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ENVIRONMENTAL PROTECTION

WATER MONITORING AND STANDARDS

BUREAU OF MARINE WATER MONITORING

Shellfish Growing Water Classifications

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

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:

Calendar Reference: See Summary below for explanation of exceptions to
calendar requirement.

Proposal Number: PRN

Submit written comments by (60 days after publication) to:

Oneida Cuevas, Esq.

Attention: DEP Docket Number:

Office of Legal Affairs

New Jersey Department of Environmental Protection

P.O. Box 402

Trenton, New Jersey 08625-0402

The agency proposal follows:

Summary

As the Department has provided a 60-day comment period for this notice, this proposal is excepted from the rulemaking calendar requirement under N.J.A.C. 1:30-3.3(a)5.

In accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., the Shellfish Growing Water Classifications rules, N.J.A.C. 7:12, were scheduled to expire on May 22, 2008. Pursuant to N.J.S.A. 52:14B-5.1c, this notice of proposal extends that expiration date to November 18, 2008. The Department has evaluated these rules, and has determined that they are necessary, reasonable, and proper for the purpose for which they were originally promulgated, and is proposing to readopt N.J.A.C. 7:12 with amendments, as discussed below.

N.J.S.A. 58:24-1 requires the Department to inspect places within the State's jurisdiction from which oysters, clams or other shellfish are taken to be distributed or sold for use as food. In conducting these inspections, the Department's purpose is to ascertain the sanitary conditions of these shellfish beds, and to determine whether shellfish from those beds are suitable for use as food. N.J.S.A. 58:24-3 requires the Department to prohibit the taking of shellfish from places in which pollution or other conditions may make the shellfish dangerous to health.

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The Department implements these statutory mandates through its Shellfish Growing Water Classification rules at N.J.A.C. 7:12. N.J.A.C. 7:12 delineates the areas from which shellfish pose a danger to health. Since 1961, the Department has amended these rules nearly every year, to reclassify shellfish growing waters based upon changes in their conditions.

The rules prohibit the use of shellfish from those areas for the purpose of human consumption, or impose specific conditions on harvesting for that use in order to avoid the danger to health. The Department notes that under the statute, distributing shellfish, selling it, offering it for sale, or having it in possession with the intent to distribute or sell, is prima facie evidence that such shellfish was intended for use as food. N.J.S.A. 58:24-4.

The rules also establish special permit programs to allow some limited use of shellfish from waters in which the harvest is restricted. The Department made significant changes to the special permit rules in 1990, adding provisions governing hard clam and soft clam depuration (that is, the process that uses a controlled aquatic environment to reduce the levels of bacteria and viruses), and revising other existing provisions of the rule.

A description of the purposes of each subchapter of N.J.A.C. 7:12 follows:

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N.J.A.C. 7:12-1, Classification of Certain Shellfish Waters, establishes general provisions under which the rules operate, and defines words and terms used throughout N.J.A.C. 7:12.

N.J.A.C. 7:12-2, Shellfish Growing Water Classification-Prohibited, delineates those waters that are classified as Prohibited. Shellfish from waters classified as Prohibited cannot be harvested for human consumption.

N.J.A.C. 7:12-3, Shellfish Growing Water Classification-Special Restricted, delineates those waters that are classified as Special Restricted. Shellfish from waters classified as Special Restricted may be utilized for human consumption only through one of the Special Permit Programs under N.J.A.C. 7:12-9, which are discussed in more detail below.

N.J.A.C. 7:12-4, Seasonally Approved Shellfish Growing Waters, delineates those waters that are classified as Approved for the harvest of shellfish for part of the year and classified as Special Restricted for the remainder of the year. Under N.J.A.C. 7:12-4.1, certain waters are classified as Approved from November 1 through the following April 30 of each year. Under N.J.A.C. 7:12-4.2, certain other waters are classified as Approved from January 1 through April 30 of each year. The Department has established these different periods during which waters are classified as Approved based on pollution loadings in the waters.

