

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: 35.01 Live Fish Trade 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 FULL COMPLIANCE WITH 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

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 All laws, rules, regulations, or orders in conflict with the regulations in this Code Book are hereby repealed by the Arkansas State Game and Fish Commission.

35.01 Fish Farmer Permit Requirements

NEW TITLE: Live Fish Trade Permit Requirements

It is unlawful for fish farmers, distributors, wholesalers, pond consultants, aquaponics/hydroponics producers, or independent live haulers to possess, propagate or offer for sale farm-reared (egg to harvest) aquaculture species or fertilized eggs without the appropriate valid permit. Permits are non-transferrable and are required to be renewed annually. See Addendum J1.01 for Approved Commercial Aquaculture Species and Addendum Chapter I1.00 for Aquatic Animal Health Requirements.

- A. Resident Fish Farmer Permit - A resident who possesses this permit may possess, propagate, and raise farm-reared approved aquaculture species/eggs on an approved fish farm in Arkansas. With this permit a resident fish farmer may also sell, distribute, hold and/or transport farm-reared approved aquaculture species/eggs within and into the state from approved fish farm sources and provide pond and aquaponics/hydroponics consulting.
- B. Non-resident Fish Farm Permit - A non-resident who possesses this permit may possess, propagate, and raise farm-reared approved aquaculture species/eggs on an approved fish farm in a location outside the state of Arkansas. With this permit a non-resident fish farmer may also sell, distribute, hold and/or transport farm-reared approved aquaculture species/eggs within and into the state from approved fish farm sources and provide pond and aquaponics/hydroponics consulting.
- C. Resident Fish Dealer/Independent Hauler - A resident who possesses this permit may sell, distribute, hold, and/or transport farm-reared approved aquaculture species/eggs within and into the state from AGFC-approved fish farm sources and provide pond and aquaponics/hydroponics consulting, including resident pond consultants.
- D. Non-resident Fish Dealer/Independent Hauler- A non-resident who possesses this permit may sell, distribute, and/or transport farm-reared approved aquaculture species/eggs within and into the state from AGFC-approved fish farm sources and provide pond and aquaponics/hydroponics consulting, including non-resident pond consultants.
- E. Research/Educational/Exhibition/Government Fish Culture Facility Permit - Any research, educational, public aquaria, or state and federally owned aquaculture facilities that possess and/or propagate fish for research, exhibition, or public stocking purposes and provide pond and aquaponics/hydroponics consulting . This permit does not allow the holder to sell live species in commercial trade, however, accredited zoos may sell species to other accredited zoos.

EXCEPTIONS:

- A. A Retail Bait Dealer (Bait Shop) must comply with Code 32.02 regarding permit and license requirements.
- B. A commercial fisher must comply with Code 30.01 regarding permit and license requirements.
- C. A licensed fishing guide is not required to purchase a fish dealer's permit when providing baitfish during the act of guiding.

- D. No AGFC-issued permit is required for shipments of live fish or fertilized eggs passing through the state with no loading or unloading within the state; however, all shipments of live fish or fertilized eggs must comply with Codes 35.03, 35.11, and 35.12.
- E. Marine and tropical fish commonly distributed in the aquarium trade may be sold without special permits, as long as they are held only in closed systems and not otherwise prohibited.
- F. All other aquatic wildlife species traded commercially must comply with AGFC Code of Regulations, including captive wildlife.
- G. Common shipping carrier services (ex. Fed-Ex, UPS, USPS, etc.) are not required to obtain a hauler permit.

PENALTY: Class 1

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

- Does this proposed, amended, or repealed rule or regulation have a financial impact?
Yes: No: **X**
- 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:
- 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	\$

- 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.**

- 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**

- 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:

- 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: Rob Finley
Director

Approved: A.F. Woodhart
Legal

Approved: Jane Shen
Fiscal

COMMISSION APPROVAL

Andrew Parker
Chairman

Joe Morgan by go
Vice Chairman

Bobby Martin
Commissioner

Stan Jones by go
Commissioner

J. D. Neeley
Commissioner

Anne Marie Doramus
Commissioner

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