

## **POTPOURRI**

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

Public Hearing - Substantive Change to Notice of Intent  
Menhaden Season  
(LAC 76:VII.307)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend its rules in the November 20, 2023 edition of the Louisiana Register. The commission proposes to amend the original Notice of Intent to modify the statewide fishing buffer, buffers off western Louisiana, and requirements following the release of gear or fish for the commercial menhaden fishery. The original Notice of Intent proposed a statewide buffer of one mile, added provisions that establish a buffer zone three miles off the area between Holly Beach and Rutherford Beach in southwestern Louisiana, and clarified when the retrieval of any menhaden or bycatch released into the environment must begin and the conditions and penalties associated with such a release. The commission seeks to amend the original Notice of Intent by reducing the proposed one mile statewide buffer to one-half mile, eliminating the proposed buffer off Rutherford Beach, reducing the buffer off Holly Beach from three miles to one mile, and adjusting regulations governing release of gear or net contents during fishing operations. Authority for amendment of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), R.S. 56:313, R.S. 56:315, R.S. 56:326.3, R.S. 56:409.1 and R.S. 30:2531.3.

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, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and compiling public comments and submissions for the

commission's review and consideration. In the absence of any further action by the commission following an opportunity to consider all public comments regarding the proposed rule, the secretary is authorized and directed to prepare and transmit a summary report to the legislative oversight committees and file the final Rule.

## **Title 76**

### **WILDLIFE AND FISHERIES**

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

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

###### **§307. Menhaden Season**

A.-B. ...

C. The menhaden season shall apply to all waters one-half statute mile seaward of the inside-outside line described in R.S. 56:495, except as noted in Subsection D, including waters in the Federal Exclusive Economic Zone (EEZ), and in Chandeleur and Breton Sounds as described in Subsection E below. All other inside waters and passes are permanently closed to menhaden fishing.

D. Coastal Buffer Restrictions

1. – 3. ...

4. Restrictions off Holly Beach, Louisiana. The menhaden season shall apply to waters beginning 1 statute mile seaward of the inside-outside line from the intersection of a private levee road and LA-27 (Latitude 29 degrees 46 minutes 01.54 seconds N, Longitude 93 degrees 24 minutes 23.00 seconds W), thence westward to the easternmost point of the rock breakwaters west of Holly Beach, Louisiana (Latitude 29 degrees 46 minutes 00.90 seconds N, Longitude 93 degrees 29 minutes 26.91 seconds W). All coordinates are in NAD 1983 feet.

E.-E.1. ...

F. 1. No menhaden purse seine gear shall be released or abandoned while on the water or during the course of fishing operations. In the event that gear is released, such gear shall be marked in an appropriate manner to facilitate retrieval and effectively warn of navigational hazards caused by the released gear. Such gear shall be retrieved from the water within 48 hours of release. Failure to retrieve the gear within the prescribed period shall be considered abandonment of the gear.

2. If the contents of menhaden purse seine gear are released during the course of fishing operations, all reasonable attempts to retrieve any dead menhaden and any dead bycatch from the environment shall commence within 12 hours of the event. Retrieval efforts shall continue until the released contents of the menhaden purse seine have been removed from the environment to the extent practicable.

3. Any unintentional or intentional release of purse seine gear or contents of purse seine gear by the commercial reduction menhaden fishery shall be reported to the Enforcement Division within two hours of such release. This reporting shall be by email and by phone call to the Enforcement Division dispatch and communications center. The report shall contain, at a minimum, the following information:

- a. the date and approximate time of the release,
- b. the species of fish released,
- c. an estimated number of fish released,
- d. an estimate of the disposition of the fish released,
- e. the vessel which released the fish,

- f. to the extent available and practicable, photographic or video documentation of sufficient resolution to clearly depict the scope and composition of the release,
- g. the coordinates of the location of the release, and
- h. the causative factors of the release of fish.

4. Any release of the contents of a menhaden purse seine as set forth in this Subsection shall be considered waste of a fishery resource and subject to civil fine and restitution for the value of the wasted fish. Failure to retrieve menhaden purse seine gear from the environment or the released contents of a menhaden purse seine to the extent practicable, as set forth in this Subsection shall constitute a commercial littering violation pursuant to R.S. 30:2531.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:313, R.S. 56:315, R.S. 56:326.3, and R.S. 56:409.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 5:329 (October 1979), amended LR 14:547 (August 1988), LR 19:58 (January 1993), LR 19:1179 (September 1993), LR 48:1588 (June 2022), LR 49:514 (March 2023), LR .

#### Public Hearing

In accordance with R.S. 49:966(H)(2), a public hearing on proposed substantive changes will be held by the Department of Wildlife and Fisheries on April 23, 2024 at 10 a.m. in the Joe L. Herring Louisiana Room of the Wildlife and Fisheries Headquarters Building, 2000 Quail Drive, Baton Rouge, LA, 70808. Interested persons are invited to attend and submit oral comments on the proposed amendments.

Brandon J. DeCuir

Chairman

## SUMMARY

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on costs or savings to state or local governmental units.

The proposed rule change prohibits the commercial harvest of menhaden in Louisiana territorial waters within three miles of the inside-outside line between Rutherford Beach and Holly Beach in Cameron Parish and within one mile seaward of the inside-outside line for most of the rest of the state. The existing prohibition on the commercial harvest of menhaden within three miles seaward of the inside-outside line between the eastern shore of Caminada Pass and the eastern shore of Barataria Pass remains in place.

The proposed rule change prohibits the release of the contents of purse seines while on the water or during the course of fishing operations. It requires that attempts to retrieve menhaden released from purse seines intentionally or unintentionally to begin within 12 hours of the event.

The proposed rule change requires the reporting of any release of the contents of purse seine gear by the commercial menhaden harvesting industry to the Louisiana Department of Wildlife and Fisheries (LDWF) Law Enforcement Division within two hours of the event. The proposed rule change itemizes the information that must be included within the report. This change also codifies an existing practice to clarify that the contents of purse seine gear shall not be released or abandoned and the consequences of a release if one occurs.

### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is not anticipated to have an effect on revenue collections of the Louisiana Department of Wildlife and Fisheries from license fees. A potential reduction in menhaden harvesting and processing may result in a decrease in state and local sales taxes and state income tax of up to \$3 million if the decline in landings were equivalent to the estimated percentage of recent commercial menhaden harvests reported as being drawn from waters affected by the proposed prohibition.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule change is expected to reduce the receipts or income for commercial fishers and processors involved in the commercial harvest and processing of menhaden. The rule change has the potential to reduce menhaden harvests by as much as 15 percent with a corresponding decline of up to \$12.5 million in dockside value or \$31.3 million in menhaden product sales. Depending on the reaction to the proposed rule change and ensuing behavior of the commercial fishers, this loss will be less should fishers shift their activity to locations outside the prohibited area, however the extent to which this will happen is indeterminable at this time.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

In the event that there is a reduction in the landings of menhaden, the proposed rule change may have a negative effect on employment in the commercial menhaden harvesting and processing sectors. If the decline in employment is proportionate to the resulting decline in harvests, the potential reduction in jobs may be as high as 90 full time equivalents.