

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: 35.09 Possession, Rearing, Propagation, Or Sale Of Conditional And Unlisted Aquatic Species Prohibited

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, 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

Phone Number

Signature

James.Goodhart@agfc.ar.gov

E-mail Address

General Counsel

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 All laws, rules, regulations, or orders in conflict with the regulations in this Code Book are hereby repealed by the Arkansas State Game and Fish Commission.

35.09 Possession, Rearing, Propagation, Or Sale Of Restricted And Unlisted Aquaculture Species By Fish Farmers Prohibited

NEW TITLE: Possession, Rearing, Propagation, Or Sale Of Conditional And Unlisted Aquaculture Species Prohibited

It is unlawful for fish farmers, fish dealers, or independent live haulers to possess, rear, transport, or sell aquaculture species/eggs not listed on the Approved Aquatic Species List (Addendum Chapter I1.00) without a Conditional Species Possession Permit or an Unlisted Species Possession Permit from the Arkansas Game and Fish Commission Chief of Fisheries. See Addendum I1.01 for species, permitting process, and reporting requirements; Addendum Chapters I1.00 and V1.00 for aquaculture species health requirements.

EXCEPTIONS:

- A. Resident fish farmers, state and federal culture facilities, and research/educational/public aquaria facilities, possessing a valid Conditional and/or Unlisted Species Permit may propagate those species.
- B. If not otherwise prohibited, a properly permitted fish farmer may sell native crayfish that naturally colonize in their aquaculture facilities and must list as a species on a resident fish farm permit.
- C. Marine and tropical fish commonly distributed in the aquarium trade may be sold without special permit, as long as they are held only in closed systems and not otherwise prohibited. Any live release of these species is unlawful.
- D. Fish Farmer permittees may depredate or relocate aquatic turtles impacting commercial fish production from their facility without an additional permit but may not sell or offer for sale those aquatic turtles from their aquaculture facilities unless they possess a valid Aquatic Turtle Harvest Permit or Aquatic Turtle Dealer Permit in compliance with Code Chapter 34.00.
- E. Accidental inclusion of aquatic species native to Arkansas, comprising 5% or less (by number) of an otherwise legal shipment of live aquaculture organisms, will be exempt from prosecution provided the included species are not otherwise prohibited.

PENALTY: Class 2

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
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