

ARKANSAS REGISTER

Transmittal Sheet

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For Office
Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Game and Fish Commission

Department Legal Division

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Statutory Authority for Promulgating Rules Amendment 35

Rule Title: Primate Importation Restrictions Regulations

Intended Effective Date
(Check One)

Date

Emergency (ACA 25-15-204)

Legal Notice Published

09-22-2013

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Final Date for Public Comment

10-17-2013

Other _____
(Must be more than 30 days after filing date.)

Reviewed by Legislative Council

Adopted by State Agency

10-24-2013

Electronic Copy of Rule submitted under ACA 25-15-218 by:

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Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted

~~In Compliance with Act 434 of 1967 the Arkansas Administrative Procedures Act. (ACA 25-15-201 et. seq.)~~

In Substantial Compliance with Act 434 of 1967 the Arkansas Administrative Procedure 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 Procedure Act cannot be constitutionally applied to the AGFC. Nevertheless, the AGFC does substantially comply voluntarily with the rulemaking provisions under Ark. Code Ann. § 25-15-204 for public notice, opportunity for comment, and filing of all regulations adopted by the Commission.

James F. Goodhart
Signature

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General Counsel

Title

10/28/13

Date

Proposed Primate Importation Restrictions Regulation Approval

01.00-C

DEFINITION OF TERMS

10-13

For the purposes of the Arkansas State Game and Fish Code of Regulations, the following terms shall be construed, respectively, to mean and include:

ADULT GOBBLER – Male turkeys having at least one of the following characteristics: a) tail feathers which are the same length, b) wing feathers that have white barring all the way to the tip or c) a beard more than six (6) inches in length.

ALLIGATOR DEALER – Any person, firm or corporation engaging in the sale, purchase, barter or exchange of an American alligator (*Alligator mississippiensis*) or other crocodylian species, or any part, nest or eggs thereof in Arkansas.

ALLIGATOR FARMER – Any person, firm or corporation possessing an American alligator (*Alligator mississippiensis*) or other crocodylian species, or any part, nest or eggs thereof in Arkansas for the purpose of propagation, production or rearing.

ALLIGATOR SNAPPING TURTLE DEALER – Any person, firm or corporation engaged in the sale or purchase of alligator snapping turtles.

ALLIGATOR SNAPPING TURTLE BREEDER – Any person, firm or corporation possessing alligator snapping turtles for the purpose of propagation, production, rearing or sale.

ANIMAL – An organism of the animal kingdom, as distinguished from the plant kingdom, including any part, product, egg or offspring thereof.

ANTLERLESS DEER – A doe or a buck having 2 inches or less of hardened bone antler (this type of deer must be checked as a buck).

ANTLERLESS ELK – Any elk (male or female) not meeting requirements to be a legal bull elk.

AQUACULTURE SPECIES – Any species listed on the Approved Aquaculture Species List ([Addendum J1.00](#)) and species not listed but allowed under Unlisted or Restricted Species Possession Permits.

AQUATIC WILDLIFE – All aquatic species, including aquatic snails, aquatic turtles, crayfish (crawfish and crawdads), fish (including minnows), frogs, mussels and salamanders.

ARKANSAS RIVER BOUNDARY (Sportfishing Only) – The Arkansas Post Canal from Lock and Dam No. 1 to the Arkansas River and the Arkansas River from Dam No. 2 upstream to the Oklahoma state line, including all lakes, bays and tributary streams accessible by boat from the main channel except:

- Big Bayou Meto upstream from Arkansas Highway 11;
- Plum Bayou upstream from U.S. Highway 79;
- Little Maumelle River upstream from Pinnacle Mountain State Park;
- Maumelle River upstream from Lake Maumelle Dam;
- Fourche LaFave upstream from Arkansas Highway 113;
- Palarm Creek upstream from Interstate 40;
- Cadron Creek upstream from the weir;
- Point Remove Creek upstream from Arkansas Highway 113;

- Petit Jean River upstream from Pontoon Boat Ramp at Arkansas Highway 154;
- Illinois Bayou upstream from Russellville Waterworks Dam;
- Big Piney and Little Piney creeks upstream from Arkansas Highway 359;
- Horsehead Creek upstream from Interstate 40;
- Mulberry River upstream from Interstate 40;
- Frog Bayou upstream from Arkansas Highway 162 and Lee Creek upstream from Lee Creek Dam,
- And from the first non-navigable shoal for streams entering the Arkansas River along the right bank descending from the Oklahoma state line to Lake Dardanelle Dam.

ARTIFICIAL LURE OR FLY – Terminal fishing tackle made entirely of rubber, wood, metal, glass, feathers, hair, synthetic fibers or plastic, with hook attached.

BAITFISH – Minnows, logperch, gizzard and threadfin shad, gar (other than alligator gar), bullhead catfish, crayfish, drum, bowfin under 6 inches, skipjack herring, brook and inland silversides, bigmouth, smallmouth and black buffalo, river carpsucker, banded and Ozark sculpin, bream 4 inches and under, and bream over 4 inches that are caught by hook and line.

BAITING – The direct or indirect placing, exposing, depositing, distributing or scattering of salt, grain or other feed that could serve as a lure or attraction for wildlife to, on or over any areas where hunters are attempting to take them.

BIG GAME – Alligator, black bear, deer, elk and turkey.

BLACK BASS – Largemouth bass, redeye bass, smallmouth bass and spotted bass.

BLOCKING OUT – The removal of the head and/or tail associated with the processing of a commercial fish. The blocked-out carcass (bullet) must be at least the minimum length required for the body of water where the commercial fish was harvested ([Code 30.11](#)).

BONUS DEER – A harvested deer that is not included in a hunter's statewide bag limit.

BOX TYPE TURTLE TRAP – A floating trap designed to capture aquatic turtles, but does not permit capture of fish ([Code 34.07](#)).

BREAM – A species of the genus *Lepomis*, including bluegill, redear, warmouth and other sunfish.

BUCK – A male deer (see **LEGAL BUCK** definition).

BUCK DEER SEASON – A deer season in which no deer other than legal buck deer may be taken.

BUY – To purchase, barter, exchange or trade, including any offer to purchase, barter, exchange or trade.

CAPTIVITY OR HOLD CAPTIVE – The holding of living wildlife in a controlled environment that is manipulated by man for the purpose of exercising ownership, possession or control of the wildlife, and that has boundaries designed to prevent selected species from entering or leaving the controlled environment.

CARCASS – The body of a dead animal.

CASE – A container specifically designed to hold a firearm which completely encloses the firearm by being zipped, snapped, buckled, tied or otherwise fastened with no portion of the firearm exposed.

CATCH-AND-RELEASE – The requirement that fish of a designated species must be immediately released into the water where caught.

CERVID – A member of the Family Cervidae including without limitation deer, reindeer, moose, elk and caribou.

CHASE FOR PLEASURE – To search for, pursue or chase game animals or other wildlife with the use of dogs for recreational purposes only, with no intent of hunting such game animals or wildlife.

CHECKING WILDLIFE – The reporting of specific information to the Commission concerning harvest of alligator, bear, deer, elk and turkey by one of the following methods: phoning a designated number to report bear, deer or turkey harvests, electronically through the Commission's on-line deer and turkey checking Web site or mobile applications, and in person to report harvest of elk and alligator at a designated check station.

