

APA-1
Revised 4/2018

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. 220 Department or Agency Conservation and Natural Resources
Rule No.: 220-2-.36
Rule Title: **State-Owned Public Fishing Lakes**

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 5/2/18

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: 220-2-.36 State-Owned Public Fishing Lakes

INTENDED ACTION: Amendment.

SUBSTANCE OF PROPOSED ACTION: To make it unlawful for any person or persons to consume alcoholic beverages at any public fishing lake during hours of operation.

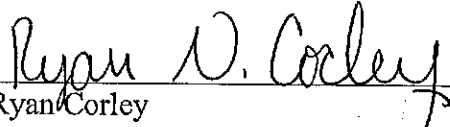
TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Director of the Division of Wildlife and Freshwater Fisheries at any time during the period stated below, or orally if requested in writing 48 hours in advance to the Director of the Division of Wildlife and Freshwater Fisheries, by personally appearing at Room 474, Folsom Administrative Building, 64 North Union Street, Montgomery, Alabama, at 10:00 a.m., Thursday, July 5, 2018.

If ADA accommodations are needed, please contact Daisy Perry at (334) 242-3165 or daisy.perry@dnr.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:

July 5, 2018.

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



Ryan Corley
Secretary of Administrative Procedure

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

Control No. 220 Department or Agency Conservation

Rule No: 220-2-.36

Rule Title: State-Owned Public Fishing Lakes

 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:

Christopher M. Blankenship

220-2-.36 State-Owned Public Fishing Lakes

(1) Definition of State-Owned Public Fishing Lakes-The words "state-owned public fishing lakes" shall include and embrace all land and water under the direct supervision of the Fisheries Section of the Game and Fish Division. The lakes are as follows:

- Barbour County Public Lake
- Bibb County Public Lake
- Chambers County Public Lake
- Clay County Public Lake
- Coffee County Public Lake
- Crenshaw County Public Lake
- Dallas County Public Lake
- Dale County Public Lake
- DeKalb County Public Lake
- Fayette County Public Lake
- Geneva County Public Lake
- Leon Brooks Hines Public Lake (Escambia County)
- Lamar County Public Lake
- Lee County Public Lake
- Madison County Public Lake
- Marion County Public Lake
- Monroe County Public Lake
- Pike County Public Lake
- Walker County Public Lake
- Washington County Public Lake (J. Emmett Wood)

(2) Permit Required to Fish in State-Owned Public Fishing Lakes - Any person 12 years old or older who fishes, takes, catches, or attempts to fish, take, or catch fish in or from any state-owned or state-operated public fishing lake must have a valid permit in possession.

(3) It shall be a violation of this regulation for any person to leave a child under 12 years of age unaccompanied by an adult at any state-owned public fishing lake, and it shall also be a violation of this regulation for any child under 12 years of age to be at any state owned public fishing lake unaccompanied by an adult.

(4) Daily Creel, Possession Limits and Size Limits for Game Fish in State-Owned Public Lakes - The daily creel, possession and size limits for game fish and catfish in state-owned public fishing lakes shall be as posted at each lake. Creel, possession and size limits for fish not posted shall be the same as provided for all public waters of this State.

(5) Time to Fish - Fishing in state-owned fishing lakes shall be limited to daylight hours, unless additional hours are posted, or as specified by an agent of the Commissioner, Department of Conservation and Natural Resources.

(6) Fishing in State-Owned Public Fishing Lakes Regulated

(a) No method other than hook and line with natural or artificial bait may be used to take or attempt to take fish from state-owned public fishing lakes except by special written permission of the Commissioner of Conservation and Natural Resources. Nothing in the regulation permits the taking of fish by "snagging," "snatching," trot lines, set hooks or jug fishing in the above mentioned areas.

(b) A person fishing shall upon demand exhibit his catch, fishing permit and fishing license to any Conservation Officer, concessionaire, or other agent or employee of the Department of Conservation and Natural Resources for inspection.

(c) All fish taken from the lake must be carried to the concessionaire, who must count and weigh them.

(d) No species of fish shall be stocked in the state-owned public fishing lakes unless introduced by the Department of Conservation and Natural Resources.

(7) Unlawful to Sell Fish Taken from State-Owned Public Fishing Lakes. It shall be unlawful for any person to sell, offer to sell, or use for any commercial purpose any fish, regardless of species or kind, taken from any of the state-owned public fishing lakes unless expressly permitted in writing by the Commissioner of the Department of Conservation and Natural Resources.

(8) Use of Minnows for Bait in State-Owned Public Fishing Lakes Regulated - Live minnows used for bait in any state public fishing lake shall be limited to the following species: Goldfish minnows, commonly called "Indiana" minnows; golden shiners, commonly called "Shiners," and fathead minnows, commonly called "Toughies." No person shall release in any state-owned public fishing lake any minnow whatsoever, either dead or alive, by emptying from a minnow bucket or any other method. All minnow buckets or other receptacles for holding minnows used at state-owned public

fishing lakes shall at all times be open to inspection by Conservation Officers, concessionaires, or other agents or employees of the Department of Conservation and Natural Resources.

