

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
TAUTOG MANAGEMENT BOARD**

**The Roosevelt Hotel  
New York, New York  
October 25, 2018**

**Approved August 7, 2019**

**TABLE OF CONTENTS**

Call to Order, Chairman Dan McKiernan..... 1

Approval of Agenda..... 1

Approval of Proceedings, May 2018 ..... 1

Public Comment..... 1

Review Technical Committee Report on Biological Sampling Requirements..... 1

Discussion of the Commercial Harvest Tagging Program Implementation ..... 5

Consider Fisheries Management Plan Review and State Compliance Reports ..... 7

Adjournment..... 8

## INDEX OF MOTIONS

1. **Approval of Proceedings of May 2018** by Consent (Page 1).
2. **Move to postpone implementation of the tagging program until January 2020** (Page 7). Motion by John Clark; second by Justin Davis. Motion carried (Page 7).
3. **Move to accept the FMP Review and compliance reports for tautog for the 2017 fishing year, and approve *de minimis* status for Delaware and Maryland** (Page 8). Motion by Dave Borden; second by Ray Kane. Motion carried (Page 8).
4. **Move to adjourn** by Consent (Page 8).

**ATTENDANCE**

**Board Members**

Dan McKiernan, MA, Chair	Joe Cimino, NJ, proxy for L. Herrighty (AA)
Raymond Kane, MA (GA)	Tom Fote, NJ (GA)
Rep. Sarah Peake, MA (LA)	Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)
Jason McNamee, RI (AA)	Roy Miller, DE (GA)
David Borden, RI (GA)	John Clark, DE, proxy for D. Saveikis (AA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Russell Dize, MD (GA)
Justin Davis, CT, proxy for P. Arrestad (AA)	Mike Luisi, MD, proxy for D. Blazer (AA)
Bill Hyatt, CT (GA)	Ed O'Brien, MD, proxy for D. Stein (LA)
Maureen Davidson, NY, proxy for J. Gilmore (AA)	Rob O'Reilly, VA, proxy for S. Bowman (AA)
Emerson Hasbrouck, NY (GA)	Peter Burns, NMFS
Michael Falk, NY, proxy for Sen. Boyle (LA)	Mike Millard, USFWS

**(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)**

**Ex-Officio Members**

Linda Barry, Technical Committee Chair

**Staff**

Bob Beal	Jessica Kuesel
Toni Kerns	Caitlin Starks
Katie Drew	

**Guests**

The Tautog Management Board of the Atlantic States Marine Fisheries Commission convened in the Terrace Ballroom of the Roosevelt Hotel, New York, New York; Thursday, October 25, 2018, and was called to order at 8:00 o'clock a.m. by Chairman Dan McKiernan.

### **CALL TO ORDER**

CHAIRMAN DAN MCKIERNAN: Today we have a fairly light agenda; so we can get through that and if folks need to check out before the next meeting at nine o'clock that is probably a good strategy.

### **APPROVAL OF AGENDA**

CHAIRMAN MCKIERNAN: First on the agenda would be the approval of the agenda. Does anyone have any changes to the agenda? Seeing none; the agenda is accepted.

### **APPROVAL OF PROCEEDINGS**

CHAIRMAN MCKIERNAN: Next, the proceedings from the last Board meeting, May, 2018, are there any requested changes or amendments to that document?

Seeing none; I'll deem it accepted.

### **PUBLIC COMMENT**

CHAIRMAN MCKIERNAN: Next Public Comment, has anyone signed up for Public Comment? Do you know, Caitlin? Is there anyone who would like to speak on any issues that are not before the Board today?

I don't see anyone so we'll move on to our first substantive order of business, which is to Review the Technical Committee Report on Biological Sampling Requirements. That will be done by Linda Barry.

### **REVIEW THE TECHNICAL COMMITTEE REPORT ON BIOLOGICAL SAMPLING REQUIREMENTS**

MS. LINDA BARRY: Good morning Mr. Chairman; members of the Board. Last year the

Tautog Technical Committee was tasked to evaluate the biological sampling requirements. This was at the request of the Plan Review Team; due to several states falling short of the minimum sampling requirements during the last few years.

