

Use only for **FINAL** and **EMERGENCY RULES**



Revised 7/2015 to reflect new legislation passed in the 2015 Regular Session (Act 1258). This act changed the effective date from 30 days to 10 days after filing the rule.



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February 24, 2020

Ms. Kayla Sansom, Rules & Regulation Filing
Office of the Arkansas Secretary of State
500 Woodlane Drive, Room 26
Little Rock, AR 72201

RE: Arkansas Game and Fish Commission Regulations Adopted on February 20, 2020

Dear Ms. Sansom:

Enclosed please find hard copies of the Regulation Amendments for the AGFC Point System, Administrative License Suspension Process, and Statute of Limitations (AGFC Codes 01.00-E, 01.00-K, 01.00-L, and 01.00-R) that were approved as a combined package by the Arkansas Game and Fish Commission on February 20, 2020. Also included are the two Financial Impact Statements and the signed Minute Order. The Commission respectfully requests that these final regulations become effective ten (10) days from filing.

Notices for the proposed regulations were published in the Arkansas Democrat-Gazette on December 8, 9 and 10, 2019, and January 19, 20, and 21, 2020.

Kindly notify April Soman at april.soman@agfc.ar.gov to confirm receipt of the hard copies. Should you have any questions or concerns regarding this filing, please do not hesitate to contact me at (501) 223-6327 at your convenience.

Sincerely,

James F. Goodhart
General Counsel

JFG/as
Enclosures
cc: register@sos.arkansas.gov

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The Arkansas Game and Fish Commission's mission is to conserve and enhance Arkansas's fish and wildlife and their habitats while promoting sustainable use, public understanding and support.

01.00-L -- Denial, Suspension, Or Revocation Of Licenses, Permits, Tags, And Stamps

Proposed Regulation

A. The Director of the Arkansas Game and Fish Commission, or his or her designated representative, is authorized to suspend or revoke the hunting and fishing rights and privileges and any Commission-issued license, permit, tag, or stamp of any person and to deny the application of any applicant in accordance with due process, upon reasonable cause or a showing through the Commission's records or other sufficient evidence that the person has met 1 or more of the following criteria:

1. Accumulated 18 or more violation points within the past 5 years for violations of Commission regulations;
2. Made a material misrepresentation or practiced fraud or deceit in an attempt to obtain or use a license, permit, tag, or stamp;
3. Permitted a fraudulent or unlawful use of his license, permit, tag, or stamp;
4. Under either federal law or another state's law, has received a lifetime revocation of his or her hunting or fishing rights or privileges or any related licenses, or been convicted within the past 5 years of a hunting or fishing violation, which, if the conviction had been pursuant to Arkansas law, would have been grounds for suspension or revocation;
5. Failed to comply with any term of a license, permit, tag or stamp;
6. Failed to comply with any term of a citation for a hunting or fishing violation (including, without limitation, failure to appear in court or to otherwise resolve the case such as by paying a fine); or
7. Has received a suspension or revocation of his or her hunting or fishing rights, privileges, or any related licenses by another state that is a member of the Interstate Wildlife Violator Compact Act (Code 01.00 (/regulations/01.00)-Q).

B. The Director of the Arkansas Game and Fish Commission, or his or her designated representative, shall suspend the hunting and fishing rights, privileges, and any related licenses of any person who has accumulated a violation point count of 18 or

more within a 5-year period. The length of the suspension shall be based on the point accumulation total as follows:

1. 18 to 24 Points = 1 year suspension
2. 25 to 48 Points = 2 years suspension
3. 49 to 72 Points = 3 years suspension
4. 73 to 98 Points = 5 years suspension
5. 99 Points or more = 7 years suspension

Any person who receives a hunting suspension shall be ineligible to apply for any Commission permit hunts during the period of suspension; however, an owner of a private inholding (Code [02.02 \(/regulations/02.02\)](#)) having a hunting suspension shall be eligible to apply for WMA Hunting Permits for use only by persons who possess a valid hunting license.

- C. All suspensions under this Code shall run consecutively.
- D. Prior to implementing a suspension or revocation of hunting and fishing rights, privileges, and any related licenses, the Director, or his or her designated representative, shall provide the person affected written notice of the Commission's intent to suspend or revoke hunting and fishing rights, privileges, and related licenses and allow an opportunity for a hearing for the limited purposes of confirming the identity of the person affected and the accuracy of that person's violation record and the violation points assigned under Code [01.00 \(/regulations/01.00\)](#)-L. The notice shall state the length and scope of the suspension and include the following information for each offense that forms the basis of the suspension: AGFC Code number; date of conviction; and number of points assigned. The Commission shall provide notice by: delivering a copy to the person affected; or leaving a copy with any member of the person's family at least 18 years of age at a place where the person affected resides; or certified mail addressed to the person affected with a return-receipt requested and delivery restricted to the addressee or agent of the addressee. If, after diligent effort, the Commission is unable to make delivery of the notice upon the person affected, then the Commission may make service by warning order that is published weekly for 2 consecutive weeks: (i) in a newspaper of general circulation in the county where the person was last known to reside, and (ii) on the Commission's website.
- E. Except as stated otherwise herein, upon suspension or revocation of any license, permit, tag or stamp, denial of any application or rights and privileges attached thereto, the Director, or his or her designated representative, shall notify the person affected in writing. Such notification shall not be required if the person affected receives a notice of intent to suspend or revoke hunting and fishing rights, privileges,

and related licenses and does not request an administrative hearing within the time allowed under Code 01.00 (/regulations/01.00)-R.

ARKANSAS GAME AND FISH COMMISSION
Little Rock, Arkansas

| | | | |
|---------------------------------|--------------------------|-----------|--|
| MINUTE ORDER NO: | <u>20-008</u> | SUBJECT: | <u>Code Amendments for AGFC Point</u> |
| DATE PASSED: | <u>February 20, 2020</u> | | <u>System, Admin. License Suspension</u> |
| | | | <u>Process, and Statute of Limitations</u> |
| PAGE <u>1</u> of <u>2</u> PAGES | | LOCATION: | <u>Statewide</u> |

WHEREAS, the Arkansas Game and Fish Commission and its staff have proposed the attached AGFC Code amendments for the purpose of making improvements for the Agency's existing Point System and administrative license suspension process to provide greater efficiency, uniformity, and consistency; **and**

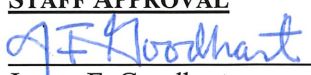
WHEREAS, additionally, the amendments codify into the AGFC Code of Regulations the existing statute of limitations applicable to certain violations of AGFC regulations, as set forth in Ark. Code Ann. § 5-1-109(b)(3)(B)(ii), which the Arkansas General Assembly adopted as Act 1009 of 2015 and has been in effect since July 22, 2015; **and**

WHEREAS, the attached amended regulations have been communicated through a variety of media avenues to sportsmen and the general public throughout the state for review and comment for at least the past 30 days; **and**

WHEREAS, after carefully considering the recommendations of the Director, Commission staff and the Regulations Committee, as well as comments received from the public, the Commission has determined that the attached regulations promote sound wildlife conservation and management and are consistent with Amendment 35 of the Arkansas Constitution, and that these regulations should now be approved for application statewide.


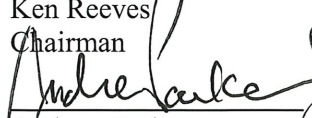

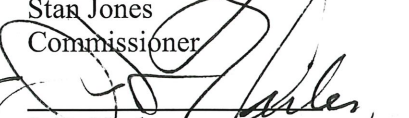
NOW, THEREFORE, BE IT ORDERED this 20th day of February 2020, that the Arkansas Game and Fish Commission hereby approves and adopts the attached regulations, which shall become effective immediately upon public filing or as soon thereafter as possible.

BE IT FURTHER ORDERED that the Commission staff is authorized to proceed with legally certifying and filing the attached regulations with the Secretary of State, State Library, and Bureau of Legislative Research, and incorporating them into the Commission Code Book and Addendum.

Submitted by: 
James F. Goodhart
General Counsel

Division: Legal

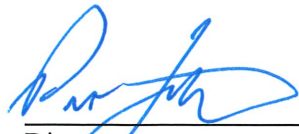
COMMISSION APPROVAL

| | |
|--|--|
|  Ken Reeves Chairman  Andrew Parker Vice Chairman |  Stan Jones Commissioner  J. D. Neeley Commissioner |
|--|--|

MINUTE ORDER NO: I(f)


PAGE 2 of 2 PAGES

Approved:




Director

Approved:



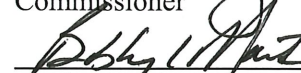
Fiscal



Joe Morgan
Commissioner



Anne Marie Doramus
Commissioner



Bobby Martin
Commissioner

PLEASE ANSWER ALL QUESTIONS COMPLETELY
(Attach additional pages if needed)

SHORT TITLE OF THIS RULE: Code Amendments for Statute of Limitations
Applicable to Commission Regulations

Effect on Party Subject to Rule: The periods of limitation set forth in Ark. Code Ann. § 5-1-109(b)(3)(B)(ii) was adopted by the Arkansas General

Assembly as Act 1009 of 2015, and has been in effect since July 22, 2015. This amendment is simply to codify the existing legal standard in the AGFC Code of Regulations. No additional costs to the regulated public are anticipated.

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. The AGFC will continue to enforce the existing law without expectation of any additional cost.

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: N/A

7. Compare this rule with federal and state counterparts: N/A