

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**

**DIVISION OF FISH AND WILDLIFE**

Statutory Authority: 7 Delaware Code, Section 903(e)(2)(a), (7 Del.C. §903(e)(2)(a))  
7 DE Admin. Code 3531

**PROPOSED**

**PUBLIC NOTICE**

**SAN# 2007-17**

**1. TITLE OF THE REGULATIONS:**

Tidal Finfish Regulation 3531 Tautog; Size Limits, Creel Limits and Seasons. (Formerly Tidal Finfish Regulation 22).

**2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:**

In order to come into compliance with addendum V of the Atlantic States Marine Fisheries Commission's (ASMFC) Fishery Management Plan (FMP) for Tautog, Delaware Tidal Finfish Regulation 3531 must be changed to incorporate one of twelve management options, approved by the ASMFC Tautog Technical Committee. Each option will reduce tautog exploitation by a minimum of 25.6%, as mandated in addendum V. Both recreational and commercial fishermen will be affected, as commercial size limits, creel limits and seasons are identical to recreational management measures.

One of the following harvest reduction options will be selected to reduce harvest by 25.6%:-

**OPTION #1**

<b>CREEL LIMIT</b>	<b>SIZE LIMIT</b>	<b>START DATE</b>	<b>END DATE</b>
2 Fish	14"	1-Jan	31-Mar
3 Fish	15"	1-Apr	30-Jun
3 Fish	14"	1-Jul	29-Aug
0 Fish		30-Aug	30-Sep
3 Fish	14"	1-Oct	31-Dec

**OPTION #2a**

3 Fish	14"	1-Jan	31-Mar
3 Fish	15"	1-Apr	30-Jun
3 Fish	14"	1-Jul	16-Jul
0 Fish		17-Jul	28-Sep
3 Fish	14"	29-Sep	31-Dec

**OPTION #2b**

3 Fish	14"	1-Jan	31-Mar
3 Fish	15"	1-Apr	30-Jun
3 Fish	14"	1-Jul	30-Aug
0 Fish		1-Sep	2-Oct
3 Fish	14"	3-Oct	31-Dec

**OPTION #3**

3 Fish	14"	1-Jan	31-Mar
2 Fish	15"	1-Apr	30-Jun
3 Fish	14"	1-Jul	31-Aug
0 Fish		1-Sep	28-Sep

	3 Fish	14"	29-Sep	31-Dec
<b>OPTION #4a</b>	4 Fish	14"	1-Jan	31-Mar
	2 Fish	15"	1-Apr	30-Jun
	4 Fish	14"	1-Jul	5-Jul
	0 Fish		6-Jul	28-Sep
	4 Fish	14"	29-Sep	31-Dec
<b>OPTION #4b</b>	4 Fish	14"	1-Jan	31-Mar
	2 Fish	15"	1-Apr	30-Jun
	4 Fish	14"	1-Jul	31-Aug
	0 Fish		1-Sep	2-Oct
	4 Fish	14"	3-Oct	31-Dec
<b>OPTION #5</b>	5 Fish	14"	1-Jan	31-Mar
	1 Fish	15"	1-Apr	30-Jun
	5 Fish	14"	1-Jul	31-Aug
	0 Fish		1-Sep	28-Sep
	5 Fish	14"	29-Sep	31-Dec
<b>OPTION #6</b>	5 Fish	14"	1-Jan	31-Mar
	2 Fish	15"	1-Apr	30-Jun
	5 Fish	14"	1-Jul	31-Aug
	0 Fish		1-Sep	7-Oct
	5 Fish	14"	8-Oct	31-Dec
<b>OPTION #7</b>	6 Fish	14"	1-Jan	31-Mar
	2 Fish	15"	1-Apr	30-Jun
	6 Fish	14"	1-Jul	31-Aug
	0 Fish		1-Sep	10-Oct
	6 Fish	14"	11-Oct	31-Dec
<b>OPTION #8a</b>	10 Fish	14"	1-Jan	31-Mar
	0 Fish		1-Apr	16-Jun
	3 Fish	15"	17-Jun	30-Jun
	10 Fish	14"	1-Jul	31-Aug
	0 Fish		1-Sep	28-Sep
	10 Fish	14"	29-Sep	31-Dec
<b>OPTION #8b</b>	10 Fish	14"	1-Jan	31-Mar
	3 Fish	15"	1-Apr	11-May
	0 Fish		12-May	30-Jun
	10 Fish	14"	1-Jul	31-Aug
	0 Fish		1-Sep	28-Sep
	10 Fish	14"	29-Sep	31-Dec
<b>OPTION #8c</b>	10 Fish	14"	1-Jan	31-Mar
	3 Fish	15"	1-Apr	31-May
	0 Fish		1-Jun	2-Oct

**3. POSSIBLE TERMS OF THE AGENCY ACTION:**

Delaware is required to comply with regional FMP's, approved by the ASMFC. Failure to do so may result in total closure of the tautog fishery in Delaware by order of the Secretary of Commerce.

**4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:**

7 Del.C. §903(e)(2)(a)

**5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:**

None

**6. NOTICE OF PUBLIC COMMENT:**

Individuals may present their opinions on this issue at a Public Hearing in the DNREC auditorium, 89 Kings Highway, Dover, DE 19901 at 7:00p.m. Wednesday, January 23, 2008. The hearing record will remain open for written or e-mail comments until 4:30 January 31, 2008.

**7. PREPARED BY:**

Jeff C. Tinsman (302) 739-4782, December 7, 2007

**3531 Tautog; Size Limits, Creel Limits and Seasons (Formerly Tidal Finfish Reg. 22)**

(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 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.

*(Size limits will not change based on the twelve harvest reduction options under consideration).*

2.0 It shall be unlawful for any person to possess any tautog less than fifteen (15) inches 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.

*(Size limits will not change based on the twelve harvest reduction options under consideration).*

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 12:01 on April 1 and ending at 12:00 p.m. on June 30, next ensuing, at or between the place where said tautog were caught and said person's personal abode or temporary or transient place of lodging.

*(Following a public hearing, one of twelve harvest reduction options will be selected, which will reduce tautog exploitation by 25.6% based upon reduced creel limits, or an increased seasonal closure, or a combination of these measures. Options 3, 4a, 4b, 6 and 7 would reduce the creel limit during this part of the year to two (2) fish. Option 5 would reduce the creel limit during this part of the year to one (1) fish. Options 1, 2, 8a, 8b and 8c would not change the creel limit during this part of the year.)*

4.0 It shall be unlawful for any person to possess more than ten (10) 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, at or between the place where said tautog were caught and said person's personal abode or temporary or transient place of lodging.

*(Following a public hearing, one of twelve harvest reductions options will be selected, which will reduce tautog exploitation by 25.6% based upon reduced creel limits, or an increased seasonal closure, or a combination of these measures. Options 1, 2a, 2b, and 3 would reduce the creel limit to three (3) fish during this part of the year. Options 4a and 4b would reduce the creel limit to four (4) fish during this part of the year. Options 5 and 6 would reduce the creel limit to five (5) fish during this part of the year. Option 7 would reduce the creel limit to 6 fish during this part of the year. Options 8a, 8b and 8c would not change the creel limit during this part of the year.)*

5.0 Notwithstanding the provisions of subsections 1.0 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 September 1 and ending at 12:00 p.m. on September 28, next ensuing, except in said person's personal abode or temporary or transient place of lodging.

*(Following a public hearing, one of twelve harvest reduction options will be selected, which will reduce tautog exploitation by 25.6% based upon reduced creel limits, or an increased seasonal closure, or combinations of these measures. Options 1, 2b, and 4b would each close four (4) additional days to tautog harvesting. Option 6 would close nine (9) additional days to tautog harvesting. Option 7 would close twelve additional days to tautog harvesting. Option 2a would close forty-six additional days to tautog harvesting. Option 8b would close fifty (50) additional days to tautog harvesting. Option 4a would close fifty-seven (57) additional days to tautog harvesting. Option 8a would close seventy-six additional days to tautog harvesting. Option 8c would close ninety-six additional days to tautog harvesting. Options 3 and 5 would not change the existing seasonal closure.)*

**1 DE Reg 1771 (5/1/98)**

**6 DE Reg. 1360 (4/1/03)**

**11 DE Reg. 896 (01/01/08) (Prop.)**