

**Chapter 77.60 RCW**  
**SHELLFISH**

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**RCW 77.60.010 State oyster reserves established.** The following areas are the state oyster reserves and are more completely described in maps and plats on file in the office of the commissioner of public lands and in the office of the auditor of the county in which the reserve is located:

1. PUGET SOUND OYSTER RESERVES:

- (a) Totten Inlet reserves (sometimes known as Oyster Bay reserves), located in Totten Inlet, Thurston county;
- (b) Eld Inlet reserves (sometimes known as Mud Bay reserves), located in Mud Bay, Thurston county;
- (c) Oakland Bay reserves, located in Oakland Bay, Mason county;
- (d) North Bay reserves (sometimes known as Case Inlet reserves), located in Case Inlet, Mason county.

2. WILLAPA HARBOR OYSTER RESERVES:

- (a) Nemah reserve, south and west sides of reserve located along Nemah River channel, Pacific county;
- (b) Long Island reserve, located at south end and along west side of Long Island, Willapa Harbor, Pacific county;
- (c) Long Island Slough reserve, located at south end and along east side of Long Island, Willapa Harbor, Pacific county;
- (d) Bay Center reserve, located in the Palix River channel, extending from Palix River bridge to beyond Bay Center to north of Goose Point, Willapa Harbor, Pacific county;
- (e) Willapa River reserve, located in the Willapa River channel extending west and up-river from a point approximately one-quarter mile from the blinker light marking the division of Willapa River channel and the North River channel, Willapa Harbor, Pacific county. [1983 1st ex.s. c 46 § 78; 1955 c 12 § 75.24.010. Prior: 1949 c 112 § 54; Rem. Supp. 1949 § 5780-01. Formerly RCW 75.24.010.]

**RCW 77.60.020 Sale or lease of state oyster reserves.** Only upon recommendation of the commission may the state oyster reserves be sold, leased, or otherwise disposed of by the department of natural resources. [1995 1st sp.s. c 2 § 28 (Referendum Bill No. 45, approved November 7, 1995); 1983 1st ex.s. c 46 § 79; 1955 c 12 § 75.24.030. Prior: 1949 c 112 § 55; Rem. Supp. 1949 § 5780-402. Formerly RCW 75.24.030.]

**Referral to electorate—1995 1st sp.s. c 2:** See note following RCW 77.04.013.

**Effective date—1995 1st sp.s. c 2:** See note following RCW 43.17.020.

**RCW 77.60.030 State oyster reserves management policy—Personal use harvesting—Inventory—Management categories—Cultch permits.** It is the policy of the state to improve state oyster reserves so that they are productive and yield a revenue sufficient for their maintenance. In fixing the price of oysters and other shellfish sold from the reserves, the director shall take into consideration this policy. It is also the policy of the state to maintain the oyster reserves to furnish shellfish to growers and processors and to stock public beaches.

Shellfish may be harvested from state oyster reserves for personal use as prescribed by rule of the director.

The director shall periodically inventory the state oyster reserves and assign the reserve lands into management categories:

- (1) Native Olympia oyster broodstock reserves;
- (2) Commercial shellfish harvesting zones;
- (3) Commercial shellfish propagation zones designated for long-term leasing to private aquaculturists;
- (4) Public recreational shellfish harvesting zones;
- (5) Unproductive land.

The director shall manage each category of oyster reserve land to maximize the sustained yield production of shellfish consistent with the purpose for establishment of each management category.

The commission shall develop an oyster reserve management plan, to include recommendations for leasing reserve lands, in coordination with the shellfish industry, by January 1, 1986.

The director shall protect, reseed, improve the habitat of, and replant state oyster reserves. The director shall also issue cultch permits and oyster reserve fishery licenses. [2000 c 107 § 22; 1998 c 245 § 152; 1985 c 256 § 1; 1983 1st ex.s. c 46 § 81; 1969 ex.s. c 91 § 1; 1955 c 12 § 75.24.060. Prior: 1949 c 112 § 56; Rem. Supp. 1949 § 5780-403. Formerly RCW 75.24.060.]

**RCW 77.60.040 Olympia oysters—Cultivation on reserves in Puget Sound.** The legislature finds that current environmental and economic conditions warrant a renewal of the state's historical practice of actively cultivating and managing its oyster reserves in Puget Sound to produce the state's native oyster, the Olympia oyster. The director shall reestablish dike cultivated production of Olympia oysters on such reserves on a trial basis as a tool for planning more

comprehensive cultivation by the state. [2000 c 107 § 23; 1993 sp.s. c 2 § 40; 1985 c 256 § 2. Formerly RCW 75.24.065.]

**Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79:** See RCW 43.300.900.

**RCW 77.60.050 Sale of shellfish from state oyster reserves.** The director shall determine the time, place, and method of sale of oysters and other shellfish from state oyster reserves. Any person who commercially takes shellfish from state oyster reserves must possess an oyster reserve fishery license issued by the director pursuant to RCW 77.65.260. Any person engaged in the commercial cultching of oysters on state oyster reserves must possess an oyster cultch permit issued by the director pursuant to RCW 77.65.270.

To maintain local communities and industries and to restrain the formation of monopolies in the industry, the director shall determine the number of bushels which shall be sold to a person. When the shellfish are sold at public auction, the director may reject any and all bids. [2000 c 107 § 24; 1983 1st ex.s. c 46 § 82; 1955 c 12 § 75.24.070. Prior: 1949 c 112 § 57; Rem. Supp. 1949 § 5780-404. Formerly RCW 75.24.070.]

*Oyster reserve fishery license: RCW 77.65.260.*

**RCW 77.60.060 Restricted shellfish areas—Infestations—Permit.** The director may designate as "restricted shellfish areas" those areas in which infection or infestation of shellfish is present. A permit issued by the director is required to transplant or transport into or out of a restricted area shellfish or equipment used in culturing, taking, handling, or processing shellfish. [1998 c 190 § 90; 1983 1st ex.s. c 46 § 83; 1955 c 12 § 75.24.080. Prior: 1949 c 112 § 59; Rem. Supp. 1949 § 5780-406. Formerly RCW 75.24.080.]

**RCW 77.60.070 Geoduck clams, commercial harvesting—Unauthorized acts—Gear requirements.** (1) The director may not authorize a person to take geoduck clams for commercial purposes outside the harvest area designated in a current department of natural resources geoduck harvesting agreement issued under RCW 79.135.210. The director may not authorize commercial harvest of geoduck clams from bottoms that are shallower than eighteen feet below mean lower low water (0.0. ft.). Vessels conducting harvest operations must remain seaward of a line two hundred yards seaward from and parallel to the line of ordinary high tide. This section does not apply to the harvest of private sector cultured aquatic products as defined in RCW 15.85.020.

(2) Commercial geoduck harvesting shall be done with a handheld, manually operated water jet or suction device guided and controlled from under water by a diver. Periodically, the director shall determine the effect of each type or unit of gear upon the geoduck population or the substrate they inhabit. The director may require modification of the gear or stop its use if it is being operated in a wasteful or destructive manner or if its operation may cause permanent damage to the bottom or adjacent shellfish populations. [2006 c 144 § 1; 2000 c 107 § 25; 1998 c 190 § 91; 1995 1st sp.s. c 2 § 29

(Referendum Bill No. 45, approved November 7, 1995); 1993 c 340 § 51; 1984 c 80 § 2. Prior: 1983 1st ex.s. c 46 § 85; 1983 c 3 § 193; 1979 ex.s. c 141 § 1; 1969 ex.s. c 253 § 1. Formerly RCW 75.24.100.]

**Referral to electorate—1995 1st sp.s. c 2:** See note following RCW 77.04.013.

**Effective date—1995 1st sp.s. c 2:** See note following RCW 43.17.020.

**Finding, intent—Captions not law—Effective date—Severability—1993 c 340:** See notes following RCW 77.65.010.

**Liberal construction—1969 ex.s. c 253:** "The provisions of this act shall be liberally construed." [1969 ex.s. c 253 § 5.]

**Severability—1969 ex.s. c 253:** "If any provisions of this 1969 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 253 § 6.]

*Designation of aquatic lands for geoduck harvesting: RCW 79.135.220.*

*Diver license for harvesting geoducks: RCW 77.65.410.*

**RCW 77.60.080 Imported oyster seed—Permit and inspection required.** The department may not authorize a person to import oysters or oyster seed into this state for the purpose of planting them in state waters without a permit from the director. The director shall issue a permit only after an adequate inspection has been made and the oysters or oyster seed are found to be free of disease, pests, and other substances which might endanger oysters in state waters. [1998 c 190 § 92; 1983 1st ex.s. c 46 § 87; 1955 c 12 § 75.08.054. Prior: 1951 c 271 § 42. Formerly RCW 75.24.110, 75.08.054.]

**RCW 77.60.090 Imported oyster seed—Inspection—Costs.** The director may require imported oyster seed to be inspected for diseases and pests. The director may specify the place of inspection. Persons importing oyster seed shall pay for the inspection costs excluding the inspector's salary. The cost shall be determined by the director and prorated among the importers according to the number of cases of oyster seeds each imports. The director shall specify the time and manner of payment. [1983 1st ex.s. c 46 § 88; 1967 ex.s. c 38 § 1; 1955 c 12 § 75.08.056. Prior: 1951 c 271 § 43. Formerly RCW 75.24.120, 75.08.056.]

**RCW 77.60.100 Establishment of reserves on state shellfish lands.** The commission may examine the clam, mussel, and oyster beds located on aquatic lands belonging to the state and request the commissioner of public lands to withdraw these lands from sale and lease for the purpose of establishing reserves or public beaches. The director shall conserve, protect, and develop these reserves and the

oyster, shrimp, clam, and mussel beds on state lands. [2000 c 107 § 26; 1995 1st sp.s. c 2 § 30 (Referendum Bill No. 45, approved November 7, 1995); 1983 1st ex.s. c 46 § 89; 1955 c 12 § 75.08.060. Prior: 1949 c 112 § 7(5); Rem. Supp. 1949 § 5780-206(5). Formerly RCW 75.24.130, 75.08.060.]

**Referral to electorate—1995 1st sp.s. c 2:** See note following RCW 77.04.013.

**Effective date—1995 1st sp.s. c 2:** See note following RCW 43.17.020.

**RCW 77.60.150 Oyster reserve land—Pilot project—Advisory committee—Lease administration.** (1) The department shall initiate a pilot project to evaluate the feasibility and potential of intensively culturing shellfish on currently nonproductive oyster reserve land in Puget Sound. The pilot program shall include no fewer than three long-term lease agreements with commercial shellfish growers. Except as provided in subsection (3) of this section, revenues from the lease of such lands shall be deposited in the oyster reserve land account created in RCW 77.60.160.

(2) The department shall form one advisory committee each for the Willapa Bay oyster reserve lands and the Puget Sound oyster reserve lands. The advisory committees shall make recommendations on management practices to conserve, protect, and develop oyster reserve lands. The advisory committees may make recommendations regarding the management practices on oyster reserve lands, in particular to ensure that they are managed in a manner that will: (a) Increase revenue through production of high-value shellfish; (b) not be detrimental to the market for shellfish grown on nonreserve lands; and (c) avoid negative impacts to existing shellfish populations. The advisory committees may also make recommendation on the distribution of funds in RCW 77.60.160(2)(a). The department shall attempt to structure each advisory committee to include equal representation between shellfish growers that participate in reserve sales and shellfish growers that do not.

(3) The department of natural resources, in consultation with the department of fish and wildlife, shall administer the leases for oyster reserves entered into under this chapter. In administering the leases, the department of natural resources shall exercise its authority under RCW 79.135.300. Vacation of state oyster reserves by the department shall not be a requirement for the department of natural resources to lease any oyster reserves under this section. The department of natural resources may recover reasonable costs directly associated with the administration of the leases for oyster reserves entered into under this chapter. All administrative fees collected by the department of natural resources pursuant to this section shall be deposited into the resource management cost account established in RCW 79.64.020. The department may not assess charges to recover the costs of consulting with the department of natural resources under this subsection.

