

ENVIRONMENTAL BENEFIT STATEMENT

K.A.R. 115-15-2. Nongame species; general provisions.

REGULATION DESCRIPTION: This permanent regulation designates species classified as species in need of conservation in Kansas (“SINC species”). An environmental benefit statement is required by law when amending an environmental rule or regulation. A regulation adopted by the Secretary of Wildlife and Parks concerning threatened or endangered species of wildlife is defined as an environmental rule or regulation. Although a SINC species is not a threatened or endangered species, and does not receive the same protections from other regulations requiring permit review for actions that affect threatened or endangered species, the list may be considered one that concerns threatened or endangered wildlife. Consequently, this environmental benefit statement has been prepared. The proposed amendments to the regulation are as follows:

- Add three new SINC species: Texas night snake, *Hypsiglena torquata jani*
Delta hydrobe, *Probythinella emarginata*
Brindled madtom, *Noturus miurus*
- Remove two SINC species: Red-shouldered hawk, *Buteo lineatus*
Eastern Chipmunk, *Tamias striatus*

In conjunction with these proposed amendments, the department is also proposing amendments to K.A.R. 115-15-1, which includes the lists of threatened and endangered species in Kansas. Proposed amendments to that regulation include the addition of the Silver chub to the list of endangered species as well as the removal of the Texas night snake and White-faced ibis from the list of threatened species, and therefore relate to this proposed regulatory amendment.

The Kansas Nongame and Endangered Species Act, K.S.A. 32-957 et seq., requires the department to adopt rules and regulations “which contain a list of the nongame species deemed by the secretary to be in need of conservation . . .” (K.S.A. 32-959(a)). The law stipulates that this determination shall be on the basis of information related to population, distribution, habitat needs, limiting factors and other biological and ecological data concerning nongame species, gathered to determine conservation measures necessary for their continued ability to sustain themselves successfully.

The current proposed amendments stem from petitions for listing actions received by the department by July 2003, as well as federal threatened and endangered species listings. Since that time, the department has held various public meetings, collected data, and received official recommendations from a task force composed of personnel from the U.S. Fish and Wildlife Service, universities, the Kansas Biological Survey, and the department. In making its recommendation to the department, that task force collected numerical ratings from individuals and companies believed to have knowledge and scientific information about one or more of the species in question, over a 90-day public comment period.

Taking into consideration response from the Wildlife and Parks Commission, the general public, and the task force recommendations, the department has developed these proposed regulatory amendments. A description of the species and related information, as well as a description of the risk or threat to the species and the need for the regulatory amendment, is included for each of the species in question.

Texas night snake (*Hysiglena torquata jani*)

- Federal Status: none
- Current Kansas Listing Status: Threatened
- Proposed Listing Action: List as a species in need of conservation in Kansas
- Description: The Texas night snake has a dorsal ground color, light brown or gray with brown or dark gray spots. It has bulging eyes with vertically elliptical pupils and the scales are smooth.
- Size: Adults grow to 10-16 inches in length.
- Habitat: The Texas night snake is commonly seen in arid or semi-arid sandy/gravelly habitats and rocky bluffs. In Kansas, the Texas night snake is found in south-central Kansas in the area known as the Red Hills region.
- Reproduction: The Texas night snake is an egg-bearing reptile. 4-6 eggs are laid from April-June and hatch after 8 weeks.
- Food: The Texas night snake is nocturnal and active in warmer months. It feeds on lizards, other small snakes and insects.

Threat to the species and need for the regulatory amendment: The Texas night snake is proposed to be de-listed from threatened status to a SINC species. It is common where found in Kansas but the distribution of the snake is small. Listing it as a species in need of conservation would provide it some protection and would help raise awareness.

Delta hydrobe (*Probythinella emarginata*)

- Federal Status: None
- Current Kansas Listing Status: None
- Proposed Listing Action: List as a species in need of conservation in Kansas
- Description: The Delta hydrobe is a gill-breathing aquatic snail. There are 5 species of gill-breathing snails in Kansas, all of which are sensitive to pollution.
- Size: Adults grow shells to 0.1 inches in length.
- Habitat: The species in Kansas had only been documented as fossil specimens from the Pleistocene era until the discovery of a relic population in Cedar Creek in Chase County, attributed to the high quality of this spring-fed stream.
- Reproduction: Unknown.
- Food: Unknown.

