

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

301 KAR 3:005. Public use of newly acquired or newly managed lands.

RELATES TO: KRS 150.010, 150.170, 150.175, 150.390

STATUTORY AUTHORITY: KRS 150.025(1), 150.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) ~~requires~~authorizes the Kentucky Department of Fish and Wildlife Resources~~department~~ to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make administrative regulations apply to a limited area. KRS 150.620 ~~requires~~authorizes the department to promulgate administrative regulations for the maintenance and operation of the lands it has acquired for public recreation. This administrative regulation establishes the requirements for the department to close seasons on newly acquired or managed properties or to establish requirements that are different from statewide season requirements or methods of take until the department can subsequently amend administrative regulations~~[within the first year a property is acquired or managed]~~. This administrative regulation also establishes the authority to restrict hunting, fishing, and trapping or methods of take in areas for reasons of public safety.

Section 1.

(1) Upon acquiring ~~for managing~~ new public land, the department ~~shall~~may close the area to all hunting, fishing, or trapping or for certain ~~game~~ species for up to the first three (3) years of ownership if~~[during the first year of ownership or management if an imminent risk is present regarding]~~:

(a) Inadvertent trespassing on adjacent private land by hunters, anglers, or trappers due to a lack of adequate boundary marking is likely; or ~~[Human safety;]~~

(b) The activity would have a [A] negative impact to wildlife populations;~~[; or]~~

~~[(c)] [Inadvertent trespassing on adjacent private land by hunters due to a lack of adequate boundary marking.]~~

(2) The department shall close areas to all hunting, fishing, or trapping or consumption of certain species if:

(a) The department determines the area is unsafe for hunting, fishing or trapping due to:

1. Hazards that exist on the area which pose a substantial risk of harm to members of the public engaged in said activity;

2. The area being adjacent to or near residential dwellings or commercial development; or

3. Construction activities;

(b) The area is deemed unsuitable for hunting, fishing, or trapping due to:

1. The department establishing the area for use as office space, equipment storage, parking, habitat preservation, a shooting range, boat ramp access, or exclusively for educational purposes, or

2. Ongoing management, habitat improvement or research by the department which would conflict with said activity; or

(c) Species found within the area are deemed unsafe or unsuitable for consumption based upon suspected or confirmed environmental hazards or disease.

(3) An area shall be closed for hunting and trapping if said area is established by the department exclusively for public fishing access.

(4) If there ~~are~~is any restrictions~~[deviation from statewide hunting or trapping seasons during the first year of ownership or management]~~, as established pursuant to~~[in]~~

subsection (1), ~~(2)~~, or (3) of this section, the department shall inform the public by:

- (a) Conspicuously posting the requirements on signage at major access points on the area; and
- (b) Posting the area requirements on the department's Web site at fw.ky.gov.

Section 2.

(1) Upon acquiring or managing new public land, the department may establish temporary device~~[during the first year of ownership or management on the area, weapons]~~ restrictions for ~~[deer]~~ hunting that differ from statewide requirements, for up to three (3) years, if an imminent risk is present regarding:

- (a) Human safety; or
- (b) A negative impact on the area's ~~[deer]~~ population of a species.

(2) Upon acquiring or managing new public land, the department may establish temporary gear, size limits, or harvest limits that differ from statewide fishing requirements, for up to three (3) years, if an imminent risk is present regarding a negative impact on the area's population of aquatic species.

(3) If there is any deviation from statewide device requirements regarding methods of take, as established in ~~subsections~~~~[subsection]~~ (1) and (2) of this section, the department shall inform the public as established in Section 1(4)~~[Section 1(2)]~~ of this administrative regulation.

~~[Section 3.] [A hunter or trapper shall comply with the area requirements on newly acquired or managed lands as established in Sections 1 and 2 of this administrative regulation.]~~

RICH STORM, Commissioner

APPROVED BY AGENCY: September 12, 2024

FILED WITH LRC: September 13, 2024 at 11:00 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 29, 2024, at 9:30 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 November 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, Frankfort, Kentucky 40601, 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 regulation establishes authority for the department to place restrictions for hunting, fishing, trapping and access for newly acquired or managed lands or other lands for safety or wildlife management concerns.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to establish the requirements for the department to close seasons on newly acquired or managed properties or to establish requirements that are different from statewide season requirements or methods of take until the department can subsequently amend administrative regulations. This administrative regulation is also necessary to establish the authority to restrict hunting, fishing, and trapping or methods of take in areas for reasons of public safety.

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

KRS 150.025(1) requires the Kentucky Department of Fish and Wildlife Resources to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make administrative regulations apply to a limited area, regulate any method of take and restrict the places where taking is permitted. KRS 150.620 requires the department to promulgate administrative regulations for the maintenance and operation of the lands it has acquired for public recreation.

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

This administrative regulation establishes when, how and duration of restrictions to normal hunting, fishing and trapping activities on newly acquired or managed lands or on lands to address public safety concerns.

(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:

The amendments will change time allowed for temporary restrictions on newly acquired or managed lands, increasing the duration from one year to three years. It also establishes the closure of areas to hunting, fishing or trapping when said properties are incompatible for those activities or deemed unsafe.

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

This amendment is necessary to expand the time available to promulgate permanent regulations, prepare properties for public use and perform wildlife or habitat management activities for newly acquired or managed lands. The amendment is also necessary to establish public safety protections for temporary or long-term safety concerns.

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

See 1(c) above.

(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:

Any individual, business, organization or government entity utilizing KDFWR owned or managed lands.

(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:

No action is necessary except to follow the restrictions applicable to each property.

(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 cost.

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

Benefits for users will include higher quality public lands, hazard avoidance and better infrastructure.

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

(a) Initially:

No added cost.

(b) On a continuing basis:

No added cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The Fish and Game 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:

There will be no increase in fees or funding.

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

n/a

(9) TIERING: Is tiering applied?

There is no tiering applied.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 150.025, KRS 150.620

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:

The Kentucky Department of Fish and Wildlife Resources

(a) Estimate the following for the first year:

Expenditures:n/a

Revenues:n/a

Cost Savings:n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

n/a

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

There will be no fiscal impact to local entities with this amendment.

(a) Estimate the following for the first year:

Expenditures:n/a

Revenues:n/a

Cost Savings:n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

n/a

(4) Identify additional regulated entities not listed in questions (2) or (3):

None

(a) Estimate the following for the first year:

Expenditures:n/a

Revenues:n/a

Cost Savings:n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

n/a

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

There will be no fiscal impact.

(b) Methodology and resources used to determine the fiscal impact:

n/a

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)

(b) The methodology and resources used to reach this conclusion:

n/a