

MARYLAND REGISTER

**Proposed Action on Regulations**

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	04/03/2020	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

**1. Desired date of publication in Maryland Register: 5/8/2020**

**2. COMAR Codification**

**Title Subtitle Chapter Regulation**

08 02 05 20

**3. Name of Promulgating Authority**

Department of Natural Resources

**4. Name of Regulations Coordinator Telephone Number**

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**6. Check applicable items:**

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: 12/10/2019.

Repeal of Existing Regulations



## **Notice of Proposed Action**

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The Secretary of Natural Resources proposes to amend Regulation .20 under COMAR 08.02.05 Fish.

### **Statement of Purpose**

The purpose of this action is to implement the Atlantic States Marine Fisheries Commission Amendment 1 to the Interstate Fishery Management Plan for Tautog. Specifically the proposed action (1) modifies the season and catch limits for the commercial and recreational fishery; (2) reorganizes the regulation for clarity by creating a commercial section which includes requirements that only apply to commercial harvesters; (3) updates the degradable materials required for pots and traps to better describe the language in the management plan; (4) establishes new regulations to implement a commercial tagging program; and (5) updates the public notice requirements for consistency with other species managed in accordance with Atlantic States Marine Fisheries Commission guidelines.

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, 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. The FMP also required states to implement the season and size management measures of the amendment by April 2018. The goal of Amendment 1 is to sustainably manage tautog over the long-term using regional differences in biology and fishery characteristics as the basis for management.

Since details were still being developed for the tagging program in 2018 and 2019, the Department decided to manage the size, creel, and season for the fishery by public notice until a regulation could be developed for all parameters.

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 Atlantic States Marine Fisheries Commission is requiring states to implement their regulatory programs in 2020 to comply with Amendment 1. The tagging program is necessary to minimize the illegal, unreported, and undocumented catch of tautog.

The changes in the proposed action will ensure Maryland's compliance with the management plan.

### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.**

The proposed action has an economic impact for the Department.

<b>II. Types of Economic Impact.</b>	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
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A. On issuing agency:		
(1) Public Notice	(E-)	\$260 per year
(2) Tagging Guns	(E+)	\$90 per year
(3) Tags	(E+)	\$500 per year
B. On other State agencies:	NONE	
C. On local governments:	NONE	

	Benefit (+) Cost (-)	Magnitude
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D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

A(1). Currently, a public notice to make changes to the tautog fishery must be published in a newspaper. Each notice costs approximately \$260. Each year the Department issues one notice.

A(2). A special tagging gun is necessary to apply the harvest tag. The Department will supply one tagging gun to each federally permitted dealer for use by harvesters. The Department will also have one in our local coastal office that harvesters may use as well. There are two dealers that need the tagging guns. Each gun costs approximately \$30. The tagging guns may need to be replaced each year.

A(3). A specific tag is required for the commercial fishery. The Department is purchasing the tags and will distribute them to the harvesters. Based on harvest records, the Department anticipates spending approximately \$500 on tags and distribution each year.

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

### **Opportunity for Public Comment**

Comments may be sent to Tautog Regulations, Regulatory Staff, Department of Natural Resources Fishing and Boating Services, 580 Taylor Avenue, B-2, Annapolis, MD 21401, or call 410-260-8300, or email to [fisheriespubliccomment.dnr@maryland.gov](mailto:fisheriespubliccomment.dnr@maryland.gov), or fax to 410-260-8310. Comments will be accepted through June 8, 2020. A public hearing has not been scheduled.

### **Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 2021

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used: Special (Fisheries Research and Development)

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

Updates to the degradable materials required for pots and traps is to clarify the language in the management plan. It is not a new requirement; therefore, it will not impact harvesters. The tagging program is new, but there will not be a cost to the harvesters or dealers unless they want purchase their own tagging gun.

G. Small Business Worksheet:

### **Attached Document:**

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#### **.20 Tautog.**

A. An individual may not catch or possess:

(1) (text unchanged)

(2) A tautog from [November 27] *May 16* through [December 31] *June 30*.

[B. Gear Restrictions. A pot and trap used to catch tautog shall have hinges or fasteners on one panel or door made of one of the following degradable materials:

(1) Untreated hemp or jute string of 3/16 inch in diameter or smaller;

(2) Magnesium alloy fasteners; or

(3) Ungalvanized or uncoated iron wire of 0.094-inch diameter or smaller.]

[C.] B. Season and Creel Limit.

(1) From [May 16] *July 1* through October 31, an individual may not catch and possess more than two tautog per day.

(2) From November 1 through [November 26, and January 1 through] *May 15 of the following year*, an individual may not catch and possess more than four tautog per day.

*C. Commercial Gear and Tagging Requirements.*

(1) *A pot or trap used to catch tautog shall have hinges or fasteners on one panel or door made of one of the following degradable materials:*

(a) *Untreated hemp or jute string of 3/16 inch in diameter or smaller;*

(b) *Magnesium alloy timed float releases (pop-up devices) or similar magnesium alloy fasteners; or*

(c) *Ungalvanized or uncoated iron wire of 0.094-inch diameter or smaller.*

(2) *Before removing any tautog caught for commercial purposes from a boat or removing a boat from the water, a person shall affix a tag supplied by the Department to the cheek bone of the tautog.*

(3) *Tags:*

(a) *Shall be supplied by the Department;*

(b) *Are not transferrable;*

(c) *Expire at the end of each calendar year;*

(d) *May not be reused, defaced, modified, or counterfeited;*

(e) *Shall be securely affixed to a whole tautog or accompany fillets until sale to the final consumer; and*

(f) *Shall only be used by the commercial tidal fish licensee to whom they were assigned.*

(4) *A licensee shall return unused tags to the Department not later than February 15 of each year.*

(5) *Tautog caught for commercial purposes shall be landed in the state that is identified on the tag.*

*D. General.*

(1) The Secretary may modify catch limits or size limits or open or close a season [as required by] *in order to implement the Atlantic States Marine Fisheries Commission Fishery Management Plan for Tautog by [publishing] issuing a public notice [in a daily newspaper of general circulation at least 48 hours in advance of the modification, stating the effective hour and date] on the Department's website.*

(2) *The public notice shall state its effective hour and date and shall be published on the Department's website at least 48 hours in advance of the effective hour and date.*

[(2)] (3) (text unchanged)

(4) *A violation of the restrictions set by the Secretary in accordance with §D of this regulation is a violation of this regulation.*

(5) *An individual may not sell or purchase a commercially caught tautog, alive or dead, that has not been tagged in accordance with this regulation.*

JEANNIE HADDAWAY-RICCIO  
Secretary of Natural Resources