

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

MINUTES

August 7, 2008

**PATRICK C. MORROW
CHAIRMAN**

BATON ROUGE, LOUISIANA

The following constitute minutes of the Commission Meeting
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Louisiana Department of Wildlife and Fisheries
2000 Quail Drive

Baton Rouge, Louisiana 70808
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AGENDA
LOUISIANA WILDLIFE AND FISHERIES COMMISSION
BATON ROUGE, LOUISIANA
AUGUST 7, 2008

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MINUTES OF THE MEETING
OF
LOUISIANA WILDLIFE AND FISHERIES COMMISSION

Thursday, August 7, 2008

Chairman Patrick Morrow presiding.

Earl King, Jr.
Frederic Miller
Henry Mouton
Stephen Sagrera
Robert Samanie, III

Secretary Robert Barham was also present.

Commissioner Stephen Oats was absent from the meeting.

Chairman Morrow called for a motion for approval of the **July 8, 2008 Commission Minutes**. A motion for approval was made by Commissioner Mouton and seconded by Commissioner King. The motion passed with no opposition.

Under **Commission Special Announcements/Personal Privilege** for this month, Chairman Morrow asked for a report on the impact from an oil spill in New Orleans. Ms. Heather Finley began showing a slide of the barge at the site of the spill and noted approximately 9,000 barrels of #6 fuel oil spilled on July 23, 2008. Salvage crews have finished pumping the oil from the barge and the next task would be to cut the barge so it can be lifted. The shoreline clean-up assessment teams (SCAT) were delineating and prioritizing areas on the River for cleaning. Also on the River was a wildlife team staffed by U.S. Fish and Wildlife Service and USDA APHIS personnel. Then a slide from August 1 was shown on Caernarvon that was boomed off and another from Bayou Lamoque with no oil showing on the rip rap. Since the day of the spill until now, the Mississippi River has fallen about 5 1/2 feet and as it falls, pools of stranded water with oil floating on top were occurring in the batture. A map was shown of the clean-up area with heavily oiled, very light or no visible oiled areas. The Fish and Wildlife Service has been surveying the area and the predominant species that are affected, which was less than 5 percent, were wading birds and some ducks. The next step would be the Damage Assessment Phase. Commissioner Mouton asked who was directing the clean-up and Ms. Finley stated it was the U.S. Coast Guard and the State Oil Spill Coordinator.

Next, Commissioner Sagrera asked for an update on the issuing of alligator tags for the wild harvest season and if the storm had any affects on the alligator industry. Mr. Phil Bowman felt the state dodged a bullet with Tropical Storm Edouard. There was some rise in the tide and not much rainfall in southwest Louisiana with 2-3 inches falling at Rockefeller. This time of year was very critical for alligator farmers since they are picking up eggs. With a high tide and the possibility of flooding nests, alligator production could be lost which would impact the farmers business and the resource. Alligator tags would be issued on Monday, Tuesday and Wednesday of next week in Baton Rouge; in New Orleans on August 13; in Bourg on August 18; in New Iberia on August 19; and on August 25 and 26, the major land companies would be issued their tags. The season for the harvest of wild alligators begins on August 27 in the East Zone and on September 3 in the West Zone.

Also, Mr. Bowman noted that there has been an increase in interest for the alligator and so the only people with access were those who owned large tracts of land or had permission to go on that land. Staff took about 270 tags from WMAs and divided them into 3 tag lots and interested persons would be able to apply for a lottery. Those WMAs with alligator lotteries will be Atchafalaya Delta, Elm Hall, Joyce, Pass-a-Loutre, Pearl River, Salvador, Sherburne and the U.S. Corps of Engineers lands in Sherburne. Chairman Morrow asked what was the deadline for the alligator lottery application. Mr. Bowman stated August 15. Commissioner King asked if Commission Members and their families were eligible for the lottery hunts. Mr. Don Puckett felt it probably would be prohibited. He added that he had informal discussions with Ethics staff and their informal opinion was that it would probably be a prohibited transaction and that it would extend to their immediate families. Commissioner Sagrera asked if the lottery was advertised on the Department's website and Mr. Bowman answered yes.

Chairman Morrow reminded the Commission a letter was sent to Secretary Gutierrez with the U.S. Department of Commerce on establishing a network of marine protected areas in the Gulf of Mexico. A response was received that a decision had not been made at this point.

Secretary Barham and Chairman Morrow took the opportunity to recognize a person that was a legend in Louisiana. Mr. Robert Helm, facing some health challenges, was at the meeting with his daughter who would be recognized later. Mr. Helm retired from the Department but was working on a contract basis. Secretary Barham stated Mr. Helm's word is golden in the management of waterfowl in America. He added that the area of Mr. Helm's work was one that was hard to take care of the resource while pleasing the hunters also, but he had the special ability to accomplish that task. Secretary Barham stated that Mr. Helm was an inspiration to him and an example of why this was the finest Department in State Government. On behalf of the Commission, Chairman Morrow echoed the comments by Secretary Barham to Mr. Helm. Even though dealing with the waterfowl resources was a touchy subject, Mr. Helm knew more about waterfowl and its conservation than anyone the Chairman knew. He then expressed his heartfelt thanks and appreciation to Mr. Helm for his 28 years of service. Secretary Barham then read a certificate and presented it to Mr. Helm.

To receive and hear Enforcement & Aviation Reports/July began with Lt. Col. Keith LaCaze stating this month centered around recreational boating activities. The 2 mobile command units were out helping with DWI enforcement. In Region 7, there were 17 DWI's made during July; while a total of 480 cases were made in Region 9. There were 1,780 citations issued statewide, 773 written warnings and agents helped with 41 instances of public assists. There were 20 boating accidents reported for the month, with 7 injuries and 1 fatality. The fatality occurred in Calcasieu Parish. Lt. Col. LaCaze added that they received a call that morning of another boating accident in Terrebonne Parish the night before which resulted in 1 fatality. The Aviation Report showed the Department's three planes flew a total of 79.9 hours for the month. News Releases mentioned was on an illegal nighttime bowfishing case in St. Tammany Parish; a gamefish case that occurred in Catahoula Parish; and DWI enforcement in Ouachita Parish. Other activities involved placing the Enforcement Division on alert in case they were needed with Tropical Storm Edouard, but there was no need. Finally, Lt. Col. LaCaze announced they would begin interviewing 56 applicants for the next Academy which would begin in September. Commissioner King asked how many cadets would be in the next class and he was told 12.

To receive and hear Louisiana Outdoor Writers Association Presentation of 2007 Youth Hunters of the Year Awards began with Mr. David Moreland stating that in 2007, the Department's Deer Program and the Louisiana Outdoor Writers Association (LOWA) established a youth hunter registry program. This program recognized youth hunters 15 years old and younger and allowed them the opportunity to share their deer and turkey hunts with the public. Certificates were issued to the youth recognizing their hunting achievement and for keeping the hunting tradition alive in Louisiana. Photos and hunt information are published in the Big Game Records Newsletter and were also recognized by many outdoor writers across the state. In February 2008, a decision was made to take the program to the next level and select a male and female youth hunter of the year beginning with the 2007 hunting season. This program was similar to that the LOWA have for the Youth Journalism contest. In 2008, all youth hunting activities would be recognized and would be eligible for an award. The winning recipients would receive a plaque and a gift certificate from Bowie Outfitters. Financial support for the program was received from the Bayou State Bowhunters Association, the South Louisiana Branch of the Quality Deer Management Association, the Louisiana Wild Turkey Federation Jake's Program and Bowie Outfitters. Mr. Moreland then introduced Mr. Gordon Hutchinson, President of LOWA, who would make the presentation.

Mr. Gordon Hutchinson stated that the idea for this new program was Mr. Moreland's and he presented it to the Board and they loved it. The LOWA began a Youth Journalism Contest in 2000 with entries in the Senior Essay, Junior Essay and Photography categories. With the partnership of the Department, Mr. Hutchinson expected this Youth Hunter Program to also grow. Ms. Anna Helm was presented a plaque as the 2007 Female Youth Hunter of the Year for a turkey that she killed which weighed 17 pounds and sported an 8 3/8 inch beard. Ms. Helm then told the story of how she killed her turkey while on a youth hunt on Sherburne WMA. Mr. Moreland then introduced Dr. Helm, Anna's Grandfather and asked that he introduced his family present. Mr. Robert Helm, Anna's

father, noted that this hunt was usually a guided hunt, but the guide from the local turkey group did not show. Mr. Larry Savage, the Department's Turkey Study Leader was at Sherburne and he led them to a spot where turkeys could be heard but not seen. So, they went back to the Headquarters and the guide showed up and took Anna to the spot where the turkey was killed. Mr. Helm noted the youth hunts on the WMAs are a wonderful thing and he encouraged the Commission to continue that effort.

Mr. Hutchinson then introduced the 2007 Male Youth Hunter of the Year who on October 27, 2007 during the muzzleloader season in Area 2 killed a buck that most hunters could only dream of harvesting. The 14 year old, Mr. Chris "Green" Campbell, while hunting on family land in Caddo Parish killed a 30 point non-typical buck which scored 203 5/8 points based on the Boone & Crockett scoring system. The deer has been officially accepted for listing in the All-Time Boone & Crockett Record Book and the National Muzzleloading Rifle Association Big Games Record Program as well as being the new Louisiana State Record for a non-typical white-tailed deer taken with a muzzleloading rifle. The rifle was a 45CVA with open sights that he borrowed from his Grandfather. At this point, Mr. Campbell told his story. Mr. Moreland introduced Green's father and sister and asked Mr. Campbell to explain what happened after the first hunt. Mr. Campbell stated he did not clean his gun after hunting, so when he went to fire the gun, the bullet did not come out. He added that his son was a good, hard hunter. Mr. Campbell noted he was proud to be a Louisiana citizen and then thanked the Commission and Department for all that has been done for the youth and future youth.

Mr. Hutchinson thanked the Commission for all of their support in encouraging the youth to hunt. Chairman Morrow congratulated both recipients for their trophies and felt they would cherish the memories forever.

To receive and consider Resolution Re-Establishing the Bayou Pierre WMA was handled by Mr. Fred Whitrock. The Resolution was a continuation by the Department to update the WMAs to ensure that all of the appropriate properties were included for management and royalty purposes. The Bayou Pierre WMA, located in DeSoto and Red River Parishes, was originally proclaimed in 1993 with additional property being acquired in 1999. The Resolution would reaffirm and re-establish the WMA to ensure that all of the properties are included and the Department has full jurisdiction over the property. Commissioner Miller stated this WMA was a wonderful piece of ground and that it receives a lot of use from people of Caddo, DeSoto and Red River Parishes. He then made a motion to adopt the Resolution. Commissioner Samanie seconded the motion and it passed with no opposition. (Exhibits attached.)

(The full text of the Resolution is made a part of the record.)

RESOLUTION

Adding Certain Acquired Property to the

Bayou Pierre Wildlife Management Area

Adopted by the
Louisiana Wildlife and Fisheries Commission
August 7, 2008

WHEREAS, the Bayou Pierre Wildlife Management Area was established by Proclamation of the Governor, dated March 12, 1993,

WHEREAS, the State, through the Wildlife and Fisheries Commission and the Department of Wildlife and Fisheries on October 8, 1999 acquired a tract of land, comprised of 875.23 acres, more or less, located in DeSoto Parish, and adjacent to Bayou Pierre Wildlife Management Area,

WHEREAS, this property contains valuable wildlife habitat, the protection and proper management of which is critical to the State's conservation and wildlife management efforts,

WHEREAS, it is the recommendation of the Secretary of the Department of Wildlife and Fisheries that in order to enhance wildlife habitat in the state and provide for public use and recreational opportunities on these lands, including water bottoms, that they be selected and established as a wildlife management area and included in the Bayou Pierre Wildlife Management Area,

WHEREAS, it is the further recommendation of the Secretary of the Department of Wildlife and Fisheries that the Wildlife and Fisheries Commission confirm and reaffirm that all state owned lands, including water bottoms, located within the property description of the Bayou Pierre Wildlife Management Area, described in the Governor's Proclamation dated March 12, 1993 were previously selected and established as a wildlife management area.