CHRONIC WASTING DISEASE (CWD) – Fatal disease affecting the brain of cervids that belongs to a group of diseases called transmissible spongiform encephalopathies.

CHUMMING – To dislodge or deposit any substance not attached to a hook which may attract fish.

CITES TAG – a permit that allows shipping of certain animal pelts outside the State of Arkansas and assures compliance with the Convention on the International Trade of Endangered Species.

CLEAN – Having no meat matter or tissue attached to the carcass.

COMPUTER-ASSISTED HUNTING – The use of a computer or any other device, equipment or software to remotely control the aiming and discharge of a firearm, bow or crossbow to kill wildlife located in Arkansas.

COMMERCIAL FISH – Bowfin (over 6 inches), buffalo, catfish, carp, drum, gar, paddlefish, sucker family, white amur and sturgeon.

COMMERCIAL FISHERMAN – Any person who fishes with tackle designated as commercial tackle requiring a license and/or tag issued by the Commission.

COMMERCIAL TACKLE – Properly licensed tackle used to catch aquatic wildlife for commercial purposes.

COMMERCIAL WILDLIFE HUNTING RESORT – A facility, location, business, or operation that offers, for pay or other consideration, an opportunity to hunt native wildlife, other than pen-raised game birds, held in captivity. Includes all contiguous land, and structures, other appurtenances, and improvements on the land, used for the hunting activities.

COMMERCIAL WILDLIFE PERMIT – Any or all of the following permits: Alligator Farmer/Dealer, Alligator Snapping Turtle Breeder/Dealer, Resident Shell Taker and Seller, Shell Buyer, Non-Resident Shell Buyer, Resident Roe Taker/Seller, Resident Roe Buyer/Exporter, Non-Resident Roe Buyer, Resident Fur Dealer, Non-Resident Fur Dealer, Special Commercial Quail, Game Bird Shooting Resort, Commercial Wildlife Hunting Resort, Wildlife Breeder/Dealer and Wildlife Importation.

COMMISSION – The Arkansas State Game and Fish Commission, unless otherwise designated.

DEFERRED HUNTER EDUCATION (DHE) – Designates a holder of a valid Arkansas hunting license/permit who has deferred completion of the hunter education program.

DISABLED – Any individual who is 100 percent permanently and totally disabled as declared by one or more of the following federal agencies: the U.S. Social Security Administration, the U.S. Department of Veteran’s Affairs or the U.S. Railroad Retirement Board.

DOE – A female deer.

DOE DEER SEASON – A deer season in which a doe may be taken.

DROWNING SET – Any leg-hold trap that uses one or more of the following techniques to retain the target animal in water of suitable depth for drowning: a slide wire with lock, a tangle stake or a drowning weight.

DUCKS (includes the following species) – All species of teal, merganser, whistling duck and scaup; American wigeon, American black duck, bufflehead, canvasback, gadwall, common goldeneye, mallard, mottled duck, northern shoveler, redhead, ring-necked duck, ruddy duck, northern pintail and wood duck.

EDIBLE PORTIONS – portions of the following animals are considered edible as stated below:

- (a) Game Mammals: front quarters, hind quarters, loins and tenderloins.
- (b) Game Fish: fillets of fish.
- (c) Game Birds: breasts.
- (d) Frogs: hind legs.
- (e) Alligators: tails, legs, flanks, loins and tenderloins.

EITHER-SEX – A male or a female.

EITHER-SEX DEER SEASON – A deer season in which a doe or a legal buck may be taken.

EMERGENCY CONDITION – Any condition involving:

- (a) imminent peril to the health, safety, or welfare of the public or the wildlife resources of the State; or
- (b) immediate action mandated by federal law or regulation.

ENCLOSE – To surround wildlife using man-made barriers, including but not limited to fencing, walls, structures or other devices, so that the wildlife are not free to leave a particular environment.

ENCLOSURE – Any area surrounded by a man-made barrier, including but not limited to fencing, walls, structures or other devices that prevent wildlife from leaving a particular environment.

ENDANGERED SPECIES – A wildlife species or subspecies endangered or threatened with extinction listed, or proposed as a candidate for listing, by the U.S. Fish and Wildlife Service or any native species or subspecies listed as endangered by the Commission ([Addendum P1.00](#)).

FALCONRY – The caring for and training of raptors for pursuit of wild game, and hunting wild game with raptors. It includes the taking of raptors from the wild to use in the sport and caring for training and transporting raptors held for falconry.

FEDERAL WATERS – Waters designated by federal law as federally controlled or under the jurisdiction of a department or agency of the United States Government.

FEE LAKE – A lake in which there is a fee for fishing rights. All persons 16 years of age and older must possess an Arkansas fishing license. Daily limits apply.

FERAL HOG – Any hog, including but not limited to Russian and European wild boar, which is roaming freely and is living in a wild or feral state.

FIREARM – Any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance, including without limitation muzzleloaders and modern guns (see LOADED FIREARM).

FISH OR FISHING – To lure, attract, collect or pursue fish species or aquatic wildlife for the purpose of taking or attempting to take such species by any method.

FISH DEALER – Any person who sells live fish, including baitfish.

FISH FARM – Waters and adjacent premises confined within a pond, tank or lake not connected with public waters, and under management of a fish farmer.

FISH FARMER (AQUACULTURIST) – A person, firm, partnership or corporation engaged in the propagation or rearing of aquaculture species for sale.

FREEFLOATING FISHING DEVICE – A floating fishing device unanchored or unattached to a stationary object.

FURBEARERS – Badger, beaver, bobcat, coyote, gray fox, red fox, mink, muskrat, nutria, opossum, raccoon, river otter, spotted skunk, striped skunk and weasel.

GAFF – To take or attempt to take fish with a hand- held or handled hook.

GAME ANIMALS – Alligator, black bear, bobcat, coyote, deer, elk, gray fox, red fox, mink, opossum, eastern cottontail rabbit, swamp rabbit, raccoon, gray squirrel and fox squirrel.

GAME BIRD SHOOTING RESORT – A facility, location, business, or operation that offers, for pay or other consideration, an opportunity to hunt captive-raised game birds. Includes all contiguous land, and structures, other appurtenances, and improvements on the land, used for the hunting activities.

GAME BIRDS – Turkey, quail, pheasant, chukar and all birds classified by the U.S. Fish and Wildlife Service as migratory game birds.

GAME FISH – Alligator gar, black bass, white bass, striped bass, hybrid striped bass, crappie, catfish, trout, bream, goggle-eye, walleye, muskellunge, sauger, saugeye, paddlefish and pickerel.

GEOCACHE – Items in a container (cache) placed or hidden for individuals to subsequently find using a Global Positioning System (GPS) receiver.

GEOCACHING – An outdoor sport, similar to “high-tech treasure hunting,” involving use of a Global Positioning System (GPS) receiver to find a cache.

GUIDE – A person who provides, for monetary or any other compensation, that person’s personal services for the purpose of assisting others to locate, pursue, catch or hunt wildlife.

HACKING – The temporary release of a raptor held for falconry to the wild so that it must survive on its own.

