ARKANSAS REGISTER



Contact Person

Transmittal Sheet

Use only for FINAL and EMERGENCY RULES

Secretary of State

John Thurston

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www.sos.arkansas.gov



For Office Use Only: Effective Date _____Code Number _____ Name of Agency Department_____ Contact E-mail_____Phone____ Statutory Authority for Promulgating Rules _____ Rule Title: Intended Effective Date Date (Check One) Legal Notice Published Temergency (ACA 25-15-204) 10 Days After Filing (ACA 25-15-204) Final Date for Public Comment Reviewed by Legislative Council..... Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

CERTIFICATION OF AUTHORIZED OFFICER

E-mail Address

I Hereby Certify That The Attached Rules Were Adopted

In Substantial Compliance with Act 434 of 1967 the Arkansas Administrative Procedures Act. Pursuant to 2011 decision rendered by the Pulaski County Circuit Court and 2000 opinion by the Arkansas Attorney General, the rulemaking requirements in the Arkansas Administrative Procedures Act cannot be constitutionally applied to the AGFC. Nevertheless, the AGFC does substantially comply with the rulemaking provisions under Ark. Code Ann. section 25-15-204 for public notice, opportunity for comment, and filing of all regulations adopted by the Commission.

	Signature	
Phone Number		E-mail Address
	Title	
	11010	
	Date	

F1.01 Commercial Wildlife Hunting Resort Requirements

- A. Commercial Wildlife Hunting Resort Permits may be issued to applicants complying with the following requirements:
 - 1. The applicant must be at least 18 years old and shall not have been convicted of, or entered a plea of guilty or nolo contendere for, violating any federal, state or municipal law governing captive wildlife, illegal appropriation or commercialization of wildlife, or cruelty to animals within 5 years of application date.
 - 2. The applicant shall provide to the Commission, in writing, proof from the county judge or sheriff and any municipal planning commission or board with jurisdiction, stating that the applicant's hunting resort shall be in compliance with all local ordinances.
 - 3. The applicant shall submit a written application (available from the Commission) for each facility to be permitted.
- B. The requested permit shall be denied if:
 - 1. The applicant fails to meet any of the issuance criteria set forth in this addendum chapter;
 - 2. The applicant fails to disclose material information required, makes false statements as to any material fact in connection with the application, or supplies false information or makes a false statement on the application;
 - 3. The Commission finds, through further inquiry or investigation, the issuance of the permit may be potentially harmful to the wildlife resources of the State.
- C. Commercial wildlife hunting resorts must comply with the following:
 - 1. Commercial Wildlife Hunting Resort Permits must be obtained at least 60 days before hunting begins. Operators must notify the Commission upon any change of ownership or enclosure size.
 - 2. Native game animals, except black bear, may be hunted within commercial wildlife hunting resorts in accordance with statewide hunting regulations and license requirements. Such high-fence enclosures shall be at least 500 contiguous acres of free range (no cross-fencing) with a fence at least 8 feet in height around the perimeter.
 - 3. Deer and elk may be hunted within commercial wildlife hunting resorts with any legal method of take for deer or elk hunting from October-February. Limits do not apply. An elk permit is not required.
 - 4. High-fence enclosures shall have at least 60 percent forested cover classified as timberland by the county tax assessor.
 - 5. Hunting, chasing, herding or corralling deer or elk with dogs within a commercial wildlife hunting enclosure is prohibited.
 - 6. Hunting non-native wildlife within a high-fence enclosure is prohibited.
 - 7. The perimeter fencing of a high-fence enclosure must be posted at least every 300 feet with yellow signs marked with "Commercial Wildlife Hunting Resort" in black letters at least 4 inches tall.
 - 8. All cervids held captive under this permit that die, including those harvested by hunters, shall be tested for chronic wasting disease by the Arkansas Livestock and Poultry Commission at the expense of the permit holder. The permit holder shall submit the results of such testing to the Commission within seven days of receipt.
- D. Reporting and Record-Keeping Requirements:

