

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 103, 1902, 2701, 2703 and Chapter 15
(7 **Del.C.** §§103, 1902, 2701, 2703 and Ch. 15)
7 **DE Admin. Code** 3203 and 3214

PROPOSED

REGISTER NOTICE SAN# 2008-22

1. Title of the Regulations:

Horseshoe Crab Regulations: 3203 Seasons and Area Closed to Taking Horseshoe Crabs.
3214 Horseshoe Crab Annual Harvest Limit.

2. Brief Synopsis of the Subject, Substance and Issues:

The Department adopted regulations (Order Number 2007-F-0044) effective November 11, 2007 to implement the horseshoe crab mandatory harvest provisions in Addendum IV of the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for the Horseshoe Crab. As a follow-up to this Order, the Department is proposing regulations designed to be in compliance with the provisions of the Atlantic States Marine Fisheries Commission Addendum V to the Interstate Fishery Management Plan for Horseshoe Crab. These regulations would extend for another year the prohibition on the harvest and landing of all horseshoe crabs in Delaware waters from January 1 through June 7, and prohibit the harvest and landing of female horseshoe crabs for the remainder of the year as well. During the period June 8 through December 31, up to 100,000 male horseshoe crabs may be harvested from approved harvest areas in Delaware. These harvest limits may be extended for a second year according to the provisions of Addendum V provided the Atlantic States Marine Fisheries Commission elects to do so. In addition it is proposed that where beach collecting is presently legal, that beach collecting of horseshoe crabs to be allowed to continue until July 31 of each year. Since no harvesting is allowed prior to June 8, and most of the migratory shorebirds that feed on horseshoe crab eggs will have departed from Delaware Bay by then, there should be no additional impacts to shorebirds from allowing harvesting to extend beyond the last day of June until the end of July. By harvesting only male horseshoe crabs, females would be further protected and will be available to participate in the annual spawn without being subject to harvest at any point during the year. No other changes to reporting requirements or other horseshoe crab regulations are proposed.

3. Possible Terms of the Agency Action:

This regulation may be extended for an additional year beyond 2009 pending approval by the Atlantic States Marine Fisheries Commission.

4. Statutory Basis or Legal Authority to Act:

§103, §1902, §2701 and §2703 of 7 **Delaware Code** and Chapter 15 of 7 **Delaware Code**.

5. Other Regulations That May Be Affected by the Proposal:

N/A

6. Notice of Public Comment:

Individuals may address questions to the Fisheries Section, Division of Fish and Wildlife, (302) 739-9914. A public hearing on these proposed regulations will be held in the Department of Natural Resources and Environmental Control Auditorium, at 89 Kings Highway, Dover, DE at 7:00 PM on October 30, 2008. Individuals may present their opinion and evidence either at the hearing or in writing to Lisa Vest, Hearing Officer, Department of Natural Resources and Environmental Control, 89 Kings Highway, Dover, DE 19901 or via e-mail to

Lisa.Vest@state.de.us. The hearing record will remain open for written or e-mail comments until 4:30 PM November 3, 2008.

7. **Prepared By:**
Roy W. Miller 302-739-9914 September 15, 2008

3200 Horseshoe Crabs

(Break In Continuity of Sections)

3203 Seasons And Area Closed To Taking Horseshoe Crabs (Formerly S-51 & HC-3) (Penalty Section 7 Del.C. §1912)

1.0 It shall be unlawful for any person to dredge or attempt to collect 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 by means of a dredge female horseshoe crabs.

2.0 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 ~~June 30~~ July 31.

3.0 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 ~~June 30~~ 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 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 person has on his or her person written permission, signed by the owner of said land with the owner's address and phone number, indicating the individual to whom permission to collect horseshoe crabs is granted.

1 DE Reg 1412 (4/1/98)
7 DE Reg. 220 (8/1/03)
10 DE Reg. 1029 (12/01/06)
11 DE Reg. 685 (11/01/07)

(Break In Continuity of Sections)

3214 Horseshoe Crab Annual Harvest Limit (Formerly S-62 & HC-14) (Penalty Section 7 Del.C. §1912)

1.0 The annual harvest limit for horseshoe crabs taken and/or landed in the State shall be 100,000 male horseshoe crabs for a period of ~~two~~ one years beginning January 1, 2007~~9~~ or whatever the Atlantic States Marine Fisheries Commission has approved as Delaware's current annual quota, whichever number is less. The annual harvest limit of 100,000 male horseshoe crabs may be extended for a second year if approved by the Atlantic States Marine Fisheries Commission. No female horseshoe crabs may be taken/landed at any time.

2.0 When the Department has determined that the annual horseshoe crab quota has been met, the Department shall order the horseshoe crab fishery closed and no further horseshoe crabs may be taken during the remainder of the calendar year.

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

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

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

12 DE Reg. 423 (10/01/08) (Prop.)