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

301 KAR 1:140. Special commercial fishing permit for Kentucky and Barkley lakes.

RELATES TO: KRS 150.010(32), 150.450(2)
STATUTORY AUTHORITY: KRS 150.025(1), 150.175(3), (4)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the Kentucky Department~~[department]~~of Fish and Wildlife Resources to regulate the size or type of devices and methods used to take fish and wildlife, including places where taking is ***allowed~~[permitted]~~*** ~~[the places where they may be taken]~~. KRS 150.175(3) ***and~~[,]~~*** (4) ***authorize~~[authorizes]~~*** the department to promulgate administrative regulations regarding the issuance of commercial fishing licenses, commercial fishing gear, and commercial fishing gear tags. This administrative regulation establishes restrictions on the use of gill and trammel nets at Kentucky and Barkley lakes~~[Lakes]~~.

Section 1. ~~[Definitions.]~~
~~[(1)] ["Bar mesh size" means the distance between two (2) knots on a line of a net.]~~
~~[(2)] ["Immediate family" means the person's spouse, mother, father, grandparent, son, or daughter.]~~
~~[(3)] ["Permit" means a special commercial fishing permit.]~~
~~[(4)] ["Roe-bearing fish" means paddlefish, shovelnose sturgeon, and bowfin.]~~
~~[(5)] ["Rough fish" is defined by KRS 150.010(37).]~~
~~[(6)] ["Whip set" means a gill net or a trammel net rigged so it is free-floating.]~~

~~[Section 2.]~~ Permit Requirements.
(1) A person shall possess a valid Kentucky commercial fishing license to obtain or retain a permit throughout the special commercial fishing season.
(2) The department shall not issue more than twenty-five (25) permits.
(3) A permit holder shall submit a completed ***~~[permit]~~***Application ***for a Special Commercial Fishing Permit*** to the department, along with the appropriate permit fee established in 301 KAR ***5:022~~[3:022]~~***, postmarked on or before November 1 to retain the permit privilege.
(4) The ability to purchase a permit shall only be transferred to immediate family members.
(5) New permits shall not be issued until the total number of permits is less than twenty-five (25).
(6) A ~~[lottery]~~drawing shall be used to select new permittees if the total number of permits is less than twenty-five (25).
(a) A person applying for a vacant permit shall submit to the department a completed Application for a Special Commercial Fishing Permit postmarked on or before November 1, along with the appropriate fee established in 301 KAR ***5:022~~[3:022]~~***.
(b) The maximum number of permits issued to nonresidents shall be seven (7).

Section 2. ~~[Section 3.]~~ Permit Requirements.
(1) A person shall possess and carry a valid permit and a valid commercial fishing license:
(a) If using a gill net or trammel net to take rough fish:
1. From November 1 through March 31 at both Kentucky and Barkley lakes~~[Lakes]~~; and
2. In the portions of Kentucky and Barkley lakes~~[Lakes]~~ open to commercial fishing as established in 301 KAR 1:150***~~[.]~~***

(b) If transporting a gill net or trammel net; and
(c) If selling fish taken with a gill net or trammel net.

(2) A person shall:
(a) Tag a gill net or trammel net as established in KRS 150.175(4);
(b) Not use a gill net or trammel net with a bar mesh size smaller than three and five-tenths (3.5) inches or larger than four and five-tenths (4.5) inches, except:
1. A whip set may have a minimum bar mesh size of three (3) inches; and
2. Beginning on November 15 and running through March 31 at both Kentucky and Barkley lakes~~[Lakes]~~, gill and trammel nets with a bar mesh size larger than four and five-tenths (4.5) may be used in stationary sets only;
(c) Not fish a stationary set net with the top of the net or float line shallower than three (3) feet below the surface;
(d) Tend each net, except whip sets, at least once every twenty-four (24) hours;
(e) Not leave whip sets unattended;
(f) Affix a decal supplied by the department to each side of the boat or motor used for fishing under this permit so that the decal is clearly visible while fishing with a gill net or a trammel net;
(g) Not dispose of any commercially caught rough fish at public boat launch areas; and
(h) Not harvest paddlefish at both Kentucky and Barkley lakes~~[Lakes]~~ during the special commercial fishing season if the paddlefish are less than thirty-eight (38) inches, as measured from the beginning of the eye to the fork of the tail fin.

