CHAPTER 68B-27
OYSTERS

68B-27.013 Definitions.
As used in this chapter:
(1) “Apalachicola Bay” or “Bay” means all waters within St. George Sound, East Bay, Apalachicola Bay, St. Vincent Sound in Franklin County, and Indian Lagoon in Gulf County, including canals, channels, rivers, and creeks.
(2) “Bag” means any container holding an amount of culled shellstock equal to the volume of two five-gallon buckets, one ten-gallon bucket, or sixty pounds.
(3) “Certified oyster house” means a shellfish shipper, repacker, shucker-packer, or depuration processor who possesses a shellfish processing plant certification license from the Department.
(4) “Closed area” means any area in which the taking or harvesting of oysters is prohibited pursuant to any applicable rule, order or other action of the Department or the Florida Fish and Wildlife Conservation Commission.
(5) “Commission” means the Florida Fish and Wildlife Conservation Commission.
(6) “Cull” means to sort oysters immediately after they are taken out of the water, discarding oysters which are not of legal size, and cleaning mud, bedding shell, and other debris off of those retained that are legal size. Culling takes place over the bar from which the oysters were harvested and includes replacing and scattering all undersize oysters and bedding shell on the reefs from which the oysters were taken.
(7) “Department” means the Florida Department of Agriculture and Consumer Services.
(8) “Harvest” means the taking of oysters by any means whatsoever, followed by a reduction of such oysters to possession. Oysters that are taken but immediately returned to the water free, alive, and unharmed, are not harvested. In addition, temporary possession of oysters for the purpose of culling shall not constitute harvesting such oysters, provided that, after culling, they are immediately returned to the water, free, alive, and unharmed if undersize.
(9) “Harvest for commercial purposes” means to harvest oysters with the intent to sell. Sale of oysters in any amount shall automatically result in such oysters being characterized as commercially harvested.
(10) “Harvest for recreational purposes” means to harvest oysters for personal consumption only.
(11) “Oyster” means any wild or feral mollusk of the species Crassostrea virginica.
(12) “Shellstock” means shellfish which remain in their shells.
(13) “Tolerance” means the allowable deviation in size from size limits prescribed in this chapter.


68B-27.014 Statewide Bag Limits on Oyster Harvesting.
(1) Commercial Bag Limit.
(a) Except as provided in paragraph (b), in all counties of the state, no person shall harvest or take for commercial purposes more than twenty (20) bags of oysters per person or vessel, whichever is less, per day.
(b) Beginning October 1 each year and continuing through June 30 of the following year, in Apalachicola Bay, each person who harvests or takes oysters for commercial purposes shall be subject to a bag limit of twenty (20) bags of oysters per day. On any vessel in the bay during this period, a vessel limit equal to twenty (20) bags of oysters times the number of persons aboard the vessel harvesting or taking oysters for commercial purposes shall apply and possession of more than this number of bags of oysters aboard such a vessel in the bay is prohibited. Paragraph (a) shall apply in Apalachicola Bay to all commercial harvesters during the rest of
the year.

(2) In all counties of the state, no person harvesting oysters for recreational purposes shall possess more than two (2) bags per person or vessel, whichever is less, per day. The possession of more than two bags of oysters per person or vessel, whichever is less, per day by such a harvester shall constitute a violation of this rule.

(3) No person shall harvest for recreational and commercial purposes within any one day.

(4) When vessels are connected in any way, for example by towing, no person shall claim more than one bag limit for all vessels so connected.

(5) Possession of oysters in excess of the applicable bag limit aboard a vessel harvesting oysters in or on the waters above any public oyster bed is prohibited.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 3-10-91, Amended 11-29-93, 7-15-96, Formerly 46-27.014, Amended 6-1-99.

68B-27.015 Oyster Size Limit.

(1) Except as provided in subsection (3) of this rule, no person shall harvest, possess while in or on the waters of the state, or land, any oyster less than three (3) inches in greatest dimension. Oysters which are three (3) inches or more in greatest dimension shall be legal size.

(2) Each person harvesting oysters from the waters of this state shall cull such oysters, unless otherwise provided in this chapter, or unless otherwise permitted by the Department for the purpose of planting or relaying as provided by law.

(3) Tolerances. There shall be two types of tolerances allowed with regard to the size of oysters harvested in or on waters of the state.

(a) Tolerance for Attached Oysters. In instances in which culled oysters less than three (3) inches in greatest dimension are attached to legal size oysters such that to separate them would destroy either oyster, a person may harvest, possess while in or on the waters of the state, and land such undersize attached oysters provided that such oysters number no more than 15% of the oysters in any bag or equivalent container. The legal size oysters to which the undersize oysters are attached shall be counted separately from the attached oysters.

(b) Tolerance for Individual, Unattached Oysters. A person may harvest, possess while in or on the waters of the state, and land oysters less than three (3) inches in greatest dimension, provided, that such oysters number no more than 5% of the oysters in any bag or equivalent container.

