

Stephanie Otts: Well, good afternoon everyone. Just want to give folks another minute to complete log in, but my name is Stephanie Otts. I'm the Director of the National Sea Grant Law Center.

Stephanie Otts: I want to welcome everyone to our Shellfish Aquaculture Webinar Series. Today is our second webinar in the series, and we'll be discussing the evolving regulatory structure for shellfish aquaculture in several states. So, thanks everyone for joining us today.

Stephanie Otts: A bit of housekeeping, if you have any questions throughout the webinar, feel free to type your question into the chat box, and then our speakers can address them at the end of the presentation.

Stephanie Otts: Before I turn it over to our presenters today, I did want to briefly give a little bit of background for the webinar series and the project. So, this arises out of a NOAA Sea Grant funded project, Overcoming Impediments to Shellfish Aquaculture, that the National Sea Grant Law Center and a team of collaborators received in 2017, and the overall objective of the project was to do legal research to identify challenges or barriers to shellfish aquaculture on the law and policy side. And, we did this by developing eight case studies from around the country, and the webinar series is sharing the results and highlighting the research that was done to prepare those case studies.

Stephanie Otts: Just wanted to highlight the members of the project team. So, it does involve collaborations in Sea Grant throughout the country, including the Rhode Island Sea Grant Legal Program at Roger Williams School of Law, the Georgia Sea Grant Legal Program, which is based at the University of Georgia, the Carl Vinson Institute of Government in partnership with Georgia Sea Grant, California Sea Grant, and the William and Mary Law School, which has a partnership with Virginia Sea Grant, and then the National Sea Grant Law Center.

Stephanie Otts: If you're interested in more about the overall project, and to get copies of our case studies and the final report, we do have a project website. You can get to it by Googling the National Sea Grant Law Center and navigating to "Projects" from our home page, or you can follow the link at the bottom of this slide.

Stephanie Otts: And, we are recording the webinar, and we will make it available on our website for viewing afterwards if you have colleagues that are not able to join us today but might be interested.

Stephanie Otts: And, then just to briefly touch on our upcoming webinar if you're interested, and we'll come back to this. We do have three webinars happening in August. You can register at the same website where you registered for today's webinars. And, with that, I want to turn it over to our first presenter, Shana Jones.

Shana Jones: So, my name is Shana Jones, and I direct the Georgia Sea Grant Law program, and we're here today to talk about some exciting things that are happening with Georgia oysters. So, again, Stephanie did a great job of introducing us, but I am Public Service Faculty at the University of Georgia, and with me is Chris Bertrand. He'll be speaking later, and he's a second year law student at the University of Georgia School of Law, and he is a Georgia Sea Grant Law Fellow.

Shana Jones: So, a little bit of background about oysters on the Georgia coast. You know, the Georgia coast is only 100 miles long, but we have a third of the East Coast's salt marshes, and our marshes stretch in a band four to six miles wide. And, so our DNR estimates that the state has more than 378,000 acres of salt marsh, so while we are, perhaps, small in length if you drive on I-95, we are a little bit more mighty than it might first appear. And, it's a tremendous resource.

Shana Jones: And, something else to know about Georgia that is distinctive and beautiful is that we have a large, what they call, a large tidal amplitude. And, this means that twice a day the tides along the coast rise and fall six to eight feet, and this allows some unique ecosystems to exist, such as the salt marshes that you see here. And, it also results, and we'll talk about this a little bit more, in oysters that group in clumps.

Shana Jones: It's a very productive ecosystem. This tidal amplitude provides a lot of food and nourishment to our oysters, so they grow really great. But, they grow like you see in the bottom picture, in clumps, and it's brittle, and they're difficult to harvest for on the half shell.

Shana Jones: Another thing you all may not know if you're not from Georgia is that Georgia has a tremendous history of oystering, and until the 1930s we actually led the country with 13 canneries. And, that has changed, obviously. Over-harvesting and market changes led to a decline, and while the clumped oysters are wonderful to steam, and they're great to eat, and they're great for canning, the tastes have changed. People don't eat as many canned oysters as they used to. They eat them on the half shell. This leads us to where we're going.

