

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
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Name of Department Arkansas Game and Fish Commission

Agency or Division Name Legal Division

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person Sarah Milligan

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Contact Phone 501-382-3807 Legal Division

Name of Rule 01.00-C – Definition Of Terms

Newspaper Name Arkansas Democrat Gazette

Date of Publishing March 19, 20, & 21, 2023

Final Date for Public Comment April 20, 2023

Location and Time of Public Meeting AGFC Headquarters – 2 Natural Resources Drive, Little Rock, AR 72205

Agenda Item Summary

Committee: Regulations

Date: March 15-16, 2023

Title: Proposed Amendment for Code 01.00-C – “Resident” Definition

Explanation: General Counsel Jim Goodhart will present a recommendation to Commissioners to amend the existing definition of “Resident” in AGFC Code 01.00-C. A redline version of the Proposed Amendment is attached, showing the recommended changes in red font, which include the following clarifications:

- Persons who are enrolled as a full-time student at a college or university outside of Arkansas can qualify as a “resident” under this Code, provided such persons qualified as an Arkansas resident at the time of enrollment;
- Nonresidents who are enrolled as a full-time student at a college or university in Arkansas and who reside in the state during the school year can qualify as a “resident” under this Code;
- To qualify as a “resident” for eligibility to be issued one of the listed lifetime or commercial licenses, permits, or tags, a person must provide proof that his or her domicile is currently in Arkansas and has been for at least the past 1 continuous year.

After considering the existing “Resident” definition and need for these clarifications, AGFC Administration and Legal staff are recommending that the Proposed Amendment be approved soon so as to take effect during the 2023-24 hunting seasons.

With approval of the Commission, the Proposed Amendment will be advertised for public notice and opportunity for comment, and thereafter a Minute Order will be presented for consideration and adoption at the April 19-20, 2023 Commission Meetings.

Prepared by: Jim Goodhart

FINANCIAL / ECONOMIC IMPACT STATEMENT

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

DEPARTMENT: Arkansas Game & Fish Commission

DIVISION: Legal

PERSON COMPLETING THIS STATEMENT: Sarah Milligan

TELEPHONE #: (501) 539-4476 FAX #: N/A EMAIL: Sarah.Milligan@agfc.ar.gov

SHORT TITLE OF THIS RULE: 01.00-C Definitions

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?
Yes: No: **X**, the amendment clarifies existing intent of this code.
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.

Current Fiscal Year

General Revenue	\$	
Federal Funds	\$	
Cash Funds	\$	N/A
Special Revenue	\$	
Other (Identify)	\$	
Total	\$	

Next Fiscal Year

General Revenue	\$	
Federal Funds	\$	
Cash Funds	\$	N/A
Special Revenue	\$	
Other (Identify)	\$	
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: **Hunters & Anglers in Arkansas.**

Effect on Party Subject to Rule: **Positive for qualified persons.**

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: N/A

7. Compare this rule with federal and state counterparts: N/A

INSTRUCTIONS FOR COMPLETING THIS FORM:

1. ECONOMIC IMPACT - In compliance with Governor's Proclamation EO 05-04, this form must be completed for **commercial licenses and permits** and submitted at the time a regulation is proposed to the Commission. The form will be forwarded to the Chief of Fiscal Services Division for review. After review, the form will be submitted to:

Director
Arkansas Department of Economic Development
One Capitol Mall
Little Rock, AR 72201

2. FINANCIAL IMPACT - After passage of any regulation changes which have a financial impact (including all sport, lifetime, and commercial licenses) this form must be completed and submitted to the Chief of the Legal Division. The form is required for filing regulation changes with the Secretary of State.