(4) For purposes of this rule, the term “land” means the physical act of bringing harvested oysters ashore.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 3-10-91, Formerly 46-27.015, Amended 10-7-01.

68B-27.016 Oyster Harvest Monitoring.

(1) All persons harvesting oysters for commercial purposes from areas where monitoring stations are in operation shall:

(a) Before leaving the waters of these areas, pass through a monitoring station;
(b) Before arriving at a monitoring station, place all oysters on board their vessels in bags;
(c) Place all bags containing oysters in plain view on their vessel(s); and
(d) Declare all oysters on board for inspection.

(2) In water bodies where monitoring stations have been established, the harvest or possession on the water of oysters is prohibited from the posted daily closing time of the station until official sunrise the following day, as established by the U.S. Weather Service.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 3-10-91, Amended 11-29-93, Formerly 46-27.016.

68B-27.017 Apalachicola Bay Oyster Harvesting Restrictions.

In addition to all other provisions of this chapter, the following provisions shall apply to Apalachicola Bay:

(1)(a) Except as provided in paragraph (b) and when Apalachicola Bay is not closed for public health purposes, oysters may be harvested in the bay for commercial purposes any day of the week.
(b) If during the period beginning on November 16 each year and continuing through May 31 of the following year the Department's Shellfish Assessment and Enhancement Section, through its regular monitoring of the abundance of oyster resources on Cat Point Bar and East Hole Bar in the bay, through the Standard Resource Management Protocol (a scale based on scientific sampling that provides a predictive index of the number of oysters available for harvest), establishes that such resources cannot sustain a harvest of 300 bags of oysters per acre, the harvest of oysters for commercial purposes from the bay on Saturday and Sunday of each week for the remainder of the period is prohibited. The Commission shall give notice of such weekend closure in the manner provided in Section 120.81(5), F.S. The weekend closure shall begin no sooner than one week following such notice.

(2) Harvesting oysters for recreational purposes as provided in Rule 68B-27.014, F.A.C., shall be permitted on any day provided the Bay is not closed for public health reasons.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 3-10-91, Amended 11-29-93, Formerly 46-27.017, Amended 6-1-99, 9-1-05, 5-18-06, 6-1-12.

68B-27.018 Statewide Harvesting Restrictions.

(1) Transport and sale of oysters taken intentionally or as bycatch from public oyster reefs using trawling devices or any device towed or operated from a vessel under power or sail shall be prohibited. Oysters taken as bycatch in this manner shall be returned as soon and as reasonably close to public beds from which they were taken as is possible.

(2) Oysters may be harvested by hand, while diving, swimming, leaning from vessels, or wading, and by tongs.

(3) The harvest of oysters between sunset and sunrise, as established by the U.S. Weather Service, from the public reefs or from private bedding grounds is prohibited, except as provided in subsection 68B-27.016(2), F.A.C., in areas where monitoring stations have been established.

(4) The use of any dredge, drag, scrape, or other mechanical device other than ordinary hand tongs in harvesting oysters for any purpose from public oyster beds in state waters is prohibited.

(5) The possession of any dredge, drag, scrape, or other mechanical device other than ordinary hand tongs in or on the waters above any public oyster bed is prohibited.

(6) Ordinary hand tongs may be stowed in vessels from sundown until sunrise.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 3-10-91, Formerly 46-27.018, Amended 6-7-10.

68B-27.019 Seasons.

(1) In all areas of the state, no person shall harvest oysters on the public reefs of this state, or have such oysters in possession, from July 1 through September 30 of each year, except in the following areas or circumstances:

(a) In Apalachicola Bay:

1. The harvest or possession of oysters on the public reefs is allowed from June 1 through August 31 of each year only in the areas specified in subsection 5L-1.003(1), F.A.C., for the Apalachicola Bay System.

2. The harvest or possession of oysters on the public reefs is allowed from September 1 through May 31 of each year only in the areas specified in subsection 5L-1.003(1), F.A.C., for the Apalachicola Bay System.

(b) As otherwise provided in this chapter or in Section 379.2525, F.S.

(c) In Wakulla, Dixie, and Levy Counties, no person shall harvest or possess oysters on public reefs from June 1 through August 31 each year.

2. The possession of oysters during the closed seasons specified in this chapter constitutes a violation of this rule.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 3-10-91, Amended 10-3-94, 7-15-96, Formerly 46-27.019, Amended 9-1-05.
**68B-27.020 Applicability to Oysters on Leased Parcels.**

The harvest of oysters from submerged lands which have been leased for shellfish culture by the State of Florida shall be carried out in compliance with all the provisions of this chapter unless the harvest is exempted from such compliance by specific provisions in valid lease(s) applicable to particular parcels in question.

_Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 3-10-91, Formerly 46-27.020._