Threat to the species and need for the regulatory amendment: The Delta hydrobe is maintaining an isolated population in Cedar Creek. Developments that would affect the hydrology of the

stream could be a detriment. A large impoundment on Cedar Creek has been proposed in the past by the Army Corps of Engineers. Dams on the mainstem of Cedar Creek would be a threat to this population. In addition, stream channelization and gravel dredging could make the substrates unstable and also threaten the established population. If bridge, pipeline and tree removal occurs at or very near the site of the established population, then a severe reduction in population could occur. Dewatering of Cedar Creek for irrigation purposes could be considered a threat during periods of drought. Listing of the species as a SINC species would provide it some protection and would help raise awareness. In addition, if listed species are used in targeting USDA programs to conserve soil, grassland, and enhance riparian zone vegetation, then this listing could help maintain or improve the excellent water quality already found on Cedar Creek.

Brindled madtom (*Noturus miurus*)

- Federal Status: None
- Current Kansas Listing Status: None
- Proposed Listing Action: List as a species in need of conservation in Kansas
- Description: The species is a small member of the catfish family with distinct black and yellow markings on body and fins.
- Size: Adults may grow to just over 3 inches in length.
- Habitat: This species avoids large riffles and rivers and can be found in leaf-littered pools of clear streams. In the past 25 years, it has been documented in the Spring River in Cherokee County and Cedar Creek in Chase County.
- Reproduction: Spawning occurs May-August.
- Food: The diet of the Brindled madtom consists of insects and small crustaceans.

Threat to the species and need for the regulatory amendment: The Brindled madtom is a stream and small river catfish that requires clear water pools. Threats from changes in stream hydrology such as channelization, gravel dredging, or impoundments could be detrimental to this species. Dewatering a stream for irrigation during periods of drought could reduce necessary habitats for this madtom. Listing of the species as a SINC species would provide it some protection and would help raise awareness. In addition, if listed species are used in targeting USDA programs to conserve soil, grassland, and enhance riparian zone vegetation, then this listing could help maintain or improve the water quality at the few sites in Kansas where this species is found.

Red-shouldered hawk (*Buteo lineatus*)

- Federal Status: None
- Current Kansas Listing Status: Species in need of conservation
- Proposed Listing Action: De-list the species completely
- Description: The species is known as a brown headed bird with reddish breast and underwing coverts. It also has dark flight feathers above with barring and pale flight feathers below with dark barring. It has a short, dark hooked beak with a dark tail.
- Size: Length is 16 inches with a 40 inch wingspan
- Habitat: The species currently occurs primarily in bottomland timber habitat. In Kansas,

the range is primarily the eastern ¼ of the state.

- Reproduction: 2-3 eggs laid from April to May. Fledge at 45 days.
- Food: The diet of the Red-shouldered hawk includes medium sized snakes, amphibians and reptiles, small mammals, small birds, crayfish, and insects. Typically hunt alone, diving from a perch located near water.

Threat to the species and need for the regulatory amendment: Breeding Bird Survey results over the natural range of this hawk show a significant annual increase of 2.6 percent from 1980-2002. Nest records in eastern Kansas are far more common than they were two decades ago.

Eastern chipmunk (*Tamias striatus*)

- Federal Status: none
- Current Kansas Listing Status: Species in need of conservation
- Proposed Listing Action: De-list the species completely
- Description: The Eastern chipmunk is a small, brightly-colored squirrel that has five conspicuous black stripes running along the back and sides fading into the rump and shoulders.
- Size: Adults grow to about five to six inches.
- Habitat: The Eastern chipmunk inhabits the extreme easternmost part of Kansas. In natural situations, they are likely to be found along wooded bluffs bordering the Missouri River and other waterways. It inhabits the floor of deciduous forests where the ground is covered with fallen logs and where trees are associated with ledges and outcrops. It is also common in residential areas, where they are sometimes regarded as a nuisance species.
- Reproduction: The species breeding takes place in March and after a gestation period of 30 days, 2-7 young are born. They may live up to 8 years.
- Food: The species consumes the vegetation found in the oak-hickory forest including nuts, berries, seeds and invertebrate life associated with forests.

Threat to the species and need for the regulatory amendment: Information derived from wildlife surveys show an increase to the Kansas population and the Kansas population is not segmented from the natural range of the species. In addition, the population in residential areas has increased dramatically, so much that they are sometimes regarded as a nuisance species.