01.00-C – Definition Of Terms – RESIDENT

RESIDENT –

- A. A natural person whose domicile currently is in Arkansas and has been for at least 60 consecutive days **qualifies as a “resident” under this Code**. “Domicile” means the one and only place where a person has physically established a true, fixed and permanent home, and to where, whenever the person is briefly and temporarily absent, the person intends to return. Children younger than 18 are presumed to have the same resident status as their ~~custodial~~ parent or legal guardian ~~unless otherwise documented~~. A person is not considered a “resident” under this Code if the person:
1. Resides in the state only for a special or temporary purpose, but not limited to, engaging in hunting, fishing, or trapping, or
 2. Has been issued any resident license, permit, or tag (except ones that are designated as non-expiring) to hunt, fish or trap in another state or country that is still valid in that state or country.
- B. The following **natural** persons also qualify as a “resident” under this Code **for so long as they meet the listed criteria**:
1. ~~Residents of Arkansas~~ **Persons who are enrolled as a full-time student at a college or university outside of Arkansas, provided they qualified as an Arkansas resident at the time of enrollment.**
 2. Nonresidents **who are enrolled as a full-time student at a college or university in Arkansas and who reside in the state during the school year.**
 3. Nonresident foreign exchange students attending school in Arkansas.
 4. Resident foreign exchange students attending school outside of Arkansas.
 5. Active-duty military personnel assigned to duty stations in Arkansas.
 6. Active-duty military personnel who were Arkansas residents at the time of entering service, regardless of where currently stationed.
 7. Members of the National Guard who are assigned to an Arkansas Guard Unit.
 8. Nonresidents residing and working at least 60 consecutive days in Arkansas pursuant to a written commitment as full-time employees or volunteers of a nonprofit charitable organization (other than one established principally for the recreational benefit of its stockholders or members) that (a) is registered and in good standing with the Arkansas Secretary of State, and (b) has received a 501(c)(3) designation from the United States Internal Revenue Service.
- C. Applicants for Commission-issued resident, licenses, permits, and tags have the burden of proving they qualify as a “resident” under this Code. Facts that may be considered in establishing proof of current Arkansas residency for the purpose of purchasing Commission-issued resident licenses, permits, and tags include, but are not limited to:
1. Possession of a valid Arkansas driver’s license or official, state-issued Arkansas identification card;*
 2. Possession of a valid Arkansas vehicle registration in the applicant’s name and display of current Arkansas license tags on the applicant’s vehicle;*
 3. Two documents bearing the applicant’s current name and address, not issued by himself or herself, including but not limited to:
 - i. Arkansas voter registration card,* and
 - ii. Income tax returns issued by the Internal Revenue Service and/or the State of Arkansas.
 4. Documentation from a college or university in Arkansas verifying that the applicant currently is enrolled as a full-time student;
 5. Documentation from any branch of the United States Military or the duty station or unit in Arkansas; and

6. In the case of a child under 18, identification from a parent or legal guardian proving the parent or legal guardian qualifies as a “resident” under this Code.

*Items marked with a * must have been issued at least 60 days prior to the license, permit, or tag application.

- D. ~~Additionally~~In addition to qualifying as a “resident” under one or more of the above criteria, to be eligible to be issued any of the following resident licenses, permits, or tags, an ~~Arkansas resident applicant~~ must provide proof that ~~he or she~~ his or her domicile is currently in Arkansas and has ~~qualified as a “resident” under this Code~~ been for at least the past 1 continuous year:
 1. All Non-Expiring Lifetime Licenses and Permits (Addendum [D1.01](#));
 2. Resident Special Guide License (Code [03.14](#));
 3. Alligator Farmer/Dealer Permit (Code [33.01](#));
 4. Alligator Snapping Turtle Breeder/Dealer Permit (Code [34.02](#));
 5. Commercial Fisherman’s Permit & Sportfishing License (Code [30.01](#));
 6. Commercial Fisherman’s Helper Permit (Code [30.01](#));
 7. Junior/Senior Commercial Fishing Permit (Code [31.01](#));
 8. Resident Shell Taker/Seller’s License (Code [31.01](#));
 9. Shell Taker Helper Permit (Code [31.01](#));
 10. Shell Buyer’s License (Code [31.01](#));
 11. Resident Fish Dealer License (Code [31.01](#));
 12. Resident Roe Taker/Seller Permit (Code [30.17](#));
 13. Resident Roe Taker/Helper Permit (Code [30.17](#)); and
 14. Resident Roe Buyer/Exporter Permit (Code [30.18](#)).
- E. The Commission’s director or his or her representative shall make the final determination as to whether a license, permit, or tag applicant qualifies as a “resident” under this Code.

