

**SB 437\_CBF\_FAV.pdf**

Uploaded by: Allison Colden

Position: FAV



# CHESAPEAKE BAY FOUNDATION

Environmental Protection and Restoration  
Environmental Education

## Senate Bill 437

Aquaculture – Tidal Fisheries Advisory Commission, Oyster Advisory Commission, and Leases

Date: March 2, 2023 Position: **Support**  
To: Education, Energy, & Environment Committee From: Allison Colden, Sr. Fisheries Scientist

Chesapeake Bay Foundation (CBF) **SUPPORTS** SB 437 which would address unreasonably long lease processing timelines, provide opportunities for accelerated leasing in appropriate areas, and ensure the aquaculture industry is afforded adequate representation on advisory commissions whose jurisdictions include or overlap with aquaculture.

Oyster aquaculture, the cultivation of oysters to harvest for food, is a growing industry in Maryland, supporting nearly 500 jobs<sup>1</sup> and more than \$8 million in economic benefits.<sup>2</sup> Moreover, shellfish aquaculture, unlike finfish aquaculture, requires no external inputs of food, nutrients, or pharmaceuticals. Because oysters are filter feeders, the addition of oysters to the Bay through aquaculture can help improve water quality and improve habitat for fish and crabs.

In 2010, the Maryland General Assembly passed significant legislative reforms to encourage the growth of Maryland's shellfish aquaculture industry. In many respects, these changes have been highly successful, with 2022 recording the largest aquaculture harvest on record at more than 92,500 bushels. However, some aspects of Maryland's regulatory processes have hamstrung the growth of the industry limiting opportunities for Marylanders to compete with a growing industry nationwide. SB 437 aims to reduce those barriers and ensure Maryland's aquaculture industry can continue to grow responsibly.

### **Maryland's excessively long lease processing times limit aquaculture industry competitiveness.**

Of the 119 shellfish aquaculture lease applications received by DNR since January 1, 2018, 45 leases have been issued (38%), with an average lease processing time of 34.3 months. An additional 74 lease applications submitted since January 1, 2018 remain in process, with 12 lease applications still under review after more than four years (see Attachment). There are at least 2 lease applications in process in Maryland that have been pending for more than 5 years.

Maryland's lengthy lease approval timeline is not typical. A 2021 study compared the regulatory frameworks and shellfish aquaculture lease timelines across the United States. Among 19 coastal states, Maryland ranked last, with the longest average lease processing timeline, which was nearly one year longer than all other states.

Rank	State	Average Lease Issuance Time
1	New Hampshire	1.5-2 months

<sup>1</sup> Maryland Department of Natural Resources. Maryland Oyster Overview. Briefing to the House Environment and Transportation Committee. 31 January 2023. Slides available [online](#).

<sup>2</sup> Analysis of the Economic Benefits of the Maryland Shellfish Aquaculture Industry. 2020. Available [online](#).

Maryland Office • Philip Merrill Environmental Center • 6 Herndon Avenue • Annapolis • Maryland • 21403

2	Georgia	2-3 months
3	Louisiana	3.5-4.5 months
4	New Jersey	6 months
5	Texas	6 months
6	Massachusetts	6-7 months
7	Alabama	6-8 months
8	Oregon	3-9 months
9	Rhode Island	8-9 months
10	Virginia	3-12 months
11	Mississippi	5-12 months
12	Florida	6-12 months
13	Washington	6-12 months
14	New York	9-12 months
15	Alaska	10-12 months
16	North Carolina	12 months
17	Connecticut	4-24 months
18	Maine	12-24 months
19	Maryland*	34 months
Source: NOAA Fisheries 2021 State by State Summary of Shellfish Aquaculture Leasing/Permitting Requirements. Available <a href="#">online</a> .		
*Maryland reported a typical lease timeline of 8-12 months in the NOAA report, but DNR data from 2018-2023 indicates the average timeline is 34 months. Only 2 leases since 2018 have been issued in less than 12 months. See Attachment for full DNR data summary.		

Beyond inconvenience, these lengthy delays threaten the viability of new shellfish aquaculture businesses. Due to the nature of aquaculture, new businesses will not generate a profit until 3-4 years after a lease is issued due to the time it takes oysters to grow to market size. Delays associated the lease application process further delays the point at which the business turns a profit. Maryland’s timing is also highly variable, with lease processing times varying from 11 months to 47 months, increasing risk and uncertainty associated with starting an aquaculture business in Maryland.

SB 437 would address these lengthy lease processing times by requiring that DNR issue a lease within 180 days following the required public comment period or the dismissal of a protest. This provides growers with additional certainty and peace of mind that after meeting all necessary regulatory requirements, the lease will be issued within six months.

