

## Apalachicola Oysters

### PROPOSED DRAFT RULE LANGUAGE

#### Draft Rule Hearing Agenda Item # 4B

July 22, 2020

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#### CHAPTER 68B-27 OYSTERS

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##### **68B-27.013 Definitions.**

As used in this chapter:

(1) "Apalachicola Bay" or "Bay" means all waters within St. George Sound, East Bay in Franklin County, Apalachicola Bay, St. Vincent Sound in Franklin County, and Indian Lagoon in Gulf County, including canals, channels, rivers, and creeks.

(2) through (11) No change.

(12) "Tongs" means a hand-operated instrument used for gathering oysters consisting of a pair of long-handled rakes with inward-facing teeth.

(12) through (13) renumbered as (13) through (14).

*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, 11-27-96, Formerly 46-27.013, Amended \_\_\_\_\_.*

##### **68B-27.014 Statewide Bag Limits on Oyster Harvesting.**

(1) Commercial Bag Limit.

(a) Except as provided in paragraph (b), in all state waters open to oyster harvesting ~~counties of the state~~, no person shall harvest or take for commercial purposes more than twenty (20) bags of oysters per person or per vessel, whichever is less, per day.

(b) Except as provided in 68B-27.017(1)(a), 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) Recreational Bag Limit. In all state waters open to oyster harvesting ~~counties of the state~~, no person may harvest ~~harvesting oysters~~ for recreational purposes or shall possess more than two (2) bags of oysters per person or per 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 purposes and harvest for commercial purposes within any one day.

(4) through (5) No change.

(6) The bag and vessel limits established in this rule do not apply to the authorized harvest of oysters from submerged lands which have been leased for shellfish culture by the State of Florida.

*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-27.017 Apalachicola Bay Oyster Harvesting Restrictions.**

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

(1)(a) Through December 31, 2025, no person may harvest for commercial purposes an oyster from Apalachicola Bay or possess an oyster in or on Apalachicola Bay.

(b) Beginning January 1, 2026, eExcept as provided in paragraph (c) ~~(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.

~~(c)(b)~~ If during the period beginning on November 16 each year and continuing through May 31 of the following year the Commission 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 Bbay, 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 bBay 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)(a) Through December 31, 2025, no person may harvest for recreational purposes an oyster from Apalachicola Bay or possess an oyster in or on Apalachicola Bay.

(b) Beginning, January 1, 2026, hHarvesting 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.

(3) Through December 31, 2025, the possession of tongs in or on Apalachicola Bay is prohibited.

(4) The prohibitions in this rule do not apply to the authorized harvest of oysters from submerged lands within Apalachicola Bay which have been leased for shellfish culture by the State of Florida.

*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 46-27.017, Amended 6-1-99, 9-1-05, 5-18-06, 6-1-12,\_\_\_\_\_.*

#### **68B-27.018 Statewide Harvesting Restrictions.**

(1) through (4) No change.

(5) 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.

(6) 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.

(7) Except as provided in 68B-27.017(3), F.A.C., ~~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, 11-26-14,\_\_\_\_\_.*

#### **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) Except as provided in 68B-27.017, F.A.C., in Apalachicola Bay:

1. The harvest or possession of oysters on the public reefs 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) through (c) No change.

(2) No change.

*Rulemaking 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,\_\_\_\_\_.*