

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

**301 KAR 1:146. Commercial fishing gear.**

RELATES TO: KRS 150.010, 150.025, 150.120, 150.170, 150.175, 150.445, 150.450, 150.990

STATUTORY AUTHORITY: KRS 150.025(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the ~~Department~~Department of Fish and Wildlife Resources to promulgate administrative regulations ~~regarding the buying, selling, and transporting~~to establish seasons for the taking of fish and wildlife, ~~the restriction of places where taking is permitted,~~to regulate bag limits, creel limits, and methods of take, and ~~the application of~~to make administrative regulations~~those requirements apply~~ to a limited area or the entire state. This administrative regulation establishes the legal methods that may be used by commercial ~~fishers~~fishermen to harvest rough fish.

Section 1. ~~Definitions.~~

~~[(1)] ["Bar mesh size" means the distance between two (2) knots on a line of a net.]~~

~~[(2)] ["Commercial gear tag" means a metal tag provided by the department that is attached to legal commercial fishing gear as established in this administrative regulation.]~~

~~[(3)] ["Flag net" means a gill or trammel net that is anchored on one (1) end, with the other end of the net unanchored, allowing this end of the gill or trammel net to float freely.]~~

~~Section 2.~~ Gear Requirements.

(1) The gear listed in subsections (2) through (16) of this section shall be the only legal commercial fishing gear allowed in commercial fishing waters established in 301 KAR 1:150 and under the conditions established in 301 KAR 1:155 by a licensed commercial ~~fisher~~fisherman.

(2) A hoop net, wing net, straight net, or heart lead net shall have a minimum bar mesh size of three (3) inches, except that the minimum mesh size shall be one (1) inch in the following waters:

- (a) The Ohio River;
- (b) The Mississippi River; and
- (c) Those portions of the following waters open to commercial fishing pursuant to 301 KAR 1:150:
  1. The Cumberland River below Barkley Dam; and
  2. The Tennessee River below Kentucky Dam.

(3) A hoop may be made of any:

- (a) Size;
- (b) Shape; or
- (c) Material.

(4) Wings and leads shall be constructed of the following material:

- (a) Natural multifilament; or
- (b) Synthetic.

(5) Netting used for wings and leads shall:

- (a) Be constructed of twine no smaller than number six (6) nylon or the equivalent;
- (b) Have a breaking strength of fifty-five (55) pounds or greater; and
- (c) Have a bar mesh size no larger than one (1) inch.

(6) Wings and leads may consist of either:

- (a) Knotted construction; or

- (b) Knotless construction.
- (7) The maximum length of each hoop net wing or lead shall be sixty (60) feet.
- (8) The following nets shall be fished as individual nets:
  - (a) Hoop nets;
  - (b) Wing nets;
  - (c) Straight lead nets; or
  - (d) Heart lead nets.
- (9) Wings or leads shall:
  - (a) Not be tied together to become a continuous multiple net unit; and
  - (b) Be used only to lead fish into a hoop net.
- (10) One (1) commercial gear tag shall be attached to the first hoop of each net.
- (11) A gill or trammel net:
  - (a) May be fished:
    - 1. Weighted; or
    - 2. As a flag net; and
  - (b) Shall have one (1) commercial gear tag attached to each 100 feet or part thereof.
- (12) A gill or trammel net shall only be used in:
  - (a) The Ohio River;
  - (b) The Mississippi River; or
  - (c) An overflow lake adjacent to the Ohio or Mississippi ~~rivers~~River if the lake can be accessed from the river by a boat during high flow conditions, except as prohibited:
    - 1. On department Wildlife Management Areas pursuant to 301 KAR 4:020 and 4:050; or
    - 2. Pursuant to the requirements of 301 KAR 1:140.
- (13) The bar mesh size on gill or trammel nets shall be:
  - (a) At least three (3) inches in:
    - 1. The Mississippi River; and
    - 2. Overflow lakes adjacent to the Mississippi River;
  - (b) At least four (4) inches from November 1 through April 30 in:
    - 1. The Ohio River; and
    - 2. Overflow lakes adjacent to the Ohio River; and
  - (c) Between four (4) and four and one-half (4 1/2) inches from May 1 through October 31 in:
    - 1. The Ohio River; and
    - 2. Overflow lakes adjacent to the Ohio River.
- (14) A commercial trotline shall:
  - (a) Have more than fifty (50) hooks placed no closer than eighteen (18) inches apart;
  - (b) Have one (1) commercial gear tag attached to each end of the trotline, and at a minimum, one (1) commercial gear tag attached to every 100 feet of trotline;~~and~~
  - (c) Not be longer than 1,000~~6,000~~ feet; and
  - (d) Be set at least three (3) feet under the surface of the water.
- (15) A seine:
  - (a) Shall have a maximum bar mesh size of one (1) inch;
  - (b) May have knotted netting if constructed of twine that is:
    - 1. No smaller than number six (6) nylon; or
    - 2. An equivalent having a breaking strength of at least fifty-five (55) pounds;
  - (c) May have knotless netting if constructed of twine that is:
    - 1. No smaller than number 147 nylon; or
    - 2. An equivalent having a breaking strength of fifty (50) pounds or greater;
  - (d) Shall be constructed of:
    - 1. Natural multifilament; or
    - 2. Synthetic material;

- (e) Shall have both float and lead lines;
- (f) Shall have the following attached at each end:
  - 1. Wood poles;
  - 2. Fiberglass poles; or
  - 3. Brailes;
- (g) Shall be attended by a person who pulls the seine by hand through the water to entrap fish; and
- (h) Shall have one (1) commercial gear tag attached to each 100 feet or part thereof.
- (16) A slat trap basket shall:
  - (a) Not have wire or other mesh added to any part of the trap;
  - (b) Have at least two (2) openings left between slats:
    - 1. No smaller than one and one-fourth (1 1/4) inches wide in the catch portion of the trap; and
    - 2. That shall not be restricted by cross-bracings to a length shorter than eight (8) inches;
  - (c) Not be larger than two (2) feet in diameter or square-end measure; and
  - (d) Have one (1) commercial gear tag attached to the opening ring or square.

*RICH STORM, Commissioner*

APPROVED BY AGENCY: January 11, 2024

FILED WITH LRC: January 12, 2024 at 11:00 a.m.

**PUBLIC HEARING AND COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on March 28, 2024, at 10:00 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 March 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](mailto: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 legal methods that may be used by commercial fishers to harvest rough fish.

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

This administrative regulation is necessary to specify the types of legal gear that may be used by commercial fishers to harvest rough fish from waters open to commercial fishing.

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

KRS 150.025(1) authorizes the Department of Fish and Wildlife Resources to promulgate administrative regulations regarding the buying, selling, and transporting of fish and wildlife, the restriction of places where taking is permitted, and the application of administrative regulations to a limited area or the entire state.

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

This administrative regulation carries out the purposes of KRS 150.025 by defining the size and types of gear that commercial fishers can use to take rough fish.

**(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:**

This amendment addresses several concerns about the current use of trotlines for commercial fishing, including requiring the tagging of trotlines at both ends and every 100 feet, reducing single trot line length from 6000 feet to 1000 feet, and requiring commercial trot lines to be set at least three feet under the surface of the water. In addition, the definitions section for this regulation was removed due to the creation of 301 KAR 1:001 which contains definitions for all 301 KAR 1 regulations.

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

The amended tagging requirements for trotlines is necessary to make it easier and quicker for law enforcement officers to check for ownership and legality of the trotlines. Currently, only one tag is required for the entire length of trot line, which makes it difficult for officers to locate the single tag while on the water. The current maximum length for trotlines (6000 feet) is overly long and creates issues for law enforcement if pulling of the line is necessary. Multiple trotlines can be used, so this shouldn't limit commercial fishers in the total length of trotline they want to set. Finally, to reduce dangerous and potentially damaging impacts to recreational boaters and anglers, it is necessary to require trotlines to be set at least three feet below the surface of the water. It was also necessary to remove the definitions section of this regulation due to the creation of 301 KAR 1:001 which contains definitions for all 301 KAR 1 regulations.

**(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:**

All commercial fishers using commercial trotlines will be affected, as well as officers checking lines and recreational boaters and anglers trying to avoid trotlines.

**(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:**

Commercial fishers wishing to use trotlines will have to follow the new trotline requirements. No additional actions will be required of law enforcement officers or recreational boaters and anglers.

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

Depending on how many lines a commercial fisher sets, there will be a small cost to purchase extra commercial gear tags to tag both ends of the line and tag every 100 feet of line. Currently, commercial gear tags cost \$15.00 for a block of 10 for residents and \$100 for a block of 10 for nonresidents.

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

The main benefits will be seen by both law enforcement and recreational boaters and anglers. Law enforcement will save time and potentially injury by not having to pull long stretches of nets containing multiple fishing hooks trying to find a single gear tag. Recreational boaters and anglers will benefit from not getting tangled up in the trotlines on the surface of the water which can damage motors and also potentially injure those trying to unravel lines from their motors.

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

**(a) Initially:**

There will be no additional cost to the administrative body initially.

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

There will be no additional cost to the administrative body 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 fees or funding because of the change to this administrative regulation.

**(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?**

No. Tiering is not applied to this regulation because all commercial fishers must abide by 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 Department of Fish and Wildlife Resources' Divisions of Fisheries 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 150.025(1) authorizes the Department of Fish and Wildlife Resources to promulgate administrative regulations regarding the buying, selling, and transporting of fish and wildlife, the restriction of places where taking is permitted, and the application of administrative regulations to a limited area or the entire state.

**(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?**

Minimal additional revenue will be generated by this administrative regulation through the sale of additional commercial gear tags in 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?**

Minimal additional revenue will be generated by this administrative regulation through the sale of additional commercial gear tags in subsequent years.

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

There will be no additional costs 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 additional costs to administer this program 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 in 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 in subsequent years.

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

Depending on how many lines a commercial fisher sets, there will be a small cost to purchase extra commercial gear tags in the first year to tag both ends of the line and tag every 100 feet of line. Currently, commercial gear tags cost \$15.00 for a block of 10 for residents and \$100 for a block of 10 for nonresidents.

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

Depending on how many lines a commercial fisher sets, there will be a small cost in subsequent years to purchase extra commercial gear tags to tag both ends of the line and tag every 100 feet of line. Currently, commercial gear tags cost \$15.00 for a block of 10 for residents and \$100 for a block of 10 for nonresidents.

**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)] The cost to purchase additional gear tags will be low and not result in a "Major economic impact".