

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-.02 Legal Arms, Ammunition, and Methods for Hunting**

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 June 20, 2012

APA-2
6/93

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-.35 Daily Creel Limits, Possession Limits and Size Limits; (2) 220-2-.73 The Alabama Cooperative Deer Management Assistance Program; (3) 220-2-.55 Wildlife Management Areas, Community Hunting Areas, Public Hunting Areas, and Refuges of Alabama; (4) 220-2-.151 Archery Range Regulation; (5) 220-2-.29 Open Trapping Seasons on Fur-Bearers; (6) 220-2-.143 Alligator Hunting Season and Regulations; (7) 220-2-.02 Legal Arms, Ammunition, and Methods for Hunting.

INTENDED ACTION: Amendments.

SUBSTANCE OF PROPOSED ACTION: (1)220-2-.35 -To further provide for and regulate the daily creel limits, possession limits and size limits for certain fish; to further provide for certain creel and size limits; to prohibit certain cullings; (2)220-2-.73 -To further provide for and regulate the Alabama Cooperative Deer Management Assistance Program; to require certain minimum number of contiguous acres; and to delete certain provisions relating to certain fees; (3) 220-2-.55-To further provide for and regulate conduct at such areas; to further provide for certain youth hunting, use of certain firearms, transportation of certain turkey, wearing of hunter orange, waterfowl hunting, and to further specify the areas to which certain provision apply; (4)220-2-.151- To further provide for and regulate certain archery ranges; to specify certain additional archery parks; and to further provide for certain requirements to use the archery ranges; (5)220-2-.29 -To further provide for and regulate trapping seasons and methods; to set the season and to delete certain provisions relating to trapping of certain woodchuck (groundhog); (6)220-2-.143 -To further provide for and regulate alligator hunting season and methods; to set the season and to provide for an application process, training requirements, and certain check station requirements, reporting and tagging; (7) 220-2-.02 To further provide for and regulate legal arms, ammunition, and equipment for hunting, including, but not limited to, certain hunting for deer, turkey, migratory birds, bobcat, groundhog, unprotected wildlife, fox, coyote, feral swine, and falconry; and to amend the title of the rule.

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 6, 2012.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Monday, August 6, 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.



DAVID J. DEAN
Secretary of Administrative Procedure

N. Gunter Guy, Jr.

220-2-.02 **Legal Arms, Ammunition, and Methods Equipment for Hunting**

(1) **GENERAL
PROHIBITIONS:**

- (a) It shall be unlawful for any person to use any method or have in their possession any weapon or ammunition contrary to this regulation while hunting or attempting to hunt game birds and animals or other species provided for herein unless expressly provided for by duly enacted laws of the State of Alabama.
- (b) It shall be unlawful for any person to refuse to submit firearms and ammunition or any device, instrument or accessory used in hunting to Conservation Officers for inspection.
- (c) Except as otherwise provided by Rule 220-2-.03 for laser type range finders with computational capabilities on bows, it shall be unlawful for any person to hunt with a bow or gun that has a light source attached that is capable of casting a beam of light (including a laser sight) forward of said bow or gun or to possess such a light source adapted for attachment to said bow or gun while hunting.
- (d) It shall be unlawful to possess any equipment that uses electronics to increase the ability to see in the dark (night vision equipment) while hunting any species of wildlife, both protected or unprotected species.
- (e) It shall be unlawful to possess fully automatic firearms or silenced firearms while hunting any species of wildlife.

(2) **DEER:**

- Rifles using centerfire, mushrooming ammunition.
- Shotguns, 10 gauge or smaller using buckshot, slugs, or single round ball.
- Muzzle-loaders and Black Powder Handguns-- .40 caliber or larger, provided further it shall be illegal to possess other firearms while hunting with muzzleloaders during the special muzzleloader season.
- Long bows, compound bows, or crossbows in conformance with 220-2-.03.

- Handguns or pistols using centerfire, mushrooming ammunition.

