SHELLFISH GENERAL - Seafood Dealer Declaration Requirement

What was proposed?
The Department proposed 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.

Why is this change necessary?
The 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.

Who does this affect?
This action affects MDNR-licensed, MDH-certified shellfish harvesters who sell their own catch.

This action may have a negative impact on harvesters dealing in their own catch who have previously avoided paying taxes, while having positive impacts on all small businesses that participate in the commercial harvest of oysters.

It is possible that some 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 be brought into full compliance with the tax requirement. It is not known how many harvesters dealing in their own catch this may affect or how many bushels of oysters or clams for which taxes were not being paid.

Assuming that the Department is able to collect additional taxes that have not been paid in years past due to the increased ability to know which harvesters dealing in their own catch owe taxes, shellfish harvesters will experience an indeterminable positive impact. Taxes collected from

dealers are used exclusively for shellfish repletion activities. This means that more shellfish will exist for harvesters to be able to harvest and sell.

What is the specific regulatory action?
The Department adopted changes to Regulation .09 under COMAR 08.02.08 Shellfish—General.

Was this change discussed with advisory bodies or other interested or impacted individuals?
The ideas for this proposal were scoped with:

1. The Sport Fisheries Advisory Commission (SFAC) and the Tidal Fisheries Advisory Commission (TFAC) at their meetings in October 2025; and
2. The general public from October 20, 2025, through November 4, 2025.

Regulatory Process
Fishing rules in Maryland may be created by either the General Assembly or the Department. When the Department creates a fishing rule, it is called a regulation. When the General Assembly creates a rule, it is called a statute. The Department often has to create a regulation to implement a statute. The regulatory process begins with scoping and the Department follows normal procedures as concepts move forward.

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. The ideas for this proposal were scoped from October 20, 2025, through November 4, 2025.

At the conclusion of the scoping process, the Department determined that the action is necessary and appropriate. The rules are being 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 reviewed the regulatory proposal for fiscal and legal analysis.
- The proposal was printed by the Division of State Documents in the Maryland Register on June 26, 2026.
- A 30-day public comment period began on the day of publication. The comment period ends July 27, 2026.
- After reviewing the comments, the Department decided to adopt the changes as proposed.
- The notice of final action, announcing the adoption and the effective date, was published in the Maryland Register on August 21, 2026.

Effective Date of Changes
The changes are effective August 31, 2026.