

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-.92 Nongame Species 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. Dean*
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-.92 Nongame Species Regulation

(1) It shall be unlawful to take, capture, kill, or attempt to take, capture or kill; possess, sell, trade for anything of monetary value, or offer to sell or trade for anything of monetary value, the following nongame wildlife species (or any parts or reproductive products of such species) without a scientific collection permit or written permit from the Commissioner, Department of Conservation and Natural Resources, which shall specifically state what the permittee may do with regard to said species:

(a) FISHES

<u>Common Name</u>	<u>Scientific Name</u>
• Cavefish, Alabama	<i>Speoplatyrhinus poulsoni</i>
• Cavefish, Southern	<i>Typhlichthys subterraneus</i>
• Chub, Spotfin	<i>Cyprinella monacha</i>
• Darter, Bankhead	<i>Percina sipsi</i>
• Darter, Boulder	<i>Etheostoma wapiti</i>
• Darter, Brighteye	<i>Etheostoma lynceum</i>
• Darter, Coldwater	<i>Etheostoma ditrema</i>
• Darter, Crystal	<i>Crystallaria asprella</i>
• Darter, Goldline	<i>Percina aurolineata</i>
• Darter, Halloween	<i>Percina crypta</i>
• Darter, Holiday	<i>Etheostoma brevirostrum</i>
• Darter, Lipstick	<i>Etheostoma chuckwachatte</i>
• Darter, Lollipop	<i>Etheostoma neopterum</i>
• Darter, Rush	<i>Etheostoma phytophilum</i>
• Darter, Slackwater	<i>Etheostoma boschungii</i>
• Darter, Slenderhead	<i>Percina phoxocephala</i>
• Darter, Snail	<i>Percina tanasi</i>
• Darter, Trispot	<i>Etheostoma trisella</i>
• Darter, Tuscumbia	<i>Etheostoma tuscumbia</i>
• Darter, Vermilion	<i>Etheostoma chermockii</i>
• Darter, Watercress	<i>Etheostoma nuchale</i>
• Logperch, Blotchside	<i>Percina burtoni</i>
• Madtom, Frecklebelly	<i>Noturus munitus</i>
• Sculpin, Pygmy	<i>Cottus paulus</i>
• Shad, Alabama	<i>Alosa alabamiae</i>
• Shiner, Blackmouth	<i>Notropis melanostomus</i>
• Shiner, Blue	<i>Cyprinella caerulea</i>
• Shiner, Cahaba	<i>Notropis cahabae</i>

- Shiner, Ironcolor *Notropis chalybaeus*
- Shiner, Palezone *Notropis albizonatus*
- Sunfish, Spring Pygmy *Elassoma alabamae*
- Sturgeon, Alabama *Scaphirynchus suttkusi*
- Sturgeon, Gulf *Acipenser oxyrhynchus desotoi*
- Sturgeon, Lake *Acipenser fulvescens*

(b) AMPHIBIANS

<u>Common Name</u>	<u>Scientific Name</u>
• <u>Frog, Dusky Gopher</u>	<i>Rana capito sevosa</i>
• <u>Amphiuma, One-toed</u>	<i>Amphiuma pholeter</i>
• <u>Frog, Gopher</u>	<i>Rana capito</i>
• <u>Frog, Mississippi Gopher</u>	<i>Rana sevosa</i>
• <u>Frog, River</u>	<i>Rana heckscheri</i>
• Hellbender, Eastern	<i>Cryptobranchus alleganiensis alleganiensis</i>
• Salamander, <u>Reticulated Flatwoods</u>	<i>Ambystoma eingulatum bishopi</i>
• Salamander, Green	<i>Aneides aeneus</i>
• Salamander, Red Hills	<i>Phaeognathus hubrichti</i>
• Salamander, Seal	<i>Desmognathus monticola</i> (of Coastal Plain origin)
• <u>Salamander, Seepage</u>	<i>Desmognathus aeneus</i>
• <u>Salamander, Southern Dusky</u>	<i>Desmognathus auriculatus</i>
• Salamander, Tennessee Cave	<i>Gyrinophilus palleucus</i>
• Treefrog, Pine Barrens	<i>Hyla andersonii</i>
• <u>Waterdog, Black Warrior</u>	<i>Necturus alabamensis</i>

(c) REPTILES

<u>Common Name</u>	<u>Scientific Name</u>
• <u>Lizard, Mimic Glass</u>	<i>Ophisaurus mimicus</i>
• <u>Skink, Coal</u>	<i>Eumeces anthracinus</i> ssp
• <u>Skink, Southeastern Five-lined</u>	<i>Eumeces inexpectatus</i>
• Snake, Black Pine	<i>Pituophis melanoleucus</i> ssp. <i>lodingi</i>
• Snake, Eastern Indigo	<i>Drymarchon eorais couperi</i>
• Snake, Eastern Coachwhip	<i>Masticophis flagellum flagellum</i>
• <u>Snake, Eastern King</u>	<i>Lampropeltis getula getula</i>

- Snake, Eastern Coral *Micrurus fulvius*
- Snake, Florida Pine *Pituophis melanoleucus mugitus*
- Snake, Gulf Salt Marsh *Nerodia fasciata clarkia clarkii*
- Snake, Prairie King *Lampropeltis calligaster calligaster*
- Snake, Rainbow *Farancia erythrogramma erythrogramma*
- Snake, Speckled King *Lampropeltis getula holbrooki*
- Snake, Southern Hognose *Heterodon simus*
- Terrapin, Mississippi Diamondback *Malaclemys terrapin pileata*
- Tortoise, Gopher *Gopherus polyphemus*
- Turtle, Alabama Map *Graptemys pulchra*
- Turtle, Alabama Red-bellied *Pseudemys alabamensis*
- Turtle, Alligator Snapping *Macrolemys temminckii*
- Turtle, Barbour's Map *Graptemys barbouri*
- Turtle, Black-knobbed Sawback *Graptemys nigrinoda*
- Turtle, Escambia Bay Map *Graptemys ernsti*
- Turtle, Flattened Musk *Sternotherus depressus*

Informational Note: See Section 9-11-269, Code of Alabama 1975, relating to protection of the flattened musk turtle (*Sternotherus depressus*).

(d) **BIRDS**

All nongame birds are protected under the provisions of this regulation except crows, starlings, blackbirds, English sparrows, Eurasian collared doves, pigeons, and other non-native species.

<u><i>Common Name</i></u>	<u><i>Scientific Name</i></u>
• Crane, Mississippi Sandhill	<u><i>Grus canadensis pulla</i></u>
• Dove, Common Ground	<u><i>Columbina passerina</i></u>
• Eagle, Bald	<u><i>Haliaeetus leucocephalus</i></u>
• Eagle, Golden	<u><i>Aquila chrysaetos</i></u>
• Egret, Reddish	<u><i>Egretta rufescens</i></u>
• Falcon, Peregrine	<u><i>Falco peregrinus</i></u>
• Hawk, Cooper's	<u><i>Accipiter cooperi</i></u>
• Merlin	<u><i>Falco columbarius</i></u>
• Osprey	<u><i>Pandion haliaetus</i></u>
• Oystercatcher, American	<u><i>Haematopus palliatus</i></u>
• Pelican, American White	<u><i>Pelecanus erythrorhynchos</i></u>
• Plover, Piping	<u><i>Charadrius melodus</i></u>

• Plover, Snowy	<i>Charadrius alexandrinus</i>
• Plover, Wilson's	<i>Charadrius wilsonia</i>
• Stork, Wood	<i>Mycteria americana</i>
• Tern, Gull-billed	<i>Sterna nilotica</i>
• Warbler, Bachman's	<i>Vermivora bachmani</i>
• Woodpecker, Red-cockaded	<i>Picoides borealis</i>
• Wren, Bewick's	<i>Thryomanes bewickii</i>

(e) MAMMALS

<u>Common Name</u>	<u>Scientific Name</u>
• Bat, Gray Myotis	<i>Myotis grisescens</i>
• Bat, Indiana	<i>Myotis sodalists</i>
• <u>Bat, Little Brown Myotis</u>	<i>Myotis lucifugus</i>
• <u>Bat, Northern Long-eared</u> <u>Myotis</u>	<i>Myotis septentrionalis</i>
• <u>Bat, Northern Yellow</u>	<i>Lasiurus intermedius</i>
• Bat, Rafinesque's Big-eared	<i>Corynorhinus rafinesquii</i>
• Bat, Southeastern	<i>Myotis austroriparius</i>
• Gopher, Southeastern Pocket	<i>Geomys pinetis</i>
• <u>Manatee, West Indian</u>	<i>Trichechus manatus</i>
• Mouse, Alabama Beach	<i>Peromyscus polionotus</i> <i>ammobates</i>
• Mouse, Meadow Jumping	<i>Zapus hudsonius</i>
• Mouse, Perdido Key Beach	<i>Peromyscus polionotus</i> <i>trissylepsis</i>
• <u>Shrew, Pygmy</u>	<i>Sorex hoyi</i>
• <u>Skunk, Spotted</u>	<i>Spilogale putorius</i>
• Weasel, Long-tailed	<i>Mustela frenata</i>

(f) Other State or Federally protected nongame species.

In addition any required federal permits for federally protected species must be obtained.

(2) 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 paragraph (1).

(3) ~~It shall be unlawful to collect, harvest, possess, offer for sale, sell, or trade for anything of value any common snapping turtle (*Chelydra serpentina*) or soft-shell turtles (*Apalone ferox*, *Apalone muticus muticus*, *Apalone muticus calvatus*, *Apalone spiniferus spiniferus*, *Apalone spiniferus asper*) 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.)

— (4) — 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.

— (5) — Informational Note: See Section 9-11-269, Code of Alabama 1975, relating to protection of the flattened musk turtle (*Sternotherus minor depressus*).

Statutory Authority: §§9-2-7, 9-2-8, and 9-2-12, Code of Alabama 1975
and Act No. 82-424 Acts of Alabama.

PENALTY: As provided by law.

7/18/87; 1/2/90; 9/16/92; 11/18/94; 10/19/95; 9/23/97;7/30/98(ER); 12/3/98; 5/7/99;
7/20/99(ER); 10/19/99; 7/15/2000; 7/25/2001; 8/21/2002; 7/22/2003; 7/16/2004;
11/23/2005; 9/15/2006; 6/27/2007; 10/18/2007; 6/18/2009;