



## **Application for a Cultivated Oyster Mariculture Nursery-Hatchery Permit**

Applicants are strongly encouraged to coordinate with Texas Parks and Wildlife Department (TPWD) before completing the natural resource survey and Cultivated Oyster Mariculture (COM) permit application. During this pre-application coordination, TPWD will evaluate your proposed site using the department's Spatial Planning Tool, which can help avoid investing effort into a site that may be denied during the permitting process.

The application process should be considered a two-step process, first step to get a Conditional Permit and second step to get the Final Permit. If you have questions about the application or permitting process, please email us at [oyster.mariculture@tpwd.texas.gov](mailto:oyster.mariculture@tpwd.texas.gov)

### **Step 1 – Conditional Permit**

- Select your site (again, we encourage you to consult with TPWD).
- Conduct the Natural Resources Survey of proposed site, if needed.
- Prepare your Operations Plan and maps.
- Apply on-line and submit a non-refundable COM Application Fee (\$200):
- Upon receipt of application documents and fee, a TPWD COM Official will review the application and get in-touch with you about any changes or clarifications needed.
- If any part of your location is located in Public Waters a public meeting will be held by TPWD to provide an opportunity for public comments regarding the proposed oyster mariculture site. The meeting will be held in the municipality closest to the proposed site and/or virtually.
  - Information on the meeting will be made available through the posting of site-specific information on the TPWD web site.
  - The applicant must also post a meeting announcement in a local newspaper at their own cost and provide proof of doing so to TPWD.
- If your location is not in public waters the applicant must still post a public notice of the application in a local newspaper at their own cost and provide proof of doing so to TPWD.
- After the review and consideration of public comments, applicants will be issued a Conditional Permit that authorizes them to proceed to the second step in the application process.
- Construction and COM activities are NOT allowed until the Final Permit has been issued.

## Step 2 – Final Permit

- Step two of the process involves obtaining any required permits, leases, and/or written approvals for conducting oyster mariculture activities from other agencies (see below). Many of the agencies will ask you to provide a copy of your Conditional Permit to issue your documents.
- When you have acquired an appropriate documentation you will submit it via the on-line application portal.
- After all the documents have been submitted and the department has reviewed them, applicants will be notified, in writing, of their permit approval.
- The first year's annual permit fee will be due at this time (see fee schedule below).
- Once payment is received you will be issued a copy of your permit and boat plates mailed to you.

## Annual Permit Fees (paid yearly on your issuance date)

### Nursery-Hatchery site

- \$170 per acre in public waters + \$0.010 per square foot surcharge (\$435.60 per acre per year)
- \$170 per acre on private property

## Non-TPWD Authorizations

Final authorization of the COM Permit is contingent upon receiving the appropriate permits, leases and/or written authorization for oyster mariculture activities from the following agencies (*These documents should be obtained **after the Conditional TPWD COM permit is issued***):

- Texas General Land Office Lease (Surface Lease, Commercial Pier Lease, etc.):
- Texas Commission on Environmental Quality – wastewater Aquaculture General Permit TXG130000 Authorization (For exempt and Level 1 facilities a copy of completed and signed Notice of Water Quality Authorization form)
- Texas Commission on Environmental Quality – water rights (Completed and signed Exempt Mariculture Operation Form 10219, if pumping water)
- Texas Department of State Health Services – Shellfish Certification, if acquiring
- U.S. Army Corps of Engineers – For any in-water work or structures necessary to the cultivation of oysters, please review the terms and conditions of NWP 48 for potential authorization. For land-based facilities, you may or may not need an authorization from the Corps depending on the type of activity and impacts to aquatic resources. You may find information on the Corps' Regulatory program and contact information on the Galveston District's website at <https://www.swg.usace.army.mil/Missions/Regulatory/Permits/>
- U.S. Coast Guard Private Aids to Navigation Marking Determination, if any of your structures are in navigable waters

## Agency Contacts

- Texas General Land Office
  - o Permitting Assistance
    - [Permitting.assistance@glo.texas.gov](mailto:Permitting.assistance@glo.texas.gov)
    - 866-894-7664 (Toll Free)
  - o Programmatic Questions
    - Danielle DeVacque
    - 361- 886-1611
    - [Danielle.DeVacque@glo.texas.gov](mailto:Danielle.DeVacque@glo.texas.gov)
  
