

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 4:070. Scientific and educational collecting permits.

RELATES TO: KRS 150.010, 150.170, 150.180, 150.195, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.183, 150.275, 50 C.F.R. 17

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish seasons for the taking of fish and wildlife, to regulate bag limits, creel limits, and methods of take, and to make these requirements apply to a limited area. KRS 150.183(3) authorizes the department to establish the terms and conditions for allowing the importation, transportation, possession, or sale of endangered species. KRS 150.275 authorizes the department to issue permits to persons for commercial nuisance wildlife control, and scientific or educational purposes. 50 C.F.R. Part 17 establishes the requirements for federally protected species. This administrative regulation establishes the requirements for the issuance and use of scientific and educational collecting permits.

Section 1. Definitions. (1) "Agent of the state" means a status that is granted by the department to an individual working on a project on behalf of the department.

(2) "Collected", "Collecting", or "Collection" means any sampling activity that removes, even temporarily, any protected wildlife from the wild in Kentucky.

(3) "Educational collection permit" means a permit issued by the department to an individual for use in:

(a) The instruction of students; or

(b) A university-related research project.

(4) "Federally protected species" means any species:

(a) Listed by the United States Fish and Wildlife Service as:

1. Threatened; or

2. Endangered; or

(b) Any bird protected under the:

1. Migratory Bird Treaty Act; or

2. Bald and Golden Eagle Protection Act.

(5) "Permit holder" means a person who possesses one (1) of the following two (2) valid permits issued by the department:

(a) An educational collection permit; or

(b) A scientific collection permit.

(6) "Scientific collection permit" means a permit issued by the department to an individual for the purpose of conducting a scientific study for which remuneration is received.

(7) "Watershed" means an 8-digit Hydrologic Unit Code assigned by the United States Geological Survey.

Section 2. Permit Issuance and Requirements. (1) A person shall obtain the applicable collection permit prior to collecting any protected wildlife species in Kentucky, except that a representative of the department who is engaged in collecting wildlife in an official capacity shall not be required to possess a collection permit.

(2) A person shall:

(a) Apply for an educational or scientific collection permit on a Scientific and Educational Wildlife Collection Permit Application form provided by the department; and

(b) Submit to the department the appropriate permit fee established in 301 KAR 3:022 along with the completed application.

(3) The department shall only issue a scientific or educational permit to a person who:

(a) Has completed a college course in species taxonomy or species identification for the species group to be collected;

(b) Has one (1) year of experience in collecting the species group to be collected; or

(c) Submits a signed letter from a person qualified to be a scientific or educational permit holder attesting to the applicant's ability in species identification.

(4) A permit holder shall possess a valid federal permit or a department-issued agent of the state letter if collecting a:

(a) Federally protected species;

(b) Bat species;

(c) Mussel species; or

(d) Fish species in a watershed known to contain a federally protected fish species.

(5) A permit holder shall complete a Project Proposal Form for every project involving the sampling or collecting of:

(a) A federally protected species;

(b) A bat;

(c) A mussel; or

(d) Fish in a watershed known to contain a federally protected fish species.

(6) A permit holder shall submit to the department each Project Proposal Form at least fifteen (15) days in advance of the project.

(7) A permit holder shall comply with all requirements pertaining to a federally protected species pursuant to 50 C.F.R. Part 17.

(8) A permit holder shall:

(a) Not intentionally kill a federally protected species; and

(b) Report any inadvertent killing of a federally protected species by:

1. Calling the department's Wildlife Diversity Program at 1-800-858-1549 within twenty-four (24) hours of the kill; and

2. Submitting all dead specimens to the department within seven (7) days of taking.

(9) A permit holder shall not use a scientific or educational collection permit in lieu of a:

(a) Hunting license;

(b) Fishing license; or

(c) Trapping license.

(10) While collecting specimens, a permit holder shall carry a:

(a) Valid scientific or educational collection permit; or

(b) Photocopy of a valid collection permit.

(11) A permit holder who is collecting wildlife that will not be killed shall release the wildlife at the capture location.

Section 3. Reporting Requirements, Permit Renewal, and Revocation. (1) A permit holder shall submit to the department all wildlife collection data for the previous calendar year:

(a) By January 15;

(b) Electronically on the department's Web site at fw.ky.gov; and

(c) Prior to renewal of a collection permit.

(2) A permit holder who is submitting annual collection data on the department's Web site shall complete the data submittal process in its entirety.

(3) The department shall not renew a scientific or educational collection permit until the permit holder has submitted the previous year's collection data via the electronic data submittal process on the department's Web site.

(4) A scientific or educational permit shall be revoked or denied by the department if the permit holder:

(a) In the last year has been convicted of a violation of:

1. This administrative regulation;

2. A federal regulation involving the collection of federally protected species pursuant to 50 C.F.R. Part 17; or

3. Another state's regulation or law pertaining to the collection of protected wildlife; or

(b) Falsifies the permit application.

(5) A person who has had a scientific or educational collection permit revoked shall be ineligible to apply for a period of one (1) year.

(6) A person who has had a permit denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.

(7) A request for a 13B hearing shall be in writing and postmarked or delivered in person to the department no later than thirty (30) days after notification of the denial or revocation.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Project Proposal Form", 2012 edition; and

(b) "Scientific and Educational Wildlife Collection Permit Application", 2012 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

RICH STORM, Commissioner

MIKE E. BERRY, Secretary

APPROVED BY AGENCY: July 14, 2021

FILED WITH LRC: August 5, 2021 at 9:22 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 25, 2021 at 11:00 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through October 31, 2021. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Beth Frazee, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Beth Frazee

(1) Provide a brief summary of:

(a) What the administrative regulation does: This administrative regulation establishes the requirements for the issuance and use of scientific and educational collecting permits.

(b) The necessity of the administrative regulation: This administrative regulation is necessary to establish requirements for scientific and educational collecting permits to protect wildlife from commercialization, overtake and disease concerns.

(c) How does this administrative regulation conform to the authorizing statute: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish seasons for the taking of fish and wildlife, to regulation bag limits, creel limits, and methods of take, and to make these requirements apply to a limited area. KRS 150.183(3) authorizes the department to issue permits to persons for commercial nuisance wildlife control, and scientific or educational purposes. 50 C.F.R Part 17 establishes the requirements for federally protected species.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration scientific and educational collecting permits.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change the existing administrative regulation This amendment cleans up and simplifies language in the existing regulation.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary as part of the agencies continued efforts to update and simplify our regulations.

(c) How does the amendment conform to the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: Individuals seeking a scientific and educational collection permit.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action needed to comply with this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment does not alter any costs for the entities in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Legal compliance with scientific and educational collection permits use.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will be no additional cost to implement this administrative regulation.

(b) On a continuing basis: There will be no additional cost to the agency on a continuing basis.

(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. Additional fees or funding for direct implementation of this regulation are not necessary as the regulation already exists.

(8) State whether or not this administrative regulation establishes any fees directly or indirectly increases any fees. This administrative regulation does not establish any fees not die it indirectly increase any fees.

(9) TIERING: Is tiering applied? No.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation does not establish any fees not does it indirectly increase any fees.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1), 150.183, 150.275, 50 C.F.R. 17

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated for state and local governments.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated for state and local governments.

(c) How much will it cost to administer this program for the first year? There will be no additional costs for the first year.

(d) How much will it cost to administer this program for subsequent years?

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: