

APA-1
6/93

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. 220 Department or Agency Conservation and Natural Resources
Rule No.: **220-3-.01 Shrimping**

New Amend Repeal (of Existing Rule) Adopt by Reference

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 and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have any 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 Alabama Administrative Procedure Division of the Legislative Reference Service.

Signature of Certifying Officer *Danly Dean*
Secretary of Administrative Procedure

Date *April 20, 2012*

APA-2
6/93

Department of Conservation and Natural Resources
Marine Resources Division

NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Conservation and Natural Resources

RULE NO. & TITLE: (1) 220-3-.01 Shrimping; (2) 220-3-.02 Oystering; (3) 220-3-.03 Use of Nets and Harvest of Mullet; (4) 220-3-.31 Crabs; (5) 220-3-.53 Open Season/Area for the Taking of Live Saltwater Bait – Point Clear Area.

INTENDED ACTION: Amendments for each rule.

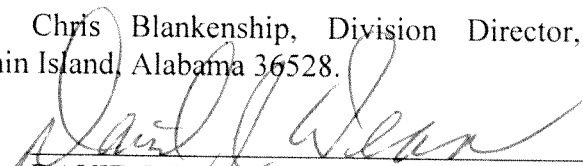
SUBSTANCE OF PROPOSED ACTION: (1) 220-3-.01 -To further provide for shrimping; to further provide for the taking of shrimp for recreational purposes; to provide certain location information; to further define certain shrimp nursery areas; and to further provide for the use of certain trawls or seines; (2) 220-3-.02 – To further provide for oystering; to prohibit certain taking or possession of oysters; to require certain presentation of oysters to the declared shop; and to further provide for oyster harvest areas; (3) 220-3-.03 – To further provide for the use of certain nets; to further provide for use of certain mesh size; and to provide for certain location information; (4) 220-3-.31 – To further provide for the taking of crabs; to further provide for crab traps; and to further specify areas where it is unlawful to place crab traps; (5) 220-3-.53 – To further provide for and specify an area for the taking of live saltwater bait.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Director of the Marine Resources Division at any time during the period stated below, or orally if requested in advance by personally appearing at Room 469, Folsom Administrative Building, 64 North Union Street, Montgomery, Alabama, at 10:00 a.m., Tuesday June 5, 2012.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Tuesday, June 5, 2012.

CONTACT PERSON AT AGENCY: Chris Blankenship, Division Director, Marine Resources Division, P. O. Box 189, Dauphin Island, Alabama 36528.



DAVID J. DEAN
Secretary of Administrative Procedure

N. Gunter Guy, Jr.

220-3-.01 Shrimping

(1) The shrimp season is set by regulation by the Commissioner of Conservation and Natural Resources under authority of 1975 Code of Alabama, Section 9-2-4. Areas open to commercial shrimping and for bait shrimping may change from time to time; therefore, the Marine Resources Division, P. O. Box 189, Dauphin Island, AL 36528 should be contacted for the latest regulations.

(2) Individuals operating a licensed recreational shrimp boat taking bait shrimp from an area designated by law as an exclusive saltwater bait area are limited to one (1) gallon of shrimp with heads attached per boat per day.

(3) Individuals taking shrimp, for recreational purposes, in an area open to commercial shrimping by means of a cast net and without the use of a boat, are limited to no more than five (5) gallons of shrimp with heads on per person per day.

~~(3)~~ (4) The taking, catching or attempting to take or catch shrimp by trawl, seine, cast net or by any means whatsoever for any purpose is prohibited in the following Shrimp Nursery Areas:

(a) Portersville Bay which is defined as those waters north of a line extending from Barron Point on Mon Louis Island, thence to the south shore of Marsh Island thence to the south shoreline of the Isle aux Herbes (Coffee Island) and then along the western shoreline of the Isle aux Herbes to a point on the mainland due north of the northern tip of the Isle aux Herbes.

(b) Heron Bay which is described as that body of water lying north of a line extending from Barry Point on Mon Louis Island south southeast to Cedar Point.

