

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Natural Resources**
(DLS Control No. 20-031)

Overview and Legal and Fiscal Impact

This regulation updates rules for commercial and recreational fishing consistent with recent changes to the Atlantic States Marine Fisheries Commission's (ASMFC) October 2017 Amendment I to the Interstate Fishery Management Plan for Tautog.

The regulation presents no legal issues of concern.

There is no material fiscal impact on State or local agencies.

Regulation of COMAR Affected

Department of Natural Resources:

Fisheries Service: Fish: COMAR 08.02.05.20

Legal Analysis

Background

Maryland participates with 14 other states in ASMFC, which coordinates the conservation and management of the near-shore migratory fishery resources of the Atlantic coastal states. ASMFC prepares, adopts, and modifies coastal fishery management plans for 26 species and species groups, including tautog. States are responsible for implementing and enforcing – consistent with state management regimes – the measures contained in ASMFC coastal fishery management plans. If ASMFC determines that a particular state is not in compliance with the strategies of an adopted plan, ASMFC may petition the National Oceanic and Atmospheric Administration to impose a fishing moratorium until compliance is achieved.

Tautog is a stout fish with an arched head and broad tail. Juveniles are greenish in color and become darker with age. Fishermen have given tautog the nickname “blackfish” due to its dark mottled sides that are either dull black, blackish green, or blackish blue. Tautog are slow growing and can live 35 to 40 years. Tautog are distributed along the Northeast Atlantic coast, from Nova Scotia to Georgia, with the greatest abundances occurring in the U.S. between Cape Cod, Massachusetts and Chesapeake Bay.

In October 2017, ASMFC approved Amendment I to the Interstate Fishery Management Plan for Tautog. However, implementation of the amendment was delayed until 2020. According to the Department of Natural Resources, ASMFC is requiring states to implement related regulatory programs in 2020 to comply with Amendment I. According to the department, the goal of Amendment I is to sustainably manage tautog over the long-term using regional differences in biology and fishery characteristics as the basis for management.

Summary of Regulation

As mentioned, the regulation implements the October 2017 Amendment I to ASMFC's Interstate Fishery Management Plan for Tautog. More specifically, the regulation modifies the catch season and limits for the commercial and recreational fishery. The regulation also reorganizes the regulation for clarity by creating a commercial section which includes gear and tagging requirements for commercial harvesters. The regulation updates the degradable materials that are required for pots and traps, and prohibits an individual from selling or purchasing a commercially caught tautog that has not been tagged in accordance with the regulation. Finally, the regulation updates the public notice requirements by establishing that the Secretary of Natural Resources may modify catch or size limits or open or close a season in order to implement the ASMFC Fishery Management Plan for Tautog by issuing a public notice on the department's website, as specified.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites § 4-215 of the Natural Resources Article as statutory authority for the regulation. Section 4-215(b) requires the department to prepare fishery management plans for 25 species, including the tautog. Subsection (h) requires the Secretary of Natural Resources to adopt management plans and any conservation and management measures by regulation.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Fiscal Analysis

There is no material fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulation has minimal impact on State special fund expenditures and no impact on local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no material impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

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