

ARKANSAS REGISTER

Transmittal Sheet

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



Secretary of State

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Game and Fish Commission

Department Legal Division

Contact James Goodhart, General Counsel E-mail james.goodhart@agfc.ar.gov Phone 501-223-6327

Statutory Authority for Promulgating Rules Amendment 35

Rule Title: 30.13 Commercial Fishing Season Restrictions

Intended Effective Date

(Check One)

- ☐ Emergency (ACA 25-15-204)
- ☐ 10 Days After Filing (ACA 25-15-204)
- ☒ Other January 1, 2021
(Must be more than 10 days after filing date.)

Date

Legal Notice Published Aug. 15-18, Sept. 23-15, 2020

Final Date for Public Comment October 14, 2020

Reviewed by Legislative Council NA

Adopted by State Agency October 15, 2020

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

April M. Soman

April.Soman@agfc.ar.gov

October 19, 2020

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

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.~~

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/s/ James F. Goodhart

501-223-6327

Signature

James.Goodhart@agfc.ar.gov

Phone Number

General Counsel

E-mail Address

Title

October 19, 2020

Date

Arkansas Game and Fish Commission

Code Book

The regulations in this Code Book are hereby adopted by the Arkansas State Game and Fish Commission under authority of Amendment 35 to the Constitution of the State of Arkansas. All laws, rules, regulations, or orders in conflict with the regulations in this Code Book are hereby repealed by the Arkansas State Game and Fish Commission.

30.13 Possession And Use Of Fiddler-Size Hoop Nets And Slat-Type Fish Traps Restricted To Certain Public Waters

NEW TITLE: Commercial Fishing Season Restrictions

It is unlawful to fish commercial tackle in waters of the state and possession of commercial fishing tackle is prohibited while on these waters, including all lakes owned and/or operated by Arkansas State Parks, USDA Forest Service, or AGFC, except for the following:

- A. The following waters, including all lakes, bays or other bodies of water, other than tributary streams, connected to waters as specified below, when accessible by boat, from the main channel except as limited by Addendum Chapter H1.00 and in accordance with landowner permission Code 05.35, are open year-round to legal commercial tackle as defined in Code 30.05:
1. ARKANSAS RIVER from its mouth to the Oklahoma state line including that part of the Arkansas River from the Ozark Dam to the Oklahoma state line, bounded on the north by the Union Pacific Railroad and on the south by Arkansas Highway 22 in compliance with Section C codes below. It is unlawful to fish with commercial tackle in waters between arrival point signs and any lock and dam;
 2. MISSISSIPPI RIVER Arkansas waters between the main levees of the river;
 3. BLACK RIVER from its mouth to the Missouri state line;
 4. CACHE RIVER from its mouth to its headwaters in Clay County;
 5. FOURCHE LaFAVE RIVER from its mouth to the Arkansas Highway 7 bridge in Perry County;
 6. LITTLE RIVER from its mouth in Hempstead and Little River counties upstream to the Corps of Engineers boat ramp on west bank of river below Millwood Lake Dam; Little River upstream of Patterson Shoals boat ramp to the Oklahoma state line;
 7. OUACHITA RIVER from the Louisiana state line to U.S. Highway 79B bridge (Camden) (see Emergency Closure Code 38.01);
 8. PETIT JEAN RIVER from its mouth to the Arkansas Highway 10 bridge in Yell County;
 9. RED RIVER in Hempstead, Lafayette, Little River, and Miller Counties;
 10. ST. FRANCIS RIVER upstream to the mouth of the Left Hand Chute of Little River in Poinsett County;
 11. SALINE RIVER from its mouth upstream to the Arkansas Highway 278 bridge in Bradley County; Saline River and backwaters upstream of the Stillions Railroad Bridge is closed to gill and trammel nets; Saline River above Highway 278 bridge in Bradley County closed to commercial fishing; (see Emergency Closure Code 38.01);
 12. SULPHUR RIVER from its mouth to the Texas state line;
 13. WHITE RIVER upstream from its mouth to the mouth of the Black River; White River above the mouth of the Black River is closed to commercial fishing;

14. EXCEPTIONS:

- i. Flathead catfish, bowfin, drum, and gar may not be taken or possessed by commercial fishermen on the Ouachita River from Smackover Creek to the northern boundary of Felsenthal NWR.
- ii. Blue catfish, flathead catfish, bowfin, drum, and gar may not be taken or possessed by commercial fishermen on the Ouachita River from the northern boundary of Felsenthal NWR to the Louisiana state line, all waters within Felsenthal NWR, and from the Saline River from its mouth within Felsenthal NWR upstream to the Stillion railroad bridge.