WHEREAS, it is the further recommendation of the Secretary of the Department of Wildlife and Fisheries that the Wildlife and Fisheries Commission select all state owned lands, including water bottoms, located within the property acquired on October 8, 1999, and all adjacent state owned water bottoms, be established as a wildlife management area and included in the Bayou Pierre Wildlife Management Area.

THEREFORE BE IT RESOLVED, that the Wildlife and Fisheries Commission, in accordance with the laws of the State of Louisiana, particularly Title 56, Section 109 and Section 781 et seq. of the Revised Statutes of 1954, does hereby confirm and reaffirm the selection and establishment of the Bayou Pierre Wildlife Management Area, and select all land, including water bottoms, acquired on October 8, 1999, including adjacent lands and water bottoms owned by the state, and establish such lands, including water

bottoms, as a wildlife management area to be added to and included in the Bayou Pierre Wildlife Management Area, so that all land, including water bottoms described in Attachment A hereto, and identified on the attached map, including water bottoms, are included in the Bayou Pierre Wildlife Management Area.

BE IT FURTHER RESOLVED, that this property shall be used exclusively for wildlife management purposes, and as such, is perpetually dedicated to the protection, conservation and management of fish and wildlife and their habitat, and such public recreation, including, but not limited to, hunting, fishing, and trapping, which is consistent with these purposes.

BE IT FURTHER RESOLVED, that the Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries, on behalf of the Commission, to take all actions necessary in furtherance of this resolution.

Patrick C. Morrow, Chairman
Wildlife and Fisheries
Commission

Robert J. Barham, Secretary
Department of Wildlife and
Fisheries

Mr. Larry Reynolds handled the next item, **To receive and consider 2008-2009 Migratory Bird Late Season Regulations (Ducks, Geese, Snipe, Rails, Gallinules)**. He began by stating he would review the waterfowl population and habitat data, the U.S. Fish and Wildlife Service framework data and then give the staff's recommendations for the upcoming seasons. The population and habitat surveys were conducted in late May and again in July and were critical in setting the hunting seasons. In year's past, the U.S. Fish and Wildlife Service video was usually shown at this point, but it had not arrived. Results from the waterfowl population survey showed a total duck estimate of 37.3 million, down 9 percent from last year but still 11 percent above the long term average; mallards totaled 7.7 million which was the same as last year and the long term average; gadwalls were down 19 percent from last year, but still 55-56 percent above the long term average; widgeon was down 11 percent from last year and 5 percent down from the long term average; green-winged teal and blue-winged teal were about the same as last year and 45-50 percent above the long term average; shovelers and pintails down over 20 percent from last year; redheads totaled 1.1 million which was 50 percent above the long term average; canvasbacks dropped 45 percent from last year and it was 14 percent below the long term average; and scaup was approximately the same as last year which was 27 percent below the long term average. The total pond counts fell to 4.4 million which was 37 percent lower than last year and 10 percent below the long term average. Dry conditions and poor wetland habitat were found across North Dakota and in the southern prairie provinces of Manitoba, Saskatchewan and Alberta. Better conditions were seen further north in the prairie parklands and boreal forests including some excellent habitat in central

Saskatchewan and northern Minnesota. Significant rainfall was received in late summer which could benefit late nesters and brood survival, but it was expected there would be lower brood survival this year than last year. Adaptive Harvest Management (AHM), a modeling process, uses the mallard populations (those from the traditional survey area plus those from Michigan, Wisconsin and Minnesota), pond counts (those in prairie Canada), survival rates and production estimates from past years to estimate what the current spring breeding population might be and the next year's spring breeding population given an optimum set of harvest regulations. This year's AHM modeling produced 7.8 million mallards and 3 million ponds which allows for a liberal harvest season. A liberal season constitutes a 60 day season with 6 duck limit for the 12th year. But with some species changes such as the 45 percent reduction in canvasbacks resulted in the U.S. Fish and Wildlife Service closing that season statewide. The Service also implemented restrictive regulations on scaup and the Mississippi Flyway chose the hybrid option which will be 40 days with a limit of 1 scaup followed by 20 days with a limit of 2. The bag limit on wood ducks increased to 3 per day this year. Pintails would have a full season with a 1 pintail limit. The season recommendations were a 2 day calendar adjustment from last year. The duck season in the West Zone would be November 8-November 30 and December 13-January 18, and the youth weekend will be November 1-2. The East Zone season will be November 15-November 30 and December 13-January 25, and the youth weekend will be November 8-9. Bag limits will be 6 ducks per day and may include no more than 4 mallards of which 2 may be hens, 3 wood ducks, 2 redheads, 1 pintail and 1 scaup per day until December 30 in the West Zone and January 6 in the East Zone and then 2 per day on and after those dates. Also, Mr. Reynolds again noted that the canvasback season would be closed statewide. The bag limit for mergansers will be 5 in addition to the daily bag limit for ducks, only 2 of which may be a hooded merganser. Limits on coots would be 15 per day. Possession limit on ducks, coots and mergansers is twice the daily bag limit. Season recommendations for geese in the West Zone will run concurrently with the duck seasons and extends for an extra 12 days. In the East Zone, the season will open on Monday, November 3 until November 30 and then runs through the end of the duck season in January. Bag limits will be 20 per day for white geese with no possession limit, 2 per day for white-fronted geese and 4 in possession. The season for Canada Geese will be for 16 days at the end of the duck season framework except for the long-term closed area in southwest Louisiana. Bag limit will be 1 per day and 2 in possession and would still require a special permit. The Conservation Order for light geese would be on those days when the duck season was closed and extends beyond the regular goose season to March 8. During the Conservation season, there will be no bag and possession limit for white geese and the use of electronic calls and unplugged shotguns are allowed. The shooting hours extends until one-half hour after sunset. Rails and gallinules will have a 70 day season, with 16 scheduled during the September teal season. The remaining 54 days will run straight through starting with the opening day of the duck season in the West Zone. Bag limits for king and clapper rails will be 15 in aggregate, 30 in possession, and 25 in aggregate for daily and possession limits for sora and Virginia rails. Gallinules will have a 15 per day bag limit with 30 in possession. Snipe season usually begins 2 weeks before the duck season opens in the East Zone and then runs concurrent with the duck seasons for the full 107

days allowed. Bag limit will be 8 per day, 16 in possession. Extended falconry season would open with the snipe season on November 1 and close on January 30.

Following the presentation, Commissioner Miller asked what scientific information was used to base the wood duck bag limit increase from 2 to 3. Mr. Reynolds stated staff has known, through banding, survival rates and harvest rates, that the southern population of wood ducks could tolerate a higher level of harvest. The U.S. Fish and Wildlife Service did not feel there was enough population estimate data, so the focus was on the survival and harvest rates from widespread banding. Over the last 10 years, the Department has contributed substantially to this effort. A PhD student from LSU tackled the wood duck banding data and produced an analysis that concluded the wood duck population can tolerate a harvest rate of just under 15 percent. The current harvest rate is 11 percent and the predicted harvest for 3 wood ducks was just under 14 percent. Mr. Reynolds felt this extra wood duck would be closely monitored since it has been fairly contentious in past years. Commissioner Miller felt the added bird would be welcome and he then expressed appreciation for opening the white goose and speckledbelly season earlier in the East Zone. He asked if the extra 12 days were added to the front of the season and did the season always open on a Monday. Mr. Reynolds explained that 2 years ago when the white-fronted goose season closed on a Friday hunters in the field thought the season was still open and to keep from confusing them, staff decided to open on a Monday and close on a Sunday. Chairman Morrow echoed Commissioner Miller's comments on the great job done by staff in getting the extra wood duck. Mr. Reynolds appreciated and accepted the congratulations for all of the staff. Commissioner King asked if the scaup season was new this year and were they following the federal framework. Mr. Reynolds noted there were 3 alternatives offered under the restricted scaup package—a 60 day season with a 1 bird limit, a 45 day season with a 2 bird limit, or the hybrid. Staff felt very strong about not having a closed scaup season during the regular duck season and as such the hybrid offered more hunting opportunities at the end of the season when the population was higher. Hearing no further comments, Commissioner Miller made a motion to adopt the Resolution, Commissioner Mouton seconded the motion and it passed with no opposition. Following the vote, Commissioner Miller noted thanks to Mr. Robert Helm for all of his work on the wood ducks.

(The full text of the Resolution is made a part of the record.)

RESOLUTION

LOUISIANA WILDLIFE AND FISHERIES COMMISSION
LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES
August 7, 2008

The following was adopted by the Louisiana Wildlife and Fisheries Commission at its regular Commission Meeting in Baton Rouge, Louisiana, August 7, 2008.

WHEREAS, public hearings have been held to discuss the status of waterfowl, including ducks, coots, and geese in Washington, D.C., and

WHEREAS, rules and regulations governing waterfowl season framework have been developed by the U.S. Fish and Wildlife Service, and

WHEREAS, the Department of Wildlife and Fisheries staff has presented recommendations for waterfowl including season dates, bag limits and shooting hours, and

WHEREAS, it is the constitutional responsibility of the Wildlife and Fisheries Commission to establish hunting seasons for waterfowl within the constraints of the U.S. Fish and Wildlife Service framework, now

THEREFORE BE IT RESOLVED, that on this date, the Wildlife and Fisheries Commission does hereby tentatively adopt the attached season dates, bag limits and shooting hours, and

BE IT FURTHER RESOLVED, that these tentative dates will be ratified by Declaration of Emergency unless significant changes are mandated by the U.S. Fish and Wildlife Service and the Secretary is hereby authorized and delegated the authority to take any and all steps necessary on behalf of the Commission to promulgate and effectuate these seasons as a Declaration of Emergency; and

BE IT FURTHER RESOLVED, that these dates will be forwarded to the U.S. Fish and Wildlife Service as regulations set for Louisiana's 2008-2009 Migratory Bird Hunting Regulations.

Patrick C. Morrow, Chairman
Wildlife and Fisheries Commission

The next item was **To receive and hear Public Comments on the 2009 Turkey Seasons and General and WMA Turkey Hunting Regulations.** Representative Tom McVea asked the Commission and staff to look at the proposed turkey season versus the 2008 season. The opening on March 21 could not have been any better, according to Representative McVea. Now, the proposal was to open on March 28, which was a week later. He asked that the season open on March 21. Going back 25 years, Representative McVea stated that the kill limit was 3, the season opened for 5 weeks instead of 4 weeks and the turkey population was building in the Florida Parishes. The length of the season was fine and the statewide opening was also fine especially for the WMAs. Then Representative McVea stated he receives the Wildlife Agents Association Magazine and he commended their efforts in helping to clean up the litter problem in Louisiana.

To receive and consider Notice of Intent to Approve the Species of Fish Allowed in Aquaculture began with Mr. Gary Tilyou stating that during the 2008 Legislative Session, a bill passed which gave the authority to manage fish and aquaculture back to the Department, except for catfish and crawfish which remains with the Department of Agriculture. The first part of the bill would remove from statute on January 1, 2009 a list of fish currently allowed to be grown. The Commission and Department needed to create their own list before January 1. The proposed Notice of Intent included those fish which are currently legal; no new ones were added. Chairman Morrow asked if there has always been no size limit for largemouth bass. Mr. Tilyou stated it started off at 5, then it went to 10 and while working with people in aquaculture, it went to no size limit. Commissioner King asked if this was a state statute being ratified. Mr. Tilyou explained that there was not a list of fish in Title 76 the Commission has acted upon. Then he read the Therefore Be It Resolved portion of the Resolution. Commissioner Samanie made a motion to adopt the Resolution, seconded by Commissioner Sagrera and passed with no opposition.

