

“PERTAINING TO TAUTOG”

CHAPTER 4VAC20-960-10 ET SEQ.

PREAMBLE

This chapter establishes minimum size limits and gear restrictions for tautog. This chapter is promulgated pursuant to the authority contained in §28.2-201 of the Code of Virginia and amends Chapter 4VAC20-960-10 et seq. which was promulgated August 28, 2018 and made effective on September 1, 2018. The effective date of this chapter, as amended, is January 1, 2020.

4VAC20-960-10. Purpose.

The purpose of this chapter is to (i) reduce fishing mortality in the tautog fishery to assure that overfishing does not occur, (ii) increase the spawning stock biomass, and (iii) establish criteria for monitoring commercially harvested tautog.

4VAC20-960-20. Definitions.

The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise.

"Commercial fishing" or "fishing commercially" or "commercial purposes" means fishing by any person where the catch is for sale, barter, or trade, or is intended for sale, barter, or trade.

"Commission" means the Marine Resources Commission.

“Land” or “landing” means to move finfish, shellfish, crustaceans, or other marine seafood from the water to the land.

“Snout” means the most forward projection from a fish’s head that includes the upper and lower jaw.

"Tautog" means any fish of the species *Tautoga onitis*.

“Total length” means the length of a fish measured from the most forward projection of the snout, with the mouth closed, to the tip of the longer lobe of the tail (caudal) fin, measured with the tail compressed along the midline, using a straight-line measure, not measured over the curve of the body.

4VAC20-960-30. Minimum size limits.

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- A. The minimum size limit of tautog harvested for commercial purposes shall be 15 inches in total length.
- B. The minimum size of tautog harvested for recreational purposes shall be 16 inches in total length.
- C. It shall be unlawful for any person to possess any tautog of a total length less than the designated minimum size limit.

4VAC20-960-40. Gear restrictions.

It shall be unlawful for any person to place, set, or fish any fish pot in Virginia tidal waters for the purposes of harvesting tautog or to possess or to land in Virginia tautog harvested by fish pots which are not constructed with hinges and fasteners on one panel or door made of one of the following degradable materials:

- 1. Untreated hemp, jute, or cotton string of 3/16" (4.8 mm) or smaller diameter;
- 2. Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners; or
- 3. Ungalvanized or uncoated wire of 0.094" (2.39 mm) or smaller diameter.

4VAC20-960-45. Recreational fishing season and possession limits.

- A. It shall be unlawful for any person fishing with hook and line, rod and reel, spear, gig or other recreational gear to possess more than four tautog. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by four. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any tautog taken after the possession limit has been reached shall be returned to the water immediately.
- B. The recreational fishing season shall be closed from May 16 through June 30.
- C. It shall be unlawful for any person fishing recreationally to take, catch, or possess any tautog during any closed recreational fishing season.

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4VAC20-960-47. Commercial fishing season and possession limits;

- A. The commercial fishing season shall be closed from January 22 through the last day of February and May 16 through October 31, and it shall be unlawful for any person to possess tautog for commercial purposes during this period.

4 VAC 20-960-48. Commercial permitting and tagging requirements.

- A. It shall be unlawful for any registered commercial fisherman to take, catch, or possess any tautog without obtaining a valid Tautog Commercial Permit.
- B. It shall be unlawful to land or possess for commercial purposes any tautog that has not been identified with a tag issued by the commission for the current calendar year, applied by the following conditions, except as specified in subsections D and E of this section:
 - 1. Tags must be affixed to the bony portion of the gill cover (operculum) of a whole fish such that the tag number faces outward from the body.
 - 2. Processed or filleted tautog must be accompanied by the tags removed from the fish when processed.
- C. It shall be unlawful for any dealer to buy, sell, barter or trade or offer to buy, sell, barter or trade any untagged tautog.
- D. After the last day of February of the current calendar year, it shall be unlawful for any dealer to buy, sell, barter or trade or offer to buy, sell, barter or trade any tautog with a tag issued for any previous calendar year, except to the final consumer.
- E. Any person, other than the original harvester, may only possess tautog with a tag issued by a state other than Virginia provided that it is for the purpose of resale, and is accompanied by a bill of sale which shall include the name of the seller and the permit or license number of the seller, if such permit or license is required in the jurisdiction of harvest.
- F. Tags are valid only for use by the permittee to whom the tags were allotted. The permittee shall be on board the vessel when tautog are harvested and tags are applied.
- G. It shall be unlawful for any person to possess tags on board a vessel during a closed season or that were issued for any year other than the current calendar year.
- H. Possession of any quantity of tautog which exceeds the recreational possession limit described in 4 VAC 20-960-45 shall be presumed to be for commercial purposes. The

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possession of any untagged tautog shall be prima facie evidence of a violation of this chapter and subject to the provisions of 4 VAC 20-960-50 and 4 VAC 20-960-60.

- I. It shall be unlawful for a person to possess commercially harvested tautog in a quantity greater than the number of tags in their possession. If a permittee violates this section, the entire amount of untagged tautog shall be confiscated or returned to the water.
- J. Altering or attempting to alter any tag for the purpose of reuse shall constitute a violation of this chapter.
- K. An annual fee of \$25 for tags shall be assessed prior to an individual being eligible for a Tautog Commercial Permit.
- L. A tautog commercial permittee shall be required to have returned all unused tags from the previous calendar year to the commission by the 15th of February of the current calendar year. Any unused tags that cannot be returned shall be accounted for by the harvester submitting a notarized affidavit that explains the disposition of the tags. Each individual with any unused tags that are not returned shall be required to pay a processing fee of \$25, plus \$0.28 per tag.

4 VAC 20-960-49. Commercial reporting.

- A. All permitted commercial harvesters shall report daily harvest of tautog to the commission in accordance with 4 VAC 20-610, specifying the number of tags used each day on forms provided by the commission. Such reports shall be submitted to the commission no later than the fifth day of the following month.
- B. Harvest of tautog from beyond Virginia’s tidal waters and sold to a federally permitted dealer shall be reported through the Mandatory Harvest Reporting Program as provided by subsection A of this section and is not subject to the exemption in 4 VAC 20-610-60 K.

4VAC20-960-50. Penalty.

As set forth in §28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation for any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

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4VAC20-960-60. Sanctions.

- A. Any person failing to submit any report or account for any unused tags as required by this chapter shall be denied a Tautog Commercial Permit until they comply with the requirements of 4 VAC 20-960 49 and 4 VAC 20-960-48 L.
- B. It shall be unlawful for any person who has been found guilty of violating any provision of this chapter to receive additional tag distributions as described in 4 VAC 20-960-48.
- C. Any person found guilty of violating any provision of this chapter may have his permit revoked at any time upon review by the commission as provided for in § 28.2-232 of the Code of Virginia.

This is to certify that the foregoing is a true and accurate copy of the chapter passed by the Marine Resources Commission, pursuant to authority vested in the Commission by §28.2-201 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission's minute book, at meeting held in Hampton, Virginia on October 22, 2019.

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

BY: *Steven G. Bowman*
Steven G. Bowman
Commissioner

Subscribed and sworn to before me this 25 day of October 2019.

Jennifer G. Farmer
Notary Public

