

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

301 KAR 2:075. Wildlife rehabilitation permit.

RELATES TO: KRS 150.010, 150.015, 150.021, 150.170, 150.183, 150.195, 150.330, 150.990, 321.185, 50 C.F.R 17, 21, 22, 16 U.S.C. 668, 703 – 712

STATUTORY AUTHORITY: KRS 150.025(1)(h), 150.280

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)(h) authorizes the Department of Fish and Wildlife Resources to promulgate administrative regulations reasonably necessary to implement or carry out the purposes of KRS Chapter 150. KRS 150.280 requires the department to promulgate administrative regulations regarding the holding of protected wildlife. This administrative regulation establishes the permitting and operating requirements for wildlife rehabilitators.

Section 1. Definitions.

- (1) "Cervid" means deer, elk, moose, caribou, reindeer, and related species and hybrids thereof, including all members of the Cervidae family and hybrids thereof.
- (2) "Chronic Wasting Disease" or "CWD" means a transmissible spongiform encephalopathy found in cervids.
- (3) "CWD Surveillance Zone" means an area, designated and listed on the department's Web site at fw.ky.gov, as being under special cervid requirements, as established in 301 KAR 2:172, due to a CWD positive cervid detection.
- (4) "Enhanced Rabies Surveillance Zone" means Bell, Boyd, Bracken, Carter, Clay, Elliot, Fleming, Floyd, Greenup, Harlan, Johnson, Knott, Knox, Laurel, Lawrence, Leslie, Letcher, Lewis, Martin, Mason, McCreary, Pike, Perry, Robertson, and Whitley counties.
- (5) "Federally protected wildlife" means any wildlife species listed by the U.S. Fish and Wildlife Service as threatened or endangered, and any birds protected under the Migratory Bird Treaty Act, 16 U.S.C. 703 – 712, or the Bald and Golden Eagle Protection Act, 16 U.S.C. 668.
- (6) "Permit holder" means a wildlife rehabilitation permit holder.
- (7) "Rabies vector species" means a:
 - (a) Coyote (*Canis latrans*);
 - (b) Gray fox (*Urocyon cinereoargenteus*);
 - (c) Raccoon (*Procyon lotor*);
 - (d) Red fox (*Vulpes vulpes*);
 - (e) Spotted skunk (*Spilogale putorius*);
 - (f) Striped skunk (*Mephitis mephitis*); or
 - (g) Any hybrid of paragraphs (a) through (f) this subsection.
- (8) "Wildlife rehabilitation" means the process of obtaining, rescuing, raising, providing supportive care, regularly transporting, and arranging for veterinary medical care of orphaned, sick, displaced, or injured wildlife with the goal of releasing the wildlife back into its natural habitat.

Section 2. Permitting Requirements.

- (1) A permit shall authorize a person to rehabilitate wildlife as defined as "wildlife rehabilitation" by Section 1(8) of this administrative regulation.
- (2) An applicant for a wildlife rehabilitation permit shall:
 - (a) Be at least eighteen (18) years of age;
 - (b) Submit a completed Wildlife Rehabilitation Permit Application;
 - (c) Provide the department with a valid email address;

(d) Submit:

1. Certificate of completion of the course entitled "Basic Wildlife Rehabilitation" offered by the International Wildlife Rehabilitation Council; or
2. Proof of a doctorate of veterinary medicine degree from an American Veterinary Medical Association (AVMA) accredited school; and

(e) Submit the annual permit fee as established in 301 KAR 3:022.

Section 3. Reporting Requirements.

(1) A permit holder shall:

- (a) Keep records of all wildlife received or rehabilitated on the Wildlife Rehabilitation Annual Report;
- (b) Submit a Wildlife Rehabilitation Annual Report to the department within thirty (30) days after expiration of a permit and before a permit is renewed; and
- (c) Submit a Wildlife Rehabilitation Non-Releasable Wildlife Report, if applicable, to the department within thirty (30) days after expiration of a permit and before a permit is renewed.

(2) The annual activity report shall contain the information regarding the activity for the period from December 1 of the previous year to November 30 of the current year.

