

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

MINUTES

January 5, 2012

STEPHEN W. SAGRERA  
CHAIRMAN

BATON ROUGE, LOUISIANA

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Louisiana Department of Wildlife and Fisheries  
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Baton Rouge, Louisiana 70808.  
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LOUISIANA WILDLIFE AND FISHERIES COMMISSION  
BATON ROUGE, LA  
January 5, 2012

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MINUTES OF THE MEETING

OF

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

Thursday, January 5, 2012

Chairman Stephen Sagrera presiding.

Ronny Graham  
Stephen Oats  
Pat Manuel  
Ann Taylor  
Mike Voisin  
Billy Broussard

Secretary Robert Barham was also present.

Chairman Sagrera called for a motion for approval of the **December 1, 2011 Commission Minutes**. A motion for approval was made by Commissioner Voisin and seconded by Commissioner Graham. The motion passed with no opposition.

For the agenda item, **Commission Special Announcements/Personal Privilege**, Commissioner Voisin welcomed the Pat Manuel to the Commission. The Commissioners also wished Colonel Winton Vidrine happy birthday. Chairman Sagrera also noted that Colonel Vidrine has been with the Department for 42 years.

Lt. Col. Joey Broussard stated, for the agenda item, **To hear Enforcement & Aviation Reports/December**, there were a total of 1,714 cases and 375 written warnings were issued during December and agents helped with 54 public assists. The Department's planes flew a total of 96.9 hours for the month. There were 5 boating accidents reported with 3 injuries and 1 fatality and 2 missing. The fatality occurred in St. Mary Parish and no PFD's were worn. News releases discussed were a Franklin man who plead guilty to alligator charges and was sentenced to pay a \$2,000 fine, a Terrebonne Parish man cited for boat registration violations, and a New Iberia Man sentenced for illegally killing a Louisiana Black Bear. This was the same case in which the guy took pictures with his cell phone.

Mr. Kenny Ribbeck handled the next agenda item, **To hear General Information on Upcoming Notices of Intent for the 2012-2013 Hunting Seasons**. Mr. Ribbeck provided the

Commissioners with the Hunting Pamphlet showing the protocol that was adopted last year for hunting seasons, and the rules and regulations process that happens each year. Mr. Ribbeck stated that he is simply going to give an overview of the process and what the Department intends to propose beginning in February. Changes to the season NOI this year involve general calendar adjustments, there will be no major changes to the seasons. A legislative resolution requesting the Commission's consideration in adjusting the primitive weapons language will be presented in February. The Department is still evaluating the reclassification of portions of some of the deer areas. In the WMA Rules and Regulations, last year the Commission approved allowing youth on private lands to utilize any weapon during the primitive weapons season and it was the Department's oversight that did not change, so it will be requested that we change that on the WMA as well. Additionally, a lot of work went into the past year issuing special permits for hog-dog hunters on the WMA's. The Department feels that is sufficiently under control and would like to issue permits only for those hog-dog hunters that are requesting live transport off of the WMA's. The other hog-dog hunters would be required to use the self-clearing permits, so the information would still be gathered. Mr. Ribbeck stated that everything else that has been discussed will be minor tweaks to the language that will be presented in February. The Department will be meeting with Federal partners and other land managers within the State about season recommendations for their lands. Those recommendations will also be brought forth in the February meeting. Randy Myers will be presenting the season change requests in February, which starts the process for the Commission in considering public comments, as well as the changes that are brought forth. March is when Public Hearings are generally held across the State. The Department tries to have 6-7 Public Hearings in different locations across the State to allow the public to come from different locations and provide public comments. That public comment and the Commission's consideration of changes to the Notices of Intent will go until May, at which time the Commission will have to approve or disapprove the Notices of Intent and/or the amendments that were brought forth. Mr. Ribbeck included a copy of the Wildlife Insider to show the Commission the article written by Randy Myer, "Hey! When's Huntin' Season Open?". The article was written to explain the process in establishing seasons, and it has been well received by the public. Chairman Sagrera asked if there is any indication from Kisatche that they will have a timely decision that the Commission can consider as far as deer-dog hunting. Mr. Ribbeck answered that Kisatche just put out their environmental assessment on their proposed rule on December 21, and that it is out for a comment period now. They are proposing 1) to stay as it has been, 2) to have no dog hunting on the forest, or 3) to have a limited areas dog hunting season with the rules and regulations similar to the past several years. The Department will meet with them on January 18<sup>th</sup>, and the information gathered from that meeting will be presented to the Commission in February. Mr. Ribbeck also stated that Mike Balboni with the Forest Service has been asked to be at the February Commission meeting to answer any questions.

Mr. Jason Adriance handled the next three agenda items together. Mr. Adriance stated that each item is seasonal in nature and similar to actions that have been taken in the past. The first, **To receive and consider a Resolution and Declaration of Emergency for the 2012-2013 Commercial Reef Fish Seasons**, would establish seasons consistent with the Federal season in the Gulf of Mexico and would authorize the Secretary to close or modify those seasons as necessary upon notification to the Chairman. The second, **To receive and consider a Resolution and Declaration of Emergency for the 2012-2013 Recreational Reef Fish Seasons**, is similar to the Commercial Reef Fish Seasons, and includes a June 1-July 31 recreational closure for Amberjack, which is consistent with the Federal closure, and the third, **To receive and consider a Resolution and Declaration of Emergency for the 2012-2013 Commercial King Mackerel Season**, is consistent with the Federal Season, opening July 1 until the quota is met. Commissioner Oats moved adoption of items 6, 7, and 8, and Commissioner Graham seconded. There being no further discussion or public comment all items passed with no opposition.

(The full text of the Declarations of Emergency are made a part of the record.)

#### DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

2012-2013 Reef Fish Commercial Seasons  
January 5, 2012

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:6(25)(a) and R.S. 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the Wildlife and Fisheries Commission hereby declares:

The commercial fishing seasons for reef fish as listed in LAC 76:VII.335, Reef Fish – Harvest Regulations continue to remain open as of January 1 of each year unless otherwise provided for in LAC 76:VII.335 and LAC 76:VII.337, or as a result of actions by the Secretary as authorized below. These commercial fishing seasons include closed seasons for some species and species groups as listed in LAC 76:VII.335 and in LAC 76:VII.337, including prohibition on harvest of goliath and Nassau groupers.

The Secretary of the Department of Wildlife and Fisheries is hereby authorized to close the season for the commercial harvest of any species or group of species of the fishes listed in LAC 76:VII.335, Reef Fish – Harvest Regulations, in Louisiana state waters if he is informed by the Regional Administrator of NMFS that the applicable commercial quota has been harvested in

the Gulf of Mexico, and if he is requested by the Regional Administrator of NMFS that the State of Louisiana enact compatible regulations in Louisiana state waters.

The Commission also hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to modify the commercial seasons described here in Louisiana state waters if he is informed by NMFS that the season dates for the commercial harvest of these fish species in the Federal waters of the Gulf of Mexico as set out herein have been modified, and that NMFS requests that the season be modified in Louisiana state waters, or as needed to effectively implement the provisions herein upon notification to the Chairman of the Wildlife and Fisheries Commission. Such authority shall extend through January 31, 2013.