HARASS – An intentional or negligent act which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral pattern which include but are not limited to, breeding, feeding, or sheltering.

HEN TURKEY – Female turkey with or without a beard.

HIGH-FENCE ENCLOSURE – An enclosure that contains an area of at least 500 contiguous acres, with at least 60 percent of the acreage in forested cover

that has been classified as timberland by the local county tax assessor, that has a perimeter fence at least 8 feet high, with no cross-fencing that has the effect of reducing the size of the area to less than 500 contiguous acres with at least 60 percent of the acreage in forested cover as herein provided.

HOGGING – The taking of fish by the use of hands only in or under the water.

HUNT OR HUNTING – Taking or attempting to take wildlife by any method including but not limited to searching, pursuing, chasing, tracking, luring, or attracting.

HUNTING INCIDENT - When bodily injury above basic first aid or death occurs due to an activity directly related to a hunting excursion in the field. Examples of such activities would include discharge of a firearm, bow, or crossbow and falls from an elevated platform (tree stand, tower stand, or elevated duck blind).

HUNTING PARTY – Two or more persons hunting together.

HYBRID RAPTORS – Offspring of birds listed as two or more distinct species.

IMPORT OR IMPORTATION – To ship, convey, carry, transport, bring or introduce into Arkansas anything from outside its borders.

IMPRINT – A bird that is hand-raised in isolation from other raptors from two weeks of age until it has fledged and will be considered to be an imprinted bird for its entire life.

JAKE – Sub-adult male turkey having all these characteristics: longer central tail feathers, outermost one or two wing feathers lacking white barring all the way to the tip and a beard 6 inches or less in length.

KILLING DEVICE – Any firearm, bow and arrow, crossbow, compressed gas or spring-powered pistol or rifle, blowgun, speargun, hand-thrown spear, slingshot, irritant gas device, explosive device, or any other implement designed to discharge a projectile capable of killing wildlife.

LARGE CARNIVORE – *Tigers (Panthera tigris)*, *African Lions (Panthera leo)*, or any hybrid thereof and all species of bears.

LEGAL BUCK – A male deer may be considered legal under the following rules as applied by this Code:

- (a) **Buck of Choice:** A male deer.
- (b) **Button Buck:** A male deer less than 12 months old with no hardened boned antler.
- (c) **Three-point Rule:** A male deer having both antlers under two inches (including button buck) or at least one antler with at least three points, each a minimum of one inch long, including the tip of the main beam. ([Code 21.03](#)).
- (d) **12/15 Rule:** 1) A male deer having both antlers under two inches (including button buck) or 2) a male deer having an inside spread of at least 12 inches or more in width, 3) a male deer having at least one main beam 15 inches or more in length ([Code 21.03](#)).
- (e) **15/18 Rule:** 1) A male deer having both antlers under two inches (including button buck) or 2) a male deer having an inside spread of at least 15 inches or more in width 3) a male deer having at least one main beam 18 inches or more in length ([Code 21.03](#)).
- (f) **WMA Special Restrictions:** Special restrictions may apply on certain WMAs ([Code 21.03](#)).

LEGAL BULL ELK – An elk having at least one antler visible above the hair line.

LEGAL TURKEY – A turkey may be considered legal under the following rules as applied by this Code:

- (a) Hunters 16 years and older a legal turkey is an adult gobbler or bearded hen.
- (b) Hunters 6 to 15 years of age is an adult gobbler, bearded hen or jake.

LENGTH LIMITS –

- (a) **Minimum Length Limit:** The shortest length of a fish of a designated species that can be kept.
- (b) **Maximum Length Limit:** The maximum length of a fish of a designated species that can be kept.
- (c) **Protected Length:** A species/size limit that prohibits anglers from keeping fish within a designated size group. Unless otherwise specified, all fish are measured from the front of the lower jaw with the mouth closed to the tip of the tail with tail lobes pressed together when laid flat on a rule, on its side. All fish not meeting the length limit requirements for a particular water or species must be immediately released into the water where caught.

LIMITS –

- (a) **Daily Limit:** the maximum number of a species allowed to be taken during a specific 24-hour time period (midnight to midnight, unless otherwise specified).
- (b) **Seasonal Limit:** the maximum number of a species allowed to be taken during a specific season.
- (c) **Possession Limit:** the maximum number of species allowed to be possessed at any time. Any fish or wildlife, excluding migratory game birds, legally taken for personal consumption and stored in processed form within a residence of the possessor shall not count toward the possession limit.

LITTER – All waste which has been discarded or otherwise disposed of, including, but not limited to, convenience food and beverage packages or containers, trash, garbage, all other product packages or containers, and other post consumer solid wastes as referenced in State Law, or discarded game animal carcasses.

LOADED FIREARMS – Firearms are considered loaded if shells or cartridges are in the chamber, magazine or cylinder. Percussion cap muzzleloading firearms are considered loaded if the percussion cap is on the nipple. Flintlock muzzleloading firearms are considered loaded if there is powder in the flashpan. Electronic pulse ignition muzzleloaders are considered loaded if the ignition circuit is charged.

MIGRATORY BIRDS – All birds protected by the Federal Migratory Bird Treaty Act of 1918 and subsequent amendments.

MIGRATORY GAME BIRDS – Coots, crows, doves, ducks, gallinules or moorhens, geese, rails, snipe and woodcock.

MINNOWS – Small nongame fish commonly used for bait including bluntnose minnows, bullhead minnows, chubs, dace, fatheads, common carp under 6 inches, goldfish, shiners and stonerollers.

MOBILITY IMPAIRED – A designation made by the Commission based upon a satisfactory showing that a person has a permanent physical condition, verified by a physician duly licensed to practice medicine by a state medical board, which

severely impairs the person's mobility and prevents him or her from being able to engage in hunting or fishing activities without the use of an ATV or similar specialized device for transportation.

NATIVE WILDLIFE – Those species and sub-species of wildlife that have established, naturally reproducing, free-ranging, wild populations within Arkansas.

NIGHT – The time period 30 minutes after sunset to 30 minutes before sunrise.

NOODLING – The taking of fish by the use of a pole-mounted breakaway hook that detaches at the time of the strike or catch, or snare type device, with an attached line manipulated by hand when a person is in or under the water.

NONGAME WILDLIFE – All wildlife other than furbearing or game animals, game birds and game fish.

NON-NATIVE WILDLIFE – Any wildlife not defined as native wildlife.

NONRESIDENT – A person not defined as a resident.

NUISANCE WILDLIFE – Any wildlife creating a problem by committing damage to personal property or crops.

OPEN SEASON – A time frame established by the Commission during which a designated species may be lawfully taken.

PEN-RAISED QUAIL – Quail raised or hatched in captivity.

PERSON – Any individual, firm, corporation, association, partnership or other legal entity in singular or plural as the context requires. All pronouns shall include the masculine, feminine and neuter.

PORTABLE HUNTING STAND – Any device or structure used for the purpose of hunting that can be carried in its entirety by one person.

PORTABLE POP-UP BLIND – A structure used to conceal a person that can be collapsed and carried in its entirety by one person.

POSSESS OR POSSESSION – Having or holding wildlife, or any property in one's power; the exercise of dominion over property. Possession includes actual possession (physical occupancy or control over property) and constructive possession (control or dominion over property without actual possession or custody of the property).