Additionally, SB 437 requires DNR to work with other relevant state agencies to identify and pre-approve areas of submerged land adjacent to state-owned property that could support shellfish aquaculture. These areas would be pre-approved only if environmental conditions could support shellfish survival and growth and if aquaculture activities would be compatible with existing uses of the site. These pre-approved areas would allow for a streamlined permitting process for those growers interested in utilizing these sites to establish new leases.

**The breadth of the Maryland aquaculture industry is not currently reflected in regulatory discussions.** In 2012, Maryland’s aquaculture industry harvested less than 5,000 bushels of oysters. In 2022, that harvest grew to over 92,000 bushels. Despite the rapid growth of the aquaculture industry, oyster growers are still

allocated only one seat on the Tidal Fisheries Advisory Commission and the Oyster Advisory Commission, two key DNR advisory boards whose jurisdictions overlap with the aquaculture industry.

SB 437 would expand aquaculture representation on these boards with the addition of two industry members appointed to the Tidal Fisheries Advisory Commission and the Oyster Advisory Commission. This provides the aquaculture industry a greater opportunity to discuss areas of potential overlap and to head off conflicts with other stakeholders in Maryland's seafood industry. It also ensures the full breadth of the industry is represented, as aquaculture can take many forms (on-bottom, bottom cages, floating cages, etc.), and concerns are not homogenous across the industry.

Oyster aquaculture provides Maryland an unparalleled opportunity help recover the oyster population while supporting working waterfronts and maintaining a critical cultural connection to the Chesapeake Bay. SB 437 will help ensure that this nascent industry has the chance to grow responsibly to help achieve those goals.

**CBF urges the Committee's FAVORABLE report on SB 437.**

For more information, please contact Matt Stegman, Maryland Staff Attorney, at [mstegman@cbf.org](mailto:mstegman@cbf.org).

ATTACHMENT

Summary of Maryland Shellfish Lease Applications (January 1, 2018 – January 13, 2023)<sup>i</sup>

Waterbody	County	Acreage	Received	Status	Issued Date	Time to Issuance (months)	Time in Review (months)
Leadenham Creek	Talbot	15.3	1/26/2018	In process	---	---	61
Wicomico River	St Mary's	10.2	1/26/2018	In process	---	---	61
Carthagena Creek	St. Mary's	14.6	4/3/2018	In process	---	---	58
Calvert Bay	St. Mary's	29.7	4/3/2018	In process	---	---	58
Nanticoke River	Dorchester	7.9	4/3/2018	In process	---	---	58
Eastern Bay	Queen Anne's	25.9	4/6/2018	In process	---	---	58
Fishing Bay	Dorchester	14.7	4/11/2018	In process	---	---	58
Wicomico River	Somerset	30.4	4/11/2018	In process	---	---	58
Wicomico River	Charles	22.3	7/17/2018	In process	---	---	55
Wicomico River	Charles	10	12/7/2018	In process	---	---	50
Chincoteague Bay	Worcester	38.3	2/13/2019	In process	---	---	48
Smith Creek	St. Mary's	7.3	2/25/2019	In process	---	---	48
Smith Creek	St. Mary's	5.5	3/4/2019	In process	---	---	47
Chesapeake Bay	St. Mary's	13.3	3/13/2019	In process	---	---	47
Tangier Sound	Dorchester	55	3/18/2019	In process	---	---	47
Choptank River	Dorchester	2.4	3/22/2019	In process	---	---	47
Chesapeake Bay	Calvert	7.4	3/22/2019	In process	---	---	47
Chesapeake Bay	Calvert	7.5	4/1/2019	In process	---	---	47
Choptank River	Dorchester	10	5/16/2019	In process	---	---	45
Harris Creek	Talbot	3.8	5/29/2019	In process	---	---	45
Chester River	Queen Anne's	5.7	5/31/2019	In process	---	---	45
Madison Bay	Dorchester	50	7/29/2019	In process	---	---	43
Choptank River	Dorchester	27.1	8/12/2019	In process	---	---	42
Little Choptank River	Dorchester	40	8/22/2019	In process	---	---	42
Harris Creek	Talbot	4.9	9/5/2019	In process	---	---	41
Madison Bay	Dorchester	70.4	9/11/2019	In process	---	---	41
Monie Bay	Somerset	7.2	10/18/2019	In process	---	---	40
Smith Creek	St. Mary's	5.4	11/13/2019	In process	---	---	39
Smith Creek	St. Mary's	2.4	12/4/2019	In process	---	---	38
Little Choptank River	Dorchester	32	2/28/2020	In process	---	---	36
Crab Alley Bay	Queen Anne's	1.6	3/3/2020	In process	---	---	35
Cummings Creek	Talbot	7.6	4/13/2020	In process	---	---	34
Smith Creek	St Mary's	12.6	4/13/2020	In process	---	---	34
LeCompte Bay	Dorchester	51.2	4/13/2020	In process	---	---	34
Farm Creek	Dorchester	8.5	4/16/2020	In process	---	---	34
Fishing Creek	Dorchester	10	5/4/2020	In process	---	---	33
Fishing Bay	Dorchester		5/22/2020	In process	---	---	33
Tar Bay	Dorchester	46.1	6/12/2020	In process	---	---	32
Farm Creek	Dorchester	0.2	7/2/2020	In process	---	---	32
Farm Creek	Dorchester	9	7/2/2020	In process	---	---	32

Hellen Creek	Calvert	7	7/28/2020	In process	---	---	31
Wicomico River	St Mary's	13.7	8/9/2020	In process	---	---	30
Harris Creek	Talbot	9	8/9/2020	In process	---	---	30
Chesapeake Bay	St. Mary's	41.6	11/1/2020	In process	---	---	28
St. Jerome Creek	St. Mary's	26	11/1/2020	In process	---	---	28
St. Jerome Creek	St. Mary's	6	4/9/2021	In process	---	---	22
Cummings Creek	Talbot	2.5	6/28/2021	In process	---	---	20
St. Marys River	St. Mary's	8.4	7/15/2021	In process	---	---	19
Johnson Bay	Worcester	5.1	8/10/2021	In process	---	---	18
Dukehart Channel	St Mary's	103.2	8/16/2021	In process	---	---	18
St. George Creek	St. Mary's	0.1	8/16/2021	In process	---	---	18
Miles River	Talbot	25.1	10/21/2021	In process	---	---	16
Chesapeake Bay	Calvert	5	10/21/2021	In process	---	---	16
Chesapeake Bay	Calvert	18.4	10/28/2021	In process	---	---	16
Parker Bay	Worcester	2	11/1/2021	In process	---	---	16
St. George Creek	St. Mary's	5.8	11/29/2021	In process	---	---	15
Little Annemessex River	Somerset	1.3	11/29/2021	In process	---	---	15
Manokin River	Somerset	28.3	2/22/2022	In process	---	---	12
Manokin River	Somerset	6.2	4/8/2022	In process	---	---	10
Choptank River	Dorchester	12.4	5/3/2022	In process	---	---	9
St. Marys River	St. Mary's	19.8	5/5/2022	In process	---	---	9
Tred Avon River	Talbot	14.6	5/11/2022	In process	---	---	9
Tred Avon River	Talbot	2.4	5/20/2022	In process	---	---	9
Tred Avon River	Talbot	1	6/20/2022	In process	---	---	8
Lecompte Bay	Dorchester	22	6/20/2022	In process	---	---	8
Tred Avon River	Talbot	10.7	6/21/2022	In process	---	---	8
Tred Avon River	Talbot	14.6	6/24/2022	In process	---	---	8
Calvert Bay	St. Mary's	29.8	8/3/2022	In process	---	---	6
St. George Creek	St. Mary's	18.9	8/17/2022	In process	---	---	6
Goldsborough Creek	Talbot	9.4	10/4/2022	In process	---	---	4
Chesapeake Bay	Calvert	12.3	11/21/2022	In process	---	---	3
Tar Bay	Dorchester	39.8	12/19/2022	In process	---	---	2
Monie Bay	Somerset	9.5	12/19/2022	In process	---	---	2
Patuxent River	Calvert	2.7	12/19/2022	In process	---	---	2
Fishing Bay	Dorchester	4.7	4/3/2018	Issued	3/18/2022	47	---
Wicomico River	St. Mary's	16.4	6/25/2018	Issued	6/3/2022	47	---
Chesapeake Bay	Anne Arundel	1.7	9/26/2018	Issued	9/16/2022	47	---
Harris Creek	Talbot	4.9	4/16/2019	Issued	1/4/2023	44	---
Patuxent River	St. Mary's	34.3	5/28/2019	Issued	1/4/2023	43	---
Patuxent River	St Mary's	26.9	4/1/2019	Issued	9/16/2022	41	---
Patuxent River	Charles	10.5	4/1/2019	Issued	9/16/2022	41	---
Wicomico River	St. Mary's	12.5	4/22/2019	Issued	10/17/2022	41	---
Patuxent River	Calvert	12.7	4/3/2019	Issued	7/13/2022	39	---
Wicomico River	Somerset	60.3	4/11/2019	Issued	7/14/2022	39	---
Trippe Creek	Talbot	6.1	4/11/2019	Issued	7/14/2022	39	---

Fishing Bay	Dorchester	39.6	11/20/2018	Issued	2/3/2022	38	---
South River	Anne Arundel	0.4	9/3/2019	Issued	11/18/2022	38	---
Harris Creek	Talbot	1.8	9/5/2019	Issued	10/18/2022	37	---
Little Choptank River	Dorchester	8.8	3/12/2019	Issued	3/18/2022	36	---
Manokin River	Somerset	19.2	2/5/2019	Issued	2/3/2022	35	---
Patuxent River	St. Mary's	22.9	5/3/2019	Issued	4/21/2022	35	---
Trippe Creek	Talbot	8.4	11/8/2019	Issued	10/17/2022	35	---
Choptank River	Dorchester	5	9/19/2019	Issued	7/13/2022	33	---
Chesapeake Bay	Anne Arundel	0.8	2/12/2020	Issued	11/18/2022	33	---
Harris Creek	Talbot	4.7	2/27/2018	Issued	11/23/2020	32	---
Herring Creek	St. Mary's	2.5	5/18/2018	Issued	10/29/2020	29	---
Carthagen Creek	St. Mary's	2.4	3/2/2018	Issued	5/18/2020	26	---
Little Choptank River	Dorchester	16.3	5/4/2018	Issued	7/7/2020	26	---
Manokin River	Somerset	4.8	1/16/2018	Issued	2/25/2020	25	---
Caulk Creek	Talbot	1.7	10/11/2018	Issued	8/24/2020	22	---
St. Marys River	St Mary's	1	10/18/2018	Issued	8/24/2020	22	---
Patuxent River	St. Mary's	2.8	1/26/2018	Issued	11/4/2019	21	---
Manokin River	Somerset	10.1	1/26/2018	Issued	10/9/2019	20	---
Nanticoke River	Wicomico	30.1	1/26/2018	Issued	10/9/2019	20	---
Chesapeake Bay	Calvert	27.3	1/26/2018	Issued	10/9/2019	20	---
Carthagen Creek	St. Mary's	2.3	2/28/2018	Issued	11/4/2019	20	---
Carthagen Creek	St Mary's	1.6	3/22/2018	Issued	12/17/2019	20	---
Harris Creek	Talbot	1.6	6/4/2019	Issued	12/23/2020	18	---
Chesapeake Bay	Talbot	50.2	5/10/2018	Issued	11/4/2019	17	---
Shipping Creek	Queen Anne's	0.2	11/28/2018	Issued	5/18/2020	17	---
Purnell Bay	Worcester	1.9	11/28/2018	Issued	5/18/2020	17	---
Tred Avon River	Talbot	8.2	6/22/2018	Issued	11/4/2019	16	---
Carthagen Creek	St Mary's	4	3/19/2018	Issued	7/10/2019	15	---
Patuxent River	Calvert	5	8/2/2018	Issued	11/4/2019	15	---
Fishing Bay	Dorchester	19.1	7/30/2018	Issued	10/9/2019	14	---
Eastern Bay	Talbot	5	6/5/2018	Issued	7/10/2019	13	---
Wicomico River	Somerset	4.8	2/22/2018	Issued	2/27/2019	12	---
Patuxent River	Calvert	1.7	9/21/2018	Issued	8/28/2019	11	---
Chester River	Queen Anne's	5.3	1/10/2019	Issued	12/17/2019	11	---

<sup>i</sup> Maryland Department of Natural Resources. Presentation to the Maryland Aquaculture Coordinating Council. January 19, 2023. Available [online](#).

**SB 437 COA FAV.pdf**

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Position: FAV





Chesapeake  
**OYSTER ALLIANCE**  
*10 Billion for the Bay*

ANNAPOLIS AQUACULTURE - BLUE OYSTER ENVIRONMENTAL - CAPE CONSERVATION CORPS  
CHESAPEAKE BAY FOUNDATION - CHESAPEAKE BEACH OYSTER CULTIVATION SOCIETY  
COASTAL CONSERVATION ASSOCIATION MARYLAND - DOWNTOWN SAILING CENTER  
FRIENDS OF ST. CLEMENTS BAY - HOOPERS ISLAND OYSTER CO. - LIVING CLASSROOMS FOUNDATION  
MARK STREET VENTURES, LLC - NATIONAL AQUARIUM - ORCHARD POINT OYSTER COMPANY  
PIRATES COVE OYSTER COMPANY - SEVERN RIVER ASSOCIATION - SHORERIVERS - SOLAR OYSTERS, LLC  
ST. MARY'S RIVER WATERSHED ASSOCIATION - TRUE CHESAPEAKE OYSTER COMPANY, LLC  
WATERFRONT PARTNERSHIP OF BALTIMORE

**Senate Bill 437**

Aquaculture - Tidal Fisheries Advisory Commission, Oyster Advisory Commission, and Leases

DATE: March 2, 2023

POSITION: **SUPPORT**

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The Chesapeake Oyster Alliance is a broad coalition of non-profits, community organizations, oyster growers, academic institutions, and business owners with the shared goal of adding 10 billion oysters in the Bay by the year 2025. With a focus on expanding aquaculture, increased oyster restoration, and science-based fishery management, the Chesapeake Oyster Alliance aims to accelerate oyster recovery efforts and in so doing the recovery of the Chesapeake Bay.

