

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

**Wentworth by the Sea
New Castle, New Hampshire
October 28, 2019**

Approved May 5, 2020

Proceedings of the Tautog Management Board
October 2019

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ATTENDANCE

Board Members

Dan McKiernan, MA, proxy for D. Pierce (AA)	Tom Fote, NJ (GA)
Raymond Kane, MA (GA)	Adam Nowalsky, NJ, proxy for Sen. Andrzejczak (LA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	John Clark, DE, proxy for D. Saveikis (AA)
Jason McNamee, RI (AA)	Roy Miller, DE (GA)
David Borden, RI (GA)	Mike Luisi, MD, proxy for B. Anderson (AA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Russell Dize, MD (GA)
Justin Davis, CT (AA)	Phil Langley, MD, proxy for Del. Stein (LA)
Bill Hyatt, CT (GA)	Steve Bowman, VA (AA)
Sen. Craig Miner, CT (LA)	Pat Geer, VA, Administrative proxy
Maureen Davidson, NY, proxy for J. Gilmore (AA)	Bryan Plumlee, VA (GA)
John McMurray, NY, proxy for Sen. Kaminsky (LA)	Peter Burns, NMFS
Joe Cimino, NJ (AA)	Mike Millard, USFWS

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

Ex-Officio Members

Staff

Robert Beal	Katie Drew
Toni Kerns	Maya Drzewicki
Kirby Rootes-Murdy	

Guests

Leah Baumwell, PEW Trusts	Steve Murphey, NC DMF
David Frulla, Kelley, Drye & Warren	Andrew Peterson, Bluefin Data
Shaun Gehen, Gehen Law	Story Reed, MA DMF
Jim Gilmore, NY (AA)	James Rogers, Richmond, VA
Zack Greenberg, PEW Trusts	Melissa Smith, ME DMR
Jon Hare, NOAA	Kevin Staples, NE Regional Ocean Council
Jeff Kaelin, Lund's Fisheries	Pam Thames, NOAA
Arnold Leo, E. Hampton, NY	Bob Vanasse, Washington, DC
Tom Lilly, Salisbury, MD	Megan Ware, ME DMR
Conor McManus, RI DRM	Renee Zobel, NH F&G
Drew Minkiewicz, Kelley, Drye & Warren	

Proceedings of the Tautog Management Board Meeting
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The Tautog Management Board of the Atlantic States Marine Fisheries Commission convened in the Wentworth Ballroom of the Wentworth by the Sea Hotel, New Castle, New Hampshire; Monday, October 28, 2019, and was called to order at 10:45 a.m. by Chairman Daniel McKiernan.

CALL TO ORDER

CHAIRMAN DANIEL MCKIERNAN: Good morning, I'm the proxy for David Pierce. I know you've all enjoyed giving David a sendoff for this great retirement tour, not unlike David Ortiz's retirement tour from one ballpark to another. Thank you for that.

APPROVAL OF AGENDA

CHAIRMAN MCKIERNAN: Today we have a brief meeting, primarily to go over the Tautog Tagging Reports, and the plans for each jurisdiction to implement. First the Approval of the Agenda, is there any requested change to today's agenda? Seeing none, it's considered approval.

APPROVAL OF PROCEEDINGS

CHAIRMAN MCKIERNAN: Second, the proceedings from the August, 2019, are there any requested changes to the minutes of that meeting? Seeing none, we'll consider those approved.

PUBLIC COMMENT

CHAIRMAN MCKIERNAN: Next is there anyone who would like to speak to the Board on any items not on the agenda? I don't think anyone has signed up, so I'm assuming no.

PROGRESS REPORT ON THE COMMERCIAL HARVEST TAGGING PROGRAM

CHAIRMAN MCKIERNAN: All right, let's get into the meat of the discussion today, it's a Progress Report on the Commercial Harvest Tagging Program, with a possible action, and I'll turn it over to Kirby.

MR. KIRBY ROOTES-MURDY: I have a brief presentation for you all today. Just give a little bit of background, an update on the tag orders, an update on state implementation based on what the states have responded back, and after those two points this Board can consider management action if they think it's necessary.

In terms of background, as you guys are all very much aware, in October of last year the Board postponed implementation of the tagging program until January 1, 2020. Over the last year there was an effort to pull together some draft implementation guidelines, which this Board discussed at the last Board meeting in August.

Following that August meeting there was a request for states to indicate whether they could implement the tagging program by January of 2020, as well as outline how many tags and how many tag applicators were needed, in order to prosecute this tagging program next year. An update on the tag orders, I want to say first thank you to all the states to getting that information to staff in September, it was very helpful.

We've been working with National Tag and Band over the last month and a half to try to finalize those orders, and get them completed. They were placed earlier this month, and are currently being processed. We're anticipating the tags and applicators will be delivered to the states by the end of November or the beginning of December, and if anything changes on that front we will let you guys know. I'm not sure if any of you had seen up until now what these tags will look like, and I thought it would be helpful for this Board to better understand what the tags on the fish would look like in 2020. This is an example that we have been working with, with National Band and Tag. As you can see at the top, on the far left it has the year.

Underneath the year we have the state abbreviation, and then we have on this slide it's

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one of the initial prototypes we had, five digits in addition to an alpha-numeric beginning indicator. What we've decided to do is drop one of these digits, so you have four numbers in addition to a letter, and the combination of letters through the entire alphabet and those four digits, can get up to approximately 260,000 unique tag IDs for a state in a given year.

Looking at this image on the screen right now, just imagine it with that scrunched four removed. That is what the tag will look like next year, and the one that you should be receiving, as I said hopefully in about a month's time. In terms of the state implementation of this program, as we requested following the August meeting, states got back to us and outlined what their plan is for 2020.

A number of states are going through the process right now of implementing those regulations so that starting January 1; the regulations reflect a tagging program that the state will implement. A few states though will not be implementing the program as of January 1. That is Connecticut, New York, New Jersey, and Maryland.

In some instances these states aren't able to get the tagging program implemented by January 1, due to the timing of when their commercial fishery begins. For Connecticut and New York it has been communicated to staff that this alternative date is to reflect the end of one commercial fishing season, and implementing it at the beginning of their fishing season in 2020.

For other states, it is due to challenges in terms of implementing these regulations, because they don't currently either have the rulemaking process to allow them to do it, or challenges in terms of identifying participants in the fishery in implementing this new program. That's for New Jersey and Maryland.

Now outside of the management unit, which is Massachusetts through Virginia, the states of Pennsylvania and North Carolina were also of

interest to this Board, in terms of the tagging program. Pennsylvania has a commercial fish market, in which tautog are sold live. They have been going through a process to determine if they would be able to enforce the tagging requirements that you all are implementing next year.

I have not received word back yet from Pennsylvania that they intend to enforce that tag requirement in their fish markets. The other state is North Carolina. They have low levels of landings over the last few years, in most years their landings have been at most 100 pounds. Due to the low level of landings they've decided to not implement the tagging program.

Again, they are not a part of the management unit, and are therefore not required to do so. But in speaking with the North Carolina Commissioners, they have indicated that they will communicate to their fishermen that this will present challenges for those fish that are caught and landed in North Carolina, if they are hoping to sell them out of state to those states that have implemented the tagging program. For the Board's consideration today, based on this update, if there is interest in specifying any additional requirements for the 2020 tagging program you can do so, but as I said before there is no action that's required as of now. With that I'll take any questions. Thank you.

CHAIRMAN MCKIERNAN: Tom Fote.

MR. THOMAS P. FOTE: I have two, one is does North Carolina get a, oh they're not sitting at the table. Does North Carolina get an influx of tautog from other states that come in for their live market? In Pennsylvania we've always had a problem also with striped bass, because there is no paperwork trail that goes there, and we know if there are fish that are illegally poached that wind up in the Pennsylvania market, when it comes to striped bass. I know tautog is the same thing.

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We're looking at if they come from our markets are they going to basically be required to carry the tag? Otherwise it winds up any fish in North Carolina or Pennsylvania becomes open season on where you can ship fish that are legally caught, and it creates a market that might not have been there before.

MR. ROOTES-MURDY: Thank you for the question, Tom. I am probably not the best person to speak to North Carolina's commercial fishery, but I will say that we do have in the room Chris Batsavage, Commissioner from North Carolina, and he may be able to speak to some of your questions about how the tautog market in North Carolina currently is, and if there is any concerns about changes in that market demand.

