



This document summarizes a draft rule amendment for the Florida Fish and Wildlife Conservation Commission's (FWC) rule for Oysters 68B-27, Florida Administrative Code (F.A.C.), that would allow the harvest of oysters seven days a week in Apalachicola Bay.

The FWC manages oysters jointly with the Florida Department of Agriculture and Consumer Services (DACS). DACS has requested that FWC allow the harvest of oysters from the waters of Apalachicola Bay seven days a week.

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## Background

- Florida's oyster fishery is jointly managed by the FWC and DACS
- In 2010 and 2011, DACS changed rules that significantly reduced the daily time allotted for the harvest of oysters for human health purposes
- Current FWC regulations allow harvest of oysters 7 days a week in Apalachicola Bay Nov. 16 – May 31 but restrict the harvest of oysters to 5 days a week the rest of the year
- DACS requested FWC allow harvest 7 days a week year-round because of the new reduced daily times
- On Aug. 30, 2011, an FWC Executive Order was issued to allow the harvest of oysters 7 days a week in Apalachicola Bay from Sept. 1 to Nov. 16, 2011, to account for the shorted daily time on the water required by DACS



DACS developed rules in 2010 and 2011 to meet the requirements of the National Shellfish Sanitation Program (NSSP) as it relates to *Vibrio vulnificus*. The NSSP updated the Program Guide for the Control of Molluscan Shellfish in 2009, which aids in shellfish sanitation and reducing cases of *V. vulnificus*. *Vibrios* are bacterium found in estuaries that thrive in warm water. Ingestion can cause gastroenteritis in healthy individuals but is potentially deadly to individuals with underlying chronic diseases. DACS adjusted rules in 2010 and 2011 to decrease the risk of consumption of oysters contaminated by *vibrio*.

Prior to the rule changes in 2010, DACS required oyster harvesters to deliver their oysters to a certified dealer within 12 hours of the time harvest during April, May and October; within six hours of harvest during June, July, August and September; and by 10 p.m. of the same day as harvest during November, December, January, February and March. The new rules require harvesters to deliver their oysters to a certified dealer by 4 p.m. in April; 11:30 am during May, June and July; 12 p.m. in August through October; and 5 p.m. in November. Thus, in the past two years' DACS has significantly reduced the daily time allotted for the harvest of oysters.

The current FWC regulations only allow harvest of oysters in Apalachicola Bay seven days a week November 16 through May 31 and prohibit the harvest of oysters on Friday and Saturday from June 1 through August 31 and on Saturday and Sunday from September 1 through November 15. DACS requested that FWC permanently allow the harvest of oysters seven days a week in Apalachicola Bay to account for the shortened harvesting days. The FWC did not have time to go through the rulemaking process before the September season. Therefore, the FWC issued an Executive Order on August 30, 2011, that allowed the harvest of oysters seven days a week in Apalachicola Bay from September 1, 2011, to November 16, 2011.

The following slide outlines a draft rule to allow the harvest of oysters seven days a week, year round, in Apalachicola Bay.

## Proposed Draft Rule Amendment

### 68B-27.017 Apalachicola Bay Oyster Harvesting Restrictions

- Allow harvest 7 days a week, year-round in Apalachicola Bay by removing the language that prohibits the harvest of oysters on Friday and Saturday June 1 – Aug. 31 and on Saturday and Sunday Sept. 1 – Nov. 15 of each year
- Language will remain in the existing rule that currently closes harvest on weekends Nov. 16 – May 31 if monitoring program determines the resource cannot sustain harvest of 300 bags of oysters per acre



Rule 68B-27.017, F.A.C. (Apalachicola Bay Oyster Harvesting Restrictions), would be amended by removing the stipulation that prohibited the harvest of oysters in Apalachicola Bay on Friday and Saturday from June 1 through August 31 of each year and on Saturday and Sunday from September 1 through November 15 of each year. This would allow a seven day work week, year-round, due to the shortened time on the water required by DACS.

Language will remain in the existing rule that currently closes harvest on weekends Nov. 16 – May 31 if the current monitoring program determines the resources cannot sustain harvest of 300 bags of oysters per acre.

## Staff Recommendation

- Approve proposed rule amendment allowing the harvest of oysters in Apalachicola Bay seven days a week

***If directed staff will publish a notice that the rule will become final and effective on June 1, 2012, with no further public hearing unless requested***



Staff recommends approving the proposed rule amendment allowing the harvest of oysters seven days a week in Apalachicola Bay. Staff also recommends approving the draft rule amendment without further hearing planned prior to adoption, unless requested, and recommends that this rule become effective on June 1, 2012. Staff has evaluated the rules under the standards of 68-1.004, F.A.C., and found them to be in compliance.

The following slides are considered back up material  
and are not anticipated to be part of the actual  
presentation to the Commission



## Oyster Monitoring Program

- Monitoring program was developed in 1986 after hurricanes Elena and Kate heavily depleted oyster beds in Apalachicola Bay
- DACS surveys largest oyster beds in the bay on a quarterly basis to determine standing stock
- Oyster Beds will close if beds cannot support 300 bags harvested per acre
- No closure has ever occurred



In 1986, oyster beds in Apalachicola Bay suffered severe damage from hurricanes Elena and Kate and were too depleted to withstand commercial harvest. The monitoring program was developed as part of a recovery plan for Apalachicola Bay. It requires DACS to sample the bay on a quarterly basis to ensure that the standing stock is healthy enough to withstand commercial harvest. If the oyster beds cannot support 300 bags of oysters per harvested acre, DACS would notify FWC and shut down the commercial harvest of oysters. The observations from the monitoring program have never closed the oyster beds in Apalachicola Bay. If a closure is needed, the oyster harvesting in Apalachicola Bay would close for the remainder of the season.