

### **301 KAR 1:185. Pay lakes.**

RELATES TO: KRS 150.470, 150.990

STATUTORY AUTHORITY: KRS 150.025(1)(h), 150.175(24), 150.660

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)(h) authorizes the department to promulgate administrative regulations reasonably necessary to carry out the purposes of KRS Chapter 150. KRS 150.175(24) establishes a pay lake license that authorizes the holder to operate privately-owned impounded waters for fishing purposes for which a fee is charged. KRS 150.660 authorizes a person to establish a pay lake subject to the approval of the Commissioner of the department. This administrative regulation establishes the requirements for pay lake operators.

#### Section 1. Definitions.

- (1) "Pay lake" means a privately-owned, impounded body of water where a daily fee is charged to fish, and is open to the public.
- (2) "Pay lake operator" means a person who holds a valid pay lake license, as established in 301 KAR 3:022.
- (3) "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.

#### Section 2. Pay Lake License and Signage.

- (1) A person shall not operate a pay lake without a valid pay lake license.
- (2) A pay lake license shall be transferable, but only for the same pay lake, except that no license may be transferred while an enforcement action is pending.
- (3) A pay lake operator shall post clearly visible signage stating:
  - (a) The water body of origin of stocked catfish and any associated consumption advisories, if applicable; and
  - (b) Fish handling policies if catch and release fishing is offered.

#### Section 3. Documentation and Fish Stocking Requirements.

- (1) A pay lake shall not accept catfish that have been gifted to them.
- (2) A pay lake shall save all receipts for three (3) years from the date of purchase, for each fish order received, and the receipts shall include:
  - (a) The name, address, and telephone number of:
    1. The hatchery, if obtained from a hatchery; or
    2. The commercial fisherman and driver who provided the fish, if obtained from public waters;
  - (b) Purchase dates; and
  - (c) The following details of fish by species, except catfish shall be recorded with separate entries for trophy and non-trophy catfish of each species, which includes the:
    1. Estimated number of fish;
    2. Poundage; and
    3. Waterbody of origin.
- (3) A pay lake may stock trophy catfish from public waters up to 750 pounds per surface acre of water per stocking, with a maximum annual limit of up to 2,250 pounds per surface acre of water per calendar year.

Section 4. Non-conforming Pay Lakes. Any lake not meeting the definition of a pay lake, as established in Section 1 of this administrative regulation, shall not qualify for a pay lake license, except that any non-conforming pay lake that was previously licensed as a pay lake for all license years 2008 through 2018 inclusive, shall be permitted to renew a pay lake license until the pay lake operator does not purchase a pay lake license for one (1) annual license period or the pay lake license is revoked as established in Section 6 of this

administrative regulation. Notwithstanding any other provision, non-conforming pay lake licenses are non-transferable, and shall not be renewed after the 2054-2055 license year.

Section 5. Pay Lakes With Trophy Catfish From Public Waters.

(1) There shall be a maximum of thirty-five (35) pay lakes with trophy catfish originating from public waters in any pay lake license year.

(2) If there are more than thirty-five (35) licensed pay lakes, as established in subsection (1) of this section, at the effective date of this administrative regulation, each licensed pay lake shall be permitted to renew a pay lake license until the pay lake operator does not purchase a pay lake license for one (1) annual license period.

(3) If at the end of a pay lake license year, less than thirty-five (35) pay lake licenses were issued, as established in subsection (1) of this section, then the department shall issue pay lake licenses on a first-come, first-served basis beginning on the first work day of the next license year.

Section 6. Pay Lake License Revocation.

(1) A pay lake operator who violates this administrative regulation or is convicted or enters a guilty plea to any state or federal fish or game violation shall have his or her pay lake license revoked for a period of three (3) months for a first offense, one (1) year for a second offense, and two (2) years for a third or subsequent offense, except any revocation of non-conforming pay lake licenses shall be permanent.

(2) A pay lake operator whose pay lake license is denied, revoked, or suspended may request an administrative hearing as established in KRS Chapter 13B.

(3) 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.

(4) Upon receipt of the request for a hearing, the department shall proceed as established in KRS Chapter 13B.

(5) The hearing officer's recommended order shall be considered by the Commissioner and the Commissioner shall issue a final order as established in KRS Chapter 13B.

Approved by the Fish and Wildlife Commission.

(46 Ky.R. 813, 1103; eff. 11-1-2019.)