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DNR-FS-2022-05

SMALL BUSINESS COMPLIANCE GUIDE
Amendment to Subtitle 02 Fisheries Service
Regarding the Department's Regulations for Commercial Reporting
COMAR 08.02.13.06
Released April 20, 2022

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
Fax: 410-260-8310

I. SUMMARY & FAQs

What is being considered?

The department is considering modifying the reporting requirements for commercial licensees who operate charter boats. Currently, the department requires a Commercial Charter Boat Captain's Daily Log to be submitted if the trip is being taken on a vessel displaying a Charter Boat Decal. The modification would require the Daily Log to be submitted by all commercial licensees who operate a charter boat, regardless of whether the vessel is displaying a Charter Boat Decal or not.

Why is this change necessary?

The department believes that the majority of guided fishing trips in tidal waters occur on vessels displaying a Charter Boat Decal. This decal is a way for the guide to license the recreational anglers fishing off of their vessel. It simplifies the licensing process for clients who do not have their own individual fishing license and is a way for the guide to ensure that all of the clients are in fact licensed. However, it is not required that guides purchase the decal for their vessels – some guides require their clients to purchase their own individual fishing licenses prior to the trip. This means that while most guided fishing trips occur on a vessel displaying the decal, some trips do not.

Based on the wording of the current regulation, only those guides who are taking trips on a vessel displaying the decal are required to submit the Commercial Charter Boat Captain's Daily Log. The department believes it is important to require reporting of any guided fishing trips in tidal waters. The reporting disparity between guided trips on vessels with the decal and guided trips where clients were required to purchase their own license was only recently discovered when reviewing responsibilities with the Access Point Angler Intercept Survey (APAIS). At this time, the data from guided fishing trips where anglers are required to purchase their own licenses is not captured in the current logbook data as those guides are not currently required to report those trips. In an effort to have a more complete census of guided fishing trips in tidal waters and work toward a NOAA-approved for-hire comprehensive reporting plan, the department believes this change is necessary.

Who will this affect?

This change would affect any commercial licensee who operates as a Fishing Guide for anglers that are already recreationally licensed. We do not know how many license holders work under this business model.

Has this change been discussed with advisory commissions?

This idea was scoped with the Sport Fisheries Advisory Commission and Tidal Fisheries Advisory Commission at their April 2022 meetings. Commissioners recommended moving forward with scoping.

What is the specific regulatory action?

Amend Regulation .06 under COMAR 08.02.13 Fishing License — Point Assignment, License Revocation and Suspension Schedule and Criteria, and Hearing Procedure.

II. RECORDKEEPING AND REPORTING REQUIREMENTS

This action would require new recordkeeping or reporting requirements for fishing guides who operate for-hire vessels without the Charter Boat Decal. Those licensees would now have to submit the Commercial Charter Boat Captain's Daily Log on a monthly basis, as outlined in COMAR 08.02.13.06.

III. IMPLEMENTATION DATE

The department expects this change to be effective in the fall of 2022, however the exact date cannot be determined. The department will follow our normal scoping and proposal procedures.

This idea is in the scoping process (April 20—May 4). 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.