

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

301 KAR 4:100. Peabody Wildlife Management Area use requirements and restrictions.

RELATES TO: KRS 150.250, 150.620, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.195(4)(f), (g), 150.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.620 authorizes the department to acquire lands for public use, to promulgate administrative regulations for their management, and to charge fees for their use. KRS 150.195(4)(f) and (g) authorize the department to establish the term and manner of license and permit sales. KRS 150.025(1) authorizes the department to promulgate administrative regulations necessary to carry out the purposes of KRS Chapter 150. This administrative regulation establishes a permit for public use of the Peabody Wildlife Management Area and places necessary restrictions on its use by the public.

Section 1. Definitions. (1) "The area" means the Peabody Wildlife Management Area.

(2) "Group" means a family, organization, or gathering using the area for a specific event.

(3) "The Peabody Wildlife Management Area" means the lands in Hopkins, Ohio, and Muhlenberg Counties owned or managed by the Department of Fish and Wildlife Resources.

(4) "Permanent structure" means a blind, pit, stand, or other structure left in place for more than twenty-four (24) hours.

Section 2. Permits Required. Except as provided in Sections 3 and 4 of this administrative regulation, a person sixteen (16) years or older while on the area shall:

(1) Have in his possession a Peabody Wildlife Management Area user permit; or

(2) Be a member of a group with an event permit, either an individual event permit or annual event permit.

Section 3. Individual and Annual Event Permits. (1) In lieu of individual user permits, a person representing a group using the area shall have in possession an event permit and the area use permit as established in 301 KAR 3:010, Section 6.

(2) An event permit shall:

(a) Apply to each member of the group;

(b) Specify:

1. If it is an individual event permit, its period of validity, not to exceed four (4) days or, if it is an annual event permit, the dates the permit is not valid;

2. The activities in which the group will engage;

3. The name of the group; and

4. The name and address of an individual representing the group.

(3) The department may:

(a) Limit the number of event permits issued; or

(b) Assign a specific location for an event.

(4) The department shall:

(a) Deny the application for an event which would interfere with:

1. A management objective for the area; or

2. Other uses or users; or

(b) Revoke individual or event permits for violations of the terms of the application or this

administrative regulation;

(c) Not issue an event permit for an event at which wildlife is taken.

Section 4. Permit Exceptions. An individual or event permit shall not be required of a person:

- (1) On official business and employed by or an agent of:
 - (a) Peabody Coal Company;
 - (b) Beaver Dam Coal Company;
 - (c) Peabody Holding Company; or
 - (d) The Kentucky Department of Fish and Wildlife Resources:
- (2) En route through the area on a state or county road; or
- (3) On the area:
 - (a) As a necessary part of his job; or
 - (b) For the protection of public safety or well-being.

Section 5. Permit Applications. (1) An applicant for an individual permit shall:

- (a) Apply at an authorized license agent; and
- (b) Pay the fee specified in 301 KAR 3:022.

(2) An applicant for an event permit shall:

- (a) Apply on a form provided by the department; and
- (b) Pay the fee specified in 301 KAR 3:022.

(3) The department shall keep applications and copies of event permits issued in a retrievable form for a minimum of one (1) year after the permits expire.

Section 6. Prohibited Activities. While on the area, a person shall not:

- (1) Swim for recreational purposes;
- (2) Camp except in a primitive fashion along an existing road;
- (3) Leave a campfire unattended;
- (4) Operate a motorized vehicle:
 - (a) Off an existing road; or
 - (b) Where prohibited by signs;
- (5) Block a road or gate;
- (6) Park except in a designated parking area unless none are available;
- (7) Park or camp within 100 feet of well heads;
- (8) Target shoot except at a designated area;
- (9) Construct a permanent structure;
- (10) Leave a temporary blind or stand in place overnight;
- (11) Operate a boat:
 - (a) With a centerline exceeding eighteen (18) feet six (6) inches in length, except:
 1. A canoe shall not have a length restriction; and
 2. A pontoon boat shall not exceed twenty-two (22) feet in length; ~~or~~
 - (b) At greater than idle speed; or
 - (c) With an internal combustion engine on:
 1. Goose Lake;
 2. Island Lake; or
 3. South Lake.

Section 7. Incorporation by Reference. (1) "Peabody Wildlife Management Area and Starfire and Robinson Forest Wildlife Management Area Permit Application, July 04" is incorporated by

reference.

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

RICH STORM, Commissioner

MIKE E. BERRY, Secretary

APPROVED BY AGENCY: July 28, 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 27, 2021 at 9:00 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 a permit for public use of the Peabody Wildlife Management Area and places necessary restrictions on its use by the public.

(b) The necessity of the administrative regulation: This administrative regulation is necessary to allow the department to effectively manage the use of the Peabody Wildlife Management Area.

(c) How does this administrative regulation conform to the authorizing statute: KRS 150.620 authorizes the department to acquire lands for public use, to promulgate administrative regulations for their management, and to charge fees for their use. KRS 150.195(4)(f) and (g) authorize the department to establish the term and manner of license and permit sales. KRS 150.025(1) authorizes the department to promulgate administrative regulations necessary to carry out the purposes of KRS Chapter 150.

(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 of Peabody Wildlife Management Area use requirements and restrictions.

(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: The users of the Peabody Wildlife Management Area will be affected by this regulation.

(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 use of the Peabody Wildlife management area.

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

(a) Initially: There will be no additional cost to the agency 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 additional fees nor does 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? No state or local government units will be impacted by this change.

(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), 150.195(4)(f), (g), 150.620

(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 additional 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 additional 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? There will be no additional costs incurred 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: