

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 901(b) and 903(e); (7 Del.C., §§901(b) & 903(e))
7 DE Admin. Code 3531

PROPOSED

REGISTER NOTICE

SAN #2012-07

1. TITLE OF THE REGULATION:

3531 Tautog; Size Limits, Creel Limits and Seasons

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUE:

The purpose of this action is to amend the tautog (*Tautoga onitis*) regulations, with possible changes to the season, size and creel limits. Delaware was previously mandated to modify its tautog regulations by the Atlantic States Marine Fisheries Commission for the 2012 fishing season to achieve a 53% reduction in harvest. The mandate was to reduce harvest by 53% as required under Addendum VI to the Interstate Fisheries Management Plan for Tautog (Plan). However, an error was identified and corrected in the 2011 stock assessment. Although the stock continues to be overfished and overfishing is occurring, the updated 2011 assessment indicates that the required reduction in exploitation should be 39%. The ASMFC Tautog Management Board has approved modifications to state proposals to achieve the updated reduction target. As such, Delaware proposes to modify its existing regulations to allow for less restrictive management measures consistent with a 39% reduction in exploitation. This may include changes to the tautog size limits, creel limits and/or seasons. It is anticipated that these regulations will remain in place for three to five years.

Two options were developed and are being considered to achieve the required 39% reduction in tautog landings. These options will serve as the basis for the proposed regulatory change and are presented in the tables below.

Option 1

Season	Creel Limit	Size Limit (TL)
Jan 1 - Mar 31	5	15 inches
Apr 1 - May 11	3	15 inches
Jul 17 - Aug 31	5	15 inches
Sep 29 - Dec 31	5	15 inches

Option 2

Season	Creel Limit	Size Limit (TL)
Jan 1 - Mar 31	8	16 inches
Apr 1 - May 11	3	16 inches
Jul 1 - Aug 31	8	16 inches
Sep 29 - Dec 31	8	16 inches

It should be noted that the species continues to be susceptible to overfishing due to its slow growth, late maturity and spawning site fidelity. Spawning stock biomass has remained at low levels for the last decade. Current fishing mortality (F) is estimated at 0.25. Addendum VI to the Plan established a target F of 0.15 to initiate stock rebuilding and end overfishing.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

§901(b), § 903(e) (2)a, Title 7 Delaware Code

5. LIST OF OTHER REGULATIONS THAT MAY BE IMPACTED OR AFFECTED BY THE PROPOSAL:

N/A

6. NOTICE OF PUBLIC COMMENT:

The hearing record on the proposed changes to the tautog regulation will be open June 1, 2012. Individuals may submit written comments regarding the proposed changes via e-mail to Lisa.Vest@state.de.us or via the USPS to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901 (302) 739-9042. A public hearing on the proposed amendment will be held on June 22, 2012 beginning at 7 pm in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901.

7. PREPARED BY:

Stewart Michels Stewart.Michels@state.de.us (302) 739-9914

David E. Saveikis, Director

3531 Tautog

- 1.0 Notwithstanding the provisions of 7 **Del.C.** §939, it shall be unlawful for any person to possess any tautog, *Tautoga onitis*, less than ~~sixteen (16)~~ [TBD] in total length.
- 2.0 Notwithstanding the provisions of 7 **Del.C.** §§938, 939, it shall be unlawful for any person to possess more than ~~five (5)~~ [TBD] tautog during the period beginning at 12:00 a.m. on January 1 and ending at 11:59 p.m. on March 31, and during the period beginning at 12:00 a.m. on ~~July 17~~ [TBD] and ending at 11:59 p.m. on August 31, and during the period beginning at 12:00 a.m. on September 29 and ending at 11:59 p.m. on December 31, at or between the place where said tautog were caught and said person's personal abode or temporary or transient place of lodging.
- 3.0 Notwithstanding the provisions of 7 **Del.C.** §§938, 939, it shall be unlawful for any person to possess more than three (3) tautog during the period beginning at 12:00 a.m. on April 1 and ending at 11:59 p.m. on May 11, at or between the place where said tautog were caught and said person's personal abode or temporary or transient place of lodging.
- 4.0 Notwithstanding the provisions of subsections 1.0, 2.0 and 3.0 of this regulation, it shall be unlawful for any person to possess any tautog during the period beginning at 12:00 a.m. on May 12 and ending at 11:59 p.m. on July 16 [TBD] and during the period beginning at 12:00 a.m. on September 1 and ending at 11:59 p.m. on September 28, except in said person's personal abode or temporary or transient place of lodging.

1 DE Reg. 1771 (05/01/98)

6 DE Reg. 1360 (04/01/03)

11 DE Reg. 1257 (03/01/08)

15 DE Reg. 1177 (02/01/12)

15 DE Reg. 1677 (06/01/12)