



June 25, 2020

Life's better outside.®

Commissioners

S. Reed Morian
Chairman
Houston

Arch "Beaver" Aplin, III
Vice-Chairman
Lake Jackson

James E. Abell
Kilgore

Oliver J. Bell
Cleveland

Anna B. Galo
Laredo

Jeffery D. Hildebrand
Houston

Jeanne W. Latimer
San Antonio

Robert L. "Bobby" Patton, Jr.
Fort Worth

Dick Scott
Wimberley

Lee M. Bass
Chairman-Emeritus
Fort Worth

T. Dan Friedkin
Chairman-Emeritus
Houston

Carter P. Smith
Executive Director

Ms. Jennifer Jones
Executive Director
Sunset Advisory Commission
P.O. Box 13066
Austin, Texas 78711

Re: Sunset Review of Texas Department of Agriculture Issue 2

Dear Ms. Jones:

Thank you for your letter dated June 4, 2020, providing an opportunity for the Texas Parks and Wildlife Department (TPWD) to review and comment on the *Sunset Advisory Commission Staff Report on the Texas Department of Agriculture* (the report). As noted in your letter, information contained in Issue 2 of the report could affect TPWD.

The role of TPWD is to protect Texas' natural resources, which includes monitoring and tracking facilities that raise invasive, non-native species of fish and shellfish to mitigate the risk of exotic species that could escape into the environment and the risk of diseases that could impact the public's health or the health of native species in public waters of the state. In addition, TPWD protects the natural resources by requiring proper identification of cultured native species, such as commercially protected finfish, to prevent misidentification of cultured product in the commercial market.

Issue 2 – TDA's Aquaculture Licensing Program Is Not Necessary to Protect the Public.

TPWD's authority over harmful or potentially harmful non-native aquatic species is prescribed in Parks and Wildlife Code §66.007 and quarantine procedures in 31 TAC §57.114. TPWD is committed to protecting Texas' natural resources from exotic species and managing diseases. For example, diseases of non-native shrimp species, if introduced, could jeopardize the \$104 million commercial shrimp industry in Texas if released into public waters of the state. For diseases that are reportable to the U.S. Department of Agriculture-Animal and Plant Health Inspection Service (USDA/APHIS) and result in quarantine, TPWD staff work collaboratively with USDA/APHIS, Texas Animal Health Commission and Texas Department of Agriculture on appropriate remediation measures for each site and follow-up testing until test results demonstrate no detection of the pathogen prior to lifting the quarantine.

Currently, a TDA license for aquaculture facilities provides an exemption from obtaining a Texas Parks and Wildlife Department license, such as a Wholesale Fish Dealer's License, Retail Fish Dealer's License, or a Bait Dealer's Individual License, for fish sales under the Parks and Wildlife Code.

Currently, a Memorandum of Understanding (MOU) exists among the Texas Department of Agriculture (Texas Agriculture Code §134.031), Texas Commission on Environmental Quality (30 TAC §7.103), and TPWD (31 TAC §57.135), which provides for coordination among the three agencies in regulating aquaculture facilities. Under this MOU, the TDA license often serves as an entry point for an aquaculture facility applicant to be notified that an exotic species permit from TPWD may be required, depending on the fish product being grown, in addition to the TDA license. Without some sort of entry point, there is an increased risk of harm to the environment from exotic species if an aquaculture facility is not made aware of or is self-educated to know that additional TPWD permits are still required based on their fish farm operations.

The elimination of the TDA aquaculture license exemption would require corresponding statutory language changes in Parks and Wildlife Code, Chapter 47, to properly reference the TDA exemption change to fish farm product sales and licensing, as well as statutory language changes to Chapter 66, to accommodate the sale of protected finfish that are grown by fish farmers. The current exemption to the prohibitions of sale are specific to TDA licensed fish farmers. Otherwise, without these changes, an aquaculture facility would have to acquire a Wholesale Fish Dealer's License, Retail Fish Dealer's License, or Bait Dealer's Individual License as applicable to their current activities, or a corresponding, substitute TPWD license would need to be created.

Parks and Wildlife Code §66.020 currently prohibits the sale of commercially protected finfish (e.g. Red Drum and Striped Bass) but exempts those grown by TDA licensed aquaculture facilities. Proper invoicing and traceability of commercially protected finfish helps to protect the natural resource and the fish farmer. If a game warden inspects a retail dealer who is selling Red Drum, that Red Drum can be properly identified as coming from an aquaculture facility and not from the wild (e.g. Copano Bay). This is also important in disease management traceability for fish or seafood that enter the human food consumption chain or impacts wild fish stock through improper wastewater discharge, which is overseen by TCEQ through their respective permits.

TPWD recommends the addition of a clear definition of a fish farmer and revision of Parks and Wildlife Code language relating to the current TDA exemption are items that the Sunset Advisory Commission should consider. Confusion, unlawful activity, and a risk to natural resources could occur without a corresponding substitute license or process to trigger the notification to persons operating aquaculture facilities that an exotic species permit through TPWD is still required.

Ms. Jennifer Jones
Page 3 of 3
June 25, 2020

We want to thank you again for this opportunity to review and comment on the report. TPWD looks forward to working with the Sunset Advisory Commission and the Texas Legislature as this issue continues to progress. Thank you for your consideration.

Sincerely,



Carter Smith
Executive Director

CS:AW:dh

cc: Ms. Ann Bright, Chief Operating Officer
Ms. Allison Winney, Intergovernmental Affairs & Sunset Liaison
Mr. David Eichler, Intergovernmental Affairs