MR. CHRIS BATSAVAGE: In terms of requiring the fishermen to tag tautog in North Carolina, as Kirby mentioned the landings are really low, they're scattered over multiple dealers, multiple fishermen, and multiple counties. Trying to identify the fishermen and how many tags we need would be a challenge.

As Kirby mentioned, we're going to communicate with the dealers and fishermen that any tautog landed commercially in North Carolina can't get shipped north, they're going to have to go somewhere else. Now to Tom Fote's question about the live fish markets in North Carolina, or any fish markets that might purchase tautog from northern states.

We haven't discussed that but we can touch base with ASMFC staff, as far as just what our marine patrol and other inspectors can do, as far as ensuring that we don't see an influx of untagged tautog being sold in our state. In other words, the ones coming from the northern states should have tags from those states, but we can follow up with you in the coming weeks about that question.

CHAIRMAN MCKIERNAN: John Clark.

MR. JOHN CLARK: Thanks for the presentation, Kirby. I had a question about the tag applicators. Because Delaware has the possession limit for commercial fisheries the same as the recreational and we have a bunch of commercial hook and line fishermen. When we did the sign up we had a bunch of people sign up, because even though they've never targeted tog in the past, they didn't want to be left out. We figured what we would do is we can supply tags to them, but we're not buying the applicators, we're telling the fishermen if they want to participate it's up to them to buy the applicator.

But looking at the tag itself, I'm just wondering can it be effectively used. I think you've said, Kirby that pliers probably wouldn't work on this. But is it one of those things where we should require everybody in the fishery to get the actual applicator? Because if we're silent on that I'm sure some will get the tags and just try to use pliers regardless.

MR. ROOTES-MURDY: Yes thanks for the question, John. It's the pleasure of the Board on what you all want to do in terms of requiring what gear to purchase. But I will say that based on our communication with National Band and Tag, and their development of this tag. They have an applicator that is specific to helping get this tag onto the fish.

It is from our understanding the best method to putting the tag on the fish. Trying other ways may create a situation where you break the tag, or it doesn't click and actually hold on the fish, and then that can create problems obviously in terms of a tag getting off when the fish is in the market. Those are just things to consider.

As you and I know, we've communicated back and forth on getting a link available that we would circulate to this Board, so that in other instances where states are not planning to purchase applicators for their fishermen, but would like to have them purchase it through National Band and Tag. There will be a link that

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they can go to that outlines what the specifications are, how much they cost, and we would make that available to you all soon.

CHAIRMAN McKIERNAN: John, if I could comment. Our staff helped field test the tag and the applicators, and we had another question earlier in the week about the fact that the tag appears to be bigger than what was first tested. What we discovered was the smaller tag worked fairly well, but the smaller tag applicator was made of materials that would not have held up in the elements.

It was the larger tag and the larger tag applicator, specifically the larger tag applicator that was made of aluminum, and is a stronger tool, and would hold up to salt water. Furthermore, this larger tag does allow more information, in terms of the smaller fonts and more characters. That's why the larger tag was chosen.

From my own experience, I've used the applicator and it works well. It's a little tricky; you have to practice a little bit. But I couldn't imagine using an off-the-shelf set of pliers to do this. I think it would just fly out of the tool. The way this works you sort of snap it in and then you close it. It's a well-designed tool for its use.

MR. CLARK: It sounds like we wouldn't really have to require it, we could just pretty much state in the letter that the only way to really fasten these tags is to use the applicator.

CHAIRMAN McKIERNAN: The only way to do it effectively, we recommend, and I think the applicator costs like \$25.00. Are there any other questions on this? Jay McNamee.

DR. JASON McNAMEE: Kirby, I was wondering a little bit about Pennsylvania. The North Carolina piece of this, I guess, gives me less concern, but Pennsylvania is, kind of in that you know portions of it are in that kind of metro area there. I have concern about tautog ending up in their markets without tags.

You had it up there, it didn't sink in. Do they have a rule that won't allow them? They have not determined that yet. I guess the comment that I will make is I think that is really important. I'm not asking them to tag tautog, or any of that. But a rule requiring tautog to have tags in their markets I think is critical to make this program work.

CHAIRMAN McKIERNAN: Jay, would you like to make maybe a consensus recommendation or a motion that this Board request Pennsylvania adopts the requirements for fish in commerce to bear tags, as opposed to the issuance of tags to commercial fishermen?

DR. McNAMEE: Yes. I hadn't thought about it up until the moment I read the state report in the material. I hesitate to get that official yet. Maybe we could talk with the folks from Pennsylvania first, and maybe it would help them if we did something like that. But I just don't want to go there yet.

CHAIRMAN McKIERNAN: Bob Beal, would you like to comment?

EXECUTIVE DIRECTOR ROBERT E. BEAL: Since Pennsylvania representatives are not here, I would suggest maybe bringing something forward to the Policy Board with the Full Commission in the room. As Jason was saying, have that discussion there. We can let them know ahead of time so they're not blindsided at the Policy Board.

I'm not sure what provisions, or how heavy of a lift it would be for Pennsylvania to adopt a rule that says you know all tautog commercially sold into Pennsylvania had to have tags in place, and remain in place throughout the chain of custody, or something along those lines. Obviously they have those for striped bass and some others now, but how hard is it to add a species? I don't know, but the Policy Board is probably a good spot to do that.

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CHAIRMAN MCKIERNAN: Kirby, something comes to mind for me as we go into the new year, some states have open fisheries and some do not, and there may be some fish in commerce that are going to be end tagged, and some of our states, mine included, are going to have codified regulations that mandate a tag.

Maybe at the end of the calendar year staff could prepare a memo for all of the delegations and for the State Director specifically, to advise them on which states might still be putting untagged fish in commerce. There could be advice given to law enforcement within those states to go easy or not enforce that rule until we get a universal standard. It sounds like that may be the April or July. Just something to think about that as each of us comes forward with these rules on our own schedule, we have the interstate commerce issues that we need to accommodate. Are there any thoughts on that? All right great idea, Dan, so anything else? Jay.

DR. McNAMEE: Great idea! Kind of along with that I was wondering, again a question for Kirby. We've got, I think there is a hard date in the FMP, and so we've got some states that are a little bit behind. Are we just going to rely on the, what it the PRTs to say yes they weren't in January 1, but they were in before the fishery started so they're okay. Is that kind of the process we're doing, or do we need to do something more deliberative than that?

MR. ROOTES-MURDY: Again it's the pleasure of this Board on what action you want to take. As I outlined, not all states are going to have this implemented by January 1, which was the motion that was passed by the Board. In a number of those instances it's a state is trying to implement the regulations before their season starts.

But, there are some states that are implementing it either midyear or not quite lining up with the beginning of their season. Obviously it's been noted there are a number of challenges in implementing this new program.

Whether the Board wants to consider that in light of how the motion was crafted and passed before, it's at your guys' discretion.

CHAIRMAN MCKIERNAN: Jay, go ahead.

DR. McNAMEE: I would be more inclined to keep it as currently constructed, just to kind of keep the pressure on. I would rather not, so this is our second thing today that we've kind of delayed once and we're on our potentially second round of delays. I think it makes sense to keep the existing January 1 date on there, with some leniency from the Board, you know when it comes to the review for compliance. That would be my preference to not do anything at this point.

CHAIRMAN MCKIERNAN: Raymond.

MR. RAYMOND W. KANE: Yes, a question Dan. You brought the ICC. Moving forward with this FMP we understand North Carolina, you know 100 pounds of fish. I don't know how many fish that is in units. But with Pennsylvania, when you start talking about the ICC, so buyers in New York will be able to ship to Pennsylvania. How would those fish in Pennsylvania if they're not tagged be sold in all the states that are comprised in the FMP? How could they possibly ship fish out of the state of Pennsylvania to a state that is part of the FMP tagging fish?

CHAIRMAN MCKIERNAN: Good question, Ray. I guess the first question is how would those fish get into Pennsylvania, because all the participating states are going to have a tagging requirement, so they would already have violated their in-state rules? If they came into Massachusetts and were shipped to Philly, you would already have a violation in Massachusetts for having untagged fish.

I think we just want to shore up the Pennsylvania problem by just having them adopt a rule that says all tautog for sale must bear a tag consistent with the interstate plan.

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But I think as long as every state has its rule about harvest, and then there is an opportunity to constrain that.

ADJOURNMENT

CHAIRMAN McKIERNAN: All right, anything else? All right is there any other business to come before the Board today? Seeing none, the Board is adjourned. Thank you.

(Whereupon the meeting adjourned at
11:10 a.m. on October 28, 2019)