

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 Weber
Secretary of Administrative Procedure

Date 4-19-16

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: Amendment.

SUBSTANCE OF PROPOSED ACTION: To specify and clarify protected nongame species. Also, this amendment establishes a limit on the taking, capturing, killing or possessing of bullfrogs and pig frogs.

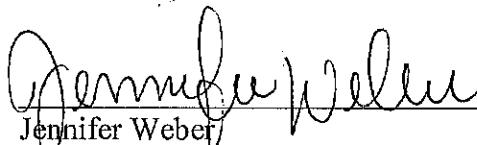
TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Director of the Division of Wildlife and Freshwater Fisheries at any time during the period stated below, or orally if requested in writing 48 hours in advance to the Director of the Division of Wildlife and Freshwater Fisheries, by personally appearing at Room 474, Folsom Administrative Building, 64 North Union Street, Montgomery, Alabama, at 10:00 a.m., Friday, June 3, 2016.

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:

June 3, 2016.

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-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>
• <u>Chub, Shoal</u>	<i>Macrhybopsis hyostoma</i>
• Chub, Spottfin	<i>Cyprinella monacha</i> <u><i>Erimonax monachus</i></u>
• Darter, Bankhead	<i>Percina sipsi</i>
• <u>Darter, Blotchside</u>	<i>Persina burtoni</i>
• <u>Darter, Bluebreast</u>	<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>
• <u>Darter, Scaly Sand</u>	<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>
• <u>Madtom, Mountain</u>	<i>Noturus eleutherus</i>
• <u>Minnow, Suckermouth</u>	<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>
• <u>Shiner, Bluestripe</u>	<u><i>Cyprinella callitaenia</i></u>
• <u>Shiner, Broadstripe</u>	<u><i>Pteronotropis euryzonus</i></u>
• Shiner, Cahaba	<i>Notropis cahabae</i>
• <u>Shiner, Dusky</u>	<u><i>Notropis chalybaeus</i></u>
• <u>Shiner, Ironcolor</u>	<u><i>Notropis chalybaeus</i></u>
• 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, Gopher	<i>Rana</i> <u><i>Capito lithobates</i></u>
• Frog, Mississippi Gopher	<i>Rana lithobates</i> <u><i>sevosa</i></u>
• Frog, River	<i>Rana</i> <u><i>Lithobates hecksceri</i></u>
• Hellbender, Eastern	<i>Cryptobranchus</i> <u><i>Sppalleganiensis</i></u> <i>alleganiensis</i>
• Salamander, Reticulated Flatwoods	<i>Ambystoma cingulate</i>
• <u>Salamander, Eastern Tiger</u>	<u><i>Amystoma tigrinum</i></u>
• 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>	<u><i>Desmognathus aeneus</i></u>
• <u>Salamander, Small-mouthed</u>	<u><i>Ambystoma texanum</i></u>
• Salamander, Southern Dusky	<i>Desmognathus auriculatus</i>
• <u>Salamander, Southern Red-backed</u>	<u><i>Plethodon serratus</i></u>
• Salamander, Tennessee Cave	<i>Gyrinophilus palleucus</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, Mimic Glass	<i>Ophisaurus mimicus</i>
• Shink, Coal	<i>Eumeces anthracinus</i> spp
• Shink, Southeastern Five-Lined	<i>Eumeces inexpectatus</i>
• Snake, Pine	<i>Pituophis melanoleucus</i> spp
• Snake, Eastern Indigo	<i>Drymarchon couperi</i>
• Snake, Eastern Coachwhip	<i>Masticophis flagellum flagellum</i>
• Snake, Eastern King	<i>Lampropeltis getula getula</i>
• Snake, Eastern Coral	<i>Micrurus fulvius</i>
• Snake, Gulf Salt Marsh	<i>Nerodia fasciata clarkii</i>
• Snake, Prairie King	<i>Lampropeltis calligaster calligaster</i>
• Snake, Rainbow	<i>Farancia erytrogramma</i>
• Snake, Speckled King	<i>Lampropeltis getula Holbrooki nigra</i>
• Snake, Southern Hognose	<i>Heterodon simus</i>
• Terrapin, Mississippi Diamondback	<i>Malaclemys spp terrapin pileata</i>
• Tortoise, Gopher	<i>Gopherus polyphemus</i>
• Turtle, Alabama Map	<i>Graptemys pulehra</i>
• Turtle, Alabama Red-bellied	<i>Pseudemys alabamensis</i>
• Turtle, Alligator Snapping	<i>Macrochelys temminckii</i>
• Turtle, Barbour's Map	<i>Graptemys barbouri</i>
• Turtle, Black-knobbed Sawback	<i>Graptemys nigrinoda</i>
• Turtle, Escambia Bay Map	<i>Graptemys ernsti</i>
• Turtle, Flattened Musk	<i>Sternotherus depressus</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, starlings, blackbirds, English sparrows, Eurasian collared doves, pigeons, and other non-native species

(e) **MAMMALS**

<u>Common Name</u>	<u>Scientific Name</u>
• Bat, Brazilian Free-tailed	<i>Tadarida brasiliensis</i>

• Bat, Eastern Small-footed Myotis	<i>Myotis leibii</i>
• Bat, Gray Myotis	<i>Myotis grisescens</i>
• Bat, Indiana	<i>Myotis sodalis</i>
• Bat, Little Brown	<i>Myotis 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>
• <u>Bat, tricolored</u>	<u><i>Perimyotis subflavus</i></u>
• 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>
• <u>Shrew, Smoky</u>	<u><i>Sorex fumeus</i></u>
• <u>Cottontail, Appalachian</u>	<u><i>Sylvilagus obscurus</i></u>
• <u>Rabbit, Marsh</u>	<u><i>Sylvilagus palustris</i></u>
• Skunk, Spotted	<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).~~

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.

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.