

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 6606 and 6010 (7 Del.C. §§6606 & 6010)
7 DE Admin. Code 3200

FINAL

Secretary's Order No: 2023-F-0010

RE: Approving Final Amendments to 7 DE Admin. Code 3200 - Horseshoe Crabs

Date of Issuance: May 12, 2023

Effective Date: June 11, 2023

3200 Horseshoe Crabs

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") pursuant to 7 Del.C. §§6606 and 6010, and all other relevant statutory authority, the following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced regulatory proceeding.

Background, Procedural History and Findings of Fact

This Order relates to 7 DE Admin. Code 3200 - *Horseshoe Crabs* ("Regulation"). The Department proposes revisions to the Regulation that will enable the Department to update the annual quota setting process, revise the metrics used to establish the daily possession limit, clarify the definition of the legal harvest methods, define the circumstances that will require a horseshoe crab dredge lottery, and modify the dredge lottery process.

In November 2022, the Atlantic States Marine Fisheries Commission ("ASMFC") approved the *Horseshoe Crab Fishery Management Plan's* Addendum VIII ("Addendum VIII") that updates the modeling software used to produce the annual quota for Horseshoe Crabs. The ASMFC implemented an updated version of the Adaptive Resource Management (ARM) modeling software that incorporates the most recent and reliable information for managing horseshoe crabs with consideration of the migrating shorebird's needs. The data from the ARM software produces an annual bait harvest recommendation for horseshoe crabs. The ASMFC then sets the annual bait harvest recommendations for the Delaware Bay-origin horseshoe crabs, which includes the quota for Delaware.

The ARM model generated the 2023 harvest quota for Delaware as 164,364 male horseshoe crabs. The harvest quota has increased by approximately 2,200 male horseshoe crabs from the 2022 harvest quota that was implemented by Addendum VII of the *Horseshoe Crab Fishery Management Plan*.

As Delaware is a member of the ASMFC, the Department is required to comply with the revisions set forth by Addendum VIII that include updating the quota setting process for the annual harvest of horseshoe crabs by using the new ARM model. Additionally, the Department proposes revisions to the Regulation to update the annual quota setting process, revise the metrics used to establish the daily possession limit, clarify the definition of the legal harvest methods, define the circumstances that will require a horseshoe crab dredge lottery, and modify the dredge lottery process.

The Department has established the daily possession limit of horseshoe crabs based upon a volume metric, using the square footage of a vehicle's storage area to determine the amount of horseshoe crabs' collection. Harvesters, however, are required to report a numeric count as the daily harvest of horseshoe crabs collected. The volume metric used to enforce daily harvest limits does not support the daily report requirement that is in a numerical unit metric and causes a challenge for enforcement of the possession limit. To align the numerical metric daily report requirement to the daily possession limit of horseshoe crabs, the Department is revising the daily possession limit to a numerical metric unit.

In addition, the Department has added the term "Take and Reduce to Possession" to provide language to specify the outcome after the removal of the horseshoe crabs. The term "take" covers the act of either collecting or dredging the horseshoe crabs, while "reduce to possession" is the act of keeping the horseshoe crab. For example, a dredge will "take" both male and female horseshoe crabs, but the female horseshoe crabs must be returned to the water while the male horseshoe crabs are kept or "reduced to possession." The term "Take and Reduce to Possession" is used within 7 DE Admin. Code 3000- *Division of Fish and Wildlife*, to identify and enforce the taking of species, such as horseshoe crabs.

Lastly, the Department's proposed Amendments will align the dredging lottery process to reflect the current fishery operation. Language has been revised to define the circumstances necessary for the dredging lottery process. The dredge lottery will only occur if the annual quota is not met, after the horseshoe crabs season ends. Additionally, the dredge lottery process has been modified to remove the date of January 1, and should the dredge lottery be needed, the Department will announce the date and time. These revisions will allow the Department to better align with the current fishery operation.