Shana Jones: So, clustered oysters, which are what we have naturally in Georgia, are perfect for backyard roasts; they grow in clumps; they have brittle, sharp, elongated edges, and they're relatively inexpensive to buy. And, this data may be a little old, but this is from our Coastal Resources Division. The cost is estimated \$35 to \$60 a bushel. Single oysters, which is actually what most people think of oysters when they eat them, are attractive for fine dining; they grow separately as individuals; they have smoother edges, and they are worth more, maybe \$200 a bushel. They're expensive comparatively.

Shana Jones: Only aquaculture allows for these more lucrative half shells. So, there's a little data there. Before we move into where we're going to get to those half shells in Georgia, let me just give an overview of our general regulatory framework. And,

so, this is probably straight ahead in most places, but first you have to be in approved shellfish water under the National Shellfish Sanitation Program. You have to have a right to harvest those oysters. You have to qualify for a Master Harvester Permit, and then you have to have a series of license and certificates. And, we'll talk about all of these.

Shana Jones: So, in approved shellfish water, you know, this is just... You all are probably very familiar with this as all the states are under the National Shellfish Sanitation Program, but this is for public health reasons. And, in our state, the Georgia Coastal Resources Division, which is part of the DNR, verifies whether these particular waters are approved. And, they do things like monitor fecal coliform levels for at least 30 months.

Shana Jones: The second thing that in order to harvest oysters in Georgia, you have to have a right to the oysters in the beds. And, these are some overviews, and we'll show a picture, because sometimes pictures are easier to understand. But, in Georgia, Georgia's tidewater beds are either state or private property. The person must have the right to the oysters in the water beds, and they have to validate this right. And, if the person owns land...

Shana Jones: Everybody may want to mute their phones if you haven't. That might help with some of the feedback.

Shana Jones: Back to this. If a person owns land adjacent to private or state water bed, he or she holds the right to harvest oysters from that bed. And, if you don't own the land, you must enter into a lease agreement.

Shana Jones: So, let's look at a picture that we put together as part of this project to describe these property rights, because having a right is in some ways very related... It's a property right related to harvesting oysters. So, if you look at here, this is where the oysters grow naturally in Georgia. They grow in what is called the foreshore in inner tidal areas, and this is between the mean high watermark and the mean low watermark. And, there's various laws in Georgia that describe who owns this. And, what's interesting is that this picture looks complicated, because having rights does not always correspond with who owns it.

Shana Jones: So, the state can own, if you will, the foreshore, and it could also, if there's a stream, private property owners actually own the foreshore. But, both for streams and both for tidewater areas, the adjacent owner, who would live in the uplands, has a right to those oysters. So, what this does... This doesn't mean this person owns this property. What it means is that adjacent landowner has rights to harvest these oysters, and this person could enter an agreement with someone else, a lease, to harvest these oysters.

Shana Jones: This area, because its beyond the mean low watermark; the tides move back and forth, but it's never exposed to air. This is the water bottoms. The water

bottoms are owned by the state. Now, in Georgia, and this may be true in other eastern states, there's what's known as King's Grants, which if you can trace your title all the way back to when the king was issuing grants before Georgia became a state, you may actually have ownership over these water bottoms. But, for simplicity's sake, generally the state has ownership of the water bottoms.

Shana Jones: So, with that, those are related more to the property rights and who gets the right to harvest these oysters, but the same terms when it comes to permitting, which we'll talk about soon, are for these same areas. So, traditionally in Georgia, the only area where folks harvested was the intertidal area, that foreshore area. The new law, which was passed this year, relates to the subtidal area, the area where the state has complete ownership for the most part, where the waters are navigable, and where people want to put cages.

Shana Jones: So, that's the background and the overview. I'm going to talk a little bit more and then pass it on to Chris, but we had some very important changes, House Bill 501. It amends the Seafood Article, Title 27, which is Game and Fish. And, these are a lot of words. This is the Legislative Intent, but it's really important to take a look at the Legislative Intent, because it very much informs how the law is structure and how it will be implemented.

Shana Jones: So, some words I would like to point out or just emphasize, is that when the legislature passed this, they're very interested in increased seafood production, very interested in economic development, very interested in increased ecological benefits. Oysters are great filter feeders. This is good for habitat. But, also, in this Legislative Intent, you'll notice there are two mentions of public health, so the General Assembly wants balance with public health, and they also are interested in balancing this, making sure it's compatible with the environment, as well as other public uses: navigation, fishing, swimming, and recreation.

