



**Larry Hogan**, Governor  
**Boyd Rutherford**, Lt. Governor  
**Mark Belton**, Secretary  
**Joanne Throwe**, Deputy Secretary

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## ***Memo***

To: TFAC Commissioners  
From: Gina Hunt, Deputy Director  
Date: April 21, 2016

At the January 28, 2016 TFAC meeting, questions were raised about the selling and planting of oysters harvested from a public oyster bar to an aquaculture lease. This memo has been developed to help clarify the rules that apply to this activity. In addition, concerns have been raised that undersized oysters were being harvested from public bars and planted on shellfish leases. The harvesting of undersized oysters from public bars is an illegal activity and any attempts to do so will result in enforcement action against those caught in possession of the undersized wild oysters.

### ***Is it legal to harvest legal sized oysters from a public bar and plant them on an area leased for aquaculture?***

Yes, as long as the harvester has the appropriate licenses, the oysters are harvested and reported in accordance with the laws and regulations, any required taxes are paid and the lease is in good standing with the Department.

### ***What licenses are needed to take legal sized oysters from a public bar and plant them on an area leased for aquaculture?***

The harvester needs an oyster harvester's license (Unlimited Tidal Fish, Oyster Harvester, or Oyster Dredge Boat) and an oyster surcharge. If the oysters taken from a public bar are sold to a leaseholder for planting on a leased area, the leaseholder must have a DNR Seafood Dealer's License. A Seafood Dealer's license is required even if the harvester and the leaseholder are the same person. A Department of Health and Mental Hygiene (DHMH) Shellfish Certification is not required for the sale of oysters that are being planted on a leased area within the same commingling zone and the oysters are not immediately sold for human consumption. Oysters must be planted on the lease the same day as harvested and the lease and original harvest area must be in the same commingling zone (map provided online). If the oysters are not planted in the same commingling zone or they are headed for public consumption and not on a lease, a DHMH Shellfish Certification is required by the leaseholder purchasing the oysters. The commingling zones are used as a convenience for the purpose of keeping these transfers in hydrologically related areas and minimizing potential closures. These zones are not reported or used on the Buy Book record or harvest reports. A DHMH certification is also required if the transplanted oysters are placed in a container on a water column lease that is not in the same harvest area (river or NOAA code) as the wild harvested oysters. The use of commingling areas as delineated in this document does not apply for this activity.

Any person planting oysters on an area leased for aquaculture is engaging in aquaculture activities and is also required to possess a Shellfish Aquaculture Harvester Permit (SAHP) or Registration Card while working on the lease. The leaseholder must apply to the Department in order obtain a registration card for any individual that will be working on the lease.

### ***What are the reporting requirements with this activity?***

The DNR Seafood Dealer is responsible for filling out shellfish buy tickets and tax reports (available at DNR regional service centers or by calling 410-260-3220), submitting them according to the schedule in the buy ticket book, and paying the applicable taxes. These requirements are in addition to the waterman's monthly harvest report. The leaseholder needs to be a licensed DNR Seafood Dealer, submit the required reports and pay the taxes on the wild oysters harvested from a public bar and planted on a lease. Even if the commercial harvester and the leaseholder are the same person, the reporting and tax forms must be completed. A leaseholder must also report wild oysters planted on a lease on the Annual Shellfish Lease Usage Report Form.

