

# 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: V1.02 Trout Importation 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, 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/s James F. Goodhart Signature

501-223-6327

Phone Number

James.Goodhart@agfc.ar.gov

E-mail Address

General Counsel

Title

October 19, 2020

Date

RECEIVED  
ARAGFC  
OCT 20 PM 12:09  
JAMES F. GOODHART  
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# **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 All laws, rules, regulations, or orders in conflict with the regulations in this Code Book are hereby repealed by the Arkansas State Game and Fish Commission.**

## **V1.02 Trout Importation Permit Requirements**

- A. Trout Importation Permits may be issued by the Chief of Fisheries to applicants complying with the following requirements:
1. The applicant must be at least 18 years old and shall not have been convicted of (as defined in Code 01.00-C) for violating any federal, state or municipal law or regulation governing wildlife or fisheries, illegal appropriation or commercialization of wildlife or fisheries, or cruelty to animals within 5 years of the application date
  2. The applicant shall certify in writing that he/she is in compliance with all federal, state, and local laws or regulations and possesses all required permits or licenses
  3. The applicant shall submit a written application (available from the Commission) for each importation to be permitted. Each application submitted shall contain the applicant's contact information; the proposed importation date(s); the originating facility's contact information; the species, size, and number of trout and trout eggs to be imported; and any other information requested on the application form
  4. The applicant shall include with the application a disease-free certification for the AGFC-permitted fish farm or other facility from which the trout or trout eggs will originate. The certification must have been issued under the guidelines in Addendum Chapter I1.00 and meet all fish health requirements; and
  5. If the trout or trout eggs will originate from a VHSV-positive state, the applicant must provide satisfactory proof of compliance with Code 35.11.
- B. The requested permit shall be denied if:
1. The applicant fails to meet any of the issuance criteria set forth in this regulation
  2. The applicant fails to disclose material information required, or makes false statements as to any material fact in connection with the application, or supplies false information or makes a false statement on the application
  3. The Commission finds, through further inquiry or investigation (including the inspection detailed below), that the issuance of the permit may be potentially harmful to the fishery resources of the state
  4. The Commission's Fisheries Pathologist disapproves the disease-free certification submitted by the applicant; or
  5. The trout species for which the permit is requested is restricted or prohibited under federal or state law or Commission regulation.
- C. Inspection:
1. Applicants and permittees shall allow agents of the Commission to enter and inspect the premises, including books, records or permits required to be kept, and any trout, trout eggs, or facilities kept under authority of permit at reasonable times upon request by an agent of the Commission.

D. Permit Requirements:

1. Permittee must notify the Fisheries Division in writing of the actual date of each importation and provide a current disease-free certification at least 21 calendar days prior to the importation event.
2. The importation permit must accompany the permitted trout or trout eggs during importation.
3. Within 14 calendar days after each importation event, the permittee must submit a report regarding the event that includes the permittee's contact information, the permit number, the importation date, originating facility, the species, size, and number of trout and trout eggs imported.

E. Reporting and Record-keeping Requirements:

1. Legible records of all trout and trout egg acquisitions and dispositions, including origin, importation dates, and the species, size, and number of trout or trout eggs imported, shall be kept.
2. Records shall include evidence of legal possession of all trout or trout eggs imported under the permit, including permits, licenses, bills of sale, bills of lading, receipts, invoices or other satisfactory evidence of ownership. Records shall include date of acquisition, place of origin, and the name, address and telephone number of the person from whom the trout or trout eggs were acquired.
3. Records must be retained for five years.

F. Permit Renewal, Transfer, Suspension And Revocation:

1. Trout Importation Permits shall expire on December 31 each year. Permits may be reviewed and renewed following receipt and approval by the Chief of Fisheries of a permit renewal application (available from the Commission). Permit renewal applications must be submitted to the Chief of Fisheries within 60 days of permit expiration.
2. Trout Importation Permits are not transferable.
3. Persons in violation of the terms of this permit, Commission Codes, or convicted of violating associated regulations of the U.S. Fish and Wildlife Service, shall be notified in writing and shall have 20 days to respond with just cause as to why their permit should not be suspended or revoked.
4. If after 20 days just cause has not been given, the Commission may suspend or revoke any existing permit held by the violator and may refuse to issue future permits. Permit suspension, revocation or refusal shall be in addition to any criminal charges that may be filed.
5. Upon revocation, permit holder must remove by legal means all trout and trout eggs within the time designated in the revocation, not to exceed 60 days, and failure to do so shall result in the Commission taking action, per Commission policy, at the permit holder's expense.



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: A.F. Woodhart  
Legal  
Approved: [Signature]  
Fiscal

COMMISSION APPROVAL  
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