Shana Jones: And, so in this Legislative Intent, we have moved from the foreshore, from intertidal areas. We are out in the water, and because of that the legislature is charging the CRV when they implement this to consider all of these factors. And, just to bring the point home again, later in the statute when the DNR Board is promulgating rules and regulations, the new legislation reiterates the public health is the primary consideration.

Shana Jones: So, I'm going to turn over to Chris, our Georgia Sea Grant Law Fellow, who will talk about some of the major changes in the new law.

Chris Bertrand: Thank you, Shana, and as Shana mentioned I'm a UGA Law Student, and I've been studying the changes within oyster law. And, so, I'm going to outline some of the changes that have recently happened with the advent of the new 2019 law.

Chris Bertrand: So, first of all, I just wanted to point out some of the biggest changes that have come with the new law and that is now we have subtidal leasing. So, that's the area Shana already described. That is in the water bottoms, and it's below where the tide goes in and out, and that area is always covered with water.

Chris Bertrand: And, then also, one of the other big changes is now we have mariculture, otherwise known as oyster farming in our case. So, now, the 2019 law has authorized oyster farming.

Chris Bertrand: So, right here in this slide I have laid out a quick roadmap for the different areas of law that I will be covering in the presentation. So, first, I'm going to go and discuss how does one get a lease. So, under the old law, how did that occur, and then now under the new law, how does one get a lease? And, then once you have the lease so you have the rights to harvest that area, then you still need to get your permission from the state, and that's where you need to get your permits. And, so after I talk about leases, then I'm going to go in to discuss permits.

Chris Bertrand: After that, I'm going to start talking about harvest restrictions, so there are restricted harvest times when the state wants to make sure that the waters are safe and so there are no oyster illnesses. The new statute has put in some exemptions for, basically if there's proper regulations they can ensure that the waters are safe to harvest oysters during all times, but I'm going to go into this later so we can put that off for now.

Chris Bertrand: And, lastly, towards the end of the presentation, I'm going to talk about hatcheries. So, oyster farmers need to get their seed; they need to get their baby oysters, and so in order to do that, they've got to buy from a hatchery. And, that's where they're going to get their steady supply of oyster seed.

Chris Bertrand: So, first of all, how to get a lease. So, under the old law, you could only get a lease in the intertidal, and as Shana mentioned, the intertidal is the area where the tides go in and out from the high tide mark to the low tide mark. And, so, under the old law, first if one is interested in getting a lease for intertidal, they would first apply and indicate an area they thought was good. Then the CRD, the Coastal Resources Division, would decide if that area was suitable, and if it was in the best interest of the state to give out an oyster lease there.

Chris Bertrand: If they decided that was a good area, and that area was suitable, then they would open up competitive bidding. So, they'd open up a competitive bidding process, and individuals interested in leasing there would submit bids to the CRD. And, then after that the CRD would choose the bidder it considered the most advantageous for the state. And, in cases where two bidders were considered to be equally advantageous, then the CRD would prefer a Georgia resident over a non-Georgia resident.

Chris Bertrand: So, that was the old law. Now in 2019, we have two paths for two different leases, basically. We still have the intertidal lease, and that's changed a little bit, but now we also have the subtidal lease. So, for the intertidal lease where the tides are going, now instead of a person applying, the statute says that CRD, Coastal Resources Division, will give notice when it finds an area that is suitable for an oyster lease. And, I know this is probably going to look something like two weeks notice in the county newspaper of the county where the lease will be located.

Chris Bertrand: After that, individual can apply, and there's still the competitive bidding process, just like before. The new statute does say that there must be a \$15 minimum per acre cost, so the bidding starts at \$15. And then CRD will announce who they think is the most advantageous, but now there is just overt preference for state residents. So, in the prior law there was preference for state residents if the two bidders were equal, but now we just prefer state residents overall.

Chris Bertrand: And, CRD can also look at past compliance to the oyster law, to these oyster statutes, when deciding if someone is the most advantageous. So, they can look at someone's history, if they've oystered before, they can look at their history of compliance.

