

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 2701 (7 Del.C. §2701)

7 DE Admin. Code 3214

PROPOSED

REGISTER NOTICE #2012 - 23

3214 Horseshoe Crab Annual Harvest Limit

1. TITLE OF THE REGULATION:

3214 Horseshoe Crab Annual Harvest Limit

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUE:

The purpose of this action is to establish Delaware's annual sex-specific horseshoe crab harvest limits (quota) in accordance with Addendum VII to the Atlantic States Marine Fisheries Commission's (ASMFC) Interstate Fishery Management Plan for Horseshoe Crabs (FMP). This action also provides a mechanism to close the fishery in a manner that minimizes the likelihood of exceeding the annual sex-specific quota allocation(s).

Addendum VII to the FMP instituted an Adaptive Resource Management (ARM) framework for establishing annual horseshoe crab sex-specific quotas in the Delaware Bay Region. The ARM Framework transparently incorporates the views of stakeholders along with predictive modeling to assess the potential consequences of multiple, alternative management actions in the Delaware Bay Region. The annual specification process determines the following year's (t + 1) harvest using horseshoe crab data from the previous year (t - 1) and shorebird data from the current year (t). State-by-state allocations within the region are apportioned based on Addendum VI quotas; the proportion of state landings of Delaware Bay origin; and, harvest caps for Maryland and Virginia (to protect horseshoe crabs of non- Delaware Bay-origin). Harvest caps in Maryland and Virginia can only be exceeded through a 2:1 (M:F) female offset when a female harvest moratorium is specified. Should data be unavailable to populate the ARM model, quotas may be set at the Addendum VI levels or the previous year's ARM framework.

This action would also establish measures for closing the horseshoe crab fishery. Presently, the Department lacks the ability to close the horseshoe crab fishery until landings reach the exact annual harvest limit. This method of closing the fishery fails to adequately consider the timeliness of harvest reporting and delinquent reporting. This has resulted in quota overages in some years. Overages pose a potential risk to horseshoe crab and shorebird resources. Further, overages must be deducted from the following year's quota and, therefore, may disadvantage harvesters or segments of the fishery the following year. Using the most recent landings data upon reaching 95% of the annual sex-specific quota will minimize the risk of exceeding allocations.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Delaware Code, Chapter 27 §2701 (7 Del.C. §2701)

5. LIST OF OTHER REGULATIONS THAT MAY BE IMPACTED OR AFFECTED BY THE PROPOSAL:

N/A

6. NOTICE OF PUBLIC COMMENT:

The hearing record on the proposed changes to the 3214 Horseshoe Crab Annual Harvest Limit regulation will be open January 1, 2013. Individuals may submit written comments regarding the proposed changes via e-mail to Lisa.Vest@state.de.us or via the USPS to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901 (302) 739-9042. A public hearing on the proposed amendment will be held on January 23, 2013 beginning at 6 pm in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901.

7. PREPARED BY:

Stewart Michels Stewart.Michels@state.de.us (302) 739-9914

David E. Saveikis, Director

(Penalty Section 7 **Del.C.** §2705(b))

- 1.0 ~~The annual harvest limits for horseshoe crabs taken and/or landed in the State shall be 400,000 male horseshoe crabs for a period extending from November 1, 2010 through April 30, 2013, or whatever the Atlantic States Marine Fisheries Commission has approved as Delaware's current annual quota. No female horseshoe crabs may be taken/landed at any time determined in accordance with the annual sex-specific allocations identified in Addendum VII to the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Horseshoe Crab.~~
- 2.0 When the Department has determined that ~~the~~ 95% of an annual sex-specific horseshoe crab quota allocation has been met ~~landed~~, the Department shall establish, based on recent fishery performance and landings, a date and time to order that component of the horseshoe crab fishery closed, and no further horseshoe crabs of the component specified may not be taken during the remainder of the calendar year once closed by the Department.
- 3.0 Any overage in the State's annual horseshoe crab quota will be subtracted from the following year's horseshoe crab quota allocation.

7 DE Reg. 220 (8/1/03)

10 DE Reg. 1029 (12/01/06)

11 DE Reg. 685 (11/01/07)

12 DE Reg. 975 (01/01/09)

14 DE Reg. 904 (03/01/11)

16 DE Reg. 722 (01/01/13) (Prop.)