



CHESAPEAKE BAY FOUNDATION

Environmental Protection and Restoration
Environmental Education

House Bill 932

Oysters – Rotational Harvest – Pilot Program

Date: March 1, 2023
To: Environment & Transportation Committee

Position: **OPPOSE**
From: Allison Colden, Sr. Fisheries Scientist

Chesapeake Bay Foundation (CBF) **OPPOSES** HB 932 which directs the Department of Natural Resources (DNR) to establish a ‘pilot program’ to allow harvesting of oysters in 47,705 acres of protected oyster sanctuary. This includes harvest in the Little Choptank River, one of Maryland’s five oyster restoration sanctuaries, which has received significant federal and state investment to fulfill Maryland’s obligation to restore oysters in five tributaries by 2025 per the 2014 Chesapeake Bay Watershed Agreement.

House Bill 932 establishes a pilot program for harvesting in two oyster sanctuaries, the Little Choptank River and Lower Mainstem oyster sanctuaries. Sanctuaries, by their statutory and regulatory definition, are areas where oyster harvest is not permitted. The reason for establishing these no-harvest areas is the recognition by DNR and the greater scientific community that no-harvest areas are a critical management tool for protecting habitats and reproductive populations in exploited species.¹

According to DNR, “protection of... productive oyster bottom is in line with recommendations of the best available science and is a prudent step toward ensuring the long-term sustainability of Maryland’s oyster resource.”² Further, DNR states the purpose of sanctuaries is to “protect broodstock, enhance natural recruitment, encourage disease tolerance through natural selection, and provide ecological services such as water filtration and habitat for other species.”³ Thus, oyster sanctuaries serve a fundamentally different purpose from harvest areas. Mandating that oyster harvest take place in oyster sanctuaries is in direct conflict with their objectives and presents legal concerns with the implementation of such programs.

Since 2014, the Little Choptank River has been the focus of large-scale oyster restoration efforts carried out by state and federal partners. To date, more than 1.78 billion oysters have been planted on 358 acres at a cost of nearly \$24 million, making the Little Choptank River the largest oyster restoration project in the world. More than 66 million of these oysters were planted by CBF’s Maryland Oyster Restoration Program.

This investment has already resulted in significant improvements in oyster population density and habitat, with 100% of restored reefs meeting restoration metrics for oyster density and biomass, age diversity of oysters, and reef footprint. While initial construction was completed in 2020, monitoring of restored reefs and maintenance plantings are still ongoing. In 2019, in recognition of the significant investment in restoration and the requirements of the 2014 Chesapeake Bay Watershed Agreement, the Maryland General

¹ World Conservation Union (IUCN) (2004). The Durban Action Plan March 2004. Available [online](#).

² Maryland Department of Natural Resources. (2016). Rationale for Maryland’s Oyster Sanctuary Range of 20-30%. Available [online](#).

³ Maryland Department of Natural Resources (2019). Maryland Chesapeake Bay Oyster Management Plan. Available [online](#).

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

Assembly established statutory protection for the Little Choptank River oyster sanctuary along with the other four restoration tributaries.

The other sanctuary targeted by HB 932, the Lower Mainstem oyster sanctuary, while not a focus of large-scale restoration, has benefitted significantly from the removal of harvest pressure. Since its designation as a sanctuary in 2010, the density of live oysters has increased, and oyster mortality has decreased.⁴ Critically, this sanctuary overlaps with harvest areas in Tangier Sound, which continue to experience overfishing.⁵ During the 2021-2022 oyster fishing season, more than 50% of all oysters harvested (~250,000 bushels) were removed from Tangier Sound.⁶ Therefore, the Lower Mainstem oyster sanctuary serves as an important insurance policy against overharvest in these areas.

Implementing rotational harvest in the Little Choptank and Lower Mainstem oyster sanctuaries would directly contradict several provisions of the 2019 Maryland Oyster Management Plan. Neither sanctuary meets the criteria for reduction in size or declassification, as both are functioning sanctuaries that have experienced significant increases in oyster biomass since their designation. Additionally, removing sanctuary protections for these areas would result in a reduction in the number of Maryland's 'best bars' that are included in sanctuaries to less than 50%, undermining a primary objective of the management plan.⁷

Meanwhile, 76% of Maryland's oyster bottom is currently open to oyster where such pilot programs could be easily and immediately implemented. Because DNR can open and close harvest bars via public notice, a rotational harvest pilot program like that prescribed by HB 932 could be initiated in any area currently open to oyster harvest in 48 hours and would be consistent with the goals of the oyster management plan.

CBF urges the Committee's UNFAVORABLE report on HB 932.

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

⁴ Maryland Department of Natural Resources. (2021). Oyster Management Review 2016-2020. Appendix A – Characterization of Individual Sanctuaries. Available [online](#).

⁵ Wilberg, Michael. (2021) Maryland Oyster Stock Assessment Update 2021. Presentation to the Oyster Advisory Commission. June 8, 2021. Slides available [online](#).

⁶ Baxter, Jodi. (2022). 2021-2022 Commercial Public Fishery Oyster Season Harvest Analysis. Presentation to the Oyster Advisory Commission. June 14, 2022. Slides available [online](#).

⁷ Maryland Department of Natural Resources. (2021). Oyster Management Review 2016-2020. Available [online](#).