PRIMATE-A live individual animal of the taxonomic order Primates, excluding humans.

PROPAGATE OR PROPAGATION – To allow plants or animals to breed or multiply.

PUBLIC ROAD – The traveled portion and the shoulders on each side of any road maintained for public travel by a city, county, state, or federal government and includes all structures within the limits of the right-of-way of any such road.

PUT-AND-TAKE PAY LAKE – Private waters open to public fishing for a fee, after being licensed by the Commission and where no fishing license or daily limit of fish is imposed.

RAPTOR – Migratory bird of the Order Falconiformes or the Order Strigiformes including bald eagles and golden eagles.

REAR OR REARING – To maintain plants or animals to increase their size or development.

REHABILITATION – Providing medical treatment or other care to orphaned, sick or injured wild animals that have come into human possession with the goal of returning the animal to the wild.

RESIDENCE – Any dwelling such as a house, manufactured home, or apartment that is permanently fixed in place and is owned, leased, or rented fully or in part by an individual. This term does not include tents; temporary lodging

or rental units such as hotels, motels, resorts, or commercial campgrounds; recreational vehicles; mobile travel trailers; or, motor vehicles.

RESIDENT –

- (a) A person who physically inhabits a bona fide residence in Arkansas for at least 60 days and declares full-time residency. Possession of Arkansas real estate and/or proof of payment of associated services or utilities do not qualify the owner/renter as a resident if he lives out of state. Additional facts considered in establishing proof of current Arkansas residency are:
 - (i) Possession of a valid Arkansas driver's license or Arkansas identification card.
 - (ii) Possession of a valid Arkansas vehicle registration in his name and display of current Arkansas license tags on his vehicle.
 - (iii) Other documentation may be considered.
- (b) The following persons are considered residents for purposes of this Code:
 - (i) Residents of Arkansas enrolled as full-time students in colleges and universities outside of Arkansas.
 - (ii) Nonresidents enrolled as full-time students in colleges and universities in Arkansas.
 - (iii) Nonresident foreign exchange students attending school in Arkansas.
- (c) Resident foreign exchange students attending school outside of Arkansas.
 - (iv) Active-duty military personnel assigned to duty stations in Arkansas.
 - (v) Active-duty military personnel who were Arkansas residents at the time of entering service, regardless of where currently stationed.
- (d) Proof of at least one year residency must be provided when applying for the following licenses/permits: Special Guide, Alligator Farmer/Dealer, Alligator Snapping Turtle Breeder/Dealer, Commercial Fisherman's and Sportfishing, Commercial Fisherman's Helper, Junior/Senior Commercial Fishing, Resident Shell Taker/Seller, Shell Taker Helper, Shell Buyer, Resident Fish Dealer, Resident Roe Taker/Seller, Resident Roe Taker Helper and Resident Roe Buyer/Exporter.
- (e) The director or his representative shall make the final determination as to the resident status of any license applicant.

ROUGH FISH – Gars, bowfin, bullhead catfish, common carp, Asian carp (grass carp, bighead carp, silver carp), suckers (including buffalo) and drum.

SEINE – A fishing net that hangs vertically in the water where the ends can be drawn together to entrap fish.

SEINING – The act of moving a seine by boat or human power to capture fish.

SELL OR SALE – To exchange or deliver for money or its equivalent; to offer for sale, barter, exchange or trade or the act of selling, bartering, consigning, exchanging or trading.

SHELL BUYER – Anyone who buys mussels or mussel parts from a Taker. An agent purchasing for a licensed buyer is not a buyer.

SMALL GAME – Furbearers, migratory game birds, quail, rabbit and squirrel.

SNAG – to take fish using conventional rod-and-reel tackle where the fish is impaled by the forceful retrieval of one or more hooks.

SNAGLINE – Commercial tackle consisting of a horizontal line with hooks or drops less than 24 inches apart.

SPORTFISH – See GAME FISH for definition.

TACKLE – An apparatus or device used to take wildlife.

TAKE – To shoot, kill, injure, trap, net, snare, spear, catch, capture or reduce to possession.

TAXIDERMY – The art of preparing, stuffing and/or mounting wildlife and parts thereof.

TRAP OR TRAPPING – A device to catch and hold wildlife.

TROUT – Any members of the Salmonidae family including rainbow trout, brown trout, brook trout, lake trout and cutthroat trout.

WATERFOWL – All species of coots, ducks, geese and swans.

WATERS OF THE STATE – All streams, lakes, sloughs, bayous, marshes or any other waterbodies either permanent or intermittent located wholly or partially within Arkansas, with the exception of pay lakes and fish farms.

WILD – To be living in a state of nature and not domesticated.

WILDLIFE – All wild birds, mammals, fish, reptiles, amphibians and other wild aquatic forms, and all other wild animals, regardless of classification, whether resident, migratory or imported, protected or unprotected, dead or alive, and shall extend to and include any and every part of any individual species of wildlife, including animals living in a captive state and which lack a genetic distinction from members of the same species living in the wild. Aquatic wildlife includes all aquatic species, including aquatic snails, aquatic turtles, crayfish (crawdads and crayfish), fish (including minnows), frogs, mussels and salamanders.

WILDLIFE CHECK METHODS – The following are the official wildlife check methods:

- (a) a designated elk check station;
- (b) the Commission on-line deer and turkey checking Web site and mobile applications;
- (c) a designated alligator check station; and,
- (d) the designated bear checking telephone number or the designated deer and turkey checking telephone number.

WILDLIFE MANAGEMENT AREA (WMA) – Designated areas owned or controlled by the Commission and distinguished by certain markers and considered a separate zone with regard to wildlife regulations including: wildlife management area (WMA), waterfowl rest area (WRA), wildlife demonstration area (WDA), special use area (SUA) and state park-conservation area (SP-CA).

YOUTH –

- (a) for sections of this Code pertaining to big game, “youth” means any individual not less than 6 years old or more than 15 years old.
- (b) for all other sections of this Code, “youth” means an individual less than 16 years of age.

ZONE – An area defined by the Commission where hunting and/or fishing activities are regulated.

09.02 POSSESSION OF NON-NATIVE WILDLIFE IN CAPTIVITY RESTRICTED

10-13

- (A) It is unlawful to possess captive non-native wildlife not excepted under [Code 09.01](#), unless the possessor can produce written documentation that such wildlife was legally obtained and has been certified by an accredited veterinarian to be free of diseases and parasites that may pose an adverse risk to native wildlife.
- (B) It is unlawful for any person to possess mountain lions (*Puma concolor*) except in compliance with [Codes 09.07](#); [09.13](#).
- (C) It is unlawful to possess tigers, African lions and all species of bears not in compliance with Ark. Code Ann. §§20-19-501-511 or [Code 09.07](#).
- (D) It is unlawful to keep non-native wildlife under inhumane or unhealthy conditions.
- (E) All non-native wildlife possessed in captivity shall be maintained in enclosures, pens, or cages that are sufficiently strong to prevent escape of the wildlife and that will protect the wildlife from injury.
- (F) Males and females of the same species must be kept in separate enclosures, or if kept in the same enclosure, the owner shall provide proof that all males within the enclosure have been neutered.
- (G) Owners shall maintain records of proof of legal ownership of such animals including licenses, bills of sale, bills of lading, receipts, invoices and copies of Wildlife Importation Permits or other satisfactory evidence. The date of acquisition, place of origin, and the name, address, and telephone number of the person from whom the wildlife was acquired shall be recorded. Owners shall provide these records to the Commission upon demand.
- (H) It is unlawful for any person to possess a primate except in compliance with Ark. Code Ann. §§ 20-19-601 through 20-19-610.**

EXCEPTION:

Wildlife listed in [Code 09.01, Exception 8](#).

