

**LOUISIANA WILDLIFE AND FISHERIES COMMISSION**

**MINUTES**

**September 2, 2010**

**STEPHEN J. OATS  
CHAIRMAN**

**BATON ROUGE, LOUISIANA**

The following constitute minutes of the Commission Meeting  
and are not a verbatim transcript of the proceedings.

Tapes of the meetings are kept at the  
Louisiana Department of Wildlife and Fisheries  
2000 Quail Drive

Baton Rouge, Louisiana 70808.

For more information, call (225) 765-2806.

**AGENDA**  
**LOUISIANA WILDLIFE AND FISHERIES COMMISSION**  
**BATON ROUGE, LOUISIANA**  
**SEPTEMBER 2, 2010**

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MINUTES OF THE MEETING

OF

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

Thursday, September 2, 2010

Chairman Stephen J. Oats presiding.

Ronny Graham  
Earl King, Jr.  
Stephen Sagrera  
Ann Taylor  
Mike Voisin

Secretary Robert Barham was also present.

Commissioner Patrick Morrow was absent from the meeting.

Under **Commission Special Announcements/Personal Privilege** for this month, Commissioner King stated he asked Governor Jindal to accept his resignation from the Commission effective upon adjournment of the meeting. The first reason for his resignation was due to health issues. He suffered his first heart attack at the age of 43, had another at 53 and 2 years ago he was diagnosed with the beginnings of congestive heart failure. Commissioner King added that he asked the Governor to consider appointing a highly qualified Commissioner from central to north Louisiana since they deserve a voice from that area. Another reason for his stepping down was the fact that for the last 2 years there has been a legislative bill attempting to abolish the Commission. These actions by the legislators suggested to Commissioner King there was frustration among the legislators and constituents for not having representation in their areas. Then Commissioner King thanked Mr. John Roussel for taking the time to answer his questions and backing them up with science and biologically based facts; Mr. Don Puckett who helped with many legal concerns and procedural protocols; Ms. Su King for her help with legislative interactions; Mr. Marty Bourgeois for his field trips in learning how seasons were set; Ms. Susan Falcon for her kindness and returning phone calls; Mr. Tommy Tuma for his presentation on the WMA forest management program; Col. Winton Vidrine for his field trip to Kisatchie and all of his help over the years; Secretary Robert Barham whom he congratulated for leadership and professionalism during the BP

oil spill event; and all the Department employees and officials who participated in the Hurricane Katrina rescue efforts. Then Commissioner King thanked Governor Jindal for the honor of representing the state in the conservation and management of the state's fish and wildlife resources. Chairman Oats thanked Commissioner King for his years of valuable service. Commissioner Voisin felt that Commissioner King was an icon on the Commission and would be greatly missed and he then personally thanked him. He added that Commissioner King was always a gentleman and someone that tried to understand the challenges the industry was faced with for the last 6 years.

Chairman Oats called for a motion for approval of the **July 14, 2010 and August 5, 2010 Commission Minutes**. A motion for approval was made by Commissioner Voisin and seconded by Commissioner Sagrera. The motion passed with no opposition.

**To receive and hear Update on Oil Spill and Current Response Efforts** began with Secretary Robert Barham stating the Department was now in the assessment and recovery phase on the oil spill. Word was received from the FDA that samples can now be collected from the closed areas on the east side of the Mississippi River. The samples will be transmitted to the FDA and expected to have a complete opening on the east side of the Mississippi River soon. The same message was sent on the oysters within the Terrebonne Basin and the Secretary hoped that some word on oysters would be received soon. Barataria Basin would probably be the last area to open. Approval was received on the fisheries impact study, \$13.2 million for a 3 year study. Staff was in negotiations on the seafood safety proposal for a 5 year program totaling \$173 million with three stipulations that no oil present traceable to the Deepwater Horizon event, catch levels in finfish, oysters, crabs and shrimp were back to pre-spill levels and market shares were back to pre-spill levels. Another meeting with BP was set to reach a final decision on the agreement. Then Secretary Barham noted a claim was submitted to BP for the loss of 37 percent of the recreational saltwater license sales which equaled to about \$2 million and another \$500,000 for the federal component on the license sales. He felt the license number sales would continue to decline through August and September and there would be a claim submitted. One other proposal was a NRDA proposal for \$48 million for a marine hatchery to be located in Lake Charles with grow out ponds in Plaquemines Parish and Grand Isle. On a final note, Secretary Barham stated that duck season would open and the staff would continue to monitor the situation.

**To receive and hear Presentation of Boating Law Enforcement Office of the Year** began with Lt. Col. Jeff Mayne noting that each year the National Association of Boating Law Administrators recognizes an outstanding officer for his achievements in boating safety and education. For 2010, Sgt. Cliff Ortis was being recognized for his exceptional efforts in boating safety enforcement. Sgt. Ortis works around the False River area and has taken the lead in his community in boating education, DWI detection, and other media events. Lt. Col. Mayne also mentioned that Sgt. Ortis was a strong lead investigator in boating accidents and fatalities.

