within the Delaware River, Delaware Bay and their tributaries. These fees shall be collected by and allocated to the Division of Fish and Wildlife and shall be deposited in the "Oyster Resource Development Account," established pursuant to section 8 of P.L.1996, c.112 (C.23:3-12.2).

9. R.S.50:1-22 is amended to read as follows:

Offices; locations; records of leases and licenses.

50:1-22. The commissioner shall establish and maintain several offices located at places convenient to persons engaged in the shellfish industry. The records of all leases and licenses issued shall be kept therein. One office shall be located in the area served by the Atlantic Coast Section and one office shall be located in the area served by the Delaware Bay Section of the Shellfisheries Council.

10. R.S.50:1-23 is amended to read as follows:

Power of lease; lands subject to lease.

50:1-23. The Shellfisheries Council may lease to applicants therefor any of the lands of the State under the tidal waters thereof, to be exclusively used and enjoyed by each such

lessee for the planting and cultivating of shellfish; except that no lands shall be leased above the southwest line in the Delaware Bay, as defined in R.S.50:3-11, except in Section E, described in subsection a. of this section. Nor shall any lands be leased in any creek tributary to Delaware Bay, nor any lands under the waters of Delaware Bay in the sections known as Areas, 1, 2 and 3, described in subsection b. of this section. However, Area 1 described in section 3 of P.L.1966, c.52 (C.50:3-16.3) may be leased and regulated for aquaculture practices under the authority of the "New Jersey Aquaculture Development Act," P.L.1997, c.236 (C.4:27-1 et al.). In addition, the department, in consultation with the council, may establish aquaculture development zones for approved aquaculture practices in specific creeks or tributaries of the Delaware Bay.

On the Atlantic coast, no additional lands shall be leased at the mouth of the Tuckahoe River and the Great Egg Harbor River, nor the graveling beds at the mouth of the Mullica River, Parker's beds in Parker's Cove, Forked River beds, Cedar Creek beds and Sloop Creek beds in Barnegat Bay, nor any lands under the waters of the Mullica River above a line extending in a westerly direction from the south end of Deep Point; provided, however, that leases may be granted for lands heretofore leased in that area in the Mullica River, and except that no lands which lie under the waters of the Navesink River or the Shrewsbury River, shall be leased for the planting and cultivating of shellfish.

The council may grant, subject to the approval of the commissioner, leases of new ground to educational institutions for the purpose of research, education, or both. The department may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations governing those leases, including, but not limited to, criteria for acquisition, utilization, and renewal.

a. For the purposes of this section, Section E in Delaware Bay shall consist of all of the area within the boundaries described herein:

Beginning at a point (X=80,906.06) (Y=44,868.54) said point being Channel Marker QR "32" and corner #1 of said section and running thence N 62° 00' 30.69" E 2,015.32 meters to corner #2 (X=82,685.62) (Y=45,814.42); thence S 56° 26' 20.6587" E 10,180.43 meters to corner #3 being also corner #1 lot 530 section D leased oyster ground lot (X=91,168.96) (Y=40,186.43) located on or near the southwest line; thence along the southwest line S 55° 22' 47.4875" W 5,858.91 meters to Cross Ledge Shoal Old Lighthouse foundation being corner #4 of the section (X=86,347.45) (Y=36,857.80); thence N 15° 55' 56.8215" W 5,407.14 meters to corner #5 being also GR "WR" buoy marking a wreck in the bay (X=84,863.17) (Y=42,057.23); thence N 42° 36' 15.5936" W 1,078.45 meters to a point in Delaware Bay being corner #6 of section E (X=84,133.13) (Y=42,851.02); thence S 70° 23' 47.4333" W 2,169.15 meters to corner #7 being a point on the east side of the Main Ship Channel in Delaware Bay (X=82,089.71) (Y=42,123.25); thence N 23° 19' 25.1298" W 2,989.59 meters to corner #1 the place of beginning.

b. Areas 1, 2, and 3 in Delaware Bay shall consist of all area within the boundaries described herein:

Southwesterly of a line beginning at a point (X=114225.30) (Y=26636.70) on the shore of Delaware Bay in Cape May County, said point being about 200 meters south-southwest of Rutgers Cape Shore Laboratory, and running thence N 67° 31' 48.1592" W 6439.36 meters to a corner (X=108274.82) (Y=29097.81) said corner being on the line running from Dennis Creek Rear Range Light to Brandywine Lighthouse.

11. R.S.50:1-24 is amended to read as follows:
Exclusive power to lease.

50:1-24. The power granted by this Title to the council, subject to the provisions of R.S.50:1-18, to lease lands under the tidal waters of this State for the planting and culture of shellfish is exclusive, and no other State agency may, in the name of the State or otherwise, give, grant or convey to any person the exclusive right to plant or take shellfish from any of those waters; and no grant or lease of lands under tidewater, whereon there are natural oyster beds, shall be made by any other State agency except for the purpose of building wharves, bulkheads or piers.

12. R.S.50:1-25 is amended to read as follows:

Residency requirement for leases.

50:1-25. No lease shall be granted to any person who is not at the time of granting the lease legally domiciled or incorporated in this State.

13. R.S.50:1-27 is amended to read as follows:

Fixing term, rental and acreage.

50:1-27. The council, with the approval of the commissioner, shall fix the term for which leases may be granted, the rental to be paid, the maximum size of any single ground to be leased, and the total acreage which may be leased to any person or persons.

14. R.S.50:1-28 is amended to read as follows:

Measuring and mapping of leased lands.

50:1-28. The commissioner shall cause the leased lands to be measured, and the metes and bounds thereof ascertained and recorded so that the limits thereof may be accurately fixed and easily located. The official survey base shall be the "New Jersey system of plane coordinates" as defined in article 2 of chapter 3 of Title 51 of the Revised Statutes. The department shall survey parcels of bottom not leased at the time of application.

The commissioner shall cause the leased lands to be mapped, and the maps to be filed in the office of the department.

The expense of surveying, measuring, locating and mapping any ground or grounds shall be paid by the applicant therefor before the applicant shall be entitled to a lease or leases for the ground or grounds.

15. R.S.50:1-29 is amended to read as follows:

Recording of leases and assignments thereof.

50:1-29. The commissioner shall cause leases, and assignments and transfers thereof, to be recorded in books kept in the offices of the department. No assignment or transfer of any ground or lease therefor shall be valid unless approved by the commissioner and the council and forthwith recorded in the office of the department.

16. R.S.50:1-30 is amended to read as follows:

Lease of condemned lands.

50:1-30. The council, with the approval of the commissioner, may lease to applicants therefor any of the lands of this State that have been or may hereafter be condemned pursuant to the provisions of chapter 24 of Title 58 of the Revised Statutes.

17. R.S.50:1-31 is amended to read as follows:

Removal of shellfish from leased condemned lands.

50:1-31. The commissioner may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations for the removal and distribution of shellfish from lands leased under R.S.50:1-30, as in the commissioner's judgment will be in accord with the object of the condemnation. The rules and regulations shall not be inconsistent with those adopted pursuant to the provisions of chapter 24 of Title 58 of the Revised Statutes.