(3) The department shall not renew the permit of a wildlife rehabilitator who does not submit:

- (a) A completed Wildlife Rehabilitation Annual Report;
- (b) The Wildlife Rehabilitation Non-releasable Wildlife Report, if applicable; and
- (c) Report documents and all records of wildlife rehabilitation activity, including veterinary medical records, from the current and previous years' activity upon request to department staff.

Section 4. Receiving and Rehabilitating Wildlife.

(1) A permit holder shall not rehabilitate or attempt to rehabilitate:

- (a) Cougar (*Felis concolor*);
- (b) Wolf (*Canis lupus* or *Canis rufus*);
- (c) Elk (*Cervus elaphus*);
- (d) Bear (*Ursus americanus*);
- (e) Any species of terrestrial wildlife not native to Kentucky; or
- (f) Prohibited species listed in 301 KAR 2:082 Section 4.

(2) A permit holder shall not:

- (a) Propagate non-releasable wildlife or wildlife undergoing rehabilitation;
- (b) Except as established in Section 10(1) of this administrative regulation, allow a non-permitted person to rehabilitate, assist in wildlife rehabilitation, access, or have direct contact with wildlife undergoing rehabilitation;
- (c) Allow a non-permitted person to rehabilitate, assist in wildlife rehabilitation, access, or have direct contact with rabies vector species;
- (d) Remove wildlife undergoing rehabilitation from the permitted facility except for release, veterinary care, or transfer to another permitted wildlife rehabilitation facility;
- (e) Habituate wildlife to humans;
- (f) Exhibit or display wildlife undergoing rehabilitation;
- (g) Transport wildlife across state lines for rehabilitation, release, or for any purpose, unless authorized by the commissioner because rehabilitation services are not feasibly available within Kentucky and the activities pose minimal disease risk. Authorization shall not be granted for rabies vector species;
- (h) Simultaneously hold captive wildlife under a captive wildlife permit, as established in 301 KAR 2:081, while holding wildlife under a wildlife rehabilitation permit; or
- (i) Simultaneously hold captive cervids under a captive cervid permit as established in 301 KAR 2:083, while holding wildlife under a wildlife rehabilitation permit.

(3) A permit holder shall only provide necessary supportive care to wildlife undergoing rehabilitation, which shall not permanently diminish their ability to survive and reproduce naturally in the wild.

(4) Cervids.

(a) Except as established in paragraphs (c) and (d) of this subsection, a permit holder shall not rehabilitate or attempt to rehabilitate any cervid:

1. Within a CWD Surveillance Zone;
2. Originating from a CWD Surveillance Zone; or
3. From a distance greater than 100 miles from the rehabilitation facility.

(b) A permit holder shall not transport a cervid into or out of a CWD Surveillance Zone.

(c) A permit holder shall not keep a cervid as non-releasable wildlife within a CWD Surveillance Zone, except that a non-releasable cervid legally obtained before the establishment of a CWD Surveillance Zone may be kept for the life of the animal.

(d) A permit holder in possession of a cervid prior to the establishment of a CWD Surveillance Zone shall only keep the cervid up to 180 days or upon recovery from injury or illness and of suitable age to survive in the wild, whichever comes first, and shall release the cervid within the county of rehabilitation, unless the animal is euthanized or meets the criteria to be kept as non-releasable wildlife.

(e) A wild-born cervid held in captivity for rehabilitation purposes shall not be housed in:

1. The same pen as another captive cervid or housed in direct physical contact with a cervid that originated in captivity; or
2. A pen that has previously housed cervids that originated in captivity.

(5) Rabies vector species.

(a) A permit holder shall not possess, rehabilitate, or attempt to rehabilitate a rabies vector species:

1. Originating from the Enhanced Rabies Surveillance Zone;
2. Inside the Enhanced Rabies Surveillance Zone that originated from outside the Enhanced Rabies Surveillance Zone; or
3. If collected at a distance greater than 100 miles from the rehabilitation facility.

(b) A permit holder shall not transport a rabies vector species into or out of the Enhanced Rabies Surveillance Zone.

(c) A permit holder shall not possess a rabies vector species as non-releasable wildlife, except for those animals legally held outside the Enhanced Rabies Surveillance Zone prior to April 4, 2023.

