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DNR-FS-2023-09

SMALL BUSINESS COMPLIANCE GUIDE

Amendment to Subtitle 02 Fisheries Service

Regarding the Department's Regulations for Lobster and Jonah Crab – Vessel Monitoring Systems

COMAR 08.02.08.06 and .10

Released July 28, 2023

This Guide is prepared in accordance with the requirements of State Government Article, §10-110, Annotated Code of Maryland. It is intended to help small businesses comply with the revised rules adopted in the above-referenced sections of the Code of Maryland Regulations. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small businesses, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply.

The Department will clarify or update the text of the Guide as an idea moves through the regulatory process. Direct your comments and recommendations, or calls for further assistance, to Fishing and Boating Services Regulatory Division:

410-260-8300

410-260-8DNR; toll free in Maryland 877-620-8DNR; TTY Users Call via the Maryland Relay

I. SUMMARY & FAQs

What is being considered?

The Department would like to implement the provisions of the Atlantic States Marine Fisheries Commission Addendum XXIX to Amendment 3 to the Interstate Fishery Management Plan for American Lobster and Addendum IV to the Jonah Crab Fishery Management Plan. The Addenda establish electronic tracking requirements for federally permitted vessels in the American lobster and Jonah crab fisheries, with the goal of collecting high-resolution spatial and temporal effort data to support several ongoing efforts. More information is available at the following website:

https://asmfc.org/uploads/file/62473fb1pr10_LobsterAddXXIX_JonahCrabAddIV_TrackingApproval.pdf

Why is this change necessary?

The Board initiated the Addenda in August 2021 to address several challenges facing the fishery, including stock assessment limitations, protected species interactions, marine spatial planning efforts, and enforcement in federal waters. Given the critical need for enhanced spatial and temporal data in the offshore fishery to address these issues, the Addenda require federally permitted American lobster and Jonah crab vessels with commercial trap gear area permits to collect location data via an approved electronic tracking device. Specifically, electronic tracking devices for vessels with commercial trap gear area permits for Lobster Conservation Management Areas (LCMAs) 1, 2, 3, 4, 5, and Outer Cape Cod will be required. LCMA 6 (Long Island Sound). The Area 5 waiver permit, which allows Area 5 permit holders to target black sea bass with un-baited traps, is excluded from the tracking requirements.

The data collected through electronic tracking under the Addenda will significantly improve the stock assessment's ability to estimate exploitation and abundance for American lobster by providing size composition data at a finer resolution than what is currently available. Additionally, the models used to assess the location of vertical lines in the fishery and their associated risk to endangered right whales will be substantially improved, which could impact federal risk reduction requirements for the fishery. With a better understanding of the spatial footprint of the U.S. lobster and Jonah crab fisheries, managers will be better positioned to minimize and mitigate the impacts of other ocean uses, such as aquaculture, marine protected areas, and offshore energy development on the fisheries. Furthermore, vessel tracking data will enhance the efficiency and efficacy of offshore law enforcement efforts.

Who will this affect?

Commercial lobster and Jonah crab harvesters. The Greater Atlantic Regional Fisheries Office will provide the states with American lobster-trap gear area permit ownership information, enabling states to contact permit holders and complete the installation certification process. If a vessel tracker is transferred between permit holders, states will instruct harvesters to contact tracking device vendors to complete the transfer of a vessel tracker.

Has this change been discussed with stakeholders?

This idea was scoped with the Sport Fisheries Advisory Commission and Tidal Fisheries Advisory Commission at their July 2023 meetings.

What is the specific regulatory action?

Amend Regulation .06 and .10 under COMAR 08.02.08 Jonah Crabs.

II. RECORDKEEPING AND REPORTING REQUIREMENTS

This action would create new recordkeeping or reporting requirements by requiring those licensees who are permitted to participate in the federal lobster and Jonah crab fisheries to utilize an approved electronic tracking device when using trap gear in specific Lobster Conservation Management Areas.

III. IMPLEMENTATION DATE

The Department projects that this change could be effective in the winter of 2023-2024. However, the exact date cannot be determined. The Department will follow our normal proposal procedures if this concept moves forward.

This idea is in the scoping process (July 28—August 13). During the scoping process, the Department gathers suggestions and ideas from stakeholders and others about how to solve a fishery problem or address a need. The goal of scoping is to identify issues, potential impacts, and reasonable alternatives associated with the issues so that management actions can be developed. After the public has had an opportunity to comment on possible management actions during the scoping process, the Department considers these comments and develops an appropriate management strategy.

If the action is necessary and appropriate, the rules will be promulgated following the Administrative Procedures Act described in Title 10, Subtitle 1 of the State Government Article Annotated Code of Maryland.

- The General Assembly’s Administrative, Executive, and Legislative Review Committee reviews the regulatory proposal for fiscal and legal analysis.
- The proposal is printed by the Division of State Documents in the Maryland Register.
- A 30 day public comment period begins on the day of publication.
- After review of the comments, the Department may adopt the changes.
- If the Department adopts the changes, they become effective after a notice is published in the Maryland Register that announces approval and the effective date.