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ENVIRONMENTAL PROTECTION

DIVISION OF FISH AND WILDLIFE

Notice of Administrative Change

Marine Fisheries

Modification of the Commercial Tautog Requirements

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 to come into 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 Interstate Fishery Management Plan (FMP) for Tautog Fishery (see http://www.asmfc.org/uploads/file/5a0477c3TautogAmendment1_Oct2017.pdf). Among its requirements was the implementation of a commercial tagging program to curtail the illegal harvest and market of undersized and unreported tautog. The undocumented removal from the tautog stock is problematic for stock assessment scientists as they need reliable harvest data to accurately determine the true status of a fishery stock.

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The Tautog FMP prohibits any sale or purchase of commercially harvested tautog (alive or dead) that have not been affixed with a valid tautog harvest tag. The Department 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 fishers and record the series of unique numbers given to each harvester. A harvester will be allowed to apply for more tags after exhausting their initial allotment, provided the harvesters are in compliance with their individual permit requirements. A harvester who is not current with reporting and tag requirements may have any new allotment of tags withheld until he or she complies with those requirements.

All tautog must be tagged prior to offloading or prior 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. A tag must be applied 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 illegal, out-of-season commercial harvest of tautog, during the closed season, the possession of tautog tags on board a vessel and the application of tautog tags are prohibited. Possession of a tag without concurrent possession of a valid New Jersey Commercial Tautog permit is also prohibited.

A tautog harvester is required to report the number of tags used and the number damaged or lost (if applicable) on reporting forms. Unused tags from the previous fishing year 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

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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), this publication is the required notice of the changes to N.J.A.C. 7:25-18.12(c).

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

SUBCHAPTER 18. MARINE FISHERIES

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.)

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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 (c)11 below must be returned to the Department's Nacote Creek Research Station at the address below. The new permittee shall be issued their tautog harvest tags at the time of transfer.**

Tautog Program

Nacote Creek Research Station

PO Box 418

Port Republic, NJ 08241-0418

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 harvester or vessel shall affix to any tautog being landed for the purpose of sale, barter or trade 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.

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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. The Department shall make available tautog harvest tags at its Nacote Creek Research Station at the address provided at (c)9 above.

iii. If the permittee requires additional tautog harvest tags after exhausting the initial allotment granted, the permittee may apply to the Department for additional allotments so long as they have met the reporting requirements pursuant to (c)11vii. below.

iv. 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 must be returned to the Department's Nacote Creek Research Station at the address provided at (c)9 above no later than January 10 of the year following issuance. 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.

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v. A permittee issued tautog harvest tags shall report any used, lost, stolen, or damaged tautog harvest tags pursuant to (c)12vii 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.

vi. In addition to tautog harvest tags, a vessel must also have on board a valid New Jersey Tautog Permit or a valid New Jersey Non-Directed Fishery Tautog Permit during the open season.

[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:

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(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, **the number of tautog harvest tags used, the 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. – iii. (No change.)

[iii.] **iv.** Failure to comply with the provisions of (c)[11]12iii above, landing tautog after the season has been closed, or (c)[11]12vii 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:

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(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 taken 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.)