Chris Bertrand: And, so next we have a new form of leasing from the 2019 law, the subtidal lease. So, CRD can offer up subtidal leases, but they must consider navigation, fishing, swimming, and other recreation, and so once they consider these then they can decide if this area in the subtidal is suitable for an oyster lease. If they decide it is suitable, then they will use a lottery system to hand out these oyster leases. And, we don't know a lot about what the lottery system looks like right now in the statute, but that will likely be described later on through the processes of the CRD. So, what we do know, though, is that the lottery system will have preferences for certified firms, leaseholders, and state residents, and also there will be a \$50 minimum per acre charge.

Chris Bertrand: So, next I want to talk a little bit about distributing public resources. So, as you may all know, there are limited public resources, and when it comes to commercial use, not everyone is going to be able to use them. And, in this case, not everyone's going to be able to get an oyster lease, because there's just not enough area. So, this is kind of like commercial fishing crowding in the sense that there's limited public resources, and we have to have some sort of process to select people over others in order to give out these public resources. And, that's when these sort of methods we've been discussing for giving out oyster leases come into play.

Chris Bertrand: So, some people do first come first serve. Some states do. Or, like we've done and other states do competitive bidding processes or lottery processes in order to figure out who will get these public resources? Who is going to get the oyster lease? And, so as part of my research, I looked at a few bordering states to see

how they distributed their public resources, and specifically how they distribute oyster leases.

Chris Bertrand: So, first I looked at Florida and how Florida gives out their oyster leases, and so if you want to seek an oyster lease within Florida, you are going to do so through two avenues. One, you could apply for an aquaculture use zone or you could propose a new site.

Chris Bertrand: So, what an aquaculture use zone is if ten or more people are applying for a similar area. Ten people think this is a great area to oyster, and they're all applying for this area and they're saying we need to oyster here. And, that all is within six months to one water body, to a similar area, then the equivalent of the CRD, which is the Department of Agriculture in Florida, they will authorize the area as a good area to oyster, to farm, or to harvest all at the same time.

Chris Bertrand: And, when the Department of Agriculture in Florida decides that this area is going to be an aquaculture use zone, they will make a recommendation to the Board of the Governor to decide if they're going to get out these leases through a competitive bidding offer. or through a lottery system, or through some sort of first come, first serve process. And, then also, as I mentioned before, you could propose your own site, so if you're not within an aquaculture use zone, or there's not enough aquaculture use zone already implemented where you want to oyster, you can suggest a new site, but that is a much longer process, and you have to get a lot of different departments to authorize you to be able to oyster there and to get a lease there.

Chris Bertrand: So, next I looked at South Carolina and how they procure leases there. Something interesting to note about South Carolina is that in order to get an oyster lease in South Carolina, you have to be a South Carolina resident. So, if you're not a resident of South Carolina, you just can't get an oyster lease. It's not preference. You have to be a resident. It's a qualifier.

Chris Bertrand: So, once you're a South Carolina resident, you can propose an area, or you can choose an already selected and already approved area for oyster lease. So, if you choose an area that's already been approved, then a Shellfish Permit Committee decides if you, the candidate, will get a lease there. And, if two otherwise equal candidates both propose for a lease, then a lottery system is done. So, they basically have a lottery system for ties in South Carolina for oyster leases.

Chris Bertrand: So, Georgia introduced a new system; we have a lottery system now, statutorily, for subtidal areas, and this is actually not too uncommon, because a lot of other states use a lottery as well. We already mentioned South Carolina, but other states like New Jersey, Delaware. Florida has the option to. Louisiana used to, and New Hampshire used various forms of the lottery. So, I looked briefly at some of these other states' lottery systems to see how they worked.

Chris Bertrand: So, New Jersey, Delaware, Florida, and Louisiana, when they had a lottery, they did something that I like to call a lottery for draft order. So, how this lottery system worked would be everyone who's interested in an oyster lease would put their little ticket in a hat and then the equivalent of the CRD would draw out the individual tickets, and the first person drawn out of the hat, they would be the first person to work with the CRD in order to pick a lease.