18. R.S.50:1-33 is amended to read as follows:

Fishing rights preserved; lessees' remedies.

50:1-33. Nothing contained in this Title shall be construed to prevent the catching and taking of free swimming fish from the tidal waters of this State in any lawful manner. Nothing in this section shall be construed to prevent or prohibit lessees from pursuing either criminal or civil actions, or both, that may be available for damage to aquaculture gear and aquatic livestock on shellfish leases.

19. The caption to article 6 of chapter 1 of Title 50 of the Revised Statutes is amended to read as follows:

Caption amended.

Article 6. PLANTING OF FOREIGN SHELLFISH

20. R.S.50:1-34 is amended to read as follows:

Permission to plant, lodge foreign shellfish; rules, regulations.

50:1-34. a. No shellfish, native to, or brought directly or indirectly from, any foreign country or any other state, shall be planted or lodged in the waters of this State without written permission issued by the commissioner, after notice to the council. Application for such permission shall be made in writing, and shall state:

- (1) The species of shellfish;
- (2) The location from which they were, or are to be, immediately taken;
- (3) The source from which they were originally obtained; and
- (4) The geographic area to which the species or strain is native.

The same information shall be shown upon a tag attached to or upon the billing accompanying each shipment upon its arrival in this State.

b. The department shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and in accordance with the provisions of the "New Jersey Aquaculture Development Act," P.L.1997, c.236 (C.4:27-1 et al.), rules and regulations governing the importation and transportation of the products of commercial aquaculture.

21. R.S.50:1-35 is amended to read as follows:

Permission for planting, lodging foreign shellfish.

50:1-35. The commissioner may issue such permission after due inspection and examination of the nature, species, quantity, source, location of proposed planting or lodging, and the condition of the shellfish and after the commissioner's determination that the same will not be detrimental to the native shellfish or to the shellfish industry of this State.

The permission shall specify the nature, species, quantity and proposed location of planting or lodgment of the shellfish.

22. R.S.50:1-36 is amended to read as follows:

Costs of inspection.

50:1-36. The commissioner shall charge, and collect in advance, for the issuance of such permission, such sum of money as may be necessary to defray the cost of the inspection, examination and certification.

23. The caption to article 1 of chapter 2 of Title 50 of the Revised Statutes is amended to read as follows:

Caption amended.

Article 1. LICENSE FOR TAKING SHELLFISH

24. R.S.50:2-1 is amended to read as follows:

License required for catching, taking shellfish, conditions.

50:2-1. No person shall catch or take shellfish from any of the natural grounds in the waters of this State, without first obtaining a license from the commissioner. Such licenses shall grant the privilege of taking shellfish upon any natural ground of this State in waters classified as "Approved" or "Seasonally Approved," as defined in rules and regulations adopted by the department pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), except such as may be leased by the council.

Any person whose shellfish license or harvesting privileges have been revoked or suspended in another state shall not be eligible for any New Jersey shellfish license during the period of revocation or suspension in the other state.

This section shall not preclude the department from establishing licenses for the harvest of specific shellfish from specific areas by specific means.

25. R.S.50:2-2 is amended to read as follows:

Recreational, commercial shellfish licenses; aquatic farmer license.

50:2-2. The licenses required for the various categories of harvesting, collecting, or culture of shellfish shall be as follows:

a. Recreational shellfish license. No resident's recreational shellfish license shall be granted to any applicant who does not present satisfactory evidence that the person is legally domiciled in this State and pay the license fee required pursuant to R.S.50:2-3. A nonresident's recreational shellfish license shall be effective only in the months of June, July,

August, and September in any calendar year and shall not be granted to a nonresident of this State without the payment of the license fee required pursuant to R.S.50:2-3.

No holder of any recreational shellfish license may take more than 150 shellfish per day or shall sell or offer for sale shellfish taken under the license and any such sale or offer for sale shall constitute ground for the revocation of the license. No person shall take or catch more than 150 shellfish per day or sell any shellfish unless the person is a holder of a commercial shellfish license.

b. Commercial shellfish license. No resident's commercial shellfish license shall be granted to any applicant who does not present satisfactory evidence that the person is legally domiciled or incorporated in this State and pay the license fee required pursuant to R.S.50:2-3. No nonresident's commercial shellfish license shall be granted to any applicant who does not pay the license fee required pursuant to R.S.50:2-3.

c. Aquatic farmer license. No aquatic farmer license shall be granted to any applicant except as provided pursuant to the "New Jersey Aquaculture Development Act," P.L.1997, c.236 (C.4:27-1 et al.) and any rules or regulations adopted pursuant thereto.

26. R.S.50:2-3 is amended to read as follows:

License fees.

50:2-3. The license fee shall be fixed by the commissioner, with the approval of the council, at not less than \$10 or more than \$20 for a resident's recreational shellfish license, at not less than \$20 or more than \$40 for a nonresident's recreational shellfish license, at not less than \$50 or more than \$100 for a resident's commercial shellfish license, and at not less than \$250 or more than \$500 for a nonresident's commercial shellfish license. No fee shall be charged for a recreational shellfish license to a person who is 62 or more years of age, provided the person is a resident of this State. A juvenile recreational shellfish license shall be available for \$2 for resident or nonresident persons under 14 years of age.

27. Section 3 of P.L.1988, c.35 (C.50:2-3.1) is amended to read as follows:

C.50:2-3.1 "Shellfisheries Law Enforcement Fund."

3. The "Shellfisheries Law Enforcement Fund" is established in the Department of Environmental Protection. All shellfish license fees collected pursuant to R.S.50:2-3 shall be deposited in the fund. Moneys in the fund shall be allocated by the Commissioner of Environmental Protection to the Division of Fish and Wildlife to enforce the laws necessary for the protection of the shellfish resources of the State, to enforce the prohibition of taking shellfish from any shellfish bed condemned by the department pursuant to section 2 of P.L.1979, c.321 (C.58:24-2), to increase the effectiveness of the relay and depuration programs, and to enhance the productivity of the shellfish beds in the State.

28. R.S.50:2-4 is amended to read as follows:

Terms, requisites, record of license.

50:2-4. Each license shall be for the term of one year from January 1 of the year of issue, and shall be granted by the commissioner. Each license shall be numbered and shall state the name and residence of the licensee, and a record thereof shall be kept by the commissioner.

29. R.S.50:2-5 is amended to read as follows:

Accessibility, inspection of license.

50:2-5. Each licensee shall have the license readily accessible and shall exhibit it immediately for inspection to any officer or employee of the department or other person requesting to see the license.

30. Section 1 of P.L.1950, c.310 (C.50:2-6.1) is amended to read as follows:

C.50:2-6.1 License required for taking surf clams; exceptions, regulations.

1. No person shall take, harvest or dredge for surf clams (*Spisula solidissima*) from any waters of this State without first obtaining a surf clam license from the commissioner, except that the holder of a recreational shellfish license may harvest up to 150 surf clams per day from waters classified as "Approved," as defined in rules and regulations adopted by the department pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), with hand implements only. The commissioner may issue licenses for the harvesting of surf clams within the waters of this State. The license shall be issued on a seasonal basis pursuant to rules and regulations adopted by the commissioner.

