

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

301 KAR 2:075. Wildlife rehabilitation permit.

RELATES TO: KRS 150.010, 150.015, 150.021, 150.170, 150.183, 150.195, 150.330, 150.990, 321.185, 50 C.F.R 17, 21, 22

STATUTORY AUTHORITY: KRS 150.025(1)(h), 150.280

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)(h) authorizes the Department of Fish and Wildlife Resources to promulgate administrative regulations reasonably necessary to implement or carry out the purposes of KRS Chapter 150. KRS 150.280 requires the department to promulgate administrative regulations regarding the holding of protected wildlife. This administrative regulation establishes the permitting and operating requirements for wildlife rehabilitators.

Section 1. Definitions.

(1) "Cervid" means deer, elk, moose, caribou, reindeer, and related species and hybrids thereof, including all members of the Cervidae family and hybrids thereof~~[a member of the family Cervidae]~~.

(2) "Chronic Wasting Disease" or "CWD" means a transmissible spongiform encephalopathy found in cervids.

(3) "CWD Surveillance Zone" means an area designated as being subject to special cervid regulations due to a CWD positive cervid detection.

(4) ~~[(2)]~~ "Enhanced Rabies Surveillance Zone~~[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.

(5) "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 or the Bald and Golden Eagle Protection Act.

(6) ~~[(3)]~~ "Permit holder" means a wildlife rehabilitation permit holder.

(7) ~~[(4)]~~ "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*);
- (g) Any hybrid of (a) through (f).

(8) ~~[(5)]~~ "Wildlife rehabilitation" means the process of obtaining, rescuing, raising, providing supportive care, regularly transporting, and arranging for veterinary medical care of orphaned, sick, displaced, or injured wildlife with the goal of releasing the wildlife back into its natural habitat.

Section 2. Permitting Requirements ~~[Wildlife Rehabilitation Permits]~~.

(1) A permit authorizes a person to rehabilitate wildlife according to Section 1(8) of this administrative regulation.

(2) An applicant for a wildlife rehabilitation permit shall:

- (a) Be at least eighteen (18) years of age;
- (b) Submit a completed wildlife rehabilitation permit ~~[Complete an]~~ application;
- (c) Provide the department with a valid email address; ~~[Submit the application to the Director of Wildlife at #1 Sportsman's Lane, Frankfort, Kentucky 40601;]~~

(d) Submit:

1. Certificate of completion of ~~[proof of successful completion of]~~ the course entitled "Basic Wildlife Rehabilitation" offered by the International Wildlife Rehabilitation Council; ~~or~~and]

2. Proof of a doctorate of veterinary medicine degree from an American Veterinary Medical Association (AVMA) accredited school.

(e) Submit the annual permit fee as established in 301 KAR 3:022.

~~[(2)] [An applicant:]~~

~~[(a)] [May obtain a course pending status for up to one (1) year upon the issuance of the initial permit; and]~~

~~[(b)] [Shall submit proof of course completion to the department before the permit shall be renewed.]~~

~~[(3)] [An applicant's or permit holder's facility shall be inspected by a conservation officer to document compliance with Section 4 of this administrative regulation before a permit is obtained or renewed.]~~

~~[(4)] [A permit shall be revoked and wildlife confiscated if:]~~

~~[(a)] [An applicant falsifies information on the application;]~~

~~[(b)] [The permit holder fails to comply with the provisions of this administrative regulation; or]~~

~~[(c)] [The permit holder is convicted of a violation of KRS Chapter 150.]~~

~~[(5)] [An individual whose request for a permit has been denied or whose status has been revoked or suspended may request an administrative hearing pursuant to KRS Chapter 13B.]~~

Section 3. Reporting Requirements.

(1) A permit holder shall:

(a) Keep records of all wildlife received or rehabilitated on the Wildlife Rehabilitation Annual Report.

(b) Submit a Wildlife Rehabilitation Annual Report to the department within thirty (30) days after expiration of a permit and before a permit is renewed.

(c) Submit a Wildlife Rehabilitation Non-Releasable Wildlife Report, if applicable, to the Department within thirty (30) days after expiration of a permit and before a permit is renewed.

(2) The annual activity report shall contain the information regarding the activity for the period from December 1 of the previous year to November 30 of the current year.