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N.J.A.C. 7:12-5, Seasonal Special Restricted Shellfish Growing Waters, delineates those waters that are classified as Seasonal Special Restricted May 1 through September 30 for the harvest of shellfish and Prohibited October 1 through April 30 yearly.

N.J.A.C. 7:12-6 is reserved.

N.J.A.C. 7:12-7, Sanctuaries, allows the Department to establish areas to be utilized for research purposes such as shellfish spawner areas. Spawner sanctuaries are areas to which a large number of adult shellfish have been moved with the expectation that natural repopulation will occur. When the shellfish are moved to a sanctuary from an area classified as Prohibited or Special Restricted, the sanctuary becomes classified in that same category as well.

N.J.A.C. 7:12-8 is reserved.

N.J.A.C. 7:12-9, Special Permit, establishes the Special Permit programs. These programs allow the utilization of shellfish from waters classified Prohibited or otherwise Restricted. Under these programs, the Department issues permits allowing certain uses of shellfish from Special Restricted waters. Those uses may include transplanting, relaying (that is, taking market size shellfish for replanting in approved

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areas for purification before marketing), depuration, bait harvesting, or scientific research. The premise underlying the transplanting, relaying and depuration special permits is that placing bacterially contaminated shellfish in a clean environment enables them to purge contaminants.

The Department proposes to readopt N.J.A.C. 7:12 with the following amendments:

N.J.A.C. 7:12-1, Shellfish Growing Water Classification-Prohibited. The proposed amendment reclassifies waters in Old Turtle Thorofare (see N.J.A.C. 7:12-2.1(a)16v). The proposed amendments also clarifies and updates language pertaining to the accurate location of coastlines along the Atlantic ocean in the area of North Wildwood (see N.J.A.C. 7:12-2.1(a)20xi).

N.J.A.C. 7:12-3, Shellfish Growing Water Classification-Special Restricted. The proposed amendment downgrades 11 acres of shellfish waters southwest of False Egg Island Point in the Delaware Bay (see N.J.A.C. 7:12-3.2(a)32v).

N.J.A.C. 7:12-4, Seasonally Approved Shellfish Growing Waters, (Approved November 1 through the following April 30 yearly, Special Restricted May 1 through October 31, yearly). The proposed amendments upgrade 90 acres of shellfish waters in the area of Reed Bay (see N.J.A.C. 7:12-4.1(a)6ii) and upgrade 796 acres of shellfish waters in the area of Shelter Island Bay (see N.J.A.C. 7:12-4.1(a)8i). The proposed amendment also upgrades 67 acres in Old Turtle Thorofare, (see N.J.A.C. 7:12-4.1(a)12iv). The proposed amendments downgrade 103 acres of shellfish waters in Sea

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Breeze in the Delaware Bay, (see N.J.A.C. 7:12-4.1(a)13ix), 130 acres of shellfish water in Bay Side in the Delaware Bay, (see N.J.A.C. 7:12-4.1(a)13x), and 10 acres in Cherry Creek in the Delaware Bay, (see N.J.A.C. 7:12-4.1(a)13xi).

The proposed amendments revise the classification of certain shellfish beds as the result of surveys conducted by the Department's Bureau of Marine Water Monitoring.

In conducting these surveys, the Department's Bureau of Marine Water Monitoring collects and analyzes water samples, inventories actual and potential sources of pollution, and performs hydrographic studies of flow patterns which distribute pollution. These surveys are conducted in accordance with applicable State and Federal (Food and Drug Administration (FDA)) guidelines and regulations as described in the National Shellfish Sanitation Program "Guide for the control of Molluscan Shellfish" 2003 revision. The FDA further requires that each state annually appraise the quality of those waters classified as "Approved" for the harvest of shellfish. New Jersey conducts scientific investigatory work and research and, pursuant to N.J.S.A. 58:24-1 et seq., revises the rules annually. The reclassifications reflect changes in water quality, and enhanced monitoring.

