

1 TOURISM, ARTS AND HERITAGE CABINET

2 Department of Fish and Wildlife Resources

3 (Amendment)

4 301 KAR 2:176. Deer control tags, deer destruction permits, and landowner designees.

5 RELATES TO: KRS 150.010, 150.175, 150.360, 150.390, 150.990

6 STATUTORY AUTHORITY: KRS 150.025(1), 150.105, 150.170(7)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department
8 to promulgate administrative regulations to establish open seasons for the taking of
9 wildlife, to regulate bag limits and methods of take, and to make these requirements apply
10 to a limited area. KRS 150.105 authorizes the commissioner with the approval of the
11 commission to destroy or bring under control wildlife causing damage. KRS 150.170(7)
12 authorizes landowners, their spouses or dependent children, or a designee to destroy
13 wildlife causing damage. It also authorizes the department to promulgate administrative
14 regulations that establish procedures for the designee appointment process. This
15 administrative regulation establishes the requirements for the issuance of deer control
16 tags and deer destruction permits and establishes the requirements for the landowner
17 designee appointment process.

18 Section 1. Definitions. (1) "Deer control tag" means a tag issued by the department that

1 authorizes a hunter to take antlerless deer during an open deer season pursuant to 301
2 KAR 2:172.

3 (2) "Deer destruction permit" means written authorization from the department to take
4 deer outside the hunting season framework established in 301 KAR 2:172.

5 (3) "Deer food plot" means a crop or cultivated plants grown to attract and feed deer.

6 (4) "Department representative" means a department employee who is qualified and
7 authorized by the commissioner to assess deer damage.

8 (5) "Designee" means a person who has been designated by a landowner to remove
9 wildlife causing damage on the landowner's property.

10 (6) "Landowner" means the person who has title to a particular property.

11 Section 2. Qualifying for Deer Control Tags. (1) A landowner with fewer than 1,000
12 contiguous acres shall qualify for deer control tags if:

13 (a) Deer hunting occurred on the property during the previous deer season;

14 (b) Standard deterrent measures recommended by a department representative have
15 proven ineffective or are impractical; and

16 (c) A department representative certifies deer damage to crops, gardens, property, or
17 wildlife habitat.

18 (2) A landowner with 1,000 contiguous acres or more shall qualify for deer control tags
19 if:

20 (a) Deer hunting occurred on the property during the previous deer season; and

(b) Deer seasons and bag limits as established in 301 KAR 2:172 are determined by a department representative to be inadequate to control deer populations on the property
[; and

(c) The landowner agrees to:

1. Follow the deer management practices recommended by the department; and
2. Supply the department with weight, age, and condition data of deer taken from the property].

(3) A department representative shall make an on-site inspection of each property for which a request for deer control tags has been made, unless the property:

(a) Has been previously inspected by the department and the landowner affirms that deer damage still exists; or

(b) Is immediately adjacent to property assessed by a department representative as having severe deer damage.

(4) A landowner whose property is immediately adjacent to property assessed by a department representative as having severe deer damage shall be issued deer control tags upon request of the landowner.

(5) The department shall not issue deer control tags to a landowner whose only damage is to a deer food plot.

Section 3. Applying for Deer Control Tags. (1) A landowner shall request deer control tags by contacting the department through:

1 (a) A conservation officer; or

2 (b) The private lands biologist for the county in which the property is located.

3 (2) If required by Section 2 of this administrative regulation, a department
4 representative shall visit the property and assess the nature and extent of deer damage.

5 (3) A request for an assessment shall be made on or before September 30 to be eligible
6 for current year deer control tags.

7 (4) A request for an assessment made after September 30 shall be considered for the
8 following year.

9 Section 4. Number of Tags Issued. (1) The department shall determine the number of
10 deer control tags to be issued for each property based on the recommendation of the
11 department representative.

12 (2) Except as established in Section 2(2) or (4) of this administrative regulation, the
13 department shall not issue a deer control tag if:

14 (a) The county deer season is adequate to achieve the desired reduction in deer
15 numbers; or

16 (b) Crop or environmental damage is not present.