Oyster aquaculture, as known as oyster farming, is the practice of cultivating oysters on areas leased from the State for harvest. Since 2010, Maryland oyster aquaculture harvest has grown, on average, 24% annually. The industry provides valuable economic benefits and employment opportunities in Maryland's coastal communities.<sup>1</sup> Additionally, oysters planted by oyster farmers provide water filtration, habitat, and a low-carbon source of nutritious seafood to local markets. In 2016, oyster aquaculture was approved by the Chesapeake Bay Program as a nutrient reduction 'best management practice'<sup>2</sup> allowing municipalities to partner with oyster farmers to help reach their Bay clean-up goals.<sup>3</sup>

**The Chesapeake Oyster Alliance strongly supports Senate Bill 437 and recommends a favorable report from the Senate Education, Energy, and Environment Committee.**

**SB437** implements key regulatory reforms to help grow Maryland's aquaculture industry, including addressing lengthy lease processing timelines, lease protest procedures, and ensuring right-sized representation on advisory commissions. It would also expand opportunities for aquaculture adjacent to state-owned lands, where appropriate.

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<sup>1</sup> van Senten, Jonathan et al. 2020. Analysis of the Economic Benefits of the Maryland Shellfish Aquaculture Industry. Final Report to the Chesapeake Bay Foundation. Available [online](#).

<sup>2</sup> Oyster BMP Expert Panel Report. 2016. Available [online](#).

<sup>3</sup> Wheeler, Tim. 2023. Oyster farming co-op earns money from Maryland county to help reduce pollution. Bay Journal. 23 January 2023. Available [online](#).

Oyster aquaculture is a key component of long-term oyster recovery in Chesapeake Bay. This bill will help ensure the viability and productivity of Maryland's nascent oyster industry, helping to reduce the seafood trade deficit, create jobs in working waterfront communities, and provide Marylanders with fresh, locally produced seafood.

For these reasons, the Chesapeake Oyster Alliance urges a **favorable** report on Senate Bill 437 from the Senate Education, Energy, and Environment Committee. Please contact Tanner Council ([tcouncil@cbf.org](mailto:tcouncil@cbf.org)) with any questions.

# **Support of SB 437 - Aquaculture - Tidal Fisheries**

Uploaded by: Colby Ferguson

Position: FAV



# Maryland Farm Bureau, Inc.

3358 Davidsonville Road • Davidsonville, MD 21035 • (410) 922-3426

March 2, 2023

To: Senate Education, Energy & the Environment Committee

From: Maryland Farm Bureau, Inc.

Re: **Support of SB 437 - Aquaculture - Tidal Fisheries Advisory Commission, Oyster Advisory Commission, and Leases**

On behalf of our Farm Bureau member families in Maryland, I submit this written testimony in support of SB 437, legislation that would 1) alter the membership of the Tidal Fisheries Advisory Commission and Oyster Advisory Commission to add 2 additional aquaculture industry members on each, 2) require that DNR process a lease application that has received no protests against it within 6 months, and 3) require DNR to work with other relevant state agencies to identify state-owned properties adjacent to which aquaculture leasing could be appropriate. The goal is to streamline the leasing process and ensure the aquaculture industry has sufficient representation to cover their varied industry and interests on relevant advisory boards.

Easily one of the largest roadblocks to more oyster aquaculture farmers getting into the industry is the never-ending lease application process. Most lease applications take years to complete. This bill seeks to expedite those leases that aren't protested and get them into production. Also, finding good locations to lease that don't have adjacent landowners is difficult. Mapping those areas adjacent to state-owned properties will assist growers in their search for new area to lease.

**MDFB Policy:** We recommend that greater attention and research be given to what is happening in the water column of the Bay itself. The filter feeders and small aquatic life will have to be a part of the long-term solution for the Bay cleanup.

We support the Maryland Aquaculture Coordinating Council's recommendations that provide science-based guidance on how aquaculture should be managed.

**MARYLAND FARM BUREAU SUPPORTS SB 437 & REQUESTS A FAVORABLE REPORT**

A handwritten signature in black ink, appearing to read "Colby Ferguson", with a long horizontal flourish extending to the right.

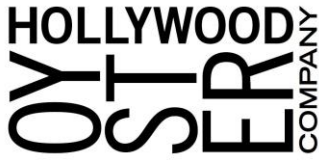
Colby Ferguson  
Director of Government Relations

*For more information contact Colby Ferguson at (240) 578-0396*

**SB 437 hollywood oyster testimony FOR.pdf**

Uploaded by: talmage petty

Position: FAV



Tal Petty, Founder/Farmer  
Hollywood Oyster Company  
44149 Tranquility Farm Ln  
Hollywood MD 20636

March 1, 2023

RE: SB 0437

Aquaculture - Tidal Fisheries Advisory Commission, Oyster Advisory Commission, and Leases

Hello and thank you for considering the subject Bill which Hollywood Oyster Company strongly supports.

Hollywood Oyster, Hollywood, St. Mary's County, MD employs 12 full time people and farms millions of oysters on 5 leases totaling almost 20 acres on the Patuxent River near Solomons Island.