**To receive and hear Enforcement & Aviation Reports/August** began with Lt. Col. Keith LaCaze stating the activities for the month showed a total of 996 citations and 383 written warnings issued and agents helped with 32 public assists. Activity for August focused on boating, recreational fishing and in support of the BP oil spill. The Department's three planes flew a total of 88.7 hours for the month and all of the Enforcement hours were in response to the BP oil spill. Agents were still being sent to the command center in support of the work activities. There were 13 boating accidents (98 for the year) reported during August with 4 injuries (64 total) and 2 fatalities (total of 19). The fatalities occurred in lower St. Martin and Calcasieu Parishes. News Releases discussed included a Pearl River man cited for second offense DWI on Lake Pontchartrain; two Jefferson Parish men cited for catching over the limit of bass; two Mississippi men were cited for over the limit of bass in Madison Parish; illegal possession of marijuana in Caddo Parish; and a Florida man arrested in Caddo Parish with possession of controlled dangerous substance. Lt. Col. LaCaze then noted that the Enforcement Academy began on September 1 with 19 cadets. Agents would be out for the upcoming Labor Day weekend monitoring recreational boating and the opening of the dove season.

**To receive and hear Update on Whooping Crane Reintroduction Proposal** began with Ms. Carrie Salyers noting she was happy to present a project the Department was excited about. The reintroduction of whooping cranes will be in southwest Louisiana. There are 15 species of cranes in the world of which 2 occur in North America. Ten of the 15 species are threatened with extinction with the whooping crane being the rarest. Historically, whooping cranes were present in an area now known as the White Lake Wetlands Conservation Area and along the Chenieres on the southwest coast of Louisiana. An aerial survey by a biologist conducted in 1939 noted 13 cranes with 2 being

young of the year. But in 1940, a hurricane displaced the birds. Then during the 1950 aerial survey, there was only 1 crane noted. This crane was captured and transported to Aransas National Wildlife Refuge where he passed away 6 months later. The two reasons for the decline in the whooping crane were unregulated hunting and the conversion of the birds preferred habitat to alternative land use practices. The whooping crane is the tallest flying North American bird, standing as tall as 5 feet and weighing between 14 and 17 pounds with a wing span of 7 to 8 feet. These birds prefer to nest over shallow water from a nest made of vegetation. Next, Ms. Salyers showed pictures of the different stages of the chicks. Their diet consists of plant and animal materials. As of January 2010, there were 551 whooping cranes in the world (both captive and in the wild) populations. Ms. Salyers noted there was one naturally wild migrating population that migrates from Canada to Aransas National Wildlife Refuge. Also there was an experimental population in Florida, but since 1993 the project has not gone as planned. The Department, in conjunction with the U.S. Fish and Wildlife Service, plan to release 9 to 11 whooping cranes during the first year with additional releases in subsequent years if the cohort was successful. Even though whooping cranes are noted as the most endangered crane, the population that will be in Louisiana would be deemed a non-essential experimental population. This meant that there was a provision to the Endangered Species Act which allows for reintroduction of the cranes without hindering the daily activities of local landowners. Another concern was the designation of critical habitat, but local residents would not have to worry about this either. The first proposed release site will be at White Lake on a site contained within the refuge area. One reason this area was chosen was complete water control. A LSU Graduate Student under Dr. Sammy King has been looking for the last 3 years at specific sites on White Lake for food availability. Having food available at all times of the year was important since these cranes would be a resident population. In regards to a pen, there will be a covered smaller pen contained within a larger pen. The covered pen will allow staff to monitor the birds for any health or stress issues. Live crawfish and crane chow will supplement the feeding for the cranes. Knowing that these birds are wild animals, the juveniles have been known to wander but not for far distances. Staff plan to get lots of research from the project on the species as a whole. The proposed rule was published on August 19 by the Department of Interior in the Federal Register and the plan was to build the pen in October. Ms. Salyers also mentioned they were looking at different areas for the birds to nest and to be released in the

future. Funding will come from a Wildlife Conservation Society Grant in the amount of \$156,000 if the state gets the birds. She hoped the final rule would be issued by the Department of Interior in November 2010 and have a release in February 2011.

