

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

MINUTES

October 2, 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
OCTOBER 2, 2008**

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MINUTES OF THE MEETING
OF
LOUISIANA WILDLIFE AND FISHERIES COMMISSION

Thursday, October 2, 2008

Chairman Patrick Morrow presiding.

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

Secretary Robert Barham was also present.

Chairman Morrow called for a motion for approval of the **August 7, 2008 Commission Minutes**. A motion for approval was made by Commissioner Oats and seconded by Commissioner Miller. The motion passed with no opposition.

Honorary Check Presentation by Secretary Angelle Representing the Money Realized by the Department of Wildlife & Fisheries in DNR's August Lease Sale began with Secretary Scott Angelle stating he had really great news. At the August Mineral Lease Sale, the State Mineral Board offered properties which are parts of Loggy Bayou and Bayou Pierre WMAs that generated interest in the Haynesville Shale Resource. Secretary Barham witnessed history being made at the meeting and within 48 hours a check was deposited in the bank for the Department. Secretary Angelle complimented the Department for the tremendous working relationship and being a great partner with DNR. When lease bids are open and they are \$17,500 per acre or \$27,500 per acre, this is history being made. Secretary Angelle felt it appropriate that a portion of the income from the management of nonrenewable resources should be put back into the management of renewable resources. Also, the leases have good conditions as it related to environmental conditions. By state law, the bonus money received which was the first year's cash rent and on the anniversary date of the lease, the company has to either have the lands in production or make a cash rental payment which can be no less than 1/2 of the bonus payment. Secretary Angelle felt it impossible that Haynesville Shale would be able to prosecute the drilling programs on all of their lands within a 12 month timeframe. If the cash rental does not happen, the better news would be that production from the area would be prolific. Secretary Angelle felt this activity was a "game changer" and could provide the kind of resources needed in Louisiana. He then showed the honorary check which was for

\$11,639,673.21 which was placed in the Conservation Fund. Chairman Morrow thanked Secretary Angelle and noted the funds would be put towards a useful purpose.

Having to leave the meeting, Chairman Morrow then turned the chair to Vice-Chairman Samanie for the remainder of the agenda.

Under **Commission Special Announcements/Personal Privilege** for this month, a **Report on Hurricane Damages** was given by several Department employees. First, Ms. Heather Finley, Marine Fisheries Division, began the presentation with a slide on the graphics and wind fields for the hurricanes. Hurricane Gustav made landfall on September 1, 2008 in the Cocodrie - Timbalier - Terrebonne areas, then Hurricane Ike made landfall on September 12, 2008 in Galveston Bay. Three categories were looked at by the Marine Fisheries staff and they were resource impacts, impacts to fisheries and impacts to Department assets. Oysters were primarily negatively impacted. Reports of fish kills have been reported particularly in interior marsh areas or from areas with pump offs from forced drainage systems. The oysters have been sampled since Hurricane Gustav landed and have weekly estimates on their mortalities. The area east of the Mississippi River received high waters, high surge and tropical storm winds from Hurricane Gustav. Some oyster mortalities were being seen in the reefs above the MRGO and very light on the reefs to the south. Barataria-Terrebonne, which received the bulk of winds and high waters from Hurricane Gustav, were having much higher mortalities. Vermilion-Atchafalaya areas had very low mortalities. There were no samples taken from the Calcasieu Lake area. As it related to habitat impacts, floating grass mats were seen as well as dead nutria. The industry, which was just getting back on its feet, has suffered losses of infrastructure, access and revenue. Ms. Finley noted debris will be an issue for the Department. Preliminary estimates of economic loss to the fishery industry were between \$158 million and \$240 million for the commercial fishery sector and between \$6.5 million and \$10.5 million for the charterboat industry. Ms. Finley then showed damage photos of infrastructures, marinas and boat docks and vessels. As a result of the debris issues, the states in the Gulf of Mexico received a 30 day temporary exemption from the use of TED's. Shown next were photos of damage to department facilities from the Marine Lab at Grand Terre, the new Marine Lab at Grand Isle, the Quarterboat, and the Lake Charles office.

Next presenter Mr. Joey Shepard, Inland Fisheries Division, spoke on preliminary assessments of impacts on the freshwater fishery of the state. A procedure the Division follows after a catastrophic incident includes conducting initial assessment by surveying impacted areas, speaking to the public on fish kills; then when an area becomes accessible, they look at water chemistry; develop or pursue any options to improve those conditions; deploy sampling gear to determine what has been lost; and develop a recovery plan to rehabilitate those resources. The reason for fish kills can be due to saltwater intrusion from storm surge into the freshwater areas, the suspension of organic materials into the water, release of low dissolved oxygen waters from backwater areas and the decay from dead fish and leaves blown into the water which uses up the oxygen that leads to more low oxygen levels. A map of parishes with fish kills was shown. Preliminary estimates of fish killed by Hurricane Gustav totaled about 162 million. Pictures shown next

were of a fish kill from Boeuf River, a breach at Denny's Drain on Larto-Saline Complex and on Cross Bayou Weir, and the Atchafalaya Basin area. One of the biologists from the Division felt the Atchafalaya Basin was as bad for Hurricane Gustav as it was for Hurricane Andrew. The last week of September there was still a lot of water coming through the Basin into Lake Henderson causing fish kills. Hurricane Ike did not impact the freshwater areas as much as expected. The impacts were due to storm surge and not rain. Preliminary fish kills did not occur in northeast and northwest Louisiana from Hurricane Ike, the southeastern portion of the state had additional fish kills observed, and southwestern Louisiana had a storm surge over 10 feet but no major fish kills. Freshwater marshes will probably be burnt in southwest Louisiana, but no control structures were lost as encountered with Hurricane Rita. Options to improve the water quality in the Basin were to increase the flow of water through the Old River Control Structure to slow the fall of the River and pulsed water through the Port Allen Locks in order to freshen the area on the east side of the Atchafalaya Levee. The water quality was continuing to improve in Lakes Verret and Palourde. Summarizing, Mr. Shepard stated that rivers and bayous leading to Lakes Pontchartrain and Maurepas had extensive losses of freshwater resources with a recovery time of 3-5 years. The Pearl River Basin had minor losses of resources and the recovery should occur within several months to 2 years. Lakes Des Allemands, Salvador and Cataouatche had significant losses but the recovery should only take 1-2 years. The area from the Atchafalaya Basin to Bayou Lafourche had extensive losses of freshwater resources and recovery may take 3-5 years. Significant losses occurred in the Mermentau and Calcasieu Rivers but recovery should take 1-2 years. Losses in the northeast should only taken several months to 2 years. Following the presentation, Commissioner Mouton asked if there may be any temporary limit reductions from the losses in the Atchafalaya Basin. Mr. Shepard stated they were going to actually go and sample the area to determine what was lost and then make any regulation changes if necessary.

Mr. Phil Bowman wanted to discuss the facilities along the coast. A lot of the damages suffered from the hurricanes was similar to that suffered in 2005 even though the magnitude of the storms were not similar. He felt Hurricane Gustav was a wind and rain event and Hurricane Ike was a storm surge event which flooded everything from the Mississippi line to the Texas line. Hurricane Ike could possibly be the third costliest storm (\$27 billion) in the history of looking at this information. Even though Ike was a Category 2 storm when it landed, the storm surge was equivalent to a Category 4. A map of the tropical storm and hurricane force wind field was shown. Calcasieu Parish had a storm surge of 11.8 feet. Pointe-aux-Chenes had one of the largest storm surges recorded and it overtopped the Montegut Levee and flooded Montegut. This flooding resulted in 6 feet of water in the headquarters building and caused some damage to the levees on the water management units. From a waterfowl food standpoint from Pass-a-Loutre to Rockefeller, there was a lot of submerged aquatic vegetation and a good crop of duck potato and other foods before the storms. But since the storms, the food has either been damaged or lost as a result of the storms. Submerged aquatic vegetation was practically gone on Atchafalaya Delta and Pointe-aux-Chenes WMAs. Salvador WMA had a storm surge 6 to 12 inches higher than Hurricane Rita and all of the buildings were flooded except for the Supervisor's Residence. Pass-a-Loutre's impacts came mainly from Hurricane Gustav with

a lot of piled up vegetation (rack), the Roseau cane was flat and the duck potato received a saltwater scalding. Biloxi WMA did not receive a lot of damage. Shown next were before and after pictures of the Isles Dernieres Barrier Islands Refuge of Raccoon Island, Whiskey Island, Trinity Island and Wine Island. These barrier islands are extremely important for shorebirds and pelicans. Atchafalaya Delta sustained moderate damage, had a 7 foot tidal surge, and the marsh suffered from saltwater burns and the loss of submerged aquatic vegetation. There was some isolated wildlife damages, particularly with the increase in saltwater that caused alligators to want to move which resulted in mortality. Marsh Island had a 7 foot storm surge which damaged or destroyed the boat and tool sheds. A picture of the beach erosion on Marsh Island was shown. Wildlife mortalities occurred on Marsh Island also, but felt they were mostly isolated. Rockefeller Refuge had an 8 foot storm surge and pictures of the damaged tractor shed and shop were shown. Following Mr. Bowman's presentation, Commissioner Miller asked if it was known what the impact was to the Sabine National Wildlife Refuge as a result of Hurricane Ike. Mr. Bowman stated that Lacassine would be open which meant it did not suffer as much as during Hurricane Rita, but he did not know about Sabine.

Mr. Randy Myers, Wildlife Division, stated he would provide preliminary update on impacts to the wildlife resources and wildlife management areas from the hurricanes. Shortly after the passage of Hurricane Gustav, the staff went onto the areas to provide damage information. Also, with the assistance of U.S. Fish and Wildlife Service pilot Fred Rucker, the staff was able to view the damage from the air. Impacts to Sherburne WMA was minor to moderate on the forest canopies (mostly sugarberry or hackberry). The damage was concentrated along open fields or roads. Attakapas WMA had heavy damage to the black willow stands (7 percent were either broken off, snapped over or completely knocked down), but there was not a significant impact to the cypress-tupelo forest. Mr. Myers added they were able to survey from the air the area south and west of Lafayette and there was sheet water in the agriculture fields that held a lot of teal. Increased damages to the marshes were seen east of the Atchafalaya Delta from Houma to Grand Isle, but the damages were localized. Debris lines were very evident but the further north and inland traveled, the impacts were less to the resources. On Manchac WMA, the water was still high with a lot of debris at the Department's facility. High water and low to moderate tree damage was noted on the Maurepas Swamp WMA with localized impacts. Low to no damage to the facilities and forest was observed on Spring Bayou, Grassy Lake and Pomme de Terre WMAs. Low to moderate damage occurred on Tunica Hills WMA. Red River and Three Rivers WMAs, particularly in the batture area, had 40 to 50 percent damage to the trees. Dewey Wills WMA had moderate flooding with some of the road damage created by sightseers driving around. Sicily Island Hills WMA suffered some damage to the trees but the main concern was the rain washing down the roads and trails creating gullies. Heavy flooding occurred on Russell Sage, Ouachita and Boeuf WMAs. Hurricane Ike caused damage to the outer buildings at the Lake Charles facility. There were many reports of deer concentrating on the high ground of Manchac WMA following Hurricane Ike. Reports were received from the public and staff of mortality to nutria, muskrats, feral hogs, deer and rabbits. A week following Hurricane Ike, the Region 7 staff was able to do an airboat survey on Maurepas Swamp and Manchac WMAs and saw 35