(3) **TURKEY:**

- (a)
- Shotguns, 10 gauge or smaller using standard No. 2 shot or smaller.
 - Long bows or compound bows in conformance with 220-2-.03 (no crossbows).
 - Handguns or pistols using centerfire mushrooming ammunition, black powder handguns or pistols .40 caliber or larger.
 - Handguns or pistols can only have open metallic sights (no scopes).

(b) Nothing in this section is intended to prohibit the possession of rifles, shotgun/rifle combinations (drilling) or buckshot and slugs when the hunter is stalk hunting both deer and turkey provided no person shoots or attempts to shoot turkey with the rifle or shotgun using buckshot or slugs.

(4) **MIGRATORY BIRDS:**

- Shotguns, 10 gauge or smaller, plugged with a one piece filler incapable of removal without disassembling the gun or otherwise incapable of holding more than 3 shells using standard No. 2 shot or smaller, except waterfowl must be hunted with steel shot or only, T-size or smaller and other shot compositions and shot sizes that are approved by the U.S. Fish and Wildlife Service ~~waterfowl hunters shall not possess any other size steel shot or any size lead shot.~~
- Waterfowl hunters shall not possess any other size shot or any size lead shot.
- Long bows, compound bows, or crossbows.
- ~~Waterfowl may also be hunted with other shot compositions and shot sizes that are approved by the U.S. Fish and Wildlife Service.~~

(5) **RACCOON & OPOSSUM:**

- Nighttime hunting--Shotguns using No. 6 shot or smaller; .22 caliber rimfire firearms.
- Daytime hunting - See "(7) OTHER GAME BIRDS OR ANIMALS"

- (6) **BOBCAT, GROUNDHOG,
UNPROTECTED WILDLIFE,
FOX, COYOTE
& FERAL SWINE:**
- Rifles of any caliber.
 - Handguns or pistols.
 - Shotguns, 10 gauge or smaller (~~with no buckshot allowed during stalk gun deer season~~).
 - Long bows, compound bows, or crossbows.
 - Muzzleloaders and black powder handguns of any caliber.
- (7) **OTHER GAME
BIRDS OR
ANIMALS:**
- Rifles using rimfire ammunition or those operated by air.
 - Muzzleloaders and black powder handguns of any caliber.
 - Long bows, compound bows, or crossbows.
 - Shotguns, 10 gauge or smaller, using standard No. 4 shot or smaller.
 - Handguns or pistols.
 - Blowguns using darts propelled by the hunter's breath only.
 - Sling shots.
- (8) **SPEAR:**
- DEER and FERAL SWINE may be taken by hand thrown spear during the open Bow and Arrow season on these species. The hand thrown spear shall have a sharpened blade a minimum of two inches in width. The spear shall only be hand thrown.

~~(9) — It shall be unlawful for any person to hunt deer and turkey with bow and arrows that are not in conformance with the legal specifications for bow and arrows set out in Rule 220-2-.03.~~

(10)(a) ~~(9)(a)~~ Falconry - For the purpose of permitting the practice of falconry as a legal means of taking game in Alabama, and for no other purpose, live migratory birds of the family Accipitridae (other than the bald eagle), Falconidae, and the great horned owl of the family Strigidae, are hereby designated as game birds.

(b) As used in this regulation, the word:

1. **"Raptor"** means a live migratory bird of the family Accipitridae, other than the bald eagle (Haliaeetus leucocephalus), or of the family Falconidae, or the great horned owl (Bubo virginianus) of the family Strigidae.

2. **"Take"** means to trap or capture, or attempt to trap or capture, a raptor for the purpose of falconry.

3. **"Falconry"** means the sport of taking quarry by means of a trained raptor.

4. **"Service"** means the U. S. Fish and Wildlife Service, U.S. Department of Interior.

5. **"Commissioner"** means the Commissioner of the Department of Conservation and Natural Resources.

6. **"Department"** means the Alabama Department of Conservation and Natural Resources.

7. **"Division"** means the Division of Wildlife and Freshwater Fisheries of the Department of Conservation and Natural Resources.