Chris Bertrand: So, if I put my ticket in a hat, and I was drawn out first, and I'm the first one working with the CRD, then I get to pick my lease area first. Second person then that gets to work with the CRD second, and they get to pick where they want to lease second. And, then we already talked about South Carolina's system, so if there's two otherwise equal... Or, there's two people that South Carolina's considering, and they seem about tied for qualifications, then there's a lottery.

Chris Bertrand: New Hampshire, on the other hand, has a somewhat similar lottery for ties like South Carolina, but with New Hampshire they do a first come, first serve method, so everyone submits their applications, and if two people submit an application on the same day, you've got kind of a tie, but then if two people submit an application on the same day then New Hampshire will do a lottery.

Chris Bertrand: So, that brings us to our next section, permits. So, with the new law we have a new permit. And, we have a couple new permits, and I'm going to talk first about the commercial fishing license, and then I'll go into mariculture permit and the cage permits.

Chris Bertrand: So, the commercial fishing license with the shellfish endorsement is a new permit requirement, and that goes along with your basic harvesting permit. So, you have to have a permit to harvest the oysters, either as a master harvester or as an employer, a harvester. But, you also are going to have to now, under the new law, get a commercial fishing license with a shellfish endorsement. And, so, as I mentioned earlier, one of the really big things about the 2019 law is that we can now conduct mariculture. We can oyster farm now.

Chris Bertrand: Nonetheless, in order to oyster farm, you first have to get a permit. So, to get a mariculture permit to conduct mariculture, an oyster farm, and individual needs to have an operational plan. They have to list or write out the species that they want to farm. They have to include the types of gear they are going to use. They must include the amounts, locations, sources, and types of shellfish seed, including the genetic strains, that they will be using. They need a storm mitigation plan. They need a wildlife mitigation plan, and then they also need any other information that might be required by the department, in this case the Coastal Resources Division.

Chris Bertrand: Also, it's important to mention that in order to conduct mariculture in the subtidal, so to oyster farm in the area past the low tide where it's always covered in water, you have to have a \$20,000 performance bond.

Chris Bertrand: And, then our last new permit is the cage permit. So, we don't know too much about what the cage permits are going to look like. CRD will likely later decide the amount one can get for a lease and the sizes of these cages, but what we do know right now is that when you want to get a cage permit to have cages on your area to oyster, you need to apply for these permits at the same time that you apply for your mariculture permit. So, this is happening at the same time. You get your mariculture permit; you're getting your cage permit.

Chris Bertrand: These permits are given out at a 25 cage increment per permit, and they'll be \$1.00 per cage.

Shana Jones: Can I just add something quick?

Chris Bertrand: Yeah, for sure.

Shana Jones: As I seem to understand it, it's not a permit for every 25 cages, but the permit will encompass... They only want to see in the permit, 25, 50, 100. Like, it's one permit with those increments.

Chris Bertrand: Yeah. Absolutely. Good specification.

Shana Jones: Yeah, just to be clear.

Chris Bertrand: And, then next that brings us to the restricted harvest times. So, restricted harvest times are put into place in order to protect consumers, because we don't want oysters that have illnesses. Nonetheless, there are known and approved methods to make summertime harvest safe and other states do it within subtidal waters. And, in summertime harvest, specifically, because that's when the water's getting warmer, so there's higher chances of illness. But, as I mentioned, there are already approved methods in place that other states do that would make summertime harvest absolutely safe, as long as the proper regulations are followed.

Chris Bertrand: So, with this new law, there is a possibility for an exemption from the summertime harvest restrictions, and here's just some of the language we just threw out here that talks about what you have to do in order to get an exemption. So, in order to get an exemption, basically, you're gonna have to have a closed season operational plan. They want to make sure you're farming in a safe way during the restricted harvest season. You also have to have a list of the trained harvesters you're using and the receiving certified firm, so who's buying your oysters and the people you're using to pick them to make sure you're doing everything proper in order to be safe. Also, there is consideration on past compliance with oyster statues when considering to give out a master harvest exemption for the restricted harvest times.

