

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 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 

Secretary of Administrative Procedure

Date March 20, 2012

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-.02 Legal Arms, Ammunition, and Methods for Hunting; (2) 220-2-.10 The Possession of Firearms by Bow Hunters Prohibited; (3) 220-2-.21 Possession of Firearms or Bow and Arrow in Any Wildlife Management Area, Refuge or Sanctuary Prohibited; (4) 220-2-.55 Wildlife Management Areas, Community Hunting Areas, Public Hunting Areas, and Refuges of Alabama; (5) 220-2-.142 Turtle Catcher/Dealer/Farmer Regulation

INTENDED ACTION: Amendments.

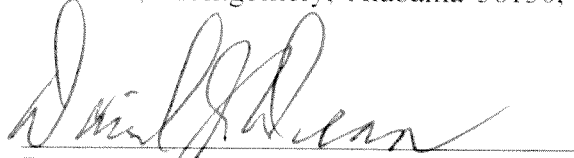
SUBSTANCE OF PROPOSED ACTION: (1) 220-2-.02 - To further provide for and regulate the legal arms, ammunition and methods for hunting; and to provide for a certain exception provided for in 220-2-.03 relating to bows; (2) 220-2-.10 – To further provide for and regulate the possession of firearms by bow hunters; and to provide for a certain exception; (3) 220-2-.21 – To further provide for and regulate the possession of firearms or bow and arrow in state sanctuaries; to delete certain reference to wildlife management areas; and to delete certain language; (4) 220-2-.55 – To further provide for and regulate certain conduct and activities on wildlife management areas, community hunting areas, public hunting areas, and refuges of Alabama; to further provide for certain possession of handguns for personal protection; to further provide for use of handguns for hunting squirrel, crow, and rabbit; to further provide for and regulate the possession of firearms while hunting with bow and arrow or crossbow; and to further provide for and regulate certain waterfowl hunting; (5) 220-2-.142 – To further provide for and regulate certain activities relating to certain turtles in Alabama; to further define “Turtle Farmer” and “Turtle Dealer” and delete the term “Turtle Catcher”; to prohibit certain taking, sale, or possession of turtles or turtle eggs; to provide for certain removal of turtles; to provide for certain taking of turtles; to further provide for certain permitting of turtle farmers and turtle dealers; to delete certain provisions; to prohibit certain importation of turtle species; to require certain turtle farmer reports; and to further regulate and provide for possession of certain box turtles.

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, May 7, 2012.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Monday, May 7, 2012.

CONTACT PERSON AT AGENCY: Fred Harders, Acting Director, Division of Wildlife and Freshwater Fisheries, 5th Floor, 64 N. Union Street, Montgomery, Alabama 36130, 334-242-3465.

A handwritten signature in black ink, appearing to read "David J. Dean", written over a horizontal line.

DAVID J. DEAN
Secretary of Administrative Procedure

N. Gunter Guy, Jr.

220-2-.142 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 legally acquired captive indigenous 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), 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.~~

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

(2)(a) No person shall take, attempt to take, sell or possess any turtle egg or turtle or parts thereof from the wild in this state, to include public and private waters, for commercial purposes. This is not to prohibit the operations of properly permitted “Turtle Farmers” or “Turtle Dealers” as defined in paragraph (1) as long as those turtles are not taken from the wild.

(b) This is not to prohibit the removal of turtles from a privately constructed farm pond by the landowner or his agent while controlling nuisance animals as long as the turtles are not sold or traded for anything of value.

(c) Nothing in this regulation prohibits the taking for personal use of up to two legal turtles per day by hand, dip net or hook and line however, no person shall take more than two turtles per day from the wild in this state, to include public and private waters.

~~(2)~~

(3) (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 turtle farmer permittee must agree to meet designated standards for enclosure construction and animal care prior to being permitted. Each permittee will file an annual report on forms provided by the Division prior to renewal of their farmer permit. This

~~report will provide the information required by subsection (c) of this regulation. Any person, firm or corporation engaged in the import, export, sale or trade of live turtles or turtle eggs must first obtain a "Turtle Dealers" permit from the Director or his designee. Each permittee will file a monthly report on forms provided by the Division. This report will provide the information required by subsection (i) of this regulation.~~

~~(b) Any person, firm or corporation 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 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 shall file a monthly report on forms provided by the Division. This report will provide the information required by subsection (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.~~

(b) No person, firm or corporation shall import or cause to be imported, any nonindigenous turtle species for the purpose of propagation.

~~(c)~~ (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.

~~(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.~~

(d) Each turtle farmer report required in this regulation must be filed with the Division prior to renewing their annual permit 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) 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.

(4) 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.

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

PENALTY: As provided by law.
9/15/2006; 10/1/2011; 4/1/2012 (ER);