(3) The department shall not renew the permit of a wildlife rehabilitator who does not:

(a) Submit the annual activity report as required by this section;

(b) Provide the information required by the annual activity report form; or

(c) Submit the Non-Releasable Wildlife Report, if applicable;

(d) Provide report documents and all records of wildlife rehabilitation activity, including veterinary medical records, from the current and previous years' activity upon request to department staff.

~~[(1)] [A permit holder shall:]~~

~~[(a)] [Only keep wildlife in a rehabilitation facility for a maximum of 180 days unless specifically exempted by the U.S. Fish and Wildlife Service; and]~~

~~[(b)] [Submit to the department a completed Kentucky Department of Fish and Wildlife Resources Wildlife Rehabilitation Annual Report Form.]~~

~~[(2)] [If an animal is not releasable, as established in subsection (4) of this section, and is held for educational purposes, then the annual report shall document each educational program's:]~~

~~[(a)] [Date;]~~

~~[(b)] [Time; and]~~

- ~~[(c)] [Location.]~~
- ~~[(3)] [A permit holder shall not simultaneously hold captive wildlife under the auspices of a captive wildlife permit as established in 301 KAR 2:081 or 301 KAR 2:083.]~~
- ~~[(4)] [A permit holder may retain wildlife for educational purposes if the animal:]~~
- ~~[(a)] [Is a mammal with an amputated leg;]~~
- ~~[(b)] [Lacks adequate vision to function in the wild;]~~
- ~~[(c)] [Lacks locomotive skills necessary for survival in the wild; or]~~
- ~~[(d)] [Has another permanent injury that is reasonably expected to inhibit survival in the wild.]~~
- ~~[(5)] [An animal retained for educational purposes pursuant to subsection (4) of this section shall be exhibited in an educational program a minimum of six (6) times per year.]~~
- ~~[(6)] [Except as established in 50 C.F.R. 17 and 21, a permit holder shall not propagate threatened and endangered wildlife.]~~
- ~~[(7)] [A permit holder shall immediately notify the department, in writing, of any federally threatened or endangered wildlife species delivered, recovered, or retained for rehabilitation.]~~
- ~~[(8)] [A permit holder shall not rehabilitate or attempt to rehabilitate any species of terrestrial wildlife not native to Kentucky.]~~
- ~~[(9)] [A permit holder shall not rehabilitate or attempt to rehabilitate a:]~~
- ~~[(a)] [Cougar (Felis concolor);]~~
- ~~[(b)] [Wolf (Canis lupus or Canis rufus);]~~
- ~~[(c)] [Elk (Cervus elaphus); or]~~
- ~~[(d)] [Bear (Ursus americanus).]~~
- ~~[(10)] [A permit holder shall not transport wildlife across state lines for rehabilitation, release, or for any other purpose, unless authorized by the commissioner.]~~
- ~~[(11)] [A permit holder shall release rehabilitated wildlife into the appropriate habitat for that species.]~~
- ~~[(12)] [A permit holder shall obtain landowner permission before releasing rehabilitated wildlife.]~~
- ~~[(13)] [A permit holder shall not keep a cervid in a rehabilitation facility for more than 180 days.]~~
- ~~[(14)] [A wild-born cervid held in captivity for rehabilitation purposes shall not be housed in:]~~
- ~~[(a)] [The same pen as another captive cervid or housed in direct physical contact with a cervid that originated in captivity; or]~~
- ~~[(b)] [A pen that has previously housed cervids that originated in captivity.]~~
- ~~[(15)] [A permit holder shall not simultaneously hold a captive cervid permit.]~~
- ~~[(16)] [A licensed wildlife rehabilitator shall not:]~~
- ~~[(a)] [Accept, obtain, or possess a rabies vector species originating from the enhanced rabies surveillance area; or]~~
- ~~[(b)] [Transport a rehabilitated rabies vector species into or out of the enhanced rabies surveillance area.]~~

Section 4. Receiving and Rehabilitating Wildlife.

- (1) A permit holder shall not rehabilitate or attempt to rehabilitate:
- (a) Cougar (Felis concolor);
- (b) Wolf (Canis lupus or Canis rufus);
- (c) Elk (Cervus elaphus);
- (d) Bear (Ursus americanus);
- (e) Any species of terrestrial wildlife not native to Kentucky; or
- (f) Prohibited species listed in 301 KAR 2:082 Section 4.

