**ENVIRONMENTAL PROTECTION**

**DIVISION OF FISH AND WILDLIFE**

**Notice of Administrative Change**

**Marine Fisheries**

**Modification of Commercial Tautog Reporting Requirements:**

**Implementation of Commercial Harvest Tagging Program**

**N.J.A.C. 7:25-18.12**

**Take notice** that, pursuant to N.J.A.C. 7:25-18.12(r), the Commissioner of the Department of Environmental Protection, with the approval of the New Jersey Marine Fisheries Council (Council) at its September 9, 2021, meeting, has modified the reporting requirements for the tautog commercial fishery. This action has been taken in compliance with the Atlantic States Marine Fisheries Commission (ASMFC) management plan for tautog and to provide for the optimal utilization of the available quota.

At its October 2017 meeting the ASMFC’s Tautog Management Board (Board) approved Amendment I to the Tautog Fishery Management Plan (FMP). Among its requirements was the implementation of a commercial tagging program to curtail a rising, illegal harvest and market of undersized and unreported tautog. These undocumented removals from the tautog stock are problematic for stock assessment scientists as they need reliable harvest data to accurately determine the true status of a fishery stock.

Under Amendment I, New Jersey was required to implement its commercial tagging program by January 1, 2020, in order to maintain compliance with the FMP. Once implemented, it will be prohibited to sell or purchase commercially harvested tautog (alive or dead) that has not been affixed with a valid tautog harvest tag. The program will utilize uniform single-use tags which will be inscribed with the year and state of issue and a unique number to link the tag to the harvester. Each year, the Department will distribute the tags to the fishermen and record the series of unique numbers given to each harvester. Harvesters will be allowed to apply for more tags after using up their year’s initial allotment as long as they are in compliance with all permit requirements. Harvesters who are not current with their reporting and tag requirements may have any new allotment of tags withheld from them until they become current with those requirements.

The Department is requiring that all tautog to be tagged prior to offloading or to the crew disembarking from the vessel if that occurs before the fish are offloaded, to minimize the risk of fish being stolen while the crew are absent from the vessel. The tags must be applied consistently to the outer edge of the opercular bone on the left side of each fish. All tautog tagged with a New Jersey commercial tautog harvest tag must be landed in New Jersey. To curtail commercial harvest of tautog out of season, the tags would be prohibited from being on the vessel and harvesters prohibited from tagging tautog during a closed season for tautog. Possession of the tags without concurrent possession of a valid New Jersey Commercial Tautog permit would be prohibited.

Harvesters are required to report the number of tags used and the number damaged or lost (if available) on their reporting forms. Unused tags must be returned to the Department with the permit holders’ December harvest reports, either in person or postmarked, no later than January 10, the due date for the harvest report. Tautog harvest tags are non-transferable, and it will be prohibited to reuse or modify the tags. Upon transfer of a commercial tautog permit, the original permittee’s tautog tags must be surrendered to the Division and the new permittee will be allocated a new set of tags.

These changes will be reflected in the Division of Fish and Wildlife rules at N.J.A.C. 7:25-18.12(c). As required at N.J.A.C. 7:25-18.12(r), changes to N.J.A.C. 7:25-18.12(c) are being published in the New Jersey Register.

**Full text** of the changed rule follows (additions indicated in boldface **thus**, deletions indicated in brackets [thus]):

7:25-18.12 Commercial fishing seasons, quotas, and trip limits

(a) – (b) (No change.)

(c) The following provisions are applicable to the commercial harvest of tautog:

1. – 8. (No change.)

9. No permit shall be transferred without prior approval of the Department. **Before final approval of a permit transfer, any unused tautog harvest tags issued pursuant to 11. below must be returned to the Department’s Nacote Creek Research Station. The new permittee shall be issued their tautog harvest tags at the time of transfer.**

10. (No change.)

**11. No person shall possess for the purpose of sale, buy, sell, barter or trade, or offer to buy, sell, barter or trade, any tautog unless it has been affixed with a tautog harvest tag in accordance with the following:**

**i. A commercially permitted harvester or vessel shall affix to any tautog being landed for the purpose of sale a tautog harvest tag prior to offloading or the vessel’s crew disembarking.**

**The tautog harvest tag shall be firmly affixed to the bony portion of the left side gill cover (operculum) such that the tag number faces outward from the body and can be readily viewed. All tautog tagged with a New Jersey commercial tautog harvest tag must be landed in New Jersey.**

**ii. The Commissioner, or his or her designee, shall issue tautog harvest tags to vessel owners in possession of a valid New Jersey Tautog Permit or a valid New Jersey Non-Directed Fishery Tautog Permit upon application by the permittee on a form provided by the Department. All tautog harvest tags must be picked by the permittee in person at the Department’s Nacote Creek Research Station. If the permittee requires additional tautog harvest tags after using up the initial allotment granted, they may apply to the Department for subsequent allotments so long as they have met the reporting requirements pursuant to vii. below.**

**iii. Tautog harvest tags shall only be valid for the year in which they are issued and are non-transferable. Any unused tautog harvest tags from the previous year shall be returned to the Department’s Nacote Creek Research Station no later than January 10 of the following year. No vessel shall land any tautog in New Jersey and no dealer shall accept any tautog which is untagged or tagged with an invalid tautog harvest tag and no tag may be reused, altered, or modified.**

**iv. A permittee issued tautog harvest tags shall report any used, lost, stolen, or damaged tautog harvest tags pursuant to 12.vii below. No vessel shall land in New Jersey and no dealer shall accept any tautog tagged with a tautog harvest tag that has been reported as lost, stolen, or damaged.**

**v. No vessel shall have on board any tautog harvest tags without concurrent possession of a valid New Jersey Tautog Permit, a valid New Jersey Non-Directed Fishery Tautog Permit, or during a closed season for tautog. Possession of tautog harvest tags without concurrent possession of a valid New Jersey Tautog Permit, a valid New Jersey Non-Directed Fishery Tautog Permit, or during a closed season for tautog shall constitute prima facie evidence of a violation of this section.**

[11.] **12.** The annual tautog harvest quota for New Jersey shall be 103,000 pounds or as modified by the Commissioner pursuant to (i) below. All landings of tautog in New Jersey shall be applied to the New Jersey annual quota.

i. – vi. (No change.)

vii. All New Jersey Tautog Permit and New Jersey Non-Directed Fishery Tautog permit holders shall be required to complete monthly reports supplied by the Department. The monthly report shall be signed by the permittee attesting to the validity of the information and be submitted so it is received by the Department no later than five working days following the end of the reported month at the following address:

Tautog Program

Nacote Creek Research Station

PO Box 418

Port Republic, NJ 08241-0418

(1) The monthly report shall include, but not be limited to the following information: name, permit number, total amount (in pounds) of tautog taken, dates caught, time at sea, duration of fishing time, area fished, crew size, **number of tautog harvest tags used, number of tautog harvest tags lost, stolen, or damaged,** landing port, date sold, buyer. This information shall be provided for any trip in which tautog are landed.

(2) (No change.)

[12.] **13.** Any person violating the provisions of this section shall be subject to the penalties prescribed in N.J.S.A. 23:2B-14 in addition to the following:

i. – ii. (No change.)

**iii. Failure to comply with the provisions of (c)11i above, tagging and landing tautog for sale in New Jersey, (c)11iii above, landing or accepting untagged or invalidly tagged tautog, or (c)11iv above, landing or accepting tautog tagged with a reported lost, stolen, or damaged tautog harvest tag, shall result in a penalty of $100.00 for each tautog taken or possessed. Each fish taken or possessed shall constitute an additional separate and distinct offense.**

[iii.] **iv.** Failure to comply with the provisions of (c)[11]**12**iii above, landing tautog after the season has been closed, or (c)[11]**12**vii above, failure to submit accurate and timely monthly reports, shall result in the suspension during open seasons for tautog or revocation of the vessel’s tautog permit according to the following schedule:

(1) First Offense: 60 days suspension

(2) Second Offense: 120 days suspension

(3) Third Offense: permanent revocation

[iv.] **v.** In calculating the period of suspension or revocation applicable under (c)[12iii]**13iv** above, the number of previous suspensions shall be reduced by one for each three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period, only one of those suspensions may be forgiven under this subparagraph; therefore, a permit holder who incurs more than one suspension within a three-year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspension provided in this subparagraph applies only to the determination of suspension periods; all prior suspensions shall be takin into account in calculating monetary penalties in accordance with N.J.S.A. 23:2B-14.

Recodify existing v. as **vi.** (No change in text.)

(d) – (y) (No change.)

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Date Shawn M. LaTourette, Commissioner

Department of Environmental Protection