There were issues obtaining samples; including the tautog not being encountered in their traditional sampling methods. Much of the commercial harvest goes to the live market; and there is a developing market for the racks, what's leftover of the fish after the fillets have been taken. They are being sold for bait; and also for human consumption as a base for soup stock.

Then some states were also having issues with fishermen who were reluctant to participate in the sampling program; because of their frustrations of what they viewed as management measures that were continually eating away at their ability to harvest. Getting these age-length data is really, really critical for this stock; because the stock assessment process for tautog is based on age-structured models.

The annual biological sampling requirement was implemented with Addendum III in 2002. It required all states to collect data to support coastwide stock assessment; until the body of data and the analytical results were sufficient for regional assessment approaches. It specified that each state had to collect a minimum of 200 age and length samples. This is based on the rationale that you get five fish per centimeter; within a range of sizes that are commonly caught, not necessarily harvested, but caught by the fishermen. Here you have a portion of the age-length key from New Jersey's tautog samples from 2015. What you have here on the top are the ages; and then along the side are the other lengths. Where I've highlighted it, you can see that there is quite a lot of overlap in the ages and lengths. If you go with the 5-fish-per-centimeter length, you can very well see that each one of those five fish would be a

different age. Again, there is this wide overlap of ages and lengths as the fish grows older and larger.

Tiffany Vidal Cunningham, from the Massachusetts Division of Marine Fisheries performed the sample size analysis using the tautog samples that were obtained in 2016 from three of their surveys, their trawl survey, the ventless trap survey, and they have a pilot rod and reel survey. You can see from the numbers of the tautog that they obtained that she had a sample size of nearly 600 fish.

She performed an analysis to determine the sample sizes required to obtain certain levels of precision around the length-at-age estimates. On the left hand side you see the results from her analysis. Within the different age categories you have the sample sizes that are necessary to achieve precision of either having a CV of 0.25 or 0.1.

The negative values in the sample sizes just indicate that extremely large sample sizes would be needed. I highlighted where you did have one age category with a precision level with a CV of 0.25, or you could actually get by without getting the full 200 samples. Then the ages on either side, you still needed at least 200 samples, but it was just slightly over that.

But then you look at all the other sample sizes; and they are much higher than 200. Basically what the analysis showed us were that and more to really achieve the level of precision for all the age categories; you really can't go below 200. The TC also looked at the level that the sampling requirements should be applied; whether it should be at a regional level or at a state level.

The advantages for going with a regional level would be that it would align with the regional stock structure of the stock assessment; and it would also potentially alleviate the sample shortage problems that some of the states were having. The disadvantages included that it

would potentially reduce the quantity of the samples that would be obtained overall. That could negatively impact stock assessment if some states are consistently under sampled. The TC concluded that we should maintain the state level requirements.

This ensures that there is adequate sample numbers throughout the whole management region. The state samples will continue to be pooled; in order to develop regional age-length keys, and states should document their sampling efforts, especially if they're falling short. That way then they could show that there is a good faith effort to comply with the requirements. The TC also agreed that the minimum sample size of 200 samples should be maintained; due to the wide overlap of ages and lengths as the tautog ages.

The sample size analysis showing that the precision of the length-at-age estimates will definitely suffer if the sample sizes went below 200. The sample size reductions also might lead to a widening of data gaps that we have on our length distributions. The TC felt that these data gaps should probably be addressed with maybe more use of fisheries independent samples or possibly the use of non-lethal methods of sampling. If regions turned out to be consistently under-sampled, we would have to again revisit and reevaluate the sampling requirements. Through this process we did bring up the possibility of using pelvic fin spines as another aging structure. Recent studies have shown that you could get fairly precise to the age estimates using this structure; and it's a nonlethal sampling method. That way it would open up the ability to sample fish that are headed for the live market; or for the whole fish market, because it won't be disfiguring them enough to affect their marketability.

It would also allay some of the concerns that were expressed about sacrificing fish from a population that the stock status indicates that it's in need of recovery. Then it would also allow states that were having problems

obtaining the minimum of samples to get to at least that minimum number.

The TC is generally supportive about the idea of using the pelvic fin spines; but before the TC could approve it as an alternate aging structure, there would need to be a full evaluation of the age information to ensure that the age estimates that you read from these structures would be compatible with what we've been reading with the opercula and the otoliths.

This would involve collecting paired samples of the pelvic fin spines or either opercula or otoliths; and then doing comparison studies to make sure that the age estimates are the same or comparable. If we had positive results from this comparison study, then we would perform paired aging exchange with the other states; although some states did have concerns that they might not have the budgeting or the staff to be able to participate fully in this process.

The TC is willing to partly consider collecting the paired samples; and then doing some comparison studies. The TC could consider supplementing the age samples if the collection of the preferred structure was really, really limited. However, the TC would not want to use the data from the pelvic fin spines for assessment purposes until after the TC has gone through the process of evaluating it and then approving it.

The first step the TC would like would be for the states to determine their ability and their interest in participating in this time of paired sample exchange. To wrap this up, the recommendations from the TC to the Management Board are to maintain state level biological sampling requirements.

Maintain the minimum number of 200 age and length samples per state per year, and to ask the states to determine their ability and the interest level to participate in a further study of the pelvic fin spines, with the goal of having a paired exchange of the aging structures with

the other states. With that I would be happy to take any questions.

CHAIRMAN McKIERNAN: Thank you, Linda that was a great presentation. Are there any questions for Linda? John Clark.

MR. JOHN CLARK: Thank you for the presentation, Linda. With the pelvic spines, how much preparation is involved in that? I know the opercules take some work to get ready. Are the spines fin sectioned?

MS. BARRY: To tell you the truth, I'm not as familiar with the preparation of the pelvic fin spine structure. But you would have to section them. There would be some preparation involved; but I don't imagine it to be as time consuming, and as laborious as the opercula, because with opercula you have to boil it and then go through the whole letting it dry for a certain amount of time. There would have to be a little bit of, I guess some training involved, to make sure that whoever is reading the spines would know exactly where to start counting the annuli.

CHAIRMAN McKIERNAN: Another question from Jay McNamee and then Justin and Joe.

MR. JAY McNAMEE: Nice job, Lindy. Thank you for that report. I just wanted to make a couple of quick comments. I support recommendations of the Technical Committee. I think the challenge with the age-length key is always not in the kind of heart of the distribution but in the tail. You know shooting for that goal of 200; the idea is that you hope you get some little ones and some really big ones.

I think maintaining it's worked okay, I guess I'll say, over the years. I think it's still a good goal to shoot for. I do think though it would be good to have a discussion with the Technical Committee to also remind them that the idea is to get a full characterization of the length distribution; if you can get some smaller guys and some bigger guys that's a good thing to do.

Then quickly on the pelvic spines, I think that's a great idea. We should try and do that. I guess my question is; is the logistics part of that is that going to be a discussion with the Technical Committee? I'm guessing there would be a couple of states that would be interested. We get the full racks in Rhode Island, so we could get both structures.

Maybe there are some states that have some capacity where if some of the states can't manage processing; or maybe they could process them and not age them. Maybe some of the other states could help out. I think that would be a good discussion to have with the Technical Committee to kind of figure out those logistics, because I think that's a challenge with tautog. A lot of it goes to the live market; so anything we can do to get age structures and not kill the fish would be a benefit.

CHAIRMAN McKIERNAN: Justin.

DR. JUSTIN DAVIS: Thanks for that presentation. I really appreciate the degree to which the Technical Committee took a thorough look at this. We're one of those states where at times we've struggled to come up with those 200 samples; and I know there have been discussions amongst our staff of do we really need to collect 200 samples. I think this provides some really good sort of justification for keeping that high sampling level. My thoughts were along the same line of Jay's that looking at that age-length key.