(4) The Puget Sound pilot program shall not include the culture of geoduck. [2009 c 333 § 23; 2001 c 273 § 1.]

**RCW 77.60.160 Oyster reserve land account.** (1) The oyster reserve land account is created in the state treasury. All receipts from revenues from the lease of land or sale of shellfish from oyster reserve lands must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as provided in this section.

(2) Funds in the account shall be used for the purposes provided for in this subsection:

(a) Up to forty percent for:

(i) The management expenses incurred by the department that are directly attributable to the management of the oyster reserve lands; and

(ii) The expenses associated with new bivalve shellfish research and development activities at the Pt. Whitney and Nahcotta shellfish laboratories managed by the department. As used in this subsection, "new research and development activities" includes an emphasis on the control of aquatic nuisance species and burrowing shrimp. New research and development activities must be identified by the department and the appropriate oyster reserve advisory committee;

(b) Up to ten percent may be deposited into the state general fund; and

(c) Except as provided in subsection (3) of this section, all remaining funds in the account shall be used for the shellfish—on-site sewage grant program established in RCW 77.60.170.

(3) (a) No later than January 1st of each year, the department shall transfer up to fifty percent of the annual revenues generated in the preceding year from the Willapa harbor oyster reserve to the on-site sewage grant program established under RCW 77.60.170 as necessary to achieve a fund balance of one hundred thousand dollars.

(b) All remaining revenues received from the Willapa harbor oyster reserve shall be used to fund research activities as specified in subsection (2) (a) of this section. [2008 c 202 § 2; 2007 c 341 § 44; 2001 c 273 § 2.]

**Effective date—2007 c 341:** See RCW 90.71.907.

**RCW 77.60.170 Shellfish—On-site sewage grant program—Priority areas—Memorandum of understanding.** (1) (a) The department shall transfer the funds required by RCW 77.60.160 to the appropriate local governments. Pacific and Grays Harbor counties and Puget Sound shall manage their established shellfish—on-site sewage grant program. The local governments, in consultation with the department of health, shall use the provided funds as grants or loans to individuals for repairing or improving their on-site sewage systems. The grants or loans may be provided only in areas that have the potential to adversely affect water quality in commercial and recreational shellfish growing areas.

(b) A recipient of a grant or loan shall enter into an agreement with the appropriate local government to maintain the improved on-site sewage system according to specifications required by the local government.

(c) The department shall work closely with local governments and it shall be the goal of the department to attain geographic equity between Grays Harbor, Willapa Bay, and Puget Sound when making funds available under this program.

(d) For the purposes of this subsection, "geographic equity" means issuing on-site sewage grants or loans at a level that matches the funds generated from the oyster reserve lands in that area.

(2) In Puget Sound, the local governments shall give first priority to areas that are:

(a) Identified as "areas of special concern" under \*WAC 246-272-01001;

(b) Included within a shellfish protection district under chapter 90.72 RCW; or

(c) Identified as a marine recovery area under chapter 70A.110 RCW.

(3) In Grays Harbor and Pacific counties, the local governments shall give first priority to preventing the deterioration of water quality in areas where commercial or recreational shellfish are grown.

(4) The department and each participating local government shall enter into a memorandum of understanding that will establish an applicant income eligibility requirement for individual grant applicants from within the jurisdiction and other mutually agreeable terms and conditions of the grant program.

(5) For the 2007-2009 biennium, from the funds received under this section, Pacific county shall transfer up to two hundred thousand dollars to the department. Upon receiving the funds from Pacific county, the department and the appropriate oyster reserve advisory committee under RCW 77.60.160 shall identify and execute specific research projects with those funds. [2021 c 65 § 82; 2008 c 202 § 1; 2007 c 341 § 43; 2001 c 273 § 3. Formerly RCW 70.118.140, 90.71.100.]

**\*Reviser's note:** WAC 246-272-01001 was repealed effective July 1, 2007. The term "areas of special concern" is defined in WAC 246-272B-01001.

**Explanatory statement—2021 c 65:** See note following RCW 53.54.030.

**Effective date—2007 c 341:** See RCW 90.71.907.