

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

Mark Martin

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Game and Fish Commission

Department Legal Division

Contact Jim Goodhart, Esq. E-mail james.goodhart@agfc.ar.gov Phone 501-223-6327

Statutory Authority for Promulgating Rules Amendment 35

Rule Title: Lake Poinsett Regulation changes

Intended Effective Date
(Check One)

☐ Emergency (ACA 25-15-204)

☒ 10 Days After Filing (ACA 25-15-204)

☐ Other _____
(Must be more than 10 days after filing date.)

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

April 16, 2017

May 18, 2017

NA

May 18, 2017

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

April M. Soman

april.soman@agfc.ar.gov

5/19/2017

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted

~~IN COMPLIANCE WITH THE ARKANSAS ADMINISTRATIVE PROCEDURES ACT (ACA 25-15-204)~~

In Substantial Compliance with Act 434 of 1967 the Arkansas Administrative Procedures Act. Pursuant to 2011 decision rendered by the Pulaski County Circuit Court and 2000 opinion by the Arkansas Attorney General, the rulemaking requirements in the Arkansas Administrative Procedures Act cannot be constitutionally applied to the AGFC. Nevertheless, the AGFC does substantially comply with the rulemaking provisions under Ark. Code Ann. section 25-15-204 for public notice, opportunity for comment, and filing of all regulations adopted by the Commission.

James F. Goodhart

Signature

223-6327

james.goodhart@agfc.ar.gov

Phone Number

E-mail Address

Chief Counsel

Title

May 19, 2017

Date

Code Book Language for Proposed Lake Poinsett Regulation Changes

Changes are in red

N1.01	GAME FISH DAILY LIMITS	
05-17	Alligator Gar	1
	Black Basses (including not more than four Smallmouth)	10
	Bream (over 4 inches length)	50
	Catfish (exc. Bullhead)	10
	Crappie	30
	Rock Bass	10
	Muskellunge	6
	Paddlefish	2
	Pickerel	6
	Sauger	6
	Saugeye	6
	Shovelnose Sturgeon	No Limit
	Striped Bass or Hybrid (Combination)	6
	Trout (including not more than: 2 brown trout, 2 cutthroat trout, 2 brook trout)	5
	Walleye	6
	White Bass	25

EXCEPTIONS:

- (1) The following bodies of water are restricted to half the daily limit for all sportfish: Horseshoe Bend Pool of the Strawberry River in Izaard County. All crappie on Lower White Oak Lake must be released immediately. There is no daily limit for harvest of game fish from Lake Poinsett.
- (2) **BLACK BASS (LARGEMOUTH, SPOTTED, SMALLMOUTH):**
 - (A) **Smallmouth bass:**

Ozark Zone (Baxter, Benton, Boone, Carroll, Clay, Cleburne, Fulton, Independence, Izaard, Lawrence, Madison, Marion, Newton, Randolph, Searcy, Sharp, Stone, Van Buren, and Washington counties) – smallmouth bass minimum length limit of 12 inches with a daily limit of four, except Bull Shoals, Beaver, Greers Ferry, Table Rock Lakes and Lake Norfolk (see Ex. 1(B) below). Greers Ferry Lake – smallmouth bass minimum length limit of 12 inches, daily limit six.

Ozark Zone Blue Ribbon Streams – Crooked Creek from Arkansas Highway 101 bridge downstream to the confluence with the White River; between the U.S. Highway 62-412 and U.S. Highway 62 Spur bridges at Pyatt – smallmouth bass minimum length limit 18 inches, daily limit of one. Buffalo River from confluence with Clabber Creek downstream to the confluence with the White River – smallmouth bass minimum length limit 18

inches, daily limit of one. All other water of Crooked Creek and Buffalo River – smallmouth bass minimum length limit of 14 inches, daily limit of two.

Ozark Zone Catch-and-Release Area – Crooked Creek, along boundary of Arkansas Game and Fish Foundation property near Kelley's Slab Access.