PENALTY: Class 2

- (1) Any person convicted of violating this regulation shall be liable for the costs incurred in the storage, care and maintenance of any equipment, wildlife and/or fish seized in connection with the violation.
- (2) Any person convicted of violating this regulation shall be liable for the costs of any and all tests and/or examinations of the illegally possessed wildlife, and also shall be liable for the costs of destruction and/or disposal of the illegally possessed wildlife, as deemed necessary by the Commission for the protection of native wildlife.

09.11 IMPORTATION OF CERTAIN LIVING WILDLIFE PROHIBITED

10-13

It is unlawful to import, ship, transport, or carry into Arkansas by any means, or to cause to be imported, receive, or to assist in any manner in the importation of any of the following living wildlife:

- (A) Any member of the Family Cervidae (cervids).
- (B) Raccoons.
- (C) Bats.
- (D) Skunks.
- (E) Coyotes that originate from or have lived in Alaska, Idaho, Illinois, Indiana, Iowa, Minnesota, Missouri, Montana, Nebraska, North

Dakota, Ohio, South Dakota, Texas, Wisconsin, Wyoming or Canada.

- (F) Gray and red foxes that originate or have lived in Alaska, Arizona, Idaho, Illinois, Indiana, Iowa, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New York, North Dakota, Ohio, South Dakota, Texas, Vermont, Wisconsin, Wyoming or Canada.
- (G) Rodents captured in the wild from Arizona, California, Colorado, Idaho, Montana, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, Texas, Utah or Wyoming.
- (H) All box turtles of the Genus *Terrapene*.
- (I) All waterfowl.
- (J) Large carnivores and mountain lions.
- (K) Any species listed as injurious wildlife under the Lacey Act (50 CFR 16) by the U.S. Fish and Wildlife Service including but not limited to flying fox, mongoose, meerkat, European rabbit, European hare, wild dog, multimammate rat or mouse, raccoon dog, brushtail possum, pink starling, dioch, Java sparrow, red whiskered bul bul, brown tree snake, Burmese or Indian pythons (*Python molarus*), Northern African python (*Python sebae*), Southern African python (*python natalensis*), and yellow anaconda (*Eunectes notaeus*).

(L) Apes, baboons, and macaques.

EXCEPTIONS:

- (1) Wildlife exchanged with other states by the Commission.
- (2) These species may be imported on a temporary basis for bona fide scientific, conservation, or educational purposes under terms of a special permit issued by the Chief of Wildlife Management.
- (3) Large carnivores and mountain lions may be imported only by holders of valid U.S. Department of Agriculture Wildlife Exhibition Permits for large carnivores or mountain lions. Such importation shall be done in compliance with a current Commission Wildlife Importation Permit.
- (4) Mallards may be imported by a representative of a group designated in [Code 09.03, Exception 3](#), for use in an official field trial in compliance with a current Wildlife Importation Permit provided that ducks are identified as captive reared by one of the following methods 1) banding of one metatarsus with a seamless metal band; 2) removal of the hind toe from the right foot; 3) pinioning of a wing by removal of all or some of the metacarpal bones of one wing, which renders the bird permanently incapable of flight; 4) a readily discernible tattoo of numbers and/or letters on the web of one foot. The permit holder must possess documentation that the waterfowl have originated from a flock participating in the National Poultry Improvement Program and such documentation shall be submitted to the Commission in compliance with reporting requirements in [Code 09.10](#).
- (5) Mallards may be imported by the holder of a Shoot-To-Kill Retrieving Dog Training Permit in compliance with a current Wildlife Importation Permit provided that ducks are identified as captive reared by one of the following methods 1) banding of one metatarsus with a seamless metal band; 2) removal of the hind toe from the right foot; 3) pinioning of a wing by removal of all or some of the metacarpal bones of one wing, which renders the bird

permanently incapable of flight; 4) a readily discernible tattoo of numbers and/or letters on the web of one foot. The permit holder must possess documentation that the waterfowl have originated from a flock participating in the National Poultry Improvement Program and such documentation shall be submitted to the Commission in compliance with reporting requirements in [Code 09.10](#).

- (6) Pet box turtles in compliance with [Code 09.10, Exception 8](#).
- (7) These species, excluding cervids, may be moved through the state of Arkansas with a Wildlife Importation Permit provided that it is done in accordance with a property issued U.S. Department of Agriculture VS-127 Restricted Movement Document and that the container the animals are in is sealed in the originating state and that seal remains unbroken while in the state of Arkansas.
- (8) Individuals must provide prior notification to the Wildlife Management Division before any live cervid can be moved through the state of Arkansas.
- (9) **Apes, baboons, and macaques may be imported, shipped, or transported only in accordance with a current Commission Wildlife Importation Permit or special permit issued by the Chief of Wildlife Management, and in accordance with Ark. Code Ann. §§ 20-19-601 through 20-19-610.**

PENALTY: Class 3

- (1) All equipment, including any form of legal tender, and all wildlife imported in violation of this regulation, may be seized by Enforcement Officers, confiscated by the court, forfeited to the State and disposed of according to law ([Code 01.00D](#)).
- (2) Any person convicted of violating this regulation shall be liable for the costs incurred in the storage, care, and maintenance of any equipment, wildlife and/or fish seized in connection with the violation.
- (3) Any person convicted of violating this regulation shall be liable for the costs of any and all tests and/or examinations of the illegally imported wildlife as deemed necessary by the Commission for the protection of native wildlife.

F1.03 WILDLIFE BREEDER/DEALER PERMIT REQUIREMENTS

- 10-13
- (A) Wildlife Breeder/Dealer Permits may be issued to applicants complying with the following requirements:
 - (1) The applicant must be at least 18 years old and shall not have been convicted of, or entered a plea of guilty or nolo contendere for, violating any federal, state or municipal law governing captive wildlife, illegal appropriation or commercialization of wildlife, or cruelty to animals within five years of the application date;
 - (2) The applicant shall provide to the Commission, in writing, proof from the county judge or sheriff and any municipal planning commission or board with jurisdiction, stating that the applicant's facility shall be in compliance with all local ordinances; **and**
 - (3) The applicant shall submit a written application (available from the Commission) for each facility to be permitted.
 - (B) The requested permit shall be denied if:
 - (1) The applicant fails to meet any of the issuance criteria set forth in this addendum chapter;

- (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, the issuance of the permit may be potentially harmful to the wildlife resources of the State;
 - (4) The applicant is seeking to permit a new facility for:
 - (a) Rearing, breeding, propagating, producing, distributing or possessing large carnivores or mountain lions;
 - (b) Rearing, breeding, propagating, producing or distributing any member of the cervidae family;
 - (c) The importation, propagation, sale, transfer, barter or distribution of box turtles (genus *Terrapene*); **or**
 - (d) **Rearing, breeding, propagating, producing or distributing primates; or**
 - (5) The applicant is seeking a Wildlife Breeder/Dealer Permit for waterfowl on properties where poultry is raised for sale, show or exhibition.
- (C) Permit Requirements:
- (1) The applicant shall supply satisfactory evidence stock has been/will be secured from a legal source.
 - (2) Stock may be slaughtered in accordance with established husbandry practices for slaughter of domestic livestock.
 - (3) Fencing of enclosures in which deer, elk or other big game animals are to be held shall consist of a permanent deer-proof fence at least 8 feet tall and constructed in a manner that prohibits escape of captive wildlife and prohibits entry of native wildlife.
 - (4) Waterfowl hatched in wildlife breeder/dealer facilities shall be banded with a seamless metal band.
 - (5) Wildlife Breeder/Dealer Permit holders for cervids shall only sell live cervids to Arkansas residents who possess a current Wildlife Breeder/Dealer Permit for cervids, Arkansas residents who possess a current Commercial Wildlife Hunting Resort Permit for cervids or to buyers outside Arkansas.
 - (6) Live bobwhite quail sold to Arkansas residents who do not possess a Wildlife Breeder/Dealer Permit or Game Bird Shooting Resort Permit must be banded by the permit holder.
 - (7) **Rearing, breeding, propagating, producing or distributing primates shall not be permitted.**
- (D) Reporting and Record-keeping Requirements:
- (1) Legible records of all wildlife acquisitions and dispositions, including births, deaths, sales, slaughter and transport, shall be kept.
 - (2) Records shall include evidence of legal possession of all wildlife kept under the permit, including 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 wildlife was acquired.

- (3) Records of sale shall include the name, address and telephone number of the person to whom the wildlife was sold, and the number of each species sold to each person.
 - (4) Records must be retained throughout the time the wildlife is possessed by the permittee or for five years, whichever is longer.
 - (5) Holders of Wildlife Breeder/Dealer Permits shall submit legible, complete monthly reports (forms available from the Commission) of their inventory and any births, deaths, sales or purchases of wildlife by the fifth of the following month.
 - (6) Wildlife Breeder/Dealer Permit holders who possess cervids in facilities larger than 25 acres where the animals are allowed free range may report an estimated inventory number based on a Commission-approved survey technique.
 - (7) Stock shall only be acquired from either a Commission-permitted Wildlife Breeder/Dealer or have been brought into the state in accordance with a Commission Wildlife Importation Permit. Permits will not be issued to and existing permits may be revoked for facilities that have acquired stock by any other method.
- (E) Disease Testing and Control:
- (1) The director of the Commission, in consultation with the director of the Arkansas Livestock and Poultry Commission, or their designees, shall determine mechanisms and procedures for control of diseases and parasites in captive wildlife within Arkansas. Such mechanisms and procedures shall include, but not be limited to, examination, testing, quarantine and slaughter or destruction of individual animals and/or herds or flocks that are, or in the opinion of the Commission may be, infected with a disease or parasite that may have significant detrimental effect on native wildlife, other captive wildlife, livestock or the public health of the citizens of Arkansas.
 - (2) Examinations, testing, quarantine and slaughter of captive wildlife shall be conducted at the expense of the owner. As a condition of any permit issued under this addendum chapter, the Commission may require the captive wildlife be quarantined for a period specified by the Commission.
 - (3) All Cervids that die in captivity must be tested for chronic wasting disease. Copies of test results shall be forwarded to the Commission within seven days of receipt.
 - (4) Captive Cervid facilities must be in compliance with all Arkansas Livestock and Poultry Commission requirements.
 - (5) Permitted Wildlife Breeder/Dealer facilities in which birds are kept are required to adhere to Arkansas Livestock and Poultry Commission requirements regarding pullorum-typhoid disease tests and are encouraged to participate in the National Poultry Improvement Plan.
 - (6) Each Wildlife Breeder/Dealer facility where waterfowl are kept is required to test 60 birds for duck virus enteritis using the PCR technique every May. Facilities containing less than 60 birds shall test all birds in stock. Samples shall be taken by a licensed veterinarian and submitted to the Arkansas Livestock and Poultry Commission at the owner's expense. Copies of test results shall be forwarded to the Commission within seven days of receipt.

- (7) Flocks testing positive for duck virus enteritis shall be quarantined or destroyed by the owner or operator within 14 days and the carcasses disposed of in accordance with Arkansas Livestock and Poultry Commission regulations.
- (F) Facility and Caging Requirements:
- All wildlife possessed under a Wildlife Breeder/Dealer Permit in Arkansas shall be maintained in a permanent enclosure, pen, or cage strong enough to prevent escape of the wildlife and protect them from injury. All wildlife shall be maintained in humane and healthy conditions. Birds must be kept in buildings or covered pens that prevent escape and that do not allow entry of wild birds. Enclosures shall be kept in good repair at all times and gates shall be securely fastened with latches or locks. Enclosures, pens or cages considered unsafe by Commission personnel must be repaired or reconstructed within 10 days or as specified by the Commission.
- (1) Facilities containing large carnivores and mountain lions shall meet the following requirements:
 - (a) A written plan of action shall be prepared and a copy submitted with permit application for use in the following events: Severe damage to enclosures from fire, wind, floods or other natural forces; animals attacking and/or injuring humans, and animals escaping enclosures. Plans should identify the location of temporary holding facilities and necessary mechanisms to safely transport large carnivores to these facilities. Recapture plans shall outline procedures for handling and recapturing escaped large carnivores. Plans should include a list of safety equipment which shall be available for use. The Commission shall immediately be notified upon the escape of any large carnivores or mountain lions. In the event of sickness, the name, address, phone number, and signature of the veterinarian who has agreed to care for the animal shall be provided.
 - (b) A perimeter fence sufficient to deter entry by the public, at least 8 feet tall shall completely surround cages where animals are housed or exercised outdoors. Perimeter fences that allow objects to be passed through them, such as chain link or welded wire, shall be at least 3 feet from cages or exercise areas.
 - (c) Warning signs must be posted at the entrance to the property.
 - (d) All cages or enclosures shall be equipped with an entrance or device that allows a keeper to enter or exit a cage without providing an avenue of escape to an animal (such as a double-gated entry door, interconnected cages that can be isolated from each other, a lock-down area, or other comparable device). Safety entrances shall be constructed of materials of equivalent strength as those prescribed for cage construction. Doors or gates in perimeter fences shall be locked when unattended.
 - (e) Cages shall be equipped with a lockout area that allows the keeper access while the animal is contained in a separate area.
 - (f) Cages shall be well braced and securely anchored at ground level to prevent escape by digging or erosion. The fasteners

and fittings used in construction shall be of equivalent strength to the material required for cage construction.