The Amendments allow the Department to remain in compliance with the ASMFC, clarify and define the legal harvest methods, modify the horseshoe crabs dredge lottery, and revise outdated language throughout the Regulation. These

Amendments will keep Delaware's horseshoe crabs harvest quota in compliance with the FMP and assist in preventing overharvest. It should be noted that general language throughout the Amendment has been revised to meet the current standard language used throughout the Department's Regulations.

The Department has the statutory basis and legal authority to act with regard to the formal promulgation of these proposed Amendments, pursuant to 7 *Del. C.* §103 (a & b). The Department published its proposed regulation Amendments in the March 1, 2023, Delaware Register of Regulations. Thereafter, the public hearing regarding this matter was held on March 23, 2023. Pursuant to 29 *Del.C.* §10118(a), the hearing record ("Record") remained open for receipt of additional written comment for 15 days following the public hearing. The Record formally closed for comment in this matter at close of business on April 7, 2023, with three (3) written comments received by the Department for the formal promulgation.

It should be noted that all notification and noticing requirements concerning this matter were met by the Department. Proper notice of the hearing was provided as required by law.

Subsequent to the close of the Record, and at the request of presiding Hearing Officer Theresa Newman, the Department's Division of Fish and Wildlife staff prepared a Technical Response Memorandum ("TRM"). The TRM responds to the comments received by the Department in this matter and provides a thorough discussion in response to the suggestions and questions provided by the public.

Following the receipt of the Department's TRM as noted above, the Hearing Officer prepared her Hearing Officer's Report dated May 4, 2023 ("Report"), which expressly incorporated both the Department's proposed Amendments and the TRM into the Record generated in this matter. The Report documents the proper completion of the required regulatory amendment process, establishes the Record, and recommends the adoption of the proposed Amendments as attached to the Report as Appendix "A."

Reasons and Conclusions

Based on the Record developed by the Department's experts in the Division of Fish and Wildlife, and established by the Hearing Officer's Report, I find that the proposed regulatory Amendments to 7 **DE Admin. Code** 3200 - *Horseshoe Crabs*, are well supported. I further find that the Department's experts fully developed the record to support adoption of these Amendments. Therefore, the recommendations of the Hearing Officer are hereby adopted, and I direct that the proposed Amendments be promulgated as final.

The following reasons and conclusions are entered:

1. The Department has the statutory basis and legal authority to act with regard to this proposed regulatory promulgation, pursuant to 7 *Del. C.* §2701;
2. The Department has jurisdiction under its statutory authority, pursuant to 7 *Del.C.* Chapter 60, to issue an Order adopting these proposed Amendments as final;
3. The Department provided adequate public notice of the proposed Amendments and all proceedings in a manner required by the law and regulations, and provided the public with an adequate opportunity to comment on the same, including at the time of the public hearing held on March 23, 2023, and during the 15 days subsequent to the hearing (through April 7, 2023), before making any final decision;
4. Promulgation of the proposed Amendments to 7 DE Admin. 3200 - Horseshoe Crabs will enable the Department to: (1) comply with the ASMFC's Addendum VIII to the *Horseshoe Crab Fishery Management Plan*, by adopting the annual quota setting process using the new ARM model, (2) revise the metrics used to establish the daily possession limit, (3) clarify the definition of the legal harvest methods, (4) define the circumstances that will require a horseshoe crabs dredge lottery, and (5) modify the dredge lottery process;
5. The Department has reviewed the proposed Amendments in light of the Regulatory Flexibility Act, consistent with 29 *Del.C.* Ch. 104, and believes the same to be lawful, feasible and desirable, and the recommendations as proposed should be applicable to all Delaware citizens equally;
6. The Department's proposed regulatory Amendments, as published in the March 1, 2023, *Delaware Register of Regulations*, as set forth in Appendix "A" hereto, are adequately supported, are not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, they should be approved as final regulatory Amendments, which shall go into effect ten days after their publication in the next available issue of the *Delaware Register of Regulations*; and
7. The Department shall submit the proposed Amendments as final regulatory amendments to the *Delaware Register of Regulations* for publication in its next available issue and provide such other notice as the law and regulation require, and the Department determines is appropriate.

Lisa Borin Ogden
For Shawn M. Garvin
Secretary

3204 1.0 Definitions

(Penalty Section 7 Del.C. §2705(b))

- 4.0 The following definitions shall apply to terms in 7 Del.C. Ch. 27 relative to horseshoe crabs.
- 4.1 **"Asian Horseshoe Crabs"** ~~shall mean~~ means any of the following species *Carcinoscorpius rotundicauda*, *Tachypleus gigas*, and *Tachypleus tridentatus*.
- 4.2 **"Bait Saving Device"** ~~shall mean~~ means any device that when so deployed in or on a pot reduces either the rate at which bait, meaning horseshoe crabs or parts thereof, must be replenished or reduces the number or quantity of horseshoe crabs used as bait.
- 4.3 **"Collect"** ~~shall mean~~ means to take live horseshoe crabs by ~~any means other than by dredge hand~~ without the aid of manual or mechanical equipment or devices during the times and at the places that horseshoe crab collection is allowed as described in Section 3.0.
- 4.4 **"Dispose of said Crabs Properly"** ~~shall mean~~ means bury on the beach, incorporate into soil as fertilizer or any other method approved by the Department.
- 4.5 **"Dredge"** ~~shall mean to use~~ means any device used to gather, scrape, scoop, fish for or otherwise take bottom dwelling horseshoe crabs or the act of using a dredge.
- 4.6 **"Personal, Non-Commercial Use"** ~~shall mean~~ means to be used as food, fertilizer or bait or otherwise properly disposed without trading, bartering, or selling by one individual to another, or without transporting, shipping, or causing to be transported or shipped, out of state.
- "Take and Reduce to Possession"** means the removal of any horseshoe crab with the intent to keep or harvest the horseshoe crab.

7 DE Reg. 220 (08/01/03)

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

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

17 DE Reg. 441 (10/01/13)

3202 2.0 Horseshoe Crabs As Bait In Pots; Conch Pots

(Penalty Section 7 Del.C. §2705(b))

- 4.0 2.1 It shall be unlawful for any person to place more than one-half of a female horseshoe crab or one male horseshoe crab as bait in any type of pot on any one day in the waters of this State.
- 2.0 2.2 It shall be unlawful for any person to fish with a conch pot that is not equipped with a bait saving device, provided that a horseshoe crab or parts thereof are used as bait.

7 DE Reg. 220 (08/01/03)

3203 3.0 Horseshoe Crab Seasons And Area Closed To Taking Horseshoe Crabs Harvest Areas

(Penalty Section 7 Del.C. §2705(b))

- 4.0 3.1 It shall be unlawful for any person to dredge or attempt to ~~collect~~ take and reduce to possession by means of a dredge horseshoe crabs or parts thereof from any state or federal land owned in fee simple or the tidal waters of this state during a period beginning at 12:01 am on January 1 and continuing through midnight, June 30, next ensuing. After June 30 in any given calendar year, it shall be unlawful to dredge or attempt to ~~collect~~ take and reduce to possession by means of a dredge female horseshoe crabs.
- 2.0 3.2 It shall be lawful for persons with valid horseshoe crab collecting permits and eel licensees and their alternates to collect adult male horseshoe crabs on Monday through Friday from state owned lands to the east of state road No. 89 (Port Mahon Road) from 12:01 a.m. on June 8 and continuing through midnight on July 31.
- 3.0 3.3 It shall be unlawful for any person to collect or attempt to collect, any horseshoe crabs or parts thereof from any land not owned by the state or federal government during the period beginning at 12:01 a.m. on January 1 and continuing through midnight, June 7, next ensuing. It shall be lawful, during a period beginning at 12:01 a.m. on June 8 and continuing through midnight on July 31, for persons with valid horseshoe crab collecting permits and eel licensees and their alternates to collect male horseshoe crab adults on Mondays through Fridays from such private lands.
- 4.0 3.4 It shall be unlawful for any person to collect or attempt to collect any horseshoe crabs from any land not owned by the State or federal government unless ~~said the person has on his or her person~~ is in physical possession of written permission, signed by the owner of ~~said the privately owned~~ land with the owner's address and phone number, indicating the ~~individual person~~ individual person to whom permission to collect horseshoe crabs is granted.

1 DE Reg 1412 (04/01/98)

7 DE Reg. 220 (08/01/03)

10 DE Reg. 1029 (12/01/06)
11 DE Reg. 685 (11/01/07)
12 DE Reg. 975 (01/01/09)

3204 ~~4.0~~ Requirement Requirements For Collecting Horseshoe Crabs For Persons Under 16

(Penalty Section 7 Del.C. §2705(b))

- 4.0 ~~4.1~~ It shall be unlawful for any person with a valid horseshoe crab collecting permit to collect any horseshoe crabs as an alternate to a person with a valid commercial eel fishing license.
- 2.0 ~~4.2~~ It shall be unlawful for any person under the age of ~~sixteen (16)~~ 16 years to possess any horseshoe crabs unless accompanied by a person who has been issued a valid horseshoe crab scientific collecting, commercial collecting or dredge permit.

3 DE Reg 1092 (02/01/00)
7 DE Reg. 220 (08/01/03)
10 DE Reg. 1029 (12/01/06)
11 DE Reg. 685 (11/01/07)

3205 ~~5.0~~ Number Of Persons Accompanying A Person With A Valid Horseshoe Crab Collecting Permit

(Penalty Section 7 Del.C. §2705(b))

- 4.0 ~~5.1~~ It shall be unlawful for any person with a valid horseshoe crab commercial collecting permit when collecting horseshoe crabs to be assisted by more than ~~three (3)~~ 3 persons under the age of 16 who are not required to have valid horseshoe crab commercial collecting permits.
- 2.0 ~~5.2~~ It shall be unlawful for any person 16 years of age or older who does not have a valid commercial horseshoe crab collecting permit, to assist any person with a valid commercial horseshoe crab collecting permit in the handling, loading or driving a vehicle used to transport horseshoe crabs collected by ~~said the~~ the horseshoe crab collecting permittee while within 300 feet of the shoreline of the water from which ~~said the~~ the horseshoe crabs are collected or the point on shore where ~~said the~~ the horseshoe crabs are landed from a vessel.

3 DE Reg 1092 (02/01/00)
7 DE Reg. 220 (08/01/03)
10 DE Reg. 1029 (12/01/06)
11 DE Reg. 685 (11/01/07)

3206 ~~6.0~~ Possession Limit Of Horseshoe Crabs, Exceptions

(Penalty Section 7 Del.C. §2705(b))

- 4.0 ~~6.1~~ Unless otherwise authorized, it shall be unlawful for any person to possess a horseshoe crab, except a person with a validated receipt from a person with a valid horseshoe crab commercial collecting or dredge permit for the number of horseshoe crabs in ~~said person's~~ the receipt-holder's possession. A receipt shall contain the name, address and signature of the supplier, the date and the number of horseshoe crabs obtained.
- 2.0 ~~6.2~~ Any person who has been issued a valid commercial eel fishing license by the Department or ~~said the~~ the person's alternate while in the presence of the licensee, is exempt from the prohibition on the possession of horseshoe crabs, provided ~~said the~~ the commercial eel fishing licensee has submitted all required reports of ~~his/her the~~ the licensee and ~~his/her the~~ the licensee's alternate's previous week's harvest of horseshoe crabs with the Department in accordance with ~~Regulation 3210~~ Section 10.0 of this regulation. Any person who has been issued a commercial eel fishing license and ~~said the~~ the person's alternate while in the presence of the licensee, may collect horseshoe crabs by hand without a horseshoe crab commercial collecting permit provided all horseshoe crabs taken are for personal, non-commercial use, as bait for the licensee's eel pots fished in this state.
- 3.0 ~~6.3~~ It shall be unlawful for any person with a valid commercial eel fishing license to be assisted in collecting horseshoe crabs by any person who is not listed on his commercial eel fishing license as the alternate.
- 4.0 ~~6.4~~ Any person with both a valid commercial eel fishing license and a valid commercial horseshoe crab collecting permit shall be considered as a commercial horseshoe crab collecting permittee for purposes of enforcing the provisions of 7 Del.C. Ch. 27 ~~and/or~~ or shellfish regulations pertaining to horseshoe crabs.
- 5.0 ~~6.5~~ It shall be unlawful for any person with a valid commercial eel fishing license to commingle any horseshoe crabs collected either by ~~said the~~ the commercial eel fishing licensee or by ~~his or her the~~ the licensee's alternate with horseshoe crabs either collected by a person with a valid horseshoe crab dredge permit or by a person with a valid commercial horseshoe crab collecting permit.
- 6.0 ~~6.6~~ It shall be unlawful for any person with a valid horseshoe crab dredge permit or with a valid commercial horseshoe crab collecting permit to commingle any horseshoe crab dredged or collected by ~~said the~~ the

