

## ENVIRONMENTAL PROTECTION

(a)

### DIVISION OF FISH AND WILDLIFE

#### Notice of Administrative Change

#### Marine Fisheries

#### Modification of Commercial Cobia Regulations

#### N.J.A.C. 7:25-18.12

**Take notice** that, pursuant to N.J.A.C. 7:25-18.12(q), the Commissioner of the Department of Environmental Protection, with the approval of the New Jersey Marine Fisheries Council (Council) at its September 6, 2018, meeting, has modified the commercial regulations for cobia. These actions have been taken to comply with the Atlantic States Marine Fisheries Commission (ASMFC) management plan for cobia.

At its October 2017 meeting, the ASFMC approved the Interstate Fishery Management Plan for Atlantic Migratory Group Cobia (plan). The plan establishes both commercial and recreational limits for the harvest of cobia. With reference to commercial harvest of cobia, the plan provides that the cobia fishery management measures are intended to be implemented in a timely manner complementing management of cobia in Federal waters, which is based upon annual catch limits (ACL). As recognized in the plan, the existing Federal regulations for cobia at 50 CFR 622 Subpart Q include an ACL for the commercial cobia fishery from Georgia to New York of 50,000 pounds. The plan provides that the measures for the commercial fishery are intended to maintain the status quo for that fishery, specifying that, in accordance with the Federal policy, which is reflected at 50 CFR 622.388(f)(1)(i), if the coastwide ACL of 50,000 pounds is met or projected to be met, the coastwide commercial fishery is to be closed.

The National Marine Fisheries Service (NMFS) closed the commercial cobia fishery in Federal waters on September 5, 2018, for the remainder of the 2018 commercial fishing season to minimize an anticipated exceedance of the ACL (see 83 FR 43,557). Reflecting the action by NMFS and the plan's provision that the commercial fishery be closed upon such a determination, the Council, at its September 6, 2018, meeting, approved amendments to the commercial cobia regulations that will close the current commercial harvest of cobia in New Jersey waters and will align New Jersey's commercial cobia fishery open season with the measures specified in the ASMFC plan to reflect closure of the season in future years upon action closing the Federal season due to the coastwide ACL for that year having been met or projected to be met. The amendments also include references to the existing commercial possession limits and season length at N.J.A.C. 7:25-18.1(b).

These changes will be reflected in the Division of Fish and Wildlife rules at N.J.A.C. 7:25-18.12(o). As required under N.J.A.C. 7:25-18.12(q), new N.J.A.C. 7:25-18.12(o) will be published in the New Jersey Register.

**Full text** of the changed rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### SUBCHAPTER 18. MARINE FISHERIES

7:25-18.12 Commercial fishing seasons, quotas, and trip limits

(a)-(n) (No change.)

**(o) The following provisions are applicable to the commercial harvest of cobia:**

**1. In accordance with N.J.A.C. 7:25-18.1(b), no person shall take in any one day or possess more than two cobia and no vessel shall take in any one day or possess more than six cobia.**

**2. The commercial fishing season for cobia shall be January 1 through December 31.**

**3. Any closure of the Atlantic commercial cobia fishery by the National Marine Fisheries Service or the Atlantic States Marine Fisheries Commission in adjacent Federal waters or in any area that includes New Jersey marine waters would automatically close New Jersey waters to the commercial harvest of Atlantic cobia. The**

**Commissioner, or his or her designee, shall give public notice of any such closure.**

Recodify existing (o)-(q) as **(p)-(r)** (No change in text.)

[(r)] **(t)** An applicant who is otherwise eligible for a license or permit under (c)2 and 5; (e)2 and (5); or (h)1 above, but who fails to apply prior to the application deadline, may request an extension of time to apply in accordance with this subsection and [(s) through (u)] **(t) through (v)** below.

1.-2. (No change.)

[(s)] **(t)** The Department shall approve an extension request under [(r)] **(s)** above only if it determines that the request and documentation demonstrate that:

1.-2. (No change.)

3. The circumstances supporting [(s)1] **(t)1** and 2 above were not created by the applicant or persons under his or her control, and the approval of the extension will not unreasonably interfere with the orderly administration of the permitting program.

Recodify (t)-(x) as **(u)-(y)** (No change in text.)

## HEALTH

(b)

### PUBLIC HEALTH SERVICES BRANCH

#### DIVISION OF EPIDEMIOLOGY, ENVIRONMENTAL AND OCCUPATIONAL HEALTH

#### CONSUMER, ENVIRONMENTAL AND OCCUPATIONAL HEALTH SERVICE

#### FOOD AND DRUG SAFETY PROGRAM

#### Notice of Readoption

#### Shellfish

#### Readoption with Technical Changes: N.J.A.C. 8:13

Authorized By: Shereef M. Elnahal, MD, MBA, Commissioner, Department of Health.

Authority: N.J.S.A. 24:2-1.

Effective Dates: September 17, 2018, Readoption;

October 15, 2018, Technical Changes.

New Expiration Date: September 17, 2025.

**Take notice** that, pursuant to N.J.S.A. 52:14B-5.1, the Commissioner of the Department of Health (Department) hereby readopts with technical amendments N.J.A.C. 8:13, Shellfish, which was scheduled to expire on October 18, 2018.

N.J.A.C. 8:13, Shellfish, governs the sanitation and recordkeeping requirements for the handling, processing, and shipping of raw molluscan shellfish. The rules also specify the requirements for certification of shellfish plants based on the shellfish processing and handling operations conducted. The rules readopted with technical changes would continue to impose requirements on persons desiring to engage or continuing to engage in the wholesale handling, shipping, shucking, repacking, wet storage, and depurating of shellfish.

In addition to readopting the existing rules, the Department is making technical changes throughout N.J.A.C. 8:13. These include updating the Department's name by deleting the phrase "and Senior Services" at N.J.A.C. 8:13-1.2, 1.7(e) and (f), 2.1, and 2.4(a)2 and (e). In addition, the Department is updating the name of the Department's "Food and Drug Safety Program" to the "Public Health and Food Protection Program" at N.J.A.C. 8:13-1.7(e), 2.4(a)2, 2.22(d)2, and 2.23(b). Finally, the Department is updating telephone numbers that have changed since the chapter was last readopted, at N.J.A.C. 8:13-2.17(a)4, 2.22(d)2, and 2.23(b).

The Department has reviewed N.J.A.C. 8:13 and has determined that, subject to the technical changes, the existing chapter remains necessary, proper, reasonable, efficient, understandable, and responsive to the purposes for which the Department originally promulgated it, as amended and supplemented over time, and should be readopted. Therefore,

pursuant to N.J.S.A. 52:14B-5.1.c(1), N.J.A.C. 8:13 is readopted and shall continue in effect for seven years.

**Full text** of the technical changes follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. SANITATION, HANDLING, SHIPPING, AND SHUCKING OF SHELLFISH

8:13-1.2 Definitions

In addition to definitions contained in the "Definitions" section of the Model Ordinance, the following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise.

...

"Department" means the New Jersey Department of Health [and Senior Services].

...

8:13-1.7 Oyster temperature control

(a)-(d) (No change.)

(e) Harvesters and vehicle transporters may apply to the Commissioner in care of the [Food and Drug Safety] **Public Health and Food Protection** Program, Consumer, Environmental and Occupational Health Service, Public Health Services Branch, New Jersey Department of Health [and Senior Services], PO Box 369, Trenton, NJ 08625-0369, for authorization to use means other than the mechanisms required in (a) through (d) above to control the temperature of oysters on board a vessel during harvesting, on board a vehicle during transportation, while being held at a certified dealer's establishment and/or upon delivery to another establishment.

1. (No change.)

(f) The requirements at (a) through (e) above for oyster temperature control on board the harvest vessel, after offloading, on transportation vehicles, while being held at a certified dealer's establishment and upon delivery to another establishment or dealer, are part of New Jersey's *Vibrio parahaemolyticus* Control Plan as implemented by the New Jersey Department of Health [and Senior Services] during the year.

SUBCHAPTER 2. DEPURATION OF HARD SHELL AND SOFT SHELL CLAMS

8:13-2.1 Definitions

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

...

"Shellfish Resource Recovery Steering Committee" (SRRSC) means designated representatives from the Department of Environmental Protection and the Department of Health [and Senior Services] who have regulatory responsibilities for resource recovery programs.

...

8:13-2.4 Hard and Soft Shell Clam Depuration Program

(a) Any person(s) wishing to construct and/or operate a soft or hard shell clam depuration plant shall submit to the SRRSC a detailed proposal providing all pertinent information concerning the proposed plant on applications provided by the SRRSC.

1. (No change.)

2. All depuration plant proposals shall be forwarded to:

[Food and Drug Safety] **Public Health and Food Protection** Program  
Consumer, Environmental and Occupational Health Service  
Public Health Services Branch  
New Jersey Department of Health [and Senior Services]  
PO Box 369  
Trenton, NJ 08625-0369

(b)-(d) (No change.)

(e) The SRRSC shall have the right to limit the number of plant permits issued, based upon Department of Environmental Protection and Department of Health [and Senior Services] enforcement capabilities.

8:13-2.17 Plant capacity control

(a) The maximum amount of clams in each tank shall not exceed the flow requirement of one gallon per minute of seawater per bushel of clams nor the physical size limits of the tank and other spacing criteria established in this subchapter.

1.-3. (No change.)

4. The DPO shall notify the Department by telephone at [(609) 588-3123] **609-826-4935** by the beginning of the next working day if the total capacity of the system changes, by either an increase or a decrease in flow capacity[,] and resubmit in writing the new rated capacity for departmental approval within five days after verbal notification.

5.-6. (No change.)

8:13-2.22 Bacteriological sampling

(a)-(c) (No change.)

(d) Clam process batch(es) that do not meet the bacteriological standard provided at N.J.A.C. 8:13-2.21 after 48 hours of depuration shall be further depurated for an additional 24 hours.

1. (No change.)

2. The certificate holder shall notify the shellfish program coordinator in the Department's [Food and Drug Safety] **Public Health and Food Protection** Program by telephone at [(609) 588-3123] **609-826-4935** immediately upon receipt of bacteriological results that batch(es) do not meet the standard after 48 or 72 hours of depuration.

(e)-(f) (No change.)

8:13-2.23 Recordkeeping

(a) (No change.)

(b) Copies of the records required in (a)1 through 7 above shall be submitted by telefacsimile to the shellfish program coordinator in the Department's [Food and Drug Safety] **Public Health and Food Protection** Program at [(609) 588-3135] **609-826-4992** by no later [the] **than** 12:00 noon of the next working day.

(a)

**OFFICE OF THE CHIEF STATE MEDICAL EXAMINER  
Notice of Administrative Changes  
Recodification of State Medical Examiner Rules  
from N.J.A.C. 13:49 to 8:70**

**Take notice** that the Office of the Chief State Medical Examiner (Office) was created as an independent agency within the Department of Health (Department) by the Revised State Medical Examiner Act, P.L. 2018, c. 62 (the Act), approved July 3, 2018, effective September 1, 2018. The Act transferred all functions, powers, and duties of the Office of the State Medical Examiner in the Department of Law and Public Safety (OSME) to the new Office and abolished the OSME. The Office requested, and the Office of Administrative Law agreed to permit, the administrative recodification of N.J.A.C. 13:49 as 8:70. This recodification, along with attendant technical changes to the rule text concerning cross-references, agency names, and addresses are effective October 15, 2018, and shall be manifested in the New Jersey Administrative Code in the 10-15-18 Code Update. This notice of administrative changes is published in accordance with N.J.A.C. 1:30-2.7.