START ACTION NOTICE (SAN)

SAN # 2026-08

1. TYPE OF ACTION AND THE REGULATION NUMBER AND NAME:
To amend 7 DE. Admin. Code 7402: Shellfish Sanitation Regulations

2. PURPOSE OF ACTION:
To update the 7402 Shellfish Sanitation Regulations for alignment with current national requirements and shellfish industry practices, such as aquaculture, to ensure effective regulation of bivalve shellfish, which can present a foodborne illness risk if harvested or handled improperly. To reclassify some shellfishing acreage to Prohibited as necessitated by marina construction or expansion in Little Assawoman Bay, and to reclassify other acreage to Approved in order to improve public clamming opportunity in the Inland Bays and lower Delaware Bay. To establish time frames for the correction of violations identified during inspections of shellfish handlers, so that public health can be protected through prompt compliance with regulatory requirements. To require certification and inspections for retailers of raw bivalve shellfish without a food establishment permit, so that basic sanitary handling can be ensured across all types of shellfish handlers, consistent with food safety regulation in many other states.

3. STATUTORY BASIS:
7 Del. C. Section 1902

4. IS THIS PROPOSED REGULATORY ACTION REQUIRED AS A RESULT OF FEDERAL STATUTE OR REGULATION? IF SO, PROVIDE LINK TO FEDERAL MANDATE.
The vast majority of the proposed changes are required by the National Shellfish Sanitation Program (https://www.fda.gov/food/federal-state-local-tribal-and-territorial-cooperative-human-food-programs/national-shellfish-sanitation-program-nssp), with which states must comply for bivalve shellfish harvested or processed in their state to enter interstate commerce, as evaluated by the US Food & Drug Administration.

5. DATE OF MOST RECENT AMENDMENT/REVIEW (indicate if review was pursuant to 29 **Del.C.** §10407):
The 7402 Regulations were last amended on 1/1/22

6. LIKELY AFFECTED PUBLIC:
Recreational clammers, commercial clam and oyster harvesters, shellfish aquaculture growers, certified shellfish dealers, retailers of raw bivalve shellfish who do not possess a Food Establishment Permit from the Delaware Department of Health & Social Services

7. PROPOSED SCHEDULE OF ACTIVITIES:
Start Action Notice – November 2026
Publish proposed regulations in Register of Regulations – December 2026
Send proposed regulations to stakeholders – December 2026
Meeting with stakeholders – February 2027
Public workshop – March 2027
Publish final draft regulations in Register of Regulations – April 2027
Public hearing – May 2027
Secretary's Order promulgating revised regulations – June 2027

8. REVIEW COMMITTEE:
The Shellfish Advisory Council and the state shellfish industry sectors, including all commercial harvesters, aquaculture growers, certified shellfish dealers will be fully apprised of the proposed revisions and included in the regulation development process.

9. RESPONSIBLE STAFF MEMBER (name, physical address, phone number and e-mail address):

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10. APPROVALS:

10/26/2026		Stephen N. Williams 10/27/2026	
Andrew Bell	Date	Stephen Williams	Date
Responsible Staff Member		Director, Division of Watershed Stewardship	

Nov. 15, 2026	
Gregory Patterson	Date
Secretary	