(c) An applicant who wishes to practice falconry in Alabama must submit a request for an application to practice falconry along with a non-refundable \$7.50 fee to the Commissioner. If a permittee desires to renew his permit an additional \$7.50 fee shall be due with each renewal request.

(d) A falconry permit is required before any person may take, transport, or possess wild-taken or captive bred raptors for falconry purposes. The use for falconry or the possession of any raptor species not covered by the Federal Falconry Regulations and listed above is controlled by these regulations.

Every permit issued shall be subject to the following special conditions:

1. A permittee may not take, transport, or possess a golden eagle (Aquila chrysaetos) unless authorized in writing by the Service. A permittee may not take, transport, or possess any species designated as endangered by the State unless authorized in writing by the Commissioner.

2. A permittee may trade or transfer a wild-caught raptor to another permittee if the transaction occurs entirely within the State and no money or other consideration is involved. A permittee may trade or transfer a wild-caught raptor to another permittee in an interstate transaction if prior written approval of the State which issued the permit is obtained and no money or other consideration is involved in the transaction.

3. A permittee may not sell, purchase, barter, or offer to sell, purchase, or barter any raptor unless the raptor is marked on the metatarsus by a seamless, numbered band supplied by the Service.

4. A permittee may not propagate raptors without prior acquisition of a valid raptor propagation permit issued under Federal Regulation 50CFR21.30.

5. A permittee may not take, possess or transport a raptor in violation of restrictions, conditions, and requirements of the Federal or State Falconry Permit Regulations.

6. By July 31 of each year, a permittee shall submit a falconry report to the authority which issued the permit. The report shall contain the following:

(i) A listing of all raptors in his possession on June 30 of the year in which the report is filed by species, marker number, sex (if known), age (if known), and date and where or from whom acquired;

(ii) A listing of all raptors possessed or acquired since the previous annual report, but no longer possessed, by species, marker number, sex (if known), age (if known), date and where or from whom acquired or given to, whether escaped, died, or released, and when the event occurred.

(e) A permit or the renewal of a permit is valid when issued by the State and expires on June 30 of the third calendar year after it is issued, unless a different period is specified on the permit or renewal. A fee of \$7.50 shall be required with each renewal.

(f) Three classes of falconry permits shall be issued. These include:

1. APPRENTICE CLASS - Conditions of this class include:

(i) A permittee shall be at least 14 years old;

(ii) A sponsor who is a holder of a General or a Master Falconry Permit is required for the first two years in which an apprentice permit is held, regardless of the age of the permittee. A sponsor may not have more than three apprentices at one time;

(iii) A permittee shall not possess more than one raptor and may not obtain more than one raptor as a replacement bird during any 12 month period;

(iv) A permittee shall possess only the following raptors which must be taken from the wild by the apprentice: an American Kestrel (Falco sparverius), a red-tailed hawk (Buteo jamaicensis), or a red-shouldered hawk (Buteo lineatus).

2. GENERAL CLASS - Conditions of this class include:

(i) A permittee shall be at least 18 years old;

(ii) A permittee shall have at least two years experience in the practice of falconry at the apprentice level or its equivalent;

(iii) A permittee may not possess more than two raptors and may not obtain more than two raptors for replacement birds during any 12 month period;

(iv) A permittee may not take, transport, or possess any golden eagle or any species listed as threatened or endangered by the Service or any species listed as endangered by the State except as provided by the Federal and State Falconry Permit Regulations.

3. MASTER CLASS - Conditions of this class include:

(i) An applicant shall have at least five years experience in the practice of falconry at the general class level or its equivalent;

(ii) A permittee may not possess more than three raptors, and may not obtain more than two raptors for replacement birds during any 12 month period;

(iii) A permittee may not take, transport or possess any species listed as endangered by the Service or any species listed as endangered by the State except as provided by the Federal and State Falconry Permit Regulations;

(iv) A permittee may not take, transport, or possess a golden eagle for falconry purposes unless authorized in writing by the Service;

(v) Except as provided by the Federal Falconry Regulations, a permittee may not take, transport or possess as part of his three bird limitation, more than one raptor listed as threatened by the Service, and then only in accordance with Federal Regulations 50CFR 21;

(vi) A master permittee may take for use in Falconry, progeny of captive-bred threatened and/or endangered species in accordance with federal regulations.

