

ENVIRONMENTAL PROTECTION
WATER MONITORING AND STANDARDS
BUREAU OF MARINE WATER MONITORING

Shellfish Growing Water Classifications

Readoption with Amendments: N.J.A.C. 7:12

Proposed: January 22, 2008 at 40 N.J.R. 529(a)

Authorized By: Lisa P. Jackson, Commissioner
Department of Environmental Protection

Authority: N.J.S.A. 13:1D-9 and 58:24-1 et seq.

DEP Docket Number: 34-07-12/657

Effective Date:

Expiration Date:

The Department of Environmental Protection (Department) is readopting, with amendments, the Shellfish Growing Water Classifications rules, N.J.A.C. 7:12, which describe the procedures for the establishment of areas of restricted shellfish harvest. The adopted amendments modify the classifications of shellfish waters based on the water quality determined from the program's annual marine water monitoring surveys. As a result of the marine water monitoring surveys, the Department is upgrading 886 acres of shellfish waters from Seasonally Approved to Approved and 67 acres from Prohibited to Seasonally Approved. The Department is downgrading 11 acres of shellfish waters from Approved to Special Restricted and 243 acres from Approved to Seasonally Approved. These adopted amendments will result in a total reclassification of approximately 1,207 acres of shellfish waters. Approximately 953 acres of shellfish waters will be upgraded, while approximately 254 acres of shellfish waters will be downgraded.

The Department is also adopting an amendment that clarifies language pertaining to the accurate location of coastline along the Atlantic Ocean in the area of North Wildwood.

The names of the waterways and number of acres to be reclassified are listed below in general terms. (Note: Approved means waters meeting the sanitary requirements to allow year-round shellfish harvesting; Seasonal means waters meeting the sanitary requirements for harvesting part of the year; Special Restricted means waters not meeting the sanitary requirements to harvest except by special permit; and Prohibited means waters not meeting the sanitary requirements for shellfish harvesting).

Table 1. Shellfish growing water classification changes.

Chart #	Area	Action	Classification Trend	
			Improving (Acres)	Declining (Acres)
7A	Reed Bay	Seasonal Nov. to Approved	90	
7B	Shelter Island Bay	Seasonal Nov. to Approved	796	
9A	Old Turtle Thorofare	Prohibited to Seasonal Nov.	67	
10B	False Egg Island Point	Approved to Special Restricted		11
10B	Sea Breeze	Approved to Seasonal Nov.		103
10B	Bayside	Approved to Seasonal Nov.		130
10B	Cherry Tree Creek	Approved to Seasonal Nov.		10
Total Acreage			953	254
Percent of all NJ Shellfish Growing Waters			0.14%	0.04%

Summary of Public Comments and Agency Responses:

The public comment period for this proposal closed on March 22, 2008. The Department did not receive any comments.

Federal Standards Statement

Executive Order No. 27(1994) and P.L. 1995, c 65, require administrative agencies which adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. These rules are developed under public health control procedures of the National Shellfish Sanitation Program (NSSP). The NSSP is a tripartite cooperative program consisting of the States, shellfish industry and the Federal Food and Drug Administration. This cooperative program is managed through the Interstate Shellfish Sanitation Conference which developed the sanitary control procedures defined in the Guide for the Control of Molluscan Shellfish. Each state has the responsibility to adopt laws and regulations consistent with the guidelines of the NSSP. The Food and Drug Administration is responsible for reviewing the State's shellfish control program to ensure that it is consistent with all state shellfish control programs. The readopted rules with amendments implement the NSSP guidelines and contain no standards or requirements that exceed the standards or requirements imposed by Federal Law. Executive Order No. 27(1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995,c.65), do not require further analysis.

Full text of the readopted rules may be found in the New Jersey Administrative Code at N.J.A.C. 7:12.

Full text of the adopted amendments follows:

(No change from proposal.)

Based on consultation with staff, I hereby certify that the above statements including the Federal Standards Statement addressing the requirements of Executive Order 27 (1994), permits the public to understand accurately and plainly the purposes and expected consequences of this readoption with amendments. I hereby authorize this adoption.

Date

Lisa Jackson, Commissioner
Department of Environmental Protection