

Proposed Action on Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.

Symbol Key

- Roman type indicates existing text of regulation.
- *Italic type* indicates proposed new text.
- [Single brackets] indicate text proposed for deletion.

Promulgation of Regulations

An agency wishing to adopt, amend, or repeal regulations must first publish in the Maryland Register a notice of proposed action, a statement of purpose, an estimate of economic impact, an economic impact on small businesses, a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations. The opportunity for public comment must be held open for at least 30 days after the proposal is published in the Maryland Register.

Following publication of the proposal in the Maryland Register, 45 days must pass before the agency may take final action on the proposal. When final action is taken, the agency must publish a notice in the Maryland Register. Final action takes effect 10 days after the notice is published, unless the agency specifies a later date. An agency may make changes in the text of a proposal. If the changes are not substantive, these changes are included in the notice of final action and published in the Maryland Register. If the changes are substantive, the agency must repropose the regulations, showing the changes that were made to the originally proposed text.

Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken. When an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.

Title 08

DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

Notice of Proposed Action

[26-067-P]

The Secretary of Natural Resources proposes to amend:

- (1) Regulation .01 under COMAR 08.02.03 Blue Crabs;
- (2) Regulations .01, .02, .03, .08, .10, and .12 under COMAR

08.02.04 Oysters;

- (3) Regulation .19 under COMAR 08.02.05 Fish;
- (4) Regulations .02 and .03 under COMAR 08.02.07 Hard-Shell

Clams; and

- (5) Regulations .02 and .03 under COMAR 08.02.25 Gear.

Statement of Purpose

The purpose of this action is to clarify that an individual may attempt to catch fish only when using legal fishing gear. The Department recently discovered that the regulations for using gear are not completely clear. Certain regulations specify which gear can be used to catch fish, but the regulations should also include that an individual may only use that gear even when attempting to catch fish. The proposed action clarifies gear rules by adding the phrase “attempt to catch” to the appropriate sections of regulation.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Gear Regulations, Regulatory Staff, Maryland Department of Natural Resources Fishing and Boating Services, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-206-8300, or email to fisheriespubliccomment.dnr@maryland.gov or complete the comment form at <https://dnr.maryland.gov/fisheries/pages/regulations/changes.aspx#house>. Comments will be accepted through July 27, 2026. A public hearing has not been scheduled.

08.02.03 Blue Crabs

Authority: Natural Resources Article, §§4-215, 4-221, and 4-803, Annotated Code of Maryland

.01 Crabbing Gear.

A. Lawful Gear.

(1) A person may catch *or attempt to catch* crabs in the tidal waters of Maryland only with the gear authorized in this chapter.

(2) Diving Apparatus. A person may not possess, [or] catch, *or attempt to catch* crabs in the tidal waters of Maryland using diving apparatus by itself, or in conjunction with any of the other methods authorized in this chapter.

(3) Gear designated to catch *or attempt to catch* crabs and defined in this chapter, except for a seine, is not considered a net under the definition listed in COMAR 08.02.05.02.

B. Recreational Gear — Definitions.

(1) The gear defined in this section may be used to catch *or attempt to catch* crabs for recreational purposes.

(2)—(9) (text unchanged)

C. (text unchanged)

08.02.04 Oysters

Authority: Natural Resources Article, §§4-2A-03, 4-215, and 4-221, Annotated Code of Maryland

.01 Patent Tong Areas.

A. A person may not use patent tongs to catch *or attempt to catch* oysters in any of the waters listed in this section.

(1)—(5) (text unchanged)

B. Exceptions. A person may catch *or attempt to catch* oysters by patent tong in the areas listed in this section.

(1)—(6) (text unchanged)

.02 Recreational Oyster Fishery.

A.—C. (text unchanged)

D. Lawful Methods. A person may catch *or attempt to catch* oysters for recreational purposes only by hand, rake, shaft tong, or diving with or without scuba equipment.

E. (text unchanged)

.03 Catching Oysters for Commercial Purposes.

A. (text unchanged)

B. Lawful Methods. A person may catch *or attempt to catch* oysters for commercial purposes only by shaft tong, patent tong, diving apparatus, dredge boat, dredge boat propelled by means of an auxiliary yawl boat, or power dredge.

C. Times for Catching.

(1) During an open season in November and December, a person may catch *or attempt to catch* oysters for commercial purposes only from:

(a)—(b) (text unchanged)

(2) Except as described in §C(1) of this regulation, during an open season a person may catch *or attempt to catch* oysters for commercial purposes only from:

(a)—(b) (text unchanged)

(3) (text unchanged)

D.—G. (text unchanged)

.08 Dredge Boat Areas.