Ozark Zone Quality Streams – Kings River from Trigger Gap to U.S. Highway 62 bridge smallmouth bass minimum length limit of 18 inches, daily limit of one.

All other water of the Kings, Illinois, Spring, South Fork of the Spring and Eleven Point rivers and War Eagle Creek – smallmouth bass minimum length limit of 14 inches, daily limit of two.

Ouachita/Boston Zone (all Arkansas counties not included in the Ozark Zone) – smallmouth bass minimum length limit of 10 inches, daily limit of four.

Ouachita/Boston Zone Quality Streams – (Mulberry, Caddo above DeGray Lake, DeGray Lake, Cossatot River, Ouachita River upstream from Lake Ouachita, Ouachita River downstream from Remmel Dam, Saline River, including its four headwater forks in Saline, Perry and Garland counties, South Fork/Ouachita, Little Missouri above Lake Greeson) – smallmouth bass minimum length limit of 12 inches, daily limit of two.

Ouachita/Boston Zone Catch-and-Release Area – all smallmouth bass caught in Lake Ouachita including the Ouachita River upstream to the River Bluff access and the South Fork of the Ouachita River upstream to Hovel Branch must be immediately returned to the stream.

(B) **Largemouth bass:**

Grandview Lake 2 and Lake Sylvia

Lake Millwood – daily limit six.

Mallard Lake – daily limit one.

Marion McCollum Lake, Lake Sylvia – Largemouth bass caught must be immediately returned to the water.

(C) **Black Bass (all species combined):**

Beaver, Bull Shoals, DeGray, DeQueen, Norfork, Table Rock lakes, Lake Jack Nolen, Ouachita, Ashbaugh – daily limit six.

Lake Lou Emma – daily limit five.

Lake Atkins – daily limit four.

War Eagle Creek – daily limit two.

(3) **BREAM:**

No limit on bream 4 inches or shorter.

(4) **CATFISH:**

(A) No limit on catfish on Grand Lake - Chicot County, Lake Chicot (including that portion of Connerly Bayou downstream from Connerly Dam to the bayou's mouth and Ditch Bayou from the inlet on Lake Chicot to Ditch Bayou Dam) and between the main levees of the Mississippi River, from the confluence of the Mississippi/White Rivers upstream to the Benzal Railroad Bridge, and from the confluence of the Mississippi/Arkansas Rivers upstream to the Yancopin Railroad Bridge. No limit on blue and channel catfish from Little River (below Millwood Dam) Red and Sulphur Rivers. No limit on channel catfish on Marion McCollum Lake Greenlee –

Monroe County, and on Lake Chicot (including that portion of Connerly Bayou downstream from Connerly Dam to the bayou's mouth and Ditch Bayou from the inlet on Lake Chicot to Ditch Bayou Dam).

- (B) Catfish daily limit five on:
DeWitt City Park Lake (Arkansas County); Lake Atalanta (Benton County); Hidden Lake (Carroll County); Big Timber Lake and Gurdon Lake (Clark County); Hubble Lake (Clay County); Lake Bailey (Conway County); Lake Cambadelle and Lake Lou Emma (Crawford County); Marion City Park Lake (Crittenden County); Village Creek State Park Lakes (Cross and St. Francis Counties); Lake Bennett (Faulkner County); Lake Clearfork (Garland County); Crowley Ridge State Park Lake and Reynolds Park Lake (Greene County); Newark City Lake (Independence County); Lake June (Lafayette County); Ward City Park Lake (Lonoke County); Hindsville Lake (Madison County); Blytheville City Park Lake (Mississippi County); Donald Branch Fishing Pond (Monroe County); Lower White Oak Lake (Ouachita County); Lake Sylvia (Perry County); Shady Lake (Polk County); Twin Lakes A and B, Camp Ferncliff (Pulaski County); Old Davidsonville State Park Lake (Randolph County); Forrest City Park Lake (St. Francis County); Truman Baker Lake (Scott County); Cave City's Lakes (Sharp County); Gunner Pool and Hayden Bend Pond (Stone County); Devils Den State Park (Washington County); Spring Lake, Kingfisher, Clubhouse Lakes in Petit Jean WMA (Yell County) and posted USDA Forest Service ponds and lakes.
- (C) In addition to daily limit, 10 channel catfish under 16 inches may be taken on the Arkansas River.
- (D) In addition to daily limit, 10 channel catfish and 10 blue catfish any size may be taken in Lake Erling and Millwood Lake.
- (5) **CRAPPIE:**
 - (A) Crappie daily limit – 15 in Beaver, Table Rock, Bull Shoals, Norfolk reservoirs, Cane Creek Lake (Lincoln County), Gurdon Lake (Clark County) and Dr. Lester Sitzes III Bois d'Arc Lake.
 - (B) Crappie daily limit – 50 between the main levees of the Mississippi River, from the confluence of the Mississippi/White Rivers upstream to the Benzal Railroad Bridge, from the confluence of the Mississippi/Arkansas Rivers upstream to the Yancopin Railroad Bridge and on Horseshoe Lake (Crittenden County).
 - (C) Crappie daily limit – 20 in Lake Chicot and Lake Monticello.
- (6) **WALLEYE:**
 - (A) Beaver Lake and its tributaries; Table Rock Lake and its tributaries to Beaver Dam; Bull Shoals Lake, and Norfolk Lake – minimum length limit of 18 inches, daily limit four.
 - (B) Greers Ferry Lake and its tributaries – protected slot limit of 20-28 inches, daily limit of six (only one of which may be longer than 28 inches).
 - (C) In compliance with Addendum N1.02 and Code Chapter 28.00.
- (7) **WHITE BASS, STRIPED BASS, HYBRID STRIPED BASS:**
 - (A) White bass:

- Between the main levees of the Mississippi river, from the confluence of the Mississippi and White rivers upstream to the Benzal Railroad Bridge, and from the confluence of the Mississippi and Arkansas rivers upstream to the Yancopin Railroad Bridge – daily limit of 50, possession limit of 100. Beaver Lake and its tributaries; lakes Ashbaugh, Sequoyah and Monticello – no limit.
- (B) Striped bass and hybrid striped bass (combined): Beaver, Bull Shoals and Norfork lakes; lakes Maumelle, and Ouachita – daily limit three. Arkansas River and connecting lakes – daily limit 10. Lake Monticello – no limit.
- (8) **ALLIGATOR GAR:**
Alligator gar longer than 36 inches may not be harvested from noon, May 1-noon, July 1, statewide. Alligator Gar Permit is required to harvest alligator gar (Code 26.28).
- (9) **TROUT (BROOK, BROWN, CUTTHROAT, RAINBOW):**
- (A) **Brown trout:**
White River (Bull Shoals Tailwater) and North Fork White River (Norfork Tailwater) – minimum length 24 inches, daily limit one. Spavinaw Creek (Benton County) west of Arkansas Highway 59 and Spring River – minimum length 16 inches, daily limit two. Little Red River (Greers Ferry Tailwater) from Greers Ferry Dam to Arkansas Highway 305 Bridge – protected slot limit of 16-24 inches, daily limit of five (only one of which may be longer than 24 inches).
White River (Beaver Tailwater) from Beaver Dam to boundary signs at Houseman Access – protected slot limit of 13-16 inches, daily limit of five (only one of which may be longer than 16 inches). Little Missouri River, from Narrows Dam to Arkansas Highway 27 Bridge – all brown trout must be released immediately.
- (B) **Cutthroat trout:**
White River (Bull Shoals Lake Tailwater), North Fork White River (Norfork Tailwater), Spavinaw Creek (Benton County) west of Arkansas Highway 59, Spring River – minimum length 16 inches, daily limit of two.
- (C) **Brook trout:**
White River (Bull Shoals Lake Tailwater), North Fork White River (Norfork Tailwater), Spavinaw Creek (Benton County) west of Arkansas Highway 59, Spring River – minimum length 14 inches, daily limit two.
- (D) **Rainbow trout:**
Lake Atalanta (Benton County) – daily limit five.

All fish measurements must follow procedures listed in Code 01.00-C Length Limit definition.

N1.02 LENGTH AND PROTECTED LENGTH LIMITS ON CERTAIN LAKES AND RIVERS

- 05-17 (A) **BLACK BASS** – It is unlawful to possess black bass as follows:
- (1) Largemouth bass less than 12 inches on Lake Frierson.
 - (2) Spotted bass less than 12 inches on, Bull Shoals, Norfork and Table Rock lakes.

- (3) All black bass less than 12 inches in Horseshoe Bend Pool on the Strawberry River.
- (4) Largemouth and spotted bass less than 13 inches on Lake Ouachita.
- (5) Largemouth bass 13-16 inches on lakes Austell (Cross County), Barnett (White County), Brewer, Wilhelmina (Polk County), Bear Creek Lake, Bob Kidd; Lee Creek; Sugar Loaf Lake, and Dierks Reservoir (Howard and Sevier counties).
- (6) Largemouth bass less than 13 inches on DeGray Lake and within the boundaries of Felsenthal NWR.
EXCEPTION: No restriction in Woodland Trail Pond - located at the Felsenthal NWR Headquarters on Hwy 82 (Ashley County); Locust Ridge Pond - located at Locust Ridge on Hwy 82 (Union County); Eagle Lake Pond- located north of Eagle Lake on Bradley Road 53 (Bradley County); and Shallow Lake Field Pond located west of Shallow Lake (Union County). Person(s) keeping largemouth bass less than 13 inches from these waters must exit the NWR boundaries immediately upon leaving these ponds and may not enter NWR campgrounds or fish other NWR waters with largemouth bass less than 13 inches from these four ponds in their possession.
- (7) Largemouth bass less than 14 inches on the Arkansas River and its tributaries.
- (8) Smallmouth bass less than 15 inches on Beaver, Bull Shoals, Norfolk and Table Rock lakes.
- (9) Largemouth bass less than 15 inches on Beaver Lake, Big Lake NWR, Blue Mountain, Bull Shoals, Georgia Pacific, Greers Ferry, Kingfisher, Norfolk, Shady and Table Rock lakes; Caddo Fishing Pond; Upper and Lower Lake Chicot (including Connerly Bayou downstream from Connerly Dam to the bayou's mouth and Ditch Bayou from the inlet on Lake Chicot to Ditch Bayou Dam); Lake Greenlee, Mercer Bayou (Sulphur River WMA); and Moss Creek Pond.
- (10) Black bass greater than 16 inches in Lake Winona.
- (11) Largemouth bass 16-21 inches on Lake Atkins. Daily limit four (only one of which may be longer than 21 inches).
- (12) Largemouth bass 16-21 inches on Tommy L. Sproles Lake Pickthorne. Daily limit two (only one of which may be longer than 21 inches).
- (13) Largemouth bass daily limit ten (only one of which may be longer than 20 inches) on Lake Columbia.
- (14) Largemouth bass daily limit 10 (only one of which may be longer than 18 inches) on Lake SWEPCO.
- (15) Smallmouth bass less than 18 inches on the lower Little Missouri River from Narrows Dam to its mouth. Daily limit one.
- (16) Largemouth bass 14-17 inches on Mallard Lake. Daily limit 10, only one of which may be larger than 17 inches.
- (17) Largemouth bass 19-22 inches on Lake Monticello. Daily limit eight, only one of which may be longer than 22 inches.
- (18) Largemouth Bass less than 16 inches on Lower White Oak Lake. Daily limit five.
- (19) Largemouth bass 15-18 inches on Lower White Oak Lake.

