

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**  
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 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 Jennifer Welton  
Secretary of Administrative Procedure

Date 3-21-17

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: 220-2-.92 Protected Nongame Species

INTENDED ACTION: Amend Rule

SUBSTANCE OF PROPOSED ACTION: Amended to correct spelling errors, to add the Wood Frog, Eastern Slender Glass Lizard, All Map Turtle, Alligator Snapping Turtle, Razor-backed Musk Turtle, and the Woodrat Allegheny, and to remove the Eastern Coachwhip Snake, Barbour's Map Turtle, and Escambia Bay Map Turtle to the list of protected nongame species. As well as to provide that it shall be unlawful for any person to sell, offer for sale or trade anything of value or possess alive any Eastern Diamondback Rattlesnake (*Crotalus adamanteus*) without a permit from the Commissioner. Relocation of live Eastern Diamondback Rattlesnakes to suitable habitat when conducted in the same day as capture and with landowner permission is allowed.

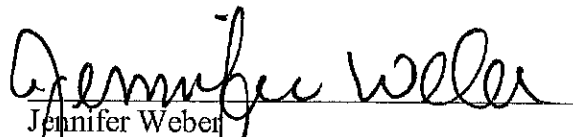
TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Director of the Division of Wildlife and Freshwater Fisheries at any time during the period stated below, or orally if requested in writing 48 hours in advance to the Director of the Division of Wildlife and Freshwater Fisheries, and then by personally appearing at Room 474, Folsom Administrative Building, 64 North Union Street, Montgomery, Alabama, at 10:00 a.m., Friday, May 5, 2017.

If ADA accommodations are needed, please contact Daisy Perry at (334) 242-3165 or [daisy.perry@dcnr.alabama.gov](mailto: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:

Friday, May 5, 2017.

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

  
Jennifer Weber  
Secretary of Administrative Procedure

N. Gunter Guy, Jr.

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

(b) AMPHIBIANS

<u>Common Name</u>	<u>Scientific Name</u>
• Amphiuma, One-toed	<i>Amphiuma pholeter</i>
• Frog, Gopher	<i>Lithobates capito</i>
• Frog, Mississippi Gopher	<i>Lithobates sevosa</i>
• Frog, River	<i>Lithobates heekseeri-heckscheri</i>
• <u>Frog, Wood</u>	<i>Lithobates sylvaticus</i>
• Hellbender, Eastern	<i>Cryptobranchus Spp-sp</i>
• Salamander, Reticulated Flatwoods	<del><i>Ambystoma eingulate</i></del> <i>bishopi</i>
• Salamander, Eastern Tiger	<del><i>Ambystoma</i></del> <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>
• Treefrog, Pine Barrens	<i>Hyla andersonii</i>
• Waterdog, Black Warrior	<i>Necturus alabamensis</i>

• 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 myotis</i>
• Bat, Northern Yellow	<i>Lasiurus intermedius</i>
• Bat, Rafinesque's Big-eared	<i>Corynorhinus rafinesquii</i>
• Bat, Southeastern	<i>Myotis austroriparius</i>
• Bat, <del>tricolor</del> <u>Tricolored</u>	<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>Mustela frenata</i>
• Weasel, Long-tailed	<i>Mustela frenata</i>
• Allegheny, Woodrat	<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 or possess alive any Eastern Diamondback Rattlesnake (*Crotalus adamanteus*) without a permit from the Commissioner. Nothing herein is intended to prevent the relocation of live Eastern Diamondback Rattlesnakes to suitable habitat when conducted in the same day as capture and with landowner permission.

AUTHOR: N. Gunter Guy, Jr.

**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:** 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; 7/30/2016.