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TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 220
Department or Agency: Alabama Department of Conservation and Natural Resources
Rule No.: 220-2-.170
Rule Title: Selling of Skipjack Herring Prohibited
Intended Action: New

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? Yes

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
Chris Blankenship

Date

Tuesday, June 18, 2024

REC'D & FILED
JUN 18, 2024
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-.170 Selling of Skipjack Herring Prohibited

INTENDED ACTION: New

SUBSTANCE OF PROPOSED ACTION:

This regulation would place a moratorium on the sale or trade of Shipjack Herring until December 31, 2029.

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)

220-2-.170 Selling of Skipjack Herring Prohibited.

It shall be unlawful to sell, offer for sale, or trade anything of value for any Skipjack Herring (*Alosa chrysochloris*) taken from the public waters of the Tennessee River and its Impoundments and Tributaries within the State of Alabama. This regulation shall expire on December 31, 2029, to allow adequate time for additional biological analysis to be performed to determine if the continued harvest and sale of Skipjack Herring is sustainable.

Author: Christopher M. Blankenship

Statutory Authority: § 9-2-7, Code of Alabama, 1975.

History: New Rule: Published June 28, 2024; effective October 14, 2024.

Penalty: As provided by law.

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No: 220

Department or Agency: Alabama Department of Conservation and Natural Resources

Rule No: 220-2-.170

Rule Title: Selling of Skipjack Herring Prohibited

Intended Action: New

 This rule has no economic impact.

 Yes This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

This rule places a moratorium on the selling of skipjack for a limited period of time in order to assess and manage the Skipjack Herring.

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

The Skipjack Herring fishery is managed for maximum benefit to the fisherman and for the protection of the resources. This regulation will allow WFF to research and assess the Skipjack herring fishery and promote the future growth of the resource by ensuring a healthy and sustainable fishery.

3. EFFECT OF THIS RULE ON COMPETITION:

There should be no effect on competition.

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

The proposed moratorium does not impact any license fees and should have no impact on the cost of doing business. There should be no impact on the cost-of-living.

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5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

The proposed moratorium should have no effect on future employment.

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

Any costs incurred will be paid from Wildlife and Freshwater Fisheries Division funds.

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON EFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

The short-term economic impact is that Skipjack Herring cannot be harvested or sold for private or commercial use during the moratorium. However, improving the fishery will provide long-term benefits to these same fishermen and their businesses. The Wildlife and Freshwater Fisheries Division will use the moratorium to better manage the Skipjack Herring fishery. This will provide a long and short-term benefit to private and commercial fishermen.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

DCNR cannot quantify any burden or loss of revenue because the number of sales is unknown. The benefits to the resource from better management of the fishery should directly benefit the fishery and the commercial fisherman that utilizes the resource by improving the fishery.

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

The five year moratorium will be used by the Wildlife and Freshwater Fisheries Division to research, assess, and evaluate and to better manage the fishery. This will have a positive impact on the environment and public health.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

If this regulation is not implemented, the Wildlife and Freshwater Fisheries Division will not have an adequate opportunity to assess and evaluate the Skipjack Herring fishery.

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Signature of certifying officer

Christopher M. Blankenship

Chris Blankenship

Date

Tuesday, June 18, 2024