

Atlantic States Marine Fisheries Commission

Tautog Management Board

*August 7, 2019
4:00 - 4:45 p.m.
Arlington, Virginia*

Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

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| 1. Welcome/Call to Order (<i>D. McKiernan</i>) | 4:00 p.m. |
| 2. Board Consent | 4:00 p.m. |
| • Approval of Agenda | |
| • Approval of Proceedings from October 2018 | |
| 3. Public Comment | 4:05 p.m. |
| 4. Review Implementation Guidelines for the Commercial Harvest Tagging Program (<i>K. Rootes-Murdy</i>) Possible Action | 4:15 p.m. |
| 5. Consider Approval of 2019 Fishery Management Plan Review and State Compliance (<i>K. Rootes-Murdy</i>) Action | 4:35 p.m. |
| 6. Elect Vice-Chair Action | 4:40 p.m. |
| 7. Other Business/Adjourn | 4:45 p.m. |

The meeting will be held at the Westin Crystal City, 1800 S. Eads Street, Arlington, Virginia; 703.486.1111

Sustainable and Cooperative Management of Atlantic Coastal Fisheries

MEETING OVERVIEW

Tautog Management Board
August 7, 2019
4:00 - 4:45 p.m.
Arlington, Virginia

Chair: Dan McKiernan (MA) Assumed Chairmanship: 11/17	Technical Committee Chair: Linda Barry (NJ)	Law Enforcement Committee Representative: Snellbaker
Vice-Chair: VACANT	Advisory Panel Chair: VACANT	Previous Board Meeting: October 24, 2018
Voting Members: MA, RI, CT, NY, NJ, DE, MD, VA, NMFS, USFWS (10 votes)		

2. Board Consent

- Approval of Agenda
- Approval of Proceedings from October 2018

3. Public Comment – At the beginning of the meeting public comment will be taken on items not on the Agenda. Individuals that wish to speak at this time must sign in at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance the Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

4. Review Implementation Guidelines for the Commercial Harvest Tagging Program (4:15-4:35 p.m.) Possible Action
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Background

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| <ul style="list-style-type: none"> • Amendment 1 requires the implementation of a commercial harvest tagging program for Tautog. The Board moved to implement the program in January 2020. • Draft Guidelines for implementation of the tagging program were developed by Staff, Board Chair, Technical Committee (TC), and Law Enforcement Committee. (Briefing Materials) • The Board, TC, and Advisory Panel provided comments on the Draft Guidelines in July (Briefing Materials) |
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Presentations

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| <ul style="list-style-type: none"> • Review of Implementation Guidelines for the Commercial Tagging Program by K.Rootes-Murdy |
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Board Actions for Consideration
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| <ul style="list-style-type: none"> • Specify changes to guidelines • Determine whether specific implementation guidelines will be required for 2020 |
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5. Consider Approval of 2019 Fishery Management Plan Review and State Compliance (4:35-4:40 a.m.) Action

Background

- State Compliance Reports are due annually on May 1.
- The Plan Review Team reviewed each state report and compiled the 2019 FMP Review.
- Delaware and Maryland have requested and meet the requirements for *de minimis*.

Presentations

- 2018 Fishery Management Plan Review by K. Rootes-Murdy (**Supplemental Materials**)

Board Actions for Consideration

- Approve 2019 FMP Review and State Compliance Reports
- Approve *de minimis* requests for Delaware and Maryland

6. Elect Vice-Chair

7. Other Business/Adjourn

Tautog 2019 Tasks

Activity Level: Low

Committee Overlap Score: High (Menhaden, BERP, Summer Flounder, Scup, and Black Sea Bass)

Current Committee Tasks:

- TC – Evaluate biological sampling requirements (assess the feasibility of adding pelvic spines as an acceptable ageing structure)
- TC – May 1, 2019: compliance reports due
- 2019: Consider initiating a benchmark stock assessment as per the 5-year trigger and MRIP data calibration

TC Members: Sydney Alhale (VA), Coly Ares (Vice Chair, RI), Linda Barry (Chair, NJ), Sandra Dumais (NY), Scott Newlin (DE), Deb Pacileo (CT), Craig Weedon (MD), Tiffany Vidal (MA)

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

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

These minutes are draft and subject to approval by the Tautog Management Board
The Board will review the minutes during its next meeting

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)



Atlantic States Marine Fisheries Commission

1050 N. Highland Street • Suite 200A-N • Arlington, VA 22201
703.842.0740 • 703.842.0741 (fax) • www.asmfc.org

MEMORANDUM

June 7, 2019

To: Tautog Management Board
From: Dan McKiernan, Tautog Board Chair
RE: 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, due to issues identifying a suitable tag and applicator. At that time, the Board also reviewed but did not take action on a draft document outlining implementation guidelines for the tagging program (enclosed).

A new tag and applicator have been tested in collaboration with several state partners and found to be suitable for the tagging program. Thus, the states will need to implement their regulatory programs by January 2020 to comply with Amendment 1. To provide guidance and maximize the compatibility, effectiveness, and enforceability of state programs, the Board will need to agree on implementation guidelines as soon as possible.

It is requested that all commissioners review the enclosed document and submit any comments or suggested changes to cstarks@asmfc.org no later than June 30, 2019. The Board will consider the draft implementation guidelines for approval at its next meeting in August 2019.

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

M19-41

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.

Draft Document for Board Discussion

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:

Draft Document for Board Discussion

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.

Draft Document for Board Discussion

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.



Larry Hogan, Governor
Boyd Rutherford, Lt. Governor
Jeannie Haddaway-Riccio, Secretary

Ms. Caitlin Starks
Atlantic States Marine Fisheries Commission
1050 N. Highland Street, Suite 200 A-N
Arlington, VA 22201

July 8, 2019

Dear Ms. Starks,

After review of the draft tautog commercial harvest tagging implementation guidelines, the Maryland Department of Natural Resources would like to provide comment on a few items of concern within the document.

Overall, this program is disproportionately burdensome for the Maryland commercial fishermen, which harvests less than 300 lbs. of tautog a year (2016-2018) as a de minimis fishery. Our commercial fishery accounts for 0.08% of the total coastwide commercial landings of tautog. The expected consequence of the program as proposed is that it will eliminate the commercial fishery in Maryland. While we understand the need to have all states participate in this program so that loopholes in the system are not created, we struggle with the administrative encumbrance of the tasks in the proposal and the effect on our small-scale bycatch commercial fishery for the purpose of enhancing enforcement of the illegal live-sale of recreationally harvested fish.

The implementation date of January 1, 2020 should be modified given that the tag applicator and tool were only recently approved and the implementation guidelines are not finalized. Spring or early summer 2020 should be considered. This would allow the Board time to finalize the guidelines and will provide participating states a cushion to fully complete their individual state's regulatory process.

Pertaining to tag application and the requirement stating that tautog must be landed in the state identified on the tag, we would like to point out that there should be a provision to accommodate safe harbor situations. There are occasionally situations where a vessel must land in another state for mechanical or navigation reasons.

In regards to tag accounting, based on our experiences with other tagging programs, expecting tags to be returned during the fishing year can be a challenge. It may be reasonable for states to have the flexibility to implement a fishing year that covers two calendar years, and have tag return during the period of time that the fishery is closed. For example, the tag year may run May 2018 – April 2019, with April being a closed season for tautog, and tag return would occur during April. States should have the flexibility to implement the tagging program for the easiest administration of the program.

Pertaining to tag expiration, there should be a 15 day grace period for fishermen and dealers to move product rather than restricting sales to the final consumer. The current wording of this section could create a loophole for illegal sales and inhibit commerce of legally harvested fish.

Requiring an annual tag report to include the number of tagging violations is not as specific or as straightforward as it may seem. It is unclear whether a warning counts as a violation; and it is unclear what is considered a violation of the tagging rules. Lastly, in Maryland the violations database is a function of the courts system, and if the courts have not entered all the information, or have not entered the information appropriately or timely, some information may be missing. For other species of higher economic importance, tagging violations are not required to be reported to ASMFC.

Lastly, regarding reporting, it is suggested in the draft guidelines that buyers licensed to buy tautog could also be required to provide written reports to the state permitting agency of purchases and harvest information including all trip-level information. Maryland does not currently require trip-level data from dealers (striped bass must pass through a striped bass check station for the state to collect trip-level data). If the Board believes trip-level data are important for accountability of harvest, it should work with other management boards and the ACCSP Coordinating Council to develop and implement trip-level dealer data as a harvest accountability standard required for all states to complete.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Luisi", with a long horizontal flourish extending to the right.

Michael Luisi
Assistant Director, Fishing and Boating Services