- Texas Department of State Health Services
  - o Seafood and Aquatic Life Group
    - [Seafood.Regulatory@dshs.texas.gov](mailto:Seafood.Regulatory@dshs.texas.gov)
    - 512-834-6757
  
- Texas Commission on Environment Quality
  - o Wastewater
    - Mónica Vallin-Báez
    - Industrial Wastewater Permits Team - Water Quality Division 512-239-5787
    - [Monica.baez@tceq.texas.gov](mailto:Monica.baez@tceq.texas.gov)
  - o Water Rights
    - Chris Kozlowski
    - Water Rights Permitting Team - Water Availability Division 512-239-4691
    - [Chris.kozlowski@tceq.texas.gov](mailto:Chris.kozlowski@tceq.texas.gov)
  
- U.S. Army Corps of Engineers
  - o Regulatory Email: [CESWGRRegulatoryInbox@usace.army.mil](mailto:CESWGRRegulatoryInbox@usace.army.mil)
  - o Upper Coast Applicants: 409-766-3869
  - o Lower Coast Applicants: 361-814-5847
  
- U.S. Coast Guard
  - o Timothy Boriskie
    - Private Aids to Navigation
    - [D8oanPATON@uscg.mil](mailto:D8oanPATON@uscg.mil)

# Cultivated Oyster Mariculture Nursery-Hatchery Application Elements

## APPLICANT AND SITE INFORMATION

You will need to provide information about yourself and business including date of birth, Social Security number, Driver's License number, e-mail address, primary phone number, mailing address, and Facility/Business name.

For the proposed site you will need to know the bay system, Shellfish Harvest Area, closest town, county, and how many acres in Public Waters and on Private Land. You will also have to enter the corner coordinates of your proposed location (in decimal degrees with a minimum of five decimal places).

## OPERATIONS PLAN

Please attach a detailed operations plan for your facility. In the plan, make sure the following items are addressed. Indicate where an item is address by putting (Item X) by those sentences or area of the plan. *Example: Our water source will be public waters from Copano Bay, TDSHS harvest area TX-32, which are classified as Approved (Item 2).*

1. Provide an overhead site map of the proposed hatchery of all infrastructure (buildings, bay water intake/out-flow lines, any outdoor tanks, etc.) maintained on both private property and within public waters. Use a map background of either the County Appraisal District map, NOAA chart, aerial imagery (Google Earth Image), or topographic map, with a maximum scale of 1:24,000 (USGS Quad Sheet). The map should show the location of the proposed permit area and the surrounding waters and adjacent properties. Mark the entire boundary, including the corner GPS coordinates, of your proposed permitted area on the map, ensuring that the area is easy to identify.
2. Describe the source of water to be used in the hatchery (e.g., public waters or other). If intake source is from public waters, please list the TDSHS shellfish harvest area and classification of the water source. Include details of any intake water treatment process or method.
3. Provide a diagram and a detailed description of any water intake or discharge structures coming from or going to public waters. Include a description of all pipe and infrastructure dimensions, materials, and installation plans (e.g., floating vs resting on bottom).
  - a. Describe how you will ensure these structures will not negatively impact

seagrasses (if present).

- b. Describe how water intake will not result in impingement/entrainment of larval fish, including a description of intake water velocity and intake screen mesh size.
4. Provide a diagram and a detailed description of any other structures not related to water intake and discharge, such as broodstock holding pens, cages, floats, etc., that will be placed in public waters. Include a list of gear, including dimensions, make, and model #, that will be placed in public water, as well as a description of how the gear is configured and operated.
  - a. How much area (square feet) will these structures encompass?
5. Describe your wastewater discharge plans and include diagrams/schematics. Describe if/how wastewater will be treated, and how you will ensure discharge will not introduce disease/contaminants into public waters.
6. For any product grown or stored in public waters or open (uncovered/covered) systems, describe mitigation or deterrent measures to minimize the potential health and safety contamination impact of birds and/or marine mammals.
7. Provide schematics of the tank and water systems used for spawning, growing, and storing oysters.
  - a. Describe where and how broodstock will be held.
  - b. If you are using any recirculation systems, describe if/how that water will be treated to reduce levels of microorganisms.
8. Describe how you will handle lot or life stage separation (either temporally or physically).
9. List all genetic variants and broodstock origins (including state of origin, or bay of origin if from Texas) of *Crassostrea virginica* that will be cultured and describe how you will ensure that oyster product from differing broodstock regions will not comingle.
10. Describe how you will dispose of your broodstock when they are no longer used for production.
11. List any other species that will be cultured in the proposed nursery-hatchery.
12. Describe how you will test for disease (what methods and how often), and your quarantine procedures if disease is detected.
13. Describe how you will assure that no poisonous or deleterious substances are introduced into your culture activities? *The National Shellfish Sanitation Program*

*defines as: **Poisonous or Deleterious Substance** means a toxic substance occurring naturally or added to the environment for which a regulatory tolerance limit or action level has been established in shellfish to protect public health.*

14. Describe how you will maintain sanitation, maintenance, and hygiene in your facility (e.g., footbaths, equipment separation, equipment cleaning).
15. If your location is in or uses Prohibited or Unclassified waters, describe what you will do with oyster seed over 1" (according to Texas Administrative Code Ch. 58, SubCh. E, all oyster hatcheries operating in restricted waters must depurate oysters once they reach 1" in approved waters).
16. If your location is in or uses non-restricted waters, describe what you will do with oysters over 2.5" (note that a nursery/hatchery permit does not authorize you to sell oysters over 2.5", Texas Administrative Code Ch. 58, SubCh. E).
17. Describe how you will maintain records on your broodstock, batches of seed, sale of seed, and any disease testing conducted.

Additional items to be aware of—

- Broodstock and seed from out of region in Texas will be treated the same as out-of-state and be subject to those disease testing protocols when bringing in the broodstock and selling the oyster seed.
- All food used for production must be cosmopolitan species or species that are native to the Texas coast.
- If your facility uses water from Prohibited or Unclassified areas you are subject to requirement for Land-Based Aquaculture, that includes water quality monitoring (see NSSP Chapter VI section .05, pp 65-66).
- You will also need to contact the Texas General Land Office, Texas Commission on Environment Quality, Texas Department of State Health Services, U.S. Army Corps of Engineers, and U.S. Coast Guard for additional permits once you have a conditional permit from TPWD.

## NATURAL RESOURCE SURVEY

A Natural Resource Survey may be required in the water around the proposed location of inflow/outflow pipes and structures. If you are proposing to have any holding cages in the water, a survey will be required in those areas. Please consult with a TPWD COM Program Official as to what your survey requirement will be. Failure to conduct any required surveys prior to your application may result in increased processing times as you might have to conduct a survey before an application can be fully processed. The Natural Resource Survey

is designed to verify that the proposed permit area does not contain sensitive habitat such as seagrass, oyster habitat, etc. Survey protocols and required deliverables can be found in the Natural Resource Survey PDF on the Texas Cultivated Oyster Mariculture website:

[https://tpwd.texas.gov/fishboat/fish/commercial/com\\_cf/com\\_index.phtml](https://tpwd.texas.gov/fishboat/fish/commercial/com_cf/com_index.phtml)

Create a summary of survey findings document that includes:

- Who collected the data
- What date/time the data were collected
- What the environmental conditions were at time of collection (wind speed, wave height, rainfall, etc.)
- What type of equipment was used to collect the data and any appropriate specifications
- The horizontal datum used for all spatial data and/or GPS coordinates
- A narrative description of the general conditions at the site (including water depth), as well as a report of how many samples contained shell or seagrass materials, and the general location within the site where these materials were found.

Once you submit your application you will be contacted by a TPWD COM Official and given a link to up-load full survey files.

# Application Submission Checklist

**Please note:** This checklist is provided for the applicant's reference

## I. Content

- \_\_\_\_\_ Applicant and Site Information
- \_\_\_\_\_ Maps
  - \_\_\_\_\_ Site Layout Overhead View Map, with site boundaries marked, surrounding waters, and adjacent properties
- \_\_\_\_\_ Operations Plan
  - \_\_\_\_\_ Make sure all items are addressed and labeled in document
  - \_\_\_\_\_ Include appropriate diagrams
- \_\_\_\_\_ Summary of Findings from Natural Resource Survey (if needed)

## II. Formatting

- \_\_\_\_\_ Preferred file types for your narrative documents are PDF (if using Word you can Save As a PDF)
- \_\_\_\_\_ Files must be under 10MB each. If your files size cannot be reduced or broken up into two files, you will be able to upload at the same link we provide you for your Natural Resource Survey files
- \_\_\_\_\_ Give files clearly labeled names.