

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: 34.01 Aquatic Turtle Permit Requirements

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.)

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

Aug. 15-18, Sept. 23-15, 2020

October 14, 2020

NA

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 COMPLIANCE WITH THE ARKANSAS ADMINISTRATIVE PROCEDURES ACT, P. 25-15-204, AS AMENDED BY ACT 1258 OF THE 2015 REGULAR SESSION.~~

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.

/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

SECRETARY OF STATE
LITTLE ROCK, ARKANSAS

10-21-20 02:14:00 PM

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 All laws, rules, regulations, or orders in conflict with the regulations in this Code Book are hereby repealed by the Arkansas State Game and Fish Commission.

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 Resident Commercial Fishing Permit and Resident Fisheries Conservation 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 Resident Commercial Fishing Permit and Resident Fisheries Conservation License and an Aquatic Turtle Dealer Permit (see Addendum J1.02 for Approved Species for Commercial Culture of Aquatic Turtles) 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 (see Addendum J1.02 for Approved Species for Commercial Culture of Aquatic 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 09.10) is required for the importation of aquatic turtle species native to the state for commercial propagation or sale.

EXCEPTIONS:

- A. Fish farmer permittees may depredate or relocate aquatic turtles impacting commercial aquaculture production without a permit; however, for harvest and sale of aquatic turtles from their aquaculture facilities they must possess a valid Aquatic Turtle Harvest Permit or Aquatic Turtle Dealer 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

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: Ben Batten

TELEPHONE #: 501-223-6300

FAX #: 501-223-6372

EMAIL:

ben.batten@agfc.ar.gov

SHORT TITLE OF THIS RULE: Live Fish Trade Regulations Adoption

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?
Yes: No: **X**
2. Do you believe that the development of a financial impact statement is so speculative as to be cost prohibitive? Yes: No: **X** If "Yes", please explain:
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	\$ N/A	Cash Funds	\$ N/A
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: \$ N/A **Next Fiscal Year:** \$ N/A

Party Subject to Rule: **Live Fish Trade Industry**

Effect on Party Subject to Rule: **Yearly increase of \$25 for license fee renewal; formerly the fee was one-time with no renewal fee.**

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:

ARKANSAS GAME AND FISH COMMISSION
Little Rock, Arkansas

MINUTE ORDER NO: 20-052 SUBJECT: 2021 Live Fish Trade Regulations
 DATE PASSED: October 15, 2020
 PAGE 1 of 1 PAGES LOCATION: Statewide

WHEREAS, the Arkansas Game and Fish Commission and its staff have proposed the attached 2021 live fish trade 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 January 1, 2021.

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.

STAFF APPROVAL

Submitted by: BBB
Ben Batten
Chief

Division: Fisheries

Approved: [Signature]
Director

Approved: [Signature]
Legal

Approved: [Signature]
Fiscal

COMMISSION APPROVAL

[Signature]
Andrew Parker
Chairman

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J. D. Neeley
Commissioner

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Joe Morgan
Vice Chairman

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Anne Marie Doramus
Commissioner

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