

Oyster Lease Acquisition and Compensation Program

Study to Develop Recommendations for Program Improvements



Solicitation of Stakeholder Views
September 21 and 23, 2020



Oyster Leases and Coastal Projects

Legislative mandates:

- CPRA to perform integrated coastal protection projects
- DWF to issue oyster leases on State water bottoms

Issue: CPRA projects directly impacting State oyster leases

- State oyster leases include waiver of “*all claims whatsoever*” arising from coastal projects, *but* –
- The Legislature enacted the Oyster Lease Acquisition and Compensation Program

[La. R.S 56:432.1 \(2006, Act 425\)](#) (law)

[LAC 43:VII.301-319 \(2006\)](#) (regulations)

Oyster Lease Acquisition and Compensation Program

Authorizes CPRA to “acquire” State oyster leases for coastal projects

- Not a true “acquisition” – lease is terminated

Authorizes compensation when CPRA acquires a lease

Limited to areas directly impacted by:

- Dredging
- Direct placement of dredged or other materials
- Other work or activities for construction or maintenance of a coastal project

Excludes indirect impacts – such as salinity

Acquisition

Only the portion needed for the project is acquired

Acquisition is accomplished by CPRA issuing a Notice of Acquisition to the lessee, containing:

- Effective date
- Map and description of acreage acquired
- Statements and other information listed in regulations
- Payment

Payment amount is determined according to the regulations

Compensation Determination

Two components to compensation:

1. Lease component – For all leases, lessees are paid the market value of the lease
2. Oyster component – Where effective date is <1 year after Notice issued, lessees are also paid for “marketable oysters” on the lease

CPRA determines compensation using:

1. Biological Oyster Resource Survey
2. Appraisal
3. Information regarding oyster value and harvest costs – if applicable

Compensation Determination

1. Biologist performs Biological Oyster Resource Survey:
 - Determination of direct impact area
 - Determination of water bottom type (reef, shell, mud)
 - Sampling for oysters (diving, dredge)
 - Determination of marketable oyster population on the water bottoms

Lessees are notified 15 days in advance by certified mail

Lessee can provide data or other relevant information

Compensation Determination

2. Appraiser performs appraisal:

- Oyster Resource Survey characterizes the lease
- Appraiser obtains other information such as typical salinity
- Appraiser compares the lease to other leases sold by lessees
- Appraiser determines market value of the lease from the actual sales prices for similar leases

Lessee can provide data or other relevant information

Compensation Determination

3. CPRA obtains additional information:

- Oyster value
- Oyster harvest cost
- Harvest efficiency

Used only for the oyster component of compensation – if applicable

Compensation Determination

Lease Component:

- Payment is appraised value, provided by appraiser

Oyster Component:

- Only when lessee is given less than one year's notice
- Only when marketable oysters are present
- Payment is value of marketable oysters less harvest cost

Compensation Determination

Oyster Component Computation:

NET SACK PRICE x NO. SACKS OF MARKETABLE OYSTERS

NET SACK PRICE =

OYSTER MARKET VALUE PER SACK – OYSTER HARVEST COST PER SACK

NO. SACKS OF MARKETABLE OYSTERS =

(NO. OYSTERS ON WATER BOTTOM – NO. OYSTERS EXPECTED TO DIE)
x HARVEST EFFICIENCY RATIO

Outside Agency Participation

CPRA may also acquire oyster leases under OLACP for coastal projects implemented by any other public or private entity

That entity must reimburse CPRA for all costs

Participation is optional, not a requirement

- That entity may approach the lessee separately to make arrangements to implement the project
- Due to the certainty and clarity of the OLACP process, public and private entities often use it

15 years of Implementation

CPRA has acquired over 4000 acres of leases using OLACP, for dozens of projects

Only 4 challenges:

- 1 dismissed voluntarily
- 2 dismissed due to lease waivers, currently on appeal
- 1 on hold pending the decision in the two on appeal

However, it has been nearly 15 years

Examples of Issues for Discussion

1. Payment not as compensation to the lessees, but to further the public interest in the continued existence of the oyster industry and to preserve and enhance the oyster resource
2. Payment for leases that are not capable of supporting commercially viable oyster populations, due to environmental causes
3. Reduction of survey, appraisal, and other administrative costs potentially through contract-based settlements for easily valued leases
4. Termination of leases not capable of supporting commercially viable oysters

Examples of Issues for Discussion

5. Payment for oyster component in addition to the lease component: despite payment for marketable oysters, the lessee can still harvest them until acquisition effective date
6. Lessees have requested the ability to retain a lease, take the risk that the project will not permanently harm the oysters, and simply waive any OLACP payment
7. Lessees have requested more information from CPRA regarding planned and possible projects and associated impacts
8. [Louisiana Legislative Auditor Report](#) dated February 25, 2015 regarding Louisiana oyster lease practices

