

APA-1
6/93

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. 220 Department or Agency Conservation and Natural Resources
Rule No.: 220-2-.142 Commercial Turtle Catcher/Dealer/Farmer 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 *Daniel J. Wilson*
Secretary of Administrative Procedure

Date *June 18, 2011*

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: (1) 220-2-.143 Alligator Hunting Season and Regulations; (2) 220-2-.30 Fur-Bearing Animals Designated; (3)220-2-.92 Nongame Species Regulation; (4) 220-2-.142 Commercial Turtle Catcher/Dealer/Farmer Regulation; (5) 220-2-.109 Physically Disabled Hunting Areas.

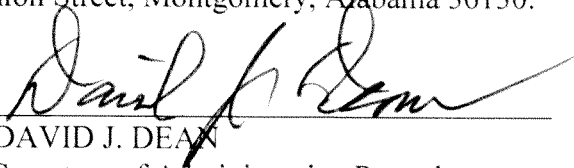
INTENDED ACTION: Amendments.

SUBSTANCE OF PROPOSED ACTION: (1)220-2-.143-To further provide for the special alligator season and means and methods therefor; (2)220-2-.30-To delete Civet Cat; (3)220-2-.92-To further regulate certain species; to add/delete certain species; and to delete certain provisions relating to turtles; (4)220-2-.142-To further regulate certain turtles, and the collection, dealing, farming, and possession thereof, the means and methods for the taking thereof, and to re-title said rule; (5)220-2-.109 To further regulate certain conduct at said areas, including certain hunting license, authorization, and check in requirements; the protection of certain artifacts; certain hunting from elevated stands; and to provide for the revocation of certain permits.

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 advance by personally appearing at Room 469, Folsom Administrative Building, 64 North Union Street, Montgomery, Alabama, at 10:00 a.m., Monday, August 8, 2011.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Monday, August 8, 2011.

CONTACT PERSON AT AGENCY: M. N. "Corky" Pugh, Director, Division of Wildlife and Freshwater Fisheries, 5th Floor, 64 N. Union Street, Montgomery, Alabama 36130.



DAVID J. DEAN
Secretary of Administrative Procedure

N. Gunter Guy, Jr.

220-2-.142 Commercial Turtle Catcher/Dealer/Farmer Regulation

(1) Definitions:

“Division” - Wildlife and Freshwater Fisheries Division of the Alabama Department of Conservation and Natural Resources.

“Director” - The Director of the Wildlife and Freshwater Fisheries Division of the Alabama Department of Conservation and Natural Resources.

“Turtle Farmer” - Any person, firm, or corporation engaged in the business of propagating captive turtles or incubating and hatching turtle eggs for restocking, sale, or other commercial purposes.

“Turtle Catcher” - Any person, firm, or corporation, except a landowner or his agent as excepted in paragraph 2 (a), ~~that~~ who takes, collects, possesses, harvests or attempts to take, collect, possess or harvest any turtle species from the public or private waters of this state ~~for commercial purposes. For the purpose of this regulation, possession of more than three of any turtle species shall be deemed prima facie evidence of commercial activity.~~

“Turtle Dealer” - Any person, firm, or corporation ~~that~~ who purchases, imports or exports turtles for resale or stocking purposes or who sells, offers for sale, or trades for anything of value live turtles.

(2)

(a) Any person, firm, or corporation engaged in the business of propagating captive turtles or incubating and hatching turtle eggs for restocking, sale, or other commercial purposes must first obtain a turtle farmer’s permit from the Director. Each permittee will file a monthly report on forms provided by the Division. This report will provide the information required by ~~subsection (e)~~ (i) of this regulation.

(b) Any person, firm or corporation ~~that~~ who takes, collects, possesses, or harvests more than three (3) turtles or attempts to take, collect, possess or harvest any turtle species from the public or private waters of this state for commercial purposes or ~~that~~ who purchases, imports or exports turtles for resale or stocking purposes, or who sells, offers for sale, or trades for anything of value any live turtles, must first obtain a “turtle dealer’s/catcher’s permit”. Each permittee ~~will~~ shall file a monthly report on forms provided by the Division. This report will provide the information required by ~~subsection (e)~~ (i) of this regulation.

(c) The following is hereby designated as legal equipment and methods for taking freshwater turtles by permitted turtle catchers from the public freshwaters of this State.

Any other methods or equipment used in the taking of freshwater turtles for commercial purposes is in violation of this regulation.

1. Hoop or fyke nets, only at such times, places, and in such manners, as permitted by law or regulation for the taking of commercial or nongame fish .
2. Hand or dip nets.
3. All nets must be checked and the catch removed at least once during each 24-hour period.
4. All nets must have a metal or plastic tag permanently affixed thereto stating the name, address and permit number of the person using each net.
5. All fish taken in turtle catching equipment must be returned to the water with the least possible harm. It is unlawful for a turtle dealer/catcher to possess any fish while engaged in taking, collecting, or harvesting turtles.
6. Hook and line.

(d) It shall be unlawful to collect, harvest, possess, offer for sale, sell, or trade anything of value for any common snapping turtle (*Chelydra ssp.*) or soft shell turtles (*Apalone ssp.*) with a carapace length between four (4) inches and twelve (12) inches. (Except any species protected under this paragraph taken in a private pond by a pond owner or his agent while controlling nuisance animals is exempt but may not be sold or offered for sale or traded for anything of value.)

(e) It shall be unlawful for any person to take or possess more than ten (10) legally taken turtles per day on the public waters or banks of the public waters of this state.

(f) Nothing in this regulation prohibits the taking of up to three legal turtles by hand, dip net, or hook and line by an unpermitted person for personal use.

(g) It shall be unlawful to possess more than one box turtle or to offer for sale, sell, or trade for anything of value any box turtle (*Terrapene spp.*), box turtle part or reproductive product except by permit as outlined in 220-2-.92.

~~(d)~~ (h) All turtles imported into or exported out of the state of Alabama for commercial purposes shall be accompanied by a bill of lading which provides the following information: (1) name of person importing/exporting the turtles; (2) permit number of person importing/exporting the turtles; (3) date of shipment; (4) quantity and species of turtles; (5) origin (state and body of water) of shipment; (6) destination of shipment; (7) total value of shipment; and (8) signature of owner/transporter. A copy of the bill of lading shall remain with the shipment and a copy sent to the Division.

~~(e)~~ (i) Each report required in this regulation must be filed with the Division by the 10th of the following month and must include the following and any other information specified by the Director: (1) permit holder's name and permit number; (2) buyer/seller's name and address; (3) date of transaction; (4) origin (state and body of water) of turtles

purchased/sold; (5) quantity and species of turtles purchased/sold; (6) amount received/paid for turtles and; (7) signature of permit holder. The Director or other persons as designated for such purposes shall have the power and authority to inspect and examine the books, records, turtles or facilities of each permit holder.

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

PENALTY: As provided by law.
9/15/2006;