

APA-1
Revised 4/2018

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. 220 Department or Agency: Conservation and Natural Resources

Rule No.: 220-2-.92

Rule Title: Protected Nongame Species

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 action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? NO

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.

REC'D & FILED
JUN 21 2022
LEGISLATIVE SVC AGENCY

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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 Services Agency.

Signature of Certifying Officer _____

Ryan W. Cooley
Secretary of Administrative Procedure

Date _____

6/21/2022

Department of Conservation and Natural Resources
Wildlife & Freshwater Fisheries

NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Conservation and Natural Resources

RULE NO. & TITLE: 220-2-.92 Protected Nongame Species

INTENDED ACTION: Amend.

SUBSTANCE OF PROPOSED ACTION: To make it illegal to propagate the listed nongame wildlife species, any parts or reproductive products of such species, or any hybrids of such species without a scientific collection permit or written permission from the Commissioner. To add the amphibians crawfish frog, little grass frog, mudpuppy, and reticulated siren. To add all king snakes to reptiles and remove the references to specific king snakes. To clarify that non-native species including house sparrows and rock pigeons are exceptions to the protections of this regulation. To correct errors with the common name of Allegheny woodrat and the scientific name of long-tailed weasel in mammals. To clarify that it is unlawful for any person to sell, offer for sale, or trade anything of value for any Eastern Diamondback Rattlesnake (*Crotalus adamanteus*), hybrid, or any parts, or possess alive any Eastern Diamondback Rattlesnake or hybrid without a permit from the Commissioner. Nothing herein is intended to prevent the relocation of live Eastern Diamondback Rattlesnakes (*Crotalus adamanteus*) to suitable native habitat within the county of capture when conducted in the same day as capture and with landowner permission. To make it 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.

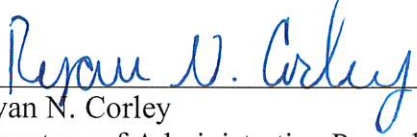
TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Director of Wildlife & Freshwater Fisheries Division at any time during the period stated below, or orally if requested in writing 48 hours in advance to the Director of Wildlife & Freshwater Fisheries Division, and then by personally appearing at Room 474, Folsom Administrative Building, 64 North Union Street, Montgomery, Alabama, at 10:00 a.m., Thursday, August 4, 2022.

If ADA accommodations are needed, please contact Daisy Perry at (334) 242-3165 or daisy.perry@dcnr.alabama.gov. Requests should be made as soon as possible but at least seven days prior to the date of a personal appearance to present views regarding the proposed rules.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Thursday, August 4, 2022.

CONTACT PERSON AT AGENCY: Charles F. Sykes, Director, Wildlife & Freshwater Fisheries Division, 5th Floor, 64 N. Union Street, Montgomery, Alabama 36130, 334-242-3465.



Ryan N. Corley
Secretary of Administrative Procedure

Christopher M. Blankenship

220-2-.92 Protected Nongame Species.

(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; or propagate the following nongame wildlife species, ~~(or any parts or reproductive products of such species), or any hybrids 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, Shoal	<i>Macrhybopsis hyostoma</i>
• Chub, Spottfin	<i>Erimonax monachus</i>
• Darter, Bankhead	<i>Percina sipsi</i>
• Darter, Blotchside	<i>Persina burtoni</i>
• Darter, Bluebreast	<i>Etheostoma camurum</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, Scaly Sand	<i>Ammocrypta vivax</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 chermocki</i>
• Darter, Watercress	<i>Etheostoma nuchale</i>
• Logperch, Blotchside	<i>Percina burtoni</i>
• Madtom, Frecklebelly	<i>Noturus munitus</i>
• Madtom, Mountain	<i>Noturus eleutherus</i>
• Minnow, Suckermouth	<i>Phenacobius mirabilis</i>