A. Except as listed in §B of this regulation a person may catch *or attempt to catch* oysters by a dredge boat, as defined in Natural Resources Article, §4-1001(g), Annotated Code of Maryland, only in the following waters:

(1)—(6) (text unchanged)

B. Exceptions. A person may not catch *or attempt to catch* oysters by dredge boat in the areas listed in this section.

(1)—(6) (text unchanged)

.10 Dredging with an Auxiliary Yawl Boat.

A. A dredge boat may be propelled by means of an auxiliary yawl boat carried on the dredge boat to catch *or attempt to catch* oysters in areas where dredge boats are permitted, except in:

(1)—(3) (text unchanged)

B. A dredge boat may be propelled in accordance with §A of this regulation for not more than 2 of the days of the week, specified by public notice, that a person may catch *or attempt to catch* oysters for commercial purposes during the season for dredging oysters.

C. (text unchanged)

.12 Power Dredging.

A.—B. (text unchanged)

C. Power Dredge Study Areas. An individual may catch *or attempt to catch* oysters only by power dredge in the areas listed in §C(1)—(3) of this regulation.

(1)—(3) (text unchanged)

D.—E. (text unchanged)

08.02.05 Fish

Authority: Natural Resources Article, §4-215 and 4-221, Annotated Code of Maryland

.19 Black Bass—Largemouth Bass and Smallmouth Bass.

A.—B. (text unchanged)

C. Gear Restrictions.

(1) An individual may not catch *or attempt to catch* black bass in any manner in the tidal waters of the State except with rod or hook and line using natural or artificial baits.

(2) (text unchanged)

D. (text unchanged)

08.02.07 Hard-Shell Clams

Authority: Natural Resources Article, §§4-215, 4-1021, and 4-1023, Annotated Code of Maryland

.02 Use of Hard-Shell Clam Dredges in Tangier Sound and Pocomoke Sound.

A. Size of Dredge. A person may not catch *or attempt to catch* hard-shell clams in the waters of Tangier Sound and Pocomoke Sound with a hydraulic dredge or mechanical dredge more than 36 inches in width.

B. Areas Where Hard-Shell Clams May Be Taken by Dredge. Subject to Regulation .05 of this chapter and except as provided in §C of this regulation, an individual licensed to catch hard-shell clams may catch *or attempt to catch* hard-shell clams with a dredge only in the waters of:

(1)—(2) (text unchanged)

C. (text unchanged)

.03 Commercial Fishery.

A. An individual may not catch *or attempt to catch* hard-shell clams for commercial purposes on Sunday.

B.—D. (text unchanged)

08.02.25 Gear

Authority: Natural Resources Article, §4-221, Annotated Code of Maryland

.02 Recreational Gear—Nontidal Waters.

A. Recreational Gear.

(1) An individual may only use the gear specified in this regulation to catch *or attempt to catch* fish for recreational purposes from nontidal waters.

(2) (text unchanged)

B. (text unchanged)

C. Active Line Fishing Gear.

(1) Individuals catching *or attempting to catch* fish in nontidal waters may only use the following active line fishing gear:

(a)—(c) (text unchanged)

(2)—(6) (text unchanged)

D. Nets.

(1) Individuals catching *or attempting to catch* fish in nontidal waters may only use the following nets:

(a)—(c) (text unchanged)

(2)—(7) (text unchanged)

E. Projectile Gear.

(1) Individuals catching *or attempting to catch* fish in nontidal waters may only use the following projectile gear:

(a)—(d) (text unchanged)

(2)—(7) (text unchanged)

F. Hand Gear. Individuals catching *or attempting to catch* fish in nontidal waters may only use the following hand gear:

(1)—(2) (text unchanged)

.03 Recreational Gear—Tidal Waters.

A. Recreational Gear.

(1) (text unchanged)

(2) An individual may only use the gear specified in this regulation to catch *or attempt to catch* fish for recreational purposes from tidal waters.