- (g) In facilities containing tigers, African lions and bears cage construction materials shall consist of at least 9-gauge chain link or equivalent materials. In facilities containing mountain lions, cage construction materials shall consist of at least 11-gauge chain link or equivalent materials. Juvenile animals may be kept in incubation or rearing facilities not meeting these standards until they weigh more than 25 pounds.
 - (h) Cages containing a single African lion, tiger or bear shall have a cage floor at least 300 square feet and shall be at least 8 feet tall. For each additional animal the cage size shall be increased 100 square feet.
 - (i) Cages containing a single mountain lion shall have a cage floor at least 200 square feet and shall be at least 8 feet tall. For each additional animal the cage size shall be increased 100 square feet.
 - (j) Large carnivores and mountain lions may temporarily be housed in cages or enclosures smaller than specified in this chapter while being transported, while in veterinary care or while being quarantined provided temporary caging is large enough for the animal to stand up, lie down and turn around without touching the sides of the enclosure or another animal.
 - (k) Open-top outdoor exercise areas are allowed providing they have vertical walls at least 12 feet tall, topped by either: an inward-angled overhang at an angle between 35 and 55 degrees, which is at least 2 feet long and of equal strength as the cage walls; or, two strands of electric fencing, one of which is 1 foot below the top of the vertical wall, and the other at the top of the wall or the upper 3 feet of the interior of the fence consists of sheer, solid metal. Animals may not be left in exercise areas overnight.
 - (l) Permit holders whose facility, including enclosures, pens and cages, is not in compliance with this Commission Addendum Chapter shall be notified in writing and shall have 10 days to correct the violation.
 - (m) If the violation has not been corrected in 10 days of notification, the Commission may revoke any existing permit and may refuse to issue any future permit. Such revocation or refusal to issue a future permit shall be in addition to any criminal charges that may be filed.
- (G) Inspection:
- (1) Any person issued a Wildlife Breeder/Dealer Permit shall allow entry, at any reasonable hour, to Commission employees or their agents to inspect any wildlife and/or facilities kept under authority of the permit.
 - (2) Each permittee shall pen the captive wildlife in suitable pens and restrain them for inspection, at a reasonable time, when requested to do so by the employee or agent.
- (H) Renewal, Transfer, Suspension and Revocation:

- (1) Permits may be revoked for failure to comply with the terms of the permit or with the terms of this Commission Addendum Chapter.
- (2) Persons in violation of the terms of this permit, violation of the Commission Addendum, or upon conviction of associated regulations of the U.S. Fish and Wildlife Service, shall be notified in writing of such violations and shall have 20 days to respond.
- (3) If, at the end of 20 days, just cause has not been given, the Commission may suspend or revoke any existing permit and refuse to issue any future permit. Permit suspension, revocation or refusal shall be in addition to any criminal charges that may be filed.
- (4) Upon revocation, permit holder must legally remove all captive wildlife 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.
- (5) No existing permit can be transferred to another person, firm or corporation rearing, breeding, propagating, producing or distributing any member of the Cervidae family.

FINANCIAL / ECONOMIC IMPACT STATEMENT

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

DEPARTMENT: Arkansas Game and Fish Commission

BUREAU: Wildlife Management

PERSON COMPLETING THIS STATEMENT: Brad Carner

TELEPHONE #: 501-223-6362 **FAX #:** 501-223-6452

EMAIL: bjcarner@agfc.state.ar.us

SHORT TITLE OF THIS RULE: Proposed Excluding apes, macaques, and baboons from the list of non-native wildlife that may be kept in captivity Approval

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.

Current Fiscal Year

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

Next Fiscal Year

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

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: Arkansas residents

Effect on Party Subject to Rule: Restricts possession of certain wildlife

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

Arkansas Game and Fish Commission
 Little Rock, Arkansas

MINUTE ORDER NO: 13-103 SUBJECT: Primate Importation Restrictions
 DATE PASSED: October 24, 2013 Regulations Approval
 PAGE 1 of 1 PAGES LOCATION: Statewide

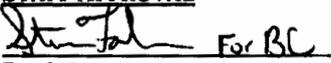
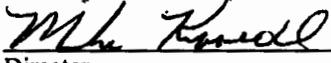
WHEREAS, the Arkansas Game and Fish Commission and its staff have proposed the attached regulation; and

WHEREAS, the proposed regulation has been communicated through a variety of media avenues to sportsmen and the general public throughout the state for review and comment for 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 regulation promotes sound wildlife conservation and management and is consistent with Amendment 35 of the Arkansas Constitution, and that this regulation should now be approved for application statewide.

NOW, THEREFORE, BE IT ORDERED this 24th day of October 2013, that the Arkansas Game and Fish Commission hereby approves and adopts the attached regulation, which shall become effective immediately upon public filing or as soon thereafter as possible.

BE IT FURTHER ORDERED that the Commission staff is authorized to proceed with legally certifying and filing the attached regulation with the Secretary of State, State Library, and Bureau of Legislative Research and incorporating it into the Commission Code Book and Addendum.

	<u>STAFF APPROVAL</u>	<u>COMMISSION APPROVAL</u>
Submitted by:	 Brad Carner Chief	 Ron Duncan Chairman
Division:	<u>Wildlife Management</u>	 Ty Paterson Vice Chairman
Approved:	 Director	 Emon Mahony Commissioner
Approved:	 Legal	 Fred Brown Commissioner
Approved:	 Fiscal	

ARKANSAS REGISTER

Transmittal Sheet

* Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State
Mark Martin
State Capitol, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-3527
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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 F. Goodhart E-mail jfgoodhart@agfc.state.ar.us Phone 501-223-6327

Statutory Authority for Promulgating Rules Amendment 35

Rule Title: Boating Restrictions on Wildlife Management Areas Regulations

Intended Effective Date
(Check One)

Date

Emergency (ACA 25-15-204)

Legal Notice Published

09-22-2013

30 Days After Filing (ACA 25-15-204)

Final Date for Public Comment

10-17-2013

Other _____
(Must be more than 30 days after filing date.)

Reviewed by Legislative Council

Adopted by State Agency

10-24-2013

Electronic Copy of Rule submitted under ACA 25-15-218 by:

Diane Boone drboone@agfc.state.ar.us

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted

~~In Compliance with Act 194 of 1967 the Arkansas Administrative Procedures Act (ACA 25-15-201 et. seq.)~~

In Substantial Compliance with Act 434 of 1967 the Arkansas Administrative Procedure 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 Procedure Act cannot be constitutionally applied to the AGFC. Nevertheless, the AGFC does substantially comply voluntarily with the rulemaking provisions under Ark. Code Ann. § 25-15-204 for public notice, opportunity for comment, and filing of all regulations adopted by the Commission.

