

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 80 Department of Agriculture and Industries

Chapter No.: 80-8-6

Chapter Title: Catfish Promotional Referendum

X New;        Amend;   x   Repeal;        Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the State's police power and the protection of the public health, safety or welfare? N/A

Is there another less restrictive method of regulation available that could adequately protect the public? N/A

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

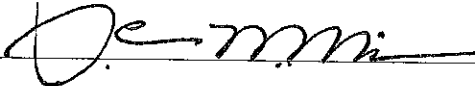
Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

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 Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer 

Date: 12/12/2017

(DATE FILED)  
(STAMP)

APA-2

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES

NOTICE OF INTENDED ACTION

Agency Name: Alabama Department of Agriculture and Industries

Chapter NO. & Title: 80-8-6 Catfish Promotional Referendum

Intended Action: To Repeal and Replace with New Chapter

Substance of Proposed Action: To provide uniformity with check-off commodities so that the rules governing the referendum are clear and unchanging between commodities and conform entirely to the Code of Alabama.

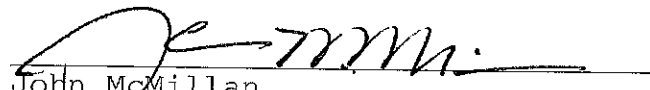
Time, Place, Manner of Presenting Views: Views may be presented in writing to the contact person below or in person on Tuesday, February 13, 2018, at 10:00 a.m., in the Auditorium of the Richard Beard Building, 1445 Federal Drive, Montgomery, Alabama, 36117.

Final Date for Comment and Completion of Notice: February 13, 2018.

Contact Person at Agency: N. Gunter Guy Jr., Legal Counsel, Department of Agriculture and Industries, 1445 Federal Drive, Montgomery, Alabama 36107-1123, Telephone No. (334) 240-7117.

12-12-2017

Date

  
John McMillan  
Commissioner of Agriculture  
and Industries

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES  
ADMINISTRATIVE CODE

CHAPTER 80-8-6  
CATFISH PROMOTIONAL REFERENDUM "Repealed"

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**80-8-6-.01**      Purpose. The purpose of this Chapter is to establish rules and procedures to govern the conduct of a referendum under the terms of Code of Ala. 1975, §§2-8-270, et seq. The referendum will allow catfish producers to vote an assessment against themselves which will be used for promotion of the catfish industry in the State of Alabama.

**Author:** Marise Mims Sandidge

**Statutory Authority:** Code of Ala. 1975, §2-8-270, et seq.

**History:** Filed February 23, 1989. **Amended:** Filed August 10, 1994; effective September 14, 1994.

**80-8-6-.02**      Referendum To Be Conducted. The Association certified by the State Board of Agriculture and Industries shall hold a statewide referendum. At that time Alabama catfish producers will vote and determine if they favor paying for a period of five years from the date of the referendum, an assessment in an amount not to exceed \$5.00 per each ton of catfish feed purchased by them.

**Author:** Marise Mims Sandidge

**Statutory Authority:** Code of Ala. 1975, §§2-8-275, 2-8-278, 2-8-279.

**History :** Filed February 23, 1989. **Amended:** Filed August 10, 1994; effective September 14, 1994.

**80-8-6-.03**      Conduct Of Referendum; Payment Of Expenses.

(1) The Association certified by the State Board of Agriculture and Industries shall have the responsibility to arrange, manage and conduct any referendums. They shall also be responsible to furnish all necessary ballots and arrange for the necessary poll holders.

(2) All expenses and costs necessary to conduct any referendums shall be borne by the Association certified by the State Board of Agriculture and Industries.

**Author:** Marise Mims Sandidge

**Statutory Authority:** Code of Ala. 1975, §2-8-277.

**History:** Filed February 23, 1989. **Amended :** Filed August 10, 1994; effective September 14, 1994.

**80-8-6-.04**      **Notice Requirements.** Not less than 30 days before any referendum is held, the Association certified by the State Board of Agriculture and Industries shall give notice of such referendum by publishing same in an established farm publication, and by mailing a written notice to each county extension coordinator. The notice shall include, at minimum, the date of the referendum, the hours that the polls will be open, the addresses of polling places, the rules for voting in the referendum, the amount and basis of the assessment proposed to be collected, the means by which such assessment shall be collected, and the general purposes for which said amount so collected shall be expended and applied. **Author:** Marise Mims Sandidge

**Statutory Authority:** Code of Ala. 1975, §2-8-276.

**History:** Filed February 23, 1989. **Amended:** Filed: August 10, 1994; effective September 14, 1994.

**80-8-6-.05**      **Polling Places And Time Of Operation.**

(1) Voting facilities shall be provided in the county seat at all sixty-seven (67) counties in the State. Additional facilities may be provided should the County Referendum Committee find same to be advisable. Public notice of the exact location of each poll shall be given in advance of the referendum.

(2) The polls shall be open from 8:00 a.m. until 5:00 p.m. on the date of the referendum.

**Author:** Marise Mims Sandidge

**Statutory Authority:** Code of Ala. 1975, §2-8-289.

**History:** Filed February 23, 1989. **Amended:** Filed August 10, 1994; effective September 14, 1994.

**80-8-6-.06**      **Polling Procedures; Certifying Of Results.**

(1) There shall be no less than two persons at each polling place who shall serve as poll holders. Such poll holders shall be in charge of and supervise the voting.

(2) Each polling place shall have a voter's register. Prior to casting his or her vote, each person who is entitled to vote in the referendum shall sign his or her name to the register. Also, each voter shall write in the register his or her address, phone number, the total number of acres of catfish ponds they had in production in the calendar year immediately preceding the referendum and the number of tons of catfish feed they purchased in the calendar year immediately preceding the referendum.

(3) In order to insure that all voting is secret and confidential, each catfish producer will be provided with a

printed ballot. The ballot shall contain a statement explaining the purpose of the referendum and a place to vote on whether the producer approves or disapproves the proposed action.

(4) Each marked ballot shall be folded and deposited in a ballot box or other container where it will be kept until such time as it is counted.

(5) As soon as the polls close and the last vote is cast, the poll holders shall immediately open the ballot boxes or other containers, count each ballot and tabulate the results of the count. They will then immediately report the results of the Chairman of the County Catfish Committee. Any interested individual may be present and observe the counting of the votes and the tabulation of the results.

(6) After each ballot has been counted and the results tabulated, the poll holders shall place the marked ballots into some kind of container which shall be sealed. This container, along with a certification of the results of the count of the ballots, shall be delivered immediately to the Chairman of the county Catfish Referendum Committee. The chairman and at least two committee members shall then tabulate the results received by them from each polling place in the county. This result shall then be certified and it, along with all the containers of sealed ballots, shall be delivered to the Alabama Catfish Producers State Referendum Committee, a division of the Alabama Farmers Federation. Within ten (10) days of the Alabama Catfish Producers

State Referendum Committee having received all the certified results from all sixty-seven (67) counties in the State, it will tabulate, publicly declare, and announce the results of the statewide referendum. Also, within ten (10) days of receipt of the results from each county committee, a certified copy of the results of the statewide referendum shall be forwarded to the Commissioner of Agriculture and Industries.

**Author:** Marise Mims Sandidge

**Statutory Authority:** Code of Ala. 1975, §2-8-289.

**History: New Rule:** Filed August 10, 1994; effective September 14, 1994.

**80-8-6-.07**      **Persons Eligible To Vote.** All catfish producers who purchases feed in the State in the year immediately preceding and not less than thirty (30) days prior to the referendum shall be eligible to cast votes in the referendum. If there is any question of eligibility, the certified association is authorized to request any additional information which is allowed by statute.

**Author:** Marise Mims Sandidge

**Statutory Authority:** Code of Ala. 1975, §2-8-278.

**History: New Rule:** Filed August 10, 1994; effective September 14, 1994.

**80-8-6-.08**      **Voting Requirements.**

(1) Each catfish producer shall have one vote if the production operation is conducted by an individual,

partnership, estate, corporation or other legal entity. If the catfish production is conducted as a family enterprise and certain members of the family are producing and selling catfish separately from the other members of the family, then each such family member will be entitled to one vote. If catfish are produced in ponds leased from another, the leasee shall be entitled to one vote provided the leasee purchased catfish feed in the last year but not less than thirty (30) days prior to the referendum. Each partnership, corporation, estate or other legal entity who is producing catfish shall designate one individual to cast the vote of such producer.