You know those 52 centimeters, 20 inch fish; you had ages from 7 to 17. That may be an area where we really need to get a lot of samples to really parse out the age structure in those size categories. I'm wondering if the TC considered making a recommendation to states to prioritize collection of structures from older, larger fish. That general recommendation of 5 per centimeter category will probably lend itself to getting a whole bunch of samples right in the middle there; and not so much on the tails. I also wanted to make the comment that for a

couple years now Connecticut has been collecting paired samples; opercula and the pelvic spines. But we haven't been able to process the pelvic spines due to lack of staff and time.

Along the lines of what Jay saying, if some states want to undertake one of these paired studies and process some structures, Connecticut has some that we would probably be willing to put in the mail and send to somebody, if they want to take a look at them.

MS. BARRY: Yes, I appreciate the suggestion about possibly, some states they might not be able to fully process and go the whole from collecting through comparison studies. But if they could at least collect the spines; and then if the other states that have the capacity and the skill to be able to then go through processing them, reading them, and then doing the comparison studies. I think that would make it a whole lot easier and a whole lot more acceptable to the general group. Thank you.

CHAIRMAN McKIERNAN: Joe Cimino.

MR. JOE CIMINIO: Thank Lindy and the TC for the work here. I appreciate; I guess the conservative approach, both to staying status quo. I guess it's on the Board to kind of understand that good faith attempt at achieving these goals. As we have with other Boards, just not turn that into a compliance issue.

It sounds like if the spines, one of the values are they are able to sample live fish, then my assumption would be that some of these states that are struggling are able to at least get lengths off of these fish. It sounded like the TC had a recommendation that fisheries independent sampling could be used. I just wanted to throw some support towards that too if needed for samples; as long as we're seeing the ability to get lengths from the actual fisheries.



I also appreciate the slow approach to looking into the spines; because I think at some point ASMFC would need to put forward some money towards a workshop or something along those lines. I think the work going into this year, as states are looking into what they can do, will give us time to see what we need to do in the future. I just want to thank you guys.

CHAIRMAN MCKIERNAN: Linda, I have a question. The recommendation from the TC was to have states communicate about their interest and willingness to participate. Does that need a deadline?

MS. BARRY: Well, we haven't set a deadline as of yet; although it could be something that we start to discuss in the New Year.

CHAIRMAN MCKIERNAN: There aren't any action items on this; because we're not changing the plan mandates for the minimum number of samples, so I guess we can move on.

#### **DISCUSSION OF THE COMMERCIAL HARVEST TAGGING PROGRAM IMPLEMENTATION**

CHAIRMAN MCKIERNAN: Next on the agenda is a Discussion of the Commercial Harvest Tagging Program Implementation, and Caitlin, I think you'll start this.

MS. CAITLIN STARKS: I'll be providing an overview of the draft Implementation Guidelines for the Commercial Tagging Program. In my presentation I'll cover some background information on the tagging program; and then go over the contents of the document that was provided in materials, which include sections on each of these aspects of the tagging program listed on the slide. Then finally, I'll talk about a prospective timeline for implementation.

Under Amendment 1, approved in October, 2017, a commercial harvest tagging program was required for tautog to combat illegal and unreported harvest. Specifically, the

requirements as described in the amendment include uniform-single-use tags; with unique identifiers be applied to tautog by the harvester before offloading that the number of tags allocated to harvesters would be determined by the state, based on a biological metric.

That unused tags should be returned to the state agency that issued them no later than February 15 of the next year; and then that each state must submit an annual compliance report, including an annual commercial tag report that would have information on the tags issued and used; as well as participating harvesters and reporting commercial harvest. The Amendment also required that this program be implemented by January, 2019; which I'll come back to at the end of the presentation.

Building on the requirements in Amendment 1, and drawing from some other tagging program regulations; I worked with the Board Chair, the LEC, and the TC to develop some draft guidelines for implementation of the Commercial Harvest Tagging Program. These draft guidelines are intended to provide some more direction to the states in constructing their regulations and administering the program.

In order to encourage consistency and compatibility between state programs, as well as enhance law enforcement's ability to monitor compliance with the program across the management unit, the document recommends procedures for all aspects of the tagging program; and it's meant to just avoid loopholes, and ensure its effectiveness when it's implemented.

