

### 301 KAR 3:120. Commercial nuisance wildlife control.

RELATES TO: KRS 150.183, 150.275, 150.410

STATUTORY AUTHORITY: KRS 150.025(1)(h), 150.105, 150.275

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)(h) authorizes the department to promulgate any other administrative regulations reasonably necessary to implement or carry out the purposes of KRS Chapter 150. KRS 150.105 authorizes the commissioner, with the approval of the commission, to authorize any person to destroy or bring under control any wild animal, fish, or wild birds, protected or unprotected, which are causing damage to persons, property, other animals, or spreading diseases. KRS 150.275 authorizes the department to issue permits to qualified persons to take and transport wildlife at any time for commercial nuisance wildlife control. This administrative regulation establishes the requirements for commercial nuisance wildlife control permits, and nuisance wildlife control operators.

Section 1. Definitions. (1) "Commercial purposes" means taking nuisance wildlife in exchange for payment or trade.

(2) "Enhanced rabies surveillance area" means Bell, Boyd, Bracken, Carter, Clay, Elliot, Fleming, Floyd, Greenup, Harlan, Johnson, Knott, Knox, Laurel, Lawrence, Leslie, Letcher, Lewis, Martin, Mason, McCreary, Pike, Perry, Robertson, and Whitley counties.

(3) "Federally-protected wildlife" means any wildlife species listed by the U.S. Fish and Wildlife Service as threatened or endangered, and any birds protected under the Migratory Bird Treaty Act and the Bald Eagle Protection Act.

(4) "Nuisance wildlife" means vertebrate wildlife that causes or may cause damage or threat to agriculture, human health or safety, property, or natural resources.

(5) "Nuisance wildlife control operator" means the holder of a valid permit, issued by the department, which authorizes the taking of nuisance wildlife for commercial purposes.

(6) "NWCO" means a nuisance wildlife control operator as defined in this administrative regulation.

(7) "Permit" means the nuisance wildlife control operator's permit issued pursuant to this administrative regulation.

(8) "Rabies vector species" means a:

- (a) Coyote (*Canis latrans*);
- (b) Gray fox (*Urocyon cinereoargenteus*);
- (c) Raccoon (*Procyon lotor*);
- (d) Red fox (*Vulpes vulpes*);
- (e) Spotted skunk (*Spilogale putorius*); or
- (f) Striped skunk (*Mephitis mephitis*).

(9) "Rural habitat" means an area of the state not included within the boundaries of an incorporated or unincorporated city, village or borough, and having a population in excess of 1,500 inhabitants.

Section 2. NWCO Permit. (1) A person shall apply for a NWCO permit on a form provided by the department.

(2) The department shall not grant a permit to a person:

- (a) Less than eighteen (18) years old;
- (b) Who has been convicted of a violation of KRS Chapter 150 or the administrative regulations promulgated under its authority within one (1) year of the date of application; or
- (c) Who fails to achieve a score of seventy (70) percent or better on an examination administered by the department.

(3) Nothing in this subsection shall prohibit persons under eighteen (18) years old from assisting a NWCO.

(4) A person may appeal the denial of a permit for a violation of KRS Chapter 150 or the administrative regulations adopted under its authority by following the procedures established in Section 7 of this administrative regulation.

(5) A NWCO shall have his permit in his possession at all times when taking or transporting wildlife.

(6) The NWCO permit shall be valid from March 1 through the last day of February.

Section 3. Reporting Requirements. (1) A NWCO shall file an annual activity report with the department between March 1 and March 30 of each year.

(2) The annual activity report shall be filed:

(a) On a form:

1. Provided by the department; or
2. Photocopied from the department form.

(b) The form shall contain the information regarding the activity for the period from March 1 of the previous year through the last day of February of the current year.

(3) The department shall not renew the permit of an operator who does not:

- (a) Submit the annual activity report as required by this section; or
  - (b) Does not provide the information required by the annual activity report form.
- (4) Report documents shall be made available to department staff upon request.

Section 4. Restrictions on Taking Wildlife. (1) A NWCO shall not:

(a) Take federally-protected wildlife unless the NWCO has a valid permit issued by the U. S. Fish and Wildlife Service;

(b) Take the species established in subparagraphs 1. through 5. unless authorized by the commissioner:

1. Copperbelly water snake (*Nerodia erythrogaster neglecta*);
2. White-tailed deer (*Odocoileus virginianus*);
3. Elk (*Cervus canadensis*);
4. Black bear (*Ursus americanus*); or
5. Wild turkey (*Meleagris gallopavo*); or

(c) Use lethal capture methods to take bats.

(2) A NWCO may take other nuisance wildlife year-round using lethal or nonlethal capture methods, provided the NWCO has written or oral authorization from the person requesting control.

Section 5. Methods of taking nuisance wildlife. (1) A NWCO using traps shall comply with:

(a) KRS 150.410; and

(b) The trapping requirements in 301 KAR 2:251.

(2) A NWCO using a gun shall provide proof of completion of the Kentucky Hunter Education Program or a course offered by another jurisdiction that meets the course standards set by the International Hunter Education Association.

Section 6. Disposal of captured animals. (1) A NWCO may euthanize or release captured wildlife, except that a NWCO shall:

(a) Euthanize any rabies vector species captured within the enhanced rabies surveillance area before being moved; and

(b) Shall not transport a rabies vector species into or out of the enhanced rabies surveil-

lance area.

(2) Acceptable methods of euthanizing wildlife shall include:

- (a) Captive bolt;
- (b) Gunshot;
- (c) Drowning, for wildlife trapped in water sets, pursuant to 301 KAR 2:251;
- (d) Cervical dislocation or thoracic compression for small mammals and birds;
- (e) Mechanical stunning, if followed immediately by an acceptable euthanasia method;
- (f) Inhalants, including halothane, isoflurane, carbon monoxide, or carbon dioxide;
- (g) Noninhalants including Secobarbital/dibucaine; or
- (h) Commercially-available agents for striped skunks, in accordance with manufacturer's

specifications.

(3) The department may, upon issuing a permit, specify that certain species shall be euthanized.

(a) The requirement that a species be euthanized may apply statewide or to certain geographical regions.

(b) If the requirement that a species be euthanized is made to apply:

- 1. Statewide, all permits issued in that permit year shall contain the same requirement; or
- 2. To a limited geographical area, all permits issued in that area shall contain the same requirement.

(4) A NWCO shall:

- (a) Euthanize wildlife that shows obvious symptoms of disease or injury;
- (b) Transport wildlife for release in a safe manner that minimizes stress to the animal;
- (c) Not release wildlife:

1. Except in a rural habitat suitable for the particular species; and

2. Without the written permission of:

- a. The private landowner of at least 100 contiguous acres;
- b. The private landowners of contiguous properties totaling at least 100 acres; or
- c. The agency responsible for management of public land totaling at least 300 acres;

(d) Dispose of all wildlife carcasses by:

- 1. Complete incineration of the entire carcass and all of its parts and products;
- 2. Placing the carcass in a contained landfill as established in KRS Chapter 224;
- 3. Burying the carcass and all its parts and products in the earth:

a. In a location that is never covered with the overflow of ponds or streams;

b. Not less than 100 feet from any watercourse, sinkhole, well, spring, public highway, residence, or stable; and

c. At least one (1) foot deep and covered with one (1) foot of earth; or

4. Removing the carcass by a duly-licensed rendering establishment; and

(e) Not hold wildlife for more than forty-eight (48) hours except as otherwise provided by administrative regulations promulgated by the department.

(5) A permitted NWCO wishing to sell the pelts of furbearers taken during the statewide furbearer hunting and trapping season shall also possess a valid trapping license or hunting license, if applicable.

Section 7. Permit revocation, appeal process. (1) The department shall revoke without refund the permit of a nuisance wildlife control operator who:

(a) Is convicted of a violation of a federal fish and wildlife law, a Kentucky fish and wildlife law, including KRS Chapter 150 or Title 301 KAR, or another state's fish and wildlife law; or

(b) Knowingly provides false information on:

- 1. The application for a permit; or

2. The Annual Activity Report.

(2) An individual whose permit has been revoked shall be ineligible to apply for another Nuisance Wildlife Control Operator Permit or be an assistant on another Nuisance Wildlife Control Operator Permit for a period of three (3) years.

(3) An individual whose permit has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.

Section 8. Items incorporated by reference. (1) The following material is incorporated by reference:

(a) "NWCO Application," edition August 2004; and

(b) "NWCO Annual Activity Report Form," edition August 2004;

(2) The material may be inspected, copied, or obtained subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky, Monday through Friday from 8 a.m. to 4:30 p.m. (31 Ky.R. 892; Am. 1293; 1405; eff. 3-3-2005; 44 Ky.R. 1134, 1518; eff. 2-2-2018.)