

SB 922 - CBF - UNF.pdf

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CHESAPEAKE BAY FOUNDATION

Environmental Protection and Restoration
Environmental Education

Senate Bill 922

Natural Resources – Fisheries – Oyster Management

Date: February 27, 2024

Position: **Opposed**

To: Senate Education, Energy, & Environment Committee

From: Allison Colden
MD Executive Director

Chesapeake Bay Foundation (CBF) **OPPOSES** SB 922 which would repeal a prohibition that the Department of Natural Resources (DNR) may not alter existing oyster sanctuary boundaries until the Department adopts an updated oyster management plan. While DNR recently adopted an updated plan, it fails to meet the statutory requirements of Nat. Res. §4-215; therefore, it is inappropriate to remove sanctuary protections until DNR revises the oyster management plan to meet the standards listed.

Currently, Nat. Res. §4-215 requires that DNR's oyster management plan end overfishing, achieve target fishing rates, increase oyster abundance, increase oyster habitat, and facilitate the long-term sustainable harvest of oysters. DNR's current Oyster Management Plan (OMP) fails to meet these requirements.

The OMP currently utilizes season limits, bushel limits, shell repletion, stock enhancement, and area closures for managing oyster fisheries, which have failed to prevent or end overfishing. A 2007 study found "no evidence that the regulations considered have restricted harvests below the common property equilibrium." Under this management framework, the fishery operates as if it is entirely unregulated. Further, the study indicates that fishing effort under this open-access paradigm is associated with diminishing oyster stocks and that the economic incentives that motivate stock decline are still in place today. DNR's annual oyster stock assessment update from 2023 indicated that 9 areas are experiencing overfishing and several areas, including Tangier Sound, St. Mary's River, and the Patuxent River have experienced 5 years or more of unsustainable harvest.

Because the statutory requirements of this section have not been met, it is premature and ill-advised to remove sanctuary protections, as SB 922 would require.

Further SB 922 would expand the areas eligible for power dredging to include Eastern Bay. This was not included in the consensus recommendations from the Oyster Advisory Commission which specifically addressed management in Eastern Bay. Additionally, there is currently an ongoing process, led by the Oyster Recovery Partnership, with participation from DNR and many diverse stakeholders to provide specific recommendations on oyster management for Eastern Bay. This bill would usurp that process while expanding the use of the most damaging oyster harvest method.

CBF urges the Committee's UNFAVORABLE report on SB 922.

For more information, please contact Matt Stegman, Maryland Staff Attorney, at mstegman@cbf.org.

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ShoreRivers Testimony SB922.docx.pdf

Uploaded by: Benjamin Ford

Position: UNF



Testimony in Opposition of SB 922 Natural Resources – Fisheries – Oyster Management

February 26, 2024

Thank you for this opportunity to submit testimony in **OPPOSITION** to **SB 922**, which pertains to oyster management in Maryland. This bill, if passed, would have detrimental effects on the health and sustainability of our state's oyster population and the Chesapeake Bay ecosystem as a whole.

Senate Bill 922 seeks to repeal a provision of law that prohibits the Department of Natural Resources (DNR) from altering existing oyster sanctuary boundaries until an updated oyster management plan has been developed. This change is premature and ill-advised for several reasons.

As adopted by the DNR, the current oyster management plan fails to meet the statutory requirements outlined in Natural Resources §4-215. This section mandates that any oyster management plan must end overfishing, achieve target fishing rates, increase oyster abundance, enhance oyster habitat, and facilitate the long-term sustainable harvest of oysters. However, the existing plan falls short of meeting these essential criteria in Eastern Bay.

Given the failure of the current management plan to meet statutory requirements and effectively manage the oyster population, it is inappropriate to remove sanctuary protections until a revised plan is in place. Senate Bill 922's proposal to repeal these protections disregards the importance of safeguarding oyster sanctuaries, risks further harm to Maryland's already vulnerable oyster population, and drives the cost per bushel down for working watermen.

Moreover, Senate Bill 922 includes provisions to expand the areas eligible for power dredging to include Eastern Bay without proper consideration of the potential ecological or economic consequences. This expansion was not included in the consensus recommendations from the Oyster Advisory Commission and undermines ongoing efforts to develop specific management recommendations for Eastern Bay.

Allowing fair-weather fishermen to enter the Eastern Bay oyster fishery using the most efficient method of harvest (power dredging) is potentially damaging to the greater oyster ecology of the region, as well as unfair to commercial fishermen who rely on the fishery to round out a year's work on the water.

It is also important to note that the **Eastern Bay Oyster Coalition Workgroup**, composed of members from various sectors, including non-governmental organizations, recreational fishing,

ShoreRivers

Isabel Hardesty, Executive Director

Annie Richards, Chester Riverkeeper | Matt Pluta, Choptank Riverkeeper

Ben Ford, Miles Wye Riverkeeper | Zack Kelleher, Sassafras Riverkeeper

seafood industry, and local and state government, is currently working towards providing specific recommendations for oyster management in Eastern Bay. Their expertise and collaboration are invaluable in ensuring the long-term sustainability of Eastern Bay's oyster population. Rushing to expand power dredging into Eastern Bay before the completion of this process would undermine the integrity of the collaborative effort and risk exacerbating existing ecological and commercial fishery concerns. See full list of members here:

NON-GOVERNMENTAL ORGANIZATIONS

Ben Ford, ShoreRivers, Miles Wye Riverkeeper
Vicki Paulas, Chesapeake Bay Environmental Center
Ward Slacum, Oyster Recovery Partnership
Dan Sweeney, The Nature Conservancy

RECREATIONAL FISHING

Mark Galasso, Tuna the Tide Charter Service

SEAFOOD INDUSTRY

Scott Budden, Orchard Point Oyster Co., Aquaculture
Moochie Gilmer, Queen Anne County Waterman, Clam Harvester
Nick Hargrove, Talbot County Waterman, Aquaculture
Jeff Harrison, Talbot County Waterman
Richard Jones, Queen Anne County Waterman
Matt Latham, Queen Anne County Waterman
Jason Ruth, Harris Seafood Company, Queen Anne County Waterman, Aquaculture
Troy Wilkins, Queen Anne County Waterman

LOCAL AND STATE GOVERNMENT

Kathy Brohawn, Maryland Department of the Environment
Brian Callam, Maryland Department of Natural Resources (DNR) - Aquaculture & Industry Enhancement Division
Chris Judy, Maryland DNR, Shellfish Division (Designated Alternate: Jodi Baxter)
Jim Moran, Queen Anne County Commissioner

Therefore, please consider the importance of waiting until the Eastern Bay Oyster Coalition Workgroup's recommendations are available before making any decisions that could impact the future of our oyster population and the health of the Chesapeake Bay. In the meantime, I urge an **unfavorable** review of SB 922. Thank you for your attention to this matter.

Sincerely,

Benjamin Ford, Miles-Wye Riverkeeper, on behalf of ShoreRivers

SB 922 Natural Resources – Fisheries – Oyster Mana

Uploaded by: Cait Kerr

Position: UNF

Tuesday, February 27, 2024

TO: Brian Feldman, Chair of the Senate Education, Energy, and the Environment Committee, and Committee Members

FROM: Amy Jacobs, The Nature Conservancy, Interim Chesapeake Bay Program Director; Cait Kerr, State Policy Manager; and Daniel Sweeney, The Nature Conservancy, Agriculture Program Director

POSITION: Oppose SB 922 Natural Resources – Fisheries – Oyster Management

The Nature Conservancy (TNC) opposes SB 922 offered by Senator Mautz. For the past two decades, the world has looked to the Chesapeake Bay to learn what's possible in oyster restoration. No effort in the world matches the scale of what has been accomplished here, and TNC has been proud to support and invest in oyster restoration along with many others during this time.

SB 922 would repeal a prohibition that the Department of Natural Resources (DNR) may not alter existing oyster sanctuary boundaries until the Department adopts an updated oyster management plan. While DNR has recently adopted an updated plan, it fails to meet statutory requirements; therefore, it is inappropriate and premature to remove sanctuary protections until DNR has revised the oyster management plan to meet the requirements. These include ending overfishing, achieving target fishing rates, increasing oyster abundance, increasing oyster habitat, and facilitating oysters' long-term sustainable harvest. The current plan utilizes season limits, bushel limits, shell repletion, stock enhancement, and area closures for managing oyster fisheries, which have failed to prevent or end overfishing.

TNC supports the oyster industry across the state. We have a history of working across sectors to leverage private, state and federal funding for its benefit. Harvesting and restoration efforts must be balanced in order to realize the many benefits oysters provide to the Chesapeake Bay, including improving the Bay's health, strengthening our state and local economies, and enhancing Maryland's culture. Sanctuaries improve recreational and commercial fishing in the Bay by providing persistent habitat for blue crabs, striped bass, white perch and other important finfish species. Oysters within sanctuaries can produce larvae that benefit areas not only within the sanctuary, but also in public fishery areas adjacent to sanctuaries, which increases harvest opportunities. Changing or reducing oyster sanctuary boundaries as proposed in SB 922 fails to consider the broader habitat and ecosystem health in the Bay and goes against the protections set by the state of Maryland to enhance native oyster populations for their environmental benefits.

TNC believes that oyster sanctuaries provide significant benefit to the Chesapeake Bay and thus any changes to sanctuary's, management plans, and harvest methods should be carefully considered in line with restoration. Sanctuaries were established to realize and enhance ecosystem benefits which oysters provide to the Chesapeake Bay other than harvest. Sanctuary restoration was completed with significant state and federal investments, which carry with them obligations to prohibit harvest.

There is currently an ongoing collaborative process among many diverse interests to discuss oyster management further. This bill would preempt that process; therefore, taking the type of actions proposed in SB 922 would be premature.

The Nature Conservancy strongly opposes altering or reducing oyster sanctuary boundaries through the methods proposed in SB 922, which undermine the protections the state has set to preserve and enhance oyster restoration.

Therefore, we urge an unfavorable report on SB 922.

SB0922_DNR_OPP_EEE_2-27-24.pdf

Uploaded by: Kristen Fidler

Position: UNF



Wes Moore, Governor
Aruna Miller, Lt. Governor
Josh Kurtz, Secretary
David Goshorn, Deputy Secretary

February 27, 2024

BILL NUMBER: Senate Bill 922 – First Reader

SHORT TITLE: Natural Resources – Fisheries – Oyster Management

DEPARTMENT’S POSITION: OPPOSE

EXPLANATION OF DEPARTMENT’S POSITION

The Department opposes Senate Bill 922.

This bill removes text from Natural Resources 4-215 regarding past projects already conducted by DNR. Section (e) (4) (i) required DNR to update its Oyster Fishery Management Plan. This was completed in 2019. Also, (e) (4) (iii) required DNR to continue with the selection of the final two tributaries in accordance with the 2014 Chesapeake Bay Watershed Agreement goal. This too has been accomplished with the selection of St Mary’s River Sanctuary and Manokin River Sanctuary, both of which are underway with their restoration treatment.

The bill stopped short of cleaning up text by not removing (e) (5) (i) through (iii) which directed DNR to conduct a consensus process through the Oyster Advisory Commission. This project was initiated in 2019 and was completed in 2021.

The bill expands power dredging in Eastern Bay in Queen Anne’s and Talbot Counties by proposing to add text to 4-1011. Eastern Bay’s recruitment levels are too low to withstand the harvest pressure by power dredging. The population will not be able to self-sustain under pressure from the most efficient harvest gear. Areas in the lower eastern Bay where the majority of power dredging occurs have spatsets almost 90% higher on average over the last 19 years than Eastern Bay. Even with the higher spatset in the lower eastern Bay, overfishing can still occur in some years. Hence it could be assumed that overfishing would likely occur in Eastern Bay if power dredging were allowed given current levels of recruitment and oyster populations.

During the 2010 legislation session, Senate Bill 37 proposed to allow power dredging throughout the Bay where harvest was permitted. While the bill did not pass, DNR did agree to conduct a power dredging study over a five year period in multiple locations where power dredging was not allowed. Two of the power dredging study areas are within Eastern Bay (285 acres in Wildground oyster bar and 203 acres on Parson Island oyster bar; Queen Anne’s County) and were studied from 2010 to 2015 to determine power dredging impacts to the oyster population and habitat. Comparisons between a reference, no power dredging site and the power dredging sites found that there was no improvement to spatset, oyster population, and habitat over the five years. The two power dredging study areas in Eastern Bay are still available to power dredging harvest currently.

Contact: Dylan Behler, Director, Legislative and Constituent Services
dylan.behler@maryland.gov ♦ 410-260-8113 (office) ♦ 443-924-0891 (cell)

Eastern Bay spat set levels (oyster reproduction) are too low to withstand harvest pressure by power dredging. The population won't be able to replenish itself under the most efficient harvest gear type. Areas where power dredging can occur have spat sets that are much higher than Eastern Bay.

BACKGROUND INFORMATION

No similar bills have been proposed previously.

BILL EXPLANATION

The bill expands power dredging in Eastern Bay in Queen Anne's and Talbot Counties and changes requirements for the oyster fishery management plan.