Such licenses shall grant the privilege of gathering surf clams by dredging, but only in the Atlantic Ocean, but not in the Delaware Bay north and west of the COLREGS demarcation line which runs from Cape May Point Lighthouse in Cape May, New Jersey to Harbor of Refuge Lighthouse at Cape Henlopen, Delaware or in the Sandy Hook Bay west of a line from the west point of Sandy Hook to Roamer Shoal Lighthouse. No boat or vessel shall be licensed under P.L.1950, c.310 (C.50:2-6.1 et seq.) unless its bona fide owner is an individual or entity legally domiciled or incorporated in this State.

The commissioner may adopt rules and regulations regarding the issuance procedures of such licenses.

The commissioner may issue permits for surf clam research, inventory and educational projects. Nothing in this section shall be construed to limit the activities of those projects.

31. Section 2 of P.L.1950, c.310 (C.50:2-6.2) is amended to read as follows:

C.50:2-6.2 Dredging license, limitations; seasons.

2. Any such licensed dredging operation shall be limited to the use of dredges that shall conform to any limits established by the commissioner by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Notwithstanding any other provision of law, the commissioner may adopt rules or regulations fixing the hours during which dredging will be permitted. No such dredging operation shall be permitted at any time between June 1 and September 30 in each year, unless changed by emergency order or regulation. Unless otherwise provided by rule or regulation, all surf clams harvested within the waters of New Jersey (three nautical miles) shall not be taken into another state or the waters thereof until the clams have been first landed in New Jersey. It shall be prima facie evidence of a violation of this section if a harvest vessel is observed by radar or other means leaving the waters of New Jersey and entering the waters of another state any time prior to landing.

32. Section 3 of P.L.1950, c.310 (C.50:2-6.3) is amended to read as follows:

C.50:2-6.3 Rules, regulations; fee.

3. The Commissioner of Environmental Protection with the advice of the Shellfisheries Council shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations and amend or repeal such rules and regulations from time to time as required for the conservation, protection, management, and improvement of the surf clam resource and industry. These rules and regulations may include the imposition and collection of a per bushel fee for all surf clams harvested within the waters of this State, provided that the fee shall be in an amount not less than \$0.125 nor more than \$0.25 per bushel. Emergency rules or regulations may be adopted where immediate danger exists to the resource or industry.

The surf clam license fee shall be fixed pursuant to rule or regulation in an amount not less than \$600 or more than \$1,000 per license issued to an individual or entity legally domiciled or incorporated in New Jersey. The surf clam bait license fee shall be fixed pursuant to rule or regulation in an amount not less than \$100 or more than \$200.

33. R.S.50:2-7 is amended to read as follows:

Culling immediately after emptying tongs or dredges.

50:2-7. All oysters, oyster shells and other material dredged, tonged or in any manner raised or taken from any of the beds and grounds above what is known as the southwest line in Delaware Bay, except in that area known as Section "E" as defined in R.S.50:1-23, or from any natural oyster bed or ground, shell bed or reef, where oysters naturally spawn and grow under the tidal waters of the State, shall be culled as soon as they are emptied out of the tongs or dredges on the culling board, conveyor, culling device, or deck of the boat or vessel employed for the purpose, and before they are shoveled back from the culling board or portion of the deck used for emptying the tongs or dredges.

C.50:2-7.1 Rules, regulations.

34. The department, in consultation with the Shellfisheries Council, may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations regarding the use of leased bottom, including the removal of shell.

35. R.S.50:2-8 is amended to read as follows:

Percentage of shells; throwing back culled material.

50:2-8. Such culling shall be so close that three bushels of oysters, oyster shells and other material taken from any part of a boat or vessel, after having been shoveled back from the culling board, conveyor, culling device or that part of the boat or vessel used for emptying the tongs and dredges, shall not contain more than 15% of shells and other material.

All shells and other material, except oysters and clams, shall be immediately thrown back upon the beds or grounds from which they were taken.

36. R.S.50:2-9 is amended to read as follows:

Revocation of licenses on refusal to permit examination.

50:2-9. When the person in charge of any boat or vessel licensed under the provisions of this Title, or any person holding a tonger's license, is hailed or signaled by any officer or other representative of the department and refuses to stop and permit the officers or representatives to board the boat, vessel or other craft and examine the oysters, oyster shells

and other material thereon or if having permitted the officers or representatives to board, and a violation of R.S.50:2-7 or R.S.50:2-8 having been found, refuses to comply with an order to recull the oysters and oyster shells or immediately throw them upon the beds or grounds from which they were taken, the commissioner, in addition to the penalties provided in section 73 of P.L.1979, c.199 (C.23:2B-14), may revoke the license of the boat or vessel and the license of the tonger and the department may seize and secure the boat, vessel and equipment. The commissioner shall immediately thereafter give notice thereof to the Superior Court which shall summarily hear and determine whether there was a violation of this section, and if it does so determine, it may direct the confiscation and forfeiture of the vessel, boat and equipment for the use of the department. The commissioner may dispose of the confiscated and forfeited property at the commissioner's discretion.

37. R.S.50:2-10 is amended to read as follows:

Taking shellfish with power boat.

50:2-10. No boat, or vessel, propelled wholly or in part by steam, naphtha, gasoline, electricity or any other mechanical motive power, shall engage in the catching or taking of shellfish from any of the natural beds, under the tidal waters of this State, while so mechanically propelled, except as otherwise specifically provided in R.S.50:3-6 and R.S.50:4-2.

38. R.S.50:2-10.1 is amended to read as follows:

Taking clams with power boats; permits.

50:2-10.1. No person shall use or employ any boat or other vessel propelled wholly or in part by steam, naphtha, gasoline, electricity or any other mechanical motive power, or any motor driven apparatus, for the purpose of catching or taking of clams from any of the waters of this State, whereby the soil or bottom on or in which the clams are found is agitated or disturbed by the propeller wheel or wheels of the boat or vessel or by any other motor or mechanically driven apparatus thereon for the purpose of catching or taking clams as aforesaid, except by permit issued by the department with the approval of the council for taking clams from the waters of the Delaware Bay.

39. R.S.50:2-11 is amended to read as follows:

Taking shellfish after sunset, before sunrise or on Sunday; prohibited, limited exceptions for Sunday.

50:2-11. No person shall dredge upon, or throw, cast or drag an oyster dredge or any other instrument or appliance used for catching shellfish, or assist in so doing, or collect shellfish by any means, upon any of the lands lying under the tidal waters of this State before sunrise or after sunset, or at any time on Sunday, except that clams may be taken from the waters of Raritan Bay, Sandy Hook Bay, Shrewsbury River or Navesink River on Sunday. The department, in consultation with the council, may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations for the harvest of oysters on Sunday during specific times, in specific areas, and using specific methods of harvest. The maintenance of leases, limited to the moving and planting of shell, oyster and clam seed and the use of bagless oyster scrapes, shall be permitted on Sunday.

