TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amended at ARRS Committee)

301 KAR 3:120. Commercial nuisance wildlife control.

RELATES TO: KRS 150.183, 150.275, ***150.330,*** 150.410, ***[150.330,]*** 50 C.F.R. 21.41
STATUTORY AUTHORITY: KRS 150.025(1)(h), 150.105, ***150.170, 150.235,***150.275, ***[150.235,]*** 150.365***[, 150.170]***
NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)(h) authorizes the department to promulgate any other administrative regulations reasonably necessary to implement or carry out the purposes of KRS Chapter 150. KRS 150.105 authorizes the commissioner, with the approval of the commission, to authorize any person to destroy or bring under control any wild animal, fish, or wild birds, protected or unprotected, which are causing damage to persons, property, other animals, or spreading diseases. KRS 150.275 authorizes the department to issue permits to qualified persons to take and transport wildlife at any time for commercial nuisance wildlife control. This administrative regulation establishes the requirements for commercial nuisance wildlife control permits, and nuisance wildlife control operators. KRS 150.235 prohibits persons from performing acts authorized to be performed by a permit without first procuring the permit and the permit or license shall be kept on their person while conducting acts. KRS 150.170 prevents persons from doing any act or assisting a person with an act authorized by any kind of license or permit unless they hold the kind of permit that authorizes the act. 50 C.F.R. 21.41 provides federal permitting requirements for depredating migratory birds and allows a NWCO to herd or scare depredating migratory birds without a federal permit, except that federally endangered or threatened species and bald or golden eagles shall not be scared or herded.

Section 1. Definitions.
(1) "Commercial purposes" means taking nuisance wildlife in exchange for payment,[~~or~~]trade, or associated with job duties as part of employment.
(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.
(3) "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[~~and~~] the Bald and Golden Eagle Protection Act.
(4) "Nuisance wildlife" means vertebrate wildlife that causes or may cause damage or threat to agriculture, human health,[~~or~~]safety, or property[~~, or natural resources~~].
(5) "Nuisance wildlife control operator" means the holder of a valid permit, issued by the department, which authorizes the taking of nuisance wildlife for commercial purposes.
(6) "NWCO" means a nuisance wildlife control operator as defined in this administrative regulation.
(7) "Permit" means the nuisance wildlife control operator's permit issued pursuant to this administrative regulation.
(8) "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).

(9) "Rural habitat" means an area of the state not included within the boundaries of an incorporated or unincorporated city, village or borough, and having a population in excess of 1,500 inhabitants.

Section 2. Permitting Requirements ~~[NWCO Permit]~~.

(1) A permit authorizes a NWCO to take nuisance wildlife year-round using lethal or non-lethal capture methods, provided the NWCO has written or oral authorization from the person requesting control.

(2) ~~[(1)]~~ A person shall apply for and obtain a valid NWCO permit, prior to conducting NWCO activities, by submitting:~~[on a form provided by the department.]~~

(a) A correct and complete Commercial NWCO Permit Application; and

(b) A Commercial NWCO Annual Activity Report for renewal applications.

(3) ~~[(2)]~~ The department shall only~~[not]~~ grant a permit to a person who:

(a) Is ~~[Less than]~~ eighteen (18) years old or over;

(b) ~~[Who]~~Has not been convicted of a violation of KRS Chapter 150 or the administrative regulations promulgated under its authority within the denial period established in this administrative regulation;~~[one (1) year of the date of application; or]~~

(c) Provides proof of a passing score on the National Wildlife Control Training Program course, except a person who passed the department issued examination prior to the effective date of this administrative regulation ***shall*** ~~***/ are /***~~ not ***be*** required to complete the National Wildlife Control Training Program course; ~~[Who fails to achieve a score of seventy (70) percent or better on an examination administered by the department.]~~

(d) Remits the correct annual permit fee as established in 301 KAR 3:022;

(e) Provides a complete and correct Commercial NWCO Permit Application; and

(f) Provides a valid email address.

~~[(3)] [Nothing in this subsection shall prohibit persons under eighteen (18) years old from assisting a NWCO.]~~

~~[(4)] [A person may appeal the denial of a permit for a violation of KRS Chapter 150 or the administrative regulations adopted under its authority by following the procedures established in Section 7 of this administrative regulation.]~~

(4) ~~[(5)]~~ A NWCO shall always have their~~[his]~~ permit in their~~[his]~~ possession ~~[at all times]~~when performing the acts authorized by a NWCO permit~~[taking or transporting wildlife]~~.

(5) ~~[(6)]~~ The NWCO permit shall be valid from March 1 through the last day of February.

(6) A permitted NWCO wishing to sell the pelts of a furbearer~~[s]~~ taken during the statewide furbearer hunting and trapping season shall also possess a valid trapping license or hunting license, if applicable.

Section 3. Reporting Requirements.

(1) A NWCO shall keep records of all wildlife taken in the course of NWCO duties on the NWCO Annual Activity Report.

(2) ~~[(1)]~~ A NWCO shall submit a NWCO Annual Activity Report to the Department:

(a) No later than March 30; and

(b) Prior to a permit being renewed. ~~[file an annual activity report with the department between March 1 and March 30 of each year.]~~

~~[(2)] [The annual activity report shall be filed:]~~

~~[(a)] [On a form:]~~

~~[1.] [Provided by the department; or]~~

~~[2.] [Photocopied from the department form.]~~

(3) ~~[(b)]~~ The Commercial NWCO Annual Activity Report~~[form]~~ shall contain the information regarding the activity for the period from February~~[March]~~ 1 of the previous year through January 31~~[the last day of February]~~ of the current year.

(4) ~~[(3)]~~ The department shall not renew the permit of an operator who does not:

(a) Submit the Commercial NWCO Annual Activity Report~~[annual activity report]~~ as required by this section; or

(b) ~~[Does not]~~ Provide the information required by the Commercial NWCO Annual Activity Report~~[annual activity report form]~~.

(5) [(6)] ~~[(4)]~~ Report documents and all records of NWCO activity, including the current or previous year's activity and written permission for releases, shall be made available to department staff upon request.

Section 4. Restrictions on Taking Wildlife.

(1) A NWCO shall only dispatch or release captured wildlife according to the requirements in this administrative regulation, except for federally protected species that meet the criteria in Sections 4, 6, and 7 of this administrative regulation.

(2) ~~[(1)]~~ A NWCO shall not:

(a) Transport nuisance wildlife to a wildlife rehabilitator or any person or facility that holds wildlife captive, except that a NWCO shall immediately transport injured, ill, orphaned, or exhausted federally protected species to a permitted wildlife rehabilitator within Kentucky;

(b) Release wildlife in any area that restricts their free movement or holds them captive;

(c) Hold wildlife for more than forty-eight (48) hours;

(d) ~~[(a)]~~ Take federally protected wildlife unless ~~[the NWCO has]~~a valid permit for the activity is issued by the U. S. Fish and Wildlife Service for the species of nuisance wildlife, except that a federal permit is not required to herd or scare migratory birds, excluding bald and golden eagles and endangered or threatened species;

(e) ~~[(b)]~~ Take the species established in subparagraphs 1. through 8. ***of this paragraph***~~[5.]~~ unless authorized by the commissioner:

1. Copperbelly water snake (Nerodia erythrogaster neglecta);
2. White-tailed deer (Odocoileus virginianus);
3. Elk (Cervus canadensis);
4. Black bear (Ursus americanus);~~[or]~~
5. Wild turkey (Meleagris gallopavo);~~[or]~~
6. Kirtland's snake (Clonophis kirtlandii);
7. Alligator Snapping turtle (Macrochelys temminckii);
8. Hellbender (Cryptobranchus alleganiensis); or

(f) ~~[(c)]~~ Dispatch or cause death to bats ~~[Use lethal capture methods to take bats]~~.

~~[(2)] [A NWCO may take other nuisance wildlife year-round using lethal or nonlethal capture methods, provided the NWCO has written or oral authorization from the person requesting control.]~~

Section 5. Legal Means of Take. ~~[Methods of taking nuisance wildlife.]~~

(1) A NWCO using traps shall comply with:

(a) KRS 150.410; and

(b) The trapping requirements in 301 KAR 2:251.

(2) A NWCO using a gun shall provide proof of completion of the Kentucky Hunter Education Program or a course offered by another jurisdiction that meets the course standards set by the International Hunter Education Association.

Section 6. Dispatch ~~[Disposal]~~ of Captured Wildlife~~[animals]~~.

~~[(1)] [A NWCO may euthanize or release captured wildlife, except that a NWCO shall:]~~

~~[(a)] [Euthanize any rabies vector species captured within the enhanced rabies surveillance area before being moved; and]~~

~~[(b)] [Shall not transport a rabies vector species into or out of the enhanced rabies surveillance area.]~~

~~[(2)] [Acceptable methods of euthanizing wildlife shall include:]~~

~~[(a)] [Captive bolt;]~~

~~[(b)] [Gunshot;]~~

~~[(c)] [Drowning, for wildlife trapped in water sets, pursuant to 301 KAR 2:251;]~~

~~[(d)] [Cervical dislocation or thoracic compression for small mammals and birds;]~~

~~[(e)] [Mechanical stunning, if followed immediately by an acceptable euthanasia method;]~~

~~[(f)] [Inhalants, including halothane, isoflurane, carbon monoxide, or carbon dioxide;]~~

~~[(g)] [Noninhalants including Secobarbital/dibucaine; or]~~

~~[(h)] [Commercially-available agents for striped skunks, in accordance with manufacturer's specifications.]~~

(1) ~~[(3)]~~ The department may, upon issuing a permit, specify that certain species shall be dispatched~~[euthanized]~~.