- Chris Bertrand: And, that brings us to hatcheries, the last part about the new law that we'll be talking about today. So, hatcheries... Oyster farmers need a consistent and steady supply of seed that is of good quality in order to plant and to oyster farm. So, where you gonna get the seed? Where we gonna get these baby oysters? We're going to get them from a hatchery.
- Chris Bertrand: And, so, what the new law has put into place is that seed must be bought from a CRD-approved hatchery, so that's whether it's an in-state hatchery or an out-of-state hatchery. You could buy it from there, but you have to get CRD approval before you purchase that seed and put it into Georgia waters.
- Chris Bertrand: And, then lastly, I briefly looked and touched on what were Florida's and South Carolina's provisions in regards to restricted harvest times and hatcheries. So, just briefly with Florida, they don't actually have restricted seasons for harvest, but you still have to comply with pretty regulated health standards. And, on the right of this slide is a chart of all their health standards, and basically their regulations for shellfish harvesting. So, even though they don't have a restricted harvest time, they have very stringent regulations to make sure that everyone's safe.
- Chris Bertrand: And, then in regards to seed approval for hatcheries in Florida, like in Georgia, you need to get permission before you obtain seed to put into Florida waters, from a hatchery. And, then South Carolina. So, in South Carolina, just like in Georgia, there is a restricted harvest season for those warm water months, but there are exemptions. So, if someone is putting in time, and they're doing everything right in a safe way, and they can get an exemption from the warm water harvest, and they can harvest within the warm water restricted times. And, then lastly, in South Carolina, as in Florida, as in Georgia, you also need to get approval for your hatcheries before you purchase your seed.
- Chris Bertrand: And, so that wraps up and ends all of the research that I recently conducted on the new changes in the oyster law and a couple comparisons to our neighboring states, so I'm going to pass it over to Shana, who's going to make some conclusions for us and finish off the presentation.
- Shana Jones: Thank you. So, great job, Chris.
- Chris Bertrand: Thank you.
- Shana Jones: Really good work. So, you know, we're at the beginning in Georgia, and it's very exciting. There's a lot to do; there's a lot of people really thinking about this, and some of the details, frankly, are to come. And, you know, when I started this project, thanks to funding from the National Sea Grant Law Center, this legislation hadn't even been introduced, so we've come a long way and it's going to be fun to watch.

Shana Jones: And, some further details, I think folks are really looking to... There's an advisory panel that CRD's putting together that's going to be industry representatives and others. You know, how will the lottery work? That's not in the statutory language. It's just required. And, then what do some of the permit requirements entail I think is a big question for many. And, certainly maybe the number of leases and things like that, so those are all kind of future details that folks will be watching for over the next year.

Shana Jones: And, really, the next steps in Georgia are to, I think, you know, see how the advisory panel works, and the kind of decisions that they make, and how they advise the DNR, and the DNR is charged with issuing these regulations on how will the policies and rule-making play out. So, 2019 and 2020 will be really interesting years for oyster aquaculture.

Shana Jones: So, that's all that we have, Stephanie. Thank you all for listening, and I think Bryce is next.

Stephanie Otts: Great. Thank you so much, Shana and Chris. Yes, and so now we'll be transitioning to our second presentation, which is by Bryce, and so it will just take us a minute to get our screens shared around.

Bryce Burgwyn: Okay, thanks Stephanie. It's giving me a message that I can't share my screen while the other participant's still share, so if whoever's sharing can unshare. Awesome. Okay.

Stephanie Otts: There we go.

Bryce Burgwyn: There we go. Okay. Good afternoon, everyone. As Stephanie said, I'm Bryce Burgwyn. I had the honor of serving as a research associate, an intern at the National Sea Grant Law Center this summer, and am a rising second year student at Harvard Law School. And, I'll be talking about the new state laws that have been enacted in the 2019 session, along with Georgia's. Four other states have also enacted new legislation related to shellfish aquaculture.

Bryce Burgwyn: So, those four states, which I'll be discussing, are Texas, Maryland, North Carolina, and Mississippi, have all had pretty significant changes so far this year. And, then at the end of my presentation, I'll conclude by taking a quick look at how just these four states handle the process of awarding their leases, whether they are rewarded through lotteries or other methods, and whether the new legislation that was enacted addresses that or not, just for purposes of comparison with Georgia's new laws.

Bryce Burgwyn: Okay, so to start out with Texas. Texas had some pretty significant changes this year, so I'll kick off with that one. They implemented House Bill 1300, which amended portions of Sections 11 and 75 of the Texas Parks and Wildlife Code,

which really created a framework for cultivated oyster mariculture to get started in the state of Texas. So, most of what they've enacted is brand new.