horseshoe crab dredge permittee or horseshoe crab collecting permittee with horseshoe crabs collected by any person with a valid commercial eel fishing license.

~~7.0~~ 6.7 ~~It shall be unlawful for any person to possess more than 300 cubic feet of 3,000~~ horseshoe crabs except in a stationary cold storage or freezer facility.

~~8.0~~ 6.8 It shall be unlawful for any person to collect or attempt to collect more than ~~300 cubic feet of 3,000~~ horseshoe crabs during any 24 hour period beginning at 12:01 AM and continuing through midnight next ensuing.

1 DE Reg. 1412 (04/01/98)

3 DE Reg. 1567 (05/01/00)

3 DE Reg. 1092 (02/01/00)

3 DE Reg. 1567 (05/01/00)

7 DE Reg. 220 (08/01/03)

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

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

3207 7.0 Horseshoe Crab Dredging Restrictions

(Penalty Section 7 Del.C. §2705(b))

~~4.0~~ 7.1 It shall be unlawful for any person to dredge horseshoe crabs in the area in Delaware Bay designated as leased shellfish grounds except on one's own leased shellfish grounds or with permission from the owner of leased shellfish grounds. The area in Delaware Bay designated as leased shellfish grounds is within the boundaries that delineate leasable shellfish grounds and is described as follows: Starting at a point on the "East Line" in Delaware at Loran-C coordinates 27314.50/42894.25 and continuing due east to a point at Loran-C coordinates 27294.08/42895.60 and then 27270.80/42852.83 and then continuing southwest to a point at Loran-C coordinates 27281.31/42803.48 and then continuing west to a point at Loran-C coordinates 27280.75/42795.50 and then in a northerly direction on a line 1000' offshore, coterminous with the existing shoreline to the point of beginning on the "East Line."

~~2.0~~ 7.2 It shall be unlawful for any person, who operates a vessel and has on board ~~said the~~ vessel a dredge of any kind, to have on board or to land more than ~~4500~~ 3,000 horseshoe crabs during any 24 hour period beginning at 12:01 a.m. and continuing through midnight next ensuing.

~~3.0~~ 7.3 It shall be unlawful for any person, who operates a vessel and has on board ~~said the~~ vessel a dredge of any kind, to have or possess on board ~~said the~~ vessel any horseshoe crabs at any time during the period beginning 12:01 a.m. on January 1 and continuing through midnight, June 30, next ensuing.

~~4.0~~ 7.4 It shall be unlawful for any person to land horseshoe crabs taken from the Exclusive Economic Zone unless ~~said the~~ person has a valid horseshoe crab dredge permit.

