

PARKS AND WILDLIFE CODE
TITLE 5. WILDLIFE AND PLANT CONSERVATION
SUBTITLE D. CRUSTACEANS AND MOLLUSKS
CHAPTER 75. CULTIVATED OYSTER MARICULTURE

Sec. 75.0101. DEFINITIONS. In this chapter:

(1) "Broodstock oyster" means an oyster collected for the purpose of growing cultivated oysters.

(2) "Cultivated oyster" means an oyster grown at any point in the life cycle of the oyster in or on an artificial structure suspended in the water or resting on the bottom.

(3) "Cultivated oyster mariculture" means the process of growing cultivated oysters.

(4) "Natural oyster bed" has the meaning assigned by Section 76.001.

(5) "Oyster" means the Eastern oyster and the subspecies of the Eastern oyster.

Added by Acts 2019, 86th Leg., R.S., Ch. 174 (H.B. 1300), Sec. 4, eff. September 1, 2019.

Sec. 75.0102. APPLICABILITY; CONFLICT OF LAWS. (a) A structure used to grow oysters that is part of a cultivated oyster mariculture operation is not a natural oyster bed or a private oyster bed and is not subject to location requirements under Subchapter A, Chapter 76.

(b) The licensing and permitting requirements of Subchapters B, C, and F, Chapter 76, do not apply to activity carried out under a cultivated oyster mariculture permit issued under this chapter.

(c) A regulation adopted under Section 76.301 does not apply to an activity carried out under a cultivated oyster mariculture permit issued under this chapter.

(d) A rule or proclamation issued under this section prevails to the extent of conflict over a rule or proclamation issued under:

- (1) Chapter 61; or
- (2) Chapter 76.

(e) Section 2001.0045, Government Code, does not apply to rules adopted under this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 174 (H.B. 1300), Sec. 4, eff. September 1, 2019.

Sec. 75.0103. CULTIVATED OYSTER MARICULTURE PROGRAM. (a) The commission shall adopt rules to establish a program governing cultivated oyster mariculture.

(b) Rules adopted under the program may establish requirements for:

(1) the location and size of a cultivated oyster mariculture operation;

(2) the taking, possession, transport, movement, and sale of cultivated oysters;

(3) the taking, possession, transport, and movement of broodstock oysters;

(4) marking structures for the cultivation of oysters in a cultivated oyster mariculture operation;

(5) fees and conditions for use of public resources, including broodstock oysters and public water; and

(6) any other matter necessary to implement and administer this chapter.

(c) The department shall coordinate with the Department of Agriculture, the Department of State Health Services, the General Land Office, and the Texas Commission on Environmental Quality in the adoption of rules under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 174 (H.B. 1300), Sec. 4, eff. September 1, 2019.

Sec. 75.0104. CULTIVATED OYSTER MARICULTURE PERMIT REQUIRED. (a) No person may engage in cultivated oyster mariculture without first having acquired a cultivated oyster mariculture permit.

(b) The commission shall adopt rules to implement this section. Rules adopted under this section may establish requirements for:

(1) permit applications and application fees;

(2) criteria for the approval, transfer, revocation, and suspension of permits; and

(3) procedures for hearings related to a permit.

Added by Acts 2019, 86th Leg., R.S., Ch. 174 (H.B. 1300), Sec. 4, eff. September 1, 2019.

Sec. 75.0105. DEPOSIT AND USE OF FEES; CULTIVATED OYSTER MARICULTURE CLEANUP SUBACCOUNT. (a) Except as provided by Subsection (c), fees collected under this chapter shall be deposited to the credit of the game, fish, and water safety account.

(b) The cultivated oyster mariculture cleanup subaccount is a subaccount in the game, fish, and water safety account. The subaccount consists of money deposited to the subaccount under this section.

(c) The department shall set aside 20 percent of the fees collected under this chapter. That money shall be deposited to the credit of the cultivated oyster mariculture cleanup subaccount in the game, fish, and water safety account and may be used only for the cleanup of illegal or abandoned cultivated oyster mariculture equipment and related debris in public water.

Added by Acts 2019, 86th Leg., R.S., Ch. 174 (H.B. 1300), Sec. 4, eff. September 1, 2019.

Sec. 75.0106. PROHIBITED ACTIONS. (a) No person may sell or barter, or offer to sell or barter, a cultivated oyster, except as authorized by this chapter.

(b) No person may place a cultivated oyster in a natural oyster bed or private oyster bed.

(c) In this subsection, "coastal public land" has the meaning assigned by Section 33.004, Natural Resources Code. Regardless of whether a person holds a permit under this chapter, no person may place a structure related to cultivated oyster mariculture on coastal public land unless the person first obtains a lease or easement under Chapter 33 or 51, Natural Resources Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 174 (H.B. 1300), Sec. 4, eff. September 1, 2019.

Sec. 75.0107. PENALTIES. (a) For purposes of this section, "final conviction" includes a plea of guilty or nolo contendere to or the imposition of deferred adjudication or deferred disposition for an offense.

(b) A person who violates Section 75.0104(a) or 75.0106 or a rule adopted under this chapter commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

(c) If conduct constituting an offense under this section also constitutes an offense under Section 33.112, Natural Resources Code, the actor may be prosecuted under this section, Section 33.112, Natural Resources Code, or both.

Added by Acts 2019, 86th Leg., R.S., Ch. 174 (H.B. 1300), Sec. 4, eff. September 1, 2019.

Sec. 75.0108. COMMERCIAL OYSTER MARICULTURE ADVISORY BOARD.

(a) In this section, "advisory board" means the commercial oyster mariculture advisory board established under this section.

(b) The commercial oyster mariculture advisory board is established within the department to advise all state agencies with regulatory authority over the commercial oyster mariculture industry.

(c) The advisory board consists of seven members appointed by the governor as follows:

(1) four members must:

(A) represent the commercial oyster mariculture industry, seafood industry, or related industries; and

(B) have a documented interest in the promotion of entrepreneurship, free enterprise, and the increased use, consumption, marketing, and sale of native oysters in this state; and

(2) three members must:

(A) represent the scientific and conservation community in this state; and

(B) have a documented interest in the sustainability of the natural coastal environment of this state.

(d) At least one advisory board member must be a member of the department's oyster advisory workgroup.

(e) Advisory board members serve staggered five-year terms, with the terms of one or two members expiring February 1 of each year.

(f) If a vacancy occurs on the advisory board, the governor shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term.

(g) The governor shall designate an advisory board member described by Subsection (c)(1) to serve as the advisory board's presiding officer for a one-year term. The presiding officer may vote on any matter before the advisory board.

(h) Advisory board members serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing official duties authorized by the office of the governor.

(i) The advisory board shall make recommendations to the governor and all relevant agencies concerning the commercial oyster mariculture industry, including recommendations regarding:

(1) the promotion of the use, consumption, marketing, and sale of maricultured oysters;

(2) the promotion of sustainable commercial oyster mariculture; and

(3) commercial oyster mariculture permits and regulations.

(j) In performing the advisory board's duties under this section, the advisory board may consult with:

(1) industry and academic resources; and

(2) agencies of this state and the United States, including the:

(A) department;

(B) General Land Office;

(C) Department of State Health Services, including the seafood and aquatic life unit;

(D) National Marine Fisheries Service;

(E) United States Army Corps of Engineers; and

(F) United States Coast Guard.

(k) Chapter 2110, Government Code, does not apply to the advisory board.

Added by Acts 2023, 88th Leg., R.S., Ch. 230 (H.B. [1809](#)), Sec. 1,
eff. May 27, 2023.