We ship Maryland Farmed Oysters nationally under our Sweet Jesus and Hollywood Oyster brands.

We have invested heavily in a packing house, delivery truck and have thousands of grow cages. We commenced operations in 2010 as a result of the new aquaculture legislation and have tried to be a model participant.

When someone asks me what it's like to get an aquaculture lease in Maryland I put my fingers in the shape of a pistol and point it at my head.

It is not the paperwork or requirements - it is the length, process and distraction required to personally shepherd the paperwork through the steps – over years - to achieve progress/success.

The details of the bill are needed to support more leasing activity to grow the industry which also increases habitat diversity and their ecological benefits.

The additional seats on the Tidal Fisheries Advisory Commission is straightforward – oyster aquaculture is a significant and growing proportion of oysters harvested in Maryland and farmers are not close to proportionally represented.

Thank you for your attention.  
Grow more oysters!

Tal

# **Arundel Rivers Testimony FAV w Amend for SB437.pdf**

Uploaded by: Elle Bassett

Position: FWA



PO Box 760 Edgewater, MD  
21037

410-224-3802  
[www.arundelrivers.org](http://www.arundelrivers.org)

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**Testimony encouraging a FAVORABLE WITH AMENDMENTS report on Senate Bill 437  
– Aquaculture – Tidal Fisheries Advisory Commission, Oyster Advisory Commission, and  
Leases**

Education, Energy, and the Environment Committee  
March 2, 2023

Dear Chairman Feldman and Members of the Committee,

Thank you for the opportunity to submit testimony in **SUPPORT OF SB437**, on behalf of Arundel Rivers Federation. Arundel Rivers is a non-profit organization dedicated to the protection, preservation, and restoration of the South, West and Rhode Rivers with over 3,500 supporters. Our mission is to work with local communities to achieve clean, fishable, and swimmable waterways for present and future generations.

Arundel Rivers is a member of the Chesapeake Oyster Alliance, a broad coalition of non-profits, community organizations, oyster growers, academic institutions, and business owners with the shared goal of adding 10 billion oysters in the Bay by the year 2025. With a focus on expanding aquaculture, increased oyster restoration, and science-based fishery management, the Chesapeake Oyster Alliance aims to accelerate oyster recovery efforts and in so doing the recovery of the Chesapeake Bay.

Senate Bill 437 implements key regulatory reforms to help grow Maryland's aquaculture industry, including addressing lengthy lease processing timelines, lease protest procedures, and ensuring right-sized representation on advisory commissions. **Arundel Rivers strongly supports this bill with an amendment to maintain the number of watermen representation on advisory commissions in addition to adding the new representatives from the aquaculture industry.**

Arundel Rivers Federation encourages the expansion of aquaculture, a key component of long-term oyster recovery in the Chesapeake Bay, and respectfully requests a **FAVORABLE WITH AMENDMENTS REPORT on HB631.**

Sincerely,

A handwritten signature in cursive script that reads "Elle Bassett".

Elle Bassett  
South, West and Rhode Riverkeeper  
Arundel Rivers Federation



**SB0437\_DNR\_SWA\_EEE\_3-2-23.pdf**

Uploaded by: Emily Wilson

Position: FWA



Wes Moore, Governor  
Aruna Miller, Lt. Governor  
Josh Kurtz, Acting Secretary  
Allan Fisher, Deputy Secretary

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March 2, 2023

**BILL NUMBER: Senate Bill 437 – First Reader**

**SHORT TITLE: Aquaculture – Tidal Fisheries Advisory Commission, Oyster Advisory Commission, and Leases**

**DEPARTMENT’S POSITION: SUPPORT WITH AMENDMENTS**

**EXPLANATION OF DEPARTMENT’S POSITION:**

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The Department supports Senate Bill 437 with amendments.

The agency believes it is important to keep the integrity of each of its advisory commissions and committees. The Tidal Fisheries Advisory Commission (TFAC) advises the Department on commercial fishing issues, and the Oyster Advisory Commission (OAC) has historically advised the agency on oyster fishery management issues, including matters affecting the wild oyster population. The agency requests that TFAC and OAC not be altered away from its core functions, and supports the sponsor’s amendment to have the core membership, including commercial fishing licensees, of these commissions remain.

The Department also seeks amendments to clarify that the areas to be identified for aquaculture in the new proposed Natural Resources Article, Sec. 4-11A-04 are *submerged* lands adjacent to state-owned properties rather than the state-owned properties themselves. The Department further asks that the bill authorize the Department to determine if there are areas that would qualify as pre-approved areas adjacent to State-owned land rather than require them to be identified and that the new text is moved to its own statute, under Natural Resources Article, Sec. 4-11A-06.1. During the 2021 Legislative Session, the General Assembly repealed a similar statute that authorized the Department to create pre-approved areas for shellfish leasing called aquaculture enterprise zones because those areas were not successful. Amending this bill so as not to require the establishment of pre-approved areas will allow for the most thorough conversation to be had on the concept, and avoid unnecessary effort in the event the Department and its coordinating partners determine that the areas are not suitable for commercial aquaculture.

