

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

301 KAR 2:225. Dove, wood duck, teal, and other migratory game bird hunting.

RELATES TO: KRS 150.330, 150.340, 150.603

STATUTORY AUTHORITY: KRS 150.025(1), 150.360, 150.600(1), 50 C.F.R. 20, 21

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the Department of Fish and Wildlife to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.360 authorizes the department to restrict methods for the taking of wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes the requirements for the taking of migratory game birds within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

Section 1. Definitions.

- (1) "Dove" means mourning dove or white-winged dove.
- (2) "Drawn hunter" means a hunter who applied for a quota hunt and was selected by the department to participate in the hunt.
- (3) "Experienced hunter" means an adult hunter that has hunted during more than two (2) prior license years.
- (4) "Guest hunter" means a hunter invited by a drawn hunter to participate in a quota hunt.
- (5) "Mentored hunter" means a hunter that has hunted during no more than two (2) prior license years, who hunts with experienced hunters on department sponsored dove hunts.
- (6) "Migratory game bird" means mourning dove, white-winged dove, wood duck, teal, Canada goose, common gallinule, woodcock, snipe, purple gallinule, Virginia rail, or sora rail.
- (7) ~~(3)~~ "Teal" means green-winged teal, blue-winged teal, or cinnamon teal.
- (8) ~~(4)~~ "Wildlife Management Area" or "WMA" means a tract of land:
 - (a) Controlled by the department through ownership, lease, license, or cooperative agreement; and
 - (b) That has "Wildlife Management Area" or "WMA" as part of its official name.
- (9) "Youth" means a person who has not reached his or her 16th birthday.

Section 2. September Goose Hunting Zones.

- (1) The Western goose zone includes all counties west of and including Hardin, Nelson, Washington, Marion, Taylor, Adair and Cumberland counties;
- (2) The Eastern goose zone includes Bullitt County in its entirety and all other counties not included in the Western goose zone;

Section 3. Season Dates.

- (1) A person shall not hunt a migratory game bird except during a season established in this administrative regulation, 301 KAR 2:221, or 301 KAR 2:228.
- (2) The seasons established in paragraphs (a) through (g) of this subsection shall apply to migratory bird hunting.
 - (a) Dove, beginning on:
 1. September 1 for fifty-six (56) consecutive days;
 2. Thanksgiving Day for eleven (11) consecutive days; and
 3. The Saturday before Christmas for twenty-three (23) consecutive days;

- (b) Woodcock, beginning on the fourth Saturday in October for forty-seven (47) consecutive days, except that the season shall be closed during the first two (2) days of modern gun deer season, as established in 301 KAR 2:172;
- (c) Snipe, beginning on:
 - 1. The third Wednesday in September for forty (40) consecutive days; and
 - 2. Thanksgiving Day for sixty-seven (67) consecutive days;
- (d) Wood duck, beginning on the third Saturday in September for five (5) consecutive days;
- (e) Teal, beginning on the third Saturday in September for nine (9) consecutive days;
- (f) Virginia rail, sora rail, common gallinule, and purple gallinule, beginning on September 1 for seventy (70) consecutive days; and
- (g) Canada goose;
 - 1. Eastern goose zone ~~;~~ beginning September 16 for fifteen (15) consecutive days; and
 - 2. Western goose zone beginning September 1 for fifteen (15) consecutive days. ~~[except that the areas established in subparagraphs 1. and 2. of this paragraph shall be closed.]~~
 - ~~[1.] [Public land in the Ballard Zone, as established in 301 KAR 2:224; and]~~
 - ~~[2.] [Cave Run Lake and the public land inside the boundary formed by Highways 801, 1274, 36, 211, U.S. 60, and Highway 826.]~~

Section 4. ~~[Section 3.]~~ Bag and Possession Limits.

~~[(1)]~~ A person shall not exceed the limits established in subsections~~[paragraphs]~~ ~~(1)~~~~[(a)]~~ through ~~(8)~~~~[(h)]~~ for seasons established in Section 2 of this administrative regulation~~[of this subsection].~~

