

Detailed Tautog Tagging Proposal for Fall 2019 Public Hearing and Public Comment Period

Background

In October 2017, the Atlantic States Marine Fisheries Commission (ASMFC) approved Amendment 1 to the Interstate Fishery Management Plan (FMP) for Tautog. Among the various components of Amendment 1 is a mandatory commercial point-of-harvest tagging program. This program is designed to address the illegal harvest of undersized, over-the-limit, and unreported tautog, which has become a pervasive conservation and management issue coast-wide. To comply with the FMP, all states must implement regulations to establish a point-of-harvest commercial tagging program for 2020. The state tagging programs must meet the minimum criteria established by the FMP and the ASMFC's supplemental commercial tautog tagging program guidance document.

In response to this mandate, the Division of Marine Fisheries (DMF) is proposing new regulations to implement a commercial tautog tagging program. To effectively administer this program, DMF is proposing to utilize the existing August 27, 2017 control date to limit the number of permit holders who may land tautog for commercial purposes.

The purpose of this document is to educate the public regarding how the commercial tautog tagging program is to be administered in Massachusetts. This includes details on the various mandatory and discretionary proposals affecting commercial fishermen, seafood dealers and seafood purveyors, as well as DMF's proposal to constrain future participation in this fishery.

Overview of the Commercial Fisherman Point-of-Harvest Tautog Tagging Program

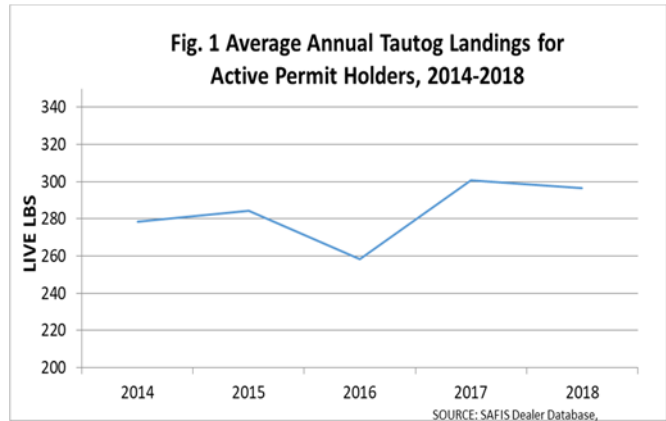
Amendment 1 mandates that those Atlantic coastal states with commercial tautog fisheries administer a point-of-harvest commercial tautog tagging program beginning in 2020. All implementing states must use the same single-use metal tag inscribed with the calendar year, state of issuance, and unique sequential tag number.

For 2020, DMF will be purchasing the tags and distributing them to eligible permit holders. With a quota of approximately 64,000 lb and an average weight of 3 lb per fish, we estimate the number of tautog sold will be approximately 21,000. We intend to purchase about 30,000 tags for distribution, which approximates 40% more tags than the number of fish projected to be sold. This buffer will account for tag loss and differences in tag use among commercial fishermen.

Prior to the start of the commercial tautog season in 2020 (currently September 1), DMF will make tags available at no charge to commercial fishermen who hold a valid regulated fishery tautog permit endorsement. While tags will be issued in 2020 at no charge, fishermen will be required to purchase a tag applicator valued at about \$30.

Commercial fishermen will be able to obtain the tags at DMF's New Bedford or Boston offices. We intend to issue commercial fishermen an initial allocation of 120 tags, which approximates three trip limits. This initial 120 tag allocation takes into account the average

annual tautog landings by active commercial fishermen from 2014-2018 (Fig. 1), which fluctuated between 260 pounds to 300 pounds, or 90-100 fish at 3 pound per fish. Accordingly, participants will be given an initial allocation that covers 120-130% of the tags needed by the average participant. This should limit the number of tags fishermen will be required to return at the end of the season, as well as the number of tags in circulation (which may lead to potential poaching). Fishermen with documented prior landings well in excess of the average may request additional tags before the season begins. Additional tags will be made available in-season to all fishermen on an as needed basis. These tags will be nontransferable.



All participating fishermen must tag at the point-of-harvest. Tagging fish outside of the open commercial season will be explicitly prohibited, as will the landing and sale of untagged fish. All tags are to be applied through the fish’s operculum with the relevant tag information facing outward (Figure 2).

Figure 2. Tautog with tag properly applied to operculum



To ensure these mandates are enforceable, DMF is seeking to further clarify two items. First, should the term “point-of-harvest” mean “immediately upon retention” or “upon the conclusion of commercial fishing on that calendar day and prior to landing, carrying, or sale”? Second, should commercial fishermen be prohibited from possessing tags on their vessels during periods of the calendar year when the commercial fishery is closed?

At the conclusion of the calendar year, DMF must submit a mandatory tag compliance report to the ASMFC’s Tautog Management Board. This report is to contain information regarding the state’s commercial quota; the biological metric used to distribute tags; the average commercial weight of fish sold; the total number of permit holders; the number of active fishermen; the number of tags issued; the number of tags used; the number of tags returned; the number of tags lost; and a record of any tag violations. Much of the data provided in this report will be generated through the individual tag reports provided by commercial fishermen at the end of commercial fishing season.

At a minimum, DMF will require participating fishermen file an annual tag use report with their permit renewal, which will be due by the end of February. This report is to contain information regarding the number of tags issued, the number of tags used, the number of tags returned, and the number of tags lost. DMF will develop and issue a form for fishermen to complete to comply with this reporting requirement. DMF is also considering whether fishermen

should be mandated to return their unused tags and tag reports in a more expedient manner to limit the number of tags that remain in circulation after the quota is taken and the fishery is closed. For instance, fishermen could be required to submit their unused tags and tag report to DMF within two-to-four weeks following notification from DMF after the close of the season.

Proposals Specific to Dealers

As Amendment 1 mandates that all tautog must be lawfully tagged by fishermen at point-of-harvest in the state of origin, authorized dealers and any other seafood purveyors such as restaurants will be prohibited from receiving, purchasing, or possessing any tautog that are not tagged. If fish are imported from another state, they must bear a valid tag from that state. If fish are sold whole (live or dead), the tag must remain properly affixed in the operculum. If a fish is filleted, the tag must be removed from the operculum; remain with the fillets until all portions are sold; and once all portions are sold, the tag may be broken in two and destroyed.

DMF is also seeking public comment on several other discretionary measures to further uphold the integrity of the tagging program. First, given that dealers may not receive untagged fish, DMF is proposing to prohibit dealers from possessing unused tags or applying tags to tautog. Exempt from this would be commercial fishermen with retail boat permits selling tautog they caught and tagged at point-of-harvest directly to the general public from the harvester vessel. Second, DMF is seeking a date following the end of the state's commercial tautog fishing season when primary buyers would be required to liquidate their supply of Massachusetts tagged tautog (e.g., 2-4 weeks). Lastly, DMF is seeking a date after the end of the calendar year when all purveyors of seafood would have to liquidate their supply of tautog with tags from the prior calendar year (e.g., last day of February).

Penalties and Enforcement

These tagging regulations will be promulgated pursuant to G.L. c. 130 §17A. Accordingly, the non-criminal fine will be \$100 per violation with a potential for a \$10 per fish additional fine. The criminal fine will be \$400 - \$10,000 and up to 2.5 years in prison. DMF may also seek permit sanctions for violations of the tagging rules, the reporting mandate, or in certain instances of substantial tag loss.

Commercial Tautog Permitting

The commercial tautog fishery is currently open access. In 2018, DMF issued 2,041 commercial regulated fishery permit endorsements for tautog. Trends for 2019 have been similar, and as of August 6, 2019, DMF has issued 2,011 commercial regulated fishery permit endorsements for tautog.

DMF cannot effectively administer the tagging program in conformity with Amendment 1 with about 2,000 potential permit holders. Accordingly, DMF is proposing to limit entry into this fishery beginning in 2020, and to reduce the number of eligible commercial fishermen to approximately 200. This is consistent with the number of active permits in recent years (Table 1). This reduction in the number of eligible permit holders will be accomplished through the use

of the August 27, 2017 control date (established in anticipation of this ASMFC mandated tagging program) and eligibility criteria.

The first piece of eligibility criteria is that an individual must have held a regulated fishery permit endorsement for tautog in 2018 or 2019. This minimally demonstrates recent interest in participating in this fishery. The second piece is performance criteria documenting that the permit holder sold some quantity of tautog prior to the control date. This works to ensure that those fishermen who have actively participated in this fishery historically and in more recent years are qualified to continue to participate in it. There are several potential options for the second performance criteria to restrict access based on the sale of fish prior to the control date (Table 2).

Table 1. Total Number of Commercial Fishermen Selling Tautog Annually and Binned by Landings for 2014 - 2018

Year	Active at > 1 lb sold	Active at > 120 lb sold	Active at > 250 lb sold
2018	206	98	65
2017	221	122	78
2016	223	109	70
2015	218	105	63
2014	226	116	71
SOURCE: SAFIS Dealer Database, 06/06/2019			

Table 2. Proposed Performance Criteria to Limit Access in 2020

Activity Thresholds	Eligible fishermen
Held a tautog endorsement in CY18 or 19 and sold any tautog from 2010-2016	339
Held a tautog endorsement in CY18 or 19 and sold any tautog from 2014-2016	265
<i>Held a tautog endorsement in CY18 or 19 and sold at least 120 pounds of tautog from 2010-2016</i>	<i>185</i>
<i>Held a tautog endorsement in CY18 or 19 and sold at least 120 pounds of tautog from 2014-2016</i>	<i>136</i>

DMF prefers to use the performance criteria that requires a permit holder to document selling at least 120 pounds of tautog in any year from 2010–2016 or 2014–2016. The 120-pound threshold reflects that the fisherman sold, in aggregate, approximately one 40-fish trip limit during a single calendar year. The 2010 cut off year coincides with the start of DMF’s mandated trip-level harvester reporting. The more recent 2014–2016 period would represent a more recently active group of harvesters.

After final regulations are promulgated and the control date and performance criteria are used to limit entry, DMF will notify commercial fishermen of their standing. Once the tautog regulated fishery permit endorsement is established as limited entry, they will be available only as renewals. Any permit endorsements not renewed will be forfeited. The

permit endorsements will be transferable, provided the permit holder is in good standing and the permit was actively fished and tautog were sold in four out of the five prior years. At this time, no minimum threshold of landings is being established to determine if a permit is actively fished; any documented tautog sales will suffice. However, the Director reserves the authority to establish such criteria in the future.