

# **DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**

## **DIVISION OF FISH AND WILDLIFE**

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

**ORDER NO. 2005-F-0031**

### **AUTHORITY**

Pursuant to 7 Del.C. §2701(d), the Department of Natural Resources and Environmental Control is adopting amendments to Shellfish Regulation 3210 without prior notice or public hearing to assure that the horseshoe crab harvest quota is not exceeded and therefore the horseshoe crab resource is conserved. 7 Del.C. §2701(d) authorizes the Department to adopt emergency regulations when such regulations are necessary to deal with an actual or eminent threat to the horseshoe crab resources and the fishery thereof.

### **REASON FOR THE EMERGENCY ORDER**

Horseshoe crabs are a vital component to the estuarine foodweb and support several important commercial industries. Horseshoe crabs are important in the diets of the federally protected loggerhead sea turtle, and the eggs are a seasonally important food item in the diets of at least seven species of commercially and/or recreationally important finfish species. Horseshoe crab eggs also are an important component in the diets of migratory shorebirds using Delaware Bay, which serves as one of the most important migratory stopover sites in North America. The spectacle of the birds feeding on horseshoe crab eggs supports an ecotourism industry of regional significance. In addition, horseshoe crabs are harvested for the manufacture of Limulus Amoebocyte Lysate (LAL). LAL is the worldwide standard for testing virtually all pharmaceuticals for the presence of gram negative bacteria. Horseshoe crabs are also extensively harvested for use as a primary bait in the American eel and conch (whelk) pot fisheries and to a lesser extent in several other fisheries. Although the epicenter of horseshoe crab spawning and nursery areas is in the Delaware Bay, the horseshoe crab resource is cooperatively managed coastwide through the Atlantic States Marine Fisheries Commission (ASMFC). The ASMFC has recognized the particular importance of the Delaware Bay to horseshoe crabs and migratory shorebirds.

Horseshoe crabs take 8 - 12 years to reach sexual maturity. Current estimates place fecundity at approximately 88,000 eggs annually. To place this in context, weakfish often reach sexual maturity in one year and a large (22-inch) female may produce 1,700,000 eggs in a single spawning season. Therefore, failure to adequately protect the horseshoe crab resource may result in consequences not fully realized for a period of 8 - 12 years.

Although the Department has in place a two-tiered system of horseshoe crab harvest reporting including weekly call-ins of landings by harvesting and monthly written reports that detail the numbers of horseshoe crabs taken daily by location, both of these reporting mechanisms depend on self-reporting among harvesters, and there is no independent verification of the actual number of horseshoe crabs taken. By setting up a system of horseshoe crab check stations manned by State employees, verification of the accuracy of the weekly call-in and monthly paper reports can be achieved while still allowing the harvest to proceed as programmed. Due to harvest quotas and moratoriums imposed in surrounding states and an anticipated scarcity of horseshoe crabs available for the conch and eel bait markets, it is likely that the market value of horseshoe crabs will rise, thus providing temptations among harvesters for circumventing reporting requirements in order to meet market demand. In addition these check stations will serve the biological purposes of providing samples of horseshoe crabs that can be accurately measured and sexed so that mandatory reporting provisions included in the amended Atlantic States Marine Fisheries Commission's Interstate Fisheries Management Plan for Horseshoe Crabs can be met as accurately and with as much confidence as possible. These biological samples are necessary to support coast wide efforts to conduct a horseshoe crab stock assessment so that the ASMFC can determine if the horseshoe crab stock is being over fished. Previously biological samples have been taken whenever possible and convenient for DNREC scientists and not always in an entirely systematic fashion that accurately represents the entire hand-harvest fishery.

### **EFFECTIVE DATE OF ORDER**

This Emergency Order shall take effect at 12:01 a.m. on June 14 and shall remain in effect for 90 days.

## PETITION FOR RECOMMENDATIONS

The Department will receive, consider and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Fisheries Section, Division of Fish and Wildlife, 89 Kings Highway, Dover, Delaware, 19901.

### ORDER

It is hereby ordered, the 13th day of June 2005 that the above referenced amendment to Shellfish Regulation 3210-62, a copy of which is hereby attached, are adopted pursuant to 7 Del.C. §2701(d) and supported by the evidence contained herein.

John A. Hughes, Secretary  
Department of Natural Resources and Environmental Control

#### **3210 Horseshoe Crab Reporting Requirements (Formerly S-57 & HC-10) (Penalty Section 7 Del.C. §1912)**

~~1.0~~ It shall be unlawful for any person who has been issued a horseshoe crab commercial collecting permit or a commercial eel pot license to take or reduce to possession any horseshoe crabs without taking said horseshoe crabs to a Horseshoe Crab Check Station run by the Department the same day as harvested; unless the Check Stations are closed, in which case said horseshoe crabs must be taken to the Check Station the next working day. It further shall be unlawful for anyone to sell, barter or trade or attempt to sell, barter or trade any horseshoe crab or to attempt to transport out of state any horseshoe crabs without being in possession of a signed receipt from a certified Delaware Horseshoe Crab Check Station indicating the number of horseshoe crabs in the shipment, when they were taken and by whom.

~~1-0~~ 2.0 It 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 harvest of horseshoe crabs to the Department on a weekly basis. Said weekly reports shall not be required to be submitted to the Department during any month said person indicates previously in writing to the Department that he/she will not be harvesting horseshoe crabs. Any person required to submit a weekly report on his/her harvest of horseshoe crabs to the Department shall submit said report on or before 4:30PM on the Monday following the week covered by said report. If Monday is a legal State holiday, said report shall be submitted on or before 4:30PM on Tuesday, next ensuing. For purposes of this section, a week shall commence at 12:01AM on Monday and conclude at midnight on Sunday, next ensuing. Said report shall include but not be limited to said person's unique identification number assigned by the Department, the dates and location horseshoe crabs were harvested, the number and sex of horseshoe crabs harvested and the method of harvest of horseshoe crabs. Said 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~~ 3.0 Any person who fails to submit a weekly report on his/her harvest of horseshoe crabs to the Department on time shall have his/her permit to dredge or his/her permit or authority to collect horseshoe crabs suspended until all delinquent reports on harvested horseshoe crabs are received by the Department.

~~3-0~~ 4.0 In addition to the requirement to phone in weekly 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 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 (4/1/98)**

**3 DE Reg 1567 (5/1/00)**

**7 DE Reg. 220 (8/1/03)**  
**9 DE Reg. 9 (7/1/05) (Emer.)**