



Atlantic States Marine Fisheries Commission

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MEMORANDUM

June 14, 2019

To: Tautog Advisory Panel
From: Kirby Rootes-Murdy, Senior FMP Coordinator
RE: Notice of AP Meeting to Review Implementation Guidelines for the Tautog Commercial Harvest Tagging Program

In October 2017, the Tautog Management Board approved Amendment 1 to the Tautog Fishery Management Plan (FMP), which required implementation of a commercial harvest tagging program to combat illegal and unreported harvest of tautog. In October 2018, the Board moved to postpone implementation of the tagging program until January 2020. At that time, the Board also reviewed but did not take action on a draft document outlining implementation guidelines for the tagging program (enclosed).

To provide guidance and maximize the compatibility, effectiveness, and enforceability of state programs, the Board will consider the attached implementation guidelines for approval at their next meeting in August 2019. The Board requests the Advisory Panel's (AP's) feedback on these guidelines for their consideration.

An AP meeting has been scheduled for July 10, 2019 at 3:00-4:30 pm. The meeting will be held via conference call and webinar. The call information is included below. Please email staff if you will be unable to attend the meeting at krootes-murdy@asmfc.org. Additional details and agenda will be distributed in advance of the meeting.

Tautog Advisory Panel Meeting

Wednesday July 10, 2019 3:00 - 4:30 PM EDT

Webinar URL: <https://global.gotomeeting.com/join/543992069>

Join the conference call:

Phone: **1-888-585-9008**

Passcode: **853-657-937**

Enc: "Guidance for Implementing the Tautog Commercial Harvest Tagging Program"

M19-43

Guidance for Implementing the Tautog Commercial Harvest Tagging Program

1. Introduction

In October 2017, the Tautog Management Board approved Amendment 1 to the Tautog Fishery Management Plan (FMP). In addition to establishing new management goals and objectives and regional targets and biological reference points, Amendment 1 also addresses the increasingly pervasive issue of illegal harvest of undersized and unreported tautog by establishing a commercial harvest tagging program.

This document aims to provide guidance to the states for implementing the commercial harvest tagging program for tautog. Section 2 of the document provides the base requirements of the tagging program as defined in Amendment 1. Section 3 provides more detailed guidance on each element of the program, and additional considerations the states should address in their rules and regulations when implementing the tagging program.

The guidance provided in this document is intended to promote consistency in application of the tagging program across the management unit, while allowing the states some flexibility to align their program with the needs of their unique fisheries. Establishing similar and complementary tagging programs across the states will have numerous benefits, including enhanced enforceability of the program, reduced likelihood of regulatory loopholes, and consistent data collection for use in stock assessments, among others.

2. Commercial Tagging Program Requirements

Per Amendment 1 to the Tautog FMP, all states within a regional management unit are required to participate in the commercial harvest tagging program. *De minimis* status does not preclude a state from the requirements of the commercial harvest tagging program.

A. Tag Information and Type

All states will use the same single-use tag. The tag will be inscribed with the year of issue, state of issue and a unique number. The unique number will be linked back to the permit holder. States will distribute tags to participants. It is unlawful to sell or purchase commercially caught tautog (alive or dead) without a commercial tag. The cost of the tag will be financed by states or fishermen at the discretion of each state or jurisdiction.

B. Tag Application

All commercially caught tautog will be tagged by the commercially-permitted harvester at the time of harvest or prior to offloading. Tautog must be landed in the state that is identified on the tag.

C. Tag Allowance (Biological Metric)

States are required to allocate commercial tags to the commercially-permitted harvesters based on a biological metric, which will be described in the Annual Commercial Tag Report (Section G). This metric is an estimate to determine the number of fish tags that will be required per year; the goal is to avoid surplus tags. For example, the majority of states in the

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striped bass commercial tagging program use the average commercial weight per fish from the previous year, or some variation thereof as the biological metric.

D. Tag Accounting

All states will require the tag recipients to return unused tags from the previous fishing year no later than February 15. The return method will be further described by each state. The number of unused tags will be included in the Annual Commercial Tag Report (Section F), along with the disposition of other returned tags (e.g., used, broken, lost, etc.). Tag recipients who do not comply with this section may be subject to penalties set forth in Section E.

E. Penalties

It is recommended that states strengthen their penalties for tautog violations and include counterfeit tag operations, in order to deter illegal harvest of tautog. License revocation or suspension is supported as a primary penalty for state or federal violations. Civil and/or criminal penalties can be also effective deterrents. It is recommended that cases of undocumented “lost” tags should result in a 1-year suspension from the commercial tautog fishery (for the subsequent fishing year).

F. Annual Commercial Tag Report

The existing compliance report will be modified to include a Commercial Tag section that must be completed by each state. The report must include the following information. The Board may modify the sections of the report via Board action.

- Describe the biological metric
- Number of tag violations.
- Complete the following table:

State	MA	RI	CT	NY (LIS)	NY (south shore)	NJ	DE	MD	VA
Quota (if applicable)									
Maximum Commercial Harvest per Region									
Avg. Commercial Weight									
Number of Participants									
Number of Tags Issued									
Number of Tags Returned									

3. Commercial Tagging Program Recommendations

Tag Distribution

Tags must be purchased only from the approved manufacturer and distributed only to licensed/permitted commercial harvesters in their state.

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Information on the approved manufacturer and specific tags will be provided to the state agencies responsible for distribution. Each tag will have an inscription including a letter to indicate the state, digits to indicate year, and additional digits to serve as a unique identifier.

Licensed commercial tautog harvesters must obtain standard tautog harvest tags only as instructed by the state fishery management agency in which they have a commercial tautog license. It is recommended that state agencies supply tags to permitted harvesters. There are a number of concerns associated with individual harvesters ordering tags directly from the tag supplier, including the administrative burden on the supplier, potential for harvesters to make errors when ordering tags, harvesters ordering tags in excess, and timing, among others. Harvesters may only obtain tags if they possess all required licenses/permits for commercial tautog. Tags are not transferrable.

An initial allotment of tags should be distributed prior to the start of the fishing season on a designated date, to be determined by each state agency dependent on the timing of the commercial season. Subsequent allotments of tags during the season can occur as needed.

State agencies will issue consecutive tag numbers to licensed harvesters, and record the numbers issued to each harvester. The state agency will issue a number of tags based on a sound biological metric (e.g. a scientific sample of the mean weight of legal-sized fish harvested in open season divided into the state's projected landings in weight). States may choose to order more than the estimated number of tags needed in order to have a buffer. For example, the number of tags ordered or issued to harvesters could equal the projected number of landings plus 20%. Each state can determine how much of a buffer would be appropriate.

It is unlawful for any person to reuse, counterfeit, alter or modify any tautog identification tag, or to possess, use or attempt to use any counterfeit, altered or modified tags. All such tags found by any state law enforcement agent are to be seized, together with any fish and all other tags in possession. It is recommended that the state or jurisdiction, after a hearing, revoke or suspend licenses and/or recall all tautog identification tags issued to any person found guilty, and restrict said person's future participation in the commercial fishery or market.

Tag Application

Commercially permitted harvesters must apply tags to all tautog on the fishing vessel prior to offloading or carrying on the day of harvest. Tag application can occur in harbor or at sea. Tags must be applied consistently to the operculum bone on one side of the fish (Figure 1). The Board should determine which side would reduce interference with state biological sampling.

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Figure 1. Tautog with properly applied commercial tag.

To enhance enforcement and compliance, states should require the following:

- tags be applied by the harvester in sequential order, so that it is easier to determine when tags were applied
- restrictions on the possession of tags during closed fishing periods
- restrictions on harvesters applying tags during closures

Tautog must remain tagged while in possession for purpose of resale (until they reach the final consumer). If portions of tautog are removed from the carcass and sold, the tag should be retained with the carcass until all portions are sold. Possession of untagged tautog or tautog fillets or steaks without an accompanying tag in establishments where fish are sold or offered for sale (including wholesale establishments, retail establishments and restaurants) is presumptive evidence of intent to sell, trade, or barter such tautog.

Tag Accounting

Any unused tags shall be returned by the harvester to the state agency that issued them. Unused tags must be returned no later than February 15 of the following year, or within 90 days of the end of the fishing season, whichever is sooner. It is recommended that states require tags to be returned prior to permit renewal.

Reporting

Each commercial fisherman participating in a tautog fishery is required to file a year-end tagging report to their state agency detailing all tautog landed no later than February 15 of the following year, or within 90 days of the end of the fishing season, whichever is sooner. All unused tags issued must be returned with the report.

It is recommended that the Board modify the table required in the annual commercial tag report to include additional information on tags used, and tags lost, broken or defective (see section F). The table should be modified as follows:

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State	MA	RI	CT	NY (LIS)	NY (south shore)	NJ	DE	MD	VA
Quota (if applicable)									
Maximum Commercial Harvest per Region									
Avg. Commercial Weight									
Number of Participants									
Number of Tags Issued									
Number of Tags Used									
Number of Tags Lost/Defective/Broken									
Number of Tags Returned									

If feasible, harvesters could be required to submit reports more frequently than once per year, depending on season length. Monthly or quarterly reports would enhance law enforcement's ability to track tags. Reports that include the dates on which a sequence of tags was applied and the number of fish harvested (in addition to weight) would further enhance law enforcement's ability.

Any primary buyer permitted to purchase tautog could also be required to provide written reports to the state permitting agency of purchases and harvest information including the date of the purchase, buyer's and harvester's tautog permit numbers, and harvester's Commercial Fisherman Registration License number, the gear type, city or county of landing, weight of whole fish, and numbers of tags that apply to that harvest. Permitting and reporting requirements for buyers and dealers vary by state, so states should determine the requirements and timing of buyer reports.

Tag Expiration

Tags will expire when the fishing year for which they were issued ends (unless a state determines this would unnecessarily restrict harvest and sale at the end of the year, in which case an alternative expiration date could be determined). It will be illegal for any dealer to buy or sell any tautog with an expired tag. Tautog with expired tags may be sold only directly to the final consumer.

Tautog Exportation

It is unlawful to sell or purchase tautog without a commercial tag. This is to prevent the sale or purchase of untagged tautog into a state or jurisdiction where there is currently no commercial fishery program.

Any exported tautog must be marked with an unexpired numbered tag that identifies the state of origin and must be accompanied by documents that verify state of origin.

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Penalties

States will enforce the requirements of the commercial tagging program and will determine the penalties associated with violating the regulations.

It is recommended that any violation of the commercial tagging program requirements result in one or a combination of the following actions:

- suspension or revocation of the commercial license/permit, wholesale dealer permit, retail dealer permit, or authorization to purchase tautog
- confiscation of all tautog caught, possessed or sold in violation
- seizure and forfeiture of all property used in violation
- fines

Outreach

States should implement outreach programs to raise awareness of the commercial tagging program among harvesters, dealers, restaurants, markets, consumers and any other parts of the supply chain for commercial tautog.