The proposed amendments will result in the 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.

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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 in this proposal.

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

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Percent of all NJ Shellfish Growing Waters	0.14%	0.04%
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The reclassifications described above continue the general trend of improvement in shellfish water quality.

Social Impact

For the reasons discussed below, the Department believes that N.J.A.C. 7:12 has had a positive social impact. Readopting the chapter will continue that positive impact, and the amendments will enhance the positive impact.

History has shown a direct connection between the consumption of shellfish harvested from contaminated areas and human illness. However, the last major incidence of a shellfish-related illness from New Jersey waters was in 1966. Since then greater emphasis has been placed on the classification of shellfish-producing waters. The National Shellfish Sanitation developed a manual of operations that became the guiding document in the sanitary control of shellfish harvest areas. New Jersey expanded the use of the special permit programs in the early 1970's. These programs capitalized on the natural ability of shellfish to purge bacterial contamination when moved from a contaminated site to a clean site.

In addition, the proposed re Adoption with amendments will benefit the more than 9,000 persons licensed to harvest shellfish by assuring that they will be harvesting shellfish

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from waters that meet the water quality requirements as stipulated by the National Shellfish Sanitation Program for the safe consumption of shellfish. The proposed readoption with amendments will also benefit the far greater number of consumers who utilize the shellfish harvested from New Jersey waters. The effect of the proposed readoption with the amendments will be to increase such opportunities by making more waters available for harvest. The continued monitoring efforts undertaken by the Department ensure that the State's shellfish resource remains a wholesome food product, available to both recreational and commercial harvesters.

Economic Impact

The Shellfish Growing Water Classification rules delineate the classification of the waters of the State for shellfish harvesting and the Special Resource Recovery programs under the National Shellfish Sanitation Program guidelines established by the Interstate Shellfish Sanitation Conference. The proposed readoption with amendments will ensure that the public health will continue to be protected by only allowing the harvest of shellfish from waters Approved for shellfish harvesting. Additionally, those individuals harvesting and/or selling shellfish will be able to consume and sell a safe and healthy product.

The shellfish growing water reclassifications contained in the proposed readoption with amendments downgrade 254 acres (11 acres of shellfish waters from Approved to Special Restricted plus 243 acres from Approved to Seasonally Approved) from Approved waters. Portions of these waters are productive for oyster harvest, but they represent a small portion (0.1%) of the available, harvestable waters in the Delaware Bay. Most of these waters (243 acres) are being downgraded to Seasonally Approved meaning that the shellfish

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resource is still available for direct market harvest from these waters, but for only six months of the year. This loss of approved waters in the Delaware Bay is offset by an upgrade of 953 acres of Approved or Seasonally Approved shellfish waters in other waters of the State. This means that the overall economic impact of these regulatory changes is favorable to the State's shellfish industry while allowing the Department to fulfill its statutory responsibility to protect the public health.

Environmental Impact

The continuous monitoring of New Jersey's shellfish growing waters benefits the State not only by affording protection from shellfish related disease, but also by serving as an environmental yardstick by which the progress of pollution abatement programs can be measured.

In addition, the demand for increased recreational, residential and commercial facilities in New Jersey's coastal zone continues to present a dilemma to environmental planners. The level of discord associated with the conflicting interests that depend upon publicly owned and managed natural resources can only be expected to increase. Therefore, the need for an objective method of evaluating the impact of man's activities upon complex estuarine and marine systems is increasing. The criteria associated with the National Shellfish Sanitation Program, which forms the basis for these water quality classifications, are but one suggested method that can be utilized to quantify the impact of development.

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The proposed readoption with amendments represent a tangible measurement of the quality of New Jersey's surface waters as well as providing a historical record for future comparison. The proposed readoption with amendments will have a positive environmental impact by sanctioning the extensive monitoring efforts upon which the specific changes herein are based.

