

**SUMMARY FOR COMMITTEE ITEM**  
**Baitfish Regulations Approval**

**Committee:** Regulations Committee

**Date:** August 16, 2017

**Title:** Baitfish Regulations Approval

**Explanation:**

Fisheries Division staff have previously presented a live, wild-caught baitfish regulation proposal (code 26.27) and a regulation proposal to authorize commercial take of shad in certain counties (code 32.06). Staff are requesting approval of both regulations, which would go into effect on January 1, 2018.

**Prepared by:** Chris Racey  
Chief of Fisheries

## Code Book Language for Baitfish Regulation Changes

### 26.27 WILD-CAUGHT BAITFISH RESTRICTED ~~ON NORFORK LAKE~~

~~01-09~~ 08-17

It is unlawful to use live wild-caught baitfish ~~on Norfolk Lake~~ unless ~~the~~ such baitfish was caught ~~on Norfolk Lake or in its watershed above the lake~~ within the same waterbody being fished or from a tributary entering upstream of the waterbody. No baitfish may be moved upstream past a dam or barrier that prohibits the normal passage of fish. ~~Bait purchased from a licensed dealer may be used on Norfolk Lake.~~

Exception: Baitfish purchased from a licensed dealer selling only certified, farm-raised baitfish may be used.

PENALTY: Class 1

### 32.06 TAKING BAITFISH FOR COMMERCIAL PURPOSES IN CERTAIN WATERS PROHIBITED

~~08-02~~ 08-17

It is unlawful to take or attempt to take baitfish for commercial purposes in: The Caddo River and that portion of the Little Missouri River and its tributaries above Ozan Creek in Pike County; all waters north of U.S. Highway 70 in Howard County; and all waters in Benton, Carroll, Clark, Crawford, Franklin, Lawrence, Madison, Montgomery, Newton, Polk, Sebastian, Sevier and Washington counties.

Exception: Gizzard and Threadfin Shad may be taken for commercial use in these counties in compliance with Code 26.27.

PENALTY: Class 1

## FINANCIAL / ECONOMIC IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

(Attach additional pages if needed)

DEPARTMENT: Arkansas Game & Fish Commission

DIVISION: Fisheries

PERSON COMPLETING THIS STATEMENT: Chris Racey

TELEPHONE #: (501) 878-7336

FAX #: (501) 223-6461

EMAIL: Chris.Racey@agfc.ar.gov

SHORT TITLE OF THIS RULE: Baitfish Regulations Approval (Codes 26.27 & 32.06)

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?  
Yes: **X** No:
2. Do you believe that the development of a financial impact statement is so speculative as to be cost prohibitive? Yes: **X** No: If "Yes", please explain: **Based on a recent survey conducted by AGFC Fisheries Division, approximately 5 of 57 respondents (14%) stated that they harvested some baitfish from the wild. However, the value of that harvest is unknown. In addition, financial impact of these proposed changes ranges from perceived negative impacts to perceived positive impacts.**
3. If the purpose of this rule is to implement a **federal** rule or regulation, please give the incremental cost for implementing the regulation. Please indicate if the cost provided is the cost of the program.

### Current Fiscal Year

General Revenue	\$	
Federal Funds	\$	
Cash Funds	\$	<b>N/A</b>
Special Revenue	\$	
Other (Identify)	\$	
Total	\$	

### Next Fiscal Year

General Revenue	\$	
Federal Funds	\$	
Cash Funds	\$	<b>N/A</b>
Special Revenue	\$	
Other (Identify)	\$	
Total	\$	

4. What is the total estimated cost by fiscal year to any **party** subject to the proposed, amended, or repealed rule? (Estimated cost includes fees, administrative penalties, reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance.) Identify the **party** subject to the proposed rule, and explain how they are impacted.

Current Fiscal Year: \$ **unknown** Next Fiscal Year: \$ **unknown**

Party Subject to Rule: **(A) Baitfish dealers, (B) Commercial fish guides, (C) Aquaculture industry, (D) Anglers in Arkansas**

Effect on Party Subject to Rule: **(A) Perceived negative effect for some smaller, more rural baitfish dealers (bait stores) which may currently sell live, wild-caught baitfish, potentially reducing sales; However, dealers that sell a certified baitfish product may potentially see increased sales due to enhanced consumer confidence that the product they are purchasing will not inoculate new waterbodies with aquatic nuisance species. (B) Perceived negative effect by some commercial striped bass fishing guides at Lake Ouachita and Beaver Lake who have voiced concerns that their business models may be disrupted and result in reduced revenue; not all guides share this view. A similar regulation was enacted on Norfolk Lake in 2009 where there has been little or no negative economic impact as reported by commercial fish guides at Lake Norfolk. (C) Additional certified baitfish will likely be sold across AR by the aquaculture industry; this will have a positive effect on the local and statewide economy. (D) Perceived positive effect by some anglers**

**and angler groups that have broad concerns about transfer of aquatic nuisance species to new waterbodies in AR and the economic impacts that come along with that; Perceived negative effect by some anglers that currently use live, wild-caught baitfish instead of purchasing certified baitfish at a baitfish dealer; baitfish cost may increase annually for their recreational use but risk of transfer of aquatic nuisance species will be lowered.**

5. What is the total estimated cost by fiscal year to the **agency** to implement this rule? Explain the financial benefit to the agency from implementing this rule.

**Current Fiscal Year:**    \$            N/A                      **Next Fiscal Year:**    \$            N/A

Financial Benefit to Agency: **N/A**

6. Do alternative means exist for accomplishing the objectives of the rules that might be less burdensome to small business?    Yes:                      No: **X**

Why were such alternatives not proposed:

7. Compare this rule with federal and state counterparts: **Five other states around AR have a similar or more restrictive regulation (KY, OK, MS, KS and TX).**

## **INSTRUCTIONS FOR COMPLETING THIS FORM:**

1. ECONOMIC IMPACT - In compliance with Governor's Proclamation EO 05-04, this form must be completed for **commercial licenses and permits** and submitted at the time a regulation is proposed to the Commission. The form will be forwarded to the Chief of Fiscal Services Division for review. After review, the form will be submitted to:

Director  
Arkansas Department of Economic Development  
One Capitol Mall  
Little Rock, AR 72201

2. FINANCIAL IMPACT - After passage of any regulation changes which have a financial impact (including all sport, lifetime, and commercial licenses) this form must be completed and submitted to the Chief of the Legal Division. The form is required for filing regulation changes with the Secretary of State.