(2) A permit holder shall not:

(a) Propagate non-releasable wildlife or wildlife undergoing rehabilitation.

(b) Allow non-permitted persons to rehabilitate, assist in wildlife rehabilitation, access, or have direct contact with wildlife undergoing rehabilitation, except for Section 10(1).

(c) Allow non-permitted persons to rehabilitate, assist in wildlife rehabilitation, access, or have direct contact with rabies vector species.

(d) Remove wildlife undergoing rehabilitation from the permitted facility except for release, veterinary care, or transfer to another permitted wildlife rehabilitation facility.

(e) Habituate wildlife to humans.

(f) Exhibit or display wildlife undergoing rehabilitation [-]

(g) Transport wildlife across state lines for rehabilitation, release, or for any purpose, unless authorized by the commissioner upon the department's determination that rehabilitation services are not feasibly available within Kentucky and such activities pose minimal disease risk. Authorization shall not be granted for rabies vector species.

(h) Simultaneously hold captive wildlife under a captive wildlife permit, as established in 301 KAR 2:081, while holding wildlife under a wildlife rehabilitation permit.

(i) Simultaneously hold captive cervids under a captive cervid permit as established in 301 KAR 2:083, while holding wildlife under a wildlife rehabilitation permit.

(3) A permit holder shall only provide necessary supportive care to wildlife undergoing rehabilitation, which does not permanently diminish their ability to survive and reproduce naturally in the wild.

(4) Cervids

(a) Except as allowed in subsection (4)(c) and (d) of this section, a permit holder shall not rehabilitate or attempt to rehabilitate any cervid:

1. Within a CWD Surveillance Zone;

2. Originating from a CWD Surveillance Zone; or

3. From a distance greater than 100 miles from the rehabilitation facility.

(b) A permit holder shall not transport a cervid into or out of a CWD Surveillance Zone.

(c) A permit holder shall not keep cervids as non-releasable wildlife within a CWD Surveillance Zone, except that non-releasable cervids legally obtained before the establishment of a CWD Surveillance Zone may be kept for the life of the animal.

(d) A permit holder in possession of a cervid prior to the establishment of a CWD Surveillance Zone shall only keep the cervid up to 180 days or upon recovery from injury or illness and of suitable age to survive in the wild, whichever comes first, and shall release the cervid within the county of rehabilitation, unless the animal is euthanized or meets the criteria to be kept as non-releasable wildlife.

(e) A wild-born cervid held in captivity for rehabilitation purposes shall not be housed in:

1. The same pen as another captive cervid or housed in direct physical contact with a cervid that originated in captivity; or

2. A pen that has previously housed cervids that originated in captivity.

(5) Rabies vector species.

(a) A permit holder shall not possess, rehabilitate, or attempt to rehabilitate:

1. A rabies vector species originating from the Enhanced Rabies Surveillance Zone;

2. A rabies vector species inside the Enhanced Rabies Surveillance Zone that originated from outside the Enhanced Rabies Surveillance Zone; or

3. A rabies vector species if collected at a distance greater than 100 miles from the rehabilitation facility.

(b) A permit holder shall not transport a rabies vector species into or out of the Enhanced Rabies Surveillance Zone.

(c) A permit holder shall not possess a rabies vector species as non-releasable wildlife, except for those animals legally held outside the Enhanced Rabies Surveillance Zone prior to April 4, 2023.

(d) Except for Section 5(1)(e), rabies vector species shall be maintained within an enclosure sufficient to prevent:

1. Escape; and
2. Direct contact with non-permitted persons.

~~{Section 4.} {Facilities and Operating Standards.}~~

~~{(1)} [A facility shall comply with Minimum Standards for Wildlife Rehabilitation as adopted by the National Wildlife Rehabilitators Association and the International Wildlife Rehabilitation Council.]~~

~~{(2)} [A permit holder shall allow a conservation officer to inspect the facilities at any reasonable time.]~~

~~{(3)} [The conservation officer shall immediately notify the permit holder and the commissioner if the inspection reveals that the facility is not in compliance with this administrative regulation.]~~

~~{(4)} [The conservation officer shall make a second inspection after ten (10) days, and the permit shall be revoked and all captive wildlife confiscated immediately if the unsatisfactory conditions have not been corrected.]~~

Section 5. Wildlife Release. A permit holder shall:

(1) Release wildlife immediately upon recovery from injury or illness and when of a suitable age to reasonably survive in the wild;

(2) Only keep wildlife in a rehabilitation facility for a maximum of 180 days, unless written documentation from the U.S. Fish and Wildlife Service is provided;

(3) Only release wildlife into appropriate habitat for that species;

(4) Obtain landowner permission before releasing wildlife;

(5) Release rabies vector species back into the original county of capture;

(6) Release reptiles and amphibians at the original point of capture or within the vicinity if point of capture is not suitable habitat; and

(7) Release cervids in the county in which they were rehabilitated.

~~{Section 5.} {Incorporation by Reference.}~~

~~{(1)} [The following material is incorporated by reference:]~~

~~{(a)} [The National Wildlife Rehabilitator's Association and the International Wildlife Rehabilitation Council publication "Minimum Standards for Wildlife Rehabilitation", third edition, 2000;]~~

~~{(b)} [{"Kentucky Department of Fish and Wildlife Resources Wildlife Rehabilitation Annual Report Form", 2002 edition; and]~~

~~{(c)} [{"Application for Wildlife Rehabilitation Permit", 2006 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 a.m. until 4:30 p.m.]~~

Section 6. Non-releasable Wildlife.

(1) Wildlife may be considered non-releasable and may be retained by a permit holder if a licensed Kentucky veterinarian certifies in writing that it meets one (1) of the following criteria, except as prohibited under Section 4.

(a) Is a mammal with an amputated leg;

(b) Lacks adequate vision to function in the wild;

(c) Lacks locomotive skills necessary for survival in the wild; or

(d) Has another permanent injury that is reasonably expected to inhibit survival in the wild, not including habituation to humans.

(2) Rabies vector species that meet the criteria for non-releasable wildlife and legally held prior to April 4, 2023 may be allowed to remain in possession of a valid permit holder through the life of the animal by submitting a "Wildlife Rehabilitation Non-Releasable Wildlife Report" form by April 4, 2023.

(3) Rabies vector species legally held as non-releasable, shall not leave the wildlife rehabilitation facility except for veterinary care or transfer to another permitted rehabilitation facility and shall be included on the Wildlife Rehabilitation Annual Report.

(4) A person who legally possesses non-releasable rabies vector species shall not replace that wildlife after its death.

(5) Except for Section 5(1)(e), non-releasable rabies vector species shall be maintained within an enclosure sufficient to prevent:

(a) Escape; and

(b) Direct contact with non-permitted persons.

(6) Only non-releasable wildlife may be displayed, except that non-releasable rabies vector species shall not be displayed. Such displays shall only be for conservation education purposes.

(7) Non-releasable migratory birds may be transferred with prior approval from the issuing federal Migratory Bird Permit Office by providing the Department with a completed Migratory Bird and Eagle Acquisition and Transfer Request Form.

(8) All non-releasable wildlife shall be housed and maintained at a permitted wildlife rehabilitation facility.

Section 7. Facilities and Operating Standards.

(1) All wildlife rehabilitation facilities shall pass a facility inspection.

(2) An applicant's or permit holder's facility and property which the facility is located shall be inspected by a conservation officer using a Wildlife Rehabilitation Facility Inspection Checklist to document compliance with this administrative regulation before a permit is obtained or renewed.

(3) A permit holder shall allow any conservation officer, and all department staff accompanying a conservation officer, to access the wildlife rehabilitation facility and the property on which the wildlife rehabilitation facility is located at any reasonable time and frequency to carry out the purposes of this administrative regulation.

(4) A facility, and all methods of confinement, shall comply with the Minimum Standards for Wildlife Rehabilitation, as adopted by the National Wildlife Rehabilitation Association and the International Wildlife Rehabilitation Council.

(5) A permit holder shall only rehabilitate wildlife at a facility that has passed an annual facility inspection and shall list the addresses of all facilities on the Wildlife Rehabilitation Permit Application.

(6) A permit holder shall allow a conservation officer to inspect the holding facilities and property which the facilities are located, at any reasonable time and frequency.

(7) The conservation officer shall immediately notify the applicant or permit holder and the wildlife division director if the inspection reveals that the facility is not in compliance with this administrative regulation and shall provide a completed facility inspection checklist to the appropriate Wildlife Division personnel within three (3) business days.

(8) If an inspection determines that a facility is not in compliance with a statute or administrative regulation, the conservation officer shall make a second inspection after ten (10) calendar days, and the permit application shall be denied, or permit revoked and all wildlife confiscated immediately if the unsatisfactory conditions have not been corrected.

(9) If an applicant or permit holder refuses to allow a conservation officer to fully conduct an inspection, the permit application shall be denied, or permit revoked and all wildlife confiscated immediately. ~~Failure to allow a conservation officer to conduct an~~

~~initial inspection shall be deemed a violation subjecting the permit to denial or revocation proceedings.]~~

Section 8. Rabies Exposure.

- (1) If a mammal bites a person, or a mammal shows symptoms of a rabies infection, the animal shall be dispatched in a manner so as to preserve the brain intact and the animal's head shall be submitted for testing immediately to a laboratory approved by the Secretary for Health and Family Services to be tested for rabies, as established in 902 KAR 2:070 Section 5 and KRS 258.085 Section 1(c).
- (2) Department staff shall confiscate and dispatch any wild mammal that bites a person or shows symptoms of a rabies infection.

Section 9. Veterinarians.

- (1) A veterinarian is not required to obtain a wildlife rehabilitation permit to temporarily possess, stabilize, or euthanize sick and injured wildlife, only for the purpose of providing immediate critical care.
- (2) A veterinarian that does not possess a valid wildlife rehabilitation permit shall transfer wildlife to a permitted wildlife rehabilitator according to the requirements of this regulation, within 24 hours after the animal's condition is stabilized and no longer requires critical care, unless wildlife is euthanized.
- (3) A veterinarian that rehabilitates wildlife shall possess a valid wildlife rehabilitation permit.
- (4) A permit holder shall follow veterinarian's medical instructions per KRS 321.185.
- (5) A veterinarian shall keep medical records of all wildlife treated, in accordance with KRS Chapter 321 and 201 KAR Chapter 16 and provide records to Department staff upon request.
- (6) Only a licensed veterinarian or licensed veterinarian technician shall perform euthanasia using AVMA approved non-inhaled chemical methods under KRS Chapter 321.

Section 10. Wildlife Possession.

- (1) Any person who finds sick, injured, displaced, or orphaned wildlife may, without a permit, except for federally protected migratory birds within a nest per 50 C.F.R. 21.12 (d) (10), take possession of the animal in order to immediately transport it to a permitted wildlife rehabilitator except that persons who regularly transport wildlife for rehabilitation purposes shall possess a valid wildlife rehabilitation permit.
- (2) A wildlife rehabilitation permit does not confer ownership of any wildlife species held under a wildlife rehabilitation permit, including non-releasable wildlife.
- (3) All wildlife held under this permit remain under the stewardship of the Department of Fish and Wildlife Resources, except that federally-protected wildlife remain under the stewardship of both the Department of Fish and Wildlife and the U.S. Fish and Wildlife Service.
- (4) Wildlife shall be surrendered to the department, for processing and disposition pursuant to regulation, upon being presented with a written order by the commissioner.

Section 11. Federally-Protected Species. A person rehabilitating federally protected species shall possess valid state and federal wildlife rehabilitation permits, except that a person may be authorized as a sub-permittee on a federal migratory bird rehabilitation permit, under a federal permit holder, per 50 C.F.R. 21.31.

- (1) Sub-permitted persons conducting wildlife rehabilitation activities shall possess a valid state wildlife rehabilitation permit.
- (2) A permit holder shall immediately notify the department in writing or by email to fwpermits@ky.gov, of any federally threatened or endangered wildlife species, delivered, received, recovered, or retained for rehabilitation.

(3) A general or master class falconry permit holder may condition raptors for subsequent release into the wild for a permitted wildlife rehabilitator, as established in 301 KAR 2:195, only for the species the falconry permit holder is allowed to possess.

(4) Falconers that rehabilitate wildlife, except for conditioning raptors per this section, shall possess a valid wildlife rehabilitation permit.

Section 12. Revocation and Denial of Permits and Appeal Procedure.

(1) Denial and revocation.