(c) That portion of Mississippi Sound north of the Intracoastal Waterway and east of a line extending from Barron Point on Mon Louis Island southeasterly to Range Marker "D" on the Intracoastal Waterway.

(d) All of Weeks Bay, except in Weeks Bay only shrimp may be taken for bait with a dip net that measures no more than twelve inches (12") by twelve inches (12").

(e) All rivers, streams, creeks and bayous (except that portion of Blakely River designated by law as an exclusive bait shrimping area). For the purpose of this regulation, the mouth of the Mobile River is defined as a line beginning at the southernmost tip of Pinto Island running due west to a point on the mainland and the mouth of the Blakely River is defined as a line running westward from the charted position of the Blakely River Channel Marker #18 to a point of intersection with land on the southern tip of Big Island (30°-38.305'N, 087°-55.503'W).

(f) All waters north of the southernmost edge of the Interstate Highway 10 eastbound lane (except that portion of Interstate Highway 10 which lies north of U.S. Highway 90 (Battleship Parkway), in which case the line follows the southernmost edge of the Battleship Parkway).

(g) That portion of Bon Secour Bay within 2500 feet of the mouth of Weeks Bay.

(h) Theodore Industrial Canal.

(i) That portion of Mobile Bay north and west of a line running from the intersection of the Dog River Bridge with the Dog River Channel east along the northern edge of the Dog River Channel to its intersection with the Mobile Ship Channel then north along the west side of the Mobile Ship Channel to the Upper Reach Rear Range (located on the north side of Arlington Channel) then north and east of a line running southeast to the charted position of Mobile Ship Channel marker #78 then southeast to the charted position of Blakely River Channel marker #2 then eastward to the ~~Geodetic Survey Marker in the center of~~ Mayday Pier ($30^{\circ}35.966\text{N} - 87^{\circ}54.851\text{W}$) then eastward along the center of Mayday Pier to its intersection with land, except in this area only, persons may use a cast net to catch or attempt to catch shrimp for bait or noncommercial purposes not to exceed one gallon of shrimp per person per day. There shall be a 300 foot safety buffer along the western edge of the Mobile Ship Channel where towing a trawl shall be allowed for turning by vessels.

~~(j) That portion of Mobile Bay extending out from and parallel to the shoreline one-half nautical mile beginning at the center of Mayday Pier and then south to the northern edge of the Point Clear Channel, except in this area only, persons may use a cast net to catch or attempt to catch shrimp for bait or noncommercial purposes not to exceed one gallon of shrimp per person per day. There shall be pilings installed by the Marine Resources Division one-half nautical mile from the shoreline and it shall be illegal to pull a trawl or trawls shoreward of such pilings.~~

~~(k)~~ (j) All waters in Mobile County north of a line beginning at the Mississippi State line running east to the eastern tip of South Rigolets ($30^{\circ}21.120 - 88^{\circ}23.490$) then northeast to the southwest tip of Point Aux Pins ($30^{\circ}22.271 - 88^{\circ}18.888$) then east to the charted position of the "BC" Beacon in the Bayou La Batre Ship Channel and then southeast to the northwest point of the middle cut that bisects Coffee Island (Isle Aux Herbes) defined as $30^{\circ}20.785 - 88^{\circ}15.721$.

(h) (k) North of Lillian Bridge in Baldwin County.

~~(m)~~ (l) Little Lagoon Pass in Baldwin County and within 100 yards of the north and south entrance of Little Lagoon Pass.

~~(n)~~ (m) Perdido Pass in Baldwin County which is defined as those waters north of Perdido Pass Channel Markers #1 and #2 and south of ~~Perdido Pass Channel Markers #8 and #9~~ the charted position of channel marker #12 in Terry Cove.

(4) (5) Exclusive bait shrimping areas are permanently closed to commercial shrimping.

(5) (6) It shall be unlawful to wash a trawl or net by pulling it or dragging it in any waters closed to shrimping.

(6) (7) The use of any trawl or trawls, or the taking of shrimp by any means, in any area closed to commercial shrimping is hereby expressly prohibited, except as otherwise provided by law.

(7) (8) Unless otherwise provided, it shall be unlawful to use trawls or seines except as follows:

(a) ~~Recreational shrimp and live saltwater bait trawls -- The size, and number, of recreational shrimp and live saltwater bait trawls shall be limited to one net per boat, the size of which shall not exceed sixteen (16) feet as measured across the cork line or main top line. In addition, wings shall be cut and tied to the wing line only on points and it shall be illegal to use nets where the length of the top leg line exceeds the length of the bottom leg line (length of leg lines being defined as the distance from the rear of the door to the beginning of the wing). Live Saltwater Bait Dealers shall drag their trawl for no longer than twenty (20) consecutive minutes before retrieving the trawl and bait shrimp into the live tank.~~

(b) Live saltwater bait trawls—the size, and number, of live saltwater bait trawls shall be limited to one net per boat, the size of which shall not exceed fifty (50) feet as measured across the cork line or main top line except in an area that is temporarily closed to shrimping or in a designated live bait area the trawl shall not exceed sixteen (16) feet along the cork line or main top line. In addition, wings shall be cut and tied to the wing line only on points and it shall be illegal to use nets where the length of the top leg line exceeds the length of the bottom leg line (length of leg lines being defined as the distance from the rear of the door to the beginning of the wing). Live Saltwater Bait Dealers shall drag their trawl for no longer than twenty (20) consecutive minutes before retrieving the trawl and transferring bait shrimp into the live bait tank.

~~(b)~~ (c) Commercial shrimp trawls - - It shall be illegal for any person, firm or corporation to take or attempt to take shrimp or other seafoods in or from the inside waters of the State of Alabama by trawl or trawls used together the total width of which exceeds fifty (50) feet as measured in a straight distance along the cork line, which is the main top line containing corks. The use of more than two trawls is prohibited in the inside waters; provided however, that one “try trawl” not to exceed ten (10) feet as measured across the cork line may be used for sampling in addition to the above. In addition, wings shall be cut and tied to the wing line only on points and it shall be illegal to use a trawl or trawls on which the length of the top leg line exceeds the length of the bottom leg line, the length of the leg line being defined as the distance from the rear of the trawl door to the beginning of the wing.

~~(e)~~ (d) It shall be unlawful to hang, tie or otherwise connect any webbing or netting between the rear of the trawl board or door and the adjacent wing line or between the top leg line and bottom leg line of any trawl so as to extend the width of any trawl or trawls authorized under Sections ~~(7)~~ (8) (a), ~~(8)~~ (b) and ~~(7)(b)~~ (8)(c) above.

~~(8)~~ (9) The Department of Conservation and Natural Resources shall not issue a Live Saltwater Bait Dealers License to persons unless their shore facilities, transport facilities, or boat(s), in addition to the requirements provided by law, meet the following minimum requirements:

Place of Business

A place of business is defined for purposes of this section as:

(a) A permanently erected building on land from which fishing bait and fishing supplies and tackle are sold to the public; or

(b) A vessel that sells live or dead saltwater bait (excluding shrimp) to the public. It shall be unlawful for a vessel that sells live or dead saltwater bait (excluding shrimp) that is a place of business to take, possess, or sell live or dead shrimp. Such vessel shall meet the requirements for a boat facility, shall provide a physical address where vessel will be docked or

stored, shall not possess or attempt to use a trawl and shall make vessel immediately available for inspection. No live bait catcher boat that is licensed under such vessel that is a place of business may take or possess live or dead shrimp or possess or attempt to use a trawl to take bait. No transport truck that is licensed under such a vessel that is a place of business may transport or possess live or dead shrimp. Such vessel that is a "place of business", and all catcher boats and transport trucks licensed under such vessel shall have the words "Live Bait – No Shrimp" in letters at least six inches high on the port and starboard sides of the vessel or vehicle; or

(c) A vessel that sells live or dead saltwater bait (including shrimp) from a designated location to the public. Such vessel shall notify the Marine Resources Division of the GPS location of such designated location where live or dead saltwater bait will be sold, shall notify the Marine Resources Division at least 10 working days prior to utilizing or moving such location, shall designate only one location, shall only sell live or dead saltwater bait from the designated location, shall meet all requirements for a shore facility and a boat facility, shall provide a physical address where the vessel will be docked or stored, shall not possess or attempt to use a trawl, and shall make vessel immediately available for inspection. Such vessel that is a place of business shall have the words "Live Bait – For Sale" in letters at least six inches high on the port and starboard sides of the vessel.

(d) Notwithstanding the provisions of (b) and (c) immediately above, no vessel shall constitute a "place of business" hereunder if it is in violation of Rule 220-4-.08 of the Alabama Administrative Code.

Shore Facilities

(a) Covered concrete, wooden or fabricated tanks with a minimum capacity of 480 gallons.

(b) Tanks must be aerated by one of the following:
1. Circulating water sprayed upon the surface which may be pumped from the bay, bayou, etc., or recirculated from the shrimp tank.
2. Any commercial fish aerator.

Transport Facilities

Wooden or fabricated transport tanks with recirculating water or commercial fish aerator.

Boat Facilities

(a) Tank with a spray system operated by a pump or commercial fish aerator; or, live well with forced water exchange.

~~(9)~~ (10) No holder of a live saltwater bait dealers license or anyone operating under such license shall transfer or unload any shrimp live or dead onto any vessel or vehicle unless such vessel or vehicle has been inspected and approved by the Marine Resources Division and designated as a licensee as required by 9-12-54.3. Shrimp live or dead taken by a live saltwater bait boat shall be transported or stored only in an approved vessel, vehicle or facility.

~~(10)~~ (11) It shall be unlawful for any person to drag any net, seine or trawl over the public oyster reefs or the private oyster leases in this State.

~~(11)~~ (12) Any person, firm or corporation or association may import shrimp into the State of Alabama from another state even though such shrimp weigh less than the minimum

weight requirements prescribed by the laws and regulations of the State of Alabama provided such shrimp were legally taken or caught outside of the territorial waters of the State of Alabama. Upon importation of such undersized shrimp, the purchaser and/or processor thereof shall maintain a written record of the location of the source of such shrimp and such records shall be open for inspection to the Division of Marine Resources upon demand.

(12) (13) Pursuant to Section 9-12-46, Code of Alabama 1975, the minimum weight requirement of shrimp caught or taken for commercial purposes from the waters of Alabama shall require not more than 68 shrimp with heads attached to weigh one pound or not more than 114 headless shrimp to the pound.

(13) (14) As to such areas of Alabama waters in which shrimp are of such size that with heads attached a number in excess of 68 shrimp are required to equal in weight one (1) pound, as determined from the average of samples taken by the Marine Resources Division of the Department of Conservation and Natural Resources at established sampling stations within each area, commercial shrimping shall be temporarily closed until such time as shrimp are of such size that with heads attached a number equal or less than 68 shrimp, or that a number equal or less than 114 headless shrimp, are required to equal in weight one (1) pound.

Statutory Authority: §§ 9-2-4, 9-2-7, 9-2-8, 9-2-12, 9-12-46, 9-12-49, 9-12-54.1 and 9-12-54.6, Code of Alabama 1975

PENALTY: As provided by law.

9/30/82; 3/26/83; 4/23/83; 1/13/84; 9/4/86; 12/23/86; 8/27/88; 6/21/89; 8/28/89(E); 5/1/90; 12/21/90; 8/17/91; 11/18/94; 5/28/97(ER); 8/15/97; 8/24/98(E); 9/28/2002; 12/3/2002(E); 4/19/2003; 4/23/2004; 6/9/2004(ER); 9/25/2004; 12/21/05(ER); 12/23/05(ER); 3/15/2006(ER); 8/30/2006;