40. R.S.50:2-12 is amended to read as follows:

Planting certain shellfish out-of-State prohibited; exceptions.

50:2-12. Seed oysters of any size and hard shell clams measuring less than 1.5 inches (38 millimeters) in length caught and taken from any of the unleased shellfish beds or grounds under the tidal waters of this State shall not be sold, purchased, transported, or taken out of this State, except for shellfish seed produced under an aquatic farmer license in a hatchery or on leased bottom using aquaculture methods approved by the commissioner.

41. The caption to chapter 3 of Title 50 of the Revised Statutes is amended to read as follows:

Caption amended.

Chapter 3. REGULATIONS APPLICABLE TO DELAWARE RIVER, DELAWARE BAY AND THEIR TRIBUTARIES, AND MAURICE RIVER COVE

42. R.S.50:3-1 is amended to read as follows:

Necessity for license and issuance thereof.

50:3-1. No boat or vessel shall be used or employed in the catching or taking of oysters in the Delaware River, Delaware Bay or their tributaries in this State, without a license for that purpose issued by the commissioner.

43. R.S.50:3-2 is amended to read as follows:

License fee, issuance, disposition of fees.

50:3-2. The Delaware Bay Section of the Shellfisheries Council may fix the license fee at any sum, except that the fee shall be not less than \$10, or less than \$2 per gross ton of the boat or vessel, whichever is greater, for boats or vessels required to be licensed under R.S.50:3-1.

No license shall be issued for a period longer than one year.

All licenses shall be numbered and recorded by the commissioner.

All fees for licenses collected pursuant to this section shall be deposited in the "Oyster Resource Development Account," established pursuant to section 8 of P.L.1996, c.112 (C.23:3-12.2), and shall be subject to all the terms and conditions of that section.

44. R.S.50:3-3 is amended to read as follows:

Residence of vessel owners; statement; revocation of license.

50:3-3. The commissioner, before issuing a license to any boat or vessel as provided in this article, shall cause the owner thereof to file with the commissioner a statement that the boat or vessel is wholly owned by legally domiciled residents or by any entity incorporated in this State; and no boat or vessel owned wholly or in part by a nonresident and licensed in any other state to catch oysters on natural beds or grounds in that other state shall be licensed in this State within the same year in which the license to catch oysters in the other state shall have been or shall be issued. The commissioner may revoke a license issued by reason of a false statement filed by any applicant.

45. R.S.50:3-5 is amended to read as follows:

Revocation of license.

50:3-5. The commissioner may revoke the license of any boat or vessel issued as provided in this article, the owner, captain, master or person in charge of which boat or vessel shall violate or cause or permit to be violated any of the provisions of this Title or any rule or regulation of the department, and the commissioner may refuse thereafter to allow any license to be issued to the boat or vessel for such period of time as the commissioner shall fix.

46. R.S.50:3-6 is amended to read as follows:

Dredging equipment, taking of shellfish; regulated.

50:3-6. No boat or vessel shall be operated in the catching or taking of shellfish from any of the natural beds under the tidal waters of the Delaware River, Delaware Bay and their tributaries, in this State, while equipped with more than two dredges at any one time. No dredging shall be permitted within the beds, creeks and rivers, described in R.S.50:3-14, with the exception of the Cohansey River and the lands under the waters of Delaware Bay in the section known as Areas 1, 2 and 3, described in R.S.50:1-23.

Shellfish may be caught and taken from the Cohansey River and Areas 1, 2, and 3 by means of such boats and dredges beginning at 6:00 Ante Meridian Standard Time, quitting at 2:30 Post Meridian Standard Time Monday through Friday during the months of May and June, subject to the power of the Shellfisheries Council, by rule or regulation, to prohibit the taking or catching of shellfish in such manner from any of those beds and for such time as, in the judgment of the council, may be necessary in order to close the beds for purposes of conservation.

47. R.S. 50:3-7 is amended to read as follows:

Size of dredge regulated.

50:3-7. No person shall use any dredge for the purpose of catching or taking shellfish from any of the natural beds or grounds in Delaware Bay or Delaware River above the line running direct from the mouth of Straight Creek to Cross Ledge Shoal Old Lighthouse, commonly known and hereinafter referred to as the "southwest line," except in that area known as Section "E" as defined in R.S.50:1-23, the tooth bar of which dredge measures more than 54 inches across from center of bolt hole to center of bolt hole where the frame thereof is fastened to the tooth bar, or any dredge which measures more than 5 feet 2 inches in width from the extreme outside to outside of frame, or any dredge which measures more than 21 inches from center of tooth bar to center of cross bar, or any dredge the bag of which contains more than 17 rows of 2 inch rings, or any dredge the rings of which are less than 2 inches in diameter, inside measurement, or any dredge the bag of which measures more than 5 feet around the bag from center of tooth bar to center of cross bar, or any dredge which weighs more than 250 pounds.

48. R.S.50:3-8 is amended to read as follows:

Season for taking oysters.

50:3-8. Except in that area known as Section "E" as defined in R.S.50:1-23, no person shall catch, take, or attempt to catch or take oysters from any of the lands lying under the tidal waters of the Delaware River, Delaware Bay or their tributaries, above the southwest line, except at the times and in the manner prescribed by the commissioner after consultation with the Delaware Bay Section of the Shellfisheries Council.

49. R.S.50:3-9 is amended to read as follows:

Possession, sale of oysters taken out of season.

50:3-9. No person shall possess, sell or offer for sale any oysters caught or taken from any natural oyster bed or ground where oysters naturally spawn and grow under the tidal waters of the Delaware River, Delaware Bay or Maurice River Cove above the southwest line, except from and including April first to and including June thirtieth of each year or as otherwise determined by the commissioner after consultation with the Delaware Bay Section of the Shellfisheries Council.

50. R.S.50:3-10 is amended to read as follows:

Title to lands under tidal waters.

50:3-10. Nothing in this Title shall strengthen, confirm or verify the title of any person to any lands lying under the tidal waters of the Delaware River or Delaware Bay, above the southwest line.

51. R.S.50:3-11 is amended to read as follows:

Seasonal limit to taking oysters from certain areas.

50:3-11. No oysters shall be dredged for, caught or taken from that area known as Section "E" as defined in R.S.50:1-23 or from any of the lands lying under the tidal waters of the Delaware Bay and Maurice River Cove below a line running direct from the mouth of Straight Creek to Cross Ledge Shoal Old Lighthouse, commonly known and hereinafter referred to as the "southwest line," at any time except from September 1 to June 30 then next, both inclusive, of each year; unless authorized by the commissioner after consultation with the Delaware Bay Section of the Shellfisheries Council.

52. R.S.50:3-12 is amended to read as follows:

Permission to inspect unleased grounds.

50:3-12. The department, after consultation with the council, may upon application give permission, in writing, to any prospective lessee to examine and inspect, with proper appliances, any of the unleased lands of the State below the southwest line and the area known as Section "E" as defined in R.S.50:1-23 for the purpose of determining their suitability or adaptability for oyster culture or propagation; but no oysters shall be permanently removed from any of those lands by virtue of any such permit. Any individual given such permission shall be required to notify the department via telephone each day prior to conducting an inspection.

53. R.S.50:3-13 is amended to read as follows:

Dredging by person other than lessee prohibited in certain areas; exceptions.

50:3-13. No person shall dredge upon or throw, cast or drag an oyster or clam dredge, or any other instrument or appliance used for catching shellfish, in that area known as Section "E" as defined in R.S.50:1-23 or upon any of the land of the State lying under the tidal waters of the Delaware Bay, in this State, below the southwest line, other than land or ground for which the person then holds a lease from the Shellfisheries Council under this Title. A lessee may, however, authorize another individual to dredge for shellfish on the lease using authorized gear during the authorized season. Any such authorization shall be in writing, signed by all parties on forms provided by the Division of Fish and Wildlife, and shall be in the dredger's possession at all times during dredging operations.

54. R.S.50:3-14 is amended to read as follows:

Hand tongs required in certain beds.

50:3-14. a. No person shall use or cause to be used any dredge, drag, scrape or other instrument, except hand tongs, for the purpose of catching shellfish from the following named beds, creeks, and rivers of this State, along the shore of Delaware Bay, the areas of which are described by coordinates and bearings taken from the official survey base known as the "New Jersey system of plane coordinates" as defined in article 2 of chapter 3 of Title 51 of the Revised Statutes, viz.:

(1) Elder point beds, Andrews ditch beds, East point beds, described as follows: Beginning at a point with coordinates (X=104,451.54) (Y=40,377.57) said point being now or formerly East Point Lighthouse and running thence N 48° 16' 48.910" W 2865.15 meters to a point (X=102,312.9) (Y=42,284.30) on or near the east bank of the mouth of New England Creek; thence following in an easterly direction the shore line and crossing the mouth of the Maurice River and following the shore line to the point of beginning;

(2) High beds and Pepper beds, described as follows: Beginning at a point with coordinates (X=104,451.5) (Y=40,377.57) said point being now or formerly East Point Lighthouse and running thence S 55° 06' 44.5440" W 2022.82 meters to a corner (X=102,792.2) (Y=39,220.58) in Delaware Bay the same being corner number 2 of oyster ground number 48 section C now or formerly leased by Robbins and Robbins Inc.; thence N 76° 47' 57.9276" W 324.19 meters to a corner (X=102,476.6) (Y=39,294.61) the same being corner No. 3 of oyster ground No. 22 section C now or formerly leased by Robbins and Robbins Inc.; thence N 03° 08' 00.7977" W 2994.17 meters to a point (X=102,312.9) (Y=42,284.30) on the east bank of the mouth of New England Creek; thence S 48° -23' -07" E 2,865 meters to the point of beginning;

(3) Dividing Creek beds and Oranoken beds, described as follows: Beginning at a point with coordinates (X=99,599.58) (Y=41,933.40) said point being located on the meadow land at Kenny's Point about 1,829 meters east south east of the mouth of Dividing Creek and running thence S 39° 32' 52.0432" W 2,276.59 meters to a corner in Delaware Bay (X=98,158.25) (Y=40,237.93); thence N 69° 00' 23.9963" W 2179.71 meters to a corner (X=96,123.23)(Y=41,018.83) on the meadow land said corner being about 880 meters south west of the mouth of Oranoken Creek; thence following the shore line in a north east and east south east direction, crossing the mouths of Oranoken Creek and Dividing Creek to the point of beginning;

(4) Nantuxent Creek beds, Beach Creek beds, Goshen Creek, Dennis Creek, East Creek, West Creek, West Creek beds at the mouth of West Creek, Dividing Creek and its tributaries, Oranoken Creek and its tributaries, Little Brothers and Big Brothers Creeks, Straight Creek, Fishing Creek in Cumberland County, Oyster Creek, Fortescue Creek, Beadons Creek, Sow

and Pigs Creek, Dare's Creek, Padgett's Creek, Nantuxent Creek, Cedar Creek, Back Creek, Middle Marsh Creek, Stow Creek, Bidwell Creek, Nantuxent beds at the mouth of Nantuxent Creek, Back Creek beds at the mouth of Back Creek, the Nantuxent beds and Back Creek beds taking in that area north of a line running direct from Nantuxent Point to Ben Davis Point, Cohansey beds at the mouth of Cohansey River, said beds taking in that area north of a line extending from the south bank of the mouth of Middle Marsh Creek direct to Cohansey Point, and Maurice River and Cohansey River; except that during May and June in any year oysters may be taken from the beds in the Cohansey River and Stow Creek by means of dredges.

b. No licenses shall be issued by the Division of Fish and Wildlife contrary to this section. The department, in consultation with the council, may permit the use of hand scrapes or mechanically-retrieved oyster scrapes in certain beds, creeks and tributaries to harvest specific quantities of oysters, provided such use will not be detrimental to the resource in those areas.

55. R.S.50:3-15 is amended to read as follows:

Closed season; exceptions.

50:3-15. No person shall gather, scrape, rake or tong any oysters in or upon the beds, rivers or creeks of this State named in R.S.50:3-14, for and during the period from June 30 until September 1 in each and every year. This closed season shall not apply to the following beds, from which oysters may be taken only during the months of April, May, June, September, October and November between sunrise and sunset, except on Sunday:

a. at the mouth of Maurice River, described as follows: Beginning at a point with coordinates (X=104,451.5)(Y=40,377.57) said point being now or formerly East Point Lighthouse and running thence N 48° 16' 48.4910" W 2865.15 meters to a point (X=102,312.9)(Y=42,284.30) on or near the east bank of the mouth of New England Creek; thence following in an easterly direction the shore line and crossing the mouth of the Maurice River and following the shore line to the point of beginning, and in Maurice River; or

b. the Nantuxent beds in that area at the mouth of Nantuxent Creek, Back Creek and Cedar Creek and the Cohansey beds at the mouth of Cohansey River, provided, however, that any oysters so taken shall be 3 inches from hinge to mouth or longer; or

c. the Back Creek beds at the mouth of Back Creek, Back Creek from the mouth to the south bank of the mouth of Tweed Creek, which areas are described as follows: Beginning at the intersection of the southerly bank of the mouth of Tweed Creek with the westerly bank of Back Creek, said intersection being at high-water mark, thence from said point in a southeasterly, southwesterly, and southerly direction, being along the westerly bank of Back Creek and the westerly shore of Nantuxent Cove to a point on the said shore, said point being at or near Ben Davis Point (X=82,032.21)(Y=51,070.56); thence N 77° 09' 23.4025" E 1,420.56 meters to a point in Nantuxent Cove (X=83,417.22)(Y=51,386.33); thence N 20° 02' 18.8773" E 1,129.71 meters to a point along the north shore of Nantuxent Cove; thence bounding on the said high-water mark in a general westerly direction to the mouth of Back Creek, thence along the easterly bank of Back Creek in a general, easterly, northerly and northwesterly direction to a point due east from the southerly bank of the mouth of Tweed Creek; thence crossing Back Creek in a due west direction to the place of beginning.

56. Section 3 of P.L.1952, c.184 (C.50:3-15.1) is amended to read as follows:

C.50:3-15.1 Minimum size of oysters which may be taken.

3. a. No oysters which measure less than three inches from hinge to mouth shall at any time be taken from the waters in or upon any of the beds, rivers or creeks of this State named in R.S.50:3-14, or be in the possession of any person after being so taken; except that this prohibition shall not apply to spat or blisters adhering so closely as to be impossible to remove without destruction; but in no case shall this exception amount to more than 10% of any catch or cargo; but this minimum size shall not apply to:

(1) Elder point beds, Andrews ditch beds, East point beds, as the same are described in R.S.50:3-14;

(2) Maurice River beds;

(3) Nantuxent beds at the mouth of Nantuxent Creek;

(4) Back Creek beds at the mouth of Back Creek;

(5) Back Creek from the mouth thereof to the south bank of the mouth of Tweed Creek; and

(6) Cohansey beds at the mouth of Cohansey River.

b. This section shall not apply to oysters produced on aquaculture leases.

57. Section 1 of P.L.1966, c.52 (C.50:3-16.1) is amended to read as follows:

C.50:3-16.1 Areas, described, named.

1. The area southwest of the Clam Line and southeast of the Brandywine-Dennis Creek Line more fully described by coordinates and bearings taken from the official survey base known as the "New Jersey system of plane coordinates" as defined in article 2 of chapter 3 of Title 51 of the Revised Statutes, viz.: Beginning at a point in Delaware Bay (X=108,274.8)(Y=29,097.81) said point being the intersection of the Clam Line with the Brandywine-Dennis Creek Line; and running thence S 67° 31' 48.16" E 21,126.46 meters to a point where the Clam Line intersects the shore line of Cape May County (X=114,225.3)(Y=26,636.70) said point being about 200 meters south southwest of Rutgers Cape Shore Laboratory; thence following the high water mark along the shore line of Cape May County in a southerly direction its various courses and distances to a point (X=109,127.0)(Y=11,597.75) located on the Cape May Point Lighthouse-Brandywine Shoal Lighthouse Line; thence along this line N 65° 36' 53.5" W 44,128.37 meters to Brandywine Shoal Lighthouse (X=96,876.60)(Y=17,150.99), thence along the Brandywine-Dennis Creek Line N 43° 39' 13.6495" E 16,511.99247 meters to the place of beginning, shall be divided into three areas, to be known as follows:

Area No. 1--Tongers Area.

Area No. 2--Natural Seed Bed Area.

Area No. 3--Shellfish Dredging Area.

58. Section 3 of P.L.1966, c.52 (C.50:3-16.3) is amended to read as follows:

C.50:3-16.3 Description of tongers area No.1.

3. Area No. 1--Tongers Area is described as follows: Beginning at a point (X=111,656.5)(Y=27,699.12) said point located on the Clam Line 1 1/2 nautical miles off shore; and running thence S 67° 31' 50.66" E 9,119.92 meters to a point where the Clam Line intersects the shore line of Cape May County (X=114,225.3)(Y=26,636.70) said point also being about 200 meters south south west of Rutgers Cape Shore Laboratory; thence following the high water mark along the shore line of Cape May County in a southerly

direction its various courses and distances to a point (X=109,127.0)(Y=11,597.75) located on the Cape May Point Lighthouse-Brandywine Shoal Lighthouse Line; thence along this line N 65° 36' 53.99" W 10,919.86 meters to a point (X=106,095.5)(Y=12,971.93) located on the Cape May Point Lighthouse-Brandywine Shoal Lighthouse Line; thence N 05° 29' 54.29" E 32,024.59 meters to a point (X=107,030.8)(Y=22,688.13) in Delaware Bay; thence S 60° 45' 15.72" E 5,698.81 meters to a point (X=108,546.4)(Y=21,839.51) in Delaware Bay; thence N 27° 57' 28.84" E 21,764.48 meters to the place of beginning.

59. Section 4 of P.L.1966, c. 52 (C.50:3-16.4) is amended to read as follows:

C.50:3-16.4 Taking of shellfish in Area No.1.

4. It shall be lawful to catch or take shellfish in Area No. 1 by the use of a Shinnecock Rake, hand tongs or one mechanically-retrieved hand scrape or dredge per vessel, weight not to exceed 60 pounds, the tooth bar of which shall not exceed 30 inches from center of bolt hole to center of bolt hole where the frame thereof is fastened to the tooth bar, with power and in the manner, now or hereafter prescribed by law. The department, in consultation with the council, may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations governing the harvest of shellfish in Area No. 1 including, but not limited to, daily catch limits.

60. Section 5 of P.L.1966, c.52 (C.50:3-16.5) is amended to read as follows:

C.50:3-16.5 Necessity of license for taking shellfish; report; fee.

5. a. No person shall catch or take any shellfish from the natural shellfish beds contained within Area No. 1 unless there shall have been first issued by the department for each boat or vessel, so to be used or employed therein, a special license authorizing the catching or taking of shellfish within that area, which shall be issued for a term not longer than one year and shall contain an agreement on the part of the holder thereof that any person or officer or other representative of the department authorized by rule or regulation to make inspections of that area may board the boat or vessel to inspect shellfish therein contained, and all licenses issued under P.L.1966, c.52 (C.50:3-16.1 et seq.) shall be numbered.

b. The holder of a special license issued pursuant to this section shall submit monthly reports of shellfish harvested and submit a fee of not less than \$1.25 per bushel of shellfish harvested which shall be deposited in the "Oyster Resource Development Account," established pursuant to section 8 of P.L.1996, c.112 (C.23:3-12.2).

61. Section 6 of P.L.1966, c.52 (C.50:3-16.6) is amended to read as follows:

C.50:3-16.6 Application for Area No.1 license.

6. Application for a license for Area No. 1 shall be made to the department on a form prescribed by the department by the owner of the vessel to be licensed or the master or captain of the vessel acting for the owner, which application shall state, under oath, that the boat or vessel is wholly owned bona fide by a legally domiciled resident or residents of this State, or entities incorporated in this State, who have been such for 12 months next preceding the making of the application, and shall contain a provision that the holder of the license applied for thereby consents to the agreements to be set forth in the license as prescribed by section 5 of P.L.1966, c.52 (C.50:3-16.5). The oath may be administered by any member of

the department and shall be in writing signed by the person making the oath in the presence of the person administering it.

62. Section 7 of P.L.1966, c.52 (C.50:3-16.7) is amended to read as follows:

C.50:3-16.7 Fee for Area No. 1 license.

7. Each application for a license for Area No. 1 shall be accompanied by a license fee in an amount to be fixed by the council but not less than \$4 per ton on the gross tonnage measurement of the boat or vessel to be licensed but a minimum fee of \$50 shall be charged for each boat or vessel licensed. In the event that the license is refused, the license fee accompanying the application shall be returned to the applicant.