James F. Goodhart
Signature

501-223-6327

jfgoodhart@agfc.state.ar.us

Phone Number

E-mail Address

General Counsel

Title

10/28/13

Date

20.26 BOATING RESTRICTIONS ON WMAs

- 10-13 (A) It is unlawful to operate motorboats or vessels or manipulate any similar device on any WMA in a reckless or negligent manner that endangers the life, limb or property of any person, including but not limited to: weaving through congested vessel traffic; moving at a speed that exceeds the safe and reasonable limits under the circumstances or that creates a hazardous wash or wake upon approaching or passing vessels; colliding with or striking another vessel, object, or person; or operating while intoxicated or under the influence of any narcotic drug, barbiturate, or marijuana or while under any physical or mental disability so as to be incapable of operating safely under the circumstances.
- (B) It also is unlawful to operate motorboats or vessels or manipulate any similar device on any WMA in violation of any provision of Title 27, Chapter 101 (Ark. Code Ann. §§ 27-101-101 et seq.) or Title 5, Chapter 76 (Ark. Code Ann. §§ 5-76-101 et seq.) of the Arkansas Code. (Addendum L1.01)
- PENALTY: Class 2**

R1.01 POINTS FOR ~~HUNTING AND FISHING CODE~~ VIOLATIONS

10-13 CODE NUMBER	TYPE OF VIOLATION	POINTS
03.09	Counterfeiting License	18
03.15	Special Guide License Requirements	18
05.01	Hunting Wildlife in Closed Season – Big Game	30
05.01	Hunting Wildlife in Closed Season – Small Game	12
05.02	Night Hunting	30
05.04	Selling Wildlife Restrictions	**
	**A conviction for violating this regulation may result in lifetime revocation of all hunting and/or fishing privileges.	
05.05	Hunting from Road Prohibited	18
05.17	Alligator, Bear, Deer, and Turkey Tagging Requirements	12
05.18	Big Game Checking Requirements	12
05.27	Endangered Species	30
05.33	Hunting or Fishing after Revocation of License Prohibited	30
05.35	Hunting, Fishing, Trapping, Releasing Hunting Dogs or Pursuing Wildlife with Dogs without Landowner/Lessee Permission Prohibited	9
05.36	Hunting/Fishing Endangerment Prohibited	12
	Assessment of additional points dependent upon severity of violation. A conviction for violating this regulation may result in the assessment of additional violation points up to and including lifetime revocation of privileges when associated with the following occurrences:	
	With Property Damage	18
	With Personal Injury	30
	With Human Fatality	Lifetime

10-13 CODE NUMBER	TYPE OF VIOLATION	POINTS
07.03	Hunting Bear Over Bait	9
07.05	Hunting Wild Turkey Over Bait Prohibited	18
08.04	Dogs Prohibited During Deer Season	12
12.01	Taking of Alligators Prohibited	18
13.01	Disturbing/Shooting Bears in Dens Prohibited	18
14.04	Taking of Raptors Prohibited	18
16.01	Taking or Possessing Elk Restricted	18
20.24(B)	Feral Hog Restrictions on WMAs	30
20.24(C)	Releasing Feral Hogs – Restrictions on WMAs	30
20.26	Boating Restrictions on WMAs	6
24.08	Guiding Prohibited on all AGFC-owned or controlled WMAs (Guides)	18
24.08	Guiding Prohibited on all AGFC-owned or controlled WMAs (Guided Hunters)	9
26.01	Taking Fish with Electrical Devices, Firearms, Explosives, Toxic or Killing Substances	30
26.20	Sale of Game Fish	18
29.03	Sale of Bull Frogs	18
30.17	Resident Roe Taker/Seller Permit Requirements	18
30.18	Resident Roe Buyer/Exporter and Non-Resident Roe Buyer/Exporter Permit Requirements	18
30.19	Roe Buyer/Exporter Reporting Requirements	18
30.02	Commercial Fishing by Non-Resident Prohibited	18
30.20	Paddlefish and Sturgeon Possession Restrictions on White River, Arkansas River and Border Waters	18
30.21	Cutting or Mutilations of Paddlefish and Sturgeon Prohibited	30
30.23	Paddlefish and Sturgeon Harvest Restrictions	18
31.01	Mussel Shell Taker, Buyer and Seller License and Reporting Requirements	18
34.01	Aquatic Turtle Permit Requirements	18
34.03	Aquatic Non-Resident Turtle Dealer Permit	18
34.04	Commercial Aquatic Turtle Harvest Restrictions	9
34.05	Aquatic Turtle Tackle Restrictions	9
34.07	Aquatic Turtle Transaction and Reporting Requirements	9
34.08	Possession of Sportfish by Aquatic Turtle Harvesters Prohibited	9
34.09	Take or Possession of Alligator Snapping Turtles Prohibited	18
34.10	Take of Chicken Turtles Prohibited	9
34.11	Importation of Alligator Snapping Turtles and Chicken Turtles Prohibited	18
38.06	Commercial Fishing for Certain Fish Prohibited in Lower Ouachita River	18

10-13
CODE
NUMBER

TYPE OF VIOLATION

POINTS

All others All other violations, except for violations of Chapter 37.00

6

FINANCIAL / ECONOMIC IMPACT STATEMENT

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

DEPARTMENT: Arkansas Game and Fish Commission

BUREAU: Wildlife Management

PERSON COMPLETING THIS STATEMENT: Brad Carner

TELEPHONE #: 501-223-6362 FAX #: 501-223-6452

EMAIL: bjcarner@agfc.state.ar.us

SHORT TITLE OF THIS RULE: Proposed Boating Restrictions on WMAs
Regulation Approval

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.

Current Fiscal Year

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

Next Fiscal Year

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

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: Boaters on WMAs

Effect on Party Subject to Rule: Imposes points against the party's hunting and fishing license if convicted of unsafe boating on a WMA.

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

Arkansas Game and Fish Commission
Little Rock, Arkansas

MINUTE ORDER NO:	<u>13-104</u>	SUBJECT:	<u>Boating Restrictions on WMAs</u>
DATE PASSED:	<u>October 24, 2013</u>		<u>Regulations Approval</u>
PAGE <u>1</u> of <u>1</u> PAGES		LOCATION:	<u>Statewide</u>

WHEREAS, the Arkansas Game and Fish Commission and its staff have proposed the attached regulation for the 2013-2014 Waterfowl Hunting seasons; and

WHEREAS, the proposed regulation has been communicated through a variety of media avenues to sportsmen and the general public throughout the state for review and comment for 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 regulation promotes sound wildlife conservation and management and is consistent with Amendment 35 of the Arkansas Constitution, and that this regulation should now be approved for application statewide.

NOW, THEREFORE, BE IT ORDERED this 24th day of October 2013, that the Arkansas Game and Fish Commission hereby approves and adopts the attached regulation, which shall become effective immediately upon public filing or as soon thereafter as possible.

BE IT FURTHER ORDERED that the Commission staff is authorized to proceed with legally certifying and filing the attached regulation with the Secretary of State, State Library, and Bureau of Legislative Research and incorporating it into the Commission Code Book and Addendum.

	<u>STAFF APPROVAL</u>	<u>COMMISSION APPROVAL</u>
Submitted by:	<u>Brad Carner</u> Brad Carner Chief	<u>Ron Duncan</u> <u>Steve Cook</u> Ron Duncan Chairman Steve Cook Commissioner
Division:	<u>Wildlife Management</u>	<u>Ty Paterson</u> <u>Ford Overton</u> Ty Paterson Vice Chairman Ford Overton Commissioner
Approved:	<u>Mike Knudell</u> Director	<u>Emon Mahony</u> <u>Ken Reeves</u> Emon Mahony Commissioner Ken Reeves Commissioner
Approved:	<u>[Signature]</u> Legal	<u>Fred Brown</u> Fred Brown Commissioner
Approved:	<u>[Signature]</u> Fiscal	