

APA-1
Revised 4/2018

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. 220 Department or Agency Conservation and Natural Resources

Rule No.: 220-3-.24

Rule Title: Oyster Tags

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 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 Reference Service.

Signature of Certifying Officer

Ryan W. Corley
Secretary of Administrative Procedure

Date

6/19/18

Department of Conservation and Natural Resources
Marine Resources

NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Conservation and Natural Resources

RULE NO. & TITLE: 220-3-.24 Oyster Tags

INTENDED ACTION: Amendment.

SUBSTANCE OF PROPOSED ACTION: To allow for bulk tagging to be utilized by licensed aquaculture sites for transportation from harvest location to a certified shellfish dealer or processor. Oysters, held in bulk and intended for raw consumption, must be harvested within the Time and Temperature Matrix established by the State Department of Public Health. To prohibit the sale of oysters to individuals or businesses other than certified shellfish shippers or processors.

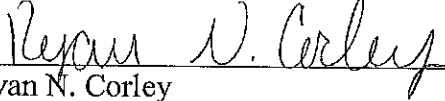
TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Director of Marine Resources at any time during the period stated below, or orally if requested in writing 48 hours in advance to the Director of Marine Resources, and then by personally appearing at Room 474, Folsom Administrative Building, 64 North Union Street, Montgomery, Alabama, at 10:00 a.m., Friday, August 3, 2018.

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 3, 2018.

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-.24 Oyster Tags

(1) Oyster tags issued by the Department of Conservation and Natural Resources, Marine Resources Division, to be placed on each sack or container of oysters harvested for commercial purposes (as provided by Section 9-12-67, *Code of Ala., 1975*) shall be identified in accordance with the requirements of the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, as adopted by the state Department of Public Health

(2) All oysters harvested from public reefs must be landed at the Oyster Management Station where tags shall be purchased and the information shall be completed or supplied (as required by the Marine Resources Division) by the harvester and the tag shall be immediately attached to each sack or container of oysters before leaving the Oyster Management Station.

(3) Harvesters operating on private or aquaculture areas shall purchase appropriate harvest tags prior to harvesting oysters. Each sack or container must be tagged immediately and have the time of harvest written on the tag.

(4) Bulk tagging may be utilized by licensed aquaculture sites, in accordance with the requirements of the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, as adopted by the state Department of Public Health, for transportation from harvest location to a certified shellfish dealer or processor.

(a) Oysters, held in bulk and intended for raw consumption, must be harvested within the Time and Temperature Matrix established by the state Department of Public Health.

(5) Sale to Individuals or businesses, other than certified shellfish shippers or processors, is prohibited.

(46) As provided by law, upon emptying each sack or container, oyster tags shall be removed and filed or disposed of as required by the rules of the Alabama Department of Public Health. It shall be unlawful to possess empty oyster sacks or containers with tags attached.

(57) Dealers shall follow the same procedure on sacks, or containers or bulk units of Alabama oysters being shipped as shellstock. The dealer shall then identify shellstock shipments as provided by rules of the Alabama Department of Public Health.

Author: Christopher M. Blankenship

Statutory Authority: §§ 9-2-4, 9-2-7, 9-2-8, 9-2-12, 9-12-33, 9-12-67, 9-12-82 Code of Ala. 1975

Penalty: As provided by law.

History: Effective January 20, 1993. **Amended:** Filed November 24, 2010; effective December 29, 2010. **Amended:** Filed May 9, 2017; effective June 23, 2017. June 19, 2018.

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

Control No. 220 Department or Agency Conservation

Rule No: 220-3-.24

Rule Title: Oyster Tags

 New X Amend Repeal Adopt by Reference

 X 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: