

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

**301 KAR 4:110. Administration of drugs to wildlife.**

RELATES TO: KRS 150.015, 150.025, 150.061, 150.105, 150.275, 150.280

STATUTORY AUTHORITY: KRS [2008 Ky. Acts ch.133, sec.5,] 150.025(1)(h), 150.061(4).

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to regulate any method of taking wildlife and any other regulation reasonably necessary to implement or carry out the purposes of KRS Chapter 150. [2008 Ky. Acts ch.133, sec.5 requires the department to promulgate administrative regulations that restrict a person from administering drugs to noncaptive wildlife.] This administrative regulation prohibits the administration of drugs to wildlife and creates the necessary exceptions.

Section 1. Definitions.

(1) "Captive wildlife":

- (a) Means wildlife ~~[legally]~~ kept in confinement, for any time period, by cage, enclosure, fence or other structure or restraint intended to prevent escape; and
- (b) Does not mean fish.

(2) "Drug" means any chemical substance, other than food or mineral supplements, that affects the health, structure or normal biological functions~~[function]~~ of any wildlife.

(3) "Noncaptive wildlife":

- (a) Means wildlife living unrestrained in the wild and not ~~[legally]~~ kept in confinement, for any time period, by cage, enclosure, fence or other structure or restraint intended to prevent escape; and
- (b) Does not mean fish.

Section 2. Commissioner Authorization for Administration of Drugs to noncaptive wildlife. ~~[Except as established in Section 4 of this administrative regulation,]~~

(1) A [a] person shall not administer drugs to noncaptive wildlife without written authorization from the commissioner pursuant to this section~~[Section 3]~~ of this administrative regulation.

~~[Section 3.] [Petitions.]~~

~~(1) [(1)]~~ A party shall petition the commissioner in writing for authorization to administer drugs to noncaptive wildlife. Written petitions shall include:

- (a) A biological or sociological justification for the need to administer a drug to noncaptive wildlife;
- (b) A literature review of the known and potential effects of the drug on individual animals, the wildlife population, and potential consumers of wildlife; and
- (c) A detailed plan and timeline for administration of the drugs including anesthetic monitoring plans and withdrawal time data for species and potential human consumption risk.

~~(2) [(2)]~~ The commissioner may issue a waiver for the petition requirement for authorization to administer drugs to noncaptive wildlife for specific situations involving:

- (a) Public safety; or
- (b) Wildlife disease outbreaks, or biological or chemical emergencies or events.

~~(3) [(3)]~~ This section shall not apply to state or federal wildlife agencies' personnel in the performance of their official duties.

Section 3. ~~[Section 4.]~~ Administration of Drugs to Captive Wildlife. ~~[Exemptions.]~~ This administrative regulation allows the administration of drugs for: ~~[shall not apply to:]~~

- (1) ~~[The administration of drugs to]~~ Legally possessed captive wildlife ~~[including captive cervids]~~ under the direction of a licensed Kentucky veterinarian in which a veterinarian-client-patient relationship is established pursuant to KRS 321.185; or
- (2) The treatment of sick or injured captive wildlife by either:
  - (a) A licensed veterinarian treating non-commercial captive cervids as identified in 301 KAR 2:083, or critically ill or injured wildlife pursuant to 301 KAR 2:075;
  - (b) A holder of a valid wildlife rehabilitation permit in a wildlife rehabilitation facility under the direction of a licensed Kentucky veterinarian in which a veterinarian-client-patient relationship is established pursuant to KRS 321.185 and 301 KAR 2:075; ~~[or]~~
  - ~~[(c)] [A holder of a valid scientific collection permit;]~~
- (3) ~~[The administration of drugs by]~~ A holder of a valid commercial nuisance wildlife control operator ~~[operators]~~ permit ~~[licensed]~~ using dispatch methods ~~[by the department as]~~ established in 301 KAR 3:120; or
- (4) Employees of federal or state government in the performance of their official duties related to public health, wildlife management, or wildlife removal.

Section 4. ~~[Section 5.]~~ Disposition of Wildlife. An officer of the department may take possession or dispose of any noncaptive wildlife if the officer has probable cause to believe the noncaptive wildlife have been administered drugs in violation of this administrative regulation.

*RICH STORM, Commissioner*

APPROVED BY AGENCY: February 14, 2023

FILED WITH LRC: February 15, 2023 at 10:455 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 28, 2023, at 10 a.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 April 30, 2023. 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: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, phone (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 requirements for the administration of drugs to native wildlife.

**(b) The necessity of this administrative regulation:**

This administrative regulation is necessary to provide a defined process for the administration of drugs to live native wildlife. These processes are necessary to provide for the health and welfare of native wildlife and the safety of Kentucky citizens.

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

KRS 150.280 requires the department to promulgate administrative regulations to establish the procedures for the propagation and holding of protected wildlife. KRS 150.015 requires the Department to protect and conserve wildlife of the Commonwealth and to promote their general welfare.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:**

This regulation sets forth the requirements for administering drugs to native wildlife which protects and conserves native wildlife per the requirements in KRS 150.015.

**(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:**

Amendment will strengthen protections to wildlife and citizens of the Commonwealth by restricting administration of drugs to non-captive wildlife.

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

This amendment improves Department oversight on parties administering drugs to wildlife, providing further protections to wildlife. This amendment also improves health and human safety in regard to non-captive native wildlife.

**(c) How the amendment conforms to the content of the authorizing statutes:**

See (1)(c) above. This amendment falls within the reach of the authorizing statute KRS 150.015.

**(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:**

These regulations will restrict those who wish to administer drugs to live native wildlife to only include veterinarians, wildlife rehabilitators, nuisance wildlife control operators, and captive wildlife permit holders under the authority of a licensed veterinarian. Scientific collection permit holders and others have the option to request commissioner approval to administer drugs to wildlife. These amendments are necessary for the health and safety of people and wildlife populations.

**(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 actions required for persons listed above. Scientific collection permit holders and others not listed above shall request Commissioner approval prior to administering drugs to wildlife.

**(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 for other entities.

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

No additional benefits will accrue.

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

**(a) Initially:**

There will be no initial administrative cost to the department to implement this administrative regulation.

**(b) On a continuing basis:**

There will be no cost to the department 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:**

It will not be necessary to increase any other fees or to increase funding to implement this administrative regulation.

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

No fees are established directly or indirectly.

**(9) TIERING: Is tiering applied?**

No. Tiering is not applied because all permit holders are treated the equally.

## 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 Department of Fish and Wildlife Resources Divisions of Wildlife and Law Enforcement will be impacted by this administrative regulation.

**(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.**

KRS 150.015 requires the Department to protect and conserve wildlife of the Commonwealth and to promote their general welfare. 50 C.F.R 17, 21, and 22 establishes the federal standards for holding migratory birds, including raptors, and federally threatened and endangered wildlife.

**(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 is expected to be generated by this administrative regulation 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?**

No revenue will be generated for subsequent years.

**(c) How much will it cost to administer this program for the first year?**

There will be no administrative cost to administer this program for the first year.

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

There will be no administrative costs incurred in 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 cost to regulated entities for the first year.

**(d) How much will it cost the regulated entities for subsequent years?**

There will be no costs to regulated entities incurred in 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 incurred.