- Owners or operators of commercial wildlife hunting resorts must keep legible and complete records showing the name and current address of each hunter, the date, number of wildlife and sex of each animal taken.
- 2. Records shall include evidence of legal possession of all wildlife kept under this permit, including licenses, bills of sale, bills of lading, receipts, invoices or other satisfactory evidence of ownership. Records shall include the date of acquisition, place of origin, and the name, address and telephone number of the person from whom the wildlife was acquired.
- 3. Records must be retained throughout the time the wildlife is possessed by the permittee or for five years, whichever is longer.
- 4. Permit holders shall submit a completed Commercial Wildlife Hunting Resort Harvest Report (form available from the Commission) by May 1.
- 5. Stock shall only be acquired from either a Commission-permitted Wildlife Breeder/Dealer or have been brought into the state in accordance with a Commission Wildlife Importation Permit. Permits will not be issued to and existing permits may be revoked for facilities that have acquired stock by any other method.

E. Disease Testing and Control:

- 1. The director of the Commission, in consultation with the director of the Arkansas Livestock and Poultry Commission, or their designees, shall determine mechanisms and procedures for control of diseases and parasites in captive wildlife within Arkansas. Such mechanisms and procedures shall include, but not be limited to, examination, testing, quarantine and slaughter or destruction of individual animals and/or herds that are, or in the opinion of the Commission may be, infected with a disease or parasite that may have significant detrimental effect on native wildlife, other captive wildlife, livestock or the public health of the citizens of Arkansas.
- 2. Examinations, testing, quarantine and slaughter of captive wildlife shall be conducted at the expense of the owner. As a condition of any permit issued under this addendum chapter, the Commission may require the captive wildlife be quarantined for a period specified by the Commission.

F. Facility and Enclosure Requirements:

- 1. All wildlife possessed in captivity shall be maintained in enclosures that are sufficiently strong to prevent escape of the wildlife and will protect the wildlife from injury.
- 2. Enclosures shall be kept in good repair at all times and gates shall be securely fastened with latches or locks.
- 3. Permit holders whose facilities, including enclosures, are not in compliance with this addendum chapter shall correct the violation within 10 days of notification, or sooner if so ordered by the Commission.
- 4. If the violation has not been corrected within required time, the Commission may revoke or suspend any existing permit and may refuse to issue any future permit. Such revocation, suspension or refusal to issue a future permit shall be in addition to any criminal charges that may be filed.
- 5. All wildlife shall be maintained in humane and healthy conditions.

G. Inspection:

- 1. Permit holders shall allow agents of the Commission to enter and inspect the premises, including books, records or permits required to be kept and any wildlife and/or facilities kept under authority of permit.
- 2. Each permittee shall pen the captive wildlife in suitable pens and restrain them for inspection, at a reasonable time, when requested to do so by an agent of the Commission.

H. Permit Renewal, Transfer, Suspension And Revocation:

Persons in violation of the terms of this permit, this addendum chapter, Commission Codes, or convicted of violating associated regulations of the U.S. Fish and Wildlife Service, shall be notified in writing and shall have 20 days to respond with just cause as to why their permit should not be suspended or revoked.

- 2. If after 20 days just cause has not been given, the Commission may suspend or revoke any existing permit held by the violator and may refuse to issue future permits. Permit suspension, revocation or refusal shall be in addition to any criminal charges that may be filed.
- 3. Upon revocation, permit holder must remove by legal means all captive wildlife within the time designated in the revocation, not to exceed 60 days, and failure to do so shall result in the Commission taking action, per Commission policy, at the permit holder's expense.