• Sculpin, Pygmy	<i>Cottus paulus</i>
• Shad, Alabama	<i>Alosa alabamae</i>
• Shiner, Blackmouth	<i>Notropis melanostomus</i>
• Shiner, Blue	<i>Cyprinella caerulea</i>
• Shiner, Bluestripe	<i>Cyprinella callitaenia</i>
• Shiner, Broadstripe	<i>Pteronotropis euryzonus</i>
• Shiner, Cahaba	<i>Notropis cahabae</i>
• Shiner, Dusky	<i>Notropis cummingsae</i>
• Shiner, Ironcolor	<i>Notropis chalybaeus</i>
• Shiner, Palezone	<i>Notropis albizonatus</i>
• Sunfish, Spring Pygmy	<i>Elassoma alabamae</i>
• Sturgeon, Alabama	<i>Scaphirynchus suttkusi</i>
• Sturgeon, Gulf	<i>Acipenser oxyrhynchus desotoi</i>
• Sturgeon, Lake	<i>Acipenser fulvescens</i>

(b) AMPHIBIANS

<u>Common Name</u>	<u>Scientific Name</u>
• Amphiuma, One-toed	<i>Amphiuma pholeter</i>
• Frog, Crawfish	<i>Lithobates areolatus</i>
• Frog, Gopher	<i>Lithobates capito</i>
• Frog, Little Grass	<i>Pseudacrisocularis</i>
• Frog, Mississippi Gopher	<i>Lithobates sevosa</i>
• Frog, River	<i>Lithobates heckscheri</i>
• Frog, Wood	<i>Lithobates sylvaticus</i>
• Hellbender, Eastern	<i>Cryptobranchus sp</i>
• Mudpuppy	<i>Necturus maculosus maculosus</i>
• Salamander, Reticulated Flatwoods	<i>Ambystoma bishopi</i>
• Salamander, Eastern Tiger	<i>Ambystoma tigrinum</i>
• Salamander, Green	<i>Aneides aeneus</i>
• Salamander, Red Hills	<i>Phaeognathus hubrichti</i>
• Salamander, Seal	<i>Desmognathus monticola</i>
• Salamander, Seepage	<i>Desmognathus aeneus</i>
• Salamander, Small-mouthed	<i>Ambystoma texanum</i>
• Salamander, Southern Dusky	<i>Desmognathus auriculatus</i>
• Salamander, Southern Red-backed	<i>Plethodon serratus</i>
• Salamander, Tennessee Cave	<i>Gyrinophilus palleucus</i>
• Siren, Reticulated	<i>Siren reticulata</i>
• Treefrog, Pine Barrens	<i>Hyla andersonii</i>
• Waterdog, Black Warrior	<i>Necturus alabamensis</i>

(c) **REPTILES**

<u>Common Name</u>	<u>Scientific Name</u>
• Lizard, Eastern Slender Glass	<i>Ophisaurus attenuates longicaudus</i>
• Lizard, Mimic Glass	<i>Ophisaurus mimicus</i>
• Skink, Coal	<i>Plestiodon anthracinus</i>
• Skink, Southeastern Five-Lined	<i>Plestiodon inexpectatus</i>
• Snake, Pine	<i>Pituophis melanoleucus</i> spp.
• Snake, Eastern Indigo	<i>Drymarchon couperi</i>
• Snake, Eastern King	<i>Lampropeltis getula getula</i>
• Snake, Eastern Coral	<i>Micrurus fulvius</i>
• Snake, Gulf Salt Marsh	<i>Nerodia fasciata clarkia</i>
• Snake, All King	<i>Lampropeltis</i> spp.
• Snake, Prairie King	<i>Lampropeltis calligaster calligaster</i>
• Snake, Rainbow	<i>Farancia erythrogramma</i>
• Snake, Black "Speckled" King	<i>Lampropeltis nigra</i>
• Snake, Southern Hognose	<i>Heterodon simus</i>
• Terrapin, Diamondback	<i>Malaclemys</i> spp.
• Tortoise, Gopher	<i>Gopherus polyphemus</i>
• Turtle, Alabama Red-bellied	<i>Pseudemys alabamensis</i>
• Turtle, All Map	<i>Graptemys</i> spp.
• Turtle, Flattened Musk	<i>Sternotherus depressus</i>
• Turtle, Alligator Snapping	<i>Macrochelys temminikii</i>
• Turtle, Razor-backed Musk	<i>Sternotherus carinatus</i>

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, and non-native species including starlings, Englishhouse sparrows, Eurasian collared doves, rock pigeons, and other non-native species