deer of which over 50 percent were fawns. Two direct mortalities of deer were observed. Another airplane survey of southeast and south central marshes occurred looking at Pearl River WMA (marsh health was good, but the impact to the submerged aquatic vegetation was not as bad as had thought). Manchac WMA had low damage to the marsh, but there was no submerged aquatic vegetation seen. The east side of Maurepas Swamp WMA suffered severe salt burn to the fresh and intermediate marshes. The marshes in lower Lafourche Parish had severe wind and salt burn; Plaquemines Parish's marsh health was good, but the intermediate brackish marsh was stressed particularly where the water was trapped inside the levees. Summarizing, Mr. Myers noted they did lose some of their mast trees and mast, may see localized impacts to squirrels, and there was concern where some of the invasive species of trees fell which may cause management problems in the future. The positive point from the opening of the canopy from the storms was the increase in sunlight to the ground which would provide an increase in browse availability. Staff will continue to monitor the areas looking at short term versus long term impacts. Also, staff was not recommending any closures or adjustments to the hunting seasons. Monitoring the resources would continue by conducting habitat surveys particularly in the southeast and central coast and putting together harvest reports.

Commissioner King asked if there was an impact to the shrimping industry. Ms. Finley stated from the fishery independent samples, they were seeing good shrimp numbers. If there was an impact, it may be related to infrastructure issues. Mr. Marty Bourgeois stated the shrimp populations did well, but it was the fishers and infrastructures that supports the fishers that were damaged. But on a positive note, NOAA Fisheries has given the state a temporary TED exemption with a 55 minute tow time. Commissioner King asked how the season was going. Mr. Bourgeois stated, in general, shrimp landings for this year were down. Brown shrimp landings were down about 20 percent with many fishermen having a hard time which was influencing fishing trips and the amount of shrimp harvested. Vice-Chairman Samanie felt the effort was down prior to the hurricanes due to the high price of fuel and low prices for the shrimp. Since the hurricanes, the industry has been hard hit. Mr. Bourgeois added that in lower Lafourche Parish, at least 3 or 4 businesses that buy shrimp were impacted and probably would not come back until next year.

To receive and hear Enforcement & Aviation Reports/August and September began with Col. Winton Vidrine stating there were 1,275 citations issued statewide, 380 written warnings and agents helped with 39 instances of public assists for August 2008. The Department's 3 planes flew a total of 86.6 hours for the month. There were 8 boating accidents reported during August, with 8 injuries and 7 fatalities. Year to date totals for boating accidents was 113, with 65 injuries and 31 fatalities. For September 2008, there were 703 citations issued, 97 written warnings and agents helped with 821 instances of public assists. The Aviation Report showed the Department's three planes flew a total of 77.7 hours for the month. In September, there were 2 boating accidents with 2 injuries and no fatalities. News Releases mentioned were on a federal case in which 4 Louisiana men were charged with baiting violations; 3 hunters were apprehended with 11 wood ducks during the September teal season; and a Port Barre hunter was charged with hunting squirrels during a closed season. Then Col. Vidrine reported that during Hurricane Gustav,

agents had a forward command post in Thibodaux and Myrtle Grove. During Hurricane Ike, a forward command post was set up at the Jennings Airport. The agents were assisted by the states of Arkansas, Kentucky, Virginia, Ohio, Tennessee, Missouri, 114 people from California's Swift Water Rescue Team, and 300 search and rescue employees from FEMA. There were 363 people rescued from the coastal parishes and other people were rescued from Jonesville, Winnsboro and Avoyelles Parish, as well as 31 dogs, 1 cat and 6 ducks. The Enforcement Division invested 13,642 man hours during Hurricane Gustav and 10,781 during Hurricane Ike. Agents also assisted the Department of Health and Hospitals in recovering 60 displaced caskets from the marshes and the Department of Social Services in providing security detail at the Food Stamp Offices. As a point of information, a new academy began with 10 cadets, but now there are 9. Col. Vidrine then felt Secretary Barham did an outstanding job in representing the Department at GOHSEP. He noted that the Assistant Secretaries and their employees were helpful in getting equipment to the agents, Mr. Bo Boehringer was helpful with the press, and his staff at headquarters did an outstanding job. When the Governor showed up for a surprise visit at the Jennings command center, Col. Vidrine felt it was a boost for all of the agents there. He also noted the Department worked together as a team throughout the hurricanes. Commissioner King thanked and congratulated those employees that acted as first responders during the hurricanes. Col. Vidrine added that the Department has a search and rescue plan which gets updated each year. Vice-Chairman Samanie also thanked the employees and felt it comforting seeing agents on the bayou watching everyone's property.

Keep Louisiana Beautiful Litter Enforcement Awards was handled by Lt. Col. Jeff Mayne. During the previous fiscal year, over 900 littering citations were issued in the state of which 344 were gross littering violations. This year during the recent legislative session, the Administration added \$200,000 to the budget for gross littering enforcement to continue with the effort. He then introduced Ms. Leigh Harris, Executive Director of Keep Louisiana Beautiful who would present the awards.

