

APA-1
Revised 7/2019

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. 220 Department or Agency: Conservation and Natural Resources

Rule No.: 220-3-.85

Rule Title: Seafood Aquaculture.

 New X 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? No

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 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 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 Services Agency.

Signature of Certifying Officer

Ryan W. Corley

Secretary of Administrative Procedure

Date

August 17, 2021

Department of Conservation and Natural Resources
Marine Resources Division

NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Conservation and Natural Resources

RULE NO. & TITLE: 220-3-.85 Seafood Aquaculture.

INTENDED ACTION: Amendment.

SUBSTANCE OF PROPOSED ACTION: To add that aquaculture sited may be on sites approved in writing by the Commissioner of the Alabama Department of Conservation and Natural Resources.

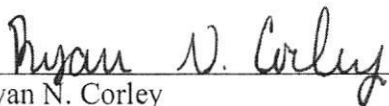
TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Director of Marine Resources Division at any time during the period stated below, or orally if requested in writing 48 hours in advance to the Director of Marine Resources Division, and then by personally appearing at Room 474, Folsom Administrative Building, 64 North Union Street, Montgomery, Alabama, at 10:00 a.m., Tuesday, October 5, 2021.

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:

Tuesday, October 5, 2021.

CONTACT PERSON AT AGENCY: Colonel Scott Bannon, Director, Marine Resources Division, P.O. Box 189, Dauphin Island, Alabama, 36528. (251) 861-2882.



Ryan N. Corley
Secretary of Administrative Procedure

Christopher M. Blankenship

220-3-.85 Seafood Aquaculture

(1) No person, firm, corporation, or entity shall engage in seafood aquaculture without first obtaining a permit from the Marine Resources Division, in addition to any other permits required by state and federal agencies. The standards for the issuance of the permit shall include the water source used for aquaculture; the method and location of any discharge, including but not limited to, methods of discharge screening; species of culture; type of system used for aquaculture; engineering certification of structures used to contain fish for on-the-water facilities; disease certification of fish prior to release if cultured in a land-based facility; routine disease monitoring for on-the water facilities; negative impact on standard pet trade practices; prevention of discharge of disease or live products such as larvae and other products; the type of materials utilized for cages; ensuring pond levees/grow-out facilities exceed 100 year floodplain for location; potential negative impact on water quality; prevention of disease; protection of health and safety of general public; and protection of fish and wildlife.

(2) "Seafood Aquaculture" is defined as the propagation, cultivation, rearing or maintenance of saltwater marine life or "seafoods"; as defined by Section 9-2-80, Code of Alabama 1975, for consumption, stocking, or bait purposes ; provided, however, that for the purposes of this rule, "seafood aquaculture" and "aquacultured seafood" shall not include oysters.

(3) Aquaculture sites may only be established on or within the inside waters of Alabama, as defined by 220-3-.04, ~~or be on~~ a shore based facility, or on a site approved in writing by the Commissioner of the Alabama Department of Conservation and Natural Resources.

(4) No aquacultured seafood species may be released into the public waters of Alabama without authorization from the Marine Resources Division.

(5) Aquaculture of gamefish.

(a) All aquacultured gamefish must have a tag, approved by the Marine Resources Division, attached to each fish prior to releasing or selling the fish in any form.

(b) All aquacultured gamefish being transported, within Alabama, must be accompanied by an invoice or bill of lading to include seller, buyer, species, and quantity.

(6) Landing and Reporting Aquacultured Seafood.

All aquacultured seafood propagated, cultivated, or reared in Alabama must be landed and reported through a licensed Alabama dealer in accordance with Rule 220-3-.35 and Sections 9-12-115 and 9-12-115.1, Code of Alabama 1975.

Author: Christopher M. Blankenship

Statutory Authority: §§ 9-2-4, 9-2-7, 9-2-8, and 9-2-12, Code of Alabama, 1975.

Penalty: As provided by law.

History: **New Rule:** Filed August 11, 2016; effective September 25, 2016.
8/17/2021.

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

Control No. 220 Department or Agency Conservation

Rule No: 220-3-.85

Rule Title: Seafood Aquaculture.

☐ New ☒ Amend ☐ Repeal ☐ Adopt by Reference

☒ This rule has no economic impact.

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

1. NEED/EXPECTED BENEFIT OF RULE:
2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:
3. EFFECT OF THIS RULE 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:
5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:
6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING

THIS RULE:

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:
8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:
9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED: