

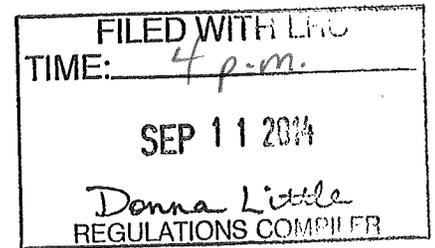
## **301 KAR 1:220**

### **Reciprocal agreements regarding fishing**

This administrative regulation establishes reciprocal agreement requirements between Kentucky and bordering states that share common waters.

#### **Significant Changes**

This amendment will add a reciprocal agreement between Kentucky and the State of West Virginia for the Big Sandy and Tug Fork rivers, and will incorporate by reference two other reciprocal agreements. The regulation has also been amended to better conform to Chapter 13A style requirements.



1 TOURISM, ARTS AND HERITAGE CABINET

2 Kentucky Department of Fish and Wildlife Resources

3 (Amendment)

4 301 KAR 1:220. Reciprocal agreements regarding fishing.

5 RELATES TO: KRS [~~150.170,~~] 150.340, 150.440, 150.445, 150.450, 150.470[~~,150.525~~]

6 STATUTORY AUTHORITY: KRS 150.025(1)(h), 150.170(8)(~~7~~)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)(h) authorizes the

8 department to promulgate administrative regulations necessary to carry out the purposes of the

9 chapter. KRS 150.170(8)(~~7~~) authorizes the department to enter into reciprocal agreements with

10 other states so that a person [~~where persons~~] holding a resident or nonresident fishing license

11 issued by the state shall be permitted to perform the acts authorized by the license upon waters

12 adjacent to the common boundaries. This administrative regulation establishes reciprocal

13 agreement requirements between [~~procedures for applying the administrative regulations of~~]

14 Kentucky and [~~the states~~] bordering states [~~Kentucky who share common waters~~].

15 Section 1. Reciprocal agreements. (1) Pursuant to KRS 150.170(8)(~~7~~), Kentucky has entered

16 into reciprocal agreements with [~~its~~] neighboring states regarding fishing requirements

17 [~~guidelines~~] on common bodies of water.

18 (2) Persons fishing in [~~the~~] Dale Hollow Lake, the Big South Fork portion of the Cumberland

19 River, a portion of the Kentucky Lake, the Mississippi River, [~~and~~] the Ohio River, and the Big

20 Sandy and Tug Fork rivers shall comply with [~~follow~~] the fishing requirements [~~guidelines~~

21 established] in the reciprocal agreements established in Section 10 of this administrative

1 regulation.

2 Section 2. Dale Hollow Lake. (1) Pursuant to the [a] reciprocal agreement established in Section  
3 10(1)(a) of this administrative regulation [~~between the department and the Tennessee Wildlife~~  
4 ~~Resources Agency~~], a valid sport fishing license issued by the State of Tennessee shall be valid  
5 in the Kentucky portions of the Wolf River embayment of Dale Hollow Lake:

6 (a) Beginning where Wolf River joins the main part of the lake at the Obey River; and

7 (b) Including the Illwill Creek Embayment.

8 (2) A person fishing within the boundaries established [~~in the waters delineated~~] in subsection (1)  
9 of this section shall observe the size and creel limits of the state in which the person [~~he or she~~] is  
10 licensed.

11 Section 3. Big South Fork of the Cumberland River. (1) Pursuant to the [a] reciprocal agreement  
12 established in Section 10(1)(b) of this administrative regulation [~~between the department and the~~  
13 ~~Tennessee Wildlife Resources Agency~~], a valid sport fishing license issued by either Tennessee  
14 or Kentucky shall be valid in the portion of the Big South Fork of the Cumberland River  
15 beginning at the Leatherwood Ford bridge at Highway 297 in Tennessee and continuing to the  
16 Highway 92 Bridge at Yamacraw, Kentucky.

17 (2) A person fishing within the boundaries established [~~in the waters described~~] in subsection (1)  
18 of this section shall observe the size and creel limits of the state in which the person [~~he or she~~] is  
19 licensed.

20 Section 4. [~~The~~] Kentucky Lake. (1) Pursuant to a reciprocal agreement established in Section  
21 10(1)(c) of this administrative regulation, Kentucky and Tennessee shall recognize the sport  
22 fishing licenses of the two (2) states on the portion of Kentucky Lake south of the Eggners Ferry  
23 Bridge (U.S. 68 and Hwy 80) in Kentucky and north of the Governor Ned McWhorter Bridge

1 (U.S. 79 and Hwy 76) in Tennessee.

2 (2) Embayments and tributaries within this portion of Kentucky Lake, except Blood River  
3 embayment, shall be included [~~in the reciprocal agreement~~].

4 (3) The Blood River embayment boundary shall be delineated [~~defined~~] as a straight line  
5 between opposite points where the embayment connects to the main body of Kentucky Lake.

6 (4) A sport fishing license holder from either state may fish from the bank or attach legal sport  
7 fishing trot or limb lines in the reciprocal portion of Kentucky Lake.

8 (5) Sport fishing license holders shall abide by the administrative regulations of the state in  
9 whose waters they are fishing.

10 (6) Wildlife enforcement officials of either state shall have the right to inspect the licenses,  
11 permits, creel, [~~catches~~] and equipment of any person on the reciprocal portion of Kentucky Lake  
12 subject to the laws of either Kentucky or Tennessee.

13 Section 5. Mississippi River. (1) Pursuant to the [a] reciprocal agreement established in Section  
14 10(1)(d) of this administrative regulation, Kentucky and Missouri shall recognize the sport  
15 fishing licenses and permits of Kentucky and Missouri.

16 (2) The main channel of the Mississippi River and the immediate side or secondary channels or  
17 chutes are included when referring to the Mississippi River.

18 (3) Sport fishing license or permit holders may:

19 (a) Fish [fish] from [or attach a device or equipment to] land along the river under the  
20 jurisdiction of the other state; or

21 (b) Attach a fishing device or equipment on land along the river under the jurisdiction of the  
22 other state.

23 (4) Landowner permission is required to fish from the banks of the Mississippi River.

1 (5) A person [~~(4) Sport fishing licensees and permittees~~] shall abide by the administrative  
2 regulations of the state in whose waters the person [~~he or she~~] is fishing, but should [~~If~~] the two  
3 (2) states' administrative regulations conflict, a person [~~licensee and permittee~~] shall comply  
4 with the more [~~most~~] restrictive of the two (2) states' administrative regulations.

5 (6) [~~(5)~~] Wildlife enforcement officials of Kentucky and Missouri shall have the right to inspect  
6 the licenses, permits, creel, [~~catches~~] and equipment of any person on common portions of the  
7 Mississippi River subject to the laws of Kentucky and Missouri.

8 (7) [~~(6)~~] Exclusions to the agreement.

9 (a) Oxbow and floodplain lakes and tributary streams are not included in the agreement.

10 (b) A tributary is delineated by a straight line between opposite points where the stream or river  
11 connects with the main body of the Mississippi River.

12 (c) [~~(b)~~] The agreement does not include backwaters that extend onto the floodplain or tributaries  
13 when the river exceeds thirty-three (33) feet at the gauging station at Cairo, Illinois.

14 Section 6. Ohio River agreement with the state of Ohio. (1) Pursuant to the [a] reciprocal  
15 agreement established in Section 10(1)(e) of this administrative regulation, Ohio and Kentucky  
16 shall recognize the sport fishing license and appropriate stamps of Ohio and Kentucky on the  
17 main stem and from the banks of the Ohio River where the Ohio River forms the state boundary,  
18 excluding embayments and tributaries [~~where the Ohio River forms the state boundary~~].

19 (2) A person shall comply with the regulations of the state in which the license or permit is  
20 issued [~~licensee's and permittee's issuing state's administrative regulations shall apply to the~~  
21 ~~licensee and permittee~~], except that a person who is [~~the administrative regulations of the state~~  
22 ~~where sport~~] fishing [~~is occurring apply if the licensee is fishing~~] from a [~~the~~] bank shall comply  
23 with the regulations of the state where the bank is located.

1 (3) Commercial fishing and musseling are prohibited [~~not permitted~~] on the Ohio side [~~Ohio's~~  
2 ~~portion~~] of the river.

3 (4) Wildlife enforcement officials of either state shall have the right to inspect the license,  
4 [~~harvest limits,~~] creel, [~~limits~~] and equipment of a person on the Ohio River subject to the laws  
5 of either state.

6 (5) An embayment and a tributary are delineated by a straight line between opposite points  
7 where the embayment or tributary connects with the main body of the Ohio River.

8 Section 7. Ohio River agreement with the state of Indiana. (1) Pursuant to the reciprocal  
9 agreement established in Section 10(1)(f) of this administrative regulation, Indiana and Kentucky  
10 shall recognize the sport fishing license and appropriate stamps or permits of Indiana and  
11 Kentucky on the main stem and from the banks of the Ohio River where the Ohio River forms  
12 the state boundary, excluding embayments and tributaries.

13 (2) A person shall comply with the regulations of the state in which the license or permit is  
14 issued, except that a person who is fishing from a bank shall comply with the regulations of the  
15 state where the bank is located.

16 (3) Wildlife enforcement officials of either state shall have the right to inspect the license, creel,  
17 and equipment of a person on common portions of the Ohio River subject to the laws of either  
18 state.

19 Section 8. Ohio River agreement with the state of Illinois. (1) Pursuant to the reciprocal  
20 agreement established in Section 10(1)(g) of this administrative regulation, Illinois and Kentucky  
21 shall recognize the sport fishing license and appropriate stamps or permits of Illinois and  
22 Kentucky on the main stem and from the banks of the Ohio River where the Ohio river forms the  
23 state boundary, excluding embayments and tributaries.

1 (2) A person shall comply with the regulations of the state in which the license or permit is  
2 issued, except if the two (2) states' administrative regulations conflict, a person shall comply  
3 with the more restrictive of the two (2) states' administrative regulations.

4 (3) A person who is fishing from a bank shall comply with the regulations of the state where the  
5 bank is located.

6 (4) Embayment and tributary boundaries are delineated by a straight line between opposite points  
7 where the tributary or embayment connects with the main body of the Ohio River.

8 (5) Wildlife enforcement officials of either state shall have the right to inspect the license, creel,  
9 and equipment of a person on common portions of the Ohio River subject to the laws of either  
10 state.

11 Section 9. Big Sandy and Tug Fork rivers. (1) Pursuant to the reciprocal agreement established in  
12 Section 10(1)(h) of this administrative regulation, West Virginia and Kentucky shall recognize  
13 the sport fishing license and appropriate stamps or permits of West Virginia and Kentucky on the  
14 main stem and from the banks of the Big Sandy and Tug Fork rivers from the confluence of the  
15 Big Sandy River with the Ohio River to the Virginia state line, excluding tributaries, except that  
16 Kentucky residents shall hold any applicable Kentucky resident license.

17 (2) A person shall comply with the regulations of the state in which the license or permit is  
18 issued, except that a person who is fishing from a bank shall comply with the regulations of the  
19 state where the bank is located.

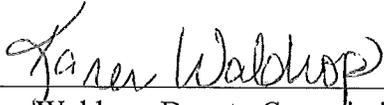
20 (3) A tributary boundary is delineated by a straight line between opposite points where the  
21 tributary connects with the main body of the Big Sandy or Tug Fork rivers.

22 Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

23 (a) "Reciprocal Fishing Agreement Between the Department and the Tennessee Wildlife

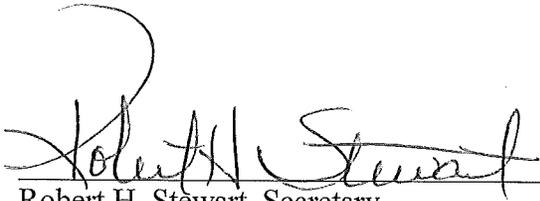
- 1 Resources Agency Regarding Dale Hollow Lake, November 1997 edition[<sup>2</sup>];
- 2 (b) "Reciprocal Fishing Agreement Between the Department and the Tennessee Wildlife  
3 Resources Agency Regarding the Big South Fork of the Cumberland River, November 1997  
4 edition[<sup>2</sup>];
- 5 (c) "Reciprocal Agreement on Kentucky Lake between the Commonwealth of Kentucky and the  
6 State of Tennessee", August 2003 edition[<sup>2</sup>];
- 7 (d) "Reciprocal Fishing Agreement Between the Department and the State of Missouri  
8 Regarding the Mississippi River, February 2003 edition[<sup>2</sup>]; [and]
- 9 (e) "Reciprocal Agreement Between the Department and the Ohio Department of Natural  
10 Resources, November 2002 edition;
- 11 (f) "Revision to Memorandum of Understanding between the Commonwealth of Kentucky,  
12 Department of Fish and Wildlife Resources and the State of Indiana Department of Natural  
13 Resources, October 2007 edition;
- 14 (g) "Amendment to the Memorandum of Understanding between the Commonwealth of  
15 Kentucky, Department of Fish and Wildlife Resources and the State of Illinois Department of  
16 Natural Resources, November 2007 edition; and
- 17 (h) "Reciprocal Agreement Between The State Of West Virginia And The Commonwealth Of  
18 Kentucky Regarding Reciprocal Hunting and Fishing Privileges, July 2014 edition[<sup>2</sup>].
- 19 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at  
20 the Kentucky Department of Fish and Wildlife Resources, #1 Sportsman's Lane [~~Game Farm~~  
21 ~~Road~~], Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

Approved by the Fish and Wildlife Commission



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Karen Waldrop, Deputy Commissioner, for  
Gregory K. Johnson, Commissioner  
Department of Fish and Wildlife Resources



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Robert H. Stewart, Secretary  
Tourism, Arts and Heritage Cabinet

9/7/14

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Date

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on October 21, 2014, at 10 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled.

This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. 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 attend the public hearing, you may submit written comments on the proposed administrative regulation *through* October 31, 2014.

Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

Rose Mack  
Department of Fish and Wildlife Resources  
Arnold L. Mitchell Building  
#1 Sportsman's Lane  
Frankfort, Kentucky 40601  
(502) 564-3400 FAX (502) 564-9136  
Email: [fwpubliccomments@ky.gov](mailto:fwpubliccomments@ky.gov)

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

301 KAR 1:220. Reciprocal agreements regarding fishing  
Contact Person: Rose Mack

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes reciprocal agreement requirements between Kentucky and bordering states that share common waters.

(b) The necessity of this administrative regulation: To allow for effective management and enforcement of common waters with bordering states.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1)(h) authorizes the department to promulgate administrative regulations necessary to carry out the purposes of the chapter. KRS 150.170(8) authorizes the department to enter into reciprocal agreements with other states where persons holding a resident or nonresident fishing license issued by the state shall be permitted to perform the acts authorized by the license upon waters adjacent to the common boundaries.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the administration of the statutes by establishing the requirements of those reciprocal agreements between Kentucky and bordering states.

(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 add a reciprocal agreement between Kentucky and the State of West Virginia for the Big Sandy and Tug Fork rivers, and will incorporate by reference two other reciprocal agreements. The regulation has also been amended to better conform to Chapter 13A style requirements.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to establish the requirements provided in the reciprocal agreement referenced in (2)(a) above, and to incorporate by reference two other reciprocal agreements.

(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: All individuals who fish on the main stem and from the banks of the Big Sandy and Tug Fork rivers from the confluence of the Big Sandy River with the Ohio River to the Virginia state line, excluding tributaries, will be affected.

(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: Individuals wishing to fish the waters described in (3) above will be required to obtain a valid sport fishing license. Kentucky residents must hold the applicable Kentucky resident license(s) and West Virginia residents must

hold the applicable West Virginia resident license(s).

(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 individuals fishing the waters described in (3) above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Individuals can now fish the waters described in (3) above with a single license and will not be required to buy an additional non-resident license to fish the bordering state's waters.

(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 cost.

(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 to increase funding to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No new fees will be established.

(9) TIERING: Is tiering applied? (Explain why or why not)

Tiering is not applied because all individuals fishing the waters described in (3) above will be required to obtain the appropriate license.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 301 KAR 1:220  
Contact Person: Rose Mack  
Phone number: (502) 564-3400

(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 Fisheries 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)(h) authorizes the department to promulgate administrative regulations necessary to carry out the purposes of the chapter. KRS 150.170(8) authorizes the department to enter into reciprocal agreements with other states where persons holding a resident or nonresident fishing license issued by the state shall be permitted to perform the acts authorized by the license upon waters adjacent to the common boundaries.

(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 by this administrative regulation in subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs incurred for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs incurred in 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:

### **Summary of Material Incorporated by Reference**

- (1) The “Revision to Memorandum of Understanding between the Commonwealth of Kentucky, Department of Fish and Wildlife Resources and the State of Indiana Department of Natural Resources”, October 2007 edition, is a one page single-sided agreement addressing reciprocal licenses on the Ohio River and applies to the common boundary between the two states along the Ohio River.
- (2) The “Amendment Memorandum of Understanding between the Commonwealth of Kentucky, Department of Fish and Wildlife Resources and the State of Illinois Department of Natural Resources”, November 2007 edition, is a one page single-sided agreement addressing reciprocal licenses and applies to the common boundary between the two states along the Ohio River.
- (3) The “Reciprocal Agreement Between The State of West Virginia And The Commonwealth of Kentucky Regarding Reciprocal Hunting and Fishing Privileges”, July 2014, is a two page single-sided agreement addressing reciprocal licenses and applies to the common boundary between the two states along the Big Sandy River and the Tug Fork River.