B. The following counties are open year-round to legal commercial tackle as defined in Code 30.05 unless noted closed in Section A above or other codes in Chapter 30.00. When a river or stream forms the boundary between opened and closed counties, that boundary segment shall be closed to commercial tackle, unless noted open in Section A above or other codes in Chapter 30.00. Gill and trammel nets may be fished in the following counties only from noon September 30 to noon May 1, unless noted open in Section A or other codes in Chapter 30.00:

1. Arkansas (see Emergency Closure Code 38.01);
2. Ashley (see Emergency Closure Code 38.01);
3. Bradley (see Emergency Closure Code 38.01);
4. Calhoun (see Emergency Closure Code 38.01);
5. Chicot; Lake Wallace closed; Grand Lake closed;
6. Clay;
7. Columbia (see Emergency Closure Code 38.01); Dorcheat Bayou closed; Columbia County Lake closed;
8. Craighead;
9. Crittenden; Horseshoe Lake closed;
10. Cross;
11. Desha;
12. Drew (see Emergency Closure Code 38.01); Lake Wallace closed;
13. Greene;
14. Hempstead; Little Missouri River closed;
15. Independence;
16. Jackson;
17. Jefferson (see Emergency Closure Code 38.01); Hensley Lake closed;
18. Lafayette; Lake Erling, including all tributaries upstream from 100 yards below Lake Erling Dam to Arkansas Highway 313 in Lafayette County closed;
19. Lawrence; Strawberry River above Highway 25 closed;
20. Lee;
21. Lincoln;
22. Little River;
23. Lonoke (see Emergency Closure Code 38.01);
24. Miller;
25. Mississippi;
26. Monroe;
27. Phillips;
28. Poinsett;
29. Prairie (see Emergency Closure Code 38.01);
30. Pulaski (see Emergency Closure Code 38.01); Lake Maumelle closed;

31. St. Francis;
32. Union (see Emergency Closure Code 38.01);
33. White; Little Red River closed year-round to commercial fishing upstream of the Arkansas Highway 367 bridge at Searcy; and
34. Woodruff;
35. **EXCEPTIONS:**

- i. For waters in the above counties located within the Dale Bumpers White River NWR below Arkansas Highway 1, gill and trammel net season is from noon September 30 - noon November 30 and from noon March 1 - noon September 30 when accessible by boat from the White River and the White River is above 23.5 feet on the St. Charles gauge. All commercial fishermen must obtain a special use permit from the Dale Bumpers White River NWR manager prior to fishing refuge waters.

C. The following waterbodies are open to commercial tackle with certain restrictions:

1. **Corning Lake or Long Lake in Clay County:** Trotlines, throw line, limblines, and snag lines are prohibited.

2. Lake Dardanelle:

- i. Commercial tackle of any type is prohibited from noon March 1 - noon November 30 in the waters of Dardanelle Lake north of the Union Pacific Railroad in Pope, Johnson, and Franklin Counties, Dardanelle Bay in Yell County, and south of signs posted on Shoal Bay, Cane Creek Bay, Six Mile Creek at O-Kane Island Access, and south of Arkansas Highway 22 in Delaware Bay in Logan County.
- ii. Gill and trammel nets must be anchored so they are not within 3 feet of the water surface except noon December 1 - noon April 1.
- iii. Commercial tackle of any type is prohibited in the Entergy Nuclear Power Plant discharge bay from noon November 1 - noon March 1.

3. **Central Arkansas National Wildlife Refuge Complex:** The following NWRs allow commercial fishing activities through Special Use Permit only. See refuge manager for Special Use Permit and refuge specific regulations.

- i. **Big Lake NWR**

- ii. **Cache River NWR**

- iii. **Holla Bend NWR**

4. **Lake Millwood:** Legal gill and trammel nets open noon September 30 - noon May 1, and slat traps open noon September 30 - noon June 1. Lake Millwood is open year-round to other legal commercial fishing. Commercial fishers must obtain, and have in their possession while

fishing, a commercial permit from the district biologist at the Commission's Hope Regional Office, and report their catch to the Hope Regional Office by the 15th day of the following month.

5. **Nimrod Lake, Blue Mountain Lake, and Morgan Point Bendway Lake:** Open noon October 1 – noon March 1. All species of carp caught must be removed from these lakes. Commercial fishers must obtain, and have in their possession while fishing, a commercial permit from the district biologist at the Commission's Russellville Regional Office, for Nimrod and Blue Mountain Lakes, or the Monticello Regional Office for Morgan Point Bendway Lake, and report their catch to the Regional Office from which they obtained their commercial permit by the 15th day of the following month. Only legal-sized gill and trammel nets or larger.
6. **Cadron Creek and Point Remove Creek:** Legal commercial tackle during the commercial fishing season noon September 30 – noon May 1 on Cadron Creek – from its mouth to Arkansas Highway 287 on its east fork in Faulkner County, North Cadron Creek – from its mouth to Arkansas Highway 285 in Faulkner County; Point Remove Creek – from its mouth up the east fork to Arkansas Highway 95 and the Kissire Bridge on the west fork in Conway County.
7. **Sheffield Nelson Dagmar WMA:** Open noon January 1 until noon the last day of February.
8. **First Old River Lake (Miller County):** Open noon November 1 until noon February 28, with legal gill and trammel nets. Commercial fishers must obtain, and have in their possession while fishing, a commercial permit from the district biologist at the Commission's Hope Regional Office and report their catch to the Hope Regional Office by the 15th day of the following month.
9. **Dr. Lester Sitzes III Bois d'Arc Lake (Hempstead County):** Open noon November 1 – noon February 28, with legal gill and trammel nets. Commercial fishers must obtain, and have in their possession while fishing, a commercial permit from the district biologist at the Commission's Hope Regional Office and report their catch to the Hope Regional Office by the 15th day of the following month.
10. **Lake Erling (Lafayette County):** Open noon November 1 – noon February 28, with slat traps and fiddler-size hoops nets upstream to the Highway 360 bridge. Commercial fishers must obtain and have in their possession while fishing, a commercial permit from the district biologist at the Commission's Camden Regional Office, and report their catch to the Camden Regional Office by the 15th day of the following month.
11. **Lake Chicot (Chicot County):** Open noon November 1– noon December 31. Commercial fishers must obtain, and have in their possession while fishing, a commercial permit from the district biologist at the Commission's Monticello Regional Office, and report

their catch to the Monticello Regional Office by the 15th day of the following month. All species of carp and all rough fish, excluding alligator gar, caught must be removed from the lake. Alligator gar must be released back into the lake. The 16-inch minimum length limit on buffalo is waived. Only legal-sized or larger gill and trammel nets may be used.

12. **Old River Lake (Pulaski County):** Open noon December 1– noon February 28. Commercial fishers must obtain, and have in their possession while fishing, a commercial permit from the district biologist at the Commission's Brinkley Regional Office, and report their catch to the Brinkley Regional Office by the 15th day of the following month. All species of carp and all rough fish, excluding alligator gar, caught must be removed from the lake. Alligator gar must be released back into the lake. The 16-inch minimum length limit on buffalo is waived.

13. **Horseshoe Lake (Crittenden County):** Open noon November 1 until noon February 28. Commercial fishers must obtain, and have in their possession while fishing, a commercial permit from the district biologist at the Commission's Brinkley Regional Office, and report their catch to the Brinkley Regional Office by the 15th day of the following month. All species of carp and all rough fish, excluding alligator gar, caught must be removed from the lake. Alligator gar must be released back into the lake. The 16-inch minimum length limit on buffalo is waived.

PENALTY: Class 2

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

SHORT TITLE OF THIS RULE: 2021 Commercial Fishing Regulation Change Proposals

7. Compare this rule with federal and state counterparts:

ARKANSAS GAME AND FISH COMMISSION
 Little Rock, Arkansas

MINUTE ORDER NO: <u>20-053</u>	SUBJECT: <u>2021 Commercial Fishing</u>
DATE PASSED: <u>October 15, 2020</u>	<u>Regulations</u>
PAGE <u>1</u> of <u>1</u> PAGES	LOCATION: <u>Statewide</u>

WHEREAS, the Arkansas Game and Fish Commission and its staff have proposed the attached 2021 commercial fishing regulations; **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 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 15th day of October 2020, that the Arkansas Game and Fish Commission hereby approves and adopts the attached regulations, which shall become effective on January 1, 2021, with the exception of the changes to 30.03 Commercial Fishing Reporting Requirements which will take effect on January 1, 2022.

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.

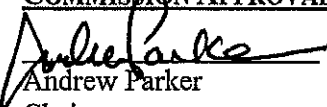
Submitted by: 
 Ben Batten
 Chief

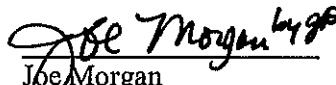
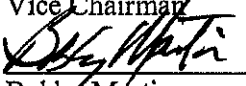
Division: Fisheries


Approved: 
 Director

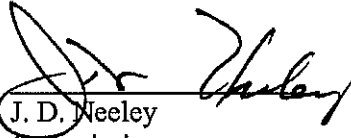
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