1 DE Reg. 354 (10/01/97)

1 DE Reg. 1412 (04/01/98)

3 DE Reg. 1567 (05/01/00)

7 DE Reg. 220 (08/01/03)

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

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

3208 8.0 Horseshoe Crab Dredge Permit Lottery

(Penalty Section 7 Del.C. §2705(b))

~~4.0~~ 8.1 ~~The~~ If any of Delaware's annual harvest limit, as defined in Section 14.0 of this regulation, remains unharvested after the collecting season closure date, as defined in Section 3.0 of this regulation, the Department of Natural Resources and Environmental Control shall hold an annual lottery to select eligible individuals for the five horseshoe crab dredge permits authorized to be issued each year if more than five applications are received by the Department. Applications for an annual commercial horseshoe crab dredge permit shall be accepted by the Department until 4:30 PM December 31 or 4:30 PM on the Friday preceding if December 31 is a Saturday or Sunday the deadline set by the Department. If an annual lottery is necessary it shall be conducted at 1:00 PM on January 1, or the first work day thereafter, in the Richardson and Robbins Building, 89 Kings Highway, Dover, Delaware on a date and time set by the Department.

~~2.0~~ 8.2 To be eligible an applicant for a horseshoe crab dredge permit shall be the current holder of an oyster harvesting license issued by the Department.

2 DE Reg 1055 (01/01/99)

3 DE Reg. 652 (11/01/99)

5 DE Reg. 1128 (11/01/01)

7 DE Reg. 220 (08/01/03)

10 DE Reg. 1029 (12/01/06)
11 DE Reg. 685 (11/01/07)

3209 9.0Horseshoe Crab Sanctuaries

(Penalty Section 7 Del.C. §2705(b))

- 4.0 9.1 All state and federal lands owned in fee simple are horseshoe crab sanctuaries during the period beginning 12:01 a.m. on May 1 through midnight June 30.
- 2.0 9.2 Any land ~~owner(s)~~ owner may register their land with the Department to be designated as a horseshoe crab sanctuary for a period to be specified by the land ~~owner(s)~~ owner.
- 3.0 9.3 It shall be unlawful to collect any horseshoe crabs at any time from a horseshoe crab sanctuary except as provided in ~~Regulation 3203 section 2.0~~ subsection 3.2 of this regulation.

1 DE Reg. 354 (10/01/97)
1 DE Reg. 1412 (04/01/98)
7 DE Reg. 220 (08/01/03)
10 DE Reg. 1029 (12/01/06)
11 DE Reg. 685 (11/01/07)

3240 10.0Horseshoe Crab Reporting Requirements

(Penalty Section 7 Del.C. §2705(b))

- 4.0 10.1It shall be unlawful for any person who has been issued a horseshoe crab dredge permit, a horseshoe crab commercial collecting permit or a commercial eel pot license to not report ~~his/her~~ the harvest of horseshoe crabs to the Department on a daily basis. ~~Said daily~~ Daily reports shall not be required to be submitted to the Department during any month ~~said the~~ person indicates previously in writing to the Department that ~~he/she~~ the person will not be harvesting horseshoe crabs. Any person required to submit a daily report on ~~his/her~~ the harvest of horseshoe crabs to the Department shall phone in ~~said the~~ report within 24 hours of ~~said~~ harvesting. For purposes of ~~this section~~ Section 10.0, a week shall commence at 12:01AM on Monday and conclude at midnight on Sunday, next ensuing. ~~Said The~~ report shall include ~~but not be limited to said the~~ person's unique identification number assigned by the Department, the dates and location horseshoe crabs were harvested, the number of horseshoe crabs harvested and the method of harvest of horseshoe crabs. ~~Said The~~ report shall be submitted to the Department by telephone by calling a phone number, dedicated by the Department for the reporting of harvested horseshoe crabs, and entering the required data by code or voice as indicated.
- 2.0 10.2Any person who fails to submit a daily report on ~~his/her~~ the harvest of horseshoe crabs to the Department on time shall have ~~his/her~~ the permit to dredge or ~~his/her~~ the permit or authority to collect horseshoe crabs suspended until all delinquent reports on harvested horseshoe crabs are received by the Department.
- 3.0 10.3In addition to the requirement to phone in daily catch reports, horseshoe crab collectors and harvesters and commercial eel fishermen are required to compile and file monthly log sheets detailing daily landings of horseshoe crabs on forms supplied by the Department. These forms must be submitted by the 10th day of the month next ensuing. Failure to submit these monthly reports on a timely basis may be cause for horseshoe crab collecting or horseshoe crab dredge permit revocation or non-renewal of ~~said the~~ permit the following year; or in the case of a commercial eel licensee, forfeiture of permission to possess or use horseshoe crabs as bait for the remainder of the year.