(2) Each eligible voter shall vote in person at an established polling place. Neither proxy voting nor voting by mail shall be allowed. **Author:** Marise Mims Sandidge

**Statutory Authority:** Code of Ala. 1975, §2-8-289

**History: New Rule:** Filed August 10, 1994; effective September 14, 1994.

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES  
ADMINISTRATIVE CODE

MARKETING

CHAPTER 80-8-6  
CATFISH PROMOTIONAL REFERENDUM "New Chapter"

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80-8-6-.01 Purpose

The purpose of this Chapter is to establish the rules and procedures to govern the conduct of a referendum under the terms of Code of Alabama. This referendum will allow catfish producers to vote an assessment against themselves which will be used for promotion of the catfish industry in Alabama.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §2-8-270

History: Filed:

80-8-6-.02 Referendum to be Held

Pursuant to Code of Ala. 1975, § 2-8-270 the Association certified by the State Board of Agriculture and Industries shall hold a referendum amongst producers of catfish. At that time Alabama catfish producers will vote and determine if they favor paying for a period of 5 years from the date of the referendum, an assessment in an amount not to exceed the limit set forth in the Code of Ala. 1975, 2-8-279.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §2-8-278

History: Filed:

**80-8-6-.03 Conduct of Referendum; Payment of Expenses**

- (1) The Association certified by the State Board of Agriculture and Industries shall have the responsibility to arrange, manage and conduct any referendums.
- (2) All expenses and costs necessary to conduct any referendums shall be borne by the Association certified by the State Board of Agriculture and Industries.

**Author:** N. Gunter Guy, Jr.

**Statutory Authority:** Code of Ala. 1975, §2-8-277

**History:** Filed:

**80-8-6-.04 Notice Requirements**

Not less than 30 days before any referendum is held, the Association certified by the State Board of Agriculture and Industries shall give notice of such referendum by publishing same in an established farm publication and by mailing a written notice to each county extension coordinator in the area covered by the referendum. The notice shall include, at minimum, the date of the referendum, the hours that the polls will be open, the addresses of polling places, the rules for voting in the referendum, the amount and basis of the assessment proposed to be collected, the means by which such assessment shall be collected and the general purposes for which the assessment is collected.

**Author:** N. Gunter Guy, Jr.

**Statutory Authority:** Code of Ala. 1975, §2-8-276

**History:** Filed:

**80-8-6-.05 Polling Places and Time of Operation**

- (1) Voting facilities shall be provided in counties where catfish are produced. Additional facilities may be provided should the Association certified by the State Board of Agriculture and Industries find same advisable.
- (2) Polls shall be open from 8:00 a.m. to 4:00 p.m. on the date of the referendum.

**Author:** N. Gunter Guy, Jr.

**Statutory Authority:** Code of Ala. 1975, §2-8-289

**History:** Filed:

**80-8-6-.06 Persons Eligible to Vote; Voting Requirements**



- (1) All producers of catfish who in the past year purchased feed in this state not less than 30 days prior to this referendum shall be eligible to cast a vote in the referendum. If there is any question of eligibility, the Association certified by the State Board of Agriculture and Industries is authorized to request any additional information as permitted by law.
- (2) Each producer shall have one vote.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §2-8-278

History: Filed:

### 80-8-6-.07 Polling Procedures; Certifying of Results

- (1) There shall be two persons at each polling place who shall serve as poll holders. Such poll holders shall be in charge of and supervise the voting.
- (2) Each polling place shall have a voting register in the form of an affidavit. Prior to casting his or her vote, each person who is entitled to vote in the referendum shall sign his or her name to the register. Also, each voter shall write in the register his or her address and the total number of acres they had in production of catfish in the last year.
- (3) Each producers shall be provided with a ballot. The producer will mark whether he approves or disapproves the promotional program.
- (4) Votes shall be cast by secret ballot. Each marked ballot shall be deposited in a ballot box or other designated container where it will be kept until such time as it is counted.
- (5) As soon as the polls close and the last vote is cast, the poll holders shall immediately open the ballot boxes or other containers, count each ballot and tabulate the results of the count. They will then immediately report the results to the Association certified by the State Board of Agriculture and Industries. Following the referendum and within 10 days thereafter, the Association certified by the State Board of Agriculture and Industries shall publicly declare and announce the results.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §§2-8-278, 2-8-289

History: Filed: