

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

301 KAR 2:132. Elk hunting seasons, permits, zones, and requirements.

RELATES TO: KRS 150.010, 150.170(4), 150.180, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.177, 150.178, 150.390(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.177 authorizes the department to issue special commission permits for game species to nonprofit wildlife conservation organizations. KRS 150.178 authorizes the department to issue cooperator permits to landowners who enroll property for public hunting access. KRS 150.390(3) requires the department to promulgate administrative regulations establishing the conditions under which depredation permits for elk may be issued. This administrative regulation establishes the requirements for the elk permit drawing and quota hunts, the conditions under which special commission and landowner cooperator permits may be used, procedures for elk damage abatement, and any postseason hunt held after the quota hunts.

Section 1. Definitions.

- (1) "Antlered elk" means an elk having visible polished antler protruding above the hairline.
- (2) "Antlerless elk" means an elk without visible polished antler protruding above the hairline.
- (3) "Archery equipment" means a long bow, recurve bow, or compound bow incapable of holding an arrow at full or partial draw without aid from the archer.
- (4) "Bait":
 - (a) Means a substance composed of grains, minerals, salt, fruits, vegetables, hay, or any other food materials, whether natural or manufactured, that could lure, entice, or attract wildlife; and
 - (b) Does not mean the establishment and maintenance of plantings for wildlife, foods found scattered solely as the result of normal agricultural planning or harvesting practices, foods available to wildlife through normal agricultural practices of livestock feeding if the areas are occupied by livestock actively consuming the feed on a daily basis, or standing farm crops under normal agricultural practices.
- (5) "Crossbow" means a bow designed or fitted with a device to hold an arrow at full or partial draw without aid from the archer.
- (6) "Electronic decoy" means a motorized decoy powered by electricity, regardless of source.
- (7) "Elk" means *Cervus canadensis nelsoni*.
- (8) "Elk Restoration Permit" or "ERP" means an elk permit given to a landowner or lessee who allows the department to capture elk on the landowner or lessee's property for restoration or restocking purposes.
- (9) "Firearm" means a breech or muzzle-loading rifle, shotgun, or handgun.
- (10) "Landowner cooperator" means a landowner or lessee who owns or leases at least 5,000 acres of land in the restoration zone and enters into an agreement with the department to allow public access and hunting for at least five (5) years.
- (11) "Loyalty Redraw" means a secondary drawing to award any unpurchased elk quota hunt permits, remaining after the purchase deadline for those individuals initially drawn

for the elk quota hunt, to members of the longest-applying year-cohort of resident elk hunt drawing applicants.

(12) "Muzzleloader" means a rifle, shotgun, or handgun that is loaded from the discharging end of the barrel or discharging end of the cylinder.

(13) "Out-of-zone" means all counties not included in the restoration zone.

(14) "Restoration zone" means the Kentucky counties: Bell, Breathitt, Clay, Floyd, Harlan, Johnson, Knott, Knox, Leslie, Letcher, Magoffin, Martin, McCreary, Perry, Pike, and Whitley.

(15) "Shed" means an antler that has naturally been cast off the skull as a part of the annual growth and replacement process.

(16) "Unit" means a designated area in the restoration zone with specific management restrictions.

(17) "Voucher cooperators" means a landowner or lessee who owns or leases at least 100 acres of land in the restoration zone and enters into an agreement with the department to allow elk hunting access.

(18) "Youth" means a person under the age of sixteen (16) by the first date of the hunt.

Section 2. Elk Damage Control. The department may authorize the removal or destruction of elk that are causing property damage. A person authorized to destroy an elk shall:

- (1) Attach a department-issued destruction tag to an elk prior to moving the carcass; and
- (2) Not remove the destruction tag until the carcass is processed.

Section 3. Elk Quota Hunts.

(1) The elk quota hunt application period shall be August 1 of the year preceding a given calendar year's elk hunt season to April 30 of the year of that season.

(2) An applicant shall:

(a) Complete the elk quota hunt application process on the department's Web site at fw.ky.gov; and

(b) Pay a nonrefundable application fee of ten (10) dollars.

(3) The commissioner shall extend the application deadline if technical difficulties with the application system prevent applications from being accepted for one (1) or more days during the application period.

(4) There shall be a random electronic drawing from each applicant pool.

(5) Youths may enter a separate drawing pool for either-sex elk permits that shall be valid for use during all elk seasons, pursuant to Section 9 of this administrative regulation.

(6) A youth shall not apply for the youth-only elk quota hunt more than once per application period.

(7) An applicant for the youth-only elk quota hunt may also apply for a regular quota hunt, as established in subsection (12) of this section.

(8) A youth drawn for the youth-only elk quota hunt shall not be drawn in any other elk quota hunt held during the same calendar year.

(9) A youth drawn for the youth-only elk quota hunt shall be ineligible to be drawn in the youth-only elk quota hunt in subsequent years.

(10) Nonresidents shall not comprise more than ten (10) percent of all drawn applicants in each quota hunt pool, except that the Loyalty Redraw shall exclude nonresidents.

(11) A quota hunt permit awarded from any department-administered drawing shall not be transferable.

(12) In addition to the youth-only quota hunt, there shall be three (3) separate regular elk quota hunts consisting of:

(a) Antlered firearms;

(b) Antlerless firearms; and

(c) Either-sex archery and crossbow.

(13) An applicant shall:

- (a) Apply only once for an individual elk quota hunt;
 - (b) Not be eligible to be drawn in more than one (1) of the three (3) quota hunt pools;
 - (c) Only be selected by a random electronic drawing;
 - (d) Pay a nonrefundable application fee of ten (10) dollars for each entry.
 - (e) If selected, be eligible to purchase a quota elk hunt permit for the applicable season and hunt type until midnight (eastern) on June 15 of the hunt year.
- (14) A person who is drawn for an elk quota hunt, including Loyalty Redraw applicants who purchase elk quota hunt permits offered to them through the Loyalty Redraw secondary drawing, shall: be ineligible to be drawn for any elk quota hunt for the following three (3) years.
- (15) A person who does not have access to the department's Web site to apply for any quota hunt may contact the department toll free at (800)858-1549 for assistance in applying.

Section 4. Loyalty Redraw.

- (1) Annually, if there are unpurchased elk hunt permits remaining, after the purchase deadline for those initially drawn for the elk quota hunt, a Loyalty Redraw shall be held.
- (2) The Loyalty Redraw shall consist of a secondary random electronic drawing to award elk quota hunt permits not purchased before midnight (eastern) on June 15 of the hunt year, and shall be conducted before the Elk Hunting Unit drawing.
- (3) The Loyalty Redraw shall be limited to resident applicants from the three (3) elk quota hunt pools plus the youth-only quota hunt pool who have applied for at least one elk quota hunt permit for the most consecutive years including the current year, without ever being drawn for at least one elk quota hunt permit.
- (4) Resident applicants who are eligible for the Loyalty Redraw shall be automatically entered into the secondary drawing elk quota hunt pools for which they applied in the current hunt year.
- (5) This secondary drawing procedure shall mirror the primary electronic random drawing for quota elk hunt permits, except that nonresident applicants shall be excluded.
- (6) A Loyalty Redraw applicant who is drawn for an available leftover permit may purchase the appropriate quota elk hunt permit until midnight (eastern) on June 30.
- (7) A Loyalty Redraw permit holder who does not apply for the Elk Hunting Unit drawing by midnight (eastern) on June 30 of the hunt year shall be automatically entered into the unit drawing for random assignment to an Elk Hunting Unit.
- (8) An applicant who is eligible for the Loyalty Redraw in a given year and is drawn for quota elk hunt permit in the secondary drawing, and who does not purchase the elk quota hunt permit for which he or she is drawn in that year, shall be:
 - (a) Ineligible for the Loyalty Redraw until he or she accumulates the required number of consecutive years of applications necessary to again qualify for the Loyalty Redraw; and
 - (b) Eligible to apply for the next year's elk quota hunts without waiting three (3) years.

Section 5. Landowner Cooperator Permits.

- (1) With the approval of the commission, the commissioner shall issue to a landowner cooperator:
 - (a) One (1) either-sex permit annually per 5,000 acres of land enrolled with the department in a hunting access agreement for the duration of the agreement;
 - (b) Two (2) antlerless-only permits annually per 5,000 acres of land enrolled with the department in a hunting access agreement for the duration of the agreement; or
 - (c) One (1) antlerless-only permit annually per 5,000 acres of land enrolled with the department in an elk hunting access agreement for the duration of the agreement.
- (2) A recipient of a landowner cooperator permit shall comply with the season, bag limit, and hunter requirements in Sections 8 and 9 of this administrative regulation.

(3) A landowner cooperator permit shall only be used on the land that is established in the agreement, except that it may be used on adjacent property if:

- (a) The adjacent property is owned by a different landowner; and
- (b) The adjacent landowner has granted permission to the permit holder.

(4) A landowner cooperator permit may be transferred to any person eligible to hunt in Kentucky, but prior to hunting, the landowner cooperator or person who has received the transferred permit shall provide the department with the hunter's:

- (a) Name;
- (b) Fish and Wildlife customer identification number;
- (c) Address; and
- (d) Telephone number.

(5) The landowner cooperator permit shall not be transferable if it was already used for the harvest of an elk.

(6) Public access agreements with the department shall be recorded in writing.

Section 6. Voucher Cooperator Permits.

(1) A voucher cooperator shall accrue one (1) voucher point for each legally harvested elk.

(2) A voucher cooperator who accrues ten (10) total points on land enrolled pursuant to Section 1(17) of this administrative regulation shall receive one (1) either-sex elk permit from the department.

(3) A recipient of a voucher cooperator elk permit shall comply with all the requirements established in Sections 8 and 9 of this administrative regulation.

(4) A voucher cooperator elk permit shall only be used on:

- (a) The property enrolled with the department per agreement; or
- (b) Other property that the landowner or lessee owns or leases.

(5) A voucher cooperator permit may be transferable to any person eligible to hunt in Kentucky.

(6) If a voucher cooperator permit is to be transferred, then the landowner, lessee, or person who has received the transferred permit shall provide to the department by August 15 the hunter's:

- (a) Name;
- (b) Fish and Wildlife customer identification number;
- (c) Address; and
- (d) Telephone number.

(7) A permit shall not be transferable after being used for the harvest of an elk.

Section 7. Elk Restoration Permits.

(1) A landowner or lessee who allows the department to capture elk on the landowner or lessee's property shall accrue one (1) point for each captured elk.

(2) A landowner or lessee who accrues ten (10) total points shall receive one (1) either-sex elk permit from the department that shall only be used the following hunting season.

(3) A recipient of an ERP shall comply with all the requirements established in Sections 8 and 9 of this administrative regulation.

(4) An ERP shall only be used on property that the ERP recipient owns or leases.

(5) An ERP recipient may transfer the permit to any person eligible to hunt in Kentucky.

(6) If an ERP recipient transfers an ERP to another hunter, then the ERP recipient shall provide to the department by August 15 the hunter's:

- (a) Name;
- (b) Address;
- (c) Telephone number; and
- (d) Fish and Wildlife customer identification number.

(7) An ERP shall be invalid if it has already been used to harvest an elk.

Section 8. Hunter Requirements.

- (1) A person shall carry proof of purchase of a valid Kentucky hunting license and valid elk permit while hunting, unless exempted by KRS 150.170.
- (2) The statewide bag limit shall be one (1) elk per hunter per license year.
- (3) If a legal elk hunter kills any elk:
 - (a) The person shall immediately cease hunting elk for the remainder of the elk season; and
 - (b) The elk permit held by that individual shall immediately become invalid.
- (4) A drawn applicant may apply to hunt in up to five (5) units by completing the application process on the department's Web site at fw.ky.gov.
 - (a) Up to three (3) drawn applicants may apply for their unit choices as a party.
 - (b) If the party is drawn for a unit, then all hunters in the party shall be assigned to that same unit.
 - (c) If the number of slots remaining in the quota is less than the number of hunters in the next party selected, the entire party shall be assigned to the party's next choice ranking or be assigned to a unit by the department.
- (5) A drawn applicant who does not apply for a unit shall be assigned to a unit by the department.
- (6) An applicant drawn for a unit may hunt only in the assigned unit, except that a person who is drawn for any elk quota hunt may hunt on his or her land within the restoration zone.
- (7) An elk hunter or any person accompanying an elk hunter shall comply with hunter orange requirements established in 301 KAR 2:172.
- (8) An elk hunter shall not:
 - (a) Take elk except during daylight hours;
 - (b) Use dogs, except to recover wounded elk using leashed tracking dogs;
 - (c) Hunt over bait inside the elk restoration zone;
 - (d) Drive elk from outside the assigned area;
 - (e) Take an elk while it is swimming;
 - (f) Use electronic calls or electronic decoys; or
 - (g) Take an elk if the hunter is in a vehicle, boat, or on horseback, except that a disabled hunter who has a hunting method exemption permit issued pursuant to 301 KAR 3:027 may use a stationary vehicle as a hunting platform.
- (9) A person shall:
 - (a) Obtain a vehicle tag from the department prior to hunting elk in the restoration zone; and
 - (b) Display the vehicle tag in the windshield of the vehicle while hunting elk.
- (10) A youth shall be accompanied by an adult who shall remain in a position to take immediate control of the youth's firearm.
- (11) An adult accompanying a youth shall not be required to possess a hunting license or elk permit if the adult is not hunting.
- (12) A person shall only use the equipment and ammunition established in paragraphs (a) through (e) of this subsection to take an elk:
 - (a) A crossbow or archery equipment loaded with a broadhead of seven-eighths (7/8) inch or wider, either fixed or upon expansion;
 - (b) A firearm:
 1. With an action that fires a single round of ammunition upon each manipulation of the trigger;
 2. Of .270 caliber or larger; and
 3. Loaded with centerfire, single projectile ammunition designed to expand upon impact;
 - (c) A muzzleloader of .50 caliber or larger;

