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November 21, 2018

RECEIVED

NOV 27 2018

**BUREAU OF
LEGISLATIVE RESEARCH**

Ms. Donna K. Davis
Arkansas Bureau of Legislative Research
Administrative Rules Review Section
#1 Capitol Mall, 5th Floor
Little Rock, AR 72201

RE: Arkansas Game and Fish Commission, 2019 Aquatic Turtle Harvest Regulations

Dear Ms. Davis:

Enclosed please find for filing a hard copy of the 2019 Aquatic Turtle Harvest Regulations passed by the Arkansas Game and Fish Commission on November 15, 2018. The Commission requests that the Aquatic Turtle Harvest regulation changes be effective January 1, 2019.

Should you have any questions or comments concerning this filing, please do not hesitate to contact me at (501) 223-6327 at your convenience.

Sincerely,

A handwritten signature in blue ink, which appears to read "J. F. Goodhart", is written over a faint, larger version of the same signature.

James F. Goodhart
General Counsel

JFG/as
Enclosures

ARKANSAS GAME AND FISH COMMISSION
 Little Rock, Arkansas

MINUTE ORDER NO:	<u>18-077</u>	SUBJECT:	<u>2019 Aquatic Turtle Harvest</u>
DATE PASSED:	<u>November 15, 2018</u>		<u>Regulations</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 2019 aquatic turtle harvest 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 November 2018, that the Arkansas Game and Fish Commission hereby approves and adopts the attached regulations, which shall become effective on January 1, 2019.

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.

	<u>STAFF APPROVAL</u>	<u>COMMISSION APPROVAL</u>
Submitted by:	<u>Ben Batten</u> Ben Batten Chief	<u>Ford Overton</u> Ford Overton Chairman
Division:	<u>Fisheries</u>	<u>Ken Reeves</u> Ken Reeves Vice Chairman
Approved:	<u>Director</u>	<u>Stan Jones</u> Stan Jones Commissioner
Approved:	<u>Legal</u>	<u>J.D. Neeley</u> J.D. Neeley Commissioner
Approved:	<u>Fiscal</u>	<u>Joe Morgan</u> Joe Morgan Commissioner

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FINANCIAL / ECONOMIC IMPACT STATEMENT

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

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DEPARTMENT: Arkansas Game & Fish Commission

DIVISION: Fisheries

PERSON COMPLETING THIS STATEMENT: William Posey

TELEPHONE #: 501-223-6369

FAX #: 501-2253-6461

William.Posey@agfc.ar.gov

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EMAIL:

1. SHORT TITLE OF THIS RULE: 2018 Turtle Harvest Regulation Proposals

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?
Yes: X No:
2. Do you believe that the development of a financial impact statement is so speculative as to be cost prohibitive? Yes: X No: 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	\$
Special Revenue	\$
Other (Identify)	\$
Total	\$

Next Fiscal Year

General Revenue	\$
Federal Funds	\$
Cash Funds	\$
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: \$ 500.00

Next Fiscal Year: \$ 500.00

Party Subject to Rule: Commercial Aquatic Turtle Harvesters/Dealers

Effect on Party Subject to Rule: Reduced opportunity to commercially harvest wild-caught aquatic turtles

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: \$ 0.00

Next Fiscal Year: \$ 0.00

Financial Benefit to Agency: None.

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:

7. Compare this rule with federal and state counterparts: Surrounding states are closing all commercial harvest of aquatic turtles or closing commercial harvest of certain turtle species.

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Proposed Code Changes to Aquatic Turtle Harvest

NOV 27 2018

15 November 2018

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34.02 REQUIREMENTS FOR ISSUING OF CERTAIN COMMERCIAL AQUATIC TURTLE PERMITS

- 09-07 The following conditions shall be met to qualify for and maintain an Aquatic Turtle Farmer Permit, Aquatic Turtle Dealer Permit, or Alligator Snapping Turtle Breeder/Dealer Permit. An Aquatic Turtle Dealer Permit is required if wild caught turtles are held in tanks, ponds, etc. for any length of time for commercial purposes.
- (A) A site plan must be provided with the permit application, including legal and physical descriptions of all facilities, and a sketch map showing the location and approximate size of all ponds, impoundments, tanks, etc. used to hold or propagate aquatic turtles.
 - (B) All sites shall be inspected and approved by Commission personnel prior to issuance of a permit.
 - (C) Holding ponds, impoundments, tanks, etc. shall be fenced and maintained in such a manner as to prevent the egress of captives and ingress of wild stock.
 - (D) Facilities shall be subject to random inspection by Commission personnel.
 - (E) Permittees shall follow all transaction and reporting requirements for harvest of wild-caught turtles in compliance with Code 34.07.

PENALTY: Class 3

34.04 COMMERCIAL AQUATIC TURTLE HARVEST CONDITIONS

- 01-16
- (A) It is unlawful to take or attempt to take aquatic turtle eggs from the wild.
 - (B) It is unlawful to take or attempt to take aquatic turtles for commercial purposes by any means other than hoop nets or box type (basking) turtle traps.
 - (C) It is unlawful to possess commercial aquatic turtle harvest gear in closed waters. Commercial aquatic turtle harvest is allowed in the following counties, and/or bodies of water as specified:
 - 1. Arkansas, Ashley, Chicot (Exception 1), Clay (Exception 1), Craighead, Crittenden (Exception 1), Cross, Desha, Drew (Exception 1), Greene (Exception 1), Independence (Exception 1), Jackson, Jefferson, Lawrence (Exception 1), Lee, Lincoln, Lonoke, Mississippi, Monroe, Phillips, Poinsett, Prairie, Pulaski, Randolph (Exception 1), St. Francis, White and Woodruff counties;
 - 2. Arkansas River, from its mouth to the Arkansas/ Oklahoma state line, excluding waters within Lake Dardanelle from: north of the Union Pacific Railroad in Franklin, Johnson, and Pope counties; Dardanelle Bay in Yell County; Delaware Bay south of Arkansas Highway 22, and south of signs posted on Shoal Bay, Cane Creek Bay, and Six Mile Creek at O'Kane Island access in Logan County.
 - 3. Black River from its mouth to the Missouri state line;

4. White River from its mouth to the mouth of the Black River.
5. Arkansas waters between the main levees of the Mississippi River.

(D) When a river or stream forms the boundary between opened and closed areas, that boundary segment shall be closed to tackle legal in the open area.

EXCEPTIONS:

- (1) The following waters are closed to commercial aquatic turtle harvest:
 - (a) Bayou Meto Bayou in compliance with Code 38.01.
 - (b) All waters owned by: Arkansas Game and Fish Commission, U.S. Forest Service, Arkansas State Parks, and Arkansas Natural Heritage Commission.
 - (c) Horseshoe Lake (Crittenden County);
 - (d) Lake Wallace (Drew and Chicot counties);
 - (e) Upper and Lower Lake Chicot (Connerly Bayou to Ditch Bayou Dam inclusive) (Chicot County).
 - (f) St. Francis River (Clay and Greene counties)
 - (g) Eleven Point River (Randolph County)
 - (h) Spring River (Lawrence and Randolph counties)
 - (i) Strawberry River (Lawrence County)
 - (j) White River above Dam 1 at Batesville (Independence County)
 - (k) Property-owner association and municipally owned lakes, only with written approval.
- (2) Private landowners, in closed counties, can obtain from the Commission, a Private Land Commercial Aquatic Turtle Permit. This permit allows the harvest of Common Snapping Turtles (*Chelydra serpentina*), Redear Sliders (*Trachemys scripta*), and Spiny Softshells (*Apalone spinifera*) for commercial purposes on private property under the following conditions:
 - (a) Only from manmade lakes and ponds
 - (b) Only by a licensed commercial aquatic turtle harvest or dealer permittee
 - (c) Only with legal commercial turtle harvest gear as defined above
 - (d) All harvested turtles shall be reported on aquatic turtle harvest report forms as specified in [Code 34.07](#).

PENALTY: Class 2; Second offense shall result in the revocation of the permit.

34.07 AQUATIC TURTLE TRANSACTION AND REPORTING REQUIREMENTS

06-15 (A) It is unlawful for aquatic turtle harvest, junior aquatic turtle harvest, and aquatic turtle dealer permittees to fail to mail or deliver to the Commission on or before the 10th of each month a legibly completed and itemized aquatic turtle harvest form provided by the Commission for all wild-caught aquatic turtles harvested during the prior month. A copy of this form shall be retained by the permittee for a period of 12 months and made available for inspection by any agent of the Commission.