- (B) **CRAPPIE:** It is unlawful to possess crappie as follows:
- (1) Less than 10 inches in Beaver, Table Rock, Bull Shoals and Norfolk Reservoirs; Cane Creek Lake in Lincoln County; Lake Chicot (including Connerly Bayou downstream from Connerly Dam to the bayou's mouth and Ditch Bayou from the inlet on Lake Chicot to Ditch Bayou Dam); Lake Charles, Lake Conway, Lake Monticello, Lake Overcup, Harris Brake Lake and Lake Atkins.
 - (2) Less than 9 inches on Blue Mountain Lake.

EXCEPTION:

- (1) From December-February, the minimum length limit is waived on Lake Monticello and the harvest is regulated by a 20-fish daily limit. The first 20 crappie caught, regardless of size, must be kept. Culling is not permitted. From March-November, harvest is controlled by a 10-inch minimum length, daily limit of 20.
- (C) **CATFISH** (channel, blue and flathead):
- (1) It is unlawful to possess flathead catfish less than 20 inches on the Ouachita River from Sandy Beach Access (Ouachita County) to Rammel Dam.
- (D) **STRIPED BASS:** It is unlawful to possess striped bass less than 20 inches on Lake Norfolk and Beaver Lake.
- (E) **SHOVELNOSE STURGEON:** It is unlawful to possess shovelnose sturgeon less than 21 inches. Shovelnose sturgeon may not be taken from the Mississippi River.

EXCEPTION:

- (1) Sportfish may be snagged (except in catch-and-release areas) in compliance with Codes 26.05; 26.17 and within the restrictive size limits in this addendum chapter.

FINANCIAL / ECONOMIC IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY
(Attach additional pages if needed)

DEPARTMENT: Arkansas Game & Fish Commission

BUREAU: Fisheries

PERSON COMPLETING THIS STATEMENT: Cody Wyatt

TELEPHONE #: (877) 425-7577

FAX #: (870) 425-6596

EMAIL:

Christopher.Wyatt@agfc.ar.gov

SHORT TITLE OF THIS RULE: Lake Poinsett Regulation Change Proposals

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?
Yes: No: **X**
2. Do you believe that the development of a financial impact statement is so speculative as to be cost prohibitive? Yes: No: **X** If "Yes", please explain:
3. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation. Please indicate if the cost provided is the cost of the program.

Current Fiscal Year

General Revenue	\$	
Federal Funds	\$	
Cash Funds	\$	N/A
Special Revenue	\$	
Other (Identify)	\$	
Total	\$	

Next Fiscal Year

General Revenue	\$	
Federal Funds	\$	
Cash Funds	\$	N/A
Special Revenue	\$	
Other (Identify)	\$	
Total	\$	

4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? (Estimated cost includes fees, administrative penalties, reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance.) Identify the party subject to the proposed rule, and explain how they are impacted.

Current Fiscal Year: \$ N/A

Next Fiscal Year: \$ N/A

Party Subject to Rule: **Anglers in Arkansas**

Effect on Party Subject to Rule: **Positive**

5. What is the total estimated cost by fiscal year to the agency to implement this rule? Explain the financial benefit to the agency from implementing this rule.

Current Fiscal Year: \$ N/A

Next Fiscal Year: \$ N/A

Financial Benefit to Agency: **N/A**

6. Do alternative means exist for accomplishing the objectives of the rules that might be less burdensome to small business? Yes: No: **X**

Why were such alternatives not proposed:

7. Compare this rule with federal and state counterparts:

ARKANSAS GAME AND FISH COMMISSION
Little Rock, Arkansas

MINUTE ORDER NO:	<u>17-034</u>	SUBJECT:	<u>Lake Poinsett Game Fish</u>
DATE PASSED:	<u>May 18, 2017</u>		<u>Regulation Change</u>
PAGE <u>1</u> of <u>2</u> PAGES		LOCATION:	<u>Lake Poinsett -- Poinsett County</u>

WHEREAS, the Arkansas Game and Fish Commission owns the lake bed of Lake Poinsett, located in Poinsett County, Arkansas, and has applied fisheries management resources and techniques to maintain a robust fish population throughout the 500-acre lake; **and**

WHEREAS, it is necessary to drain Lake Poinsett so that an extensive renovation of the lake may be completed, including assessing and repairing the water control structure, the dam and spillway, and so repairs to lake shoreline and habitat may be conducted; **and**

WHEREAS, during the upcoming drainage of the lake, a large number of desirable game fish will either be flushed out through the dewatering process or become stranded in small pools of water; **and**

WHEREAS, this valuable fisheries resource could be harvested and utilized by local residents, thereby preventing the waste of edible portions and lessening the presence of decaying fish carcasses in the lake bed; **and**

WHEREAS, given the unusual present circumstances and in order to protect public welfare and prevent unnecessary waste of valuable fishery resources, the game fish daily limits for Lake Poinsett, currently applicable under AGFC Code Addendum N1.01, should be deleted so that the public may harvest the fish prior to their loss due to water drainage and hot temperatures; **and**

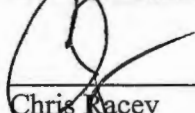
WHEREAS, after carefully considering the recommendations of Commission staff and the Regulations Committee, as well as comments received from the public, the Commission has determined that the attached regulations promote sound wildlife conservation and management and are consistent with Amendment 35 of the Arkansas Constitution and that these regulations should now be approved for application.

NOW, THEREFORE, BE IT ORDERED this 18th day of May 2017, that the Arkansas Game and Fish Commission hereby approves and adopts the attached regulations amending AGFC Code Addendum N1.01, which shall become effective immediately upon public filing or as soon thereafter as possible.

BE IT FURTHER ORDERED that the Commission staff is authorized to proceed with legally certifying and filing the attached regulations with the Secretary of State, State Library, and Bureau of Legislative Research and incorporating them into the Commission Code Book and Addendum.

STAFF APPROVAL

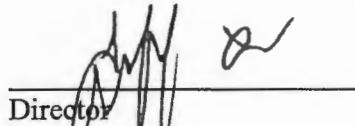
Submitted by:


Chris Racey
Chief

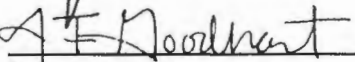
Division:

Fisheries

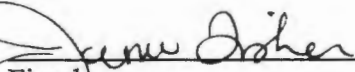
Approved:


Director

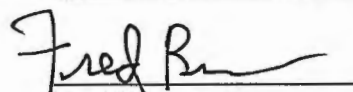
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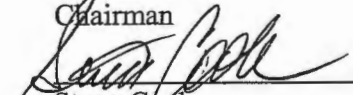

Legal

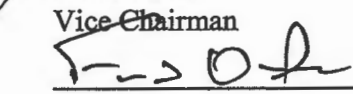
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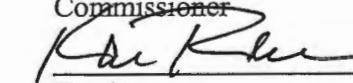

Fiscal

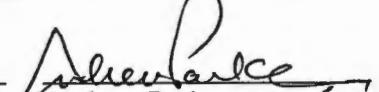
COMMISSION APPROVAL

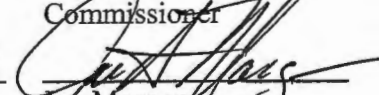

Fred Brown
Chairman

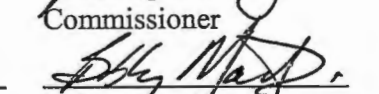

Steve Cook
Vice Chairman


Ford Overton
Commissioner


Ken Reeves
Commissioner


Andrew Parker
Commissioner


Joe Morgan
Commissioner


Bobby Martin
Commissioner