- (d) A shotgun of twenty (20) gauge or larger loaded with a shell containing one (1) projectile; or
- (e) A handgun loaded with:
 - 1. Centerfire cartridges;
 - 2. Bullets of '.270 caliber or larger designed to expand upon impact; and
 - 3. Cartridges with a case length of 1.285 inches or larger.
- (13) A crossbow shall contain a working safety device.
- (14) An elk hunter shall not use a magazine capable of holding more than ten (10) rounds.
- (15) A quota elk hunter shall only take an elk of the type and sex determined by the permit drawn.
- (16) A hunter drawn for a firearms elk permit shall hunt elk pursuant to that permit only during the five (5) day period assigned during the initial drawing.
- (17) An individual who receives or is transferred a landowner cooperator permit, a voucher cooperator permit, an elk restoration permit, or a special commission permit may hunt in all of the quota hunts and shall hunt in accordance with the seasons, limits, and equipment established in Section 8 of this administrative regulation.
- (18)
 - (a) A person who is drawn for an elk quota hunt permit or was issued a landowner cooperator permit, a special commission permit, an elk restoration permit, or voucher cooperator permit shall complete and submit a post-season elk hunting survey on the department's Web site at fw.ky.gov no later than the last day of February.
 - (b) A person who fails to comply with the requirements established in paragraph (a) of this subsection shall be ineligible to apply for any quota hunt or no-hunt option the following year.

Section 9. Elk Quota Hunt Seasons and Limits.

- (1) A person drawn for an either-sex archery and crossbow permit shall use archery or crossbow equipment to take either-sex elk from the:
 - (a) Second Saturday in September through the fourth Friday in September; and
 - (b) First Saturday in December through the second Friday in December.
- (2) A person drawn for an antlered firearms permit shall use any legal equipment as established in Section 8(12) of this administrative regulation to take an antlered elk during one (1) of two (2) five (5) day periods randomly assigned by the department from the:
 - (a) Last Saturday in September for five (5) consecutive days; or
 - (b) First Saturday in October for five (5) consecutive days.
- (3) A person drawn for an antlerless firearms permit shall use any legal equipment as established in Section 8(12) of this administrative regulation to take an antlerless elk during one (1) of two (2) five (5) day periods randomly assigned by the department from the:
 - (a) Last Saturday in November for five (5) consecutive days; or
 - (b) Last Saturday in December for five (5) consecutive days.

Section 10. Unit Boundaries and Elk Viewing Areas.

- (1) Hunting unit boundaries and the boundaries of the Appalachian Wildlife Center Viewing Area are incorporated by reference.
- (2) Elk viewing areas shall be closed to all elk hunting.

Section 11. Tagging and Checking Requirements.

- (1) Immediately after taking an elk, a hunter shall record on a hunter's log:
 - (a) The species harvested;
 - (b) The sex of the animal;

- (c) Date of harvest; and
- (d) County of harvest.
- (2) A hunter shall check a harvested elk before midnight on the day the elk is recovered by:
 - (a) Calling (800) 245-4263 and providing the requested information; or
 - (b) Completing the online check-in process at fw.ky.gov.
- (3) A hunter who has checked in an elk shall record the confirmation number on a hunter's log.
- (4) If the hide or head is removed from the carcass before the elk is checked in, then the hunter shall be required to demonstrate proof of the sex of the elk.
 - (a) For antlered elk the hunter shall retain the:
 - 1. Head with antlers; or
 - 2. Testicles, scrotum, or penis attached to the carcass; or
 - (b) For antlerless elk the hunter shall retain the:
 - 1. Head;
 - 2. Udder or vulva attached to the carcass; or
 - 3. Testicles, scrotum, or penis attached to the carcass.
- (5) If a harvested elk leaves the possession of the hunter, the hunter shall attach to the carcass a hand-made tag that contains the hunter's:
 - (a) Confirmation number;
 - (b) Name; and
 - (c) Telephone number.
- (6) A person shall not provide false information in:
 - (a) Completing the hunter's log;
 - (b) Checking an elk; or
 - (c) Creating a carcass tag.

Section 12. Elk Hunting on Public Land.

- (1) A person drawn for an elk quota hunt or the recipient of a special commission permit may hunt on the areas listed in paragraphs (a) through (f) of this subsection within the restoration zone pursuant to the conditions of the permit received:
 - (a) Wildlife Management Areas;
 - (b) Hunter Access Areas;
 - (c) State forests;
 - (d) Big South Fork National River and Recreation Area;
 - (e) Daniel Boone National Forest; or
 - (f) Jefferson National Forest.
- (2) Portions of Paintsville Lake WMA that lie out of the restoration zone shall be subject to the requirements established in Section 14 of this administrative regulation.
- (3) Elk hunting shall not be allowed on public areas during quota deer hunts listed in 301 KAR 2:178.
- (4) Paul Van Booven WMA and Fishtrap Lake WMA shall be designated as an elk viewing area and shall be closed to all elk hunting.
- (5) A person shall not mimic the sound of an elk on public land open to elk hunting from September 1 until the opening of the elk archery season.

Section 13. Out-of-zone Elk Hunting.

- (1) The methods for taking deer and the deer seasons established in 301 KAR 2:172 shall apply to a person taking elk outside of the restoration zone, except that a hunter shall comply with the equipment and ammunition requirements established in Section 8 of this administrative regulation.
- (2) Unless exempted by KRS 150.170, a person who is hunting out-of-zone elk shall possess:

- (a) A valid Kentucky hunting license; and
- (b) An out-of-zone elk permit.
- (3) A person may take an elk of either sex, which shall not count toward the person's deer bag limit.
- (4) Any elk harvested out-of-zone shall be telechecked pursuant to Section 11 of this administrative regulation.

Section 14. Elk Antlers.

- (1) A person who takes possession of any elk antler that has the skull or skull plate attached to it shall contact the department's Law Enforcement Division within twenty-four (24) hours.
- (2) An elk shed shall be legal to possess.

Section 15. Elk Permit Deferral. A person who is the holder of a valid elk quota hunt permit, landowner cooperator permit, voucher cooperator permit, an ERP, or special commission permit may defer use of the permit to the following year if:

- (1) There is a death of the permit holder's:
 - (a) Spouse;
 - (b) Child; or
 - (c) Legal guardian, if the permit holder is under eighteen (18) years old; and
- (2) The permit holder provides to the department a death certificate and one (1) of the following documents prior to May 1 of the year following the hunting season:
 - (a) A marriage certificate;
 - (b) A birth certificate; or
 - (c) An affidavit of paternity or maternity, or
- (3) The permit holder is a member of one of the service branches of the U.S. Armed Forces in either an active duty, reserve component, or National Guard status as of April 30 of the hunt year, and meets both of the following conditions:
 - (a) Is deployed or assigned to military duty outside the continental United States, or assigned to military duty to another location or duty station such that his or her assignment makes impracticable participation in the hunt for which the permit was drawn; and
 - (b) The permit holder submits to the Department electronically via email or fax, or by mail, postmarked or received before midnight of the day immediately prior to the opening day of the applicable hunting season, a copy of military orders, or if unavailable, a letter from a commanding officer, documenting the permit holder's overseas deployment, overseas duty assignment, or assignment outside of Kentucky, showing that the effective date(s) of the assignment include one or more of the hunt dates for which the hunter holds a permit.
- (4) A permit holder that meets criteria in (3) above may also automatically defer his or her permit for a second year if the military assignment(s) make impracticable participation in his or her assigned hunt during the year following his or her obtaining the permit, but in either case must provide to the elk program by May 1 of his or her actual hunt year a copy of applicable military orders (or official letter) that made use of the permit impracticable for the first, or first and second, elk seasons after first obtaining the elk permit.

Section 16. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "Elk Hunting Units" map, 2019 edition; and
 - (b) "Appalachian Wildlife Center Viewing Area" map, 2019 edition.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the 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., Eastern Time.

RICH STORM, Commissioner

APPROVED BY AGENCY: April 14, 2022

FILED WITH LRC: April 15, 2022 at 11:05 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 28, 2022 at 11:00 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Administration 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 June 30, 2022. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

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