Mr. Mike Carloss handled the next agenda item, **To receive and hear Office of Wildlife Oil Spill Presentation.** He began stating that all of the staff from the Coastal and Nongame Resources and the Wildlife Divisions at some point were a part of the oil spill. Primary duties for the Office of Wildlife were manning the Incident Command Center in Houma; manning forward command centers in Cocodrie, Grand Isle, Venice and other areas; deploy boats working in cooperation with the U.S. Fish and Wildlife Service looking at boom, oil and wildlife conditions. Reports produced through the Incident Command Center were included in the packets. Also, staff did media tours and coordinated the release of rehabilitated birds. Early on, the staff monitored oil coming in as it encroached into the wetlands and Pass-a-Loutre was the area the worst oil came in. Staff looked at habitat impacts by looking at boom assessments and then it became more of an assessment of wildlife (primarily birds and stranded marine mammals). Coastal southeast Louisiana was important for waterbird nesting colonies (brown pelicans, wading birds, terns, egrets, herons and gulls). Mr. Carloss asked, could this have occurred at a worse time?, and he answered it was not a great time mainly due to breeding season occurring for the colonies. Peak times was usually at the end of April for most of the wading birds and the sea birds bred during late May into early June. Pictures of oiled birds were shown which made it difficult to make the right assessment in terms of picking up the birds. The bird rescue mission involved catching many birds from the beaches in many areas such as Grand Isle and Fourchon. Over the last few weeks, there has been very little visible oil and very few visibly oiled birds. Staff will go into the nesting colonies and assess the dead birds and/or any other oiled birds. Mr. Carloss felt the number of dead birds would be rising in the future as staff will actually be visiting the colonies and picking them up. Once the birds were picked up, they were brought to the triage stabilization unit and then taken to the rehabilitation center in Hammond. After two weeks, the birds, if fine, are released. As of the end of August, about 7400 birds (alive and dead) were picked up along the coast, of which 4600 were from Louisiana (about 3,000 were dead). The majority of the birds captured have been brown pelicans and laughing gulls. A number of the releases involved media and Office of Wildlife staff assisted and coordinated with the releases. Current work was again doing searches on the

nesting colonies and staff began to document any birds or eggs that may be found. Some birds were still nesting and it was important not to disturb any of them. Future impacts were not known but now it all looked good and the situation would be monitored very closely. Answering the question, could it have been worse?, Mr. Carloss knew it was bad timing, but it could have been worse in terms of numbers of birds. Overall, the field staff have been feeling better about the oil situation since they were not seeing many oiled birds or little oil on the landscape. Following the presentation, Commissioner Taylor asked if most of the birds would fly back to their original habitat. Mr. Carloss stated the birds have a very strong homing instinct which was the reason for the success with the pelicans during the 1960's. Even though the birds were brought to the east coast, they probably were deterred from coming back but some would return and Mr. Carloss thought it would be interesting to see what happens.

**To receive and consider Declaration of Emergency and Notice of Intent on Fisheries Closures due to Oil Spill** was handled by Mr. Marty Bourgeois. He stated this action concerning commercial and recreational fisheries closures described areas closed to commercial fishing and where recreational fishing was limited to recreational angling and charter boat angling. The action would grant authority to the Secretary the option to open, close, reopen, reclose, modify or broaden areas if biological, technical or environmental data indicated the need to do so. Commissioner Voisin made a motion to adopt the Declaration of Emergency and it was seconded by Commissioner Sagraera. The motion passed with no opposition.

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

#### DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure  
September 2, 2010

In accordance with the emergency provisions of R.S. 49:953.B and R.S. 49:967.D of the Administrative Procedure Act, and under the authority of R.S. 56:6.1, the Wildlife and Fisheries Commission hereby closes all commercial fishing,

effective immediately September 2, 2010, in the following area:

That portion of state inside and outside waters east of the Mississippi River north of 29 degrees 59 minutes 30 seconds north latitude and south of the Mississippi/Louisiana state line from the Louisiana territorial sea boundary westward to 89 degrees 15 minutes 00 seconds west longitude, and that portion of state inside and outside waters north of 29 degrees 36 minutes 30 seconds north latitude and south of 29 degrees 59 minutes 30 seconds north latitude from the Louisiana territorial sea boundary westward to a line extending 1 mile westward from the western shore of the Chandeleur Islands, and that portion of state inside waters north of 29 degrees 45 minutes 00 seconds north latitude and south of 29 degrees 59 minutes 30 seconds north latitude from 89 degrees 09 minutes 00 seconds west longitude westward to 89 degrees 15 minutes 00 seconds west longitude, and that portion of state inside waters north of 29 degrees 47 minutes 00 seconds north latitude and south of 29 degrees 51 minutes 00 seconds north latitude from 89 degrees 15 minutes 00 seconds west longitude westward to 89 degrees 22 minutes 00 seconds west longitude, and that portion of state inside waters south of the northern shore of Pass a Loutre and the Mississippi River Channel at 29 degrees 09 minutes 00 seconds north latitude westward to the western shore of Southwest Pass of the Mississippi River, and that portion of state outside waters south of 29 degrees 12 minutes 40 seconds north latitude westward to 89 degrees 25 minutes 00 seconds west longitude, and that portion of state inside waters north of 29 degrees 23 minutes 00 seconds north latitude and south of 29 degrees 30 minutes 00 seconds north latitude from 89 degrees 50 minutes 00 seconds west longitude westward to the eastern shore of the Barataria Waterway, and that portion of state inside and outside territorial waters north of 29 degrees 18 minutes 00 seconds north latitude and south of 29 degrees 22 minutes 00 seconds north latitude from 89 degrees 48 minutes 00 seconds west longitude westward to 89 degrees 52 minutes 00 seconds west longitude, and that portion of state inside and outside territorial waters bounded by the following coordinates: 1) 29 degrees 18 minutes 00 seconds north latitude 89 degrees 48 minutes 00 seconds west longitude, 2) 29 degrees 20 minutes 00 seconds north latitude 89 degrees 48 minutes 00 seconds west longitude, 3) 29 degrees 13 minutes 40 seconds north latitude 89 degrees 33 minutes 00 seconds west longitude, 4) 29 degrees 15 minutes 00 seconds north latitude 89 degrees 32 minutes 00 seconds west longitude, and that portion of state inside and outside territorial waters bounded by the following coordinates: 1) 29 degrees 18 minutes 00 seconds north latitude 89 degrees 52

minutes 00 seconds west longitude, 2) 29 degrees 21 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude 89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 10 seconds north latitude 89 degrees 57 minutes 30 seconds west longitude, and that portion of state inside and outside territorial waters north of 29 degrees 08 minutes 15 seconds north latitude and south of 29 degrees 11 minutes 40 seconds north latitude from 90 degrees 03 minutes 00 seconds west longitude westward to 90 degrees 07 minutes 00 seconds west longitude, and that portion of state inside waters north of 29 degrees 09 minutes 00 seconds north latitude and south of 29 degrees 12 minutes 50 seconds north latitude from the western shore of Bayou Lafourche westward to 90 degrees 17 minutes 50 seconds west longitude, and that portion of state inside and outside territorial waters north of 29 degrees 03 minutes 00 seconds north latitude and south of 29 degrees 09 minutes 00 seconds north latitude from 90 degrees 13 minutes 30 seconds west longitude and the western shore of Bayou Lafourche westward to 90 degrees 34 minutes 00 seconds west longitude, and that portion of state inside and outside territorial waters north of 29 degrees 02 minutes 00 seconds north latitude and south of 29 degrees 05 minutes 00 seconds north latitude from 90 degrees 37 minutes 00 seconds west longitude westward to 90 degrees 58 minutes 00 seconds west longitude.

Recreational fishing is open in all state inside and outside territorial waters, except in the following areas, where only recreational angling and charter boat angling is allowed: that portion of state inside and outside waters east of the Mississippi River north of 29 degrees 59 minutes 30 seconds north latitude and south of the Mississippi/Louisiana state line from the Louisiana territorial sea boundary westward to 89 degrees 15 minutes 00 seconds west longitude, and that portion of state inside and outside waters north of 29 degrees 36 minutes 30 seconds north latitude and south of 29 degrees 59 minutes 30 seconds north latitude from the Louisiana territorial sea boundary westward to a line extending 1 mile westward from the western shore of the Chandeleur Islands, and that portion of state inside waters north of 29 degrees 45 minutes 00 seconds north latitude and south of 29 degrees 59 minutes 30 seconds north latitude from 89 degrees 09 minutes 00 seconds west longitude westward to 89 degrees 15 minutes 00 seconds west longitude, and those portions of state waters west of the Mississippi River; including that portion of state inside waters north of 29 degrees 23 minutes 00 seconds north latitude and south of 29 degrees 30 minutes 00 seconds north latitude from 89

degrees 50 minutes 00 seconds west longitude westward to the eastern shore of the Barataria Waterway, and that portion of state inside and outside territorial waters north of 29 degrees 18 minutes 00 seconds north latitude and south of 29 degrees 22 minutes 00 seconds north latitude from 89 degrees 48 minutes 00 seconds west longitude westward to 89 degrees 52 minutes 00 seconds west longitude, and that portion of state inside and outside territorial waters bounded by the following coordinates: 1) 29 degrees 18 minutes 00 seconds north latitude 89 degrees 48 minutes 00 seconds west longitude, 2) 29 degrees 20 minutes 00 seconds north latitude 89 degrees 48 minutes 00 seconds west longitude, 3) 29 degrees 13 minutes 40 seconds north latitude 89 degrees 33 minutes 00 seconds west longitude, 4) 29 degrees 15 minutes 00 seconds north latitude 89 degrees 32 minutes 00 seconds west longitude, and that portion of state inside and outside territorial waters bounded by the following coordinates: 1) 29 degrees 18 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 2) 29 degrees 21 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude 89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 10 seconds north latitude 89 degrees 57 minutes 30 seconds west longitude, and that portion of state inside and outside territorial waters north of 29 degrees 08 minutes 15 seconds north latitude and south of 29 degrees 11 minutes 40 seconds north latitude from 90 degrees 03 minutes 00 seconds west longitude westward to 90 degrees 07 minutes 00 seconds west longitude, and that portion of state inside waters north of 29 degrees 09 minutes 00 seconds north latitude and south of 29 degrees 12 minutes 50 seconds north latitude from the western shore of Bayou Lafourche westward to 90 degrees 17 minutes 50 seconds west longitude, and that portion of state inside and outside territorial waters north of 29 degrees 03 minutes 00 seconds north latitude and south of 29 degrees 09 minutes 00 seconds north latitude from 90 degrees 13 minutes 30 seconds west longitude and the western shore of Bayou Lafourche westward to 90 degrees 34 minutes 00 seconds west longitude, and that portion of state inside and outside territorial waters north of 29 degrees 02 minutes 00 seconds north latitude and south of 29 degrees 05 minutes 00 seconds north latitude from 90 degrees 37 minutes 00 seconds west longitude westward to 90 degrees 58 minutes 00 seconds west longitude.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of

Louisiana's coastal waters. Efforts have been made and are continuing to minimize the potential threats to fish and other aquatic life.

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

Stephen J. Oats  
Chairman

**To receive and consider Notice of Intent to Adopt Gear Regulations for Lafourche Lake in Caldwell Parish** was presented by Mr. Bobby Reed. The action would provide specific gear regulations, such as yo-yo's and trotlines, on Lake Lafourche in Caldwell Parish. Lake Lafourche Commission asked Representative Ellington to sponsor a bill to implement these gears for use in the lake. The Department approached the Representative asking him to consider adopting a standard which would give the Commission authority to set yo-yo's or trotlines regulations instead of the Legislature imposing a set of regulations on each different waterbody. Representative Ellington agreed and the Legislature passed Act 631 which allows the Commission to adopt a specific set of regulations when requested by a Lake Commission, Fish and Game Commission or Water District. Mr. Reed then asked the Commission to consider the Notice of Intent for specific regulations on Lake Lafourche. Hearing no questions, Commissioner Voisin made a motion to adopt, it was seconded by Commissioner Taylor and passed with no opposition.

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

#### NOTICE OF INTENT

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission hereby advertises its intent to adopt regulations on yo-yo's and trotlines in Lake Lafourche in Caldwell Parish, Louisiana.

**Title 76**

## WILDLIFE AND FISHERIES

### Part VII. Fish and Other Aquatic Life

#### Chapter 1. Freshwater Sport and Commercial Fishing

##### §116. Lake Lafourche

A. The Wildlife and Fisheries Commission hereby adopts the following regulations applicable to the use of yo-yo's and trigger devices when used in Lake Lafourche in Caldwell Parish.

1. No more than fifty yo-yos or trigger devices shall be allowed per person.

2. Except for those devices that are attached to a privately owned pier, boathouse, seawall, or dock, each yo-yo or trigger device shall be clearly tagged with the name, address, and telephone number of the owner or user.

3. When in use, each yo-yo or trigger device shall be checked at least once every twenty-four hours, and all fish and any other animal caught or hooked, shall be immediately removed from the device.

4. Except for those devices that are attached to a privately owned pier, boathouse, seawall, or dock, each yo-yo or trigger device must be re-baited at least once every twenty-four hours.

5. Except for those metal objects located above the water that are affixed to a private pier, dock, houseboat, or other manmade structure which is designed for fishing, no yo-yo or trigger device shall be attached to any metal object.

6. Except for a metal object used strictly in the construction of a pier, boathouse, seawall, or dock, no metal object which is driven into the lake bottom, a stump, tree, or the shoreline shall be used to anchor a yo-yo or trigger device.

7. Except for those devices that are attached to a privately owned pier, boathouse, seawall, or dock, when not being used in accordance with the provisions of this Paragraph, each yo-yo or trigger device shall be removed from the waterbody immediately.

B. The Wildlife and Fisheries Commission hereby adopts the following regulations applicable to the use of trotlines when used in Lake Lafourche in Caldwell Parish.

1. All trotlines shall be clearly tagged with the name, address, and phone number of the owner or user and the date of placement. The trotline shall be marked on each end with a floating object that is readily visible.

2. At any given time, no person shall set more than three trotlines with a maximum of fifty hooks each.

3. All trotlines shall have an eight-foot cotton leader on each end of the trotline.

4. Except for those metal objects located above the water that are affixed to a private pier, dock, houseboat, or other manmade structure which is designed for fishing, no trotline shall be attached to any metallic object.

5. Each trotline shall be attended daily when in service.

6. When not in use, each trotline shall be removed from the waterbody by the owner or user.

C. A violation of any of the provisions of this Section shall be a class one violation, except there shall be no imprisonment. In addition, any device found in violation of this Section shall be immediately seized by and forfeited to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:326.3 and 56:6(32).