The first section of the draft Guidelines provides recommendations for a tag distribution. To avoid confusion and reduce the opportunities for unauthorized individuals to obtain tags; it's recommended that each state's management agency acquire tags from the manufacturer

directly, and then distribute those to their authorized harvesters.

The LEC and TC agree that accounting and reporting would be made a lot easier if harvesters were issued tags with consecutive numbers. The states would need to determine ahead of time what total number of tags they would order; and the number that they would allot to each harvester based on a biological metric like the prior year's harvest in numbers of fish, plus an additional amount of tags as a buffer.

Tags should not be transferable, and regulations should prohibit reusing altering and counterfeiting tags. Regarding tag application, the LEC recommended adding language to the Amendment 1 requirements to specify that all fish would need to be tagged prior to offloading, or before carrying the vessel, to ensure that there aren't any untagged fish remaining on vessels without an authorized harvester onboard. It's also recommended that tags be applied consistently to the operculum on one side of the fish, and which side that is should be determined through discussions with the TC, to make sure that there isn't any conflict with their biological sampling. Again, application of tags in sequential order would simplify accounting and reporting; and there should be a requirement for tags to remain on the fish until final sale.

States should also take measures to ensure that tags are not being applied during closures in the middle of seasons. The Amendment requires that any unused tags be returned to the state agency by the harvester no later than February 15 of the following year. The LEC recommended adding some language to say; or within 90 days of the end of the fishing season, whichever is sooner, in order to reduce the gap between the end of seasons that end a little earlier in the year and the end of the fishing season, the final end.

It's also recommended that the states require tags to be returned prior to renewing harvester's permits. In reporting to the state, harvesters should include information on tags that were lost or broken; as well as those that were applied to fish. This information should also then be included in the annual tag report from the state. States should also implement tag expiration dates; such that it would be illegal for any harvester to sell fish with expired tags to a buyer or dealer, but that dealers in possession of fish with expired tags could still sell them to the final consumer.

It's recommended that tags expire at the end of the fishing year. The last sections of the document discuss penalties and outreach about the tagging program. Each state will need to determine what their penalties are for violating tagging program requirements; but they could include suspension of permits or licenses, confiscation of all fish that were caught, possessed or sold in violation of the program, seizure and forfeiture of properties in violation, as well as fines.

Finally, to promote compliance, the states should also include some aspects of outreach in their implementation of the program; to make sure that all levels of the supply chain are knowledgeable about the requirements of the program. As I mentioned earlier, the implementation of the tagging program was originally required by January of 2019. However, as most of you know we've run into some issues with obtaining an effective applicator from the tag manufacturer that we were working with; and we're still trying to source a reliable alternative.

Additionally, many of the states have lengthy regulatory processes; so starting this late in the year they would not likely be able to implement final regulations by January. Therefore, if the Board is in agreement, the date of implementation for the Tagging Program could be rescheduled to January, 2020, and in 2019 we can use that time as a trial period for the

states that are able to do that. That concludes my presentation; and I can take any questions.

CHAIRMAN McKIERNAN: Any questions for Caitlin. Well just a comment from me. It looks like this Guidance Document gives jurisdictions a fair amount of flexibility; which is good. I'll forecast that this will become a perennial topic for the Law Enforcement Committee; as states sort of compare and contrast how to make this work. I'm sure there will be a lot of refinement as it goes forward. No questions for Caitlin at this time? Caitlin has another comment.

MS. STARKS: I just wanted to add that if you have a chance to read through the draft Guidelines, and have any recommendations for how to improve them, or as Dan said find ways to hone down some of that flexibility where possible, to make sure programs are compatible with each other across the states that would be wonderful. I would love to hear your feedback.

CHAIRMAN McKIERNAN: Caitlin, one question. Some of the details in here, could they be used in a noncompliance determination, how do you foresee that going forward?

MS. STARKS: I think the requirements as listed in Amendment 1 would be right now the basis for a noncompliance finding. However, I think it would be up to the Board if there is a desire to create some stricter language. I would see that as something the Board could decide to do.

CHAIRMAN McKIERNAN: Would that be done with an addendum?

MS. STARKS: Yes.

CHAIRMAN McKIERNAN: Just John Clark.

MR. CLARK: It's on the agenda as an action item. Do we need to have a motion to postpone until 2020?

CHAIRMAN McKIERNAN: Executive Director Beal recommends that so yes; would you make that motion?

**MR. CLARK: Yes, I will make that motion. Move to postpone implementation until 2020; is it January, 2020, so January 2020.**

CHAIRMAN McKIERNAN: **Is there a second? Justin. Is there any objection to the motion? If not it passes by unanimous consent.**

#### **CONSIDER FISHERIES MANAGEMENT PLAN REVIEW AND STATE COMPLIANCE REPORTS**

CHAIRMAN McKIERNAN: All right I guess the next is the Approval of the Fisheries Management Plan Review and State Compliance Reports. Caitlin.

MS. STARKS: It will actually be Jess.

CHAIRMAN McKIERNAN: Jess.

MS. JESSICA KUESEL: Good morning; I'll be presenting on the Tautog FMP Review for the 2017 fishing year. I'll start with changes to management, then landings trends, biological sampling, and the compliance and de minimis requests. There were no changes to the federal, commercial, or recreational measures from the 2016 to the 2017 fishing year.

The measures remained a 14-inch-minimum size limit, inclusion of degradable fasteners on one panel or door in pots and traps, and the state-specific management programs to achieve the target fishing mortality. State recreational and commercial regulations are summarized on Pages 21 and 22 of the FMP Review document.

The Board also approved Amendment 1 to the Tautog FMP for implementation in April, 2018. This graph shows trends in commercial and recreational landings from 1981 to 2017. Coastwide commercial landings increased by 7.3 percent from 2016, from 283,906 pounds in 2016 to 304,600 pounds in 2017. This is the

highest value for commercial landings since 2008, when 310,940 pounds were landed. Recreational harvest decreased by 34 percent from 2016 to 2017; with totals of 2.7 and 1.8 million pounds in each year respectively. The 2017 recreational landings were the lowest recreational landings for tautog since 2011, when 1.5 million pounds were landed.

Recreational harvest has consistently made up about 90 percent of total coastwide landings each year; with commercial landings accounting for the other 10 percent. In 2017 the trend continued; with recreational harvest making up about 85 percent of total landings. Connecticut, New York, and Delaware were unable to meet the 200 age sample requirement in 2017. Connecticut shortage of samples was due to a lack of tautog caught in the Long Island Sound Survey, and funding and staff limitations that prevented additional sampling.

New York was limited in collecting samples for both the recreational and commercial fisheries due to several issues; including weather, recreational fishing crews unwilling to give them racks for aging, because they were using them as bait, and because the majority of commercially caught tautog was going to the live market and was therefore not available for collecting age samples.

Delaware was unable to collect the required number of samples due to issues with acquiring recreational samples. Difficulties of acquiring the required number of samples have been an issue for a number of states for the past several years. The Compliance Report shows these states all made a good faith effort to get their minimum number of samples.

The PRT still recommends the Board find all states in compliance with the sampling requirements through the FMP. Delaware and Maryland requested and qualified for continued de minimis status. The PRT recommends that the Board approve the state's request. With that I will take any questions, thank you.

CHAIRMAN McKIERNAN: Any questions from the Board? All right seeing none; I think we need a motion to accept the report, including the de minimis requests. David Borden.

MR. DAVID V. BORDEN: Staff prepared the motion for me. **I would move to accept the FMP Review and compliance reports for the 2017 fishing year, and approve de minimis status for Delaware and Maryland.**

CHAIRMAN McKIERNAN: Is there a second, Ray Kane. **Is there any objection to the motion; any abstentions? Seeing none; the motion is approved unanimously.**

#### ADJOURNMENT

CHAIRMAN McKIERNAN: All right now we're into other business. Is there any other business to come before the Board today? Seeing none; Bob, I think this is a good moment to be checking out of our rooms.

(Whereupon the meeting adjourned at 8:32 o'clock a.m. on October 25, 2018)