(d) Except as established in Section 5(5) of this administrative regulation, rabies vector species shall be maintained within an enclosure sufficient to prevent:

1. Escape; and
2. Direct contact with a non-permitted person.

Section 5. Wildlife Release. A permit holder shall:

- (1) Release wildlife immediately upon recovery from injury or illness and when of a suitable age to reasonably survive in the wild;
- (2) Only keep wildlife in a rehabilitation facility for a maximum of 180 days, unless written documentation from the U.S. Fish and Wildlife Service is provided;
- (3) Only release wildlife into appropriate habitat for that species;
- (4) Obtain landowner permission before releasing wildlife;
- (5) Release rabies vector species back into the original county of capture;
- (6) Release reptiles and amphibians at the original point of capture or within the vicinity if point of capture is not suitable habitat; and
- (7) Release cervids in the county in which they were rehabilitated.

Section 6. Non-releasable Wildlife.

- (1) Except as prohibited by Section 4 of this administrative regulation, wildlife may be considered non-releasable and may be retained by a permit holder if a licensed Kentucky veterinarian certifies in writing that it:
 - (a) Is a mammal with an amputated leg;
 - (b) Lacks adequate vision to function in the wild;
 - (c) Lacks locomotive skills necessary for survival in the wild; or
 - (d) Has another permanent injury that is reasonably expected to inhibit survival in the wild, not including habituation to humans.
- (2) Rabies vector species that meet the criteria for non-releasable wildlife and legally held prior to April 4, 2023 may be allowed to remain in possession of a valid permit holder through the life of the animal by submitting a Wildlife Rehabilitation Non-Releasable Wildlife Report form by April 4, 2023.
- (3) Rabies vector species legally held as non-releasable, shall not leave the wildlife rehabilitation facility except for veterinary care or transfer to another permitted rehabilitation facility and shall be included on the Wildlife Rehabilitation Annual Report.
- (4) A person who legally possesses non-releasable rabies vector species shall not replace that wildlife after its death.
- (5) Except as established in Section 5(5) of this administrative regulation, non-releasable rabies vector species shall be maintained within an enclosure sufficient to prevent:
 - (a) Escape; and
 - (b) Direct contact with non-permitted persons.
- (6) Only non-releasable wildlife may be displayed, except that non-releasable rabies vector species shall not be displayed. Displays shall only be for conservation education purposes.
- (7) Non-releasable migratory birds may be transferred with prior approval from the issuing federal Migratory Bird Permit Office.
- (8) All non-releasable wildlife shall be housed and maintained at a permitted wildlife rehabilitation facility.

Section 7. Facilities and Operating Standards.

- (1) All wildlife rehabilitation facilities shall pass a facility inspection.
- (2) An applicant's or permit holder's facility and property on which the facility is located that is under the department's jurisdiction and used for the purpose of wildlife rehabilitation, shall be inspected by a conservation officer using a Wildlife Rehabilitation Facility Inspection Checklist to document compliance with this administrative regulation before a permit is obtained or renewed.
- (3) A permit holder shall allow any conservation officer, and all department staff accompanying a conservation officer, to access the wildlife rehabilitation facility and the property on which the wildlife rehabilitation facility is located that is under the department's jurisdiction and used for the purpose of wildlife rehabilitation, at any reasonable time and frequency to carry out the purposes of this administrative regulation.
- (4) A facility, and all methods of confinement, shall comply with the Minimum Standards for Wildlife Rehabilitation.
- (5) A permit holder shall:
 - (a) Only rehabilitate wildlife at a facility that has passed an annual facility inspection; and
 - (b) List the addresses of all facilities on the Wildlife Rehabilitation Permit Application.
- (6) A permit holder shall allow a conservation officer to inspect the holding facilities and property on which the facilities are located that is under the department's jurisdiction and used for the purpose of wildlife rehabilitation, at any reasonable time and frequency.

(7) The conservation officer shall immediately notify the applicant or permit holder and the Wildlife Division director if the inspection reveals that the facility is not in compliance with this administrative regulation and shall provide a completed Wildlife Rehabilitation Facility Inspection Checklist to the appropriate Wildlife Division personnel within three (3) business days.

(8) If an inspection determines that a facility is not in compliance with a KRS Chapter 150 and KAR Title 301, the conservation officer shall make a second inspection after ten (10) calendar days, and the permit application shall be denied or the permit shall be revoked and all wildlife confiscated immediately if the unsatisfactory conditions have not been corrected.

(9) If an applicant or permit holder refuses to allow a conservation officer to fully conduct an inspection, the permit application shall be denied or the permit shall be revoked and all wildlife confiscated immediately.

Section 8. Rabies Exposure.

(1) If a mammal bites a person, or a mammal shows symptoms of a rabies infection, the animal shall be dispatched in a manner so as to preserve the brain intact and the animal's head shall be submitted for testing immediately to a laboratory approved by the Secretary for Health and Family Services to be tested for rabies, as established in 902 KAR 2:070, Section 5 and KRS 258.085(1)(c).

(2) Department staff shall confiscate and dispatch any wild mammal that bites a person or shows symptoms of a rabies infection.

Section 9. Veterinarians.

(1) A veterinarian is not required to obtain a wildlife rehabilitation permit to temporarily possess, stabilize, or euthanize sick and injured wildlife, only for the purpose of providing immediate critical care.

(2) A veterinarian who does not possess a valid wildlife rehabilitation permit shall transfer wildlife to a permitted wildlife rehabilitator according to the requirements of this regulation, within twenty-four (24) hours after the animal's condition is stabilized and no longer requires critical care, unless wildlife is euthanized.

(3) A veterinarian who rehabilitates wildlife shall possess a valid wildlife rehabilitation permit.

(4) A permit holder shall follow veterinarian's medical instructions per KRS 321.185.

(5) A veterinarian shall keep medical records of all wildlife treated, in accordance with KRS Chapter 321 and 201 KAR Chapter 16 and provide records to department staff upon request.

(6) Only a licensed veterinarian or licensed veterinarian technician shall perform euthanasia using AVMA approved non-inhaled chemical methods under KRS Chapter 321.

Section 10. Wildlife Possession.

(1) Any person who finds sick, injured, displaced, or orphaned wildlife may, without a permit, take possession of the animal in order to immediately transport it to a permitted wildlife rehabilitator, except a person who:

(a) Regularly transports wildlife for rehabilitation purposes shall possess a valid wildlife rehabilitation permit; and

(b) Finds sick, injured, displaced, or orphaned federally protected migratory birds within a nest shall not, without a state and federal permit, take possession of the animal as established in 50 C.F.R. 21.12(d)(10).

(2) A wildlife rehabilitation permit shall not confer ownership of any wildlife species held under a wildlife rehabilitation permit, including non-releasable wildlife.

(3) All wildlife held under a permit shall remain under the stewardship of the Department of Fish and Wildlife Resources, except that federally-protected wildlife remain under the stewardship of both the Department of Fish and Wildlife and the U.S. Fish and Wildlife Service.

(4) Wildlife shall be surrendered to the department, for processing and disposition pursuant to KAR Title 301 , upon being presented with a written order by the commissioner for failure to comply with KRS Chapter 150 or KAR Title 301.

Section 11. Federally-Protected Species. A person rehabilitating federally protected species shall possess valid Kentucky and federal wildlife rehabilitation permits, except that a person may be authorized as a sub-permittee on a federal migratory bird rehabilitation permit, under a federal permit holder, per 50 C.F.R. 21.31.

(1) Sub-permitted persons conducting wildlife rehabilitation activities shall possess a valid state wildlife rehabilitation permit.

(2) A permit holder shall immediately notify the department in writing or by email to fwpermits@ky.gov, of any federally threatened or endangered wildlife species, delivered, received, recovered, or retained for rehabilitation.

(3) A general or master class falconry permit holder may condition raptors for subsequent release into the wild for a permitted wildlife rehabilitator, as established in 301 KAR 2:195, only for the species the falconry permit holder is allowed to possess.

(4) Falconers that rehabilitate wildlife, except for conditioning raptors per this section, shall possess a valid wildlife rehabilitation permit.

Section 12. Revocation and Denial of Permits and Appeal Procedure.

(1) Denial and revocation.

(a) The department shall revoke the permit, deny the issuance of a new permit, or deny a renewal of an existing or lapsed permit, and confiscate wildlife of a person who is convicted of a violation of any provisions of:

1. KRS Chapter 150;
2. 301 KAR Chapters 1 through 5; or
3. Any federal statute or regulation related to hunting, fishing, or wildlife.

(b) The department shall revoke the permit, deny the issuance of a new permit, or deny a renewal of an existing or lapsed permit, and confiscate wildlife from a person who:

1. Provides false information on a Wildlife Rehabilitation Permit Application, federal permit, Wildlife Rehabilitation Annual Report, Wildlife Rehabilitation Non-Releasable Wildlife Report, Wildlife Rehabilitation Facility Inspection Checklist, or records;
2. Acquires wildlife prior to receiving an approved wildlife rehabilitation permit;
3. Fails a facility inspection, as established in Section 7 of this administrative regulation;
4. Fails to comply with any provision of this administrative regulation, 301 KAR 3:120, 301 KAR 2:081, 301 KAR 2:082, 301 KAR 2:083, 301 KAR 2:195, or 301 KAR 2:251;
5. Allows a non-permitted person to rehabilitate, assist in wildlife rehabilitation, access, or have direct contact with wildlife undergoing rehabilitation or non-releasable rabies vector species;
6. Fails to contain wildlife in enclosures that meet Minimum Standards for Wildlife Rehabilitation except during treatment, release, or transfer as established in Section 6 of this administrative regulation;
7. Keeps wildlife over 180 days;
8. Accepts rabies vector species within the enhanced Rabies Surveillance Zone;
9. Accepts rabies vector species that originated from the Enhanced Rabies Surveillance Zone;

10. Transports rabies vector species into or out of the Enhanced Rabies Surveillance Zone;
 11. Fails to possess a valid federal permit or be listed as a sub-permittee on a federal permit to rehabilitate federally protected wildlife;
 12. Accepts cervids within a CWD Surveillance Zone;
 13. Accepts cervids that originated within a CWD Surveillance Zone; or
 14. Transports cervids into or out of a CWD Surveillance Zone.
- (c) A fee shall not be refunded for a permit that is revoked.
- (2) Confiscated wildlife.
- (a) All wildlife shall be confiscated if a wildlife rehabilitation permit is revoked or denied, a person possesses native wildlife for the purpose of wildlife rehabilitation without a valid wildlife rehabilitation permit, or a facility fails a facility inspection per Section 7 of this administrative regulation.
- (b) Confiscated wildlife shall be released; transferred with the approval of the Wildlife Division Director based on the animal's health, survivability, probability of placement, rabies vector species designation, and federal protection status; or dispatched, except that rabies vector species shall be dispatched immediately.
- (c) Wildlife shall not be returned to the permit holder or facility from which they were confiscated.
- (3) Denial period.
- (a) An applicant whose permit has been revoked or denied for the grounds established in this section shall be ineligible to reapply, and all applications shall be denied for the period established in subparagraphs 1. through 3. of this paragraph.
1. The initial denial period shall be one (1) year.
 2. A second denial period shall be three (3) years.
 3. A third or subsequent denial period shall be five (5) years.
- (b) During the denial period, a person whose wildlife rehabilitation permit has been denied or revoked shall not rehabilitate wildlife or assist in the rehabilitation of wildlife.
- (4) Administrative hearings.
- (a) An individual whose permit has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.
- (b) 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 the revocation.
- (c) Upon receipt of the request for a hearing, the department shall proceed according to the provisions of KRS Chapter 13B.
- (d) 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 13. Incorporation by Reference.

- (1) The following material is incorporated by reference:
- (a) "Minimum Standards for Wildlife Rehabilitation, Fourth Edition" 2012;
 - (b) "Wildlife Rehabilitation Annual Report", 2022;
 - (c) "Wildlife Rehabilitation Permit Application", 2022;
 - (d) "Wildlife Rehabilitation Non-Releasable Wildlife Report", 2022; and
 - (e) "Wildlife Rehabilitation Facility Inspection Checklist", 2022.
- (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. until 4:30 p.m.
- (3) This material may also be found on the department's Web site at fw.ky.gov.

(28 Ky.R. 2478; Am. 29 Ky.R. 435; eff. 8-12-2002; 2958; 30 Ky.R. 278; eff. 8-13-2003; 33 Ky.R. 518; 1077; eff. 10-11-2006; 43 Ky.R. 1848, 2127; eff. 7-6-2017; 44 Ky.R. 1128, 1513; eff. 2-2-2018; 49 Ky.R. 864, 1607; eff. 2-2-2023.)

FILED WITH LRC: January 10, 2023

CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.