Ms. Harris began thanking the Commission, the Department, the Secretary and the Enforcement Division for focusing on anti-litter laws. The first award was where the Department of Environmental Quality and Keep Louisiana Beautiful jointly gave awards for outstanding service in the field of anti-litter. For the second year, the Enforcement Division received the first place award, which was presented at the State Conference in Monroe. Then Ms. Harris noted the Keep Louisiana Beautiful agency presents an award to an enforcement agent that gives the most littering and gross littering citations. This year's recipient was Senior Agent Byron Cammack from Region 3.

To receive and hear Public Comments on the 2009 Turkey Seasons and General and WMA Turkey Hunting Regulations began with Mr. Fred Kimmel stating that the protocol for turkeys would be modified for this year. At this meeting, public comments and amendments would be considered which was what would have occurred at the September Meeting. At the November Meeting, a vote on the original Notice of Intent and any amendments would occur. No action would occur in December and then the rule would be

ratified in January. The Vice-Chairman then asked for public comments and none were heard.

Mrs. Michelle Kasprzak handled the next agenda item, **To receive and consider Resolution and Notice of Intent - Voluntary Charter Boat Reporting System**. This action came from passage of Act 564 from the 2008 Legislative Session which provides a voluntary system for the for hire industry to report to the Department. Mrs. Kasprzak explained that staff has been working with the charter association and the charter industry. With this being a voluntary program, there will not be 100 percent coverage of the industry. The information will provide the number of hours fished, if the charter captain used artificial reefs, if so, which reef and number of hours fished, number of resident versus non-resident anglers and the time spent fishing the different methods. Funds have been identified for a start-up cost of an electronic system that the charter captains will be able to use free of charge. If funds become available, a paper option may be pursued for the captains that do not have computers. Hearing no questions, Commissioner Oats made a motion to adopt the Resolution, it was 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.)

RESOLUTION

VOLUNTARY CHARTER BOAT FISHING GUIDE LICENSE LANDINGS REPORT October 2, 2008 Louisiana Wildlife and Fisheries Commission

WHEREAS, Act 564 of the 2008 Regular Legislative Session, R.S. 56:302.9, authorizes the Wildlife and Fisheries Commission to establish a voluntary landings report program for charter boat guide license holders, and

WHEREAS, Act 564 requires that any data collected through the charter boat guide license landings report will be maintained as confidential and that economic data will not be collected, and

WHEREAS, the Commission recognizes the need for accurate and timely data from the for-hire industry,

THEREFORE BE IT RESOLVED that the Louisiana Wildlife and Fisheries Commission does hereby adopt a notice of intent to implement a rule for the voluntary landings report program for the charter boat guide license holders which is attached to and made part of this resolution and which will become effective upon promulgation, and

BE IT FURTHER RESOLVED, that the Secretary 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 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 Charter Landings Report. Authority to establish such rules and regulations is vested in the Wildlife and Fisheries Commission by R.S. 56:301.4, R.S. 56:301.5, and R.S. 56:302.9.

Title 76

WILDLIFE AND FISHERIES

Part I. Wildlife and Fisheries Commission and Agencies Thereunder

Chapter 3. Special Powers and Duties

Subchapter F. Confidential Fishery Data

§319. Confidentiality of Commercial and For-Hire Industry Landing Data

CONFIDENTIALITY. All data collected or otherwise obtained by personnel or contractors of the Louisiana Department of Wildlife and Fisheries or members of the Wildlife and Fisheries Commission in the course of their duties and other landings data collected by personnel or contractors of the Louisiana Department of Wildlife and Fisheries or members of the Wildlife and Fisheries Commission are confidential, and are not to be divulged, except in aggregate form, to any person except employees or contractors of the Louisiana Department of Wildlife and Fisheries or members of the Wildlife and Fisheries Commission or the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA/NMFS) whose duties require this information, except as permitted by law or court order. Aggregate form, with respect to data, shall mean data or information submitted by three or more persons that have been summed or assembled in such a

manner so as not to reveal, directly or indirectly, the identity or business of any such person. Neither employees nor contractors of the Louisiana Department of Wildlife and Fisheries nor members of the Wildlife and Fisheries Commission will voluntarily release confidential information to another person, firm, or state or federal agencies, except NOAA/NMFS as stated above, and to the extent possible, will oppose other agency and congressional subpoenas to obtain confidential information.

Neither the Louisiana Department of Wildlife and Fisheries nor its contractors nor members of the Wildlife and Fisheries Commission will disclose confidential statistics under court order without specific approval by the State Attorney General's Office. Employees or contractors of the Louisiana Department of Wildlife and Fisheries or members of the Wildlife and Fisheries Commission who have access to confidential statistics shall be subject to the provisions and penalties for unauthorized disclosure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:301.4 and R.S. 56:306.6 56:345.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:38 (January 1990), amended LR .

§321. Records; Confidentiality

All fishery dependent data (that is, only data collected from individuals or firms) collected or otherwise obtained by personnel or instrumentalities of the Louisiana Department of Wildlife and Fisheries or members of the Wildlife and Fisheries Commission in the course of their duties are confidential and are not to be divulged, except in aggregate form, to any person except employees or instrumentalities of the Louisiana Department of Wildlife and Fisheries or members of the Wildlife and Fisheries Commission or the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA/NMFS), or Legislative Committees and their staffs, whose duties require this information, except as authorized by law or court order. For the purposes of this rule fishery dependent data shall be data collected under authority of Part VI of Title 56 of the Revised Statutes except the names, addresses, and license numbers of licensed fishermen. Aggregate form, with respect to data, shall mean data or information submitted by three or more persons that have been summed or assembled in such a manner so as not to reveal, directly or indirectly, the identity or business of any such person. Neither employees nor instrumentalities of the Louisiana Department of Wildlife and Fisheries nor members of the Wildlife and Fisheries Commission shall release confidential information to another person, firm, or state or federal agencies, except NOAA/NMFS as stated above or state agencies authorized through written agreements with the Department of Wildlife and Fisheries that have comparable confidentiality provisions, and to the extent possible, will oppose other agency and congressional subpoenas to obtain confidential information. Neither the Louisiana Department of Wildlife and Fisheries nor its instrumentalities nor members of the Wildlife and Fisheries Commission, nor Legislative Committees and their staffs, will disclose confidential statistics under court order without specific approval by the State Attorney General's Office. These rules and regulations provide for compliance with

all procedures set forth by the United States Department of Commerce, or its agencies or instrumentalities, for the confidentiality of fishing statistics collected from individuals or firms by that department, its agencies or instrumentalities. Employees or instrumentalities of the Louisiana Department of Wildlife and Fisheries or members of the Wildlife and Fisheries Commission who have access to confidential statistics shall be subject to the provisions and penalties for unauthorized disclosure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:301.4 and R.S. 56:302.9.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:82 (January 1992), amended LR .

Part VII. Fish and Other Aquatic Life

Chapter 2. General Provisions

§205. Charter Boat Fishing Guide License Landings Report

A. Participation in the Charter Boat Fishing Guide License landings report is voluntary. Those persons who hold a charter fishing guide license may choose to participate and all information collected shall be held confidential under R.S. 56:301.4 and LAC 76:l.319 and 321.

B. The charter boat fishing guide license report form shall be a two-part numbered form or electronic reporting system provided by the Department at the request of the license holder. The charter boat fishing guide license report form may be completed at the end of each "charter boat fishing trip". For the purpose of this rule a "charter boat fishing trip" is defined as the time when a vessel leaves a Louisiana based access site to the time the vessel returns to the Louisiana based access site, captained by a Louisiana licensed resident or non-resident charter boat license holder, carrying passengers for a fee, for the express purpose of capture, release or harvest of finfish in Louisiana state waters or adjacent Federal waters. The charter boat license holder may fill out the report form in its entirety containing all of the information requested in Subsection C of this Section. In addition, those vessels operating under a charter boat mothership license should complete the charter boat landings report for each charter boat fishing trip a licensed charter boat skiff tied to that mothership makes. The "Charter Guide License Copy" of the report should be maintained on file at the charter guide license holder place of business. The "Department Copy" portion of the charter guide license report form should be returned to the Department by the charter guide license holder by the tenth of each month to include all charter boat fishing trips during the previous month. Along with the reports for each month, the charter guide license holder should submit a "Monthly Submission Sheet" provided by the Department that confirms that the charter boat fishing trips submitted represent all or a portion of the charter boat fishing trips by that charter guide license holder for that particular month. The charter guide license holder should mail completed receipt forms to a pre-

determined address designated by the Department. Charter guide license holders may request charter boat fishing guide license report forms or the electronic reporting system from the Department by calling a phone number to be publicized by the Department.

C. The charter guide license holder may record the following information on the charter boat fishing guide license report form at the time of the completion of a charter boat fishing trip.

1. Charter Guide name;
2. Charter Guide license number;
3. Vessel Name and Louisiana or Coast Guard documentation number;
4. Charter Boat Fishing trip start and end time and start and end year, month and day;
5. Public or private access type;
6. Primary area fished and depth fished;
7. Louisiana artificial reef fished;
8. Total number of hours fished;
9. All fishing methods utilized;
10. Hours actively fishing per fishing method;
11. Total number of paying passengers who fished by resident and non-resident categories;
12. Permit type and permit issuer for those species requiring a State or Federal permit to harvest;
13. Licensed charter guide captain signature certifying the information is true and correct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:302.9(H), R.S. 56:302.9(I).

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 Michelle Kasprzak, Program Manager, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., December 4, 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

To receive and consider Amendment to Declaration of Emergency and Notice of Intent for Shark Harvest Rules began with Mr. Harry Blanchet stating this action was originally intended for the September Meeting. With no meeting in September, the Secretary took action to modify the shark proposed rule to include the regulation that trip limits on commercial harvests were specified to be per day. The regulation would be imposed on both state and federal permit holders. Mr. Blanchet then noted the Commission needed to act on the Secretary's action at their next regular meeting which was now. Also, a public hearing would be held at the November Meeting. Commissioner Miller made a motion to ratify the Secretary's action in the Declaration of Emergency on the shark harvest rules and to accept the amended Notice of Intent. Commissioner King seconded the motion.

Mr. Christopher Rhoto stated the federal permit applied to the boats, but the state permit was issued to the fishermen themselves. He asked why was this route being taken. Mr. Blanchet agreed that the federal permit was on a per vessel and the state was on a per fisherman. But the federal regulations note that there was 1 fisherman on a vessel, so the action would make it equal and makes it irrelevant on whether it was a vessel permit or fisherman's permit. The intent was to mirror the federal regulations as closely as possible with the intent to protect the species. Then Mr. Rhoto asked if there has been any research or numbers on the species since the season opened. Mr. Blanchet stated there are no final numbers on shark harvest other than the July harvest. One months harvest makes it hard to compare from one year to the next, so several months was preferred. Over the last 3 or 4 years, Mr. Blanchet added they have seen significant variations since the 2005 hurricanes. There was a need to look at sustainability of the species. Mr. Rhoto commented that the trip tickets only has a spot for pounds and they sell by the pounds. He did not know how the research was going to work. Mr. Blanchet noted that there would be a modification to the trip tickets to record both in pounds and in heads.

Mr. Wayne Maggio stated to be able to have 2 people on a boat with the permit and being able to catch 66 fish would help fishermen since they could split the cost of fuel. He felt the same number of fish would be caught and the quota was the same. Another issue for the fishermen were the people they were selling to was cutting back holding the meat for 7 to 10 days which may lead to the fish spoiling and being thrown out. If the fishermen can not sell their catch, they would go back to finning which was the reason for making laws. To have two people on a boat was a lot safer than just one person, mentioned Mr. Maggio. Mr. Blanchet stated the amendment would make this regulation consistent with the way the Department has operated other commercial fisheries with limits in the past. Also, the same safety arguments were made in 1993 when a 200 pound limit was established for the commercial harvest of red snapper, to which Mr. Blanchet stated he could not argue with that.

Hearing no further questions, Commissioner Miller made a motion to adopt and it was seconded by Commissioner Oats. The motion passed with no opposition.

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

MODIFY SHARK HARVEST RULES

Adopted by the
Louisiana Wildlife and Fisheries Commission
October 2, 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 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 August 8, 2008, the Wildlife and Fisheries Commission promulgated a Declaration of Emergency and Notice of Intent that were intended to allow the harvest of shark in Louisiana State waters, and

WHEREAS, the Declaration of Emergency and Notice of Intent did not clearly state that commercial harvest limits of Large Coastal Shark species by State-permitted harvesters were on a per-vessel basis, which is the basis for the Federal regulations, 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, the trip, species, and other harvest limits established as part of this rule require emergency action in order to allow effective management of shark harvest during the time until permanent rules can be enacted, and

WHEREAS, the Secretary of the Department of Wildlife and Fisheries, acting under the authority of R.S. 56:2(D)(2) promulgated a Declaration of Emergency on September 11 to incorporate these clarifications into the rules established by the Commission at its August meeting, 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 modifies its Declaration of Emergency and Notice of Intent on shark management measures originally considered in its August meeting to clarify that the commercial harvest limits for large coastal shark are on a per-vessel basis, and

BE IT FURTHER RESOLVED, that the rules established by this Declaration of Emergency are effective immediately, 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 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 modification to the declaration of emergency and 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 opened at 12:01 a.m., August 11, 2008. The pertinent parts of these rules were also effective for the recreational fishery for Large Coastal Shark at 12:01 a.m., August 11, 2008. Those regulations, as published, did not clearly specify that commercial trip limits were intended to be per vessel, per day. That clarification was established by action of the Secretary of the Department of Wildlife and Fisheries under the authority of R.S. 56:2(D)(2) on September 11, 2008 after cancellation of the September Commission meeting. The action of the Secretary is effective until seven days after the following Commission meeting. This Declaration of Emergency continues the action established by the Secretary, and is effective immediately.

This Declaration of Emergency will become effective 12:01 a.m., October 3, 2008, and the rules will supersede those published in the September 20, 2008 *Louisiana Register*.

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. Vessels that have been issued or that possess a Federal Commercial Directed or Incidental Limited Access Shark Permit or Federal Shark Research Permit may only possess or sell, barter, trade, or exchange one limit per vessel per day, where that limit is identified for that permit by NMFS. 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 one day, or on any trip, or land from any trip, or sell, barter, trade, or exchange in excess of 33 sharks per vessel 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 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: .

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.

This Notice of Intent will become effective immediately, and will supersede that published in the August 20, 2008 *Louisiana Register*.

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. Vessels that have been issued or that possess a Federal Commercial Directed or Incidental Limited Access Shark Permit or Federal Shark Research Permit may only possess or sell, barter, trade, or exchange one limit per vessel per day, where that limit is identified for that permit by NMFS. 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 one day, or 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~~ per vessel 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@wlf.louisiana.gov, with "Proposed Shark Rule" in the subject line, no later than 4:30 p.m. December 2, 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

The next fisheries item was **To receive and consider Amendment to Notice of Intent for Oyster Seed Ground Vessel Permit** and was handled by Mrs. Karen Foote. At the August Commission Meeting, a question was posed to clarify the rule asking if it applied to commercial or if it included recreational on the oyster seed ground vessel permit. The intent of the Act was to apply this to commercial only. With the cancellation of the September Commission Meeting, Secretary Barham handled the action through a Declaration of Emergency. Mrs. Foote stated the action clarifies that the vessel permit passed by Act 922 only applies to commercial vessels on oyster seed grounds. Hearing no comments, Commissioner Oats made a motion to adopt the Resolution. Commissioner Miller seconded the motion and it passed with no opposition.

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

RESOLUTION

Oyster Seed Ground Vessel Permit

Louisiana Wildlife and Fisheries Commission
October 2, 2008

WHEREAS, Act 922 of the 2008 Regular Session of the Louisiana Legislature (R.S. 56:433.1) established 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 further established 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 Wildlife and Fisheries Commission passed a Notice of Intent describing the Public Oyster Seed Ground Vessel Permit on August 7, 2008, and

WHEREAS, an agenda item for the September meeting of the Wildlife and Fisheries Commission was scheduled to clarify that the Public Oyster Seed Ground Vessel Permit was for commercial purposes only, and

WHEREAS, the September meeting of the Wildlife and Fisheries Commission was cancelled by the Commission Chairman due to Hurricane Gustav, and

WHEREAS, the Secretary of the Department of Wildlife and Fisheries, through the authority vested in him by R.S. 56:2(D)(2) which allows the Secretary to take emergency action on scheduled agenda items for a cancelled Wildlife and Fisheries Commission meeting if the Governor declares a state of emergency pursuant to R.S. 29:721 et seq. and the Chairman of the Commission cancels the monthly meeting, promulgated a Declaration of Emergency that amended the Oyster Seed Ground Vessel Permit Notice of Intent (published in Louisiana Register on August 20, 2008) to clarify that the intent for the permit requirement is for commercial purposes only, and

WHEREAS, the Department of Wildlife and Fisheries has consulted with the Oyster Task Force on the development of the proposed rules and regulations for the administration of these permits, including the clarification that these permits are for commercial purposes only.

THEREFORE BE IT RESOLVED, the Louisiana Wildlife and Fisheries Commission hereby ratifies the above-described actions of the Secretary of the Department of Wildlife and Fisheries and clarifies that the Oyster Seed Ground Vessel Permit Notice of Intent is for commercial purposes only.

Patrick C. Morrow
Chairman

Mr. Wilson Voisin presented the next item, **Consider Oyster Task Force Request to Allow Harvest of Oysters from Sister Lake with a 50-Sack Limit and Planting Seed.** He stated the last time Sister Lake was open was during the month of November last year with an area that remain closed throughout the season. The intent was to get the area open this year before the November health closure lines go into effect. This proposed season would be a help to the industry with the recent hurricanes. Mr. Voisin then commented there is a new law that the public oyster grounds open on the second Monday of October which would be October 13 this year and the areas east of Mississippi River would open on October 3 for sacking and bedding. Again, he asked the Commission to help the industry by opening Sister Lake since there was an area that has a numerous amount of product. The passage of the two hurricanes resulted in minor damages in some sections to the lake and opening the area could help clean the lake. The reason for asking the entire lake be opened was the confusion that may occur for the boat captains and enforcement problems created when boundary lines are drawn. The request was to open the lake from October 13 to October 28 for harvesting with a 50 sack limit and for bedding. He added that if boats that are bedding were hauling out large amounts of non-living cultch, then it should be shut down for bedding.

Mr. Patrick Banks stated they have spoken with the Oyster Task Force on their request and with Mr. Voisin on his alternative request. Staff has looked at the data, looked at what the samples have shown, last year's harvest, areas of the lake where harvest pressures were heaviest last year and related that to the stock assessment reports. He reminded the Commission that Sister Lake and Bay Junop typically open and close on alternating years and that Sister Lake was open last year. There were about 80,000 sacks of oysters and another 20,000 barrels of seed harvested from the lake. After looking at all of the information, the Department felt the lake has very limited ability to handle a harvest this year. The area north of the health closure line could withstand some harvest, added Mr. Banks. Also, the most southern and eastern portions of the lake had some problems with sediment and vegetation being seen following the hurricanes. Some limited harvest from that area could assist the industry and could assist in cleaning the reefs. Instead of opening the entire lake, the recommendation was to open the southern and eastern portions of the lake from October 13 to October 19 and then open the northern area from October 20 to October 24. The middle of the lake would remain closed since samples have shown mortality following the hurricanes and a low number of available oysters. Commissioner Oats asked about an irregular cut out on the map and Mr. Banks noted that was a current oyster lease. Hearing no further questions from the Commission, Vice-Chairman Samanie asked Mr. Banks to read the Therefore Be It Resolved portion of the Resolution. After reading the Resolution, Mr. Banks added that the Resolution allows the Secretary to close areas and noted that Sister Lake was closed early last year with excessive amounts of reef materials being taken from the seed grounds. This same type of activity was occurring east of the Mississippi River and staff may consider asking the

Secretary to close some of those areas. Commissioner Oats made a motion to adopt the Resolution and it was seconded by Commissioner Miller.

Mr. Wilson Voisin commented they have a lot of respect for the Commission, the staff and Mr. Banks, but mentioned that the eastern area of the lake could be opened to clean the area and make a few sacks of oysters. But the area to remain closed was a more productive area, and he wondered why not open that area. He felt the lines dividing the lake would confuse the fishermen and would not hurt the area as long as marketable sized oysters are produced. Mr. Voisin asked again that the entire lake open for 10-12 days instead of the original request of 18 days.

Mr. Mike Voisin stated he supported what was presented by Mr. Wilson Voisin in having the entire lake open. He added he understood what Mr. Banks was trying to accomplish and was not opposed to it but believed it best for the lake, the resource and harvesters to have 12 days instead of 18 days. Mr. Voisin felt the season would improve the harvest and clean the area of debris. He then encouraged one of the Commissioners to make a substitute motion to open the entire lake from October 13 to October 24. Commissioner King asked Mr. Voisin if he felt the oyster fishermen were having hardship issues. Mr. Voisin stated that all fishermen in the area were having significant hardship issues and this would be a great "hand-up" so they could get back to work. He added he has seen more devastation post-Ike versus what was seen post-Rita.

Commissioner Miller asked Mr. Banks what would be the response to opening the entire lake but cutting the dates in half. Mr. Banks felt reducing the harvest time would help but experience shows, boats would concentrate where the majority of the resource was found. With the resource being found last year in the middle part of the lake, the fishermen would go to this area which could cause a greater impact to the lake on top of the impact from last year. Mr. Banks had great concern for the lake to continue to produce in this manner. To open the entire lake for a shorter period of time would be better for the lake, but there was still concern for the resource in the middle part of the lake. Commissioner King asked Mr. Banks if he shared Mr. Voisin's concern on the enforcement issues. Mr. Banks stated, after speaking with Enforcement, they would enforce whatever the Commission passed. Captain McManus stated it was always simpler not to have lines, but he agreed with Mr. Banks recommendation and the agents would be able to adequately enforce it. Commissioner Miller commented that with today's technology, a GPS could determine where the line may be and not cross it. Captain McManus noted that not all of the vessels that harvest in that area were equipped with a GPS.

Mr. Buddy Daisy stated that the industry needed the entire lake open since there were a lot of small boats in the area that did not have a GPS. Last year when the lake was opened, Mr. Daisy added that there were a lot of outside boats which destroyed the lake, not the local boats. Mr. Daisy then mentioned that there were not that many fishermen that transplant but added he was one of those fishermen that transplants. From the last hurricanes, he lost a lot of acreage to silt and he needed to get out there and clean it up. Mr. Daisy then supported both Mr. Voisin's recommendation to open the entire lake.

Commissioner Oats asked about the Department of Health and Hospital line on the map. Hearing no further questions, the motion passed with opposition from Commissioner King.

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

RESOLUTION

Additional 2008/2009 Oyster Season in the Sister Lake Public Oyster Seed Reservation

October 2, 2008

WHEREAS, R.S. 56:433 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 in the Sister Lake Public Oyster Seed Reservation have been biologically monitored and evaluated, and the estimated available supply and size variation has been determined, and

WHEREAS, Sister Lake was opened from September 3 – 10, 2008 for the harvest of seed oysters only as per the Declaration of Emergency passed by the Wildlife and Fisheries Commission on August 7, 2008, which followed the original July 2008 recommendation of the Oyster Task Force, and

WHEREAS, the Oyster Task Force modified its July 2008 recommendation at their August 2008 meeting and asked that the September 3-10, 2008 season not be opened, but instead open a portion of Sister Lake for both the harvest of seed and sack oysters from October 13-30, 2008, and

WHEREAS, Hurricanes Gustav and Ike in early September 2008 resulted in this area being closed to all oyster harvest by the Department and Health and Hospitals beginning on September 2, 2008 due to public health concerns thereby prohibiting the oyster industry from participating in the September oyster season in Sister Lake, and

WHEREAS, Hurricanes Gustav and Ike deposited sediment and vegetative overburden onto some reefs in Sister Lake and additional, limited commercial harvest may assist with the removal of such overburden, and

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

THEREFORE BE IT RESOLVED, that an additional 2008/2009 oyster season in the Sister Lake Public Oyster Seed Reservation 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 establishing the additional 2008/2009 oyster season in the Sister Lake Public Oyster Seed Reservation 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:

An additional 2008/2009 oyster season in that portion of the Sister Lake Public Oyster Seed Reservation as described in R.S. 56:434.E south and east of a line in Sister Lake with the following coordinates shall open at one-half hour before sunrise on October 13, 2008 and shall close at one-half hour after sunset on October 19, 2008:

1. 29 degrees 12 minutes 50.56 seconds N latitude
90 degrees 56 minutes 53.54 seconds W longitude
2. 29 degrees 15 minutes 06.06 seconds N latitude
90 degrees 55 minutes 17.93 seconds W longitude
3. 29 degrees 15 minutes 20.89 seconds N latitude
90 degrees 54 minutes 01.51 seconds W longitude

Additionally, an area of the Sister Lake Public Oyster Seed Reservation north of the Department of Health and Hospitals' 2007 November-February seasonal classification line shall then open one-half hour before sunrise on October 20, 2008 and shall close one-half hour after sunset on October 24, 2008. The area within the Sister Lake Public Oyster Seed Reservation which lies between the two lines described above shall remain closed.

These additional seasons in the Sister Lake Public Oyster Seed Reservation shall be opened as above with the following provisions:

1. Any vessel from which any person(s) takes or attempts to take oysters from the Sister Lake Public Oyster Seed Reservation described above shall:

- a. Be limited to a daily take and possession limit not to exceed 50 sacks of oysters per vessel. A sack of oysters for the purposes of this declaration of emergency shall be defined as the size described in R.S. 56:440. The daily take and possession limit shall not apply to vessels harvesting seed oysters from the reservation for bedding purposes.

- b. Be limited to either harvesting oysters for direct sale (sacking) or harvesting seed oysters for bedding purposes on any one day and is specifically prohibited from doing both.

2. If any person on a vessel takes or attempts to take oysters from the public oyster seed reservation described above, all oysters contained on that vessel shall be deemed to have been taken from said reservation.

3. Any oysters taken for direct sale (sacking) from the public oyster seed reservation described above must be contained within properly tagged sacks prior to departing the public oyster seed reservation; and undersized oysters that do not meet the requirements set forth in R.S. 56:433(A) and non-living reef material shall be immediately replaced and scattered broadcast upon the public oyster seed reservation from which taken.

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 Commissioners agreed to hold the **January 2009 Meeting** on Thursday, January 8, 2009, beginning at 9:30 a.m. at the Baton Rouge Headquarters. Then they agreed to hold the **February 2009 Meeting** on Thursday, February 5, 2009 beginning at 9:30 a.m. at the Baton Rouge Headquarters.

Next agenda item was to receive **Public Comments**. Col. Winton Vidrine commented that when you recognize people you tend to forget some. During the hurricanes there were 2 employees assigned to him from the Public Information Section that did an outstanding job with the press. The employees Col. Vidrine wanted to recognize were Mr. Joel Courtney and Mr. Adam Einck.

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

Robert J. Barham
Secretary

scf