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 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 rule to Mr. Gary Tilyou, Administrator, Inland Fisheries Section,

Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, no later than 4:30 p.m., November 4, 2010.

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

Stephen J. Oats  
Chairman

Mr. Harry Blanchet began the next agenda item, **To receive and consider a Notice of Intent to modify the rule for Commercial Harvest of Spotted Seatrout - Commercial Season and Places** stating that last month a Declaration of Emergency was adopted that was compatible with Act 979 of the 2010 Legislature. This Notice of Intent would incorporate the same changes into a permanent rule. Commissioner Voisin asked if the commercial harvest method of take was by rod and reel and he was told yes. Then the Commissioner asked how many current permits were there and Mr. Blanchet noted for 2010, there are 15. Next, he wondered how many saltwater recreational fishermen were in the state and Mr. Blanchet felt it was about 300,000. On the proposed action, Commissioner Voisin asked if the regulation can be enforced outside of state waters. Mr. Blanchet explained that whether a fish comes federal waters or state waters, the regulation would apply. Commissioner Voisin asked Mr. Puckett if a processor purchases legal fish, would the regulation prohibiting possession from sunset on Friday to sunrise on Monday limit his inventory and he was told no, this was an on the water enforcement. With 15 commercial rod and reel harvesters, Commissioner Voisin asked what was the purpose of limiting the weekend harvest. Mr. Blanchet stated that was in the statute. Hearing no further questions, Commissioner Sagrera made a motion to adopt the Notice of Intent and it was seconded by Commissioner Graham. The motion passed with no opposition.

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

#### NOTICE OF INTENT

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.341, modifying the existing rule. Authority for adoption of this Rule is included in R.S. 56:6 (25) (a) and 56:326.3. Said Rule is attached to and made a part of this Notice of Intent.

## **Title 76**

### **WILDLIFE AND FISHERIES**

#### **Part VII. Fish and Other Aquatic Life**

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

###### **§341. Spotted Seatrout Management Measures**

###### **A. Commercial Season; Quota; Permits**

1. The commercial season for spotted seatrout whether taken from within or without Louisiana state waters shall remain closed until January 2 of each year, when it shall open and remain open ~~through July 31 of each year, or until the maximum annual~~ quota is reached, or on the date projected by the staff of the Department of Wildlife and Fisheries that the quota will be reached, whichever comes first. The commercial harvest or taking of spotted seatrout is prohibited during the period from sunset on Friday through sunrise on Monday, and there shall be no possession of spotted seatrout in excess of the recreational limit during the period between 10:00 p.m. and 5:00 a.m.

2.-3.d. ...

4. The commercial taking or commercial harvesting of spotted seatrout shall be prohibited within Louisiana waters west of the Mermentau River.

B. ...

C. ...

**AUTHORITY NOTE:** Promulgated in accordance with Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S.56:6(25)(a); R.S. 56:306.5, R.S. 56:306.6, 56:325.1(A) and (B); R.S. 56:325.3; R.S. 56:326.3; Act 1316 of the 1995 Regular Legislative Session; and Act 1164 of the 2003 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 24:360 (February 1998), LR 26:2333 (October 2000), LR 30:1509 (July 2004), LR 30:2498 (November 2004), repromulgated LR 32:125 (January 2006), amended LR 32:1071 (June 2006), LR 36: .

Interested persons may submit comments relative to the proposed Rule to: Harry Blanchet, Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, or via e-mail to: [hblanchet@wlf.la.gov](mailto:hblanchet@wlf.la.gov) prior to Thursday, November 4, 2010.

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.

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

Stephen J. Oats  
Chairman

**To receive and consider a Notice of Intent to Amend Oyster Survey Rules as a Result of Act 392 of the 2010 Regular Session** was handled by Mr. Raymond Impastato. He stated that the action would revise section 501 of Title 76 pertaining to Oyster Lease Survey Rules. The rules were revised to comply with Act 392 which eliminated the requirement the Department would survey oyster leases and eliminated the requirement for oyster lessees to obtain a survey at the 15 year renewal period. Commissioner Voisin made a motion to adopt the Notice of Intent, it was seconded by Commissioner Sagrera and unanimously approved.

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

NOTICE OF INTENT

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission does hereby amend the rules on oyster leases.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 5. Oysters**

**501. Oyster Leases**

A. Office Policies and Procedures

1. Office hours will be from 8 a.m. to 4:30 p.m., Monday through Friday excluding state holidays.

2. No one is to go into the lease document or quadrangle files, or application registration without permission of and accompaniment by designated office personnel.

B. Oyster Lease Applications

1. All applicants must appear in person at the Oyster Lease Section office to apply for an oyster lease, or provide power of attorney to agents to act in their behalf.

a. No application for new area will be accepted from any person not of the full age of majority (18 years).