Bryce Burgwyn: The changes in Section 11 authorize the Texas Department of Fish and Wildlife to collect fees related to cultivated oyster mariculture. It also authorizes funds to be expended for cleanup of illegal or abandoned cultivated oyster mariculture equipment and related debris from public water, and adds cultivated oyster mariculture permit holders to the list of seafood producers from whom wholesale purchasers of seafood may buy.

Bryce Burgwyn: In Section 75, the legislation requires the Texas Parks and Wildlife Commission to adopt rules to establish a program governing cultivated oyster mariculture in Texas. So, as I said, they're really starting from the ground up. The areas where the legislation requires rules is related to location and size of operations, taking possession, transport, movement, and sale of cultivated or broodstock oysters, the marking of structures, establishing fees and conditions for the use of public resources, and any other matter that the commission deems necessary to implement the program.

Bryce Burgwyn: No person in Texas may undertake cultivated oyster mariculture without a permit, and the legislation further authorizes the commission to adopt rules to govern permit applications, application fees, criteria for approval, transfer, revocation, suspension of permits, etc.

Bryce Burgwyn: They also created a cultivated oyster mariculture cleanup subaccount within their game, fish, and water safety account, so 20% of the fees collected, associated with cultivated oyster mariculture, will be set aside for the cleanup of abandoned and illegal gear.

Bryce Burgwyn: Finally, the legislature established a criminal offense for violations of the statute, so it's a misdemeanor to violate the provisions included in House Bill 1300 in Texas.

Bryce Burgwyn: Moving on to Maryland. Maryland enacted House Bill 841, which repeals and reenacts with amendments Section 4 of the Code of Maryland. The legislation's significant, because some states entirely prohibit shellfish aquaculture in areas with submerged aquatic vegetation, or the states are very reluctant to issue leases in those areas where there is vegetation growing on the bottom because of concerns about disruption of the ecosystem on the bottom.

Bryce Burgwyn: So, Maryland has taken a different approach to balancing these conflicts in space between submerged aquatic vegetation and shellfish aquaculture. So, they've decided the leaseholders may not place shellfish bags, nets, or structures on submerged aquatic vegetation without prior written approval from their Department of Natural Resources, so they do allow bottom leases and water column leases in areas where submerged aquatic vegetation is

present. However, they also lay out considerations for approval. The legislation prohibits the Department of Natural Resources from authorizing harvest by dredging in areas where submerged aquatic vegetation is present, and also states that the department shall authorize for water column leases in at least 10% of an area where submerged aquatic vegetation is present, and shall authorize harvest by diving in areas of any submerged land lease where submerged aquatic vegetation is present. So, their considerations are in the direction of minimally disruptive methods.

Bryce Burgwyn: North Carolina enacted Senate Bill 648, which amends North Carolina Statutes Section 113. North Carolina added a definition for Shellfish Aquaculture Enterprise Areas, which will include both bottom and water column leases. They also allow the Secretary of State to make the bottom available for new leases for 18-month periods, and to designate the bottom as a Shellfish Enterprise Area, which was not the case with the previous legislation; it only related to the water column.

Bryce Burgwyn: The statute also requires removal of abandoned gear or any gear within 30 days of the termination of a lease, whether it's terminated by the state or runs its course after the end of the 18 months. Legislation also establishes hearing procedures for denied or modified lease applications, so for applicants who submitted leases that were denied or the secretary made modifications and we're not satisfied with those modifications, there's an appeal process that's laid out in the statute for North Carolina.

Bryce Burgwyn: Finally, the fourth state is Mississippi, which enacted House Bill 1269, amending Mississippi Code Section 49, and they took the step of establishing licensing fees for vessels engaged in off-bottom oyster aquaculture. So, they laid out that it shall be \$50 for in-state, Mississippi-registered vessels or boats and \$100 for out-of-state vessels or boat. They also updated the requirement for captains of boats or vessels engaged in oyster aquaculture, including verbiage that requires the same \$10 permit already required for on-bottom oyster aquaculture to also apply for off-bottom shellfish aquaculture.

Bryce Burgwyn: And, just as a final to tie back into Chris's presentation earlier, just to compare the leasing methods, the bottom line upfront is that all four of these states delegate the authority to decide about leasing methods to agencies. So, none of the four states designate in their lease statutes the method that the agency must use to make the decision, so they don't require a lottery or any other specific method as Georgia does.

Bryce Burgwyn: Different states are more or less restrictive on how much freedom they grant their agencies in making their decision about how to actually carry out the leasing. Texas doesn't specify the manner in which their leases must be awarded, and actually doesn't even specify that the water column, so non-bottom areas, need to be leased, only that they need a permit. Maryland does

not specify in their statute how leases need to be awarded; it's just delegated to the Department of Natural Resources. North Carolina, likewise, delegates the authority to their Secretary of State and specifies some things that the Secretary must consider but not the way in which the leases must be award. And, that's the same for Mississippi.

Bryce Burgwyn: So, that concludes my presentation, and I'll turn it back over to Stephanie. Thank you.

Stephanie Otts: Okay. Thank you so much, Bryce, and thank you to all of our speakers. Just wanted to come back and mention that if you have questions, feel free to use the chat box to send them to me, and then I can convey them to the speakers. And, while you're thinking, if you have any questions, just to remind everyone again, that we do have three more webinars coming up in our series.

Stephanie Otts: On August 14 will be Rhode Island Sea Grant Legal Program, talking about some operational limitations their shellfish aquaculture farmers have encountered. On August 21, it'll be about certification of shellfish growing waters in federal waters, and we will conclude at the end of August with a discussion of case studies out of Virginia.

Stephanie Otts: And, Shana and Chris, we do have one question coming in. What types of gear are allowed under Georgia mariculture permits?

Shana Jones: So, that's actually... The gear is not... Go ahead, Chris.

Chris Bertrand: So, I believe with gear you can use handheld gear, where if you wanted use more extensive gear, you're going to have to get a permit. So, yeah, you need a permit, except for hand or handheld implement of gear. So, that's just off the quick reading of the statute right now. There's the answer.

Shana Jones: So, that's going to be something that the details will come out with the advisory panel. And, I saw a question from Robert in that, yes, Georgia's pretty interesting. In like 1902 the General Assembly passed a law giving adjacent landowners rights to the intertidal beds adjacent to their property. So, while you have those rights to... you could, if you're an adjacent landowner, you have rights to harvest those oysters; but you still need a permit. And, so that's even true with King's Grant folks. I mean, it's always important to separate the right to harvest. That doesn't necessarily exempt you from any permitting requirements. Hope that answers.

Shana Jones: And, I see a question from Jefferson about the duration of North Carolina water column leases. Do you have any recollection, Chris. I don't know. I don't have that.

Chris Bertrand: No, I didn't study North Carolina very extensively, just briefly in comparison.

Bryce Burgwyn: I think Jefferson might be referring to something from mine. This is Bryce. So, I don't have the answer to that question in front of me. The bottom leases were added as a new item, so they're in that new bill, but the water column leases actually aren't mentioned. So, I'm not sure. We'll have to take a look at the new statute in place amongst the other previously existing information and take a look at that to find out.

Shana Jones: And, then there's a question from Ryan about... To clarify, in Georgia are intertidal and subtidal waters public?

Shana Jones: So, some tidal waters are definitely public. Yes, that's state owned land, unless there's a King's Grant, but for sure. What's complicated for ownership with respect to intertidal area in the foreshore, is that if you're on a stream, that's actually private property. So, that intertidal area is a stream; it's private property. If it's a tidewater, under the law, it's actually state water bottoms. Hope that helps.

Stephanie Otts: Great. Thanks. And, thanks to one of our participants, Christine Goebel, who sent a message to everybody that North Carolina did increase the possible duration of both water column and bottom leases, but not sure on the exact duration of that. But, that was part of the new legislation.

Stephanie Otts: Great. Well, again, thanks, everyone, so much for joining us. Thanks to our presenters, and I hope that you'll come back in a couple of weeks and join us for our next webinar, but if you have any questions following up from the webinar, feel free to reach out to Shana or myself, and we can either get you connected to the right information or answer it ourselves. So, thanks everyone!

Shana Jones: Thank you!

Chris Bertrand: Thank you.