(a) The department shall revoke the permit, deny the issuance of a new permit, or deny a renewal of an existing or lapsed permit, and confiscate wildlife of a person who is convicted of a violation of any provisions of:

1. KRS Chapter 150;

2. 301 KAR Chapters 1 through 5; or

3. Any federal statute or regulation related to hunting, fishing, or wildlife.

(b) The department shall revoke the permit, deny the issuance of a new permit, or deny a renewal of an existing or lapsed permit, and confiscate wildlife from a person who:

1. Provides false information on a wildlife rehabilitation permit application, federal permit, annual report, Non-Releasable Wildlife Report, facility inspection, or records.

2. Acquires wildlife prior to receiving an approved wildlife rehabilitation permit,

3. Fails a facility inspection, as established in Section 7; or

4. Fails to comply with any provision of this regulation, 301 KAR 3:120, 301 KAR 2:081, 301 KAR 2:082, 301 KAR 2:083, 301 KAR 2:195, or 301 KAR 2:251.

5. Allows non-permitted persons to rehabilitate, assist in wildlife rehabilitation, access, or have direct contact with wildlife undergoing rehabilitation or non-releasable rabies vector species.

6. Fails to contain wildlife in enclosures that meet Minimum Standards for Wildlife Rehabilitation except during treatment, release, or transfer per Section 6 of this administrative regulation;

7. Keeps wildlife over 180 days;

8. Accepts rabies vector species within the enhanced Rabies Surveillance Zone.

9. Accepts rabies vector species that originated from the Enhanced Rabies Surveillance Zone.

10. Transports rabies vector species into or out of the Enhanced Rabies Surveillance Zone

11. Fails to possess a valid federal permit or be listed as a sub-permittee on a federal permit to rehabilitate federally protected wildlife.

12. Accepts cervids within a CWD Surveillance Zone.

13. Accepts cervids that originated within a CWD Surveillance Zone.

14. Transports cervids into or out of a CWD Surveillance Zone.

(c) A fee shall not be refunded for a permit that is revoked.

(2) Confiscated wildlife.

(a) All wildlife shall be confiscated if a wildlife rehabilitation permit is revoked or denied, a person possesses native wildlife for the purpose of wildlife rehabilitation without a valid wildlife rehabilitation permit, or a facility fails a facility inspection per Section 7 of this administrative regulation.

(b) Confiscated wildlife shall be released, transferred with the approval of the Wildlife Division Director, or dispatched, except that rabies vector species shall be dispatched immediately.

(c) Wildlife shall not be returned to the permit holder or facility from which they were confiscated.

(3) Denial period.

(a) An applicant whose permit has been revoked or denied for the grounds established in this section shall be ineligible to reapply, and all applications denied for the period established below:

1. The initial denial period shall be one (1) year;
2. A second denial period shall be three (3) years;
3. A third or subsequent denial period shall be five (5) years;

(b) During the denial period, a person whose wildlife rehabilitation permit has been denied or revoked shall not rehabilitate wildlife or assist in the rehabilitation of wildlife.

(4) Administrative hearings.

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

(b) A request for a 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 the revocation.

(c) Upon receipt of the request for a hearing, the department shall proceed according to the provisions of KRS Chapter 13B.

(d) The hearing officer's recommended order shall be considered by the commissioner and the commissioner shall issue a final order, pursuant to KRS Chapter 13B.

Section 13. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) The National Wildlife Rehabilitator's Association and the International Wildlife Rehabilitation Council publication "Minimum Standards for Wildlife Rehabilitation", third edition, 2000;

(b) Kentucky Department of Fish and Wildlife Resources "Wildlife Rehabilitation Annual Report", 2022 edition, <https://fw.ky.gov/Wildlife/Documents/rehabannreport.pdf>; and

(c) "Wildlife Rehabilitation Permit Application", 2022 edition, <https://fw.ky.gov/Wildlife/Documents/rehabapp.pdf>.

(d) "Wildlife Rehabilitation Non-Releasable Wildlife Report". https://fw.ky.gov/Documents/NON_RELEASABLE_WILDLIFE_REPORT.pdf

(e) "Wildlife Rehabilitation Facility Inspection Checklist" <https://fw.ky.gov/Wildlife/Documents/RehabLEInspectionChecklist.pdf>

(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 a.m. until 4:30 p.m.

(28 Ky.R. 2478; Am. 29 Ky.R. 435; eff. 8-12-2002; 2958; 30 Ky.R. 278; eff. 8-13-2003; 33 Ky.R. 518; 1077; eff. 10-11-2006; 43 Ky.R. 1848, 2127; eff. 7-6-2017; 44 Ky.R. 1128, 1513; eff. 2-2-2018; 49 Ky.R. 864, 1607; eff. 2-2-2023.)

RICH STORM, Commissioner

APPROVED BY AGENCY: September 15, 2022

FILED WITH LRC: September 15, 2022 at 11:45 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 29, 2022, at 1:00 p.m., at KDFWR Administration Building, 1 Sportsman's Lane, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. 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 be

heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Gilbert

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the requirements for persons rehabilitating wildlife in Kentucky.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to provide reasonable standards for those who rehabilitate wildlife in Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 150.025(1)(h) authorizes the department to promulgate administrative regulations reasonably necessary to implement or carry out the purposes of KRS Chapter 150. KRS 150.280 authorizes the department to promulgate administrative regulations regarding holding protected wildlife.

(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 the statutes by establishing the minimum requirements for wildlife rehabilitators in Kentucky.

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

(a) How the amendment will change this existing administrative regulation:

These amendments will define the Chronic Wasting Disease (CWD) Zone and prohibit cervids from being rehabilitated when obtained within the zone. This amendment will also protect public health by placing added restrictions on the handling of rabies vector species, prevent the spread of wildlife diseases by limiting movement across the state, and improve care to wildlife by requiring training before a permit is issued.

(b) The necessity of the amendment to this administrative regulation:

CWD was detected in Tennessee, 8 miles from the Kentucky border in 2021. These amendments will further reduce the opportunity for the disease to enter the Commonwealth by placing added restrictions on the handling and transportation of those animals defined as cervids.

(c) How the amendment conforms to the content of 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 affected by this administrative regulation:

Kentucky permitted wildlife rehabilitators will be affected by this administrative regulation. Currently there are 96 wildlife rehabilitators in the state.

(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:

Wildlife rehabilitators will no longer be able to rehabilitate cervids obtained within the Chronic Wasting Disease Surveillance Zone. Additionally, cervids will be prohibited from being transported into or out of the Chronic Wasting Disease Surveillance Zone. Rabies vector species can no longer be kept as permanent non-releasable animals. No public contact will be allowed with animals undergoing rehabilitation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

No additional costs will be incurred.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

No additional benefits will accrue to individual wildlife rehabilitators.

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

(a) Initially:

No additional costs will be incurred for implementation initially.

(b) On a continuing basis:

No additional costs will be incurred for implementation on a continuing basis.

(6) What is the source of the funding to be used for the 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:

No increase of fees or funding is necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation does not establish any fees nor does it indirectly increase any fees.

(9) TIERING: Is tiering applied?

All permit holders are subject to the same requirements.

FISCAL NOTE

(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?

The Kentucky Department of Fish and Wildlife Resources' Divisions of Wildlife and Law Enforcement will be impacted by this amendment.

(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)(h) and 150.280.

(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?

This administrative regulation will not generate any additional funding for state or local government during the first year.

(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?

This administrative regulation will not generate any additional funding for state or local government during subsequent years.

(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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

There will be no cost savings for the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

There will be no cost savings for subsequent years.

(c) How much will it cost the regulated entities for the first year?

There will be no additional costs incurred the first year.

(d) How much will it cost the regulated entities 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.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] There will be no major economic impact.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.

50 C.F.R. 17, 21, and 22.

(2) State compliance standards.

KRS 150.025(1)(h), 150.280. KRS 150.025(1)(h) authorizes the department to promulgate administrative regulations reasonably necessary to implement or carry out the purposes of KRS Chapter 150. KRS 150.280 requires the department to promulgate administrative regulations regarding the holding of protected wildlife.

(3) Minimum or uniform standards contained in the federal mandate.

50 C.F.R. 17 establishes the federal standards for threatened and endangered wildlife. 50 C.F.R. 21 establishes the federal standards for migratory birds. 50 C.F.R. 22 establishes the federal standards for bald and golden eagles as the Bald and Golden Eagle Act.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

No, changes to this administrative regulation were made to align with the federal statutes and regulations.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

See (4).