63. Section 8 of P.L.1966, c.52 (C.50:3-16.8) is amended to read as follows:

C.50:3-16.8 Revocation of Area No. 1 license.

8. The department may revoke any license for Area No. 1 issued under P.L.1966, c.52 (C.50:3-16.1 et seq.) by reason of a false oath made by any owner or master in applying therefor, or for any other violation of P.L.1966, c.52 (C.50:3-16.1 et seq.), after due hearing.

64. Section 9 of P.L.1966, c.52 (C.50:3-16.9) is amended to read as follows:

C.50:3-16.9 Time for taking oysters.

9. No oysters shall be dredged for or harvested in Area No. 1 except between the hours of 6 o'clock ante meridian and 2:30 o'clock post meridian, Standard Time, on the days of the week, except Saturdays and Sundays. The department, in consultation with the council, may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations regarding the season for the harvest of oysters from Area No. 1.

65. Section 10 of P.L.1966, c.52 (C.50:3-16.10) is amended to read as follows:

C.50:3-16.10 Description of Area No. 2, Natural Seed Bed.

10. Area No. 2--Natural Seed Bed Area is described as follows: Beginning at a point (X=108,274.8)(Y=29,097.81) said point being the intersection of the Clam Line with the Brandywine-Dennis Creek Line; and running thence S 67° 31' 48.16" E 12,006.54 meters along the Clam Line to a point (X=111,656.5)(Y=27,699.12) the same being the northwest corner of Area No. 1--Tongers Area; thence S 27° 57' 28.84" W 21,764.48 meters along the western side of Area No. 1 to a point (X=108,546.4)(Y=21,838.90); thence N 60° 44' 33.5" W 17,636.99 meters to a point (X=103,856.4)(Y=24,466.84) said point located on the Brandywine-Dennis Creek Line; thence along this line N 43° 39' 13.93" E 20,999.27 meters to the place of beginning.

66. Section 12 of P.L.1966, c.52 (C.50:3-16.12) is amended to read as follows:

C.50:3-16.12 Description of Area No. 3, Shellfish Dredging.

12. Area No. 3-- Shellfish Dredging Area is described as follows: Beginning at a point (X=103,856.4)(Y=24,466.84) said point being on the Brandywine-Dennis Creek Line; and running thence S 60° 44' 12.53" E 11,938.89 meters along the southern boundary line of Area No. 2 to a point (X=107,030.8)(Y=22,688.13) said point being on the western side of Area

No. 1 and on the southern side of Area No. 2; thence along the western side of Area No. 1 S 05° 29' 54.29" W 32,024.59 meters to a point (X=106,095.5)(Y=12,971.93) said point located on the Cape May Point Lighthouse-Brandywine Shoal Lighthouse Line; thence along said line N 65° 36' 53.00" W 33,208.51 meters to Brandywine Shoal Lighthouse (X=96,876.60)(Y=17,150.99); thence along the Brandywine-Dennis Creek Line N 43° 39' 13.43" E 33,173.81 meters to the place of beginning.

67. Section 13 of P.L.1966, c.52 (C.50:3-16.13) is amended to read as follows:

C.50:3-16.13 Taking of shellfish in Areas Nos. 2 and 3.

13. It shall be lawful to catch and take shellfish in that portion of the Delaware Bay, hereinbefore described as Areas Nos. 2 and 3, upon compliance with the provisions of this Title and any rules and regulations issued pursuant thereto.

68. Section 14 of P.L.1966, c.52 (C.50:3-16.14) is amended to read as follows:

C.50:3-16.14 License required for taking shellfish from Areas Nos. 2 and 3; fees on harvest.

14. a. No person shall catch or take any shellfish from the natural shellfish beds, contained within Areas Nos. 2 and 3, unless there shall have been first issued by the department for each boat or vessel, so to be used or employed therein, a special license authorizing the catching or taking of shellfish within those areas, which shall be issued for a term not longer than one year and shall contain an agreement on the part of the holder thereof:

(1) That any person or officer or other representative of the department authorized by rule or regulation of the department to make inspections of such areas may board the boat or vessel to inspect shellfish therein contained; and

(2) That the holder of a special license issued pursuant to this section shall submit monthly reports of shellfish harvested and submit a fee of not less than \$1.25 per bushel of shellfish harvested which shall be deposited in the "Oyster Resource Development Account" established pursuant to section 8 of P.L.1996, c.112 (C.23:3-12.2).

b. All licenses issued under P.L.1966, c.52 (C.50:3-16. 1 et seq.) shall be numbered.

69. Section 15 of P.L.1966, c.52 (C.50:3-16.15) is amended to read as follows:

C.50:3-16.15 Application for license for Areas Nos. 2 and 3; oath.

15. Application for a license for Areas Nos. 2 and 3 shall be made to the department on a form prescribed by the department by the owner of the vessel to be licensed or the master or captain of the vessel acting for the owner, which application shall state, under oath, that the boat or vessel is wholly owned bona fide by a legally domiciled resident or residents of this State, or entities incorporated in this State, who have been such for 12 months next preceding the making of the application, and shall contain a provision that the holder of the license applied for thereby consents to the agreements to be set forth in the license as prescribed by section 14 of P.L.1966, c.52 (C.50:3-16.14). The oath may be administered by any member of the department and shall be in writing signed by the person making the oath in the presence of the person administering it.

70. Section 16 of P.L.1966, c.52 (C.50:3-16.16) is amended to read as follows:

C.50:3-16.16 License; application; fee.

16. Each application for a license for Areas Nos. 2 and 3 shall be accompanied by a license fee in an amount to be fixed by the council but not less than \$4 per ton on the gross tonnage measurement of the boat or vessel to be licensed but a minimum fee of \$50 shall be charged for each boat or vessel licensed. In the event that the license is refused, the license fee accompanying the application shall be returned to the applicant.

71. Section 17 of P.L.1966, c.52 (C.50:3-16.17) is amended to read as follows:

C.50:3-16.17 Revocation of license, grounds.

17. The department may revoke any license for Areas Nos. 2 and 3 issued under P.L.1966, c.52 (C.50:3-16.1 et seq.) by reason of a false oath made by any owner or master in applying therefor, or for any other violation of P.L.1966, c.52 (C.50:3-16.1 et seq.), after due hearing.

72. Section 18 of P.L.1966, c.52 (C.50:3-16.18) is amended to read as follows:

C.50:3-16.18 Limits on size of oysters taken.

18. No oyster that measures less than 3 inches from hinge to bill shall at any time be taken from the waters of Areas Nos. 2 and 3 or be possessed by any person after being so taken, except spats or blisters, adhering so closely as to be impossible to remove without destruction, not amounting in any case to more than 10% of any catch or cargo.

73. Section 19 of P.L.1966, c.52 (C.50:3-16.19) is amended to read as follows:

C.50:3-16.19 Time for taking shellfish.

19. No shellfish shall be dredged for or harvested in Areas Nos. 2 and 3 except between sunrise and sunset on the days of the week, except Saturdays and Sundays, during the months beginning with the month of October in one year and ending with the month of April in the next year.

74. Section 20 of P.L.1966, c.52 (C.50:3-16.20) is amended to read as follows:

C.50:3-16.20 Size of dredge.

20. No person shall use any dredge for the purpose of catching or taking shellfish from Areas Nos. 2 and 3, the tooth bar of which dredge measures more than 54 inches across from center of bolt hole to center of bolt hole where the frame thereof is fastened to the tooth bar, or any dredge which measures more than 5 feet 2 inches in width from the extreme outside to outside of frame, or any dredge which measures more than 21 inches from center of tooth bar to center of cross bar, or any dredge the bag of which contains more than 17 rows of 2-inch rings, or any dredge the rings of which are less than 2 inches in diameter, inside measurement, or any dredge the bag of which measures more than 5 feet around the bag from center of tooth bar to center of cross bar, or any dredge which weighs more than 190 pounds.

75. Section 21 of P.L.1966, c.52 (C.50:3-16.21) is amended to read as follows:

C.50:3-16.21 Prohibition on taking, catching shellfish.

21. The council may, subject to the approval of the commissioner, by rule or regulation, prohibit the taking or catching of shellfish in Area No. 1 or Areas Nos. 2 and 3 at such times

as, in the judgment of the council, may be necessary to close the beds or any part thereof for conservation or resource management purposes.

76. Section 22 of P.L.1966, c.52 (C.50:3-16.22) is amended to read as follows:

C.50:3-16.22 Applications for license; filing, recording.

22. All applications for licenses for Area No. 1 and for Areas Nos. 2 and 3 made under P.L.1966, c.52 (C.50:3-16.1 et seq.) shall be filed, and all licenses issued under P.L.1966, c.52 (C.50:3-16.1 et seq.) shall be recorded, in books to be kept for those purposes by the department.

77. Section 1 of P.L.1945, c.39 (C.50:3-20.10) is amended to read as follows:

C.50:3-20.10 Definitions.

1. As used in P.L.1945, c.39 (C.50:3-20.10 et seq.):

"Oyster dealer" means any person who, for himself or as an agent or broker, purchases from oyster planters, within this State, oysters so originating, in the shells, for purpose of resale or shipment for resale or for use other than the use of himself and his family, in the shells, and, also, any person who plants and grows oysters so originating and packs and ships or otherwise sells oysters so originating, in the shells, to persons not required to be licensed under P.L.1945, c.39 (C.50:3-20.10 et seq.).

"Oyster planter" means any person who plants and grows oysters so originating and who sells oysters so planted and grown, in the shells, to persons required to be licensed under P.L.1945, c.39 (C.50:3-20.10 et seq.).

"Oyster shucking house" means a plant for the opening, shucking, processing and packing of oysters which originate on the natural oyster beds in the tidal waters of the Delaware River, the Delaware Bay or the Maurice River Cove or any of their tributaries.

78. Section 2 of P.L.1945, c.39 (C.50:3-20.11) is amended to read as follows:

C.50:3-20.11 Licensure for oyster shucking house, planter, dealer.

2. No person shall operate within this State an oyster shucking house or engage in or carry on the business of an oyster planter or an oyster dealer, as defined in section 1 of P.L.1945, c.39 (C.50:3-20.10), without first obtaining a license for this purpose from the commissioner as provided in P.L.1945, c.39 (C.50:3-20.10 et seq.).

79. Section 3 of P.L.1945, c.39 (C.50:3-20.12) is amended to read as follows:

C.50:3-20.12 Term of license.

3. Such license, when issued, shall authorize the licensee to operate the oyster shucking house therein named or to engage in and conduct the business of an oyster planter or an oyster dealer, as the case may be, for the term of one year beginning on January 1 and ending on December 31 of the year issued.

80. Section 4 of P.L.1945, c.39 (C.50:3-20.13) is amended to read as follows:

C.50:3-20.13 Issuance of license, disposition of fees.

4. The license required pursuant to P.L.1945, c.39 (C.50:3-20.10 et seq.) to conduct an oyster shucking house or to engage in and conduct the business of an oyster planter or an oyster dealer shall be issued upon the payment of a license fee of \$100. All license fees collected shall be deposited in the "Oyster Resource Development Account," established pursuant to section 8 of P.L.1996, c.112 (C.23:3-12.2), and shall be subject to all the terms and conditions of that section.

81. Section 12 of P.L.1945, c.39 (C.50:3-20.21) is amended to read as follows:

C.50:3-20.21 Disposition of license fees.

12. All moneys received as license fees under the provisions of P.L.1945, c.39 (C.50:3-20.10 et seq.) shall be used by the commissioner for the purchase of either cultch or oysters, or both, which shall be spread over and planted in natural oyster beds and seed grounds of the State and to establish and maintain oyster sanctuaries.

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82. Section 13 of P.L.1945, c.39 (C.50:3-20.22) is amended to read as follows:

C.50:3-20.22 Rules and regulations.

13. The commissioner may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations for the carrying out of the purposes of, and enforcement of, the provisions of P.L.1945, c.39 (C.50:3-20.10 et seq.).

83. The caption to chapter 4 of Title 50 of the Revised Statutes is amended to read as follows:

Caption amended.

Chapter 4. REGULATIONS APPLICABLE TO ATLANTIC COAST

84. R.S.50:4-2 is amended to read as follows:

Dredge, drag, scrape prohibited on certain lands; rules, regulations.

50:4-2. No person shall use or cause to be used any dredge with bag or pocket, drag or scrape upon any of the natural oyster or clam beds under the tidal waters of the Atlantic seaboard of this State and tributaries thereof, except Delaware Bay, and no license shall be issued by the commissioner contrary to this section; but this section shall not prohibit the use of any fork, hoe or drag used by hand in the taking of soft clams; nor shall it prohibit the harvest of oysters with oyster dredges on designated leases used for oyster culture within the Mullica River-Great Bay estuary; nor shall it prohibit the taking of crabs with dredges; nor shall it preclude the department from adopting, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations governing the harvest of specific shellfish from specific areas by specific means, including, but not limited to, drags and scrapes.

85. R.S.50:4-3 is amended to read as follows:

Protection of leased lands; exception.

50:4-3. No person shall dredge upon, throw, cast or drag an oyster dredge, use oyster tongs, rakes, forks or other instruments or appliances used for catching shellfish, or tread for

shellfish, upon any of the leased lands of this State lying under the tidal waters of the Atlantic seaboard or tributaries thereof, above Cape May Point, other than land or ground for which the person or the person's employer then holds a lease from the council. A lessee may, however, authorize another validly licensed individual to harvest shellfish on the lease using authorized gear during the authorized season.

Repealer.

86. The following sections are repealed:

Section 2 of P.L.1966, c.52 (C.50:3-16.2); and

Sections 5 through 11, inclusive, of P.L.1945, c.39 (C.50:3-20.14 through C.50:3-20.20).

87. This act shall take effect immediately, except that sections 20 and 21 of this act shall take effect two years after the date of enactment of this act but the Commissioner of Environmental Protection may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of sections 20 and 21.

Approved January 13, 2008.