Arkansas Game and Fish Commission Little Rock, Arkansas

SUBJECT:

20-021

MINUTE ORDER NO:

Fiscal

MINUTE ORD	ER NO:		20-021	SUBJECT:	2020-2021 General Hunting	
DATE PASSEI	D:	N	fay 21, 2020		Regulations Approval	
PAGE	1 o	f 1	PAGES	LOCATION:	Statewide	
WHEREAS,		regulation geograpsic captive elk, furt	ons for 2020-20 hic zones, wildli wildlife, and ma	21 Hunting Seaso fe management ar nner-of-taking-gar	and its staff have proposed the attached ns, including game seasons, bag limits, eas, boating access, weapon restrictions, me requirements for alligator, bear, deer, rrel, turkey, dove, waterfowl, and other	
WHEREAS,	the attached regulations have been communicated through a variety of med avenues to sportsmen and the general public throughout the state for review a comment for at least the past 30 days; and					
WHEREAS,		determin manager	s well as commended that the attacement and are comment and are comment and are comment are comment are comment are comment and are comment are commen	nents received fr ched regulations pr nsistent with Amer	ations of the Director and Commission om the public, the Commission has comote sound wildlife conservation and adment 35 of the Arkansas Constitution pproved for application statewide.	
Commission	nereby	BE IT OR approves	DERED this 21s	t day of May 202 e attached regula	20, that the Arkansas Game and Fish tions, which shall become effective	
filing the atta	iched re	gulations	with the Secreta	staff is authorized ary of State, Stat ission Code Book	I to proceed with legally certifying and E Library, and Bureau of Legislative and Addendum.	
Submitted by	:	FF APPRO	VAL	COMMISSION Ken Reeves Chairman	NAPPROVAL Stan Jones Commissioner A class 7 has a large standard from the standard	
Division:	Wild	llife Manag	gement	Andrew Park Vice Chairma	er by Cc J.D. Neeley	
Approved:	Dire	ctor	m	Joe Morgan Gommişsione	by C. C. Anne Marie Doramus has a	
Approved:	Lega	1		Bobby Martin Commissione	Martin by C C	
Approved:						

FINANCIAL/ECONOMIC IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

(Attach additional pages if needed)

DEPARTMENT: Arkansas Game and Fish Commission

DIVISION: Wildlife Management

PERSON COMPLETING THIS STATEMENT: Mark Hutchings/Matthew Warriner

EMAIL: mark.hutchings@agfc.ar.gov / matthew.warriner@agfc.ar.gov

SHORT TITLE OF THIS RULE: 2020-2021Hunting, WMA, Captive Wildlife and

Miscellaneous Regulation Proposals.

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: the financial impact of many of the regulation changes is not easily quantifiable due to the nature of the proposed changes.
- 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	<u>Next Fiscal Year</u>	
General Revenue	\$ General Revenue	\$
Federal Funds	\$ Federal Funds	\$
Cash Funds	\$ Cash Funds	\$
Special Revenue	\$ Special Revenue	\$
Other (Identify)	\$ Other (Identify)	\$
Total	\$ Total	\$

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: N/A Next Fiscal Year: Unknown

Amend existing and adopt new regulations including:

- Adopt a quota system for alligator hunting on private lands Alligator Zones 1, 2 and 3
- Increase bear quota in Bear Zone 1 (Ozarks) from 340 to 500
- Reduce the Public Land Elk Quota by 3 either sex and 3 antlerless permits
- Reduce the Private Land Elk Quota from 12 bulls to 10 bulls and from 40 antierless elk to
- Require all Deer, Turkey, Bear, Alligator, and Elk to be checked within <u>12</u> hours from the time of harvest