- ~~(1)~~ ~~[(a)]~~ Dove. There shall be a:
 - ~~(a)~~ ~~[(1)]~~ Daily limit of fifteen (15); and
 - ~~(b)~~ ~~[(2)]~~ Possession limit of forty-five (45).
- ~~(2)~~ ~~[(b)]~~ Eurasian collared dove. There shall not be a limit, except that a hunter, if in the field or during transport, shall keep the head or a fully-feathered wing attached to the bird.
 - ~~(a)~~ ~~[(1)]~~ The head; or
 - ~~(b)~~ ~~[(2)]~~ A fully-feathered wing.
- ~~(3)~~ ~~[(c)]~~ Woodcock. There shall be a:
 - ~~(a)~~ ~~[(1)]~~ Daily limit of three (3); and
 - ~~(b)~~ ~~[(2)]~~ Possession limit of nine (9).
- ~~(4)~~ ~~[(d)]~~ Snipe. There shall be a:
 - ~~(a)~~ ~~[(1)]~~ Daily limit of eight (8); and
 - ~~(b)~~ ~~[(2)]~~ Possession limit of twenty-four (24).
- ~~(5)~~ ~~[(e)]~~ Virginia and sora rail, singly or in aggregate. There shall be a:
 - ~~(a)~~ ~~[(1)]~~ Daily limit of twenty-five (25); and
 - ~~(b)~~ ~~[(2)]~~ Possession limit of seventy-five (75).
- ~~(6)~~ ~~[(f)]~~ Common and purple gallinule, singly or in aggregate. There shall be a:
 - ~~(a)~~ ~~[(1)]~~ Daily limit of three (3); and
 - ~~(b)~~ ~~[(2)]~~ Possession limit of nine (9).
- ~~(7)~~ ~~[(g)]~~ Wood duck and teal. There shall be a:
 - ~~(a)~~ ~~[(1)]~~ Daily limit of six (6), which shall not include more than two (2) wood ducks; and
 - ~~(b)~~ ~~[(2)]~~ Possession limit of eighteen (18), which shall not include more than six (6) wood ducks.
- ~~(8)~~ ~~[(h)]~~ Canada goose; ~~[. There shall be a:]~~
 - ~~(a)~~ For the Canada goose seasons beginning in September, there shall be a:

1. Daily limit of five (5); and
2. Possession limit of fifteen (15).

(b) Bag and possession limits for all remaining Canada goose seasons shall be as established in 301 KAR 2:221.

~~[(2)] [A hunter who possesses a migratory game bird other than a dove, in the field or during transport, shall keep the head or a fully feathered wing attached to the bird.]~~

~~[(a)] [The head; or]~~

~~[(b)] [A fully feathered wing.]~~

Section 5. [Section 4.] Shooting Hours. A person shall not take a migratory game bird except during the times established in this section.

(1) If hunting dove on WMA land, a person shall hunt:

(a) Between 11 a.m. and sunset during the September and October portion of the season, as established in Section 2 of this administrative regulation; and

(b) Between one-half (1/2) hour before sunrise and sunset during the remainder of the season, as established in Section 2 of this administrative regulation.

(2) If hunting dove on private land, a person shall hunt:

(a) Between 11 a.m. and sunset on September 1; and

(b) Between one-half (1/2) hour before sunrise and sunset during the remainder of the season, as established in Section 2 of this administrative regulation.

(3) Other species listed in this administrative regulation shall be taken between one-half (1/2) hour before sunrise and sunset.

~~[Section 5.] [Shot Requirements. A person hunting waterfowl shall not use or possess a shotgun shell:]~~

~~[(1)] [Longer than three and one half (3 1/2) inches; or]~~

~~[(2)] [Containing:]~~

~~[(a)] [Lead shot;]~~

~~[(b)] [Shot not approved by the U.S. Fish and Wildlife Service pursuant to 50 C.F.R. Parts 20 and 21 for waterfowl hunting; or]~~

~~[(c)] [Shot larger than size "T".]~~

Section 6. Hunter Orange. A person shall be exempt from hunter orange requirements pursuant to 301 KAR 2:132 and 2:172 if:

(1) Hunting waterfowl or doves; or

(2) Accompanying a person hunting waterfowl or doves.

Section 7. Exceptions to Statewide Migratory Game Bird Seasons~~[on Specified Wildlife Management Areas].~~

(1) A person shall not:

(a) Hunt wood duck or teal on an area closed to waterfowl hunting as established in 301 KAR 2:222;

(b) Hunt in an area marked by a sign as closed to hunting; or

(c) Enter an area marked by a sign as closed to the public.

(d) Hunt geese during September on:

1. Public land in the Ballard Zone, as established in 301 KAR 2:221; and

2. Cave Run Lake and the public land inside the boundary formed by Highways 801, 1274, 36, 211, U.S. 60, and Highway 826.

