

§433. Culling oysters taken from natural reefs; size limits

A. All oysters taken from the natural reefs of this state which measure less than three inches from hinge to mouth and all dead shell shall be immediately replaced and scattered broadcast upon the natural reefs from which taken. No captain, person in charge of any vessel, canner, packer, commission man, or other person shall have in his possession off the natural reefs any natural reef oysters which were not taken in accordance with the provisions of this Subpart. Any excess of over fifteen percent of dead shells and oysters under the size prescribed herein, in any cargo lot of oysters, except any cargo lot of oysters to be used as seed oysters for bedding purposes only, shall be considered a violation of this Subpart, and any officer of the department may cause to be counted the whole or part of the cargo or lot of oysters at the expense of the person or vessel, to determine the percentage. No oysters under one inch in length from hinge to mouth shall be counted, and each half shell of over one inch shall be counted as one.

B.(1) Under its supervision and direction, the department may permit lessees of oyster bedding grounds to fish oysters of any size, without charge, from the natural reefs of the waters of this state. Such oysters are to be used as seed oysters for bedding purposes only. The department may designate from which natural reefs oysters may be fished and the quantity to be taken therefrom by any lessee. The natural reefs may be fished for the harvest of seed oysters only each year starting the first Wednesday after Labor Day. Beginning on the second Monday in October each year, the seed grounds may be opened for the harvest of oysters for market sales in addition to the harvest of seed oysters. All harvest of oysters on the public seed grounds shall cease on April thirtieth of each year. However, the commission may extend the taking of oysters on natural reefs by setting the last day of the season if it is determined that sufficient quantities of oysters are available to accommodate such additional taking in designated areas. When setting the last day of the season, the commission shall consider the recommendations of the Oyster Task Force. The commission may designate what parts or portions of the natural reefs may be fished for oysters and it may suspend the fishing of oysters altogether from natural reefs not leased by it when such reefs are threatened with depletion as determined by the department. When designating those areas of the natural reefs that may be fished, the commission shall consider the recommendations of the Oyster Task Force.

(2) The commission shall annually set aside one or more areas east of the Mississippi River for the exclusive use of sackers. The designation of the said areas is to be based on the best available data by the department for ensuring the economic development of the fisheries. One of the areas so designated shall be located in the American Bay area east of the Mississippi River in Plaquemines Parish. The total areas designated shall not exceed one-fourth of the total areas of public seed grounds east of the Mississippi River. The commission may, by rule, provide for oyster size restrictions in these sacking areas.

C. No person shall take oysters from the natural reef of the waters of the state during the period beginning the day following the closing date set by the commission pursuant to Paragraph (B)(1) of this Section and ending the Tuesday following Labor Day, or during any closure of the natural reefs as set by the commission or department.

No person shall can, shuck, or pack any oysters from the natural reefs during the closure period. This provision does not prevent any lessee of oyster bedding grounds from

harvesting his own oysters and using them for personal home consumption or for sale during the time of closure.

(1) Violations of any of the provisions of this Subsection shall constitute a class six violation.

(2) In addition to any and all other penalties of this Subsection, the court shall sentence the violator to perform forty hours of community service. If a litter abatement community service is available, the hours shall be served in a community service litter abatement program.

D. No person shall remove oysters from any state owned natural reef for the purpose of steam processing from the first Wednesday after Labor Day through December 31, both dates inclusive.

E. The department, at one of its regular meetings, in the exercise of its duties to improve, enlarge, and protect the state-owned natural reefs of this state, and after affording industry, department personnel, and interested parties an opportunity to be heard, shall have the option, between January first and the last day of the season of each year, of closing any portion or all of the natural oyster reefs of this state to the harvest of oysters, and/or of setting harvesting size limits on any portion or all of the natural oyster reefs of this state, as expected conditions warrant. The department shall notify the oyster industry of its determination by filing the information in the office of the secretary, and by notice once weekly for two weeks prior to implementation, in the newspapers of general circulation in the coastal zone.

F. The limitations as to size contained in Subsection A shall not apply to seed oysters lawfully fished from the natural reefs.

G. No provisions of this Section shall prevent the department from exercising its option to close the natural grounds to all oyster fishing as provided in Subsection B, and no person shall take oysters from the natural reefs during any such closure.

H. The provisions of this Section do not apply to a lessee of private bedding grounds when harvesting his own oysters.

I. The commission shall designate the natural reefs by regulation.

J. Excluding the penalties prescribed in 56:433(C), a violation of all other provisions of this Section shall constitute a class two violation.

Acts 1981, No. 925, §1; Acts 1987, No. 924, §2; Acts 1990, No. 1015, §1; Acts 1991, No. 496, §1; Acts 1992, No. 46, §1; Acts 1993, No. 115, §1; Acts 2003, No. 448, §1; Acts 2004, No. 211, §1; Acts 2006, No. 393, §1; Acts 2007, No. 310, §1; Acts 2008, No. 92, §1.

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