

ARKANSAS REGISTER

Transmittal Sheet

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



Secretary of State

John Thurston

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Little Rock, Arkansas 72201-1094
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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

(Check One)

- Emergency (ACA 25-15-204)
- 10 Days After Filing (ACA 25-15-204)
- Other _____
(Must be more than 10 days after filing date.)

	Date
Legal Notice Published	_____
Final Date for Public Comment	_____
Reviewed by Legislative Council	_____
Adopted by State Agency	_____

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Contact Person	E-mail Address	Date
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CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted

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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

Date

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.

34.01 Aquatic Turtle Permit Requirements

- A. It is unlawful for a nonresident to harvest any aquatic turtles.
- B. It is unlawful for a resident/business to: 1) import for commercial propagation or sale of aquatic turtle species native to the state; or 2) operate tackle, harvest, propagate, purchase or sell any wild-caught aquatic turtles for commercial purposes without the following permits:
 - 1. A Commercial Fisherman Permit and Sportfishing License, and either an Aquatic Turtle Harvest Permit or a Junior Aquatic Turtle Harvest Permit (for resident youths) are required to harvest and sell wild aquatic turtles.
 - 2. The bearer of an Aquatic Turtle Harvest Helper Permit may assist in the harvest or operate the properly tagged tackle of a licensed aquatic turtle harvester or dealer.
 - 3. A Commercial Fisherman Permit and Sportfishing License, and an Aquatic Turtle Dealer Permit are required to engage in the: 1) importation of aquatic turtle species native to the state for commercial propagation or sale; or 2) the harvest, propagation, purchase, sale or export of wild-caught aquatic turtles.
 - 4. An Aquatic Turtle Farmer Permit is required to engage in the propagation, sale or export of propagated aquatic turtles. This permit does not allow for the purchase, barter, trade, exchange or sale of wild-caught turtles.
 - 5. An Alligator Snapping Turtle Breeder/Dealer Permit is required to possess, buy, sell or offer to sell alligator snapping turtles or their eggs. Alligator snapping turtles longer than 5 inches curved carapace length may not be sold, bartered, traded, or transferred without written approval of the Commission. An affidavit form provided by the Commission specifying the transaction type (transfer or sale), party type (individual or business), and number of turtles, shall be submitted to the Commission. All sales of wild-caught aquatic turtles shall follow all transaction and reporting requirements (Code [34.07](#)) in this chapter.
 - 6. A Wildlife Importation Permit (Code 9.10) is required for the importation of aquatic turtle species native to the state for commercial propagation or sale.

EXCEPTIONS:

- A. Fish farmer permittees may harvest and sell turtles from their facilities with an Aquatic Turtle Harvest Permit.
- B. Fish markets selling only dressed turtles for human consumption in Arkansas are not required to have an Aquatic Turtle Dealer Permit.

PENALTY: Class 3

ARKANSAS GAME AND FISH COMMISSION
Little Rock, Arkansas

MINUTE ORDER NO: 20-028 SUBJECT: Captive Wildlife Regulations
 DATE PASSED: June 18, 2020 Approval
 PAGE 1 of 2 PAGES LOCATION: Statewide

WHEREAS, the Arkansas Game and Fish Commission and its staff have proposed the attached regulations to amend existing requirements for captive wildlife, including to: (1) change the approving official for alligator display permits from the chief of the Wildlife Management Division to the chief of the Fisheries Division; (2) prohibit the import for commercial propagation or sale of aquatic turtle species native to the state unless imported under a Commission-issued Wildlife Importation Permit; (3) add various bird and reptile species and delete one listing of a reptile species (Corn Snake) to Addendum R1.01 – Unrestricted Captive Wildlife Species List; and (4) modify Addendum R1.02 – Permitted Captive Wildlife Species List to delete one species (Boa Constrictor); **and**

WHEREAS, the attached 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 and Commission staff, 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 18th day of June 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.

	<u>STAFF APPROVAL</u>	<u>COMMISSION APPROVAL</u>	
Submitted by:	<u>Ben Batten</u> Chief	<u>Ken Reeves</u> Chairman	<u>Stan Jones</u> Commissioner
Division:	<u>Fisheries</u>	<u>Andrew Parker</u> Vice Chairman	<u>J. D. Neeley</u> Commissioner
Approved:	<u>[Signature]</u> Director	<u>Joe Morgan</u> Commissioner	<u>Anne Marie Doramus</u> Commissioner

MINUTE ORDER NO: 20-028

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Approved: _____
Legal


Bobby Martin
Commissioner

Approved: _____
Fiscal

FINANCIAL/ECONOMIC IMPACT STATEMENT

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

DEPARTMENT: Arkansas Game and Fish Commission

BUREAU: Wildlife Management

PERSON COMPLETING THIS STATEMENT: Matthew Warriner

TELEPHONE #: 501-978-7318 **FAX #:** 501-223-6452

EMAIL: matthew.warriner@agfc.ar.gov

SHORT TITLE OF THIS RULE: Captive Wildlife Regulation Amendments

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?
Yes: No:

2. Do you believe that the development of a financial impact statement is so speculative as to be cost prohibitive? Yes: No: If "Yes", please explain: the primary financial impact may be to persons wishing to import for commercial propagation or sale aquatic turtle species native to the state. A Wildlife Importation Permit at a current cost of \$50.00 and a veterinary inspection would be required prior to importation of these species. The number of persons who may want to import these species in the future is not known but is expected to be small.

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.

<u>Current Fiscal Year</u>		<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	\$

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

Amend existing regulations including:

- Change the approving official of alligator display permits from the chief of the Wildlife Management Division to the chief of the Fisheries Division
- Prohibits the import for commercial propagation or sale of aquatic turtle species native into the state unless imported under a Commission-issued Wildlife Importation Permit
- Add approximately 439 species of reptiles to Addendum R1.01 – Unrestricted Captive Wildlife Species to exempt these species from Wildlife Breeder/Dealer and Wildlife Importation Permit requirements and allow breeding, sale and import without these permits.

Party Subject to Rule: Persons proposing to import for commercial propagation or sale aquatic turtle species native to the state and persons proposing to import, breed or sale species being added to the unrestricted captive wildlife species list.

Effect on Party Subject to Rule: Requiring a Wildlife Importation Permit to import for commercial propagation or sale of aquatic turtle species native to the state will necessitate the payment of a \$50.00 fee and obtaining a veterinary inspection prior to importation. Adding species to the unrestricted captive wildlife species list will allow persons to breed, sale and import species without having to have Wildlife Breeder/Dealer and Wildlife Importation Permits.

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: Unknown

Next Fiscal Year: Unknown

Financial Benefit to Agency: None

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. Adding the requirement for a Wildlife Importation Permit to import for commercial propagation or sale of aquatic turtle species native would allow for consistent treatment of native wildlife species being imported. The species being proposed for the unrestricted captive wildlife species list, 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.



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Arkansas Game and Fish Commission

June 29, 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 June 18, 2020

Dear Ms. Sansom:

Attached please find Regulations 1.00C, 12.01, 20.19, 34.01, R1.01, and R1.02 approved by the Arkansas Game and Fish Commission on June 18, 2020. Also included for each regulation is the required AR Secretary of State Transmittal sheet, applicable Financial Impact Statement, and the signed Minute Order.

Notices for the approved regulations were published as indicated on the AR Secretary of State Transmittal sheet in the Arkansas Democrat-Gazette.

Hard copies of the approved regulations will be in the mail in the next day or so. **Kindly notify April Soman to confirm receipt of both the electronic submission and hard copy.** 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