

APA-1  
07/04

**TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION**

**Control No.:** 220

**Department or Agency:** Conservation and Natural Resources

**Rule No.:** 220-3-.80

**Rule Title:** Oyster Shell Management Fee Regulation.

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

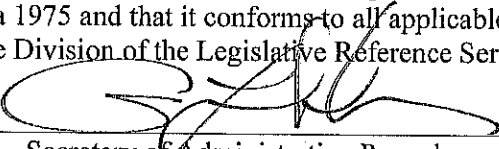
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Does the proposed rule have any economic impact? NO

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.  
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**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  Secretary of Administrative Procedure

Date 3/20/17

**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-.80 Oyster Shell Management Fee Regulation  
**INTENDED ACTION:** Amend Rule

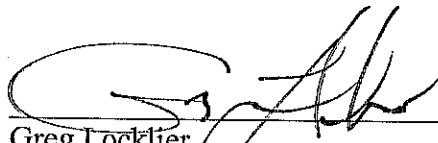
**SUBSTANCE OF PROPOSED ACTION:** The Department proposes to amend this rule by adding language to allow oyster harvesters to use containers, other than sacks, to store and transport oysters.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:** Interested persons may present their views in writing to Major Scott Bannon, Acting Director, Marine Resources Division, P.O. Box 189, Dauphin Island, Alabama 36528 at any time following the publication of this notice through May 5, 2017. Interested parties may also present their views in person and orally by personally appearing at the office of the Marine Resources Division, 2 Iberville Dr., Dauphin Island, Alabama, at 10:00 a.m., Friday, May 5, 2017. If ADA accommodations are needed, please contact Daisy Perry at (334) 242-3165 or [daisy.perry@dcnr.alabama.gov](mailto:daisy.perry@dcnr.alabama.gov). Copies of the proposed amendment may be obtained at <http://www.outdooralabama.com/proposed-dcnr-rules>.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:** May 5, 2017.

**CONTACT PERSON AT AGENCY:**

Major Scott Bannon, Acting Director  
Marine Resources Division  
P.O. Box 189,  
Dauphin Island, Alabama, 36528  
(251) 861-2882

  
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Greg Locklier  
Secretary of Administrative Procedure

**N. Gunter Guy, Jr.**

**220-3-.80 Oyster Shell Management Fee Regulation**

(1) All oysters taken from the public reefs of Alabama under a commercial oyster license shall be sold to a Certified Shellfish Dealer. The oyster harvester shall declare at the Oyster Management Station each day which Certified Shellfish Dealer to whom he shall sell his shellstock. If he sells to other than the dealer he declares, he shall notify the Marine Resources Division Office at Dauphin Island, Alabama by the close of business on the day of harvest. Pursuant to Section 9-12-42, Code of Alabama 1975, the Marine Resources Division hereby establishes a shell fee of two (2) dollars per sack or container of oysters harvested from the public reefs of Alabama. The fee shall be paid by the seafood dealer who purchased the oysters directly from the harvester. The fee shall be calculated from both oyster harvest records and Alabama Trip Tickets and shall be paid on a quarterly basis. The payment will be due no later than one month after the end of the previous quarter.

(2) Any person, firm, corporation, or association obligated to pay the shell fee who fails to remit the fees to the Marine Resources Division by the prescribed date, will be subject to the civil and criminal penalty provisions as prescribed in Section 9-12-42.

**Statutory Authority:** 9-2-4, 9-2-7, 9-2-8, 9-2-12, 9-12-42

**Penalty:** As provided by law.