- (B) Aquatic turtle harvest, aquatic turtle dealer, non-resident turtle dealer, aquatic turtle farmer, and alligator snapping turtle breeder/dealer permittees must comply with the following:
- (1) An invoice, bill of sale or true bill of lading must accompany all turtle sales shipped or transported in intrastate or interstate commerce to the final destination and must contain the following information:
 - (a) Name, address, and telephone number of buyer and seller;
 - (b) Permit number of seller, and,
 - (c) Number and species of turtles in shipment.
 - (2) Permittees may have turtles transported by their authorized representatives if accompanied with a true bill of lading or bill of sale as described above.
- (C) It is unlawful for alligator snapping turtle breeder/dealer permittees to fail to mail or deliver to the Commission by the 10th of each month a legibly completed, itemized transaction record of all alligator snapping turtles purchased, sold, bartered, traded, or transferred during the prior month transactions were made. This transaction record shall include the names, addresses and phone numbers of all persons involved in the sale, purchase, barter, trade or transfer of alligator snapping turtles. Transaction records shall be recorded on a form provided by the Commission.
- (D) To be eligible to renew commercial aquatic turtle harvester and dealer permits, all permittees must submit a minimum of one harvest report form annually even if it shows zero take for the year.
- PENALTY: Class 2; Second offense shall result in the revocation of the permit.**

34.10 TAKE OF CHICKEN TURTLES AND RAZORBACK MUSK TURTLES PROHIBITED

- 06-15 It is unlawful to kill, take, or attempt to take chicken turtles (*Deirochelys reticularia*) and razorback musk turtles (*Sternotherus carinatus*), their eggs or other parts from the wild.

EXCEPTION:

Chicken turtles in legal possession as of Jan. 1, 2006 and their progeny thereafter in compliance with Codes 34.02; 34.04.

PENALTY: Class 2

34.11 IMPORTATION OF ALLIGATOR SNAPPING TURTLES, RAZORBACK MUSK TURTLES AND CHICKEN TURTLES PROHIBITED

- 06-15 It is unlawful to import alligator snapping turtles, razorback musk turtles, and chicken turtles into Arkansas.

PENALTY: Class 3

**Proposed Code Changes to Aquatic Turtle Harvest Permits
15 November 2018**

34.02 QUALIFICATIONS FOR CERTAIN REQUIREMENTS FOR ISSUING OF CERTAIN AQUATIC TURTLE PERMITS

- 09-07 The following conditions shall be met to qualify for and maintain an Aquatic Turtle Farmer Permit, Aquatic Turtle Dealer Permit, or Alligator Snapping Turtle Breeder/Dealer Permit. ~~or aquatic turtle dealer permit (if turtles will be held more than 30 days).~~ An Aquatic Turtle Dealer Permit is required if wild caught turtles are held in tanks, ponds, etc. for any length of time. From January 1st, 2019 to December 31st, 2021, no more than 150 permits total per year will be issued in combination between Aquatic Turtle Dealer and Aquatic Turtle Harvester permits.
- (A) A site plan must be provided with the permit application, including legal and physical descriptions of all facilities, and a sketch map showing the location and approximate size of all ponds, ~~/~~ impoundments, tanks, etc. used to hold or propagate aquatic turtles.
- (B) All sites shall be inspected and approved by Commission personnel prior to issuance of a permit.
- (C) Holding ponds, impoundments, tanks, etc. shall be fenced and maintained in such a manner as to prevent the egress of captives and ingress of wild stock.
- (D) Facilities shall be subject to random inspection by Commission personnel.
- (E) Permittees shall follow all transaction and reporting requirements for harvest of wild-caught turtles in compliance with Code 34.07.

PENALTY: Class 3

34.04 COMMERCIAL AQUATIC TURTLE HARVEST CONDITIONS RESTRICTIONS

- 01-16 (A) It is unlawful to take or attempt to take aquatic turtle eggs from the wild.
- (B) It is unlawful to take or attempt to take aquatic turtles for commercial purposes by any means other than hoop nets or box type (basking) turtle traps.
- (C) ~~It is unlawful to possess commercial aquatic turtle harvest gear in closed waters.~~ Commercial aquatic turtle harvest is allowed in the following counties ~~or specified portions thereof, and/or bodies of water as specified:~~
1. Arkansas, Ashley, ~~Bradley, Calhoun,~~ Chicot (Exception 1 2), ~~Cleveland,~~ Clay (Exception 1), ~~Columbia (Exception 2),~~ Craighead, Crittenden (Exception 1 2), Cross, ~~Dallas,~~ Desha, Drew (Exception 1 2), ~~Grant,~~ Greene (Exception 1), ~~Hempstead,~~ Independence (Exception 1 2), Jackson, Jefferson, ~~Lafayette (Exception 2),~~ Lawrence (Exception 1 2), ~~Lawrence (east of the Black River),~~ Lee, Lincoln, Lonoke, ~~Miller,~~ Mississippi [~~Exception 2(g)~~], Monroe, ~~Nevada, Ouachita,~~ Phillips, Poinsett, Prairie, Pulaski (south of I-30 and east of I-440 and Arkansas Highway 67), Randolph (Exception 1) (east of the Black River) ~~from the southern border to Pocahontas; from Pocahontas to Maynard east of Arkansas Highway 115; and from Maynard to the state line east of Arkansas Highway 166),~~