(2) A person hunting migratory birds on any of the areas established in paragraphs (a) through (k) of this subsection shall only use or possess nontoxic shot approved by the U.S. Fish and Wildlife Service pursuant to 50 C.F.R. Parts 20 and 21:

(a) Ballard WMA;

(b) Boatwright WMA;

(c) Doug Travis WMA;

- (d) Duck Island WMA;
 - (e) Kaler Bottoms WMA;
 - (f) Kentucky River WMA;
 - (g) Ohio River Islands WMA;
 - (h) Sloughs WMA;
 - (i) South Shore WMA;
 - (j) Yatesville Lake WMA; and
 - (k) A WMA wetland management unit that is posted by sign.
- (3) At Ballard WMA and the Swan Lake Unit of Boatwright WMA, a person shall not hunt:
- (a) Dove, Virginia rail, sora rail, common gallinule, purple gallinule, or snipe after October 13; or
 - (b) Woodcock.
- (4) At Miller Welch - Central Kentucky WMA, a person shall not hunt:
- (a) Dove or snipe after October 13; or
 - (b) Woodcock.
- (5) At Grayson Lake WMA, a person shall not hunt:
- (a) Within three-quarters (3/4) of a mile from the dam including the no-wake zone of the dam site marina;
 - (b) On Deer Creek Fork; or
 - (c) On Camp Webb property or the state park, except for participants drawn for any department-sponsored quota dove hunt on Camp Webb property in September.
- (6) At Land Between the Lakes National Recreation Area, a person shall not hunt a migratory game bird between the last Saturday in September and November 30.
- (7) At West Kentucky WMA, a person shall not hunt Canada geese during the September season.
- (8) At Yatesville Lake, the following areas shall be closed to waterfowl hunting, unless authorized by Yatesville Lake State Park:
- (a) The Greenbrier Creek embayment; and
 - (b) The lake area north of the mouth of the Greenbrier Creek embayment to the dam, including the island.
- (9) At Robinson Forest WMA, a person shall not hunt a migratory game bird on the main block of the WMA.

Section 8. Youth and Mentored Hunter ~~[Youth-Mentor]~~ Dove Hunts.

- (1) There shall be department-sponsored youth and mentored hunter~~[youth-mentor]~~ dove hunts ~~[on the first Saturday in September]~~ in which participants shall be selected by a random computerized drawing.
- (2) A youth or mentored hunter shall:
 - (a) Apply on the department's Web site at fw.ky.gov between the first Monday in August and the third Friday in August; and
 - (b) Carry a department provided selection notification letter on the day of the hunt.
- (3) Each youth or mentored hunter shall be accompanied by an experienced hunter~~[adult who is eighteen (18) years or older]~~.
- (4) At the youth or mentored hunter~~[youth-mentor]~~ hunts:
 - (a) Each youth or mentored hunter shall not be accompanied by more than one (1) experienced hunter~~[adult]~~;
 - (b) One (1) experienced hunter~~[adult]~~ may accompany two (2) youths or mentored hunters; and
 - (c) A maximum of two (2) shotguns are allowed per party.
- (5) A person shall:
 - (a) Hunt within fifteen (15) feet of the assigned location stake; and

- (b) Not change locations unless another location has been vacated by the assigned hunter.
- (6) A person shall only discharge a firearm within fifteen (15) feet of the assigned location stake.
- (7) A person shall leave their firearm at the assigned location stake when retrieving birds.
- (8) A hunter participating in youth or mentored hunter~~[youth-mentor]~~ hunts shall:
 - (a) Check-in prior to hunting;
 - (b) Not begin hunting before 2 p.m.;
 - (c) Cease hunting by 7 p.m.;
 - (d) Exit the area by 7:30 p.m.; and
 - (e) Check out before exiting the field.

Section 9. Dove Quota Hunts.

- (1) A person applying to hunt doves on a department dove quota hunt shall:
 - (a) Apply on the department's web site at fw.ky.gov between the first Monday in August and the third Friday in August; and
 - (b) Not apply for more than one (1) quota hunt.
- (2) A person drawn to hunt on a dove quota hunt may bring up to one (1) additional guest hunter.
- (3) A hunter need not apply for the quota hunt to participate as a guest, nor does checking-in prior to or participating in the quota hunt constitute applying for the quota hunt.
- (4) A person hunting doves on department quota hunt shall:
 - (a) Check-in prior to hunting;
 - (b) Not begin hunting before 1 p.m. in the Eastern Time Zone and by 12 p.m. in the Central Time Zone;
 - (c) Carry a copy of their department provided selection notification letter on the day of the hunt, except guest hunters shall carry a copy of their host hunter's selection notification letter;
 - (d) Not hunt as a guest hunter unless the drawn hunter who invited them is present in field;
 - (e) Cease hunting and exit the field by 6 p.m. in the Eastern Time Zone and by 5 p.m. in the Central Time Zone;
 - (f) Check out of the area by accurately completing the Post-Hunt Survey provided by the department and submitting the survey at the department designated drop point before exiting the field; and
 - (g) Not possess more than fifty (50) shotshells.

RICH STORM, Commissioner

APPROVED BY AGENCY: September 15, 2022

FILED WITH LRC: September 15, 2022 at 11:45 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 29, 2022, at 11:00am, 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 November 30, 2022.

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.

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 seasons and bag limits within federal migratory bird hunting frameworks established in 50 C.F.R. Parts 20 and 21 according to the U.S. Fish and Wildlife Service (USFWS). In addition, it establishes requirements for the hunting of migratory birds.

(b) The necessity of this administrative regulation:

The necessity of this administrative regulation is to establish the 2018–2019 migratory bird seasons in accordance with the USFWS.

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

KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods for the taking of wildlife. KRS 150.600 authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes procedures for the taking of migratory game birds within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

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

This administrative regulation assists in the effective administration of the statutes by establishing the migratory bird hunting seasons and area specific requirements consistent with state, national, and international management goals.

(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 will create two zones for Canada goose hunting in September. The Eastern zone will retain a September 16-30 hunting season. The Western zone will move the season to September 1-15. This amendment will allow the Department to implement “Mentored Hunter” hunts in addition to our youth dove hunts. Recent research shows recruitment of new hunters is best accomplished in young adults versus kids. This will give the Department the ability to recruit both groups going forward. This amendment will also allow the department to create quota/limited access dove hunts. Current unrestricted use of dove fields limits the temporal use of Department controlled fields to just a few days. By limiting access, limiting time of hunting, and the number of shells a hunter can use, the Department hopes to extend the temporal use of a few select fields.

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

Goose movements in western Kentucky differ from geese in Eastern Kentucky. By creating zones, the Department hopes to increase access to geese feeding on recently cut silage fields. Allowing for adult mentored dove hunts gives the department greater flexibility in recruitment efforts. Quota hunts for doves hopes to increase value of dove fields by allowing for harvest of doves over an extended period. Dove fields are expensive and the Department hopes to get multiple hunts in September

versus the current first day or two we get now because of the heavy pressure. (c)
How the amendment conforms to the authorizing statutes: See (1)(c) above.

(c) How the amendment conforms to the content of the authorizing statutes:

No answer provided.

(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:

There are approximately 40,000 migratory bird hunters in Kentucky.

(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:

Migratory bird hunters will now have to hunt geese during a September timeframe specified by where they live. Dove hunters wishing to utilize “quota hunt fields” (<10% of total fields) will have to apply for the hunts on the Department website and be drawn via a random drawing. Selected hunters will have to complete a post hunt survey.

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

There will be no additional costs to those identified in question (3).

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

Goose hunters will potentially have more hunting opportunity. Adults will also be able to participate in the limited access dove hunts.

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

(a) Initially:

This administrative regulation change will result in no initial change in administrative cost to the Department.

(b) On a continuing basis:

There will be no additional cost 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 any other fees or increase funding to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

No new fees will be established.

(9) TIERING: Is tiering applied?

Tiering was not applied. The same requirements and limits apply to all migratory bird hunters.

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's Divisions of Wildlife 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), 150.360, 150.600, and 50 C.F.R. Parts 20 and 21.

(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?

No revenue will be generated by this administrative regulation during 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?

No revenue will be generated during 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 for regulated entities 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 for regulated entities in subsequent years.

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

There will be no additional costs for regulated entities in the first year.

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

There will be no additional costs in subsequent years for regulated entities.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):Neutral

Expenditures (+/-):Neutral

Other Explanation:

These regulations changes will not impact the cost of migratory bird hunting and thus will not impact hunters fiscally.

(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)] These regulation changes will not have a "Major economic impact".

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.

Wildlife and Fisheries, Federal Code of Regulations, 50 C.F.R. Part 20, Migratory Bird Hunting; Part 21, Migratory Bird Permits.

(2) State compliance standards.

The Department of Fish and Wildlife Resources sets migratory birds seasons within the frameworks established by the U.S. Fish and Wildlife Service and published in 50 C.F.R. Parts 20 and 21.

(3) Minimum or uniform standards contained in the federal mandate.

50 C.F.R. Part 20 contains season frameworks for the earliest opening and latest closing date, the maximum number of days a species is open to hunting, and daily bag and possession limits. 50 C.F.R. Part 21 defines permits and the necessary requirements to hold and possess migratory game birds before, during and after periods open for hunting.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

Yes.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

The federal mandate defines the regulatory frameworks that a state may allow. States are permitted to be more restrictive but not more liberal in their respective regulations. State management objectives necessitate more restrictive regulations to protect local, regional and/or state populations of birds important to Kentucky's migratory bird hunters. Restricting bag limits provides the state the ability to protect populations that may be of concern on the state level but not on a national scale. The greatest concentrations of migratory birds and the greatest hunting pressure often occur on public lands managed by the Department. The Department imposes more restrictive regulations on these lands in effort to meet migratory bird management objectives while still providing quality hunting opportunity.