

APA-1
6/93

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. 220 Department or Agency Conservation and Natural Resources
Rule No.: 220-2-.155 Paddlefish Management Areas and Seasons Established

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 [Signature]
Secretary of Administrative Procedure

Date September 20, 2013

REC'D & FILED

SEP 20 2013

LEGISLATIVE REF SERVICE

APA-2
6/93

Department of Conservation and Natural Resources
Division of Wildlife and Freshwater Fisheries

NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Conservation and Natural Resources

RULE NO. & TITLE: (1) 220-2-.110 Establishment of Physically Disabled Hunting Areas; (2) 220-2-.155 Paddlefish Management Areas and Seasons Established.

INTENDED ACTION: (1)-(2) Amendments.

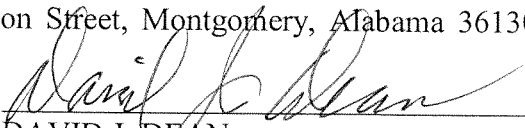
SUBSTANCE OF PROPOSED ACTION: (1) 220-2-.110 -To provide for the establishment of certain physically disabled hunting areas; to create the Upper State Physically Disabled Hunting Area and map; to delete one area; and to provide a new updated cover map of all the areas. (2) 220-2-.155 – To establish and provide for certain paddlefish management areas and seasons, and methods and requirements related thereto.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Director of the Division of Wildlife and Freshwater Fisheries at any time during the period stated below, or orally, if requested in writing 48 hours in advance to the Director of the Division of Wildlife and Freshwater Fisheries, by personally appearing at Room 469, Folsom Administrative Building, 64 North Union Street, Montgomery, Alabama, at 10:00 a.m., November 5, 2013.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Tuesday, November 5, 2013.

CONTACT PERSON AT AGENCY: Chuck Sykes, Director, Division of Wildlife and Freshwater Fisheries, 5th Floor, 64 N. Union Street, Montgomery, Alabama 36130, 334-242-3465.



DAVID J. DEAN
Secretary of Administrative Procedure

N. Gunter Guy, Jr.

220-2-.155 Paddlefish Management Areas and Seasons Established

A provisional commercial fishing season for Paddlefish (*Polyodon spathula*) is hereby established for three areas of Alabama, as provided for below. These areas hereafter are referred to as Paddlefish Management Areas (PMA's), and are hereby established as, and shall constitute, special fishery "wildlife management areas", in accordance with Sections 9-11-300 and 301, Code of Alabama 1975. Three PMA's shall occur in portions of Autauga, Lowndes, Dallas, Clarke, Monroe, and Wilcox counties on the Alabama River, as described below. These rules shall govern according to the following restrictions and regulations:

Locations:

**UPPER ALABAMA RIVER PADDLEFISH MANAGEMENT AREA (UAR)
(AUTAUGA/LOWNDES/DALLAS COUNTIES)**

The public waters of the mainstem portion (tributaries excluded) of the Alabama River from Alabama River Mile (ARM) 235.5 (32.3161621°N 86.7898589°W) to ARM 221.7 (32.4372882°N 86.8562501°W). This is from one-half mile below Robert F. Henry Lock and Dam to the confluence of Mulberry Creek, at the northern end of Gardiner Island. In addition, the public waters of the mainstem portion (tributaries excluded) of the Alabama River from ARM 195.7 (32.3253497°N 87.0180604°W) to ARM 166.0 (32.1541113°N 87.1555624°W). This is from the mouth of Six Mile Creek (Dallas County) to the mouth of White Oak Creek (Dallas County). A total of 43.5 river miles will be open for commercial harvest of paddlefish.

**MIDDLE ALABAMA RIVER PADDLEFISH MANAGEMENT AREA (MAR)
(WILCOX COUNTY)**

The public waters of the mainstem portion (tributaries excluded) of the Alabama River from ARM 131.6 (32.0814245°N 87.4021318°W) to ARM 85.6 (31.7269344°N 87.4694156°W). This is from the power line crossing below Miller's Ferry Power House (Wilcox County) to Davis Ferry Landing (Monroe County). A total of 46.0 river miles will be open for commercial harvest of paddlefish.

**LOWER ALABAMA RIVER PADDLEFISH MANAGEMENT AREA (LAR)
(MONROE/CLARKE COUNTIES)**

The public waters of the mainstem portion (tributaries excluded) of the Alabama River from ARM 71.8 (31.6041739°N 87.5495901°W) to ARM 27.4 (31.2943224°N 87.7663244°W). This is from one-half mile below Claiborne Lock and Dam to Dixie Landing boat ramp. A total of 44.4 river miles will be open for commercial harvest of paddlefish.

Dates:

SEASON

LAR: February 1 – March 21 of each year.

MAR: February 1 – March 21 of each year.

UAR: February 1 – March 21 of each year.

Weekend (Saturday and Sunday) commercial paddlefish fishing is not permitted.

Fishing Hours:

LAR: Legal sunrise hours – 1600 hours each day; Monday - Friday.

MAR: Legal sunrise hours – 1600 hours each day; Monday - Friday.

UAR: Legal sunrise hours – 1600 hours each day; Monday - Friday.

Persons Eligible:

Residents of the State of Alabama who are eighteen (18) years of age or older and have purchased a resident commercial freshwater fishing license from Oct 1, to September 30, of the previous year are eligible to apply for a Resident Commercial Paddlefish Harvester Permit. Nonresidents of states that allow Alabama residents to commercially fish for paddlefish are allowed to apply. Nonresidents of states that prohibit Alabama residents from commercially harvesting paddlefish are prohibited from engaging in commercial paddlefish fishing in Alabama. Currently, the only states that allow Alabama residents to commercially harvest paddlefish are Tennessee, Kentucky, Illinois, and Missouri. Only residents of these states that were issued valid roe fish harvest permits/licenses from their state of residence, which were valid for that state's respective license year prior to October 1, will be eligible to apply to commercially harvest paddlefish in Alabama for the upcoming season. Not less than fifty percent (50%) of the available permits shall be made available to eligible Alabama residents. In no event shall the percentage of available permits for nonresidents of any other state exceed any percentage restriction placed on that state's nonresidents to commercially harvest paddlefish in that state.

Harvest Permits:

The following permits and tags are established and required to commercially harvest paddlefish in Alabama.

Alabama Residents

Commercial Paddlefish Harvester Permit [\$750.00]. This permit is required for the holder to fish and take paddlefish in a designated paddlefish management area for the purpose of harvesting flesh and roe during designated commercial paddlefish seasons. This permit also allows one commercial fishing helper per permit holder. An Alabama Commercial Freshwater Fishing License is required in addition to the Commercial Paddlefish Harvester Permit to harvest and possess paddlefish.

Nonresidents

Nonresident Commercial Paddlefish Harvester Permit - The cost for the permit will be same as what the applicant's State of residency would charge an Alabama resident to commercially fish for paddlefish in that State but in no event shall the cost be less than the fee charged to a resident of Alabama. This permit is required for the holder to fish and take paddlefish in a designated paddlefish management area for the purpose of harvesting flesh and roe during designated seasons. This permit also allows one commercial fishing helper per permit holder. An Alabama Commercial Freshwater Nonresident Fishing License is required in addition to the Nonresident Commercial Paddlefish Harvester Permit to harvest and possess paddlefish.

Carcass Tags. It shall be required that all harvested paddlefish possess an ADWFF issued serial tag attached through the dorsal fin. Paddlefish harvesters will tag each harvested paddlefish after the fish is removed from the net and placed in their fishing vessel. Harvesters will be required to purchase these tags from ADWFF. The tag is to remain on the fish until the flesh is processed and packaged for retail sale.

Dealer's Licenses: Required by Section 9-11-153, Code of Alabama 1975, as amended by Act No.2012-471.

Alabama Residents

Commercial Paddlefish Dealer's License [\$750.00]. This license is required of every resident person, firm, association, or corporation to buy, sell, process, or ship paddlefish roe or flesh acquired from a permitted paddlefish harvester. Any employee or agent of a dealer shall be required to possess a copy of the dealer license, signed by the dealer, at all times he is performing any activities pursuant to such license. This license is not required for a permitted paddlefish harvester to sell or ship within Alabama paddlefish roe or flesh that the harvester has caught, to an Alabama licensed commercial paddlefish dealer. An Alabama wholesale freshwater fish dealer license is required in addition to the Commercial Paddlefish Dealer's License to buy, process, sell, or ship paddlefish roe and flesh.

Nonresidents

Commercial Paddlefish Dealer's License - The cost for this license will be same as what the applicant's State of residency would charge an Alabama resident to buy, sell, process, or ship paddlefish roe or flesh within that State but in no event shall the cost be less than the fee charged to a resident of Alabama. This license is required of every nonresident person, firm, association, or corporation to buy, sell, process, or ship paddlefish roe or flesh acquired from a permitted paddlefish harvester. Any employee or agent of a dealer shall be required to possess a copy of the dealer license, signed by the dealer, at all times he is performing any activities pursuant to such license. This license is not required for a permitted paddlefish harvester to sell or ship within Alabama paddlefish roe or flesh that the harvester has caught, to an Alabama licensed commercial paddlefish dealer. An Alabama wholesale freshwater fish dealer license is required in addition to the Commercial Paddlefish Dealer's License to buy, process, sell, or ship paddlefish roe and flesh.

Size Limit:

The minimum length to possess and harvest paddlefish is 34" (863.6 mm) eye-to-fork (EFL) and only egg-bearing females are legal within the three PMA's. The EFL is the length from the anterior portion of the eye to the fork of the tail measured with a flexible tape measured along curvature of the body. The possession and harvest of any male paddlefish, female paddlefish with no eggs, and female paddlefish under 34" EFL is prohibited.

Prior to sale to a commercial paddlefish dealer, paddlefish carcasses may not be altered in a manner that the length of the fish cannot be determined. If a paddlefish has been altered to not allow the minimum length determination, then the carcass and roe are subject to confiscation.

Applications:

Resident commercial paddlefish harvester permit applications will automatically be sent to all commercial freshwater fishers who held an Alabama commercial freshwater fishing license from October 1, to September 30, of the previous year. Eligible nonresident commercial freshwater fishers that wish to apply for an Alabama commercial paddlefish permit may obtain the necessary forms and information by contacting ADWFF or by downloading it from

<http://www.outdooralabama.com/fishing/freshwater/fish/paddlefish/>

A total of 5 separate applicants will be randomly selected for the opportunity to purchase permits for each of the three PMA's for a total of 15 permits in a given season. **Commercial paddlefish harvester permits are non-refundable and non-transferable.**

Mandatory Training Course:

All permitted commercial paddlefish harvesters will be required to attend a pre-season briefing and instruction meeting prior to the paddlefish fishing season. This meeting will be held in Lowndes County or Monroe County for commercial paddlefish harvester permit holders with the dates and times to be determined later. This meeting will only be open to valid commercial paddlefish harvester permit holders and not to the public. Each commercial paddlefish harvester permit will be endorsed by a Fisheries Biologist after the meeting. This endorsement is required and must be shown to a Conservation Officer or ADWFF Fisheries biologist if requested.

Designated Boat Ramps:

All commercial roe harvesters and helpers can only launch and take out from one of the designated boat ramps from their respective Paddlefish Management Area. Boat ramps are PMA specific:

UAR Paddlefish Management Area

USACE Benton boat ramp off of US Highway 80 (32.3127563°N 86.8192047°W); 15 miles east of Selma.

USACE Six Mile Creek boat ramp off of HWY 41 (32.3256762°N 87.0152170°W); 7 miles south of Selma.

Portland access boat ramp off of Dallas County Road 225 (32.1529105°N 87.1579930°W); 3 miles southeast of Portland.

MAR Paddlefish Management Area

USACE Cobb's Landing boat ramp off of State Highway 28 (32.0668569°N 87.4010475°W); 3 miles southwest of Miller's Ferry.

USACE Holly Landing boat ramp off of HWY 10 as it crosses the Alabama River (31.9693976°N 87.4128761°W); 7 miles west of Camden.

USACE Bell's Landing boat ramp off of HWY 41 (31.8070616°N 87.4227007°W); 3 miles southwest of Hybart.

LAR Paddlefish Management Area

USACE Claiborne Lock and Dam Ramp off of Monroe County Road (31.6095112°N 87.5492510°W); 17 miles northwest of Monroeville.

Eureka Landing boat ramp off of Monroe County Road 8 (31.3932747°N 87.7088037°W); 3 miles northwest of Eliska.

Dixie Landing boat ramp off of HWY 59 (31.2948937°N 87.7643321°W); 4 miles west of Chrysler.

Gear and Fishing Restrictions:

Alabama River PMA's

- Paddlefish may only be harvested by the use of gill nets, as provided for below.