Effective with seasonal closures under this Emergency Rule, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell, or attempt to purchase, exchange, barter, trade, or sell the affected species of fish, whether taken from within or without Louisiana territorial waters. Also effective with these closures, no person shall possess the affected species of fish in excess of a daily bag limit, which may only be in possession during the open recreational season by legally licensed recreational fishermen. Nothing shall prohibit the possession or sale of fish by a commercial dealer if legally taken prior to the closure providing that all commercial dealers possessing such fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Stephen W. Sagrera  
Chairman

## DECLARATION OF EMERGENCY

Louisiana Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

2012-2013 Recreational Reef Fish Seasons  
January 5, 2012

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. NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

Recreational season rules have been established for red snapper and greater amberjack in the Gulf of Mexico and in Louisiana state waters and both fisheries operate under recreational quotas. If the quota is projected to be reached, NMFS is required by law to close the season to restrain fishing within the established quota for the species. In conjunction with a recreational quota, a closed season has been established in the Federal waters of the Gulf of Mexico for

greater amberjack from June 1 through July 31 of each year.

Adoption of compatible regulations for Louisiana state waters where feasible enhances effectiveness and enforceability of the regulations already in place for reef fishes harvested in the EEZ off of Louisiana. Unforeseen circumstances may occur which may lead to modification of the recreational seasons to restrain the fisheries within the recreational quota or to allow additional harvest, requiring a modification in established regulations.

In accordance with the emergency provisions of R.S. 49:953 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to employ emergency procedures to promulgate seasonal rules to set finfish seasons, R.S. 56:6(25) (a) and R.S. 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the Wildlife and Fisheries Commission hereby declares:

The Secretary of the Department of Wildlife and Fisheries is hereby authorized to close the season for the recreational harvest of red snapper or greater amberjack in Louisiana state waters if he is informed by the Regional Administrator of NMFS that the applicable recreational quota has been harvested or is projected to be harvested in the Gulf of Mexico and the recreational season closed in Federal waters of the Gulf of Mexico, and if he is requested by the Regional Administrator of NMFS that the State of Louisiana enact compatible regulations in Louisiana state waters.

The Commission further declares that the recreational season for the harvest of greater amberjack shall be closed from June 1, 2012 through July 31, 2012.

The Commission also hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to modify the recreational season currently established in Louisiana state waters if he is informed by NMFS that the season dates for the recreational harvest of red snapper or greater amberjack in the Federal waters of the Gulf of Mexico as set out herein have been modified, and that NMFS requests that the season be modified in Louisiana state waters, or as needed to effectively implement the provisions herein upon notification to the Chairman of the Wildlife and Fisheries Commission. Such authority shall extend through January 31, 2013.

Stephen W. Sagrera  
Chairman

#### DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

2012-13 Commercial King Mackerel Season  
January 5, 2012



In accordance with the provisions of R.S. 49:953 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to employ emergency procedures to establish seasonal rules to set finfish seasons, R.S. 56:6(25)(a) and 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish; the Wildlife and Fisheries Commission hereby sets the following season for the commercial harvest of king mackerel in Louisiana state waters:

The commercial season for king mackerel in Louisiana state waters will open at 12:01 a.m., July 1, 2012 and remain open until the allotted portion of the commercial king mackerel quota for the western Gulf of Mexico has been harvested or projected to be harvested.

The Commission grants authority to the Secretary of the Department of Wildlife and Fisheries to close the commercial king mackerel season in Louisiana state waters when he is informed by the National Marine Fisheries Service (NMFS) that the commercial king mackerel quota for the western Gulf of Mexico has been harvested or is projected to be harvested, such closure order shall close the season until 12:01 a.m., July 1, 2013, which is the date expected to be set for the re-opening of the 2013-14 commercial king mackerel season in Federal waters.

The Commission also authorizes the Secretary to open additional commercial king mackerel seasons in Louisiana state waters if he is informed that NMFS has opened such additional seasons and to close such seasons when he is informed that the commercial king mackerel quota for the western Gulf of Mexico has been filled, or is projected to be filled, or as needed to effectively implement the provisions herein upon notification to the Chairman of the Wildlife and Fisheries Commission.

Effective with seasonal closures under this rule, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell, or attempt to purchase, exchange, barter, trade, or sell king mackerel, whether taken from within or without Louisiana territorial waters. Also effective with this closure, no person shall possess king mackerel in excess of a daily bag limit, which may only be in possession during the open recreational season by legally licensed recreational fishermen. Nothing shall prohibit the possession or sale of fish by a commercial dealer if legally taken prior to the closure providing that all commercial dealers possessing such fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Stephen W. Sagrera  
Chairman

Mr. Adriance also handled the next agenda item, **To receive and consider a Resolution and Declaration of Emergency – Closure of the Recreational Fishery for Gag Grouper in Louisiana Waters**, which is the same as the previous items to align the season with the Federal season. It is a closure pending permanent rule change. Commissioner Oats moved to approve item 9, and Commissioner Graham seconded. There being no further discussion or public comment the motion passed with no opposition.

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

## DECLARATION OF EMERGENCY

Louisiana Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

Gag Grouper Recreational Season Closure  
January 5, 2012

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. An interim rule and a final temporary rule were established by NMFS closing the recreational gag grouper season during much of 2011, allowing for a recreational season from September 16, 2011 through November 15, 2011, in order to reduce overfishing on gag grouper. The NMFS temporary rule was effective until November 30, 2011 and has subsequently been extended to June 2, 2012. The NMFS temporary rule is expected to remain in place while a proposed rule, published November 2, 2011, containing a rebuilding plan for gag grouper through Amendment 32 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico is in a public comment period. NMFS and the Gulf Council have requested 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 waters to coincide with the regulation set forth by NMFS, it is necessary that emergency rules be enacted.

The recreational season for the harvest of gag grouper in Louisiana state waters has previously been closed at 11:59 p.m. November 15, 2011 and remains closed until further notice.

In accordance with the emergency provisions of R.S. 49:953 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:6(25)(a) and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the Wildlife and Fisheries Commission hereby declares:

The recreational fishery for the harvest of gag grouper, previously closed at 11:59 p.m. on November 15, 2011, will remain closed in Louisiana waters, and shall remain closed until further notice. Effective with this closure, no person shall recreationally harvest or possess gag grouper whether within or without Louisiana waters.

The Commission also hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to open the recreational season when notified by NOAA Fisheries that the recreational season for the harvest of gag grouper will open in the Federal waters of the Gulf of Mexico, or as needed to effectively implement the provisions herein upon notification to the Chairman of the Wildlife and Fisheries Commission. Such authority shall extend through January 31, 2013.

Stephen W. Sagrera  
Chairman

The next agenda item, **To consider Declaration of Emergency to close Shrimping in Portions of State Outside Waters**, was handled by Harry Blanchett. Mr. Blanchett stated that this is the same item the Commission has approved in the past, the same closures. The Department will continue to monitor and proceed to re-open whenever conditions allow. Commissioner Voisin moved to adopt the Declaration, and Commissioner Oats seconded. There was no discussion or public comment, and the motion passed with no opposition.

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

#### DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure  
January 5, 2012

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under the authority of R.S. 56:6.1, the Wildlife and Fisheries Commission hereby closes all commercial fishing, effective immediately January 5, 2012 in the following areas:

Those waters north of 28 degrees 56 minutes 30 seconds north latitude and south of 28 degrees 59 minutes 30 seconds north latitude from the eastern shore of Southwest Pass of the Mississippi River eastward to a line beginning at 28 degrees 59 minutes 30 seconds north latitude and 89 degrees 19 minutes 50 seconds west longitude and ending at 28 degrees 56 minutes 30 seconds north latitude and 89 degrees 23 minutes 00 seconds west longitude, and those waters north of 29 degrees 02 minutes 00 seconds north latitude and south of 29 degrees 02 minutes 20 seconds north latitude from the western shore of South Pass of the Mississippi River westward to 89 degrees 15 minutes 25 seconds west longitude, and those waters north of 28 degrees 59 minutes 40 seconds north latitude and south of 29 degrees 02 minutes 00 seconds north latitude from the western shore of South Pass of the Mississippi River westward to 89 degrees 15 minutes 25 seconds west longitude and southeastward along a line beginning at 29 degrees 02 minutes 00 seconds north latitude and 89 degrees 15 minutes 25 seconds west

longitude and ending at 28 degrees 59 minutes 40 seconds north latitude and 89 degrees 10 minutes 15 seconds west longitude, and those waters west of the western shore of South Pass of the Mississippi River south of 28 degrees 59 minutes 40 seconds north latitude bounded by the following coordinates: 1) 28 degrees 59 minutes 15 seconds north latitude and 89 degrees 08 minutes 15 seconds west longitude, 2) 28 degrees 58 minutes 20 seconds north latitude and 89 degrees 10 minutes 00 seconds west longitude, 3) 28 degrees 59 minutes 01 seconds north latitude and 89 degrees 11 minutes 00 seconds west longitude, 4) 28 degrees 59 minutes 40 seconds north latitude and 89 degrees 10 minutes 15 seconds west longitude, and those waters east of the eastern shore of South Pass of the Mississippi River and south of 29 degrees 01 minutes 50 seconds north latitude eastward to a line beginning at 29 degrees 01 minutes 50 seconds north latitude and 89 degrees 07 minutes 20 seconds west longitude and ending at 28 degrees 59 minutes 35 seconds north latitude and 89 degrees 08 minutes 00 seconds west longitude, and those waters adjacent to but not including Northeast Pass and Southeast Pass of the Mississippi River and bounded by the following coordinates: 1) 29 degrees 08 minutes 35 seconds north latitude and 89 degrees 04 minutes 20 seconds west longitude, 2) 29 degrees 08 minutes 15 seconds north latitude and 89 degrees 02 minutes 10 seconds west longitude, 3) 29 degrees 04 minutes 50 seconds north latitude and 89 degrees 04 minutes 10 seconds west longitude, 4) 29 degrees 05 minutes 30 seconds north latitude and 89 degrees 05 minutes 10 seconds west longitude, and those waters south and west of Pass a Loutre of the Mississippi River and east of 89 degrees 05 minutes 35 seconds west longitude bounded by the following coordinates: 1) 29 degrees 11 minutes 25 seconds north latitude and 89 degrees 03 minutes 30 seconds west longitude, 2) 29 degrees 11 minutes 00 seconds north latitude and 89 degrees 02 minutes 25 seconds west longitude, 3) 29 degrees 09 minutes 00 seconds north latitude and 89 degrees 05 minutes 35 seconds west longitude, 4) 29 degrees 11 minutes 00 seconds north latitude and 89 degrees 05 minutes 35 seconds west longitude, and those waters south of North Pass of the Mississippi River bounded by the following coordinates: 1) 29 degrees 11 minutes 35 seconds north latitude and 89 degrees 02 minutes 55 seconds west longitude, 2) 29 degrees 12 minutes 35 seconds north latitude and 89 degrees 01 minutes 05 seconds west longitude, 3) 29 degrees 11 minutes 35 seconds north latitude and 89 degrees 01 minutes 10 seconds west longitude, 4) 29 degrees 11 minutes 10 seconds north latitude and 89 degrees 02 minutes 00 seconds west longitude, and those state inside and outside waters adjacent to Grand Terre Island bounded by the following coordinates: 1) 29 degrees 18 minutes 20 seconds north latitude and 89 degrees 54 minutes 50 seconds west longitude, 2) 29 degrees 17 minutes 10 seconds north latitude and 89 degrees 53 minutes 50 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude and 89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 00 seconds north latitude and 89 degrees 57 minutes 20 seconds west longitude, and those state inside waters in the upper Barataria Basin north of 29 degrees 26 minutes 00 seconds north latitude and south of 29 degrees 29 minutes 00 seconds north latitude from 89 degrees 50 minutes 00 seconds west longitude westward to 89 degrees 57 minutes 00 seconds west longitude.

Recreational fishing is open in all state inside and outside territorial waters, except in the following areas, where only recreational angling and charter boat angling is allowed: those state inside and outside waters adjacent to Grand Terre Island bounded by the following coordinates: 1) 29 degrees 18 minutes 20 seconds north latitude and 89 degrees 54 minutes 50 seconds west longitude, 2) 29 degrees 17 minutes 10 seconds north latitude and 89 degrees 53 minutes 50

seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude and 89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 00 seconds north latitude and 89 degrees 57 minutes 20 seconds west longitude, and those state inside waters in the upper Barataria Basin north of 29 degrees 26 minutes 00 seconds north latitude and south of 29 degrees 29 minutes 00 seconds north latitude from 89 degrees 50 minutes 00 seconds west longitude westward to 89 degrees 57 minutes 00 seconds west longitude.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life.

The Commission hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to open, close, reopen-reclose, broaden or otherwise modify the areas closed and opened to fishing if biological, environmental and technical data indicate the need to do so, or as needed to effectively implement the provisions herein upon notification to the Chairman of the Wildlife and Fisheries Commission.

Stephen W. Sagrera  
Chairman

Mr. Jason Froeba handled the next agenda item, **To consider Notice of Intent to Establish Procedures for a Vessel Monitoring System to be used by Oyster Seed Ground Vessel Permittees.** Mr. Froeba stated that the Notice of Intent would require oyster fishermen who fish under the authority of the Oyster Seed Ground Vessel Permit to use a Vessel Monitoring System (VMS) if selected to do so. The Oyster Seed Ground Vessel Permit is required by oyster fishermen fishing on State oyster seed grounds. Mr. Froeba stated that the proposed rule would require the use of a VMS while operating on seed grounds if they are selected by the Secretary to participate in this pilot program. The purpose of the VMS is to provide better data on the seed grounds by determining the amount of effort placed on those seed grounds and the location of that effort. There will be no cost to the fishermen; it will be paid by the department. The Department has secured monies to fund the program for about two years. The Secretary will have the authority to choose a subset of permit holders to participate in the program. This proposal has been presented to the Oyster Task Force, and comments have been received. Mr. Froeba stated that it is the Department's intent to begin collecting data on for management purposes on the seed grounds beginning in October. Mr. Froeba also noted that the Office of Fisheries is also proposing a rule change to exempt VMS's under this project to be exempt from current requirements. Commissioner Voisin moved to adopt the motion, and Commissioner Oats seconded. Mr. Oats asked how much money they Department will spend on this. Mr. Froeba answered the Department has received about \$2.5 million of HUD money, disaster money that was set aside for fisheries recovery. The Department will use close to that amount if every permit holder installs a VMS, but that the Department does not expect all of the money to be

used. The Department does have enough funds for every permit holder if needed. There being no further questions the motion passed with no opposition.

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

## NOTICE OF INTENT

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission hereby advertises its intent to establish rules and regulations which require the use of Vessel Monitoring Systems for use by a vessel taking oysters for commercial purposes under the authority of the Oyster Seed Ground Vessel Permit. Data collected through this system will enable the Department to better manage the public oyster resource and allow the Department to assess where reef building efforts need to be focused increasing accessibility to the industry over time.

### TITLE 76 WILDLIFE AND FISHERIES PART VII. FISH AND OTHER AQUATIC LIFE Chapter 5. Oysters

#### **525. Commercial Oyster Seed Ground Vessel Permit**

A – D ...

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.

4. The Secretary shall have the authority to require the use of a vessel monitoring system (VMS) for use by a vessel taking oysters for commercial purposes under the authority of the oyster seed ground vessel permit in accordance with R.S. 56:433.1. All equipment, installation, and service costs associated with this requirement shall be paid for by the Department. The Secretary shall review this requirement annually for management needs and

funding availability and may, at his sole discretion, make the determination to continue the requirement.

a. All vessels operating under the authority of the oyster seed ground vessel permit will be required to have a VMS on board which is fully operable and recording data while vessel is fishing on public oyster seed grounds.

i. In instances where funding is limited, the Secretary may choose a sub-sample of vessels through use of a random selection process, geographic area, and/or trip ticket landings data.

b. Owners of vessels requiring the use of VMS will be notified of such requirement by certified mail at the address listed on their permit.

c. Notwithstanding applicable requirements pursuant to provisions in LAC 76:VII.371, any vessel required to use VMS under this provision must use the VMS system provided by the Department.

d. Presumption. If a VMS unit fails to record or transmit the required signal of a vessel's position (identified by the indicator light), the vessel shall be deemed to have incurred a VMS violation, for as long as the unit fails to record or transmit a signal, unless a preponderance of evidence shows that the failure to transmit was due to an unavoidable malfunction, or disruption of the transmission that occurred while the vessel was declared out of the fishery, as applicable, or was not at sea. If the indicator light is on, then the unit is presumed to be functioning properly; however, if the indicator light is off then the unit is presumed to not be recording or transmitting. The permit holder shall have an affirmative duty to immediately notify the Department of Wildlife and Fisheries (LDWF) if the VMS fails to record or transmit the required signal or if the indicator light indicates such a failure.

e. Replacement. If the indicator light on the VMS unit is not working, then upon notification to LDWF, a new unit shall be re-installed in no later than 7 days. During the period without a functional VMS unit, it is the affirmative duty of the permit holder to report daily to LDWF, prior to departure, the vessel's anticipated fishing location and estimated time on water, and upon return, the vessel's actual fishing location and time on water.

f. Access. All vessel owners shall allow the LDWF, and their authorized wildlife enforcement agents or designees access to the vessel's VMS unit and data, if applicable, and location data obtained from its VMS unit, if required, at the time of or after its transmission to the vendor or receiver, as the case may be.

g. Tampering. Tampering with a VMS, a VMS unit, or a VMS signal, is prohibited. Tampering includes any activity that is likely to affect the unit's ability to operate properly, signal, or accurately compute the vessel's position fix.

h. Violation. Failure to abide by any regulation set forth by this section regarding the use or operation of a VMS by a vessel taking oysters for commercial purposes

under the authority of the oyster seed ground vessel permit, shall be a violation of the Louisiana Revised Statutes and shall result in immediate revocation of the permit governed herein and shall constitute a class 1 violation under the authority of R.S. 56:23. All fish taken or possessed by a person in violation of these rules shall be deemed illegally taken and possessed. The provisions of this Section do not exempt any person from any other laws, rules, regulation, and license requirements for this or other jurisdictions.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:610(L), R.S. 56:6, R.S. 56:23, and R.S. 56:433.1.

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

### **Chapter 3. Saltwater Sport and Commercial Fishery**

#### **371. Vessel Monitoring System (VMS) Requirements**

A. The following provision regarding VMS shall be applicable to all provisions of law requiring the use of VMS except where required by R.S. 56:433.1 and LAC 76: VII.525.

1. The vessel must have onboard a fully operational and approved VMS Device. Approved devices are those devices approved by NOAA Fisheries Service or the Secretary of the Louisiana Department of Wildlife and Fisheries (LDWF) for fisheries in the Gulf of Mexico Reef Fish fishery and which meet the minimum performance criteria specified in paragraph 2 of this subsection. In the event that a VMS device is removed from the list of approved devices, vessel owners who installed an approved VMS prior to approval of any revised list will be considered in compliance with requirements of this paragraph, unless otherwise notified by the LDWF.