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 insure that it is consistent with all state shellfish control programs. The rules proposed for readoption 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.

Jobs Impact

The proposed readoption with amendments will provide an additional net gain of 669 acres of waters that may be harvested for shellfish. Therefore it is possible that a minor increase in jobs could occur. Additionally, the proposed readoption with amendments will allow for the continued employment of more than 9,000 persons licensed to harvest shellfish.

Agricultural Industry Impact

Pursuant to P.L. 1998, c.48, adopted on July 2, 1998, the Department has evaluated this rulemaking to determine the nature and extent of the proposed readoption with amendments on the agriculture industry. The Department anticipates that the proposed readoption with amendments, which modify the classification of shellfish harvesting waters, will have no effect upon agricultural concerns.

Regulatory Flexibility Analysis

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has determined that the proposed readoption with amendments will not impose reporting or record keeping requirements on small businesses. The proposed readoption with amendments delineates areas from which shellfish may be harvested and

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those areas from which shellfish may not be harvested. No additional costs of compliance are anticipated, and no professional services will need to be employed to comply with the rules. As the shellfish classifications benefit licensees, no lesser requirements or exemptions are provided based on business size.

Smart Growth Impact

Executive Order No. 4 (2002) requires State agencies that adopt, amend or repeal State regulations to include in the rulemaking document a Smart Growth Impact statement that describes the impact the rules proposed for readoption with amendments would have on the achievement of smart growth and implementation of the State Development and Redevelopment Plan (State Plan). The Department has evaluated this rulemaking to determine the nature and extent of the impact on smart growth and implementation of the State Plan. The rules proposed for readoption with amendments do not involve land use policies or infrastructure development and therefore, will not have any impact on the achievement of smart growth. The rules proposed for readoption with amendments are intended to protect public and environmental health, which are goals of the State Plan. Accordingly, the reclassification of the State's water and Shellfish resources are supportive of the goals of the State Plan.

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

Full text of the proposed amendments follow (additions indicated in boldface **thus**;

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deletions indicated in brackets [thus]):

7:12-2.1 Shellfish growing water classification – Prohibited

(a) The following shellfish growing waters are classified Prohibited:

1. – 15. (No change.)

16. The Wildwoods Area (Note: Portions are also designated as Special Restricted and Seasonal. See: N.J.A.C. 7:12-3 and 4):

i. – iv. (No change.)

[v. All of Old Turtle Thorofare and its tributaries north and east of its junction with Tempe Creek;]

[vi.]v. All of Tempe Creek and tributaries thereof;

[vii.]vi. All of Cresse Creek and tributaries thereof;

[viii.]vii. All of the tributaries of Richardson Sound northwest of the Intracoastal Waterway;

[ix.]viii. All of Post Creek and Ottens Harbor and tributaries thereof;

[x.]ix. All of Reubens Thorofare and tributaries thereof; and

[xi.]x. All of Taylor Creek, Jones Creek, Meadow Creek, Shell Thorofare and Punyard Creek.

17.-19. (No change.)

20. Atlantic Ocean:

i.-x. (No change.)

xi. All of the ocean waters inshore of a line beginning at the base of the groin located on the beach near the intersection of Ocean Avenue and 2nd Avenue, City of North Wildwood, and

