

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

301 KAR 1:001. Definitions for 301 KAR Chapter 1.

RELATES TO: KRS 150.010, 150.025, 150.170, 50 C.F.R. 17.11

STATUTORY AUTHORITY: 150.025(1)(h)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)(h) authorizes the department to promulgate administrative regulations to carry out the purposes of KRS Chapter 150. This administrative regulation establishes definitions for terms used in 301 KAR Chapter 1.

Section 1. Definitions.

- (1) "Adjacent landowner" means the owner of real property that shares a common boundary with department property.
- (2) "Angler" means a person holding a valid resident or nonresident fishing license and includes those persons who are fishing license exempt as established in KRS 150.170.
- (3) "APHIS" means U.S. Department of Agriculture Animal and Plant Health Inspection Service.
- (4) "APHIS-approved laboratory" means a laboratory authorized by a state, tribal, or federal primacy authority to analyze aquatic animal health and perform assays for the detection of the VHS virus.
- (5) "Aquarium species" means the species of fish that are legally sold in the pet and ornamental trade business and not stocked into waters of the Commonwealth.
- (6) "Aquatic organisms" means fish, frog, crayfish, and other aquatic vertebrate and invertebrate.
- (7) "Archery equipment" means a long bow, recurve bow, or compound bow incapable of holding an arrow at full or partial draw without aid from the archer.
- (8) "Artificial bait" means a lure, bare hook, or fly made of wood, metal, plastic, feathers, preserved pork rind, or a similar inert material.
- (9) "Bar mesh size" means the distance between two (2) knots on a line of a net.
- (10) "Boat dock" means a privately owned floating or fixed structure that is used by an adjacent landowner to moor a boat on department property.
- (11) "Boat dock tag" means a metal tag provided by the department that has a unique combination of letters and numbers and is permanently affixed to an approved boat dock so that it is visible from the lake.
- (12) "Boating access area" means property owned or managed by the department and identified by signs as a public facility for launching and retrieving boats, including:
 - (a) Ramps, parking lots, courtesy docks, and access roads; and
 - (b) A zone extending fifty (50) feet into the water adjacent to the department property established in paragraph (a) of this subsection.
- (13) "Bow fishing" means shooting rough fish with an arrow with a barbed or retractable style point that has a line attached to it for retrieval with archery equipment, a crossbow, or a pneumatic arrow launching device.
- (14) "Buffer zone" means the area from the lake pool level of Cedar Creek Lake to the marked boundary.
- (15) "Buyer's permit" means a Commercial Roe-bearing Fish Buyer's Permit.
- (16) "By-catch" means any fish that is not an invasive carp or scaled rough fish.
- (17) "Camp" means the erecting of a tent or shelter of natural or synthetic material, preparing a sleeping bag or other bedding material for use, or parking of a motor vehicle, motor home, or trailer for the apparent purpose of overnight occupancy.