- St. Francis, ~~Saline (east of I-30), Union,~~ White ~~(east of Arkansas Highway 67)~~ and Woodruff counties;
2. Arkansas River, from its mouth to the Arkansas/ Oklahoma state line, ~~excluding waters within Lake Dardanelle from: north of the Union Pacific Railroad in Franklin, Johnson, and Pope counties; Dardanelle Bay in Yell County; Delaware Bay south of Arkansas Highway 22, and south of signs posted on Shoal Bay, Cane Creek Bay, and Six Mile Creek at O'Kane Island access in Logan County. including that part of the Arkansas River from the Ozark Dam to the Arkansas/Oklahoma state line, bounded on the north by the Union Pacific Railroad and on the south by Arkansas Highway 22 in compliance with Code 30.25.~~
 3. ~~Black River from its mouth to the Missouri state line;~~
 4. ~~Little River from its mouth to the Corps of Engineers boat ramp on west bank of river below Millwood Lake Dam;~~
 5. ~~Ouachita River from the Louisiana state line to the Arkansas Highway 79B Bridge (Camden);~~
 6. ~~Red River from the Louisiana state line to the Oklahoma/Texas state line;~~
 7. ~~Sulphur River from its mouth to the Texas state line;~~
 8. ~~White River from its mouth to 100 yards below Dam No. 1 at Batesville, Independence County;~~
 9. Arkansas waters between the main levees of the Mississippi River.
 10. ~~All lakes, bays or other bodies of water, other than tributary streams, connected to waters as specified above, when accessible by boat, from the main channel except as limited by Addendum Chapter H1.00.~~

(D) When a river or stream forms the boundary between opened and closed ~~counties~~ areas, that boundary segment shall be ~~open~~ closed to tackle legal in the open ~~county~~ area.

EXCEPTIONS:

1. ~~Bayou Meto Bayou in compliance with Code 38.01.~~
- (1) The following waters are closed to commercial aquatic turtle harvest:
 - (a) Bayou Meto Bayou in compliance with Code 38.01.
 - (b) All waters owned by: Arkansas Game and Fish Commission, U.S. Forest Service, Arkansas State Parks, and Arkansas Natural Heritage Commission.
 - (a) ~~Lake Erling, including all tributaries upstream from 100 yards below Lake Erling Dam to Arkansas Highway 313 (Lafayette County)~~
 - (b) ~~All Commission-owned lakes (excluding all natural lakes when accessible by boat from river or stream channel on WMAs in counties listed above);~~
 - (e) ~~Lake Columbia (Columbia County);~~
 - (d)(c) Horseshoe Lake (Crittenden County);
 - (e)(d) Lake Wallace (Drew and Chicot counties);

~~(f)~~(e) Upper and Lower Lake Chicot (Connerly Bayou to Ditch Bayou Dam inclusive) (Chicot County).

(f) St. Francis River (Clay and Greene counties)

(g) Eleven Point River (Randolph County)

(h) Spring River (Lawrence and Randolph counties)

(i) Strawberry River (Lawrence County)

(j) White River above Dam 1 at Batesville (Independence County)

(k) Property-owner association and municipally owned lakes, only with written approval.

~~(g) — The Mississippi River in Mississippi County, from the Sans Souci Landing downstream to the head of Sunrise Towhead, due east of Butler, AR, and all waters within and bounding the area known as “Driver Bar”, which forms the east bank of the river channel within this river segment.~~

~~1. USDA Forest Service lakes, State Park lakes and lakes owned by municipalities or property-owner associations.~~

(2) Private landowners, in closed counties, can obtain from the Commission, a Private Land ~~Nuisance-Commercial~~ Aquatic Turtle Permit. This permit allows the harvest of Common Snapping Turtles (*Chelydra serpentina serpentina*), Redear Sliders (*Trachemys scripta*), and Spiny Softshells (*Apalone spinifera*) for commercial purposes on private property under the following conditions:

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(d) All harvested turtles shall be reported on aquatic turtle harvest report forms as specified in [Code 34.07](#).

PENALTY: Class 2; Second offense shall result in the revocation of the permit.

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PENALTY: Class 3