(The full text of the Resolution and Notice of Intent are made a part of the record.)

A JOINT RESOLUTION OF THE
LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES AND
LOUISIANA WILDLIFE AND FISHERIES COMMISSION
August 7, 2008

WHEREAS, the Louisiana Department of Wildlife and Fisheries and the Louisiana Wildlife and Fisheries Commission are responsible for managing and protecting the fisheries resources of the state and,

WHEREAS, the Louisiana Department of Wildlife and Fisheries has the authority to approve the fish species allowed in aquaculture and,

WHEREAS, the Louisiana Wildlife and Fisheries Commission has the authority to regulate the importation, possession or sale of game fish species and,

WHEREAS, a list of domesticated aquatic organisms is currently in law but will be deleted from law on January 1, 2009 and,

WHEREAS, a new list of approved domesticated aquatic organisms needs to be in place before January 1, 2009.

THEREFORE BE IT RESOLVED that the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby promulgate a Notice of Intent, attached to and made a part hereof, to provide, maintain, and promulgate under the Administrative Procedure Act an approved list of "Domesticated Aquatic Organisms".

BE IT FURTHER RESOLVED, that the Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the Final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and Final Rule and the preparation of reports and correspondence to other agencies of government.

Patrick C. Morrow, Chairman
Wildlife & Fisheries
Commission

Robert J. Barham, Secretary
Department of Wildlife &
Fisheries

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

The Department of Wildlife and Fisheries and Wildlife and Fisheries Commission hereby proclaim their intent to establish a list of approved “Domesticated Aquatic Organisms” for aquaculture.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 9. Aquaculture-~~Exotic Species~~

§905. Domesticated Aquatic Organisms

A. The following is a list of “Domesticated Aquatic Organisms” approved for use in aquaculture:

1. Shadow bass (*Ambloplites ariommus*) not exceeding a maximum total length of three inches.
2. White bass (*Morone chrysops*) not exceeding a maximum total length of three inches.
3. Yellow bass (*Morone mississippiensis*) not exceeding a maximum total length of three inches.

4. Crappie (*Pomoxis spp.*) not exceeding a maximum total length of three inches.
5. Bream (*Lepomis spp.*) not exceeding a maximum total length of three inches.
6. Spotted bass (*Micropterus punctulatus*) not exceeding a maximum total length of ten inches.
7. Striped bass (*Morone saxatilis*) not exceeding a maximum total length of ten inches.
8. Largemouth bass (*Micropterus salmoides*) of any size.
9. Hybrid striped bass (*Morone saxatilis x Morone chrysops*) or (*Morone saxatilis x Morone mississippiensis*) of any size.
10. Coppernose bluegill (*Lepomis macrochirus purpurescens*) of any size.
11. Hybrid bream limited to a bluegill (*Lepomis macrochirus*) and green sunfish (*L. cyanellus*) cross or a redear sunfish (*L. microlophus*) and bluegill (*L. macrochirus*) cross of any size.
12. Carp (*Cyprinus carpio*) of any size.
13. Freshwater drum (*Aplodinotus grunniens*) of any size.
14. Buffaloes (*Ictiobus spp.*) of any size.
15. Golden shiner (*Notemigonus crysoleucas*) of any size.
16. Fathead minnow (*Pimephales promelas*) of any size.
17. Mosquito fish (*Gambusia affinis*) of any size.
18. Red drum (*Sciaenops ocellatus*)
19. Triploid grass carp (*Ctenopharyngodon idella*); See LAC 76:VII.901.
20. Tilapia (*Oreochromis aurea*, *O. niloticus*, *O. mossambicus* and *O. urolepis hornorum*); See LAC 76.VII.903.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327.A.(2) and R.S. 56.411.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR: .

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed rule to Gary Tilyou, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, October 2, 2008.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Patrick C. Morrow
Chairman
Robert J. Barham
Secretary

To receive and consider Resolution and Declaration of Emergency to Fix the Opening and Closing Dates for the 2008 Fall Inshore Shrimp Season was discussed with the Commission by Mr. Marty Bourgeois. The last spring inshore shrimp season was best described as below average. Preliminary shrimp landings for May and June were about 7 million pounds below those reported last year. The season in Zone 2 lasted about 43 days west of Bayou Lafourche and 50 days east of the Bayou. The openings for Zones 1 and 3 were delayed until June 2. With the late opening, the length of the season was compressed with the early arrival of juvenile white shrimp. Both zones were closed after only 29 days, except for certain waters in Zone 1 and an additional 7 days in Breton and Chandeleur Sounds. In consideration of the short season and the favorable growing conditions that exists and the presence of highly marketable white shrimp, the Department recommended opening the fall inshore shrimp season in all zones on Monday, August 11 at 12 noon. It was also recommended that the waters close at official sunset on December 16 except for the open waters of Breton and Chandeleur Sounds which will remain open until 6 a.m., March 31, 2009. The Department also requested authority be given to the Secretary to change the closing dates if there was a need. Commissioner Samanie asked if the December 16 closure date coincided with the 100 count. Mr. Bourgeois answered yes. He added that the count of a minimum of 100 count per pound on saltwater white shrimp is removed on October 15 of each year until the 3rd Monday in December and so the closing date would coincide with the count being reimposed. Commissioner King asked if the testing showed all 3 zones coincided. Mr. Bourgeois also answered yes and noted staff has been seeing a mixed range and with continuing recruitment, there will be some mixed grades. Commissioner King made a motion to adopt the Resolution and it was seconded by Commissioner Samanie.

Mr. Pete Gerica stated the season shut down when there were 36-40 shrimp in Zone 1 where he is with a few white shrimp showing up. Now the recommendation was to open on small shrimp, which Mr. Gerica did not feel made any sense. He felt the staff should consider micro-managing the whole system in the future. He asked that the season remain open if there are marketable shrimp when the closure date comes around. Chairman Morrow thought the Resolution allowed the Secretary to take independent action if biological data was presented.

Mr. Ricky Robin, a lifetime resident fisherman, stated the way the system runs stinks. He added that everyone around the world was interested in their fight to survive their way of life. The opening and closing of the season should be more consistent with marketable shrimp. Mr. Robin stated that he has not been right since the eye of the hurricane hit him on top of the levee. He added that he was proud to be a St. Bernard resident, but was not proud to be "stuck" to Louisiana. Closing of the shrimp season was what he was more concerned with than opening. He felt that when the water falls out of Lake Pontchartrain, then Lake Borgne becomes Lake Pontchartrain and when the water rises, Lake Pontchartrain becomes Lake Borgne. Mr. Robin did not see any white shrimp, but if he wanted to see them, he would target the grass areas and lagoons. He wanted to know who would be responsible for his bills when the shrimp season closed. He noted if he could hunt for 60 days like the season for waterfowl hunting, he could make a good living. Again, he stated he was more concerned with the closing dates. He mentioned he would go to work whenever the season opened, but he would not stop working when he was catching marketable shrimp.

Hearing no further comments, the motion passed with no opposition.

(The full text of the Resolution and Declaration of Emergency are made a part of the record.)

RESOLUTION

2008 Fall Shrimp Season
Louisiana Wildlife and Fisheries Commission
August 7, 2008

WHEREAS, R.S. 56:497 authorizes the Wildlife and Fisheries Commission to fix no less than two open shrimp seasons each calendar year for all inside waters by zone, and

WHEREAS, R.S. 56:497 provides that shrimp season openings shall be based on biological and technical data which indicate that marketable shrimp, in sufficient quantities, are available for harvest, and

WHEREAS, R.S. 56:498 provides that the minimum legal possession count on saltwater white shrimp shall average no more than 100 whole specimens to the pound

(100 count per pound), except during the time period from October fifteenth through the third Monday in December when there shall be no possession count, and

WHEREAS, historical and current biological sampling conducted by the Department of Wildlife and Fisheries has indicated that white shrimp in Shrimp Management Zones 1, 2 and 3 will average 100 count per pound minimum legal size or larger by the second Monday in August, now

THEREFORE BE IT RESOLVED, a Declaration of Emergency setting the 2008 Fall Shrimp Season in the inside waters of Zones 1, 2 and 3 is attached to and made a part of this resolution.

BE IT FURTHER RESOLVED, the Commission grants authority to the Secretary of the Department of Wildlife and Fisheries to change the closing dates if biological or technical data indicate the need to do so or if enforcement problems develop and to close and reopen all or parts of state inside and outside waters if significant numbers of small white shrimp are found in these waters.

Patrick C. Morrow, Chairman
Wildlife and Fisheries Commission

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2008 Fall Shrimp Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or parts of state inside waters and shall have the authority to open or close state outside waters, the Wildlife and Fisheries Commission does hereby set the 2008 Fall Shrimp Season in inside waters to open as follows:

Shrimp Management Zone 1, that portion of Louisiana inside waters from the Mississippi-Louisiana state line to the eastern shore of South Pass of the Mississippi River, to open at 12 noon August 11, 2008, and

Shrimp Management Zone 2, that portion of state inside waters from the eastern shore of South Pass of the Mississippi River to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, to open at 12 noon August 11, 2008, and

Shrimp Management Zone 3, that portion of state inside waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island to the Louisiana-Texas state line, to open at 12 noon August 11, 2008.

The Commission also hereby sets the closing date for the 2008 Fall Shrimp Season in inside waters in Zones 1, 2 and 3 at official sunset December 16, 2008 except in the open waters of Breton and Chandeleur Sounds as described by the double-rig line (LA R.S. 56:495.1(A)2) which shall remain open until 6:00 a.m., March 31, 2009. The Commission also grants authority to the Secretary of the Department of Wildlife and Fisheries to change the closing dates if biological and technical data indicate the need to do so or if enforcement problems develop and to close and reopen all or parts of state inside and outside waters if significant numbers of small white shrimp are found in these waters.

Patrick C. Morrow
Chairman

Mr. Patrick Banks handled the next agenda item, **To receive and consider Resolution and Declaration of Emergency for the 2008-2009 Oyster Season on Public Oyster Areas**. He noted he would present the annual oyster stock assessment on the public areas, but began by thanking the staff for their work and efforts. Mr. Banks stated he would discuss management goals, the oyster stock size, new legislative guidance and season recommendations. The management goal for oysters was to maintain the health of the resource in the nearly 1.7 million acres of public areas. An additional goal was to provide seed oysters for transplant to leases. The third goal was to provide sack oysters or market sized oysters to be taken from those grounds and sold in the market place. How are the goals achieved? The number one way was by biological sampling, followed by habitat enhancements which is called cultch planting, recommend a seasonal framework to the Commission, allow harvest restrictions in order to manage the resource and enforcement of the laws. In 2008, there was a decrease of 41 percent in the seed sized resources, but there was a nice increase in the market sized oysters. Overall, oysters from the public grounds has shown a slight decrease of about 3.3 percent, which was roughly no change from last year. Looking throughout the coastal areas, about 38 percent of the seed resource and 54 percent of the market sized resources are in Coastal Study Area (CSA) I. Those grounds in CSA II, which include Black Bay, Bay Gardene, East of the Mississippi River, has seen about a 70 percent overall decrease in availability for both seed and sack oysters. This translates into that area holding about 14 percent of the seed oysters and 9 percent of the sack oysters. The main reason for this change was the tremendous amount of freshwater from the high river which resulted in oyster mortality. In CSA III and IV, there was less than 1 percent for seed and sack oysters. CSA V holds about 6 percent of the seed resources and 4 percent of the sack. Due to unknown reef acreage in the Vermilion Bay area, the amount of resource could not be calculated in CSA VI. But, Mr. Banks noted

the increase in freshwater has taken a large toll on the resource in that area. Calcasieu Lake, which is CSA VII, holds about 42 percent of the seed resources and 32 percent of the sack resources. Talking next on legislative changes, Mr. Banks mentioned that House Bill 848 (Act 92) passed which directed the public grounds may be open for seed harvest only in September and early October. Also, the Act states that the public grounds may be open for the harvest of market sized oysters and seed no earlier than the 2nd Monday in October, it extends the season closure from April 1 to April 30, and it designated a sacking only area in the American Bay area which was east of the Mississippi River. The Commission maintains their authority to close the season at any time to keep the resource healthy. Mr. Banks then noted that the season recommendations were very close to those recommended by the Oyster Task Force. The season for the area east of the Mississippi River and Barataria Bay would be September 3-October 12 for seed harvest and then reopen October 13-April 30 for seeding and sacking. Lake Chien, Lake Felicity, Lake Mechant and Bay Junop recommended season dates would be for only 3 days since they were small areas to fish. That area in Sister Lake that was excluded from harvest last year would open this year and the season recommendation for the northern portion of Sister Lake would be September 3-September 10. Vermilion Bay season recommendation was to be September 3-October 12 for seed harvest only and then October 13-April 30 for both seed and market sized oysters. Season recommendation for Calcasieu Lake was for a full season with a 15 sack per day limit.