(g) Before any falconry permit is issued, the applicant shall be required to answer correctly at least 80 per cent of the questions on a supervised examination approved by the Service relating to the basic biology, care, and handling of raptors, literature, laws, regulations, and other appropriate subject matter. An opportunity for retaking the examination shall be provided in the event of failure.

(h) Before any falconry permit is issued, the applicant's raptor housing facilities and falconry equipment shall be inspected and certified by a representative of the Division of Wildlife and Freshwater Fisheries as meeting the following standards:

1. Facilities - The primary consideration for raptor housing facilities, whether indoors (mews) or outdoors (weathering area), is protection from the environment, predators, or undue disturbance. The applicant shall have the following facilities:

(i) Indoor facilities (mews) shall be large enough to allow easy access for caring for raptors housed in the facility. If more than one raptor is to be housed in the facility, the raptor shall be tethered or separated by partitions and the area for each bird shall be large enough to allow each bird to fully extend its wings. There shall be at least one window, protected on the inside by vertical bars, spaced narrower than the width of the bird's body and a secure door that can be easily closed. The floor of the mews shall permit easy cleaning and shall be well drained. Adequate perches shall be provided;

(ii) Outdoor facilities (weathering area) shall be fenced and covered with netting or wire or roofed to protect the birds from disturbance and attack by predators, except that perches more than 6 1/2 feet high need not be covered or roofed. The enclosures shall be wide enough to insure that the birds wings shall not strike the fence when flying from the perch. Protection from excessive sun, wind, and inclement weather shall be provided for each bird. Adequate perches shall be provided.

2. Equipment - The following items shall be in the possession of the applicant before he can obtain a permit:

(i) Jesses - At least one pair of Aylmeri jesses of pliable leather or suitable synthetic material to be used when any raptor is flown free. Traditional type one-piece jesses may be used on raptors when not being flown; and

(ii) Leashes and Swivels - At least one flexible, weather resistant leash and one swivel of acceptable falconry design; and

(iii) Bath Container - At least one container, 2 to 6 inches deep and wider than the length of the raptor, for drinking and bathing for each raptor; and

(iv) Outdoor Perches - At least one weathering area perch of an acceptable design shall be provided for each raptor; and

(v) Weighing Device- A reliable scale or balance suitable for weighing the raptor and graduated in increments of not more than ½ ounce (15 grams) shall be provided.

3. Maintenance - All facilities and equipment shall be kept at or above the preceding standards at all times.

4. Transportation - Temporary Holding - Temporarily, a raptor may be transported or held in temporary facilities, which shall be provided with an adequate perch and protection from extreme temperatures and excessive disturbance for a period not to exceed 30 days.

(i) All raptors held within the State excepting those held for scientific or zoological purposes shall have a numbered, non-reusable marker supplied to the Department by the Service. Markers shall be attached by permittees immediately upon acquisition from the Department. In the instance of raptors acquired after the effective date of these regulations, markers shall also be attached to these raptors immediately upon acquisition. Alteration, counterfeiting or defacing of a marker is prohibited except that permittees may remove the rear tab on markers and may smooth any imperfect surface provided the integrity of the marker and the number are not affected.

(j) Special restrictions are as follows:

1. Young raptors not yet capable of flight (eyasses) may only be taken by General or Master Falconry Permit holders during the period May 25 - June 30, and no more than two eyasses may be taken by the same permittee during this period during one calendar year;

2. First year passage raptors may be taken during the period September 15 – January 31;

3. Only American Kestrels (Falco sparverius) and great horned owls (Bubo virginianus) may be taken when over one year old, except that any raptor other than endangered or threatened species taken under a depredation (or special purpose) permit may be used for falconry by General or Master Falconry Permit holders;

4. A marked raptor may be retrapped at any time.

(k) A person who possesses a lawfully acquired raptor before the enactment of these regulations and who fails to meet the permit requirements, shall be allowed to retain the raptors. All such birds shall be identified with markers supplied by the Department and cannot be replaced if death, loss, release, or escape occurs.