LEGAL NOTICE

The regular monthly meeting of the Arkansas Game and Fish Commission will be held beginning at 9:00 a.m. Thursday, April 20, 2023, at the Little Rock Office Complex, 2 Natural Resources Drive, Little Rock, AR 72205. At that time, regulations and business pertaining to the operation of the Game and Fish Commission and other fiscal and administrative matters will be considered and acted upon. Additionally, Committee meetings attended by Commissioners and agency staff members will be held throughout the day on Wednesday, April 19, 2023, beginning at 9:00 a.m. at the Little Rock Office Complex, 2 Natural Resources Drive, Little Rock, AR 72205. All interested persons are invited to attend these meetings.

The Commission meeting on April 20th will be live-streamed and a link for easy viewing access will be available on the agency website. Please visit the Arkansas Game and Fish Commission website at <https://www.agfc.com> for additional up-to-date details as the April meeting dates draw closer.

Items on the agenda for the April 20, 2023 meeting will include discussion and/or adoption of proposed regulations that previously were considered at the March 15-16, 2023 Commission Meetings, plus consideration of various Hunting and Fishing Regulations and regulations pertaining to the Enforcement Division of the Arkansas Game and Fish Commission, including but not limited to:

- **Fishing Regulations** – Amend existing regulation for Length and Protected Length Limits on Certain Lakes and Rivers to provide that the boundary of Lake Erling includes Bodcau Creek downstream of Arkansas Highway 360 Bridge for the purpose of applying the 10-inch minimum-length-limit for crappie.
- **Waterfowl Hunting Regulations** – Adjust season dates for migratory waterfowl hunting, including for ducks, coots, mergansers, White-fronted geese, Snow, Blue, and Ross geese, and Canada geese; plus adjust season dates for the Special Youth Waterfowl Hunting Season, the Veteran and Active Duty Military Waterfowl Hunt, the Nonresident Waterfowl Hunting Permit Requirements on WMAs, and the Snow, Blue, and Ross's Goose Conservation Order Season.
- **Miscellaneous Rules / Regulations** – Amend the existing definition of "Resident" to clarify that: (1) children younger than 18 are presumed to have the same resident status as their parent or legal guardian; (2) persons who are enrolled as a full-time student at a college or university outside of Arkansas qualify as a resident, provided they qualified as an Arkansas resident at the time of enrollment; (3) nonresidents who are enrolled as a full-time student at a college or university in Arkansas and who reside in the state during the school year qualify as a resident; and (4) for an applicant to qualify as a resident and be eligible to be issued any of the listed resident lifetime or commercial licenses, permits, or tags, the applicant must satisfy the general resident requirements and also provide proof that his or her domicile is currently in Arkansas and has been for at least the past 1 continuous year.

Also adopt policy and procedures to establish and operate an Arkansas Game and Fish Advisory Council, having members consisting of invited citizen-volunteers and designated

AGFC employees, for the purpose of providing stakeholder-focused advisory assistance to the Commission concerning AGFC programs and other critical matters related to the control, management, restoration, conservation and regulation of the wildlife resources of the State of Arkansas.

All persons wishing to be heard on these subjects should submit comments in writing to this office before the start of the April 20, 2023 meeting (preferably by 4:30 p.m. on the day before). Any request to make an oral presentation at the meeting should be submitted in writing to this office on or before April 10, 2023. Copies of any proposed rules or regulations may be obtained at the Arkansas Game and Fish Commission main office and at www.agfc.com, or through a written request mailed to the address below.

AUSTIN BOOTH, DIRECTOR
Arkansas Game & Fish Commission
Game & Fish Commission Building
2 Natural Resources Drive
Little Rock, Arkansas 72205