- A gill net (may be referred to hereafter within as “net” or “nets”) is defined as a single net attached to float and lead lines.
- The use of tied-down gill nets (hobbled) is prohibited.
- The use of monofilament gill nets is prohibited; only multifilament (nylon) nets are permitted.
- The maximum number of gill nets permitted to fish concurrently is five and only five gill nets may be in possession on the water and during commercial paddlefish fishing.
- The use of mechanical gear (rollers) to deploy and retrieve gill nets is permitted.
- A fluorescent orange float is required on each float end. The float size must be approximately the size of a 1 gallon milk container or similar to a bullet-type float measuring 5” in diameter and 11” in length.
- Total length of each gill net cannot exceed 200 feet.
- Total depth of each gill net cannot exceed 24 feet.
- Gill nets must have a minimum mesh size of 6-inch bar measure (knot to knot).
- The nets must be submerged three feet or more beneath the surface.
- Gill nets must be checked every 2 hours to reduce bycatch.
- Gill nets must be removed from the water by 1600 hours each fishing day.
- The “tying up” of any harvested paddlefish to a tree or limb is prohibited.
- A large live well is permitted if the harvesters wish to keep the fish alive while on the water.
- All harvested paddlefish must be kept in the harvester’s boat until they reach land for processing.
- Paddlefish eggs may not be removed outside of the fish’s body cavity while on the water or adjacent bank. Eggs can only be removed at the boat ramp or processing facility.
- No processed paddlefish and/or eggs outside of the body cavity can be in possession while on the water.
- A 12-gauge needle inserted into the side of a paddlefish (only those fish over 34 inch EFL) adjacent to the ovaries must be used to determine the presence of eggs.
- A 2-inch portion of ovary (including some eggs) must remain attached to each harvested paddlefish until the fish and eggs are received by a licensed commercial paddlefish dealer.
- Paddlefish eggs removed from the fish must be kept in separate containers – eggs from one fish per container. Each container must be labeled with the paddlefish tag number and as paddlefish roe. One container must match one harvested paddlefish.
- Blocking of harvested paddlefish is not permitted.
- Paddlefish may not be possessed alive away from harvested waters.
- The gill rakers inside the mouth can be cut to bleed the fish.
- Commercially harvested paddlefish (or parts thereof) taken from an authorized PMA and sold must be marketed to a licensed wholesale fish dealer who has a valid Alabama commercial paddlefish dealer license; provided however, that all parts other than roe may be sold within Alabama by the harvester to other individuals for their personal consumption.
- All commercial paddlefish harvester permit holders are required to allow boarding of their vessel if requested by an ADWFF conservation officer, agent, or biologist to examine their catch.

- Citations for the violation of any commercial fishing laws and regulations during the paddlefish season may result in confiscation of fishing equipment (i.e., boat, boat motor, boat trailer, gillnets and associated gear) and paddlefish roe and flesh as evidence.
- Conviction of any laws and regulations from a paddlefish season may result in the loss of opportunity to apply for a future commercial paddlefish harvester permit and forfeiture of confiscated fish equipment, paddlefish roe and flesh.
- During the commercial paddlefish season it is prohibited for any person to possess, buy, sell, or ship across Alabama state line whole paddlefish, paddlefish parts or eggs without proper permits and documentation as determined by the ADWFF.

Exceptions:

- Persons who have purchased paddlefish flesh or processed and packaged paddlefish eggs for consumption.
- Restaurants, grocery stores, hotels, retail fish markets, and wholesale food suppliers selling paddlefish roe or paddlefish parts fully processed, packaged and ready for retail sale in sealed containers.
- Commercial shipping firms or authorized agents may possess legally taken paddlefish and/or paddlefish eggs or flesh shipped by person having an Alabama commercial roe dealer/buyer license.

Informational Note: Regulations Already in Effect that Apply to the Commercial Harvest of Paddlefish:

Alabama River

- All gill nets need to be marked with the commercial fisher's name and license number on an attached tag.
- At least one buoy must bear the name, address, and license number of the commercial fisher.
- Each gill net must be fished independent of other nets and cannot be tied together.
- Nets must be staggered when set and cannot be placed closer than 50' to any other net.
- Nets must be fished in a stationary manner.
- Nets cannot be placed 25' or closer to the water's edge.
- Nets cannot be set in a way that the net extends more than half way across any river.
- The cutting or mutilating of paddlefish to check for eggs is prohibited. (Except by the use of a 12 gauge needle to check for eggs).

Harvest, Sale and Shipping Reporting:

Commercial paddlefish harvesters and commercial paddlefish dealers will be required to submit paddlefish daily catch and harvest reports, commercial paddlefish roe buyer's weekly reports, and/or other reports as determined by the ADWFF. Falsification of, or failure to submit by the specified time or date, the required paddlefish reports to the ADWFF, may, within the discretion of ADWFF, result in the prohibition from applying and obtaining future commercial paddlefish harvester permits or commercial paddlefish dealer's licenses.

License Requirements:

Holders of a commercial paddlefish harvester permit and commercial paddlefish dealer's license must have government issued picture identification on their person during the commercial paddlefish season and while possessing paddlefish eggs, flesh, and parts. The aforementioned

permit and license must also be on their person during the season while possessing paddlefish eggs, flesh, and parts.

Statutory Authority: Sections 9-2-7, 9-2-8, 9-11-140, 9-11-300, and 9-11-301, Code of Alabama 1975

PENALTY: As provided by law.