

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 220
Department or Agency: Alabama Department of Conservation and Natural Resources
Rule No.: 220-2-.42
Rule Title: Division Of Wildlife And Freshwater Fisheries And Marine Resources Division Jurisdictional Lines For Certain Fishing Licenses And Operations; Use And Possession Of Certain Nets
Intended Action: Amend

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer

Christopher M. Blankenship JUN 17, 2024
Chris Blankenship

Date

Monday, June 17, 2024

REC'D & FILED

LEGISLATIVE SVC AGENCY

ALABAMA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Conservation and Natural Resources

RULE NO. & TITLE: 220-2-.42 Division Of Wildlife And Freshwater Fisheries And Marine Resources Division Jurisdictional Lines For Certain Fishing Licenses And Operations; Use And Possession Of Certain Nets

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

To provide clarity to commercial fishermen regarding lawful fishing areas to avoid potential enforcement infractions.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

Interested persons may present their views in writing to the Director of Wildlife & Freshwater Fisheries at any time during the period stated below, or orally if requested in writing 48 hours in advance to the Director of Wildlife & Freshwater Fisheries, and then by personally appearing at Room 474, Folsom Administrative Building, 64 North Union Street, Montgomery, Alabama, at 10:00 a.m., Friday, August 2, 2024.

If ADA accommodations are needed, please contact Daisy Perry at (334) 242-3165 or daisy.perry@dcnr.alabama.gov. Requests should be made as soon as possible but at least seven days prior to the date of a personal appearance to present views regarding the proposed rules.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Friday, August 2, 2024

CONTACT PERSON AT AGENCY:

Charles F. Sykes, Director,
Wildlife & Freshwater Fisheries,
5th Floor, 64 N. Union Street,
Montgomery, Alabama 36130,
334-242-3465.

Christopher M. Blankenship

Chris Blankenship

(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

**Division Of Wildlife And Freshwater Fisheries And
Marine Resources Division Jurisdictional Lines
For Certain Fishing Licenses And Operations; Use
And Possession Of Certain Nets.**

(1) For the purposes of the freshwater fishing licensing requirements of Sections 9-11-53, 53.4, 55, and 56, Code of Ala. 1975, said licenses shall be applicable to such activities as provided for therein which occur north of the below-described line, as well as below said line in those ponds or lakes containing freshwater fish. For the purposes of the saltwater fishing licensing requirements of Sections 9-11-53.1, 53.5, and 55.2, Code of Ala. 1975, said licenses shall be applicable to such activities as provided for therein which occur south of the below-described line. The line is described as follows: Beginning at the Mississippi State line, a meandering line following U.S. Highway 90 eastwardly to its junction with State Highway 188; State Highway 188 eastwardly to its junction with State Highway 193; State Highway 193 northwardly to its junction with State Highway 163; State Highway 163 northwardly to its intersection with Interstate Highway 10 (except all of the Theodore Industrial Canal); Interstate Highway 10 eastbound lane (except that portion of Interstate Highway 10 which lies north of State Highway 90 Battleship Parkway, in which case the line follows the Battleship Parkway) to Interstate Highway 10's intersection with U.S. Highway 98; U.S. Highway 98 southwardly and eastwardly to its intersection with State Highway 59; State Highway 59 southwardly to its intersection with Baldwin County Highway 20; Baldwin County Highway 20 eastwardly to its intersection with Baldwin County Highway 95; Baldwin County Highway 95 northwardly to its intersection with U.S. Highway 98; U.S. Highway 98 eastwardly to its intersection with the western shore of Perdido Bay; then the western shore of Perdido Bay northwardly to the intersection of the Florida State Line and the mouth of the Perdido River.

(2)(a) All commercial fishing operations, as well as recreational netting operations, and all gear used in any of such operations, in state jurisdictional waters north of Interstate 10 eastbound lane (except that portion of Interstate Highway 10 which lies north of State Highway 90 Battleship Parkway, in which case the line follows the Battleship Parkway) shall be subject to those laws, rules and regulations of the Division of Wildlife and Freshwater Fisheries of the Department of Conservation and Natural Resources. Provided further, it shall be unlawful to use any net (other than hoop and fyke nets) with mesh size of less than three inches (3") knot to knot with a stretch or spread of less than six inches (6") in the public impounded waters and navigable streams in the state of Alabama

north of the line described in this paragraph except as provided for in other regulations or laws of this state.

(b) All commercial fishing operations, as well as recreational netting operations, and all gear used in any of such operations, in state jurisdictional waters south of Interstate 10 eastbound lane (except that portion of Interstate Highway 10 which lies north of State Highway 90 Battleship Parkway, in which case the line follows the Battleship Parkway) shall be subject to those laws, rules, and regulations of the Marine Resources Division of the Department of Conservation and Natural Resources.

(3) Notwithstanding any provision herein to the contrary, ~~however,~~ from September 1 to December 31, it shall be unlawful to possess a gill net, trammel net, or other entangling net aboard a boat in the Mobile Delta south of ~~L&N Railroad~~the railroad bridge that crosses the Tensaw River at approximate latitude 30.84302 (currently known as the CSX railroad bridge) and north of a line running two hundred fifty (250) yards north of and parallel to Highway 90 (Battleship Parkway).

(4) Notwithstanding any provision herein to the contrary, ~~however,~~ it shall be lawful for any person (provided such person complies with all applicable laws, rules, and regulations) to take, catch, or possess commercial or non-game fish as defined in the laws of Alabama or regulations of the Department of Conservation and Natural Resources, in accordance with the below stated times, places, manners, and means:

(a) From January 1 to September 1, ~~in~~ in only the following areas: Grass Bay, Chuckfey Bay, Choccolata Bay, Gustang Bay, Big Bay John, Bay Minette Basin and Bay; (West of HWY 225 Bridge), Little Bay John, Big Bay Bateau, Little Bay Bateau, and John's Bend, Monday through Friday, except official State of Alabama holidays, between the hours of sunrise and sunset, by the use of nets with a mesh size of not less than three inches (3") knot to knot with a stretch or spread of not less than six inches (6"). These nets shall be constantly attended.

(b) From January 1 to May 31, ~~in~~ in only the following areas: Grand Bay, Polecat Bay, and Bay Delvan, Monday through Friday, except official State of Alabama holidays, between the hours of sunrise and sunset, by the use of nets with a mesh size of not less than the general minimum mesh size for fish other than menhaden for "inside waters" under the jurisdiction of the Marine Resources Division as provided in 220-3-.03; provided that any person in these areas possessing, using, or attempting to use, a gill net with a mesh size less than three inches (3") ~~know~~knot to knot is required to be licensed and permitted under 9-11-141, 9-11-142, and 9-12-113, and shall have such

licenses and permit in possession. These nets shall be constantly attended.

(5) Rule 220-2-.42, as previously promulgated, is hereby expressly repealed in its entirety.

(6) Violations of the provisions of paragraphs 2(a), (3) and (4) shall be punished as provided by Section 9-11-156, Code of Ala. 1975, or as otherwise provided by law.

Author: M. Barnett Lawley

Statutory Authority: Code of Ala. 1975, §§9-2-4, 9-2-7, 9-2-8, 9-11-140.

History: Filed September 30, 1982. Emergency amendment effective September 11, 1991. **Repealed and Replaced:** November 27, 1991. **Amended:** September 16, 1992. **Amended:** Filed January 12, 1995; effective February 16, 1995. **Amended:** Filed July 31, 1998; effective August 26, 1998. **Amended:** Filed February 9, 2000; effective March 15, 2000. **Amended:** Filed June 10, 2004; effective July 15, 2004. **Amended:** Filed May 22, 2007; effective June 26, 2007. **Amended:** Published June 28, 2024; effective October 14, 2024.

Penalty: As provided by Code of Ala. 1975, §9-11-156.