

Department of Health and Hospitals Shellfish Sanitation Code (Title 51) and to facilitate harvest and transport of shell-stock harvested from Louisiana water bottoms. It is also intended to provide an effective method of regulating the transfer of oysters from harvest vessels to cargo vessels which will land or off-load oysters. Violation of any provision of the rules, regulations or statutes concerning the oyster cargo vessel permit by the permittee, oyster harvester or vessel owner while operating under the OCV permit shall result in suspension and/or revocation of the permit in addition to any citations resulting from activities.

B. Permit Procedures

1. Permits shall be available from the Department of Wildlife and Fisheries (LDWF) licensing office in Baton Rouge at any time during regular business hours. The OCV permit may be purchased at any time of the year for the current license year and from November 15 for the immediately following year, and shall be valid for up to one calendar year beginning January 1 and expiring on December 31 of the same calendar year. The annual fee per permit shall be \$250 for residents and \$1105 for nonresidents.

2. Permits shall be issued in the name of the vessel owner and shall have the vessel identified on the license.

3. Any designee obtaining the permit on the vessel owners behalf must present to LDWF licensing a signed, notarized document from the vessel owner, which includes the vessel owner's name, address, Social Security number, date of birth and driver's license number, and registration number or USCG document number of the vessel to be permitted, giving permission for the designee to obtain the permit. If the owner of such vessel is a corporation, the Louisiana Secretary of State's charter/organization identification number shall be required and the permission document shall be signed by a registered agent or director of the corporation as identified by the Louisiana Secretary of State's office. Permits shall only be issued to validly licensed vessels.

C. Operations. Permits are non-transferable and only the vessel listed on the permit can be used with the permit and only one vessel is allowed per permit. The vessel must maintain the original permit on board at all times while operating under the permit, including times of fishing and transportation. The permitted vessel shall display signs, visible from either side of the vessel and from the air, with the words "OCV Permit" and the permit number shall be placed on these signs in letters at least 12 inches in height.

1. All vessels operating as oyster cargo vessels under this permit shall be required to meet Louisiana Department of Health and Hospitals Shellfish Sanitation Code requirements.

D. Records, Reporting. The applicant, vessel owner or a designee on board a legally permitted oyster cargo vessel shall only transport oysters taken by the other legally licensed commercial oyster harvesters on behalf of a certified dealer legally licensed in Louisiana and shall be required (on behalf of a certified dealer only) to complete all required records pertaining to oysters at the point oysters are transferred to the receiving vessel. No person shall transfer

oysters to any commercial vessel for purposes of refrigeration, sale or transport unless the receiving vessel has an oyster cargo vessel permit as described in R.S. 56:422(E).

E. Landing. All oysters taken from the reefs of this state and transported by a legally permitted oyster cargo vessel must be landed in Louisiana in accordance with R.S. 56:424G(1). No person operating under an oyster cargo vessel permit shall land any oysters taken by another harvester outside the jurisdiction of Louisiana.

F. Tagging. All oysters transferred to an oyster cargo vessel must be properly sacked or containerized and tagged in accordance with the provisions of R.S. 56:449 and must meet all Louisiana Department of Health and Hospital Shellfish Sanitation Administrative Code requirements that relate to the tagging of shellfish prior to being placed on board any oyster cargo vessel.

G. Monitoring. The vessel utilized under this permit shall have on-board and in working order an electronic vessel monitoring system as required by R.S. 56:424, and as provided in LAC 76:VII.371. The owner or operator of any vessel issued an oyster cargo vessel permit, must have an operable vessel monitoring system (VMS) installed on-board that meets the requirements of LAC 76:VII.371. The VMS unit must be certified, installed on board and operable, and the department notified of the installation, before the vessel may begin receiving and transporting oysters.

H. Violation. Failure to abide by any regulation set forth regarding permitted oyster cargo vessels shall be deemed a violation of this Section. All oysters placed on-board from another vessel, possessed, or transported by an oyster vessel in violation shall be considered illegally taken, possessed, or transported. All persons aboard vessels with oysters placed on-board from another vessel without complying with the requirements herein shall be in violation of the oyster cargo vessel regulations. The provisions of this Section do not exempt any person from any other laws, rules, regulations and license requirements for this or other states as they pertain to the transfer or shipment of shellfish. Violations of this Section shall constitute a class 4 violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:422(E).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:2679 (December 2008).

Robert J. Barham
Secretary

0812#014

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Oyster Seed Ground Vessel Permit (LAC 76:VII.525)

The Wildlife and Fisheries Commission does hereby promulgate rules and regulations relative to the Oyster Seed Ground Vessel Permit. Authority to establish such rules and regulations is vested in the Wildlife and Fisheries Commission by R.S. 36:610(L), R.S. 56:6, R.S. 56:433.1.

Title 76
WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oyster

§525. Commercial Oyster Seed Ground Vessel Permit

A. Policy. For license year beginning 2009 any oysters taken for commercial purposes from the public natural reefs or the oyster seed grounds or reservations, except those in Calcasieu Lake or Sabine Lake, shall be placed only on a vessel which has an oyster seed ground permit issued exclusively by the department. The permit does not grant any rights to the oyster resource or any rights to harvest oysters from the waters of the state and shall not be sold, exchanged, or otherwise transferred. No new applications for vessel permits shall be accepted after December 31, 2009. The permit shall be valid for up to one calendar year beginning on January 1 and ending on December 31 of the same year, but may be made available for purchase beginning on November 15 for the immediately following license year. The cost per permit shall be \$15 for residents and \$60 for non-residents.

B. Eligibility. Only vessel owners meeting the eligibility requirements outlined in R.S. 56:433.1 shall be issued a permit. Permit applicants must provide to the Licensing Section of the department proof of vessel ownership by submitting the current certificate of registration or certificate of documentation with the United States Coast Guard to the Licensing Section of the department.

C. Proof of Participation: In addition to the requirement in Subsection B herein, applicants must meet either Paragraph 1, 2 or 3 below to be issued a permit:

1. applicant owned a vessel that was properly licensed and registered in applicant's name during a time in which department trip ticket records demonstrate that the vessel had commercial oyster landings in the state of Louisiana between January 1, 2004 and May 31, 2007;

2. for applicants who purchased or constructed a vessel and licensed that vessel for commercial fishing in the state of Louisiana between January 1, 2004 and April 30, 2008, and department trip ticket records demonstrate that oysters were landed on that vessel in the state of Louisiana between the time of the vessel's purchase or construction and July 1, 2008;

3. for applicants with a newly constructed vessel or a vessel under construction, the vessel has not been previously registered in any state or foreign country or issued a USCG documentation number, and the applicant presents to the Licensing Section of the department:

a. a signed, dated, and notarized verification from a marine surveyor qualified and accredited by NAMS (National Society of Marine Surveyors) or SAMS (Society of Accredited Marine Surveyors) that construction of the vessel for which the permit will be issued was at least 50 percent complete by July 1, 2008, or

b. a signed, dated, and notarized verification from the corporation that built the vessel that construction of the vessel for which the permit will be issued was at least 50 percent complete by July 1, 2008.

D. Applications. Applications for the initial permit shall only be accepted by the department from such persons who meet eligibility requirements as outlined in R.S. 56:433.1 and this rule. Applications shall only be made on forms supplied by the department. No new applications for vessel permits shall be accepted after December 31, 2009. Only permit holders who held a valid permit during the prior year shall be eligible to purchase a permit for the following license year.

E. Operations

1. Permits are non-transferable and only the vessel listed on the permit can be used with the permit and only one vessel is allowed per permit. The original valid permit must be onboard at all times while operating under the permit.

2. Permits cannot be assigned or transferred or used by any other vessel than the one to which permit was issued.

3. Vessels engaged in an activity for which this permit is required must have onboard the vessel the valid original permit and shall show the permit upon demand to a duly authorized agent of the department.

F. Appeals. An applicant may appeal a decision of the department denying a permit to the Oyster Seed Ground Vessel Permit Appeals Board. An appeal must be received by the department no later than 30 days after the date of denial by the department on a form prescribed by the department. The appeal must include a statement as to why the applicant believes the department incorrectly determined the applicant ineligible for the permit or why the applicant is entitled to a permit based on a determination of hardship. The appeal shall include any documentation in support thereof.

1. The board's decision shall be limited to a determination of whether the department incorrectly determined that the applicant was ineligible for a permit or a determination that the applicant should be issued a permit based on determination of hardship.

2. The board shall review all information provided and after deliberation determine whether an applicant should be issued a permit. A decision to issue a permit shall be upon favorable vote of the majority of the appointed members of the board. The board shall issue a written decision which clearly states the rationale for the decision.

3. The board shall make a decision within 60 days of the date of appeal.

G. Enforcement. The taking of oysters for commercial purposes from public natural reefs or oyster seed grounds or reservations without an oyster seed ground permit is a Class 2 violation and upon conviction will require use of a vessel monitoring system for that vessel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:610(L), R.S. 56:6 and R.S. 56:433.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:2681 (December 2008).

Robert J. Barham
Secretary

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