

APA-1
6/93

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. 220 Department or Agency Conservation and Natural Resources
Rule No.: **220-3-.04** **Miscellaneous and Public Access 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

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 March 28, 2012

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6/93

Department of Conservation and Natural Resources
Marine Resources Division

NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Conservation and Natural Resources

RULE NO. & TITLE: (1) 220-3-.04 Miscellaneous and Public Access Regulation

INTENDED ACTION: (1) Amendment

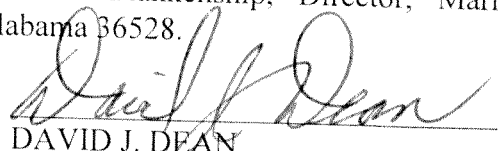
SUBSTANCE OF PROPOSED ACTION: (1) 220-3-.04 -To further regulate and provide for certain conduct relating to marine resources; to further define certain terms; and to further provide for and regulate certain litter, discarding of dead fish, fish parts, carcasses, dead seafood, or bycatch, into certain Alabama waters.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Director of the Marine Resources Division at any time during the period stated below, or orally if requested in advance by personally appearing at Room 469, Folsom Administrative Building, 64 North Union Street, Montgomery, Alabama, at 10:00 a.m., Monday, May 7, 2012.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Monday, May 7, 2012.

CONTACT PERSON AT AGENCY: Chris Blankenship, Director, Marine Resources Division, P. O. Box 189, Dauphin Island, Alabama 36528.



DAVID J. DEAN
Secretary of Administrative Procedure

N. Gunter Guy, Jr.

220-3-.04 Miscellaneous and Public Access Regulation

(1)(a) Unless the context clearly indicates otherwise, in this regulation, the term "public access area" shall include any state-owned, leased, and/or operated, boat launching and/or landing access area, parking lot, ramp, pier (except Gulf State Park Pier), and any real or personal property within the boundaries of said areas.

(b) For the purpose of all laws and regulations pertaining to seafoods, the phrase "inside waters of the State of Alabama" includes all waters north of a line extending from the Florida-Alabama line westward along the shore to Alabama Point, thence along the Baldwin County beaches of the Gulf of Mexico to the most southwestern tip of Fort Morgan Peninsula, known as Mobile Point, and from this point across the mouth of Mobile Bay to the most southeastern tip of Dauphin Island, thence along the Dauphin Island beaches of the Gulf of Mexico to the most southwestern point on Dauphin Island, thence west by southwest to the intersection with the southward extension of the Alabama-Mississippi state line.

(2) It shall be unlawful to mutilate, destroy, move from location, tie to or otherwise disturb any buoy, sign, piling, pole or other marker established or maintained by the Division of Marine Resources to mark fishing reefs, oyster reefs, parking areas, restricted areas or other areas of concern or to mutilate, destroy, move from location or otherwise disturb any fixed or anchored sampling device used in research in the waters under the jurisdiction of the Marine Resources Division as provided by Rule 220-2-.42.

(3) Picnicking, except at tables provided, and camping are prohibited at all public boat launching areas and ramps operated by the Department of Conservation and Natural Resources, Marine Resources Division.

(4) The mooring of boats, houseboats, and other watercraft except in emergencies, is unlawful at all public launching areas, ramps and docking facilities. It shall be unlawful to drydock, store, or abandon, any vessel, vehicle, trailer, or any other personal property at any public access area operated by the Department of Conservation and Natural Resources, Marine Resources Division except in cases of emergencies or mechanical breakdowns in which case the property should be removed within 24 hours. Abandoned personal property shall be subject to disposal in accordance with the law. Violators may be towed.

(5) It shall be unlawful for any person, firm, or corporation, to operate any privately owned business, such as jet ski or boat rental businesses, at any public access area, provided however, that nothing in this regulation shall prevent the normal launching and retrieving of such vessels if the rental vessels are not left unattended at the public access area parking areas, ramps or docks. Persons using rental vessels shall park in areas designated for single vehicles only or when such areas are not designated shall not leave vehicles at public access areas. No industrial or construction equipment such as barges, dredges, boom trucks, etc. are to be loaded or unloaded from any public access area under the jurisdiction of the Marine Resources Division of the Department of Conservation and Natural Resources without the specific written authorization of the Director of the Marine Resources Division.

(6) Persons using access areas operated by the Marine Resources Division of the Department of Conservation and Natural Resources shall park their vehicles and trailers in designated parking areas only, or when areas are not designated, in such a way so as not to block any part of

the ramp or approach to the ramp, block other vehicles, or to interfere with the use of the boat landing or parking lot by other people. It shall be unlawful to park vehicles without boat trailers in double size spaces, or to park in the designated handicapped parking spaces without proper permit displayed. Trailers or vessels on trailers that are not attached to a vehicle shall not be left unattended at public access areas. Vehicles with vessels on trailers shall not be stored at public access areas. Violators may be towed. Launching vessels in any area other than the designated ramp is prohibited.

(7) It shall be unlawful to litter, discard dead fish, fish parts or carcasses or other dead seafood ~~into any waters of the State of Alabama or on any land or into the water area,~~ at public access areas, or to place dead fish, fish parts or carcasses in refuse containers provided, at public access areas. Fish caught from ~~state-owned or operated piers, or from~~ launching areas and ramps shall be removed by the fisherman. Any person taking fish or other seafood in the territorial waters of this State shall use all reasonable means available to return unwanted and undersized seafood species to the water as soon as possible and in such a manner as to leave them uninjured.

(8) It shall be unlawful for any person to discard dead fish, fish parts or carcasses or other dead seafood within 500 feet of any shoreline ~~in the inside waters of Alabama as defined by Rule 220-3-.04(1) or~~ provided further, it shall be unlawful for any person aboard a shrimping vessel to discard any dead seafood or bycatch into the waters of the Gulf of Mexico (including Pelican Bay) within three (3) miles of the gulf beaches. Discarding dead fish or other dead seafoods into any creek, bayou, river or stream shall be unlawful.

(9) It shall be unlawful to bring pets of any type into a state public access area unless it is crated, caged, or upon a leash, or otherwise under physical restrictive control at all times.

(10) It shall be unlawful to consume alcoholic beverages at any public access area under the jurisdiction of the Marine Resources Division of the Department of Conservation and Natural Resources.

(11) It shall be unlawful to fish or clean fish, swim, dive, sunbathe, or jump, from docks or ramps, on or within 100 feet of any boat ramp, or boat ramp pier, at any public access area operated by the Marine Resources Division of the Department of Conservation and Natural Resources. Any activity that may interfere with the intended use of the facility by the public shall be prohibited.

(12) It shall be unlawful to operate any unlicensed vehicles including but not limited to, all-terrain vehicles, motorcycles, golf carts or other such motor driven conveyances, on or in, any public access area property under the jurisdiction of the Marine Resources Division of the Department of Conservation and Natural Resources without written authorization from the Director of the Marine Resources Division. Driving any vehicle carelessly and heedlessly disregarding the rights or safety of others, or without due caution and at a speed or in a manner so as to endanger or be likely to endanger any person or property shall be unlawful.

(13) It shall be unlawful to loiter, camp, picnic (except when tables are provided), build or tend a fire (except in designated areas), remove, destroy or deface state property, or discharge

firearms, or possess, discharge, or set off any fireworks at any public access area under the jurisdiction of the Marine Resources Division of the Department of Conservation and Natural Resources.

(14) It shall be unlawful to cut, destroy, damage, or remove, any such tree, shrub, bush, plant, or flower growing at any public access area under the jurisdiction of the Marine Resources Division of the Department of Conservation and Natural Resources without written authorization from the Director of the Marine Resources Division.

(15) The Marine Resources Division of the Department of Conservation and Natural Resources shall not be responsible for any accident or injury to any person while at or in public facilities. Any person coming within the boundaries of the public access areas, shall by such entrance or use, waive any claim against the State of Alabama, its employees, or its agents for accident or injury to person or property, occurring while on or within the said public access areas.

(16) It shall be unlawful to solicit, sell, advertise, or install any sign on any public access area, without the written authorization of the Director of the Marine Resources Division.

Statutory Authority: §§9-2-4, 9-2-7, 9-2-8, and 9-2-12
Code of Alabama 1975

PENALTY: As provided by law.

12/25/87; 8/29/2001(ER); 9/28/2002; 6/18/2009; 8/6/2009(ER); 3/20/2012(ER);