- (18) "Catfish" means a blue catfish, channel catfish, or flathead catfish.
- (19) "Certified VHS free facility" means a fish-rearing facility that has been certified VHS free by an APHIS approved laboratory.
- (20) "Chumming" means placing substances in the water for the purpose of attracting fish to a particular area.
- (21) "Commercial fisher" means a person holding a valid resident or nonresident commercial fishing license.
- (22) "Commercial gear tag" means a metal tag provided by the department and that is attached to legal commercial fishing gear as established in 301 KAR 1:146.
- (23) "Crossbow" means a bow designed or fitted with a device to hold an arrow at full or partial draw without the aid from an archer.
- (24) "Cull" or "culling" means to release a previously caught fish that an angler has kept as a part of a daily limit and replace it with another fish of the same species.
- (25) "Daily limit" means the maximum number of a particular species or group of species a person may legally take in one (1) calendar day while fishing.
- (26) "Department property" means lands or waters controlled by the department through ownership, lease, license, easement, or cooperative agreement at department-owned lakes.
- (27) "Different body of water":
- (a) Means a body of water that is separate and not contiguous to another body of water, including a man-made reservoir that is separated from a downstream river by a dam; and
 - (b) Does not mean a river, stream, or creek that is separated by a low-level dam.
- (28) "Diploid grass carp" means a fish of the genus and species *Ctenopharyngodon idella* that is reproductively fertile and has not been genetically altered and therefore has the normal set of somatic chromosomes as determined by blood sample.
- (29) "Existing structure" means an exempted access or nonaccess structure built on department property prior to April 2, 2010.
- (30) "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.
- (31) "Gill net" means a passive capture device in which fishes are captured by becoming wedged, gilled, or entangled in a single panel of webbing fished vertically.
- (32) "Harvester permit" means a Commercial Roe-bearing Fish Harvester's Permit.
- (33) "Idle speed" means the slowest possible speed at which maneuverability can be maintained.
- (34) "Immediate family" means a person's spouse, mother, father, daughter, brother, sister, grandparent, or son.
- (35) "Invasive carp" means:
- (a) Bighead carp *Hypophthalmichthys nobilis*;
 - (b) Black carp *Mylopharyngodon piceus*;
 - (c) Grass carp *Ctenopharyngodon idella*; or
 - (d) Silver carp *Hypophthalmichthys molitrix*.
- (36) "Lake" means impounded waters from the dam upstream to the first riffle on the main stem river and tributary streams.
- (37) "Live bait" means the organisms established in paragraphs (a) through (h) of this subsection if they are alive:
- (a) Live bait fish;
 - (b) Crayfish;
 - (c) Salamander;
 - (d) Frog, except bullfrog;
 - (e) Tadpole;
 - (f) Native lamprey;

- (g) Asiatic clam (Genus Corbicula); or
- (h) Other aquatic invertebrate organisms, except for mussel.
- (38) "Live bait fishes" means:
 - (a) Rough fish, except invasive carp and federally threatened or endangered species, as established in 50 C.F.R. 17.11; or
 - (b) Redear sunfish less than six (6) inches in length.
- (39) "Lower Ohio River Trophy Catfish" means, for the area downstream of Cannelton Lock and Dam in the Ohio River and its tributaries open to commercial fishing:
 - (a) Blue or flathead catfish that is a minimum of forty (40) inches in length; or
 - (b) Channel catfish that is a minimum of thirty (30) inches in length.
- (40) "Lower Ohio River Trophy Catfish Harvest Permit" means a permit that allows a commercial fisher to harvest Lower Ohio River Trophy Catfish.
- (41) "Normal pool" means a water level equal to the elevation of the lake's principal spillway.
- (42) "Overflow lake" means a permanent or temporary body of water that receives overflow flood waters from an adjacent stream.
- (43) "Pay lake" means a privately owned, impounded body of water where a daily fee is charged to fish and is open to the public.
- (44) "Pay lake operator" means a person who holds a valid pay lake license, as established in 301 KAR 3:022.
- (45) "Permanent dwelling":
 - (a) Means a private residence on an adjacent landowner's property that is both fixed in location and of durable permanent construction; and
 - (b) Does not mean tents, motorized vehicles, trailers, camp trailers, or any type of interim construction or residence.
- (46) "Pneumatic arrow launching device" means a device designed to fire an arrow using a compressed air cartridge.
- (47) "Possession limit" means the maximum number of unprocessed fish a person holds after two (2) or more days of fishing.
- (48) "Processed fish" means a fish that has been gutted, with the head removed.
- (49) "Rebuild" means to totally reconstruct.
- (50) "Release" means to return a fish to the water from which it was taken immediately after removing the hook.
- (51) "Restricted water" means those areas, as established in 301 KAR 1:140, 1:146, 1:150, and 1:155, where:
 - (a) Commercial fishing is prohibited;
 - (b) Commercial fishing with gill or trammel nets is prohibited; or
 - (c) Commercial fishing with gill or trammel nets of restricted net mesh size is prohibited.
- (52) "Roe-bearing fish" means paddlefish, shovelnose sturgeon, and bowfin, regardless of the sex of the fish or the presence or absence of roe.
- (53) "Roe-bearing Fish Buyer's Permit" means a permit issued by the department that entitles the permit holder to buy roe-bearing species or roe.
- (54) "Roe-bearing Fish Harvester's Permit" means a permit issued by the department to a licensed commercial fisher that entitles the permit holder to harvest and sell roe-bearing species.
- (55) "Rough fish" is defined by KRS 150.010(37).
- (56) "Scaled rough fish" means any scaled fish that is not an invasive carp, sport fish as established in 301 KAR 1:060, roe bearing fish, or a species ineligible for commercial harvest as established in 301 KAR 1:155.
- (57) "Shad" means a live gizzard shad or threadfin shad.

- (58) "Shoreline use permit" means a permit issued by the department that allows an adjacent landowner to construct a new access structure or to keep or rebuild an existing structure on department land.
- (59) "Single hook" means a hook with no more than one (1) point.
- (60) "Size limit" means the minimum legal length of a fish that is measured by laying the fish flat on a ruler with the mouth closed and tail lobes squeezed together.
- (61) "Slot limit" means a size range of a fish species that shall be released by an angler.
- (62) "Slow speed" means speed attained with the throttle of the motor set at its slowest forward position.
- (63) "Speeding and reckless operation" means any operation of a boat in any area of a lake that could endanger other persons or craft using the lake by intimidation, direct contact or by waves created by the speed or reckless operation of a boat.
- (64) "Sport fish" means those species established in 301 KAR 1:060.
- (65) "Sport fisherman" means a person holding a valid resident or nonresident fishing license and includes a person who is license exempt pursuant to KRS 150.170.
- (66) "Temporary aquatic area" means an area:
- (a) Temporarily inundated from, but still connected to, a stream, river, or reservoir; and
 - (b) That persists only for the duration of the elevated water levels.
- (67) "Temporary pool" means an area temporarily inundated from, but not connected to, a stream, river, or reservoir.
- (68) "Traditional fishing methods" means the act of taking or attempting to take for non-commercial purposes any freshwater fish species using:
- (a) Hook and line in hand; or
 - (b) Rod in hand.
- (69) "Trammel net" means a passive capture device in which fishes are captured by becoming wedged, gilled, or entangled in two or three panels of webbing fished vertically.
- (70) "Triploid grass carp" means a fish of the genus and species *Ctenopharyngodon idella* that is reproductively sterile because it has been genetically altered to have an additional or extra set of somatic chromosomes as determined by blood sample.
- (71) "Trophy catfish" means a:
- (a) Blue or flathead catfish that is a minimum of thirty-five (35) inches in length; or
 - (b) Channel catfish that is a minimum of twenty-eight (28) inches in length.
- (72) "Turtle" means a:
- (a) Common snapping turtle (*Chelydra serpentina*);
 - (b) Smooth softshell turtle (*Apalone mutica*); or
 - (c) Spiny softshell turtle (*Apalone spinifera*).
- (73) "Unlicensed helper" means a person without a commercial fishing license who is assisting a commercial fisher.
- (74) "Unprocessed fish" means the whole fish prior to being processed.
- (75) "Unprocessed roe" means roe that has been removed from a roe-bearing fish by a food processing plant prior to its sale at a roe-bearing fish buyer's facility.
- (76) "VHS" means Viral Hemorrhagic Septicemia, a disease of fish.
- (77) "VHS positive state" means any state in the United States, or any Canadian province, listed on the APHIS Web site www.aphis.usda.gov as being positive for Viral Hemorrhagic Septicemia (VHS).
- (78) "VHS-regulated fish species" means any species of fish deemed susceptible to VHS and listed on the APHIS Web site at www.aphis.usda.gov.
- (79) "Water supply lake" means a lake that:
- (a) Is owned by a municipality or other public water supply entity;
 - (b) Provides potable water supply for the public;
 - (c) Is not owned by the state; and

(d) Is not managed by the department.
(80) "Whip set" means a gill net or a trammel net rigged so it is free-floating.
(50 Ky.R. 25; eff. 7-20-2023; 50 Ky.R. 2289; eff. 11-5-2024.)

RICH STORM, Commissioner

APPROVED BY AGENCY: April 12, 2024

FILED WITH LRC: April 15, 2024 at 10:00 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 26, 2024, 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, June 30, 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.