

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

301 KAR 5:200. Special commission permits for incorporated nonprofit wildlife conservation organizations.

RELATES TO: KRS 150.170, 150.175, 26 U.S.C. 501(c)(3)

STATUTORY AUTHORITY: KRS 150.025, 150.177, 150.195(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025 authorizes Kentucky Department of Fish and Wildlife Resources to promulgate administrative regulations to establish hunting seasons, bag limits, and the methods of taking wildlife. KRS 150.177 authorizes the department to issue a special permit to an incorporated nonprofit wildlife conservation organization for fundraising if proceeds of the sale are used in Kentucky. KRS 150.195(1) requires the department to promulgate administrative regulations pertaining to the issuance of licenses and permits. This administrative regulation establishes the requirements for the issuance and use of Special Commission Permits.

Section 1. Definitions.

(1) "Incorporated nonprofit wildlife conservation organization" means an entity that:

(a) Has a stated purpose, as expressed in its articles of incorporation or bylaws, to conserve and enhance fish and wildlife resources to provide opportunities for hunting, fishing, trapping, wildlife education, habitat enhancement, or related activities such as shooting sports, hunter and angler education and training, boating, etc.;

(b)

1. Holds status as a nonprofit organization pursuant to 26 U.S.C. Section 501(c)(3); and

2. Is incorporated under the laws of this state or any other state; or

(c) Is an affiliated regional, state, or local chapter of a parent organization that meets the requirements of subsection (1)(b) of this section.

(2) "Proceeds" means the amount of money received by an incorporated nonprofit wildlife conservation organization from the sale or transfer of a special commission permit minus all expenses directly attributable to the sale of the permit.

(3) "Project" means an enterprise designed to achieve stated purposes, which shall conserve and enhance fish and wildlife resources within Kentucky by enhancing habitat or providing opportunities for hunting, fishing, trapping, wildlife education, habitat enhancement, or related activities such as shooting sports, hunter and angler education and training, boating, etc.

(4) "Special commission permit" means a permit issued by the Kentucky Fish and Wildlife Commission to an incorporated nonprofit wildlife conservation organization for fundraising that allows the assigned permit holder, to perform the acts applicable to the specific game designated by the permit:

(a) For deer permits, harvest one (1) additional deer of either sex;

(b) For wild turkey permits, harvest one (1) additional turkey of either sex;

(c) For elk permits, harvest one (1) elk of either sex except that an individual shall harvest no more than one (1) elk total per license year;

(d) For black bear permits, harvest one (1) additional black bear of either sex; or

(e) For waterfowl permits, receive priority hunt dates and location selection for public area waterfowl hunting.

Section 2. Issuance and Sale of Special Commission Permit.

(1) There shall be no more than ten (10) special commission permits issued per species per license year.

(2) An incorporated nonprofit wildlife conservation organization may apply for one (1) special commission permit per species by submitting, via the online Special Commission Permit Submission Portal at <https://app.fw.ky.gov/commission>, the following information:

- (a) Organization Name;
- (b) Mailing address;
- (c) Contact person's name;
- (d) Phone number;
- (e) Email Address;
- (f) Permit types requested;
- (g) Proposed method of selling the permits;
- (h) Estimated dollar amount to be raised through the sale of permits requested;
- (i) Rationale for the estimate;
- (j) Fund-raising history;
- (k) Prior experience with conservation projects;
- (l) Description of proposed conservation project for which the funds will be used;
- (m) Analysis of who will primarily benefit from the proposed project;
- (n) List of tangible goods intended for purchase which will not be expended during the project, if applicable;
- (o) Who will maintain ownership of any tangible items remaining after the project is completed, and how they will be used for the reasonable life of those items;
- (p) Explanation of how the proposed project is intended to enhance fish and wildlife, habitats, fish and wildlife education, or fish and wildlife related recreation in Kentucky;
- (q) Internal Revenue Service Employer Identification Number (EIN) under which the organization is applying; and
- (r) Parent Organization name, if the organization is applying as an affiliated regional, state, or local chapter thereunder.

(3) A national organization and its affiliated regional, state, and local chapters or branches shall all be eligible to apply for a special commission permit in the same year if each organization meets the definition in Section 1(1) of this administrative regulation.

(4) No more than one (1) of each special commission permit type shall be awarded per distinct Internal Revenue Service Employer Identification Number (EIN) per year.

(5) The organization shall also submit, via the online Special Commission Permit Submission Portal at <https://app.fw.ky.gov/commission> the following supporting documents:

- (a) A copy of the organization's articles of incorporation;
- (b) A copy of the Internal Revenue Service determination letter establishing the organization's current tax-exempt status, including the applicant's Employer Identification Number (EIN);
- (c) A copy of the organization's bylaws that state the purposes of the organization, if the purposes of the organization are not stated in the articles of incorporation; and
- (d) A letter, dated within ninety (90) days of submission, from the organization's parent organization, if applicable, stating that the chapter organization is in good-standing and is recognized by the parent organization.

(6) The deadline for submission of the application and all supporting documents is May 1 of each year.

(7) Organizations shall be disqualified from eligibility for the criteria listed in paragraphs (a) through (d) of this subsection:

- (a) Failure to submit the required information and supporting documents to the department by the deadline established in subsection (6) of this section;

(b) Failure to qualify as an incorporated nonprofit wildlife conservation organization;
or

(c) Failure to meet the following requirements:

1. Sell a special commission permit awarded in the previous two (2) years;
2. Comply with the requirements of subsections (11)(b) and 11(c) of this section during the previous two (2) years;
3. Timely submit the following, during the previous two (2) years, for each permit received by the organization:
 - a. All the information required by subsection (11)(d) of this section; or
 - b. The name of person who purchased the permit; and
 - c. A statement that the organization attempted to obtain the hunter information required by subsection (11)(d) of this section but was not supplied all the information prior to the applicable submission deadline;
4. Timely submit the information required by subsection 11(f) for the calendar year for a given application; or
5. Submit by May 1 of the current calendar year, the information required for the previous calendar year by subsection 11(f) if the information was not provided timely.

(8) Prior to selecting organizations to receive special commission permits for the current year, the Fish and Wildlife Commission shall review and consider all information and documents submitted by each wildlife conservation organization that has not been disqualified pursuant to subsection (7) of this section.

(9) The department shall provide the Fish and Wildlife Commission with information concerning each applicant's relative standing with regard to:

- (a) Past compliance; and
- (b) History of funds generated.

(10) The Fish and Wildlife Commission shall select organizations to receive permits based on the information listed in subsection (9) of this section and the information contained within the organization's submission.

(11) An incorporated nonprofit wildlife conservation organization that is awarded a special commission permit shall:

- (a) Generate proceeds through the sale of each permit awarded;
- (b) Use the proceeds within Kentucky, only for the project listed in the application, and not for ordinary operational costs of the organization;
- (c) Remit to the department any proceeds from the sale of the permits that are not expended by the May 1 reporting deadline three (3) years after the submission deadline for which the special commission permits were awarded;
- (d) Submit to the department, via the online Special Commission Permit Submission Portal at <https://app.fw.ky.gov/commission>, the information listed in subparagraphs 1. through 4. of this paragraph for the hunter to whom the permit shall be issued. Failure to submit the required information by the applicable deadline will result in no permit being issued.
 1. Name;
 2. Address;
 3. A copy of the hunter's valid Kentucky Hunting license; and
 4. For waterfowl, the requested location and date of the hunt.

(e) The information to be submitted, as established in paragraph (d) of this section, shall be submitted to the department no later than the following dates during the license year for which the permit is valid:

1. March 1 for turkey;
2. August 1 for elk;
3. August 1 for deer;

4. September 1 for black bear; and
5. September 1 for waterfowl.

(f) Submit to the Department of Fish and Wildlife Resources, via the online Special Commission Permit Submission Portal at <https://app.fw.ky.gov/commission>, by May 1 of the following year, and each subsequent year until all funds generated by the sale of the permit are expended or remitted to the department, a report, subject to audit, that includes:

1. A financial statement containing:
 - a. Total funds raised from the sale of each permit;
 - b. A detailed list of expenditures directly attributable to the sale of each permit;
 - c. Net proceeds after expenditures used in fundraising, if applicable;
 - d. A detailed list of expenditures attributable to the conservation project with a receipt for each expenditure; and
 - e. Balance of funds remaining;
2. A summary of the conservation project; and
3. A synopsis of the project's impact in regards to the goals stated.

(12) Once a special commission permit has been issued to a hunter, it shall not be transferred to another hunter.

Section 3. Special Permit Use.

- (1) A special permit shall only be valid for the:
 - (a) Individual named on the permit;
 - (b) Game animals listed on the permit; and
 - (c) The first season for designated game animals in the license year following the commission meeting that the special permit was awarded.
- (2) A special commission permit holder shall comply with all other department statutes and KAR Title 301.
- (3) A holder of a special commission permit to hunt deer may hunt on any Wildlife Management Area during an open deer season or quota hunt pursuant to 301 KAR 2:178, for which they are otherwise eligible to participate, except:
 - (a) Hunting shall not be allowed on closed waterfowl refuges, pursuant to 301 KAR 2:222;
 - (b) A permit holder shall contact the wildlife area manager at least forty-eight (48) hours before hunting; and
 - (c) A permit holder shall notify the area manager upon leaving a Wildlife Management Area.
- (4) A holder of a special commission permit to hunt wild turkey shall not hunt on a Wildlife Management Area that is closed to turkey hunting.
- (5) A holder of a special commission permit to hunt waterfowl may, subject to the timely submission of all applicable information by the wildlife conservation organization, hunt on Ballard, Boatwright, or Sloughs Wildlife Management Areas from one (1) of the areas' hunting units during one (1) of the available hunt periods established by the department, pursuant to 301 KAR 2:222.
- (6) Each special commission permit to hunt elk shall be randomly assigned an elk hunting unit at the time of the selection of the wildlife conservation organizations to be awarded special commission permits. Each elk hunting unit will be assigned once prior to assigning a second permit to the unit. No elk hunting unit will be assigned more than two (2) permits. The permit holder shall be allowed to hunt in the assigned elk hunting unit on private land with permission from the landowner, or on Department owned or managed lands that are the subject of public access agreements between the landowners and the department. The permit holder shall also be allowed to hunt in any other elk hunting unit with private landowner permission, as established in Section 3(7) of this regulation and

consistent with any applicable requirements established in 301 KAR 2:132 and 301 KAR 2:030, on private land that is not open for public hunting through a hunter access area agreement, voucher-cooperator agreement, or wildlife management area agreement between the landowner and the department.

RICH STORM, Commissioner

APPROVED BY AGENCY: November 14, 2023

FILED WITH LRC: November 15, 2023

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 31, 2024, at 9:00 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 January 31, 2024. 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.