

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Removal of Abandoned Crab Traps (LAC 76:VII.367)

Notice is hereby given in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:332(N), that the Wildlife and Fisheries Commission proposes to amend LAC 76:VII.367 to temporarily close a portion of state inside waters to the use of crab traps in order to facilitate the removal of abandoned crab traps in these waters.

The Wildlife and Fisheries Commission has amended the provisions in LAC 76:VII.367 governing the locations of temporary crab trap closures to address problems in portions of state waters resulting from large numbers of abandoned and derelict crab traps (*Louisiana Register, Volume 30, Number 1; Volume 31, Number 1; Volume 32, Number 2; Volume 33, Number 1; Volume 34, Number 1; Volume 36; Number 1; Volume 38, Number 1; Volume 38, Number 12; Volume 40, Number 1; Volume 41, Number 1; Volume 42, Number 1; Volume 42, Number 12; Volume 44, Number 1; Volume 45, Number 2; Volume 45, Number 12*). The Wildlife and Fisheries Commission took action on August 6, 2020 to describe a new portion of state waters to be temporarily closed to the use of crab traps for the purpose of conducting a crab trap cleanup.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§367. Removal of Abandoned Crab Traps

A. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. February 1, 2021 through 11:59 p.m. February 14, 2021 within portions of Plaquemines and St. Bernard Parishes as described below:

1. from a point originating along the eastern shoreline of the Mississippi River at 29 degrees 46 minutes 30.00 seconds north latitude, 90 degrees 01 minutes 03.51 seconds west longitude; thence easterly along 29 degrees 46 minutes 30.00 seconds north latitude to its intersection with the eastern bank of Bayou Terre Aux Boeufs at 29 degrees 46 minutes 30.00 seconds north latitude, 89 degrees 46 minutes 58.76 seconds west longitude; thence southerly along the eastern bank of Bayou Terre Aux Boeufs to 29 degrees 41 minutes 15.19 seconds north latitude, 89 degrees 38 minutes 00.00 seconds west longitude; thence southerly along 89 degrees 38 minutes 00.00 seconds west longitude to 29 degrees 34 minutes 12.00 seconds north latitude, 89 degrees 38 minutes 00.00 seconds west longitude; thence westerly along 29 degrees 34 minutes 12.00 seconds north latitude to 29 degrees 34 minutes 12.00 seconds north latitude, 89 degrees 42 minutes 36.00 seconds west longitude; thence southerly along 89 degrees 42 minutes 36.00 seconds west longitude to its intersection with the eastern bank of the Mississippi River at 29 degrees 30 minutes 51.57 seconds north latitude, 89 degrees 42 minutes 36.24 seconds west longitude; thence northerly along the eastern bank of the Mississippi River to its point of origin.

B. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. February 1, 2021 through 11:59 p.m. February 14, 2021 within portions of Lafourche and Terrebonne Parishes as described below:

1. from a point originating on the eastern shore of Bayou Lafourche at 29 degrees 26 minutes 09.67 seconds north latitude, 90 degrees 17 minutes 52.32 seconds west longitude, thence due west to the southwestern most point of the Pointe Aux Chenes Wildlife Management Area at 29 degrees 26 minutes 09.67 seconds north latitude, 90 degrees 19 minutes 32.14 seconds west longitude, thence westerly following the southern boundary of the Pointe Aux Chenes Wildlife Management Area to its intersection with the western shore of Bayou Pointe Aux Chenes (29 degrees 26 minutes 49.37 seconds north latitude, 90 degrees 27 minutes 53.44 seconds west longitude), thence southerly along the western shore of Bayou Pointe Aux Chenes to the point where Bayou Point Aux Chenes exits between Lake Raccourci and Lake Felicity (29 degrees 15 minutes 55.48 seconds north latitude, 90 degrees 23 minutes 47.39 seconds west longitude), thence easterly to a point on the eastern shoreline of Bayou Pointe Aux Chenes (29 degrees 15 minutes 55.66 seconds north latitude, 90 degrees 23 minutes 46.76 seconds west longitude), thence easterly along the shoreline to a point at 29 degrees 15 minutes 52.74 seconds north latitude, 90 degrees 23 minutes 01.97 seconds west longitude, thence due south to Timbalier-Terrebonne Bay Light #23 (29 degrees 09 minutes 37.26 seconds north latitude, 90 degrees 22 minutes 58.17 seconds west longitude), thence southeasterly following the buoy line through Havoline Canal to a point on the eastern shore of Bayou Lafourche (29 degrees 09 minutes 40.54 seconds north latitude, 90 degrees 13 minutes 57.34 seconds west longitude), thence northerly following Bayou Lafourche to its point of origin.

C. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. February 1, 2021 through 11:59 p.m. February 14, 2021 within portions of Iberia and St. Mary Parishes as described below:

1. from a point originating at Point Marone (29 degrees 38 minutes 03.42 seconds north latitude, 91 degrees 38 minutes 44.07 seconds west longitude), thence southwesterly to East Point on Marsh Island (29 degrees 34 minutes 06.06 seconds north latitude, 91 degrees 42 minutes 31.15 seconds west longitude), southerly along the eastern shore of Marsh Island to South Point (29 degrees 29 minutes 25.55 seconds north latitude, 91 degrees 46 minutes 07.56 seconds west longitude), thence northeasterly to Point Chevreuil (29 degrees 31 minutes 37.85 seconds north latitude, 91 degrees 32 minutes 21.91 seconds west longitude), thence northerly and westerly along the north shore of East Cote Blanche Bay to its point of origin.

D. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. February 22, 2021 through 11:59 p.m. March 7, 2021 within portions of Plaquemines and St. Bernard Parishes as described below:

1. from a point located where Bayou La Loutre and Bayou Terre Aux Boeufs intersect at 29 degrees 50 minutes 31.70 seconds north latitude, 89 degrees 45 minutes 47.19 seconds west longitude, thence westerly to the western shore of Bayou Terre Aux Boeufs (29 degrees 50 minutes 31.57 seconds north latitude, 89 degrees 45 minutes 47.65 seconds west longitude), thence southerly following the western bank of Bayou Terre Aux Boeufs to 29 degrees 40 minutes 28.34 seconds north latitude, 89 degrees 36 minutes 18.00 seconds west longitude, thence north along 89 degrees 36 minutes 18.00 seconds west longitude to a point

located in Grand Pass, between Lake Jean Louis Robin and Lake Coquille (29 degrees 43 minutes 48.00 seconds north latitude, 89 degrees 36 minutes 18.00 seconds west longitude), thence east along 29 degrees 43 minutes 48.00 seconds north latitude to its intersection with the western shore of the MRGO (29 degrees 43 minutes 48.06 seconds north latitude, 89 degrees 28 minutes 05.96 seconds west longitude), thence northwesterly along the western shore of the MRGO to its intersection with the northern shore of Bayou La Loutre, thence westerly following the northern shore of Bayou La Loutre to its point of origin.

E. All crab traps remaining in the closed area during the specified period shall be considered abandoned. Crab trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by individual landowners. Crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Department of Wildlife and Fisheries personnel or its designees are authorized to remove these abandoned crab traps within the closed area. All traps removed during a closed area are to be brought to the designated disposal area. The Wildlife and Fisheries Commission authorizes the secretary of the Department of Wildlife and Fisheries to designate disposal sites and determine the final disposition of crab traps removed from the closure areas, including but not limited to disposal, buy-back, recycling, or distributed to industry members participating in the retrieval of crab traps from within a closure area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 30:101 (January 2004), amended LR 31:108 (January 2005), LR 32:266 (February 2006), LR 33:113 (January 2007), LR 34:97 (January 2008), LR 36:77 (January,

2010), LR 38:146 (January 2012), LR 38:3250 (December 2012), LR 40:96 (January 2014), LR 41:155 (January 2015), LR 42:70 (January 2016), amended by the Department of Wildlife and Fisheries, Office of Fisheries and the Wildlife and Fisheries Commission LR 42:2196 (December 2016), LR 44:100 (January 2018), LR 45:78 (January 2019), repromulgated LR 45:282 (February 2019), LR 46:1815 (December 2019), LR

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and final rule, including but not limited to, the filing of the Fiscal and Economic Impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, 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).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S.49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Small Business Analysis

This proposed Rule has no known impact on small businesses as described in R.S. 49:965.2 through R.S. 49:965.8.

Public Comments

Interested persons may submit written comments relative to the proposed Rule to Mr. Peyton Cagle, Marine Fisheries Biologist DCL-B, Marine Fisheries Section, 1213 N. Lakeshore Dr., Lake Charles, LA 70611, or via email to pcagle@wlf.la.gov prior to September 30, 2020.

William Hogan

Chairman

SUMMARY

(Use complete sentences)

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

There is no impact on expenditures of the Department of Wildlife and Fisheries (LDWF) or local governmental units associated with the proposed rule regarding the removal of abandoned crab traps.

The proposed rule change would prohibit the use of crab traps in portions of six parishes at different periods in February and March 2021. The proposed rule would establish three closure areas between February 1 and February 14, 2021, banning the local use of crab traps in portions of Plaquemines and Saint Bernard, Lafourche and Terrebonne, and Iberia and Saint Mary parishes. It would establish one closure area encompassing portions of Plaquemines and Saint Bernard parishes between February 22 and March 7, 2021.

The proposed rule change would also mandate the removal of crab traps from the designated areas by trap owners prior to the closures and authorizes the Louisiana Department of Wildlife and Fisheries (LDWF) or their designees, during the closure, to remove any crab traps within the closed area and transport them to designated disposal sites. LDWF will not incur additional costs in order to remove crab traps prior to these closures.

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

The proposed rule change is anticipated to have no impact on revenue collections of the state or local governmental units.

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

Crab fishermen who utilize the areas proposed for closure will experience lost fishing time during the designated period and encounter additional costs from having to temporarily remove their traps. These crab fishermen must either move their traps to open fishing areas or remove their traps from the water for the duration of the closure. Traps that are not removed from waters in the closed areas within the allotted time may be destroyed, potentially creating an additional cost to replace the traps for noncompliant fishermen.

Local seafood dealers, processors and consumers may experience a slight decrease in the availability of fresh crabs during the closures, resulting in a slightly higher price for fresh crabs in the short term. However, the crab resource will not be lost or harmed in any way and will be available for harvest when the closed area is reopened.

The removal of abandoned crab traps should provide improved fishing and reduced fishing costs for recreational saltwater fishermen, commercial fishermen and individuals who operate vessels within the designated areas by reducing encounters with abandoned traps that often result in lost fishing time and damage to the vessel's lower unit or fishing gear. The removal of abandoned crab traps will reduce the mortality of and injuries to crabs and by-catch that become ensnared and die in these traps, benefiting crab harvesters.

The overall impact of the proposed area closure is anticipated to be minimal because the closure would occur during the time of the year with lowest harvests and adjacent waters will remain open for crab fishermen to continue to fish.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have a minor negative impact on receipts or income in Louisiana.

Since waters adjacent to the closure area will remain open for crab harvest and fishermen who fish during this time period are expected to relocate their traps, effects on competition and employment are expected to be negligible.