- Require all hunters (including youth) to obtain a Customer Identification Number (CID) in order to check game or apply for permit hunts
- Simplify turkey regulations by reducing the number of turkey zones from 18 to 2 zones (by county)
- Restrict the harvest of bearded hens
- Reduce bag limits for wild turkeys on all Wildlife Management Areas from 2 to 1 legal turkey
- Allow hunters to harvest only 1 turkey during the first seven days of the season and establish a 1 bird bag limit during the special youth turkey hunt.
- Move turkey season to the third Monday in April, and extend season length in proposed Zone 2 to 21 days with a 2 bird bag limit. Proposed Zone 1 will retain the conservative 9 day season and 1 bird bag limit.
- Create a youth and regular permit turkey hunt on Devil's Eyebrow Natural Area
- Create a new youth permit turkey hunt on Shirey Bay Rainey Brake WMA
- Combine Deer Zones 8 and 8A
- Combine Deer Zones 1A, 6, and 6A
- Combine Deer Zones 4 and 4B and align modern gun deer season with zone 4B (extending from 2 days to 9 days)
- Combine Deer Zones 5 and 5B and align modern gun deer season with Zone 5B (extending from 4 days to 9 days)
- Increase bag limits for Deer Zones 3,6,6A,7,8,8A,10,11, and 13 from 4 deer to 5 deer
- Reduce the aggregate bag limit in Deer Zone 12 and Deer Zone 17 from six deer to five deer
- Create a new muzzleloader deer hunt at Bell Slough WMA
- Create a new modern gun mobility impaired hunt for deer and bear on Bearcat Hollow WMA
- Change the current December Special Modern Gun Youth Hunt on Bearcat Hollow WMA to a regular three day muzzleloader hunt
- Add a new Modern Gun Youth Permit Hunt on Stone Prairie WMA (to coincide with statewide youth season)
- Remove permit requirements for youth deer hunts on Ed Gordon and Hope Upland WMAs
- Open a new Youth Deer Hunt on the following 18 WMAs: Bell Slough, Benson Creek Natural Area, Cattail Marsh, Cut Off Creek, Dr. Lester Sitzes III Bois D' Arc, Earl Buss Bayou De View, Ethel, George H. Dunklin Jr. Bayou Meto, Henry Gray Hurricane Lake, McIlroy Madison County, Rex Hancock Black Swamp, Ring Slough, Robert L. Hankins Mud Creek, Scott Henderson Gulf Mountain, Sheffield Nelson Dagmar, Two Bayou Creek, Village Creek and Whitehall
- Move the current Private Lands Antlerless-only Modern Gun Hunt from the 2nd weekend in October to December, and reduce it from a 5 day hunt to a 3 day hunt (Dec. 29-31) statewide
- Clarify that a lesser weapon may be used during the private land antlerless modern gun deer hunt. Hunter orange still required and only one weapon of choice allowed
- Increase the number of days antlerless deer may be taken on Piney Creeks and Sylamore WMAs and change the bag limit on Muddy Creek and Mt. Magazine WMAs to allow one antlerless deer with muzzleloader or one antlerless first two days of modern gun season.

- Move the Modern Gun Deer Permit Hunt on Cypress Bayou WMA from the fourth Friday in November to the second Saturday in November for 5 days
- Provide an annual Disabled Veterans Modern Gun Hunt on Longview Saline and Warren Prairie WMAs
- Add Independence and Jackson County to the CWD Management Zone
- Remove antler restrictions on the following WMAs in Independence and Jackson Counties to comply with CWD Management Zone regulations: Cherokee, Foushee Cave, Jamestown, and Village Creek WMAs
- Open Wylie Cox Field trial Area (140 ac.) on Ed Gordon Point Remove WMA by removing SUA status and adjust the regulations to be consistent with the remainder of the WMA.
- Create a new leased land WMA at Winona to be named Cedar Mountain WMA.
- Include Camp Robinson WMA in the spinning wing decoys restrictions
- Clarify that an electric bicycle is considered a motorized vehicle and must adhere to motorized vehicle restrictions on WMAs
- Remove firewood restrictions on all Commission-owned WMAs
- Open Bobcat, coyote, and fox hunting with shotguns and rimfire rifles at Little Bayou and Crossett Experimental Forest WMAs
- Allow for applications for new fur dealer permits to be denied if they failed to provide a report the previous year.
- Move the last day of muskrat trapping season from March 31 to February 28
- Change furbearer ammunition restrictions on private lands to only apply to raccoon, opossum, and bobcat being hunted at night.
- Require holders of a wildlife depredation or predator control permit and their designees, to purchase a valid hunting license.
- Exclude bats from the list of species that can be killed when a nuisance except for when rabies testing is needed.
- Add the Little Brown Bat (Myotis Lucifgus) as a state listed endangered species.
- Edit some of the wording in the season dates for code clarification and correction of errors made during the electronic conversion of codebook.
- Add USFWS Special Purpose Abatement requirements to falconry code.
- Remove 7 species of federally protected birds from the exceptions list of birds that are not protected
- Allow non-resident falconers with a non-resident hunting license to apply for an Arkansas Passage Peregrine Falcon Permit. Also update the falconry data entry website to new web address.
- Increase Quail Habitat Stamp price from \$4.50 to \$9.50
- Re-establish the annual dove season opening date as the first Saturday in September
- · Clarify dates for non-resident waterfowl hunters on WMAs
- Reduce the Scaup daily limit from 2 to 1
- Propose two options for white-fronted goose season; either 74 days (current structure) with a 3 bird bag limit or 88 days with a 2 bird bag limit
- Clarify that the Salt ditches on Bayou Meto WMA adhere to Common Restriction A.
- Implement permitted waterfowl hunting on the Red Cut Slough tract at Cypress Bayou WMA during the regular duck season.
- Allow all day waterfowl hunting on WMAs on the last day of regular duck season and

- during the special youth/veteran waterfowl hunts.
- Modify Common Restriction A to restrict boat access all day on 21 WMAs for 5 days before waterfowl season and during waterfowl splits. Add Cypress Bayou WMA and 5 additional water bodies on Petit Jean River and Dave Donaldson Black River WMAs and remove 2 from Ed Gordon Point Remove WMA from the exceptions in Common Restriction A.
- Clarify and update definitions relating to captive game birds and Shoot-to-Kill Bird Dog Training permit.
- Clarify exception relating to field trials and eliminate exception relating to USDA
 Wildlife Exhibition permits.
- Clarify that non-native birds be kept in buildings or covered pens. And clarify what constitutes proof of ownership.
- Clarify which species of quail and pheasant may be released in accordance with certain permits and clarify what methods of confinement for birds are adequate.
- Clarify that the exception from the Wildlife Breeder/Dealer Permit regulations, allowing
 for the sale of up to 20 individual animals per year of species on the Permitted Species
 List, does not apply to certain species for which Wildlife Breeder/Dealer Permits are
 restricted.
- Eliminate Mountain Lion Permit.
- Eliminate certain redundant language in the Game Bird Shooting Resort Permit code.
- Eliminate redundant language in the Commercial Wildlife Hunting Resort Permit code.
- Update reasons for suspension or revocation of Wildlife Breeder/Dealer permits to match language used as reasons for denial of new permit applications.
- Modifying Wildlife Importation Permit requirements to allow those importing birds to
 provide proof of participation in the National Poultry Improvement Program by the outof-state facility to satisfy disease testing requirements and to require those importing
 venomous reptiles into Arkansas for temporary exhibition follow certain caging
 requirements.
- Clarify that rules regarding temporary display of venomous reptiles in F1. (C) (4) may also apply to individuals without permits. Update terms for suspension or revocation.
- Clarify that captive born native species of birds being kept as pets be kept in buildings or
 covered pens. Clarify the use of tongs and snake hooks would be allowed to hand capture
 native wildlife and clarify what constitutes proof of legal possession of captive born
 native wildlife pets.
- Clarify that holders of the Conservation Education Permit must conduct at least 20 hours
 of conservation education each year to be eligible for renewal. Update terms for permit
 suspension or revocation to match terms for which initial application would have been
 denied.
- Add 3 bird species and 81 reptile species to Addendum R1.01 Unrestricted Captive
 Wildlife Species that upon staff review do not appear to be inherently dangerous and pose
 no significant risk to human health and safety, native fish and wildlife health or
 populations, agriculture, and can be safely confined in a humane manner.
- Add 4 bird species and 31 mammal species to Addendum R1.02 Permitted Captive Wildlife Species List that upon staff review appear to pose a moderate but manageable risk to human health and safety, native fish and wildlife health or populations, or agriculture, such that they warrant further restriction or oversight.