(a) The requirement that a species be dispatched may apply statewide or to certain geographical regions.

(b) If the requirement that a species be dispatched is made to apply:

1. Statewide, all permits issued in that permit year shall contain the same requirement; or

2. To a limited geographical area, all permits issued in that area shall contain the same requirement.

(2) A NWCO shall dispatch:

(a) House sparrow (Passer domesticus) ***;***

(b) European starling (Sturnus vulgaris) ***;***

(c) Pigeon (Columba domestica or Columba livia) ***;***

(d) Nutria (Myocaster coypus) ***;***

(e) House mouse (Mus musculus) ***;***

(f) . Rat (Rattus norvegicus or Rattus rattus) ***;***

(g) Wildlife that shows obvious symptoms of disease or injury, except for federally protected species and bats ***; or*** ~~***[.]***~~

(h) Any rabies vector species captured within the Enhanced Rabies Surveillance Zone at the capture site before being moved.

(3) ~~[(2)]~~ Legal ~~[Acceptable]~~ methods of dispatching~~[euthanizing]~~ wildlife shall include:

(a) Captive bolt;

(b) Gunshot;

(c) Submersion ~~[Drowning]~~, for wildlife trapped in water sets, pursuant to 301 KAR 2:251;

(d) Cervical dislocation or thoracic compression for small mammals and birds, except for federally protected species and bats;

(e) Mechanical stunning, if followed immediately by an acceptable dispatch~~[euthanasia]~~ method;

(f) Inhalants, including halothane, isoflurane, carbon monoxide, or carbon dioxide;

~~[(g)] [Noninhalants including Secobarbital/dibucaine; or]~~

(g) ~~[(h)]~~ Commercially available agents for striped skunks, in accordance with manufacturer's specifications, except that prohibited methods of dispatch listed in this section shall not be used; or~~[.]~~

(h) Commercially available rodenticides used on small rodents in accordance with manufacturer specifications, except that prohibited methods of dispatch listed in this section shall not be used.

(4) Prohibited methods of dispatch:

(a) Extra-label use of chemicals, toxicants, or poisons is prohibited.

(b) Per KRS 150.365, the following methods of take are prohibited:
1. Fire;
2. Explosives;
3. Mechanical, electrical, or hand operated sonic recording devices; or
4. Gas or smoke in a den, hole, or nest of wildlife.

Section 7. Release of Captured Wildlife.
(1) A NWCO shall:
(a) Transport wildlife for release in a safe manner that minimizes stress to the animal;
(b) Only release non-rabies vector species of wildlife:
1. On-site; or
2. In a rural habitat suitable for the particular species in which wildlife movement is unrestricted; and
3. With the written permission of:
a. The private landowner of at least 100 contiguous acres;
b. The private landowners of contiguous properties totaling at least 100 acres; or
c. The agency responsible for management of public land totaling at least 300 acres.
(c) Only release rabies vector species of wildlife captured outside the Enhanced Rabies Surveillance Zone;
1. On-site;
2. In a rural habitat suitable for the particular species within the county of capture in which wildlife movement is unrestricted; and
3. With the written permission of:
a. The private landowner of at least 100 contiguous acres;
b. The private landowners of contiguous properties totaling at least 100 acres; or
c. The agency responsible for management of public land totaling at least 300 acres.
(2) A NWCO shall not:
(a) Transport a rabies vector species into, out of, or within the enhanced rabies surveillance zone;
(b) Release nuisance wildlife in unsuitable habitat including any enclosed area that restricts free movement of wildlife or holds wildlife captive.
~~[(4)] [A NWCO shall:]~~
~~[(a)] [Euthanize wildlife that shows obvious symptoms of disease or injury;]~~
~~[(b)] [Transport wildlife for release in a safe manner that minimizes stress to the animal;]~~
~~[(c)] [Not release wildlife:]~~
~~[1.] [Except in a rural habitat suitable for the particular species; and]~~
~~[2.] [Without the written permission of:]~~
~~[a.] [The private landowner of at least 100 contiguous acres;]~~
~~[b.] [The private landowners of contiguous properties totaling at least 100 acres; or]~~
~~[c.] [The agency responsible for management of public land totaling at least 300 acres;]~~

Section 8. Disposal of Carcasses.
~~*[(1)]*~~ ~~[(d)]~~ A NWCO shall dispose of all wildlife carcass~~[carcasses]~~ by:
(1) ~~*[1.]*~~ Complete incineration of the entire carcass and all of its parts and products;
(2) ~~*[2.]*~~ Placing the carcass in a contained landfill as established in KRS Chapter 224;
(3) ~~*[3.]*~~ Burying the carcass and all its parts and products in the earth:
(a) ~~*[a.]*~~ In a location that is never covered with the overflow of ponds or streams;

(b) ~~***[b.]***~~ Not less than 100 feet from any watercourse, sinkhole, well, spring, public highway, residence, or stable; and

(c) ~~***[c.]***~~ At least one (1) foot deep and covered with one (1) foot of earth; or

(4) ~~***[4.]***~~ Removing the carcass by a duly licensed rendering establishment.~~[; and]~~

~~[(e)] [Not hold wildlife for more than forty-eight (48) hours except as otherwise provided by administrative regulations promulgated by the department.]~~

~~[(5)] [A permitted NWCO wishing to sell the pelts of furbearers taken during the statewide furbearer hunting and trapping season shall also possess a valid trapping license or hunting license, if applicable.]~~

Section 9. ~~[Section 7.]~~ Revocation and Denial of Permits and Appeal Procedure. ~~[Permit revocation, appeal process.]~~

(1) The department shall revoke the permit without refund, deny the issuance of a new permit, or deny a renewal of an existing or lapsed permit and confiscate wildlife of a person~~[the permit of a nuisance wildlife control operator]~~ who:

(a) Is convicted of a violation of any provisions of:

1. KRS Chapter 150;
2. 301 KAR Chapters 1 through 5;
3. Any federal statute or regulation related to hunting, fishing, or wildlife; or
4. Another state's fish and wildlife law.

(b) Fails to comply with the provisions of this administrative regulation or 301 KAR 2:041, 301 KAR 2:075, 301 KAR 2:081, or 301 KAR 2:251;

(c) Provides false information on a Commercial NWCO Permit Application, Commercial NWCO Annual Activity Report, federal permit, written permission for wildlife release, or records;

(d) Takes nuisance wildlife with methods not approved in this regulation or 301 KAR 2:251;

(e) Takes nuisance wildlife for commercial purposes without a valid commercial nuisance wildlife control permit;

(f) Takes federally protected species without a federal permit;

(g) Possesses wildlife over forty-eight (48) hours;

(h) Fails to dispatch rabies vector species at capture site in the Enhanced Rabies Surveillance Zone;

(i) Transports rabies vector species into, out of, or within the Enhanced Rabies Surveillance Zone ***;*** ~~***[:]***~~

(j) Transports rabies vector species captured outside the Enhanced Rabies Surveillance Zone to a location outside the county of capture;

(k) Fails to comply with any provision of KRS Chapter 150, any administrative regulation of the department, or hunting, fishing, or wildlife laws of the federal government ***; or*** ~~***[.]***~~

(l) Allows non-permitted persons to assist or conduct NWCO activities or have direct contact with wildlife.

(2) A person whose permit is denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.

(a) 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 revocation.

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

(c) 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.

(3) Denial period.

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

3. A third or subsequent denial period shall be five (5) years.

(b) During the denial period, a person whose nuisance wildlife control operator permit has been denied or revoked shall not operate as a NWCO or assist in nuisance wildlife control activities.

~~[(a)] [Is convicted of a violation of a federal fish and wildlife law, a Kentucky fish and wildlife law, including KRS Chapter 150 or Title 301 KAR, or another state's fish and wildlife law; or]~~

~~[(b)] [Knowingly provides false information on:]~~

~~[1.] [The application for a permit; or]~~

~~[2.] [The Annual Activity Report.]~~

~~[(2)] [An individual whose permit has been revoked shall be ineligible to apply for another Nuisance Wildlife Control Operator Permit or be an assistant on another Nuisance Wildlife Control Operator Permit for a period of three (3) years.]~~

~~[(3)] [An individual whose permit has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.]~~

Section 10. ~~[Section 8.]~~ Incorporation by Reference ~~[Items incorporated by Reference]~~.

(1) The following material is incorporated by reference:

(a) "Commercial Nuisance Wildlife Control (NWCO) Permit Application," 2022 edition~~[August 2004]~~; and

(b) "Commercial Nuisance Wildlife Control Operator (NWCO) Annual Activity Report~~[Form]~~," 2022 edition.~~[August 2004;]~~

(2) The material may be inspected, copied, or obtained subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife Resources, #1 Sportsman's Lane~~[Game Farm Road]~~, Frankfort, Kentucky, Monday through Friday from 8 a.m. to 4:30 p.m.

(3) This material may also be found on the department's Web site at: https://fw.ky.gov/Wildlife/Pages/Commercial-Nuisance-Wildlife-Control-Operator.aspx for general NWCO information.

(31 Ky.R. 892; Am. 1293; 1405; eff. 3-3-2005; 44 Ky.R. 1134, 1518; eff. 2-2-2018; 49 Ky.R. 1516, 1920; eff. 6-8-2023.)

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