2. An applicant will be required to outline on a department map the area for which he wishes to apply. Pursuant to R.S. 56:427(A), each element of the verbal description written on the application must be met by the survey plat. Additionally, the survey plat must conform completely to the map outline attached to and made a part of the application; provided, however, that deviations from the map outline (but not the verbal written description) are permitted when such a deviation would not encroach on a neighboring lease or application, or when the signed, written consent of the leaseholder or applicant whose lease or application would be affected, has been granted. In no case will an applicant survey outside of his verbal written description, except as provided in

Clause 2.a.ii. below.

a. In the event of department error which results in an application being taken in an area where there is a prior undisclosed application or lease which prevents the applicant from taking the full amount of acreage applied for in the area described, the following procedure shall apply. The applicant shall have the option of:

i. taking all available remaining acres within the originally described area in a lease; or

ii. taking all applied-for acres in one lease outside of the originally described area but in the nearest unencumbered water bottom; or

iii. if neither of the above options is acceptable to the applicant, the applicant may have his original application cancelled and receive a full refund of the application fee.

b. The applicant shall have 30 days, from the date of notification by certified letter of the conflict, to exercise the above options.

c. If the applicant exercises the option as set out in Clause 2.a.ii. above he shall be held to the amount of acres in his original application plus 10 percent.

d. In all such cases, the department shall have final approval of all relocations.

e. Before having the relocation area surveyed, it shall be necessary for the applicant to submit a new application for the area of relocation. This application shall be identified as a "relocation" application and shall indicate the old application by number for which it is being substituted and shall also be approved in writing by the Administrator of the Fisheries Division of the department. There will be no charge for the relocation application.

f. All relocations shall follow this procedure. No survey shall proceed until the properly completed relocation application has been submitted, accepted and approved. No survey is authorized without the above procedure being followed nor shall the department be responsible for the cost of any survey performed prior to final approval of the relocated

application.

3. Where distances between oyster leases or between oyster leases and the shoreline are 200 feet or less, no applications or leases shall be taken or issued except that the intervening space may be shared equally by the existing leases or applicants if properly applied for and leased in accordance with existing policies and practices.

4. No new application will be taken or lease issued whose length exceeds its narrowest width by more than a factor of three except as follows:

a. between existing leases where all available water bottoms are taken;

b. in bayous (or similar configurations, connections or cuts between bays, lakes and ponds, etc.) where all available water bottoms are taken with a subservient clause prohibiting an impedance of reasonable navigation;

5. Any application for an oyster lease may be contoured to follow the shoreline.

6. Upon death of an applicant the estate will have 180 days to appoint a representative to deal with the applications. If the department has not been notified within 180 days the application will be cancelled and fees will be retained.

7. No application for lease shall be transferrable.

8. An application will automatically be cancelled unless an applicant submits a complete survey, meeting department specifications, no later than one and one half years (1.5 years) after the date of submission of the lease application.

C. Application Fees

1. Application fees for new leases will be \$40.00.

2. Application fees on leases expiring by 15-year limitation will be \$30.00.

D. Private Surveyors Surveying Oyster leases for Oyster Farmer

1. Surveyor to be charged the basic rate for copies of documents needed.

2. All corners of oyster lease surveys to be referenced to the Louisiana State Plane Coordinate System, South Zone, NAD83, Survey Feet.

3. Surveyors to plot on the survey plat any land, any existing structures or improvements within or adjacent to the application boundary.

4. Survey plats to be drawn in black ink on standard oyster lease plats furnished by the Louisiana Department of Wildlife and Fisheries Oyster Lease Section and original to become the property of same. Surveyors to provide a formatted ascii file of the coordinates for each corner of the survey that complies with the Oyster Lease Section's Geographic Information System.

5. The acreage of all surveys, even though calculated to tenth or hundredth of acre, to be rounded up to the next highest acre.

6. Application number and ownership to be shown on all survey plats as indicated on the original application.

7. No land area to be included in survey.

8. Use standard signs and symbols.

9. If a private surveyor repeatedly surveys over an existing lease, application or land area, that private surveyor will be reported to the Louisiana State Board of Professional Engineers and Land Surveyors.

10. Noncompliance with any requirement established by law or by these rules, after 30-day notification from the department by certified mail, shall result in cancellation of the application or lease and forfeiture of all fees to the department.

#### E. Office procedures and fees

1. If any survey of existing leases shows an overlap, the department will abstract the leases involved and eliminate the overlap, giving the area to the longest

continuously uninterrupted lease and shall notify the lessees of the action.

2. Annual rental notices will be mailed to lessees at least 30 days in advance of due date which is January 1 of each year.

3. A fee of \$10 per lease will be charged for transfer of an oyster lease.

4. A fee for all extra maps, leases, plats or documents, will be charged as follows:

All maps	-\$ 10 per copy
Plats	-\$ 5 per copy
Lease Documents	-\$ 5 per copy
Other materials	-\$ 1 per copy
Computations	-\$ 2 per point
(State Plane to Latitude/Longitude)	

F. Oyster Lease Posting Requirements. In an effort to comply with R.S. 56:430(B), and to keep within the constraints of Title 14, Section 63, dealing with criminal trespassing, the following are the posting oyster lease requirements.

1. The oyster lessee or person seeking to post the oyster lease shall place and maintain signs along the boundaries of the property or area to be posted. These signs shall be written in the English language.

2. The signs shall have letters at least three inches in height and shall be of sufficient size and clarity to give notice to the public of the location and boundary of the oyster lease. The signs shall be placed and maintained at intervals of not more than one-fifth of a mile and shall be at least three to 12 feet above the water level.

3. At the main entrance to the property and at no less than all corners along the boundary of said property, the party seeking to post same shall include his name, initials, or lease number.

4. In marsh areas and canals, posted signs shall also be placed at all major points of ingress and egress.

5. In open waters all signs are to be placed facing outward.

G. Policy to Comply With Laws Concerning Default in Payment of Rent on Oyster Leases (Noncompliance R.S. 56:429)

1. On the first working day in February of each year, the Survey Section will compile a list of leases that are in default (R.S. 56:429). After compiling the list each owner will be notified by certified mail that his lease is in default and will be offered at public auction on the last Tuesday in March. He will also be notified that all works, improvements, betterments, and oysters on the leased area are the property of the state and that the Enforcement Division of the Louisiana Department of Wildlife and Fisheries has been so notified.

2. On the first working day following the last day of February all leases still in default will be advertised in a newspaper in the parish in which the lease is located. After the placement of the advertisement, advertisement cost will be added to the lease rent plus 10 percent. Up to and including the second Monday in March, the leases may be reinstated by payment of the rent due plus 10 percent and the advertising cost if applicable.

3. On the last Tuesday in March the auction will be held at a place to be designated by the Louisiana Department of Wildlife and Fisheries. The auctioneer will be the chief surveyor or his designee. The opening bid for each lease will be the rent due plus 10 percent and advertising cost. All sales must be paid for in cash or by check. The auction will start with the lowest numbered lease and continue numerically until complete.

4. Any leases not sold at auction will be removed from the Oyster Lease Section maps. The area will be open and may be taken by application.

H. Procedures to Comply with R.S. 56:432

1. The Oyster Lease Section will keep an indexing system to determine the acreage held by all oyster lease holders.

2. No application will be accepted that will cause an applicant to exceed a total of 2,500 acres under lease and application. Reference R.S. 56:432.

3. An oyster lease applicant will be given 30 days to reduce lease acreage prior to cancellation of any application

that would cause his lease acreage to exceed 2,500 acres. If the reduction is not made within 30 days the application will be cancelled and all fees retained by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10) and R.S. 56:422.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 10:470 (June 1984), amended LR 12:844 (December 1986), LR 15:197 (March 1989), LR 17:808 (August 1991), LR .

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

Interested persons may submit written comments on the proposed rule to Mr. Raymond Impastato, Fisheries Division, Department of Wildlife and Fisheries, 2021 Lakeshore Drive, New Orleans, LA 70122 no later than 4:30 p.m., Thursday, November 4, 2010.

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

Stephen J. Oats  
Chairman

The Commissioners agreed to hold the **January 2011 Meeting** on Thursday, January 6, 2011, beginning at 9:30 a.m. at the Baton Rouge Headquarters.

Next agenda item was to receive **Public Comments**. Mr. David Deere, a member of the Louisiana Oyster Task Force and Mr. Oran DeBarge, President of the Calcasieu Oyster Task Force, were there on the opening of the 20 sack limit in West Cove. The decision to open West Cove at 20 sacks from October 15 to November 15 was not sustainable or in the best interest of West Cove. Even though the samples showed the Cove was up 229 percent and Calcasieu Lake was down 94 percent, West Cove had less water flow and produced a thinner shell oyster which was

easier to damage. Also, West Cove had a mussel problem which would require more culling and could kill or damage the oyster. Mr. Deere felt it was hard to determine the number of oysters in an area based on 3 sample points. If 150 boats averaged taking 25 sacks that would equal 75,000 sacks taken in one month and 225,000 for 6 months of which the Department says there are only 23,000 sacks in the lake. Mr. Deere hoped the Commission would use the Department's recommendation and go to 10 sacks and open on November 1 so the fishermen in the area could work this year and for years to come. Chairman Oats noted the staff would consider the request.

There being no further business, Chairman Oats **Adjourned** the meeting.

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Stephen J. Oats  
Chairman

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