The Department also supports an amendment to add the authority to create a workgroup under the Aquaculture Coordinating Council to better facilitate communication between advisory groups.

The agency requests an amendment to specify that the 30-day requirement to advertise leases occur after the conclusion of the agency’s review process, so that there is adequate time for inter-agency reviews related to the completed application prior to advertising it. The Department finds informational meetings useful in providing the public with education about aquaculture and the

Contact: Emily Wilson, Director, Legislative and Constituent Services (Acting)  
[emilyh.wilson@maryland.gov](mailto:emilyh.wilson@maryland.gov) ♦ 410-260-8426 (office) ♦ 443-223-1176 (cell)

lease. Lastly, the Department requests that regulatory processes be considered under the suggested 180-day timeframe for lease issuance, as in certain cases, public shellfish fishery area declassifications would need to be made prior to a lease issuance.

We welcome the opportunity to continue working together with the sponsor and others to finalize amendments proposed on the bill.

**BACKGROUND INFORMATION:**

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None.

**BILL EXPLANATION:**

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The bill, as drafted, changes the membership of the Tidal Fisheries Advisory Commission and Oyster Advisory Commission. The bill also requires the Department to work with stakeholders, other agencies, and the U.S. Army Corp of Engineers to find land adjacent to waterways for aquaculture, and to expedite leasing approval times.

**SB0437-533527-01.pdf**

Uploaded by: Katherine Klausmeier

Position: FWA



**SB0437/533527/1**

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

09 FEB 23  
13:41:11

BY: Senator Klausmeier  
(To be offered in the Education, Energy, and the Environment  
Committee)

AMENDMENTS TO SENATE BILL 437

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 18, strike “and (2)”; and in line 23, strike “4–204(a)(3)” and substitute “4–204(a)(2) and (3)”.

AMENDMENT NO. 2

On page 2, in line 8, strike “16” and substitute “**18**”; in line 11, strike the brackets; in the same line, strike “**12**”; in lines 23 and 24, in each instance, strike the bracket; and in lines 24 and 25, strike “**THREE COMMERCIAL WATERMEN**”.

**SB0437-573029-01.pdf**

Uploaded by: Katherine Klausmeier

Position: FWA



**SB0437/573029/1**

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

16 FEB 23  
15:33:20

BY: Senator Klausmeier  
(To be offered in the Education, Energy, and the Environment  
Committee)

AMENDMENT TO SENATE BILL 437

(First Reading File Bill)

On page 3, in lines 16 and 18, in each instance, strike the bracket; and in lines 20, 24, 26, and 28, strike “**13.**”, “**14.**”, “**15.**”, and “**16.**”, respectively, and substitute “**14.**”, “**15.**”, “**16.**”, and “**17.**”, respectively.

# **SB437-FWA-AdvocatesForHerringBay.pdf**

Uploaded by: Kathleen Gramp

Position: FWA



Testimony of the Advocates for Herring Bay (AHB)<sup>1</sup>  
Regarding SB 437: Aquaculture  
Submitted by Kathleen Gramp, March 1, 2023  
*Favorable with amendments*

SB 437 would modify some of the procedures governing Maryland's oyster planning and management programs. While AHB is generally supportive of SB 437, we urge the Committee to amend the provision regarding requests for informational meetings on proposed aquaculture leases (page 5, lines 15-18).

Under SB 437, only persons who have a "specific right, duty, privilege, or interest that is different from that held by the general public" could ask the Department of Natural Resources (DNR) to hold informational meetings. Legal precedents suggest that that language could limit informational requests to those who have "standing" to protest the issuance of a lease because of their geographic proximity or other similar personal interests.<sup>2</sup>

Had the bill's limits been in effect in 2020, AHB may not have been allowed to request an informational meeting on an application for mechanical harvesting of a 31-acre tract that is integral to breeding habitat for terrapins, horseshoe crabs, and other fish and wildlife. Without the participation of groups like AHB in that proceeding, DNR may not have been alerted to the ecological consequences of mechanical harvesting in that specific area, or considered the restoration benefits of having the lessee plant diploid instead of sterile triploid spat on a site within the Herring Bay Oyster Sanctuary.<sup>3</sup>

There are no immediate substitutes for DNR's informational meetings. Under the current leasing process, the meetings are the only venue for the public to learn about a project's scope, timing, and method of operation. As shown in the attachment, public notices give the location of the lease but lack details about the applicant's plans for planting and harvesting oysters. There are no written environmental assessments.<sup>4</sup>

We recognize the need to expedite the approval process for aquaculture leases and avoid unnecessary delays. But we also believe that having an open and transparent decision-making process is key to sustainability of the aquaculture industry and the health of the Chesapeake Bay. We urge the Committee to amend the bill in a manner that will streamline the approval process while providing a venue for informed and substantive engagement with the public.

Thank you for considering our views.

## **Attachment**

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<sup>1</sup> The Advocates for Herring Bay, Inc. is a community-based environmental group in Anne Arundel County.

<sup>2</sup> See Elissa Torres-Soto, *A Comparative Analysis of Maryland's Public Participation Framework in Commercial Shellfish Aquaculture Leasing: Standing to Present Protests*, [Sea Grant Law & Policy Journal](#), Volume 11-1, August 2021, page 102.

<sup>3</sup> See [AHB Comments on Shellfish Aquaculture Lease Application #482, June 20, 2020](#).

<sup>4</sup> Action 7.0.2 in Maryland's 2019 Final Oyster Management Plan states that DNR will "Identify areas suitable for submerged land and/or water column leases that do not create adverse impacts to existing living resources."

**Example of a Public Notice for a Proposed Aquaculture Lease  
Application # 482, in the Herring Bay Oyster Sanctuary**

**Public Notice  
Maryland Department of Natural Resources  
Fishing and Boating Services  
Application for Shellfish Aquaculture Lease – Maryland Seafood Cooperative, Inc.**

The Secretary of Maryland Department of Natural Resources (DNR), pursuant to Natural Resources Article, §4-11A-09(g), Annotated Code of Maryland, is giving notice of an application for a shellfish aquaculture submerged land lease by Maryland Seafood Cooperative, Inc. in the Herring Bay oyster sanctuary, Anne Arundel County, Maryland, located approximately 1 mile northwest of Holland Point and 800+ feet south of navigation aid flashing red "2". The area applied for contains 31.2 acres more or less and is enclosed by a line beginning at corner 1, at or near Lat. 38° 44' 3.9" N., Long. 76° 32' 32.1" W., then running 295° 21' (True), approximately 308 meters to corner 2, at or near Lat. 38° 44' 8.2" N., Long. 76° 32' 43.6" W., then running 315° 38' (True), approximately 290 meters to corner 3, at or near Lat. 38° 44' 14.8" N., Long. 76° 32' 52.1" W., then running 56° 5' (True), approximately 229 meters to corner 4, at or near Lat. 38° 44' 19.0" N., Long. 76° 32' 44.3" W., then running 122° 50' (True), approximately 405 meters to corner 5, at or near Lat. 38° 44' 12.0" N., Long. 76° 32' 30.0" W., then running 191° 13' (True), approximately 254 meters to the point of beginning.

The applicant proposes to deposit oyster shell and spat-on-shell as needed within the given area to a maximum depth of 3 inches for the purpose of culturing Eastern Oyster (*Crassostrea virginica*), and to harvest using methods approved by the Department. A map of the proposed lease is available on the Fishing and Boating Services Public Notice web page, [dnr.maryland.gov/Fisheries/Pages/Pub\\_Notices.aspx](http://dnr.maryland.gov/Fisheries/Pages/Pub_Notices.aspx).

The Department will hold a public informational meeting upon written request from a member of the public. In addition, any person who has a specific right, duty, privilege, or interest that is different from that held by the general public and may be adversely affected by the proposed lease may file a Petition of Protest with the Department. Petitions that meet the requirements of Natural Resources Article §4-11A-09(g) shall be forwarded to the Office of Administrative Hearings for adjudication. Comments, written requests for public informational meetings, and/or Petitions of Protest must be received by the Department of Natural Resources Aquaculture and Industry Enhancement Division 580 Taylor Avenue E-4 Annapolis, MD 21401 by June 15, 2020. For questions about the project or the public notice please contact Rebecca Thur at the DNR Aquaculture and Industry Enhancement Division at [rebecca.thur@maryland.gov](mailto:rebecca.thur@maryland.gov) or 410-260-8252.

**Jeannie Haddaway-Riccio, Secretary  
Maryland Department of Natural Resources**

**Bill 437.pdf**

Uploaded by: Herman Harrison

Position: UNF

SB Bill 437 will undermine any cooperation we have made amongst all stakeholders. What happened with the consensus process that led us to achieve cooperation in the Eastern Bay project? The aquaculture industry already has its own committee, the Aquaculture Coordinating Council. Looks to me that this is an agenda to undermine the public fisheries by removing their seat at the table. Everything is going well for the public fishery because this year we have a complete fishery; thanks to the abundance of oysters everyone catches their daily limit. Maybe the Aquaculture Coordinating Council needs more public fishery people on it?

As for the pre-approved lease bottom, I agree that it would help to speed up the leasing process. However, this process only works when those whose livelihood or land value that are directly affected are involved in the decision making. In addition, this bill also takes away these stakeholders First Amendment right to protest.

For these reasons I would ask for an unfavorable vote on this bill.

Jeff Harrison  
President Talbot Watermen Association