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continuing along that groin in a southeasterly direction to its outermost tip, then bearing approximately 147 degrees T **for approximately 0.36 nautical miles** towards a point with coordinates of latitude 38 degrees 59 minutes **54** [0.0] seconds N., longitude 74 degrees **47** [46] minutes 12.0 seconds W. [(generally marked by a buoy charted as RW "H"MO (A) whistle) for approximately 0.5 nautical miles until it intersects a line bearing 044 degrees T from the light at the end of the eastern jetty of Cape May Inlet charted as Fl R 4s 6m "4" and passing tangent to the southeastern most point of land of the City of North Wildwood. This point of intersecting lines has coordinates of latitude 38 degrees 59 minutes 54.0 seconds N., longitude 74 degrees 47 minutes 0.0 seconds West. The line then continues from the point of intersection] **then** bearing approximately **223** [224] degrees T (reciprocal **43** [44] degrees T) **in a southwesterly direction** along **a** [that] line [towards the above noted light at the end of the eastern jetty of Cape May Inlet] for approximately 2.8 nautical miles until it intersects a line bearing approximately 130 degrees T from the standpipe located on the corner of Park Boulevard and Myrtle Road, Borough of Wildwood Crest **at** [, with coordinates of latitude 38 degrees 58 minutes 24 seconds N., longitude 74 degrees 50 minutes 24.0 seconds W. This] **a** point [of intersecting lines is] approximately 0.4 nautical miles from the shoreline **with** [and has] coordinates of latitude 38 degrees 57 minutes **49** [54.0] seconds N., longitude 74 degrees 49 minutes **24** [36.0] seconds W. Then proceeding in a southeasterly direction along that line to a point approximately **1.4** [1.5] nautical miles from the shoreline with coordinates of latitude 38 degrees 57 minutes 12.0 seconds N., longitude 74 degrees 48 minutes **26** [30.0] seconds W., then proceeding parallel to the shoreline in a southwesterly direction **1.4** [2.5] nautical miles offshore for approximately **2.5** [2.4] nautical miles to a point with coordinates of latitude 38 degrees 55 minutes **19.6** [24.0]

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seconds N., longitude 74 degrees 50 minutes 35.5 [30.0] seconds W., then bearing approximately 313 [310] degrees T (reciprocal 133 [130] degrees T) for approximately 1.2 nautical miles to the light noted above at the end of the eastern jetty of Cape May Inlet then along that jetty to the shore and terminating;

7:12-3.2 Shellfish growing waters that are classified as Special Restricted

(a) The following shellfish growing waters are classified as Special Restricted:

1. – 31. (No change.)

32. Delaware Bay area (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4):

i. – iv. (No change.)

v. Straight Creek: All of Straight Creek[;], **including a portion of the Delaware Bay beginning at a point southeast of the mouth of Straight Creek at Latitude 39 degrees 12 minutes 5.6 seconds N., Longitude 75 degrees 9 minutes 55.0 seconds W., and bearing approximately 197 degrees T to a point in the Delaware Bay at Latitude 39 degrees 11 minutes 59.5 seconds N., Longitude 75 degrees 9 minutes 57.4 seconds W., then bearing approximately 271 degrees T to a point in the Delaware Bay at Latitude 39 degrees 11 minutes 59.6 seconds N., Longitude 75 degrees 10 minutes 5.3 seconds W., then bearing approximately 17 degrees T to a point northwest of the mouth of Straight Creek at Latitude 39 degrees 12 minutes 7.8 seconds N., Longitude 75 degrees 10 minutes 2.1 seconds W.;**

vi. – x. (No change.)

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N.J.A.C. 7:12-4.1 Seasonally Approved growing waters (Approved November 1 through April 30 yearly, Special Restricted May 1 through October 31, yearly)

(a) The following shellfish growing waters designated on the charts referred to in *N.J.A.C. 7:12-1.1* shall be Special Restricted for the harvest of shellfish from May 1 through October 31 yearly and Approved for the harvest of shellfish from November 1 through April 30 yearly:

1.– 5. (No change.)

6. Absecon Bay, Absecon Channel and Absecon Inlet area; Seasonal-Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

i. (No change.)

[ii. All those waters in the unnamed cove (southwest of Somers Cove) from a Department maintained marker on the northern shoreline and bearing approximately 215 degrees T across the cove to another Department maintained marker and along that shoreline in a northerly direction to a Department maintained marker, then bearing approximately 005 degrees T to another Department maintained marker, then along the shoreline in a generally easterly direction to the point of origin and terminating.]

7. (No change.)

8. Lakes Bay-Shelter Bay-Risley Channel Area: Seasonal-Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

i. [All that portion of Lakes Bay, Shelter Bay and adjoining thorofores contained within a line from the Pleasantville Yacht Club and following the channel markers

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Fl G "15," Fl G "13," Fl G "11," Fl R "8" to Fl G "7," then bearing approximately 061 degrees T across the northernmost tip of a small unnamed island to Great Island, then along the shoreline of Great Island in a southerly direction to a Department maintained marker at latitude 39 degrees 21 minutes 24.82 seconds N., and longitude 74 degrees 29 minutes 49.31 seconds W., then to a Department maintained marker at latitude 39 degrees 21 minutes 17.16 seconds N., and longitude 74 degrees 29 minutes 56.73 seconds W., at the northwestern tip of Shelter Island, then continuing in a southerly direction along the shoreline of Shelter Island to a Department maintained marker at latitude 39 degrees 20 minutes 44.94 seconds N., and longitude 74 degrees 30 minutes 11.84 seconds W., at the southernmost tip of Shelter Island, then proceeding in a southwesterly direction to a Department maintained marker at latitude 39 degrees 20 minutes 43.61 seconds N., and longitude 74 degrees 30 minutes 29.92 seconds W., on an unnamed island, then bearing approximately 245 degrees T to Jonas Island, then along the eastern shoreline, then along northern shoreline, then along western shoreline to a Department maintained marker, then bearing approximately 204 degrees T to Pork Island, then along the shoreline in a westerly direction to the southwestern corner of the bridge base on the eastern section at the base of the Ventnor-Margate Bridge at a point latitude 39 degrees 20 minutes 27.45 seconds N., and longitude 74 degrees 31 minutes 18.64 seconds W., then in a northwesterly direction across Shelter Island Waters at the base of the bridge to the base of the bridge located on Toms Island at the northwestern corner of the eastern section of the Ventnor-Margate Bridge at latitude 39 degrees 20 minutes

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32.45 seconds N., and longitude 74 degrees 31 minutes 24.16 seconds W., on Toms Island, then continuing in a northeasterly direction along the coast of Toms Island to a point at approximately latitude 39 degrees 20 minutes 42.31 seconds N., and longitude 74 degrees 31 minutes 34.22 seconds W., on the northern edge of Williams Island located at the northwestern corner of the bridge base on the western section of the Ventnor-Margate Bridge, then proceeding across Whirlpool Channel at the base of the bridge to a point at approximately latitude 39 degrees 20 minutes 47.06 seconds N., and longitude 74 degrees 31 minutes 42.13 seconds W., on the southeasterly side of Kiah's Island, then along that shoreline in a northeasterly direction (approximately 1,900 yards) to a Department maintained marker, then bearing approximately 340 degrees T to the opposite shoreline at the point of land on the east side of the mouth of the unnamed creek just east of Stillman Creek, then continuing in an easterly direction along the northern shoreline of Dock Thorofare, Lakes Channel and Lakes Bay to its point of origin at the Pleasantville Yacht Club and terminating.] **All that portion of Lakes Bay, Shelter Bay and adjoining thorofares contained within a line from the Pleasantville Yacht Club and following the channel markers Fl G "15," Fl G "13," Fl G "11," Fl R "8" to Fl G "7," then bearing approximately 061 degrees T across the northernmost tip of a small unnamed island to Great Island, then along the shoreline of Great Island in a southerly direction to a Department maintained marker at latitude 39 degrees 21 minutes 24.82 seconds N., and longitude 74 degrees 29 minutes 49.31 seconds W., then continuing in a westerly direction across Shelter Bay to the most southerly**

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tip of Alex Island at a point approximately Latitude 39 degrees 21 minutes 48.03 seconds N., and Longitude 74 degrees 30 minutes 53.76 seconds W., then turning southwesterly across Lakes Channel to a Department Maintained Marker at Latitude 39 degrees 21 minutes 46.36 seconds N., and Longitude 74 degrees 31 minutes 4.46 seconds W., then continuing northwesterly along the shoreline of Lakes Channel and Lakes Bay to its point of origin at the Pleasantville Yacht Club and terminating.

