

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 901(b) and 903 (e)(2)a
(7 Del.C. §901(b); 7 Del.C. §903 (e)(2)a)
7 DE Admin. Code 3531

PROPOSED

PUBLIC NOTICE

3531 Tautog; Size Limits, Creel Limits and Seasons

SAN # 2011-09

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 Delaware's tidal finfish regulation 3531 to reduce tautog (*Tautoga onitis*) landings by 53% in compliance with Addendum VI to the Atlantic States Marine Fisheries Commission's (ASMFC) Interstate Fishery Management Plan for Tautog. A 2011 stock assessment update indicated that the tautog stock continues to be overfished and that overfishing is occurring. Tautog biomass has not responded to previous management measures and fishing pressure and fishing mortality rates have increased. Spawning stock biomass has remained at low levels for the past decade and a significant reduction in the target fishing mortality rate is necessary.

Four options to achieve the required 53% reduction in tautog landings were developed and have been approved by the ASMFC Tautog Management Board. These options will serve as the basis for the proposed regulatory change and are presented in the table below.

Option 1	<u>Season</u>	<u>Creel Limit</u>	<u>Size Limit (Total Length)</u>
	Jan 1 – Mar 31	3	14"
	Apr 1 – May 11	3	15"
	Sep 29 – Dec 31	3	14"
Option 2	<u>Season</u>	<u>Creel Limit</u>	<u>Size Limit (TL)</u>
	Jan 1 – Mar 31	3	14"
	Apr 1 – May 11	3	15"
	Jul 1 – Aug 31	3	14"
Option 3	<u>Season</u>	<u>Creel Limit</u>	<u>Size Limit (TL)</u>
	Jan 1 – Mar 31	5	16"
	Apr 1 – May 11	3	16"
	Jul 17 – Aug 31	5	16"
Option 4	<u>Season</u>	<u>Creel Limit</u>	<u>Size Limit (TL)</u>
	Jan 1 – Mar 31	5	16"
	Apr 1 – May 11	3	16"
	Jul 1 – Aug 31	5	16"
	Oct 6 – Dec 31	5	16"

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 September 1, 2011. 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 October 5, 2011 beginning at 6 pm in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901.

7. PREPARED BY:

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3531 Tautog; Size Limits, Creel Limits and Seasons.

(Penalty Section 7 **Del.C.** §936(b)(2))

- 1.0 It shall be unlawful for any person to possess any tautog, *Tautoga onitis*, less than ~~fourteen (14) inches~~ [TBD] in total length during the period ~~beginning at 12:01 a.m. on July 1 and ending at 12:00 p.m. on March 31, next ensuing~~ [TBD].
- 2.0 It shall be unlawful for any person to possess any tautog less than ~~fifteen (15) inches~~ [TBD] in total length during the period ~~beginning at 12:01 a.m. on April 1 and ending at 12:00 p.m. on June 30, next ensuing~~ [TBD] .
- 3.0 Notwithstanding the provisions of 7 **Del.C.** §§938, 939, it shall be unlawful for any person to possess more than ~~three (3)~~ [TBD] tautog during the period ~~beginning at 12:01 on April 1 and ending at 12:00 p.m. on June 30, next ensuing~~ [TBD], 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 It shall be unlawful for any person to possess more than ~~ten (10)~~ [TBD] tautog during the period ~~beginning at 12:01 a.m. on July 1 and ending at 12:00 p.m. on March 31, next ensuing~~ [TBD] , at or between the place where said tautog were caught and said person's personal abode or temporary or transient place of lodging.
- 5.0 Notwithstanding the provisions of subsections 1.0, 2.0, 3.0 and 4.0 of this regulation, it shall be unlawful for any person to possess any tautog during the period ~~beginning at 12:01 a.m. on May 12 and ending at 12:00 p.m. on June 30 and during the period beginning at 12:01 a.m. on September 1 and ending at 12:00 p.m. on September 28, next ensuing~~ [TBD], 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. 317 (09/01/11)