- Add 30 mammal, 5 reptile and 123 amphibian species to Addendum R1.03 --Prohibited Captive Wildlife Species List to prohibit the breeding, sale or importation of these species. Importation, breeding and sale of these species (as well as blackbuck antelope black-tailed prairie dogs) will be allowed for those permitted by the required dates.
- Add capybara, nilgai, aoudad sheep, oryx, kudu, lechwe, ibex, jaguar, leopard, snow leopard, hippopotamus, warthog, rhinoceros, newts and fire salamanders, and large Asian and African pythons to Addendum F1.03 for the purpose of prohibiting the sale of these species to only persons who possess a current Wildlife Breeder/Dealer Permit for the respective species or to buyers outside of Arkansas.
- Add a disease testing requirement in Addendum F1.04 Wildlife Importation Permit Requirements for brindled gnu which is being proposed to be permitted for importation, breeding and sale.
- Extend deadline to apply for Wildlife Breeder/Dealer Permits for those animals that do not meet standard documentation requirements and the deadline by which a Venomous Reptile Permit has to be obtained for those possessing these medically significant venomous species to July 1, 2021. Also extend deadline to July 21, 2021 for certain caging, facility and transport requirements for those with medically significant venomous reptiles kept under the native wildlife pet code.
- Authorize transfer of un-releasable wild animals from rehabilitators to holders of a Commission-issued Conservation Education Permit.
- Add exceptions for possession of certain threatened and endangered species to the Commission's endangered species code.
- Limit the amount of time that holders of Live Fox and Coyote Permits may keep livecaught animals to 30 days or less prior to sale and restrict sales to fox pen owners only.
- Clarify within the Wildlife Breeder/Dealer regulation that a Live Fox and Coyote Permit is needed to sell live fox and coyote.
- Reduce the time for Venomous Reptile Permit holders to correct caging problems from 30 days to 10 days.
- Clarify warning sign requirements for permanent and temporary venomous reptile enclosures.

Party Subject to Rule: hunters, trappers and persons engaged in captive wildlife related activities will be primarily subject to these rules.

Effect on Party Subject to Rule: The proposed changes, as listed above, will effect parties subject to the regulations as categorized to liberalize or expand opportunity (26%); clarify existing code (33%); simplify or reduce regulations (15%) and restrictions (26%).

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: Unknown

Financial Benefit to Agency: Increase to price of Voluntary Quail stamp from \$4.50 to \$9.50 could result in increased revenue for habitat management

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: Regulations vary greatly among states.



Chris Colclasure **Deputy Director**

Arkansas Game and Fish Commission Pat Fitts

Chris Racey **Deputy Director**

James F. Goodhart

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Rob Brown

May 28, 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 Regulation Adopted on May 21, 2020

Dear Ms. Sansom:

Attached please find a link to the 93 regulations approved by the Arkansas Game and Fish Commission on April 23, 2020. Also included for each individual regulation is the required transmittal sheet, and applicable Financial Impact Statement and the signed Minute Order. The Commission respectfully requests that these regulation become effective 10 days after filing.

Notices for the proposed regulations were published in the Arkansas Democrat-Gazette on March 22, 23, and 24, 2020, and April 19, 20, and 21, 2020.

Hard copies of the approved regulations will be in the mail in the next day or so. Kindly notify April Soman at april.soman@agfc.ar.gov to confirm receipt of both the electronic submission and 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