9. – 11.(No change.)

12. Jenkins Sound-Grassy Sound-Richardson Sound: Seasonal-Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

i-iii. (No change.)

iv. **All of the** [Those] waters of Old Turtle Thorofare from the mouth of Old Turtle Thorofare at Richardson Sound **and its tributaries north and east of its junction with Tempe Creek** to [a line created by two Department maintained markers on opposite banks of Old Turtle Thorofare just south of] its junction with **Grassy Sound Channel** [Tempe Creek].

13. Delaware Bay:

i-viii. (No change.)

ix. [All of the waters northeast of a line from a point south of Bay Side at latitude 39 degrees 22 minutes 51 seconds N, longitude 75 degrees 24 minutes 14 seconds W and

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bearing approximately 133 degrees T to the westernmost tip of a point of land at latitude 39 degrees 22 minutes 33 seconds N, longitude 75 degrees 23 minutes 50 seconds W.] All of the waters contained within a line beginning at a point northwest of the town of Sea Breeze at Latitude 39 degrees 19 minutes 58.3 seconds N., Longitude 75 degrees 19 minutes 35.0 seconds W., then bearing approximately 280 degrees T to a point at Latitude 39 degrees 19 minutes 58.7 seconds W., Longitude 75 degrees 19 minutes 37.7 seconds W., then bearing 178 degrees T to a point in the Delaware Bay at Latitude 39 degrees 19 minutes 17.2 seconds N., Longitude 75 degrees 19 minutes 36.0 seconds W., then bearing 91 degrees T to a point on the shoreline west of the town of Sea Breeze at Latitude 39 degrees 19 minutes 17.2 seconds N., Longitude 75 degrees 19 minutes 14.3 seconds W., then back to the point of origin and terminating;

x. All of the waters northeast of a line from a point west of the mouth of Stow Creek at Latitude 39 degrees 22 minutes 52.5 seconds N., Longitude 75 degrees 24 minutes 28.3 seconds W., and bearing approximately 143 degrees T to a point northwest of the mouth of Jacobs Creek at Latitude 39 degrees 22 minutes 2.4 seconds N., Longitude 75 degrees 23 minutes 39.2 seconds W.

xi. All of the waters contained within a line beginning at a point south of the mouth of Cherry Tree Creek at Latitude 39 degrees 24 minutes 1.1 seconds N., Longitude 75 degrees 26 minutes 20.3 seconds W, then bearing approximately

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269 degrees T to a point at Latitude 39 degrees 24 minutes 1.0 seconds N., Longitude 75 degrees 26 minutes 27.9 seconds W., then bearing approximately 349 degrees T to a point southeast of the mouth of Lower Deep Creek at Latitude 39 degrees 24 minutes 8.8 seconds N., Longitude 75 degrees 26 minutes 29.7 seconds W., then along the shoreline in a southeasterly direction to a point north of the mouth of Cherry Tree Creek at Latitude 39 degrees 24 minutes 1.6 seconds N., Longitude 75 degrees 26 minutes 19.8 seconds W., then bearing 217 degrees T back to the point of origin and terminating;

Based on consultation with staff, I hereby certify that the above statements, including the comparison with Federal Law statement addressing the requirements of Executive Order 27 (1994), permit the public to understand accurately and plainly the purposes and expected consequences of this proposed readoption with amendments. I hereby authorize this proposal.

DATE: _____

Lisa P. Jackson,
Commissioner

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