

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

301 KAR 1:125. Transportation of fish.

RELATES TO: KRS 150.010, 150.170, 150.235, 150.485

STATUTORY AUTHORITY: KRS 150.025(1)(c), 150.180(6), 150.280(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)(c) authorizes the Department of Fish and Wildlife Resources to promulgate administrative regulations to regulate the buying, selling, or transporting of game and fish. KRS 150.180(6) requires any person importing or transporting live fish into or within the state to first procure a fish transportation permit. KRS 150.280(2) authorizes the department, by administrative regulation, to identify species of wildlife potentially damaging to native ecosystems and to prohibit the transporting or holding of that wildlife. This administrative regulation provides for control of the transportation of fish, fish eggs, live bait, and other aquatic organisms into, through, and within the state to protect the resident fish population.

Section 1. A Fish Transportation Permit shall not be required:

- (1) By an individual to transport aquarium species;
- (2) By permitted Kentucky fish propagators as established in 301 KAR 1:115, except if transporting fish into Kentucky from outside of Kentucky;
- (3) By individuals with a sport or commercial fishing license to transport legally caught bait or fish;
- (4) By individuals transporting fish purchased from a licensed live bait dealer or permitted commercial fish propagator for stocking in private waters;
- (5) By agents of the department while performing their normal duties; or
- (6) To transport live fish or other aquatic organisms that were purchased for consumption from a licensed retailer.

Section 2. Live Fish, Live Bait, or Other Aquatic Organisms.

- (1) All individuals, corporations, or other business entities that transport any live fish, live bait as defined in 301 KAR 1:001, Section 1, or other live aquatic organism, except those individuals listed in Section 1 of this administrative regulation, into, within, or through Kentucky shall have in possession a:
 - (a) Fish Transportation Permit, to be renewed annually by calendar year, issued in the name of the individual, corporation, or other business entity transacting the business; and
 - (b) Bill of lading showing the origin and destination of the organisms being transported.
- (2) An individual shall also possess a Live Fish and Bait Dealers License, as established in 301 KAR 1:132, if the organisms will be sold to another individual, corporation, or other business entity in Kentucky or transported from Kentucky to be sold outside of Kentucky.
- (3) All organisms in transport shall be disease free and any prohibited species listed in 301 KAR 1:122 shall not be present.
- (4) If any VHS-regulated fish species from a VHS positive state are transported and unloaded in Kentucky, in addition to the requirements established in subsections (1), (2), and (3) of this section, the following requirements shall apply:
 - (a) If the origin of the VHS-regulated fish species is from a certified VHS free facility, the individual shall possess a copy of the documentation showing that the facility is VHS free.

(b) If the origin of the VHS-regulated fish species is from a non-certified VHS free facility:

1. The VHS-regulated fish species shall only be unloaded at a state inspected fish-processing plant or research and diagnostic laboratory;
2. The individual shall possess a copy of the APHIS VS 1-27 permit for Movement of Restricted Animals issued by an APHIS Veterinary Services office or by a state, tribal, or federal accredited veterinarian; and
3. Water from the fish transportation tank shall only be discharged into a municipal sewage system that includes wastewater disinfection or into a non-discharging settling pond devoid of fish.

(5) If the origin of the VHS-regulated fish species is from a VHS positive state and are only being transported through Kentucky then only the requirements established in subsections (1) and (3) of this section and Section 3 of this administrative regulation shall apply.

(6) VHS-regulated fish species being transported from a known VHS positive state into, within, or through Kentucky that do not meet all requirements established in Sections 2 and 3 of this administrative regulation shall be confiscated for disposal purposes.

Section 3. Fish Transportation Permit Application.

(1) If an individual, corporation, or other business entity wants to transport fish, live bait, or other aquatic organisms into, within, or through Kentucky they shall submit a completed Application for Fish Transportation Permit to the department, along with permit fees as established in 301 KAR 5:022.

(2) If an individual, corporation, or other business entity wants to transport VHS-regulated fish species into or through Kentucky from a VHS positive state, in addition to the requirements established in subsection (1) of this section they shall also submit a:

- (a) Copy of the documentation showing that the facility that the VHS-regulated fish species are coming from is certified as being VHS free; or
- (b) Copy of the APHIS VS 1-27 permit if the facility is not certified as being VHS free.

(3) An individual, corporation, or other business entity shall not transport fish, live bait, or other aquatic organisms into, within, or through Kentucky without an approved Fish Transportation Permit in possession.

(4) If an individual, corporation, or other business entity desires to transport VHS-regulated fish species from a facility in a VHS positive state that is currently not listed on their Fish Transportation Permit, the permittee shall:

- (a) Notify the department; and
- (b) If approved by the commissioner based on risk of contagion to fish of the Commonwealth be sent an updated Fish Transportation Permit listing the approved facility.

Section 4. Transportation of Roe-Bearing Fish and Roe.

(1) All individuals, with the exception of permitted roe-bearing fish harvesters as established in 301 KAR 1:155, who transport roe-bearing fish or unprocessed roe as established in 301 KAR 1:155 into, within, or through Kentucky, shall have in possession a Fish Transportation Permit issued in the name of the individual with the associated roe-bearing fish harvester's name and commercial fishing license and roe-bearing harvester's permit numbers listed.

(2) All individuals who transport unprocessed roe from a fish processing facility to a permitted roe-bearing fish dealer shall also have in possession a bill of lading as established in 301 KAR 1:155, Section 8(4)(c).

Section 5. All officers and agents of the department have the authority to demand of the transporter, at any time, that prohibited species listed in 301 KAR 1:122 shall not be present and proof that the transporter possesses all appropriate permits and documentation.

Section 6. Fish Transportation Permit Denial, Revocation, and Nonrenewal.

(1) The department shall deny a Fish Transportation Permit for transportation of aquatic organisms determined potentially damaging to Kentucky's native ecosystems.

(2) The department shall revoke and not renew the Fish Transportation Permit of an individual, corporation, or other business entity for a period of two (2) years if they:

(a) Falsify the documentation needed to transport fish, eggs, live bait, or any other aquatic organism into, within, or through Kentucky;

(b) Falsify information on the Application for Fish Transportation Permit; or

(c) Are convicted of any federal or state violation involving the transportation of fish, eggs, live bait, or any other aquatic organism.

(3) An individual, corporation, or other business entity whose Fish Transportation Permit has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.

(4) 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.

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

(6) 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 7. Incorporated by Reference.

(1) "Application for Fish Transportation Permit", 2023 is incorporated by reference.

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

RICH STORM, Commissioner

APPROVED BY AGENCY: July 13, 2023

FILED WITH LRC: July 14, 2023 at 11:00 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 29, 2023, at 11:00 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 September 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.