Following the presentation, Chairman Morrow asked if the Department and Oyster Task Force were on the same page with the recommendations. Mr. Banks stated the only difference was the Task Force asked for a 5 day season in Lake Mechant and the Department wanted 3 days. Commissioner King expressed appreciation to the Department for working with the Oyster Task Force and noted it was nice everyone was on the same page. Commissioner Sagrera asked if CSA VII would be monitored with the possibility of a lower harvest due to freshwater. Mr. Banks stated that the Commission could shut down an area at any point if there is a problem. But, as in year's past, the Resolution would give the Secretary authority to close any area of the State and also the authority to re-open an area if the threat to the resource has ended. That area has a population of oysters that comes and goes, explained Mr. Banks. Commissioner Samanie remembered last year that the Sister Lake area was hit pretty hard and asked if that was the reason for the 3 day season. Mr. Banks stated that the staff was constantly re-assessing the areas and the authority could be given to the Secretary to re-open an area if it could handle more harvest. Hearing no further comments, Commissioner Samanie made a motion to adopt the Resolution and Declaration of Emergency. Commissioner Sagrera seconded the motion and it passed with no opposition.

(The full text of the Resolution and Declaration of Emergency are made a part of the record.)

RESOLUTION
2008/2009 Oyster Season on the Public Oyster Grounds
August 7, 2008

WHEREAS, Louisiana Revised Statutes (R.S.) 56:433 provides that the Public Oyster Seed Grounds may be fished for seed oysters only starting on the first Wednesday following Labor Day which in 2008 is September 3, and

WHEREAS, R.S. 56:433 further provides that the public grounds may be opened beginning on the second Monday in October, which in 2008 is October 13, for the taking of oysters for market sales in addition to the harvest of seed oysters, and

WHEREAS, the oyster resources on the public oyster areas of Louisiana have been biologically monitored and evaluated, and the estimated available supply and size variation has been determined, and

WHEREAS, R.S. 56:433 mandates a sacking only area on the Public Grounds east of the Mississippi River and further mandates that one such area shall be located in the American Bay area, and

WHEREAS, R.S. 56:435.1.1(D) authorizes the Commission to set the harvest limit in the Calcasieu Lake public oyster ground to be no more than 25 sacks of oysters per day per licensed vessel, and

WHEREAS, the Commission has considered the recommendations of the Louisiana Oyster Task Force as provided for in R.S. 56:433(B.1),

THEREFORE BE IT RESOLVED, that the 2008/2009 oyster season on Louisiana public oyster areas is detailed in the attached Declaration of Emergency, and

BE IT FURTHER RESOLVED, that the Secretary of the Department of Wildlife and Fisheries is authorized to take emergency action, if necessary, to close areas if oyster mortalities are occurring, or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of non-living reef material in seed oyster loads, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered, and

BE IT FURTHER RESOLVED, that the Secretary of the Department of Wildlife and Fisheries is authorized to take emergency action to reopen areas previously closed if the threat to the resource has ended or may open areas if substantial oyster resources are located, and

BE IT FURTHER RESOLVED, that the notice of any opening, delaying, or closing of a season will be made by public notice at least 72 hours prior to such action, unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns, and

BE IT FURTHER RESOLVED, a Declaration of Emergency setting the 2008/2009 oyster seasons on the public oyster areas is attached to and made part of this resolution.

Patrick C. Morrow, Chairman
Wildlife and Fisheries
Commission

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

In accordance with the emergency provisions of the Administrative Procedure Act, Louisiana Revised Statutes (R.S.) 49:953(B) and 967(D), and under the authority of R.S. 56:433, R.S. 56:435.1, and R.S. 56:435.1.1(D) notice is hereby given that the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declare:

The 2008/2009 oyster season in the primary public oyster seed grounds east of the Mississippi River, as described in Louisiana Administrative Code (LAC) 76:VII.511 and LAC 76:VII.513, excluding the sacking only areas of the public grounds (described below) shall open one-half hour before sunrise on September 3, 2008 for the harvest of seed oysters for bedding purposes only until one-half hour after sunset on October 12, 2008.

These areas shall then re-open at one-half hour before sunrise on October 13, 2008 for the taking of both seed and market-size oysters and shall close one half-hour after sunset on April 30, 2009. In addition, the sacking-only areas, which are generally Lake Fortuna and Lake Machias to a line from Mozambique Point to Point Gardner to Grace Point at the Mississippi River Gulf Outlet, and the sacking-only area in the American Bay area which shall be that portion of the public grounds within Bay Long west of a line running generally north/south from a point at 29 degrees 31 minutes 13.78 seconds N latitude, 89 degrees 34 minutes 9.79 seconds W longitude to a point at 29 degrees 29 minutes 40.67 seconds N latitude, 89 degrees 34 minutes and 8.48 seconds W longitude shall open at one-half hour after sunrise on October 13, 2007 for the taking of market-size oysters and shall close at one-half hour after sunset on April 30, 2009. The 2007 cultch plant locations in Black Bay and Turkey Bayou within the following coordinates shall remain closed:

Black Bay – Plaquemines Parish

1. 29 degrees 37 minutes 30 seconds N latitude
89 degrees 33 minutes 29 seconds W longitude

2. 29 degrees 37 minutes 30 seconds N latitude
89 degrees 33 minutes 00 seconds W longitude
3. 29 degrees 37 minutes 00 seconds N latitude
89 degrees 33 minutes 00 seconds W longitude
4. 29 degrees 37 minutes 00 seconds N latitude
89 degrees 33 minutes 30 seconds W longitude

Turkey Bayou – St. Bernard Parish

1. 30 degrees 05 minutes 05.51 seconds N latitude
89 degrees 19 minutes 06.05 seconds W longitude
2. 30 degrees 05 minutes 42.24 seconds N latitude
89 degrees 18 minutes 30.04 seconds W longitude
3. 30 degrees 05 minutes 30.76 seconds N latitude
89 degrees 18 minutes 14.56 seconds W longitude
4. 30 degrees 04 minutes 54.03 seconds N latitude
89 degrees 18 minutes 50.58 seconds W longitude

The oyster season in the Hackberry Bay Public Oyster Seed Reservation as described in R.S. 56:434.E and the Little Lake Public Oyster Seed Grounds as described in LAC 76:VII:521 shall open one-half hour before sunrise on September 3, 2008 for the harvest of seed oysters for bedding purposes only until one-half hour after sunset on October 12, 2008. These areas shall then re-open at one-half hour before sunrise on October 13, 2008 for the taking of both seed and market-size oysters and shall close one half-hour after sunset on April 30, 2009. The 2008 Hackberry Bay cultch plant within the following coordinates shall remain closed:

1. 29 degrees 25 minutes 28.80 seconds N latitude
90 degrees 01 minutes 17.11 seconds W longitude
2. 29 degrees 25 minutes 37.79 seconds N latitude
90 degrees 00 minutes 55.39 seconds W longitude
3. 29 degrees 25 minutes 28.61 seconds N latitude
90 degrees 00 minutes 50.44 seconds W longitude
4. 29 degrees 25 minutes 19.63 seconds N latitude
90 degrees 01 minutes 12.17 seconds W longitude

The oyster season in the Lake Felicity, Lake Chien, and Lake Mechant Public Oyster Seed Grounds as described in LAC 76:VII.517, and in the Bay Junop Public Oyster Seed Reservation as described in R.S. 56:434.E shall open one-half hour before sunrise on October 29, 2008 and shall close one-half hour after sunset on October 31, 2008.

The oyster season in the Sister Lake Public Oyster Seed Reservation as described in R.S. 56:434.E north of the Department of Health and Hospitals' 2007 November-February seasonal classification line shall open one-half hour before sunrise on September 3, 2008 for the taking of seed oysters for bedding purposes only and shall close one-half hour after sunset on September 10, 2008.

The Vermilion/East and West Cote Blanche/Atchafalaya Bay Public Oyster Seed Grounds, as described in LAC 76:VII.507 and LAC 76:VII.509, shall open one-half hour before sunrise on September 3, 2008 for the harvest of seed oysters for bedding purposes only until one-half hour after sunset on October 12, 2008. These areas shall then re-open at one-half hour before sunrise on October 13, 2008 for the taking of both seed and market-size oysters and shall close one half-hour after sunset on April 30, 2009.

The oyster season in the Calcasieu Lake public oyster area, as described in R.S. 56:435.1 and R.S. 56:435.1.1, shall open one-half hour before sunrise on October 15, 2008 and shall close one half-hour after sunset on April 30, 2009. The sack limit for Calcasieu Lake is set at 15 sacks per day as provided for in R.S. 56:435.1.1. However, these conservation actions shall not supercede public health closures.

The following areas will remain closed for the 2008/2009 oyster season: the Bay Gardene Public Oyster Seed Reservation (as described in R.S. 56:434.E), the Barataria Bay, Deep Lake, and Lake Tambour Public Oyster Seed Grounds (as described in LAC 76:VII:517), and the Sabine Lake Public Oyster Area as described in R.S. 56:435.1.

The Secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of non-living reef material in seed oyster loads, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered.

The Secretary is authorized to take emergency action to reopen areas previously closed if the threat to the resource has ended, or may open areas if substantial oyster resources are located.

Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns.

Patrick C. Morrow

Chairman

The next item, **To receive and consider Resolution, Notice of Intent and Declaration of Emergency on Modification of Shark Recreational and Commercial Harvest Rules** was the first of two items for Mr. Harry Blanchet. He explained that the proposal was an extensive modification of the existing rules on the harvest of sharks which affects both recreational and commercial fisheries as well as the species harvested by recreational fishermen. It also removes the catch by recreational fishermen of the sandbar and silky shark; removes sandbar shark from commercial harvest except for those that have a Federal Research Shark Permit; and establishes a season that was more extensive than those in the past. Mr. Blanchet added that the shark fishery was a highly migratory species and the Gulf of Mexico was considered a single group. Harvest limits for those fishermen that have a commercial shark permit would change from a trip limit of 4,000 pounds per trip to a limit of 33 sharks for the large coastal species group. Additional requirements were included in the proposed rule for commercial dealers that purchase sharks. Another change in the rule was to allow fins to be removed from a shark once it was offloaded from a vessel; but the Federal rules requires the fins to be maintained by the harvester rather than sold at landing. This change would create challenges in tracking those fins as they move through commerce. Department rules to cover this challenge would require a harvester that retains his fins to be a wholesale/retail dealer and require a trip ticket transaction that reports those fins to the Department. Another regulation was making it illegal to replace sharks once onboard a vessel with another shark of higher quality or size caught later. Mr. Blanchet then noted the Declaration of Emergency would become effective at 12:01 a.m. on August 11, 2008. Commissioner King asked who enforces the regulations in Federal waters. Mr. Blanchet stated the Coast Guard, National Marine Fisheries Service and Department agents can enforce federal and state rules.

Mr. Christopher Rhoto asked if there was any scientific data to make this a law in state waters. Mr. Blanchet stated the science was based on a 2005 stock assessment by National Marine Fisheries Service for large coastal sharks that found the sandbar and dusky sharks were overfished and overfishing was occurring, and the recommendation for blacktip shark was not to allow any increase in current harvest rates. The Department's rules were based on NMFS' Amendment 2. Mr. Rhoto then asked if those results were from Louisiana or Florida, and noted he had a state permit. Mr. Blanchet mentioned the shark species were highly migratory and the amount of movement in the Gulf of Mexico was not well determined, but it occurs. Mr. Rhoto then commented that there was no research in this state and Mr. Blanchet agreed that there was no state based research. Mr. Rhoto noted there are sharks in Lake Pontchartrain and the Mississippi River, which Mr. Blanchet added were bull sharks. The sandbar shark, according to Mr. Rhoto lives in 500 to 600 feet of water. He stated, in regards to the 33 sharks, they get paid by the pound, so he felt a lot of young shark would be killed to get a larger shark. Mr. Rhoto suggested having a 1,500 or 2,000 pound limit which would eliminate killing sharks for no reason. He also asked for research to be conducted in Louisiana. Chairman Morrow asked if the state has the capabilities to do research in Louisiana and Mr. Blanchet answered yes. Mr. Rhoto made the request so Louisiana could get its own state quota. Commissioner Miller felt

there was a problem with that since these sharks are a highly migratory species and if the federal regulations are not complied with, then the feds only option was to shut the fishery down.

Commissioner King asked how many commercial and recreational shark licenses are processed each year. Mr. Blanchet stated there was no recreational shark license in state waters, but in Federal waters, fishermen are required to have a Highly Migratory Species Permit. As such, there are no good numbers on how many fishermen harvest sharks in state waters. Commissioner King then asked how does the Department follow what the fishermen are doing both commercially and recreationally. Mr. Blanchet stated there is a shark permit issued annually through the Commercial License, and that number varied between 350 and 500 per year. Chairman Morrow asked if it was a Federal regulation that if a recreational fisherman lands a shark in federal waters you need a federal permit and Mr. Blanchet answered yes.

Mr. Wayne Maggio agreed with Mr. Rhoto in that the Gulf quota was by the pound and they sell by the pound. Now the regulation would make the fishermen “catch heads” which would push them further out. Mr. Maggio felt the larger sharks were more dangerous. He also noted he would have a 60 to 70 percent decrease in pay with the new regulation. Also, Mr. Maggio stated he used to make a living with this fishery, but with the increasing cost of fuel, he felt they could not do that now.

Commissioner Miller called for the question. Chairman Morrow asked if the feds also moved from a poundage limit to a number of 33 on sharks and Mr. Blanchet answered yes. The Resolution, Declaration of Emergency and Notice of Intent passed with no opposition.

(The full text of the Resolution, Declaration of Emergency and Notice of Intent are made a part of the record.)

RESOLUTION
DECLARATION OF EMERGENCY AND NOTICE OF INTENT TO
MODIFY SHARK HARVEST RULES

Adopted by the
Louisiana Wildlife and Fisheries Commission
August 7, 2008

WHEREAS, the shark resources in the Gulf of Mexico off the coast of Louisiana are cooperatively managed by the Louisiana Department of Wildlife and Fisheries (LDWF) and the National Marine Fisheries Service (NMFS), and

WHEREAS, regulations promulgated by NMFS are applicable for waters of the Exclusive Economic Zone (EEZ) of the U.S., generally three miles offshore, and for federally permitted reef fish harvesters, and

WHEREAS, regulations promulgated by the Louisiana Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, have provided rules for the harvesting of shark species in Louisiana's state waters, and

WHEREAS, on June 24 2008, NMFS promulgated a rule that modified trip limits for commercial take of shark in the Large Coastal Shark group, intended to limit harvest for these species, and

WHEREAS, these rules further limited harvest of sandbar shark for many commercial harvesters, and eliminates harvest of sandbar and silky shark for recreational harvesters, and

WHEREAS, these regulations also modified methods by which fins could be removed from shark during and after landing, and

WHEREAS, adoption of compatible regulations for Louisiana state waters where feasible would enhance effectiveness and enforceability of the regulations already in place for shark harvested in the EEZ off of Louisiana, and

WHEREAS, fisheries for shark also occur in Louisiana state waters that are significant to the citizens of the State of Louisiana and thus enactment of compatible regulations may also impact those persons involved in those fisheries, and

WHEREAS, the trip, species, and other harvest limits established as part of this rule require emergency action in order to be effective near the same time as these rules will become effective in adjacent Federal waters of the EEZ, and

WHEREAS, the Secretary of the Department of Wildlife and Fisheries has closed the season for the commercial harvest of Large Coastal Shark in Louisiana waters until rules could be established by the Commission for that harvest, after consideration of the new rules in Federal waters, and

WHEREAS, R.S. 56:6(25)(a), 56:320.2(C), 56:326.1, and 56:326.3 provide authority for adoption of this rule through the Wildlife and Fisheries Commission,

THEREFORE BE IT RESOLVED, that the Wildlife and Fisheries Commission hereby adopts a Declaration of Emergency and Notice of Intent to modify shark management measures by adoption of rules consistent with those in effect in Federal waters offshore of Louisiana, and

BE IT FURTHER RESOLVED, that the recreational and commercial seasons for the harvest of Large Coastal Sharks in Louisiana waters under rules established by this Declaration of Emergency are hereby set to open at 12:01 a.m., August 11, 2008, and

BE IT FURTHER RESOLVED, the complete copy of the Notice of Intent and Declaration of Emergency are attached to and made part of this resolution, and

BE IT FURTHER RESOLVED, that this Declaration of Emergency shall be effective at 12:01 a.m. August 11, 2008, and the Proposed Rule shall become effective upon promulgation, and

BE IT FURTHER RESOLVED, that the Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Patrick C. Morrow, Chairman
Wildlife and Fisheries Commission

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

The shark fisheries in the Gulf of Mexico are cooperatively managed by the Louisiana Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC) and the National Marine Fisheries Service (NMFS). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., which in Louisiana is generally three miles offshore.

Rules have been promulgated by NMFS, effective on July 24, 2008, to modify existing rules for harvest of species in the Large Coastal Shark group in the Gulf of Mexico (NMFS Shark FMP Amendment 2). NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In order to enact regulations in a timely manner so as to have compatible regulations in place in Louisiana water to coincide with the regulation set forth by NMFS, it is necessary that emergency rules be enacted.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons and size limits and all rules and regulations pursuant thereto, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set possession limits, seasons, and daily

take limits based upon biological and technical data for saltwater finfish taken or possessed in Louisiana waters, the Wildlife and Fisheries Commission hereby declares:

The commercial fishery for Large Coastal Shark in Louisiana state waters will open at 12:01 a.m. August 11, 2008 under the regulations provided below. The pertinent parts of these rules will also be effective for the recreational fishery for Large Coastal Shark at 12:01 a.m. August 11, 2008.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§357. Sharks and Sawfishes _ Harvest Regulations

A. The following rules and regulations are established for the taking and possession of sharks (including sawfishes) (Class Elasmobranchiomorphi: Orders Hexanchiformes, Lamniformes, Squaliformes, and Rajiformes) from within or without Louisiana waters. The provisions of this Section shall not apply to shrimp or menhaden harvest, and nothing contained herein is intended or shall be construed to repeal, amend, or otherwise modify the provisions of law applicable to shrimp or menhaden fishing, except for provisions:

1. outlawing finning of shark;
2. requiring a Commercial State Shark Permit for sale, barter, trade, or exchange;
3. limiting sale, barter, trade, or exchange of sharks during closed seasons;
4. limiting shark retained by non-permit holders to be only as a mixed part of the total harvest, and only retained, held, or sold, purchased, bartered, traded, or exchanged as such; and
5. outlawing transfer of sharks between vessels at sea.

B. For management purposes, sharks are divided into the following categories:

1. small coastal sharks _ bonnethead shark, Atlantic sharpnose shark, blacknose shark, finetooth shark;

2. large coastal sharks _ great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark, tiger shark;

3. pelagic sharks _ porbeagle shark, shortfin mako, blue shark, oceanic whitetip shark, thresher shark;

4. prohibited species _ basking shark, white shark, bigeye sand tiger, sand tiger, whale shark, smalltooth sawfish, largetooth sawfish, Atlantic angel shark, Caribbean sharpnose shark, smalltail shark, bignose shark, Caribbean reef shark, dusky shark, Galapagos shark, narrowtooth shark, night shark, bigeye sixgill shark, bigeye thresher shark, longfin mako, sevengill shark, sixgill shark.

C. In addition to all other licenses and permits required by law, a valid original Commercial State Shark Permit shall be annually required for persons commercially taking shark from Louisiana waters and for persons selling, exchanging, or bartering sharks as required by law; the valid original permit shall be in immediate possession of the permittee while engaged in fishing for, possessing, selling, bartering, trading, or exchanging shark.

D. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any sharks in excess of any possession limit for which a state or federal commercial permit was issued.

E. 1. All persons who do not possess a Commercial State Shark Permit issued by the Department of Wildlife and Fisheries, and, if applicable, a Federal Commercial Directed or Incidental Limited Shark Permit or Federal Shark Research Permit issued by the National Marine Fisheries Service, are limited to a recreational possession limit. All persons who do not possess a Louisiana Commercial State Shark Permit and, if applicable, a Federal Commercial Directed or Incidental Limited Shark Permit or Federal Shark Research Permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks, shall not sell, barter, trade, exchange or attempt to sell, barter, trade or exchange any sharks, or possess any sharks in excess of a recreational possession limit. Sharks taken incidental to menhaden fishing, that are retained on the vessel as part of the harvest, may be retained and sold only as a mixed part of the total harvest, and shall not be retained, held, or sold, purchased, bartered, traded, or exchanged separately. Sharks retained as a result of menhaden fishing shall not exceed legal bycatch allowances for menhaden fishing as provided for in R.S. 56:324.

2. Legally licensed Louisiana wholesale/retail seafood dealers, retail seafood dealers, restaurants, and retail grocers are not required to hold a Commercial State Shark Permit in order to purchase, possess, exchange, barter and sell any quantities of sharks, so long as they maintain records as required by R.S. 56:306.5 and R.S. 56:306.6.

F. Sharks taken under a recreational bag limit shall not be sold, purchased, exchanged, traded, bartered, or attempted to be sold, purchased, exchanged, traded, or bartered. A person subject to a bag limit shall not possess at any time, regardless of the number of trips or the duration of a trip, any shark in excess of the recreational bag limits or less than minimum size limits as follows.

1. All sharks taken under a recreational bag limit within or without Louisiana waters must be at least 54 inches fork length, except that the minimum size limit does not apply for Atlantic sharpnose or bonnethead sharks. No sandbar or silky shark may be retained under a recreational bag limit.

2. Owners/operators of vessels other than those taking sharks in compliance with a state or federal commercial permit are restricted to no more than one shark from either the large coastal, small coastal or pelagic group per vessel per trip within or without Louisiana waters, subject to the size limits described in LAC 76:VII.357.F.1, and, in addition, no person shall possess more than one Atlantic sharpnose shark and one bonnethead shark per person per trip within or without Louisiana waters, regardless of the length of a trip. No sandbar or silky shark may be retained by persons fishing under these limits.

3. All owners/operators of vessels recreationally fishing for and/or retaining regulated Atlantic Highly Migratory Species (Atlantic tunas, sharks, swordfish and billfish) in or from the EEZ must obtain and possess a Federal Atlantic Highly Migratory Species Angling permit.

G. Those persons possessing a Federal Commercial Directed or Incidental Limited Access Shark Permit or Federal Shark Research Permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks are limited to daily take, trip and possession limits as specified in that federal permit. Regardless of where fishing, a person aboard a vessel for which a Federal Shark Permit has been issued shall not retain, possess, barter, trade, or exchange shark of any species group for which the commercial quota has been reached and the season closed in federal waters.

H. 1. A vessel that has been issued or possesses a Federal Commercial Directed or Incidental Limited Access Shark Permit or Federal Shark Research Permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks shall not possess on any trip, or land from any trip, or sell, barter, trade, or exchange large coastal species in excess of the designated trip limits, as established under the Atlantic Highly Migratory Species Plan and published in the Federal Register, regardless of where taken. No person shall purchase, barter, trade, or exchange shark in excess of the designated trip limits or from any person who does not possess a Commercial State Shark Permit or Federal Commercial Directed or Incidental Limited Access Permit or Federal Shark Research Permit, if applicable.

2. Persons possessing a Commercial State Shark Permit but no Federal Shark permit shall not possess on any trip, or land from any trip, or sell, barter, trade, or exchange in excess of 33 sharks from the large coastal species group, taken from Louisiana state waters. Persons possessing a Commercial State Shark Permit shall not possess any sandbar sharks unless they also have in their name and in possession a valid Federal Shark Research Permit under 50CFR635.32(1).

3. Wholesale/retail seafood dealers who receive, purchase, trade for, or barter for Atlantic sharks, taken from the EEZ, from a fishing vessel must possess a valid Federal Dealer Permit.

I. A person aboard a vessel for which a Federal Commercial Directed or Incidental Limited Access Shark Permit or Federal Shark Research Permit has been issued, or persons aboard a vessel fishing for or possessing shark in the EEZ shall comply with all applicable federal regulations.

J. Fins

1. The practice of "finning," that is, removing only the fins and returning the remainder of the shark to the sea, is prohibited within and without Louisiana waters.

2. All sharks possessed by a recreational fisherman shall be maintained with head and fins intact and shall not be skinned until set or put on shore.

3. Dealers purchasing sharks from state or federal waters must report the landings by species, and must specify the total shark fin numbers, values and weights separately from the weights, values and numbers of the shark carcasses. If a harvester retains the fins after offloading from the fishing vessel, the harvester must also be licensed as a wholesale/retail dealer, and must complete and file a trip ticket that includes the numbers and weights of fins retained immediately after being offloaded from the fishing vessel. Later transactions of fins must have documentation referring to the original trip ticket number for those fins. Such numbers and weights must be recorded on dealer records in compliance with R.S. 56:306.5 and R.S. 56:306.6.

4. Shark fins shall not be possessed aboard a fishing vessel unless naturally attached to the original shark carcass by at least some portion of uncut skin.

5. All sharks possessed aboard a commercial fishing vessel shall have fins including the tail intact and naturally attached to the shark carcass by at least some portion of uncut skin.

6. It is illegal to replace sharks that are onboard a fishing vessel for retention with sharks of higher quality or size that are caught later in a particular trip.

K. Prohibited Species

1. No person shall take, possess, purchase, sell, barter, exchange or attempt to possess, purchase, sell, barter, or exchange any of the following species or parts thereof:

- a. basking shark_ *Cetorhinus maximus*;
- b. white shark_ *Carcharodon carcharias*;
- c. bigeye sand tiger_ *Odontaspis noronhai*;
- d. sand tiger_ *Odontaspis taurus*;
- e. whale shark_ *Rhincodon typus*;
- f. smalltooth sawfish_ *Pristis pectinata*;
- g. largetooth sawfish_ *Pristis pristis*;
- h. Atlantic angel shark_ *Squatina dumerili*;
- i. Caribbean sharpnose shark_ *Rhizoprionodon porosus*;
- j. smalltail shark_ *Carcharhinus porosus*;
- k. bignose shark_ *Carcharhinus altimus*;
- l. Caribbean reef shark_ *Carcharhinus perezii*;
- m. dusky shark_ *Carcharhinus obscurus*;
- n. Galapagos shark_ *Carcharhinus galapagensis*;
- o. narrowtooth shark_ *Carcharhinus brachyurus*;
- p. night shark_ *Carcharhinus signatus*;
- q. bigeye sixgill shark_ *Hexanchus vitulus*;
- r. bigeye thresher shark_ *Alopias superciliosus*;
- s. longfin mako shark_ *Isurus paucus*;
- t. sevengill shark_ *Heptranchias perlo*;
- u. sixgill shark_ *Hexanchus griseus*.

2. Notwithstanding other provisions of this Part, a person may fish for, but not retain, white sharks (*Carcharodon carcharias*) with rod and reel only under a Catch and Release Program, provided the person releases and returns such fish to the sea immediately with a minimum of injury.

3. Notwithstanding other provisions of this Part, smalltooth sawfish or largetooth sawfish may be possessed as authorized by a special scientific and educational collecting permit issued by the department under R.S. 56:318, including whatever conditions that the department may deem necessary to ensure the maintenance and protection of the species. Nothing herein shall prohibit the possession of smalltooth sawfish or largetooth sawfish, or parts thereof, that were possessed prior to the effective date of this rule.

L. No person aboard any vessel shall transfer or cause the transfer of sharks between vessels on state or federal waters. Standard menhaden harvesting activities do not constitute transfer of sharks between vessels at sea.

M. Seasonal Closures

1. All Louisiana state waters out to the seaward boundary of the Louisiana Territorial Sea shall be closed to the recreational and commercial harvest of all sharks between April 1 and June 30 of each year. A holder of a Federal Commercial Directed or Incidental Limited Access Shark Permit or Federal Shark Research Permit may legally harvest sharks from federal waters beyond the Louisiana Territorial Sea and bring those sharks into Louisiana waters for sale within the provisions of that Federal Shark Permit. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell sharks from the closed area. Effective with the closure, no person shall retain or possess any sharks in the closed area. Sharks taken incidental to shrimp or menhaden fishing in the closed area, that are retained on the vessel as part of the harvest, may be retained only as a mixed part of the total harvest, and shall not be retained, held, purchased, bartered, traded, exchanged, sold or attempted to be purchased, bartered, traded, exchanged or sold.

2. The Secretary of the Department of Wildlife and Fisheries is hereby authorized to close any recreational or commercial fishery for sharks, within and without Louisiana's territorial waters, when the secretary is notified by the National Marine Fisheries Service that the seasonal quota for that species group and fishery has been met. The closure order shall close the fishery until the date projected for the reopening of that fishery in the adjacent federal waters. The secretary is also hereby authorized to modify any such closure order to maintain consistency with re-opening dates in the adjacent federal waters, should the federal closure dates be modified.

N. The fishing year for shark shall begin on January 1, 1998 and every January 1 thereafter.

O. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15, for sharks and sawfishes while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange sharks and sawfishes within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:326(E)(2), R.S. 56:326.1, R.S. 56:326.3, R.S. 56:320.2(C), and R.S. 325.2(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:543 (March 1999), amended LR 27:2267 (December 2001), LR 30:1507 (July 2004); LR 34: .

Patrick C. Morrow
Chairman

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission does hereby give notice of intent to amend a Rule (LAC 76:VII.357) modifying rules for the commercial harvest of shark, which are part of the existing rule for daily take, possession, and size limits for shark set by the Commission. Authority of adoption of this Rule is included in R.S. 56:6(10), R.S. 56:6(25)(a), R.S. 56:326(E)(2), R.S. 56:326.1, R.S. 56:326.3, R.S. 56:320.2(C), and R.S. 56:325.2(A). Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§357. Sharks and Sawfishes - Harvest Regulations

A. The following rules and regulations are established for the taking and possession of sharks (including sawfishes) (Class Elasmobranchiomorphi: Orders

Hexanchiformes, Lamniformes, Squaliformes, and Rajiformes) from within or without Louisiana waters. The provisions of this Section shall not apply to shrimp or menhaden harvest, and nothing contained herein is intended or shall be construed to repeal, amend, or otherwise modify the provisions of law applicable to shrimp or menhaden fishing, except for provisions:

1. outlawing finning of shark;
2. requiring a Commercial State Shark Permit for sale, barter, trade, or exchange;
3. limiting sale, barter, trade, or exchange of sharks during closed seasons;
4. limiting shark retained by non-permit holders to be only as a mixed part of the total harvest, and only retained, held, or sold, purchased, bartered, traded, or exchanged as such; and
5. outlawing transfer of sharks between vessels at sea.

B. For management purposes, sharks are divided into the following categories:

1. small coastal sharks _ bonnethead shark, Atlantic sharpnose shark, blacknose shark, finetooth shark;
2. large coastal sharks _ great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark, tiger shark;
3. pelagic sharks _ porbeagle shark, shortfin mako, blue shark, oceanic whitetip shark, thresher shark;
4. prohibited species _ basking shark, white shark, bigeye sand tiger, sand tiger, whale shark, smalltooth sawfish, largetooth sawfish, Atlantic angel shark, Caribbean sharpnose shark, smalltail shark, bignose shark, Caribbean reef shark, dusky shark, Galapagos shark, narrowtooth shark, night shark, bigeye sixgill shark, bigeye thresher shark, longfin mako, sevengill shark, sixgill shark.

C. In addition to all other licenses and permits required by law, a valid original Commercial State Shark Permit shall be annually required for persons commercially taking shark from Louisiana waters and for persons selling, exchanging, or bartering sharks as required by law; the valid original permit shall be in immediate possession of the permittee while engaged in fishing for, possessing, selling, bartering, trading, or exchanging shark.

D. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any sharks in excess of any possession limit for which a state or federal commercial permit was issued.

E. 1. All persons who do not possess a Commercial State Shark Permit issued by the Department of Wildlife and Fisheries, and, if applicable, a Federal Commercial Directed or Incidental Limited Shark Permit or Federal Shark Research Permit issued by the National Marine Fisheries Service, are limited to a recreational possession limit. All persons who do not possess a Louisiana Commercial State Shark Permit and, if applicable, a Federal Commercial Directed or Incidental Limited Shark Permit or Federal Shark Research Permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks, shall not sell, barter, trade, exchange or attempt to sell, barter, trade or exchange any sharks, or possess any sharks in excess of a recreational possession limit. Sharks taken incidental to menhaden fishing, that are retained on the vessel as part of the harvest, may be retained and sold only as a mixed part of the total harvest, and shall not be retained, held, or sold, purchased, bartered, traded, or exchanged separately. Sharks retained as a result of menhaden fishing shall not exceed legal bycatch allowances for menhaden fishing as provided for in R.S. 56:324.

2. Legally licensed Louisiana wholesale/retail seafood dealers, retail seafood dealers, restaurants, and retail grocers are not required to hold a Commercial State Shark Permit in order to purchase, possess, exchange, barter and sell any quantities of sharks, so long as they maintain records as required by R.S. 56:306.5 and R.S. 56:306.6.

F. Sharks taken under a recreational bag limit shall not be sold, purchased, exchanged, traded, bartered, or attempted to be sold, purchased, exchanged, traded, or bartered. A person subject to a bag limit shall not possess at any time, regardless of the number of trips or the duration of a trip, any shark in excess of the recreational bag limits or less than minimum size limits as follows.

1. All sharks taken under a recreational bag limit within or without Louisiana waters must be at least 54 inches fork length, except that the minimum size limit does not apply for Atlantic sharpnose or bonnethead sharks. No sandbar or silky shark may be retained under a recreational bag limit.

2. Owners/operators of vessels other than those taking sharks in compliance with a state or federal commercial permit are restricted to no more than one shark from either the large coastal, small coastal or pelagic group per vessel per trip within or without Louisiana waters, subject to the size limits described in LAC 76:VII.357.F.1, and, in addition, no person shall possess more than one Atlantic sharpnose shark and one bonnethead shark per person per trip within or without Louisiana waters, regardless of the length of a trip. No sandbar or silky shark may be retained by persons fishing under these limits.

3. All owners/operators of vessels recreationally fishing for and/or retaining regulated Atlantic Highly Migratory Species (Atlantic tunas, sharks, swordfish and billfish) in or from the EEZ must obtain and possess a Federal Atlantic Highly Migratory Species Angling permit.

G. Those persons possessing a Federal Commercial Directed or Incidental Limited Access Shark Permit or Federal Shark Research Permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks are limited to daily take, trip and possession limits as specified in that federal permit. Regardless of where fishing, a person aboard a vessel for which a Federal Shark Permit has been issued shall not retain, possess, barter, trade, or exchange shark of any species group for which the commercial quota has been reached and the season closed in federal waters.

H. 1. A vessel that has been issued or possesses a Federal Commercial Directed or Incidental Limited Access Shark Permit or Federal Shark Research Permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks shall not possess on any trip, or land from any trip, or sell, barter, trade, or exchange large coastal species in excess of the designated trip limits, as established under the Atlantic Highly Migratory Species Plan and published in the Federal Register, regardless of where taken. No person shall purchase, barter, trade, or exchange shark in excess of the designated trip limits or from any person who does not possess a Commercial State Shark Permit or Federal Commercial Directed or Incidental Limited Access Permit or Federal Shark Research Permit, if applicable.

2. Persons possessing a Commercial State Shark Permit but no Federal Shark permit shall not possess on any trip, or land from any trip, or sell, barter, trade, or exchange ~~large coastal species~~ in excess of 4,000 pounds, dressed weight, 33 sharks from the large coastal species group, taken from Louisiana state waters. Persons possessing a Commercial State Shark Permit shall not possess any sandbar sharks unless they also have in their name and in possession a valid Federal Shark Research Permit under 50CFR635.32(1).

3. Wholesale/retail seafood dealers who receive, purchase, trade for, or barter for Atlantic sharks, taken from the EEZ, from a fishing vessel must possess a valid Federal Dealer Permit.

I. A person aboard a vessel for which a Federal Commercial Directed or Incidental Limited Access Shark Permit or Federal Shark Research Permit has been issued, or persons aboard a vessel fishing for or possessing shark in the EEZ shall comply with all applicable federal regulations.

J. Fins

1. The practice of "finning," that is, removing only the fins and returning the remainder of the shark to the sea, is prohibited within and without Louisiana waters.

2. All sharks possessed by a recreational fisherman shall be maintained with head and fins intact and shall not be skinned until set or put on shore.

3. Dealers purchasing sharks from state or federal waters must report the landings by species, and must specify the total shark fin numbers, values and weights separately from the weights, values and numbers of the shark carcasses. If a harvester retains the fins after offloading from the fishing vessel, the harvester must also be licensed as a wholesale/retail dealer, and must complete and file a trip ticket that includes the numbers and weights of fins retained immediately after being offloaded from the fishing vessel. Later transactions of fins must have documentation referring to the original trip ticket number for those fins. Such numbers and weights must be recorded on dealer records in compliance with R.S. 56:306.5 and R.S. 56:306.6. Sharks fins that are possessed aboard or offloaded from a fishing vessel must not exceed 5 percent of the weight of the shark carcasses. All fins must be weighed in conjunction with the weighing of the carcasses at the vessel's first point of landing and such weights of the fins landed must be recorded on dealer records in compliance with R.S. 56:306.5 and R.S. 56:306.6. Fins from shark harvested by a vessel that are in excess of 5 percent of the weight of the carcasses landed shall not be sold, purchased, traded or bartered or attempted to be sold, purchased, traded or bartered.

4. Shark fins shall not be possessed aboard a fishing vessel ~~after the vessel's first point of landing.~~ unless naturally attached to the original shark carcass by at least some portion of uncut skin.

5. All ~~make~~ sharks possessed aboard a commercial fishing vessel shall have fins including the tail intact and naturally attached to the shark carcass by at least some portion of uncut skin.

6. It is illegal to replace sharks that are onboard a fishing vessel for retention with sharks of higher quality or size that are caught later in a particular trip.

K. Prohibited Species

1. No person shall take, possess, purchase, sell, barter, exchange or attempt to possess, purchase, sell, barter, or exchange any of the following species or parts thereof:

- a. basking shark_ *Cetorhinus maximus*;
- b. white shark_ *Carcharodon carcharias*;
- c. bigeye sand tiger_ *Odontaspis noronhai*;

- d. sand tiger_*Odontaspis taurus*;
- e. whale shark_*Rhincodon typus*;
- f. smalltooth sawfish_*Pristis pectinata*;
- g. largetooth sawfish_*Pristis pristis*;
- h. Atlantic angel shark_*Squatina dumerili*;
- i. Caribbean sharpnose shark_*Rhizoprionodon porosus*;
- j. smalltail shark_*Carcharhinus porosus*;
- k. bignose shark_*Carcharhinus altimus*;
- l. Caribbean reef shark_*Carcharhinus perezi*;
- m. dusky shark_*Carcharhinus obscurus*;
- n. Galapagos shark_*Carcharhinus galapagensis*;
- o. narrowtooth shark_*Carcharhinus brachyurus*;
- p. night shark_*Carcharhinus signatus*;
- q. bigeye sixgill shark_*Hexanchus vitulus*;
- r. bigeye thresher shark_*Alopias superciliosus*;
- s. longfin mako shark_*Isurus paucus*;
- t. sevengill shark_*Heptranchias perlo*;
- u. sixgill shark_*Hexanchus griseus*.

2. Notwithstanding other provisions of this Part, a person may fish for, but not retain, white sharks (*Carcharodon carcharias*) with rod and reel only under a Catch and Release Program, provided the person releases and returns such fish to the sea immediately with a minimum of injury.

3. Notwithstanding other provisions of this Part, smalltooth sawfish or largetooth sawfish may be possessed as authorized by a special scientific and educational collecting permit issued by the department under R.S. 56:318, including whatever

conditions that the department may deem necessary to ensure the maintenance and protection of the species. Nothing herein shall prohibit the possession of smalltooth sawfish or largetooth sawfish, or parts thereof, that were possessed prior to the effective date of this rule.

L. No person aboard any vessel shall transfer or cause the transfer of sharks between vessels on state or federal waters. Standard menhaden harvesting activities do not constitute transfer of sharks between vessels at sea.

M. Seasonal Closures

1. All Louisiana state waters out to the seaward boundary of the Louisiana Territorial Sea shall be closed to the recreational and commercial harvest of all sharks between April 1 and June 30 of each year. A holder of a Federal Commercial Directed or Incidental Limited Access Shark Permit or Federal Shark Research Permit may legally harvest sharks from federal waters beyond the Louisiana Territorial Sea and bring those sharks into Louisiana waters for sale within the provisions of that Federal Shark Permit. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell sharks from the closed area. Effective with the closure, no person shall retain or possess any sharks in the closed area. Sharks taken incidental to shrimp or menhaden fishing in the closed area, that are retained on the vessel as part of the harvest, may be retained only as a mixed part of the total harvest, and shall not be retained, held, purchased, bartered, traded, exchanged, sold or attempted to be purchased, bartered, traded, exchanged or sold.

2. The Secretary of the Department of Wildlife and Fisheries is hereby authorized to close any recreational or commercial fishery for sharks, within and without Louisiana's territorial waters, when the secretary is notified by the National Marine Fisheries Service that the seasonal quota for that species group and fishery has been met. The closure order shall close the fishery until the date projected for the reopening of that fishery in the adjacent federal waters. The secretary is also hereby authorized to modify any such closure order to maintain consistency with re-opening dates in the adjacent federal waters, should the federal closure dates be modified.

N. The fishing year for shark shall begin on January 1, 1998 and every January 1 thereafter.

O. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15, for sharks and sawfishes while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange sharks and sawfishes within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:326(E)(2), R.S. 56:326.1, R.S. 56:326.3, R.S. 56:320.2(C), and R.S. 325.2(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:543 (March 1999), amended LR 27:2267 (December 2001), LR 30:1507 (July 2004), LR 34: .

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate the effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed rule to Harry Blanchet, Marine Fisheries Division, Louisiana Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge LA 70898-9000 or by e-mail to hblanchet@wfl.louisiana.gov, with "Proposed Shark Rule" in the subject line, no later than 4:30 p.m. October 7, 2008.

In accordance with Act # 1183 of 1999, the Department of Wildlife and Fisheries / Wildlife and Fisheries Commission issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on 5 of the six criteria set out at R.S. 49:972(B). For persons involved in the commercial harvest of shark from Louisiana state waters, there may be a reduction in family earnings and family budget of unmeasurable dimensions. Those reductions are not measurable since the trip limit for commercial harvesters is changed from a "pounds per trip" limit to a "numbers per trip" limit, and there are no reliable methods to convert from one limit to the other. There is also no way to estimate the ability of harvesters to move from the harvest of shark to more profitable occupations within commercial fishing or to other non-fishing occupations, which might mitigate some of those impacts. Long run benefits would be derived by ensuring healthy fish stocks and a continuing supply of Large Coastal Shark to harvest in the future which may supplement family earnings and budgets.

Patrick C. Morrow
Chairman

Then Mr. Harry Blanchet handled his last item which was **To receive and consider Resolution, Notice of Intent and Declaration of Emergency on Reef Fish Harvest Rules - Modification of Rules for Recreational Harvest of Greater Amberjack and Recreational and Commercial Harvest of Gray Triggerfish**. The changes reflect those from offshore fishery management by the National Marine Fisheries Service that became effective on August 4 in federal waters. The changes included increasing the minimum size for recreational harvest of greater amberjack from 28 inches forked length to 30 inches forked length; removed the allowance of harvest of greater amberjack by a captain and crew on a charter vessel while under charter; and increased the minimum size for gray

triggerfish to 14 inches forked length for both recreational and commercial fishermen. The effective date for the Declaration of Emergency would be 12:01 a.m., August 11, 2008. Hearing no discussion, Commissioner Miller made a motion to adopt the Resolution, seconded by Commissioner Samanie and passed with no opposition.

(The full text of the Resolution, Declaration of Emergency and Notice of Intent are made a part of the record.)

RESOLUTION
DECLARATION OF EMERGENCY AND NOTICE OF INTENT TO
MODIFY REEF FISH HARVEST RULES

Adopted by the
Louisiana Wildlife and Fisheries Commission
August 7, 2008

WHEREAS, the reef fish resources in the Gulf of Mexico off the coast of Louisiana are cooperatively managed by the Louisiana Department of Wildlife and Fisheries (LDWF) and the National Marine Fisheries Service (NMFS) with the advice of the Gulf of Mexico Fisheries Management Council (Gulf Council), and

WHEREAS, regulations promulgated by NMFS are applicable for waters of the Exclusive Economic Zone (EEZ) of the U.S., generally three miles offshore, and for federally permitted reef fish harvesters, and

WHEREAS, regulations promulgated by the Louisiana Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, have provided rules for the harvesting of reef fish in Louisiana's state waters, and

WHEREAS, in July 2007, NMFS promulgated a rule that modified size limits for recreational and commercial gray triggerfish and recreational greater amberjack, intended to limit harvest for these species, and

WHEREAS, adoption of compatible regulations for Louisiana state waters where feasible would enhance effectiveness and enforceability of the regulations already in place for reef fishes harvested in the EEZ off of Louisiana, and

WHEREAS, fisheries for reef fishes also occur in Louisiana state waters that are significant to the citizens of the State of Louisiana and thus enactment of compatible regulations may also impact those persons involved in those fisheries, and

WHEREAS, the harvest and size limits established as part of this rule require emergency action in order to be effective near the same time as these rules will become effective in adjacent Federal waters of the EEZ, and

WHEREAS, R.S. 56:6(25)(a), 56:320.2(C), 56:326.1, and 56:326.3 provide authority for adoption of this rule through the Wildlife and Fisheries Commission,

THEREFORE BE IT RESOLVED, that the Wildlife and Fisheries Commission hereby adopts a Declaration of Emergency and Notice of Intent to modify reef fish management measures by adoption of rules consistent with those in effect in Federal waters offshore of Louisiana, and

BE IT FURTHER RESOLVED, the complete copy of the Notice of Intent and Declaration of Emergency are attached to and made part of this resolution, and

BE IT FURTHER RESOLVED, that this Declaration of Emergency shall become effective at 12:01 a.m., August 11, 2008, and that the Final Rule shall become effective upon promulgation, and

BE IT FURTHER RESOLVED, that the Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Patrick C. Morrow, Chairman
Wildlife and Fisheries Commission

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

The reef fish fishery in the Gulf of Mexico is cooperatively managed by the Louisiana Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC) and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., which in Louisiana is generally three miles offshore.

Rules have been promulgated by NMFS, effective on August 4, 2008, to modify existing rules for harvest of greater amberjack and gray triggerfish in the Gulf of Mexico

(Reef Fish Amendment 30A). NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In order to enact regulations in a timely manner so as to have compatible regulations in place in Louisiana water to coincide with the regulation set forth by NMFS, it is necessary that emergency rules be enacted.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons and size limits and all rules and regulations pursuant thereto, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set size limits and daily take limits based upon biological and technical data for saltwater finfish taken or possessed in Louisiana waters, the Wildlife and Fisheries Commission hereby declares:

Captain and crew members of charter vessels and headboats shall not harvest or possess greater amberjack, red snapper, or grouper of any species while operating as charter vessels and headboats as defined in Federal Regulations 50 CFR Part 622.2—their bag limit is zero for all of these species.

The minimum size limit for greater amberjack harvested recreationally is increased from 28 inches fork length to 30 inches fork length.

The minimum size limit for gray triggerfish harvested recreationally or commercially is increased from 12 inches total length to 14 inches fork length.

These emergency rules shall be effective at 12:01 a.m., August 11, 2008.

Patrick C. Morrow
Chairman

NOTICE OF INTENT
Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission does hereby give notice of intent to amend a Rule (LAC 76:VII.335) modifying size limits for gray triggerfish and recreational size limits for greater amberjack, and implementing gear use restrictions in waters of the Federal EEZ while fishing for reef fish, which are part of the existing rule for daily take, possession, and size limits for reef fishes set by the Commission. Authority of adoption of this Rule is included in R.S. 56:6(25)(a), 56:320.2, 56:326.1 and 56:326.3. Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§335. Reef Fish_Harvest Regulations

A.- B.5. ...

C. Charter Vessels and Headboats

1. - 2. ...

3. Captain and crew members shall not harvest or possess greater amberjack, red snapper, or grouper of any species while operating as charter vessels and headboats as defined in Federal Regulations 50 CFR Part 622.2. Their bag limit is zero for all of these species.

D. Red Snapper:

1. - 7. ...

E. Recreational and commercial minimum and maximum size limits, unless otherwise noted.

Species	Minimum Size Limits
1. Red Snapper	16 inches total length (recreational) 13 inches total length (commercial)
2. Gray, yellowtail, cubera, dog, mahogany snapper, and schoolmaster	12 inches total length
3. Lane snapper	8 inches total length
4. Mutton snapper	16 inches total length
5. Vermilion snapper	10 inches total length
6. Red and yellowfin grouper	20 inches total length
7. Gag and black grouper	22 inches total length (recreational) 24 inches total length (commercial)
8. Scamp	16 inches total length

9. Greater amberjack	28 30 inches fork length (recreational) 36 inches fork length (commercial)
10. Black seabass	8 inches total length
11. Hogfish	12 inches fork length
12. Banded rudderfish and lesser amberjack	14 inches fork length (minimum size); 22 inches fork length (maximum size)
13. Gray triggerfish	12 inches total length <u>14 inches fork length</u>

F. - I. ...

J. 1. Devices:

a. Circle hook means a fishing hook designed and manufactured so that the point is turned perpendicularly back to the shank to form a generally circular or oval, shape.

b. Dehooking device means a device intended to remove a hook embedded in a fish to release the fish with minimum damage.

c. Venting device means a device intended to deflate the swim bladder of a fish to release the fish with minimum damage.

2. For a person on board a vessel to fish for or possess Gulf reef fish in the Gulf EEZ, the vessel must possess on board and such person must use the gear as specified below.

a. Non-stainless steel circle hooks. Non-stainless steel circle hooks are required when fishing with natural baits for reef fish.

b. Dehooking device. At least one dehooking device is required and must be used to remove hooks embedded in Gulf reef fish with minimum damage. The hook removal device must be constructed to allow the hook to be secured and the barb shielded without re-engaging during the removal process. The dehooking end must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the Gulf reef fish fishery.

c. Venting tool. At least one venting tool is required and must be used to deflate the swim bladders of Gulf reef fish to release the fish with minimum damage. This tool must be a sharpened, hollow instrument, such as a hypodermic syringe with the plunger removed, or a 16-gauge needle fixed to a hollow wooden dowel. A tool such as a knife or an ice-pick may not be used. The venting tool must be inserted into the fish at a 45-degree angle approximately 1 to 2 inches (2.54 to 5.08 cm) from the base of

the pectoral fin. The tool must be inserted just deep enough to release the gases, so that the fish may be released with minimum damage.

↓ K. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15, for reef fishes while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange reef fishes within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:320.2(C), 56:326.1, and 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:1156 (June 2007), repromulgated LR 33:1397 (July 2007), LR 34: , LR 34: .

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate the effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed rule to Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge LA 70898-9000 or by e-mail to hblanchet@wlf.louisiana.gov, with "Proposed Amberjack / Triggerfish Rule" in the subject line, no later than 4:30 p.m. October 7, 2008.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries / Wildlife and Fisheries Commission issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on any of the six criteria set out at R.S. 49:972(B).

Patrick C. Morrow
Chairman

The agenda item, **To receive and consider Resolution and Notice of Intent - Oyster Seed Ground Vessel Permit** was presented by Mrs. Karen Foote. Act 922 passed by the recent Legislature, established that oysters taken from public natural reefs, seed grounds

or reservations, except for in Calcasieu and Sabine Lakes, shall be placed only on a vessel that has an Oyster Seed Ground Vessel Permit. This law was presented to the legislature by a seed ground group, it was highly controversial amongst the oyster industry, but with open discussions and compromises, it ended with a bill that the industry supported. The action was the rules needed to make the law work. The law became effective on July 14 and on July 28, the Department took a draft set of rules to the Oyster Task Force for their consideration. Mrs. Foote noted there was quite a bit of feed back from the Task Force, mostly supporting the Department's regulations. But there was some "tweaking" done which came from suggestions by the Task Force. The intent of the Act was to place a limit on the number of vessels that could harvest seed or sack oysters from the public grounds. These regulations would impact people in the future that may want to get into the business. Those individuals with a vessel ownership will be allowed to continue harvesting off the state-owned reefs. To get the permit, a vessel owner would be eligible when he shows proof that he owned a vessel that landed oysters through trip tickets during the eligible timeframe. Another option to obtain a permit was if a vessel as traced through its numbers, which has to be on the trip tickets, had landings recorded in the data base. The last way for a vessel to harvest on the seed grounds was if it was a newly constructed vessel or one 50 percent under construction if the owner can prove this fact. By December 31, 2009, all of the vessels should be identified in the system. On an added note, Mrs. Foote mentioned that a vessel owner that had trip ticket landed oysters during the eligible timeframe did not necessarily have to own a vessel now, he could put it on one that may be newly constructed. Chairman Morrow asked if this proposal was restricting future commerce. Mrs. Foote could not answer that question, but added that there was an Appeals Board which could only make recommendations to the Department based on staff's ruling of eligibility. Chairman Morrow asked for the purpose of this enactment. Mrs. Foote commented the oyster industry felt fishing pressure had too much open access to the state's reefs and wanted to limit future people becoming involved in it. Commissioner King asked if oyster permits were still being issued for Texas boats. Mrs. Foote answered yes, and added this would not restrict a Texas boat versus a Louisiana boat. Any new vessels and new owners would not be allowed to harvest on state reefs, but could harvest on private reefs. On December 20, if all goes as planned with the rulemaking process, the Department would be selling Oyster Seed Ground Permits, so vessels could be legal when January 1, 2009 arrives. Commissioner Miller asked if the Legislature mandated the Department to promulgate regulations, so the Department and Oyster Task Force worked on a proposal together and this was a joint set of rules. Mrs. Foote noted the Task Force had very few comments, with the one remaining concern being what would happen to a vessel when an owner dies. Another set of regulations would be presented to the Commission at a later date to handle how this would happen. Commissioner Miller felt this may be one of those regulations the industry may be sorry for what they asked for. Commissioner Samanie asked, if the proposal did not pass, then no one would be able to fish the public seed grounds. Mrs. Foote stated, if it was delayed, there would be no permit to use when January 1, 2009 comes around and no harvest on the public reefs. Chairman Morrow read from the Act which referred to an April 1, 2009 date. Mrs. Foote stated that date was for disposition of permits which were no longer attached to a vessel.

Mr. John Roussel explained that the Legislature passed a bill that set up qualifying criteria that must be implemented before the next license year which begins January 1. The regulations presented were from certain provisions of the law that identified those provisions which required implementing regulations within this compressed timeframe. Additional rules would be needed to fully implement the law which has a full implementation deadline of April 1, 2009. The proposal focused on the legislation identifying eligibility criteria and the action made it clear how to go about meeting those eligibility criteria. The long term aspects of disposition of permits and the mechanisms for a hardship board would be presented to the Commission at a future date. Mr. Roussel reminded the Commission that at a past meeting, there was an industry concern on the number of boats fishing the public grounds, and in particular, out-of-state boats. Chairman Morrow asked if the Commission passed a resolution that would not allow a fisherman a two day trip limit. Mr. Roussel stated there was debate and the industry asked to withdraw the request when they would be limited to a one day's possession.

Mr. Joe Macaluso asked if the regulation would not allow him to go to a public ground and take oysters with a recreational license. If it was, he felt there was a need to change the fact that there are public oyster grounds in the state. He added there was no accommodation for recreational take from public oyster grounds.

Chairman Morrow asked Mrs. Foote if the Commission needed to take action to adopt regulations in order to implement the law as passed by the Legislature and she answered yes. Commissioner Miller made a motion to adopt and it was seconded by Commissioner Samanie. The motion passed with no opposition.

(The full text of the Resolution and Notice of Intent are made a part of the record.)

RESOLUTION

Oyster Seed Ground Vessel Permit Louisiana Wildlife and Fisheries Commission August 7, 2008

WHEREAS, Act 922 of the 2008 Regular Session of the Louisiana Legislature (R.S. 56:433.1) establishes that any oysters taken 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 vessel permit issued exclusively by the department pursuant to rules and regulations promulgated by the Commission, and

WHEREAS, R.S. 56:433.1 also establishes that the oyster seed ground vessel permit requirement will be applicable to license year 2009 and thereafter and shall become null and void and of no effect beginning on November 15, 2013, and

WHEREAS, the Department of Wildlife and Fisheries has consulted with the Oyster Task Force on the development of proposed rules and regulations for the administration of oyster seed ground vessel permits and renewal of such permits, now

THEREFORE BE IT RESOLVED, a Notice of Intent regarding the oyster seed ground vessel permit is attached to and made a part of this resolution.

BE IT FURTHER RESOLVED, that the Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Patrick C. Morrow, Chairman
Wildlife and Fisheries Commission

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission does hereby give notice of its intent to 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. Oyster Seed Ground Vessel Permit

A. Policy. For license year beginning 2009 any oysters taken 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 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 thirty (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 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

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed rule to Karen Foote, Administrator, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., October 2, 2008.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Patrick C. Morrow
Chairman

The Commissioners agreed to hold the **December 2008 Meeting** on Thursday, December 4, 2008, beginning at 9:30 a.m. at the Baton Rouge Headquarters.

Next agenda item was to receive **Public Comments** and none were heard.

There being no further business, Commissioner King made a motion to **Adjourn** the meeting and it was seconded by Commissioner Samanie.

Robert J. Barham
Secretary

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