(9) It shall be unlawful to operate any size gasoline powered outboard motor on the state-owned public fishing lakes except where expressly permitted as posted. Where gasoline powered outboard motors are allowed, they shall be operated only at slow trolling speed creating no wake.

(a) It shall be unlawful to operate such motors at any speed greater than trolling speed.

(10) No Camping - There shall be no camping on state-owned public fishing lake land unless by special permission of the Commissioner of Conservation and Natural Resources.

(11) No Swimming or Wading - There shall be no swimming or wading in the State-owned public fishing lakes.

(12) Personal Injuries or Accidents - The Department of Conservation and Natural Resources shall not be responsible for any accident or injury to any person while on public fishing lake property or when utilizing the public lake facilities. Any person coming within the boundaries of the state-owned public lakes shall, by such entrance or use, waive any claim against the State or its agents for any accident or injury occurring while on or within public lake property.

(13) It shall be unlawful to use sailboats in public fishing lakes operated by the Game and Fish Division of the Department of Conservation and Natural Resources. It shall be unlawful to use any other type of boat on said lakes for any purpose other than fishing.

(14) It shall be a violation of this regulation to launch any boat on said lakes without first obtaining a launching permit and such fishing permits as may be required at each lake from the lake concessionaire.

(15) State Laws Applicable - All state laws now in force and laws, which may hereinafter be enacted by the Legislature, shall be maintained in the public lake areas.

(16) Conduct at State-Owned Public Fishing Lakes - Any person, who conducts himself or herself in an unruly or disorderly manner in any public lake area, and any person, who so conducts himself or herself in a manner which will tend to annoy or disturb any visitor

or employee, shall be in violation of this regulation. Any person in violation of this regulation shall not be entitled to a refund of any fee or rental.

(17) Soliciting or Advertising in State Lake Areas - No person shall solicit, sell or advertise in any public area without the written authorization of the Commissioner of Conservation and Natural Resources.

(18) Removal of Shrubs or Wild Flowers - In order to protect all native, wild or domesticated trees, shrubs, plants, and flowers from destruction and to conserve the same, it is hereby made unlawful for any person to cut, destroy, damage or remove any such tree, bush, shrub, plant or flower growing in any public lake area. Any person, who willfully destroys, cuts, or breaks or removes any such tree, shrub, bush, plant or flower growing in any public lake area, shall be in violation of this regulation unless given special permission to do so from the Commissioner of Conservation and Natural Resources.

(19) Defacing or Destroying State Property - Any person who litters, defaces or destroys any real or personal property in any of the public lake areas of Alabama and any property belonging to the State of Alabama in any of the public lake areas, shall be in violation of this regulation.

(20) State-Owned Public Fishing Lake Land Designated as Wildlife Sanctuaries - It shall be unlawful for any person to hunt, trap, pursue, catch or kill, or attempt to hunt, trap, pursue, catch or kill any wild bird or wild animal or possess any firearm, except handguns lawfully possessed for personal protection, or bow and arrow in any of the places herein mentioned without special permission of the Commissioner of Conservation and Natural Resources.

(21) Speed Limits for Vehicles - The maximum speed limit for any power driven vehicles shall be 25 miles per hour unless otherwise specified by signs. All motorists shall come to a complete stop before crossing any intersection in any public lake area. This maximum speed limit shall be reduced as is reasonable when driving through any congested area; and when any person is driving through any congested area in the public lake area, he shall exercise every caution possible.

(22) Only licensed vehicles shall be allowed on public lake roads; no off road traffic shall be permitted.

(23) It shall be unlawful for any person or persons to consume alcoholic beverages at any public fishing lake during the hours of operation.

(24) It shall be unlawful for any unauthorized person to catch, take or attempt to take or catch fish, by any means whatsoever, in the ponds and lakes located on the fish hatcheries operated by the Game and Fish Division of the Alabama Department of Conservation and Natural Resources; provided however, this provision shall not apply to that lake known as Perry Lake.

(a) It shall be a violation of this regulation for any person to harass any such hatchery fish or to stock or release any fish into any such hatchery pond or lake.

(b) It shall be unlawful for any person

1. to swim or wade in any pond or lake located on said hatcheries,

2. to camp on said hatcheries without the special permission of the Commissioner of Conservation and Natural Resources,

3. to solicit, sell or advertise in any public area of said hatcheries without the written authorization of the Commissioner of Conservation and Natural Resources,

4. to cut, destroy, damage or remove any tree, shrub, bush, plant or flower growing on any such hatchery,

5. to litter, deface or destroy any real or personal property belonging to or operated by the State of Alabama on said hatcheries, or

6. to operate any motor vehicle on said hatcheries except as same is permitted by, and in accordance with, signs posted thereon.

(c) All state-owned and/or operated fish hatcheries are designated as Wildlife Sanctuaries, and it shall be unlawful for any person to hunt, trap, pursue, catch or kill or attempt to hunt, trap, pursue, catch or kill any wild bird or wild animal on any such hatchery without the special permission of the Commissioner of Conservation and Natural Resources.

Author: Christopher M. Blankenship

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

Penalty: As provided by law.

History: Filed September 30, 1982. **Amended:** September 13, 1986; June 18, 1988; October 15, 1988; August 26, 1992. **Amended:** Filed November 12, 2014; effective December 17, 2014. May 22, 2018.