(l) A person who possesses raptors before the enactment of these regulations in excess of the number allowed under his class permit shall be allowed to retain the extra raptors. All such raptors shall be identified with markers supplied by the Department and no replacement can occur until the number in possession is at least one less than the total number authorized by the class of permit held by the permittee.

(m) A falconry permit holder shall obtain written permission from the Department before any species not indigenous to the State is intentionally released to the wild. The marker of any released bird shall be removed and surrendered to the Division's District Supervisor in the respective area upon release.

A standard Federal bird-band shall be attached to such birds by the State or authorized federal bird bander whenever possible.

(n) Another person may care for the birds of a permittee if written authorization from the permittee accompanies the birds when they are transferred. If that period of care will exceed 30 days, the permittee shall inform the Division's District Supervisor of his respective district within three days of the transfer, of the reason for the transfer, where the birds are being held, who is caring for them, and approximately how many days they will be under the care of the second person.

(o) Feathers that are molted or those feathers from birds held in captivity that die, may be retained and exchanged by permittees only for imping purposes.

(p) Non-transfer, interstate import and export conditions:

1. Non-residents of the State which are permit holders from States which are recognized as falconry states by the Service may transport into Alabama raptors for personal falconry use (i.e. Falconry Meets, etc.) provided the laws and regulations concerning hunting and falconry are observed;

2. Residents of the State who are falconry permittees may transport their raptors into other states which are recognized by the Service as falconry states for personal falconry use provided hunting and falconry laws and regulations are observed.

3. This section does not prevent the importation, exportation, or exchange between permittees of legally acquired raptors taken from the wild or produced by captive propagation, if the permittees who import, export, or exchange raptors notify the Department in writing and as provided for elsewhere within these regulations.

(q) Every permittee and every person possessing a raptor in the State shall submit an inventory to the Department within 90 days of the effective date of this regulation. This inventory of raptors shall be submitted regardless of whether or not the owner intends to submit an application for a falconry permit.

(r) Permittees holding the proper licenses may hunt, pursue and kill game birds and game animals during any of the established hunting seasons in accordance with existing regulations under the following provisions:

1. Persons desiring to hunt with raptors must obtain proper hunting licenses along with proper falconry permits before attempting to take game birds and game animals;

2. Persons hunting with raptors may hunt, pursue and kill game birds and game animals as follows:

- Migratory game birds - during the gun seasons for birds pursued.
- Resident game birds and animals - from the opening date of the gun season for the species pursued through March 31.

3. A permittee, whose hunting raptor accidentally kills game that is out of season or of the wrong species or sex, shall leave the dead quarry where it lies, except that the raptor may feed upon the quarry prior to leaving the site of the kill.

4. Regular season bag limits for migratory game birds do not apply to falconry. Falconry bag limits shall not exceed 3 birds for all migratory game birds in the aggregate, whether or not an extended season is selected. Regular season bag limits for resident game birds and animals shall apply to falconry.

(s) It shall be lawful for a nonresident to take or attempt to take raptors from the wild in Alabama, subject to the same restrictions and limitations as apply to resident permit holders, if the nonresident has a valid general or master level falconry permit from such person's state of residence, a valid Alabama nonresident hunting license, and if such person's state of residence provides the same privileges to residents of Alabama.

(t) Violation of this regulation or federal regulation is just cause for revocation of permits by the Department.

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

PENALTY: As provided by law.

9/30/82; 10/18/83; 10/13/84; 10/19/85; 12/2/87; 4/7/89; 1/2/90; 9/27/90; 11/13/91; 10/19/94;
10/26/95; 10/16/96; 9/16/97; 1/5/99; 10/19/99; 8/1/2002; 10/22/02; 9/30/2003; 9/15/2004;
9/14/2005; 9/15/2006; 10/18/2007; 10/17/2008; 11/4/2011(ER); 7/21/2012;