- (3) (text unchanged)
- B.—D. (text unchanged)
- E. Active Line Fishing Gear.
 - (1) Individuals catching or attempting to catch fish in tidal waters may only use the following active line fishing gear:
 - (a)—(c) (text unchanged)
 - (2)—(5) (text unchanged)
- F. Nonactive Line Fishing Gear.
 - (1) The only nonactive line fishing gear that an individual may use to catch or attempt to catch fish in tidal waters is a jug.
 - (2) (text unchanged)
 - (3) Jugs:
 - (a)—(e) (text unchanged)
 - (f) May be used to take or attempt to take any fish except for the following species:
 - (i)—(v) (text unchanged)
- G. Nets.
 - (1) Individuals catching or attempting to catch fish in tidal waters may only use the following nets:
 - (a)—(d) (text unchanged)
 - (2)—(5) (text unchanged)
- H. Projectile Gear.
 - (1) Individuals catching or attempting to catch fish in tidal waters may only use the following projectile gear:
 - (a)—(d) (text unchanged)
 - (2)—(3) (text unchanged)
 - (4) An individual may use projectile gear to take or attempt to take any fish except for the following species:
 - (a)—(l) (text unchanged)
 - (5) (text unchanged)
- I. Hand Gear. Individuals catching or attempting to catch fish in tidal waters may only use the following hand gear:
 - (1)—(2) (text unchanged)

JOSH KURTZ
Secretary of Natural Resources

08.02.08 Shellfish—General

Authority: Natural Resources Article, §§4-206, 4-215, 4-1007, 4-1020, 4-1028, 4-1033, and 4-1035, Annotated Code of Maryland

Notice of Proposed Action

[26-070-P]

The Secretary of Natural Resources proposes to amend Regulation .09 under **COMAR 08.02.08 Shellfish—General**.

Statement of Purpose

The purpose of this action is to require harvesters who sell their own catch, who are also licensed by the Maryland Department of Health (MDH), to declare their intent to deal in shellfish intended for human consumption.

The Maryland Department of Natural Resources (MDNR) recently created a requirement for shellfish dealers to declare their intention to deal in shellfish if they plan to purchase soft-shell clams of the species *Mya arenaria*, hard-shell clams, and oysters. Part of that declaration process requires the dealer to provide the Department with the dealer’s certification number from MDH. The purpose of this requirement is to better align the ability of MDNR and MDH to coordinate and track the purchase and transport of shellfish intended for human consumption, thereby ensuring public health. However, some harvesters who are both licensed by MDNR and certified by MDH as dealers sell their own catch directly to the public.

The most important transaction regarding shellfish for MDNR to be aware of is the initial transaction. This may be between the

harvester and the dealer, or between the harvester and the public. Covering the initial transaction ensures that shellfish intended for human consumption comes from licensed harvesters, is tagged properly, and has complied with time and temperature requirements. Additionally, it ensures that buy tickets are properly filled out to ensure that the required taxes are paid for the replenishment of the State’s shellfish resources, and harvest information is recorded to track the origin of the shellfish. Including MDNR-licensed, MDH-certified harvesters who sell their own catch to the public will ensure the public health and resource management benefits necessary for the management of these fisheries.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action may have a positive impact both on Department revenues and on the wild oyster fishery due to enhancing the Department’s ability to properly collect the taxes due. Those taxes are used exclusively for oyster replenishment activities, which benefit the wild oyster fishery by enhancing populations of wild oysters in areas that are available to harvest.

II. Types of Economic Impact.

Impacted Entity	Revenue	Magnitude
	(R+/R-) Expenditure (E+/E-)	
A. On issuing agency:		
Maryland Department of Natural Resources	(R+)	Indeterminable
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+)	Cost (-)
D. On regulated industries or trade groups:		
(1) Shellfish Dealers	(-)	Indeterminable
(2) Shellfish Harvesters	(+)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. This action will potentially result in the Department realizing increased revenues from required oyster taxes. The Department is not currently able to ascertain which of the over 2,000 licensed dealers will be dealing in shellfish that they harvested during a license year. By requiring harvesters dealing in their own catch to declare prior to dealing in shellfish they harvested, the Department will know which harvesters dealing in their own catch owe severance and export taxes. It is believed that the number of harvesters dealing in their own catch actually dealing in shellfish they have harvested is less than 10% of the total number of dealers.

D(1). It is possible that some number of individuals who are both licensed as oyster or clam harvesters and as seafood dealers who have been dealing in oysters or clams they harvested themselves have not been reporting that activity or paying the required severance and export taxes. For those harvesters dealing in their own catch who have been out of compliance, this action will make it easier for the Department to ascertain when they are failing to pay those taxes. Ultimately, this may result in a negative economic impact to those harvesters dealing in their own catch who will now