(3) A permit holder may be accompanied by two (2) unlicensed helpers, who shall be:
(a) In the same boat with the permit holder if fishing with a gill net or a trammel net; or
(b) Accompanied by the permit holder if transporting or selling fish taken under the permit.

(4) A permit holder shall:
(a) Maintain an accurate record of daily fishing activity; and
(b) Submit a completed Monthly Report ***of Commercial Fish Harvest in Kentucky*** to the department by the tenth day of the following month~~***[on the Monthly Report of Commercial Fish Harvest in Kentucky form provided by the department]***~~.

Section 3. ~~[Section 4.]~~ Paddlefish Harvest Requirements.
(1) A person who possesses a valid permit shall be allowed to harvest paddlefish flesh or roe during the special commercial fishing season without the need to purchase a Commercial Roe-bearing Fish Harvester's Permit.
(2) A person who harvests paddlefish roe during the special commercial fishing season shall follow all Commercial Roe-bearing Fish Harvester Permit reporting requirements established in 301 KAR 1:155, Section ***13(2)~~[4(4)]~~***.

Section 4. ~~[Section 5.]~~ Permit Suspension, Revocation, and Renewal.
(1) The department shall suspend the permit of a person who fails to complete and submit to the department a Monthly Report of Commercial Fish Harvest or a Daily Commercial Roe Harvest Report for each transaction involving a buyer permittee ***as established in paragraphs (a) through (c) of this subsection.~~[by the following methods:]~~***
(a) The first time during the season a report is not received or, if mailed, not postmarked by the tenth of the following month, the licensee or permittee shall receive by mail a courtesy reminder letter.
(b) The second time during the season a report is not received or, if mailed, not postmarked by the tenth of the following month, the licensee or permittee shall receive a warning letter.
(c) If a third or subsequent time during the season a report is not received or, if mailed, not postmarked by the tenth of the following month, the license or permit shall be suspended until all reports have been received.

(2) The department shall not renew the commercial fishing license or harvester's permit of a person who fails to complete and submit to the department all reports required by this administrative regulation.

(3) The department shall revoke or not renew a person's permit for a period of two (2) years, for the following state violations involving commercial fishing:

(a) Use of illegal commercial fishing gear;

(b) Knowingly placing commercial fishing gear in a restricted area;

(c) Harvesting prohibited species of fish;

(d) Commercially fishing, as established by 301 KAR 1:150, in waters not open to commercial fishing; or

(e) Knowingly falsifying commercial harvest data.

(4) A person whose permit has been revoked or denied shall be eligible to enter the ~~[lottery]~~drawing following the revocation period only if a permit is available based on the twenty-five (25) permit restriction established in Section ***1~~[2]~~*** of this administrative regulation.

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

(6) 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.

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

(8) 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 5. ~~[Section 6.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for a Special Commercial Fishing Permit", 2007 Edition;

(b) "Monthly Report of Commercial Fish Harvest in Kentucky", 2023 Edition~~[2008]~~; and

(c) "Daily Commercial Roe-Bearing Fish Harvester's Transaction Report", 2008 Edition.

(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.

(4 Ky.R. 136; eff. 12-7-1977; Am. 569; eff. 8-2-1978; 5 Ky.R. 1078; eff. 8-1-1979; 6 Ky.R. 684; eff. 8-6-1980; 8 Ky.R. 1155; eff. 6-2-1982; 11 Ky.R. 620; eff. 11-13-1984; 14 Ky.R. 1935; eff. 5-9-1988; 25 Ky.R. 1686; eff. 3-10-99; 26 Ky.R. 2296; 27 Ky.R. 485; eff. 8-14-2000; 33 Ky.R. 516; 1075; eff. 10-11-2006; 34 Ky.R. 848; 1393; eff. 12-12-2007; 34 Ky.R. 2213; 35 Ky.R. 548; eff. 9-12-2008; 36 Ky.R. 2212; 37 Ky.R. 35; eff. 8-5-2010; 48 Ky.R. 128, 1124; eff. 11-17-2021; 50 Ky.R. 1756; eff. 6-6-2024.)

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