Study Timeline

INITIAL PUBLIC COMMENT PERIOD

9/1 – 10/7

- 9/1 CPRA announces study and participation opportunities
- 9/21 Solicitation of Views Webinar
- 9/23 Solicitation of Views Webinar
- [10/7 Stakeholder comments due to CPRA](#)

DRAFT RECOMMENDATIONS DEVELOPMENT

10/8 – 11/5

- CPRA reviews comments, recommendations, and proposed solutions
- CPRA evaluates program implementation
- CPRA prepares draft recommendations for improving the program

PUBLIC FEEDBACK ON DRAFT RECOMMENDATIONS

11/6 – 12/4

- 11/6 CPRA releases draft recommendations
- 11/17 Webinar to present draft recommendation & solicit stakeholder feedback
- 11/18 Webinar to present draft recommendation & solicit stakeholder feedback
- [12/4 Comments due to CPRA from stakeholders](#)

FINAL RECOMMENDATIONS DEVELOPMENT

12/5 – 1/20

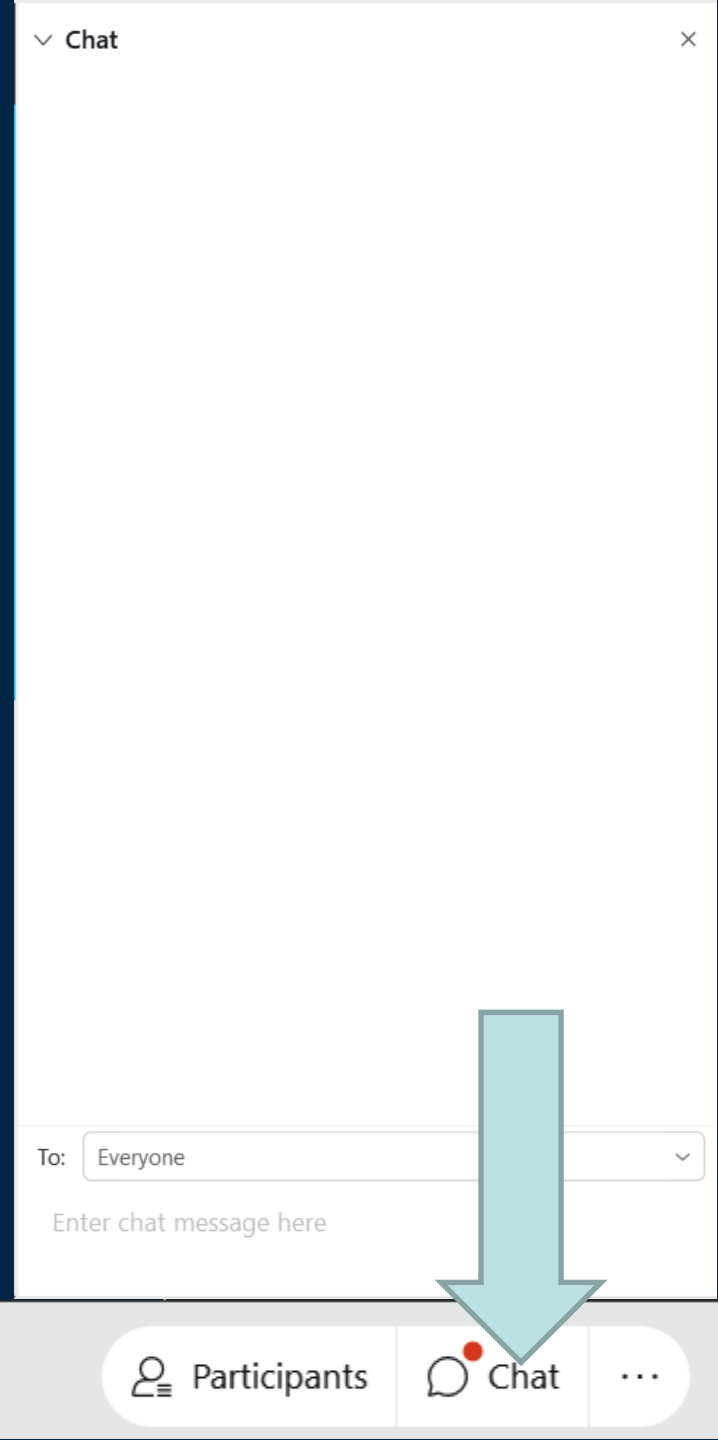
- 1/11/21 CPRA releases final recommendations and submits to CPRA Board
- 1/20/21 CPRA presents recommendations to CPRA Board at Board Meeting

Submission of Views and Recommendations

Propose your views, recommendations, and solutions via:

- Email to coastal@la.gov
- Voicemail message to (225) 342-4968
- Chat during 9/21 & 9/23 Webinars

Deadline for submission is
October 7, 2020



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