2. Minimum VMS performance criteria: Basic required features of the VMS are as follows:

a. The VMS shall be satellite-based and tamper proof, i.e., shall not permit the input of false positions; furthermore, satellite selection must be automatic to provide an optimal fix and shall not be capable of being manually overridden.

b. The VMS shall be fully automatic and operational at all times, regardless of weather and environmental conditions.

c. The VMS shall be fully operable and capable of tracking the vessel in all of Louisiana coastal waters and throughout the Gulf of Mexico.

d. The VMS shall be capable of transmitting and storing information including vessel identification, date, time and latitude/longitude.



e. The VMS unit shall make all required transmissions to a designated and approved VMS vendor who shall be responsible for monitoring the vessel and reporting information to the LDWF.

f. The VMS shall provide accurate position transmissions every half-hour, except for those vessels operating solely under the Out-of-State Landing Permit mentioned in paragraph 3 that require accurate position transmissions every hour, every day of the year, during required monitoring period. In addition, the VMS shall allow polling of individual vessels or any set of vessels at any time and permit those monitoring the vessel to receive position reports in real time. For the purposes of this specification, real time shall constitute data that reflect a delay of 15 minutes or less between the displayed information and the vessel's actual position.

g. The VMS vendor shall be capable of transmitting position data to a LDWF designated computer system via a modem at a minimum speed of 9600 baud. Transmission shall be in a file format acceptable to the LDWF. Such transmission must be made at any time upon demand of the LDWF.

h. The VMS vendor shall be capable of archiving vessel position histories for a minimum of three (3) months, as transmitted by the VMS unit, and provide transmissions to the LDWF of specified portions of archived data in response to LDWF requests in a variety of media (tape, compact disc, etc.) as specified by the LDWF.

3. Operating requirements: Except as provided in Paragraph 4 (Power Down Exemption) of this Subsection, or unless otherwise required by law, all required VMS units must transmit a signal indicating the vessel's accurate position at least every half hour, 24 hours a day, throughout the year. However, those vessels operating solely under the Out-of-State Landing Permit shall transmit a signal indicating the vessel's accurate position at least every hour, 24 hours a day throughout the year.

4. Power Down exemption: Any vessel required to have on board a fully operational VMS unit at all times, as specified in Paragraph 3 of this Subsection, is exempt from this requirement provided:

a. The vessel will be continuously out of the water for more than 72 consecutive hours; and

b. A valid letter of exemption obtained pursuant to Subparagraph 5.a. of the Subsection has been issued to the vessel and is on board the vessel is in compliance with all conditions and requirements of said letter.

A. 5. - 11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:424, R.S. 56:424.1, R.S. 56:495.1, R.S. 56:497.1, and R.S. 56:433.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:887 (May 2008), amended 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 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.

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission 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).

Interested persons may submit written comments relative to the proposed rule to Mr. Jason Froeba, Office of Fisheries, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, March 1, 2012.

Stephen W. Sagrera  
Chairman

For the item, **Election of Chairman and Vice-Chairman**, Commissioner Oats nominated Ann Taylor, and Commissioner Graham seconded. Commissioner Taylor was elected as Chairman. Commissioner Oats nominated Commissioner Graham for Vice-Chairman, and was seconded by Commissioner Voisin. There being no other nominations Commissioner Graham was elected as Vice-Chairman. Chairman Sagrera thanked his fellow Commission members for allowing him to serve as Chairman the past year. Commissioner Graham thanked Chairman Sagrera for his the job he did and all the effort he put into it.

The Commissioners discussed moving the May 2012 meeting to May 10<sup>th</sup>, but agreed to hold the **May 2012 Meeting** on Thursday, May 3, 2012, beginning at 9:30 a.m. at the Baton Rouge Headquarters.

Chairman Sagrera then asked for **Public Comments**, and there were none.

Commissioner Oats made a motion for the Commission to go into Executive Session to Discuss Potential Litigation relative to return of Artificial Reef Fund Monies and it was seconded by Commissioner Graham. The motion was unanimously approved. Reconvening from the Executive Session, Chairman Sagrera stated the no action will be taken at this time.

Commissioner Voisin moved to adjourn and was seconded by Commissioner Broussard. There being no further business, Chairman Sagrera **Adjourned** the meeting.

Ann Taylor  
Chairman