(e) **MAMMALS**

<u>Common Name</u>	<u>Scientific Name</u>
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• Bat, Brazilian Free-tailed	<i>Tadarida brasiliensis</i>
• Bat, Eastern Small-footed-Myotis	<i>Myotis myotis-leibii</i>
• Bat, Gray Myotis	<i>Myotis grisescens</i>
• Bat, Indiana	<i>Myotis sodalis</i>
• Bat, Little Brown	<i>Myotis lucifugus</i>
• Bat, Northern Long-eared	<i>Myotis septentrionalis</i>
• Bat, Northern Yellow	<i>Lasiurus intermedius</i>
• Bat, Rafinesque's Big-eared	<i>Corynorhinus rafinesquii</i>
• Bat, Southeastern	<i>Myotis austroriparius</i>
• Bat, Tricolored	<i>Perimyotis subflavus</i>
• Gopher, Southeastern Pocket	<i>Geomys pinetis</i>
• Manatee, West Indian	<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>
• Shrew, Pygmy	<i>Sorex hoyi</i>
• Shrew, Smoky	<i>Sorex fumeus</i>
• Cottontail, Appalachian	<i>Sylvilagus obscurus</i>
• Rabbit, Marsh	<i>Sylvilagus palustris</i>
• Skunk, Spotted	<i>Spilogale putorius</i>
• Weasel, Long-tailed	<i>MustelaNeogale frenata</i>
• Allegheny , Woodrat, <u>Allegheny</u>	<i>Neotoma magister</i>

(f) Other State or Federally protected nongame species.

- (2) It shall be unlawful for any person to take, capture, kill or possess any bullfrog (*Lithobates catesbeianus*) or pig frog (*Lithobates grylio*) from the public waters of this state for commercial purposes. Furthermore it shall be unlawful for any person to take, capture, kill or possess more than twenty (20) bullfrogs and pig frogs in aggregate from the public waters of this state during any twenty four (-24) hour period from 12 noon to the following 12 noon.
- (3) It shall be unlawful for any person to sell, offer for sale, or trade anything of value for any Eastern Diamondback Rattlesnake (*Crotalus adamanteus*), hybrid, or any parts, or possess alive any Eastern Diamondback Rattlesnake (~~*Crotalus adamanteus*~~) or hybrid without a permit from the Commissioner. Nothing herein is intended to prevent the relocation of live Eastern Diamondback Rattlesnakes (*Crotalus adamenteus*) to suitable native habitat within the county of capture when conducted in the same day as capture and with landowner permission.
- (4) It shall be unlawful to possess more than one (1) 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).

AUTHOR: Christopher M. Blankenship

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.

HISTORY: Effective July 18, 1987. **Amended:** January 2, 1990; September 16, 1992. **Amended:** Filed: October 13, 1994; effective November 18, 1994. **Amended:** Filed September 13, 1995; effective October 19, 1995. **Amended:** Filed August 18, 1997; effective September 23, 1997. **Amended:** Filed October 28, 1998; effective December 3, 1998. **Amended:** Filed April 1, 1999; effective May 6, 1999. **Amended:** Filed September 13, 1999; effective October 18, 1999. **Amended:** Filed June 9, 2000; effective July 14, 2000. **Amended:** Filed June 19, 2001; effective July 24, 2001. **Amended:** Filed July 16, 2002; effective August 20, 2002. **Amended:** Filed June 16, 2003; effective July 20, 2003. **Amended:** Filed June 10, 2004; effective July 15, 2004. **Amended:** Filed October 18, 2005; effective November 22, 2005. **Amended:** Filed August 10, 2006; effective September 14, 2006. **Amended:** Filed May 22, 2007; effective June 26, 2007. **Amended:** Filed September 12, 2007; effective October 17, 2007. **Amended:** Filed May 13, 2009; effective June 17, 2009. **Amended:** Filed August 26, 2011; effective September 30, 2011. **Amended:** Filed June 15, 2016; effective July 30, 2016. **Amended:** Filed May 9, 2017; effective June 23, 2017. 6/21/2022

**ECONOMIC IMPACT
STATEMENT FOR APA RULE
(Section 41-22-23(f))**

Control No. 220 Department or Agency Conservation

Rule No: 220-2-.92

Rule Title: Protected Nongame Species

 New X Amend Repeal Adopt by Reference

 X This rule has no economic impact.

 This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

3. EFFECT OF THIS RULE ON COMPETITION:

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED: