



# Maryland

## Department of the Environment

Larry Hogan, Governor  
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary  
Horacio Tablada, Deputy Secretary

February 10, 2021

The Honorable Paul G. Pinsky, Chair  
Education, Health, and Environmental Affairs Committee  
2 West, Miller Senate Office Building  
Annapolis, Maryland 21401

### **Re: SB 442 - Aquaculture Leases and Shellfish Nursery Operations - Wetlands**

Dear Chairman Pinsky and Members of the Committee:

The Maryland Department of the Environment (MDE) has reviewed Senate Bill 442 - Aquaculture Leases and Shellfish Nursery Operations - Wetlands - and would like to express our support for this legislation, if amended.

SB 442 seeks to create additional exemptions to the Title 16 tidal wetlands license requirement for: (1) use of equipment (a pump, pipe, or other structure) on or attached to a pier associated with an aquaculture lease, and (2) activities associated with an aquaculture lease issued by the Department of Natural Resources (DNR) under Maryland Annotated Code, Natural Resources Article, Title 4 § 11A.

The bill provides for an overly broad exemption of other activities, which may include structures and activities such as a commercial building from which the oysters are sold, parking lots and roads. Granting this broad exemption would eliminate the ability to consider any other factors, such as other commercial/recreational fishing and shellfish, human health and safety, wildlife habitat, aesthetics, and navigational access such as roofed structures or other structures that are prohibited and/or do not conform to regulations. This may harm resources held in the public trust and undermine other goals associated with tidal waters and wetlands. Loss of tidal wetlands may be extensive under the overly broad exemption proposed in SB 442.

Over the Fall of 2020, MDE worked with the aquaculture community and DNR on developing a policy with regard to allowing an aquaculture operation who is already permitted to have a tumbler located on a pier for nursery activities to use that same tumbler for husbandry. MDE views using those existing oyster tumblers occasionally for larger oysters (husbandry) to be de minimis in nature with regard to impacts to tidal wetlands and should not trigger the need for review under the tidal wetlands permitting program. The Department suggests amending the bill to specifically to allow the use of tumblers for husbandry, only for those operations already permitted to have a tumbler on a pier under a DNR nursery permit as of January 1, 2021. MDE is committed to continuing discussion with DNR and the aquaculture community on how we can further streamline the permitting process for this ever growing and evolving industry.

Thank you for considering the Department's concerns regarding this legislation. We will continue to monitor Senate Bill 442 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me by e-mail at [tyler.abbott@maryland.gov](mailto:tyler.abbott@maryland.gov).

Sincerely,

Tyler Abbott