***How do I get these licenses?***

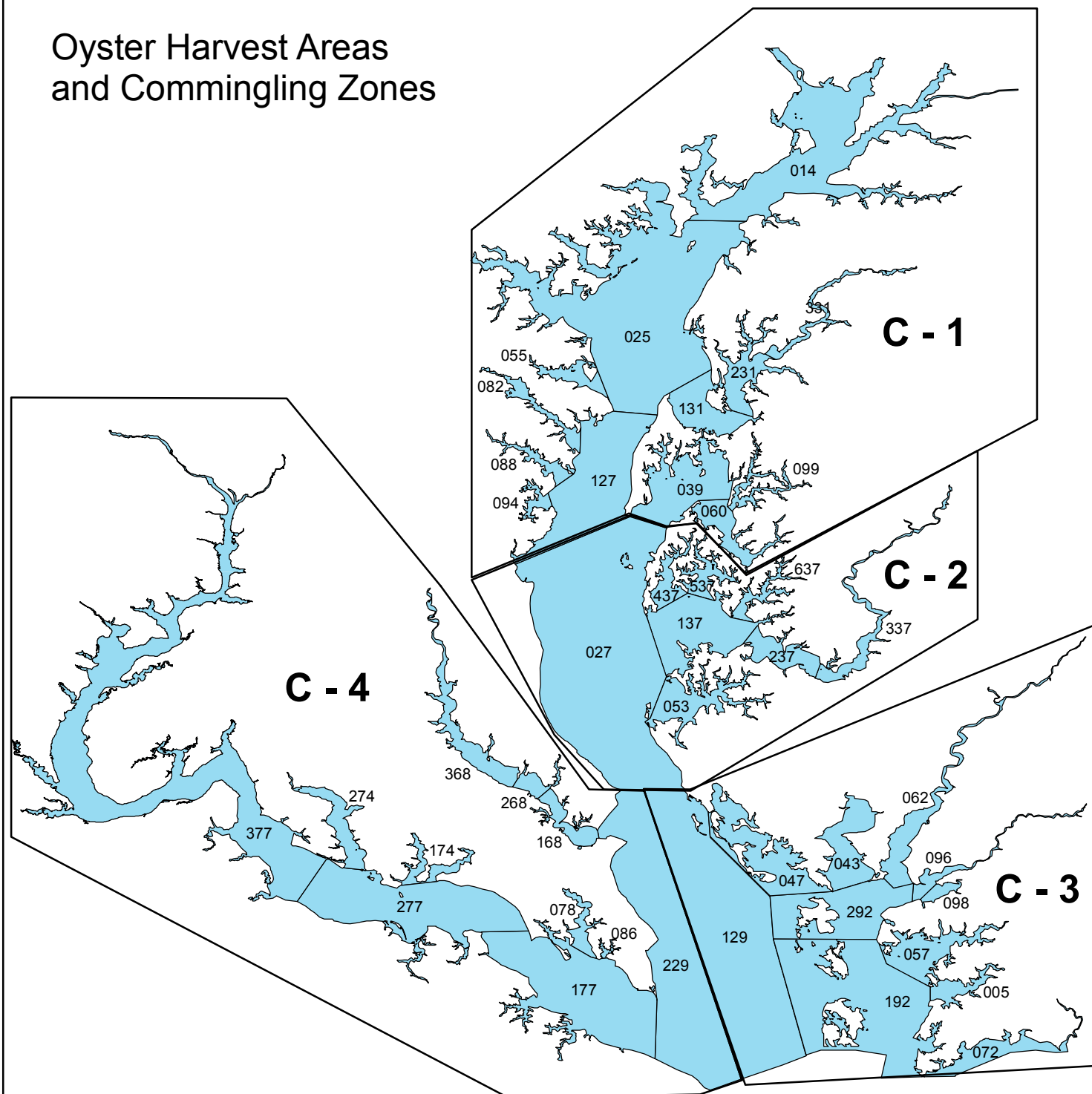
DNR Seafood Dealer's License - to obtain a DNR Seafood Dealer's License; visit your Regional DNR Service Center. To locate the closest Regional Service Center visit: <http://www.dnr.maryland.gov/service/center.asp>

DHMH Shellfish Certification - for more information or to apply for a DHMH Shellfish Certification, please contact one of the following staff members at the DHMH Center for Food Processing:

Erin Butler – 443-690-3079 or [erin.butler@maryland.gov](mailto:erin.butler@maryland.gov) (until July1)

Kim Coulbourne – 443-690-3106 or [kim.coulbourne@maryland.gov](mailto:kim.coulbourne@maryland.gov)

# Oyster Harvest Areas and Commingling Zones



C-1 Harvest Areas  
014, 025, 127, 131, 231, 331, 055  
082, 088, 094, 039, 099, 060

C-2 Harvest Areas  
027, 137, 237, 337, 437, 537, 637  
053

C-3 Harvest Areas  
129, 047, 043, 292, 062, 098, 096  
192, 057, 005, 072

C-4 Harvest Areas  
229, 168, 268, 368, 177, 277, 377  
086, 078, 174, 274

C-5 Harvest Areas  
212, 312, 412