1 DE Reg 1413 (04/01/98)
3 DE Reg 1567 (05/01/00)
7 DE Reg. 220 (08/01/03)
10 DE Reg. 1029 (12/01/06)
11 DE Reg. 685 (11/01/07)

3244 11.0Horseshoe Crab Commercial Collecting Permit Eligibility And Renewal Requirements

(Penalty Section 7 Del.C. §2705(b))

- 4.0 11.1The Department may only issue a horseshoe crab commercial collecting permit to a person who makes application for such a permit in calendar year 1998, and who, prior to July 1, 1997, had applied for and secured from the Department at least 2 valid horseshoe crab commercial collecting permits.
- 11.2 Any person holding a horseshoe crab commercial collecting permit in 1998 may apply for renewal of their horseshoe crab commercial collecting permit by December 31 each year.
- 11.3 If any person holding a horseshoe crab commercial collecting permit from the previous year fails to apply for renewal of their horseshoe crab commercial collecting permit by December 31 in any given calendar year, they forfeit their eligibility to obtain a horseshoe crab commercial collecting permit in subsequent years.

1 DE Reg. 1413 (04/01/98)
7 DE Reg. 220 (08/01/03)
10 DE Reg. 1029 (12/01/06)
11 DE Reg. 685 (11/01/07)

3242 12.0Prohibitions; Sale Of Horseshoe Crabs

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

4.0 It shall be unlawful for any person who collects or dredges horseshoe crabs, except a person with a valid horseshoe crab commercial collecting permit or a person with a valid horseshoe crab dredge permit, to sell, ~~trade and/or trade~~, barter or to attempt to sell, ~~trade and/or trade~~, or barter any horseshoe crab.

1 DE Reg. 1413 (04/01/98)
7 DE Reg. 220 (08/01/03)
10 DE Reg. 1029 (12/01/06)
11 DE Reg. 685 (11/01/07)

3243 13.0Collecting Horseshoe Crabs At Night, Prohibited

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

4.0 It shall be unlawful for any person with a valid commercial eel fishing license to collect horseshoe crabs between sunset and sunrise.

3 DE Reg. 1092 (02/01/00)
7 DE Reg. 220 (08/01/03)
10 DE Reg. 1029 (12/01/06)
11 DE Reg. 685 (11/01/07)

3244 14.0Horseshoe Crab Annual Harvest Limit

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

4.0 14.1The annual harvest limits for horseshoe crabs taken or landed in the State shall be determined in accordance with the annual sex-specific allocations ~~identified in~~ specified by the Atlantic States Marine Fisheries Commission's Horseshoe Crab Management Board in compliance with Addendum VIII to the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Horseshoe Crab.

2.0 14.2When the Department has determined that 95% of an annual sex-specific horseshoe crab quota allocation has been 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. Horseshoe crabs of the component specified may not be taken during the remainder of the calendar year once closed by the Department.

3.0 14.3Any 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 (08/01/03)
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. 1082 (04/01/13)

3245 15.0Horseshoe Crab Harvest Moratorium

Repealed

10 DE Reg. 1029 (12/01/06)
11 DE Reg. 685 (11/01/07)

3246 16.0Prohibition on Possession or Use of Asian Horseshoe Crabs

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

4.0 It is unlawful to possess or use as bait Asian horseshoe crabs or parts thereof without written authorization from the Director of the Division of Fish and Wildlife.

1 DE Reg. 354 (10/01/97)
1 DE Reg. 1412 (04/01/98)
2 DE Reg. 1055 (01/01/99)
3 DE Reg. 652 (11/01/99)

3 DE Reg. 1092 (02/01/00)
3 DE Reg. 1567 (05/01/00)
7 DE Reg. 220 (08/01/03)
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. 1082 (04/01/13)
17 DE Reg. 441 (10/01/13)
26 DE Reg. 1068 (06/01/23) (Final)