17 Section 5. Transfer of Deer Control Tags. (1) Deer control tags shall be issued in the
18 landowner's name.

19 (2) A landowner:

20 (a) May transfer a deer control tag to another person; and

(b) ~~[Shall not issue more than five (5) deer control tags to an individual; and~~

~~(c)] Shall require hunters to sign a deer control tag when an antlerless deer is~~
~~harvested[at the time of transfer].~~

Section 6. Use of Deer Control Tags. (1) A deer control tag shall not be valid except on
the property for which it was issued.

(2) A deer control tag shall expire after the license year for which it was issued.

(3) A person who uses a deer control tag:

(a) Shall have in possession a valid:

1. ~~[A valid]~~ Deer control tag; and

2. ~~[A valid]~~ Hunting license and current deer permit, unless exempt from license or
permit requirements pursuant to KRS 150.170;

(b) May use deer control tags during archery, crossbow, modern gun, both youth deer
seasons, or muzzle-loader seasons to take antlerless deer; and

~~(c) [Shall not take more than five (5) deer per license year with deer control tags; and~~

~~(d)] Shall comply with[abide by the provisions of] 301 KAR 2:172, except that:~~

1. Antlered deer shall not be taken; and

2. The deer control tag shall remain attached to the carcass until final processing or
disposal.

(4) Deer taken with a deer control tag shall not count toward the zone bag~~[annual]~~ limit
as established in 301 KAR 2:172.

Section 7. Deer Destruction Permits. (1) The department may issue a deer destruction permit:

(a) To a person authorized by the commissioner to remove deer that are or may become a public safety or environmental threat or that have entered a permitted captive cervid facility;

(b) To a landowner or the designee:

1. Who continues to experience damage after using~~[being issued]~~ deer control tags; or

2. Whose property cannot be hunted legally and deer are posing a public safety or environmental threat; or

(c) To a captive cervid facility permit holder or applicant:

1. Whose fence meets the fencing and holding requirements in 301 KAR 2:083; and

2. Who has attempted to remove wild deer using nonlethal methods or statewide deer seasons as established in 301 KAR 2:172.

(2) A deer destruction permit shall specify the:

(a) ~~[The]~~ Number and sex of deer to be destroyed;

(b) ~~[The]~~ Method of destruction;

(c) ~~[The]~~ Name of the person who will destroy the deer; and

(d) ~~[The]~~ Dates during which the destruction will take place.

(3) A deer destruction permit shall not be issued without the recommendation of a department representative and the approval of the commissioner.

1 (4) A person who uses a deer destruction permit shall:

2 (a) Attach to each carcass a disposal permit provided by the department;

3 (b) Not remove the disposal permit until the carcass is processed or disposed of; and

4 (c) If an antlered deer was taken, relinquish the antlers to the department.

5 (5) A deer destruction permit shall not be used except as specified on the permit.

6 (6) A person who receives a deer destruction permit shall:

7 (a) Complete a Wildlife Destruction Permit Reporting Form issued by the department;

8 and

9 (b) Submit the completed form to the department at # 1 Sportsman's Lane, Frankfort,
10 Kentucky 40601, ATTN: Wildlife Destruction Permit Report, within fourteen (14) days after
11 the expiration date designated on the destruction permit.

12 Section 8. Designee Procedures and Requirements. (1) A landowner may appoint a
13 designee to kill wildlife causing damage on the landowner's land.

14 (2) The landowner and designee shall complete and submit to the department a
15 Wildlife Damage Designee Form.

16 (3) The department shall have thirty (30) days upon receipt of the Wildlife Damage
17 Designee Form to approve or deny a designee.

18 Section 9. Denial or Revocation or Deer Control Tags or Destruction Permits and Appeal
19 Procedures. (1) The department shall revoke a deer control tag or destruction permit or
20 deny a future tag or permit to a person who fails to comply with the requirements of this

1 administrative regulation.

2 (2) An individual whose request for a permit has been denied or revoked may request
3 an administrative hearing pursuant to KRS Chapter 13B.

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

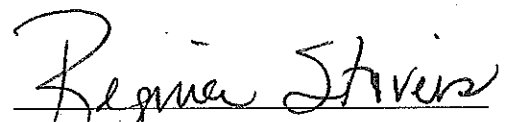
6 (a) "Wildlife Damage Designee Form", 2015 edition; and

7 (b) "Wildlife Destruction Permit Reporting Form", 2016 edition.

8 (2) This material may be inspected, copied, or obtained, subject to applicable copyright
9 law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort,
10 Kentucky 40601, Monday through Friday, 8:00[8] a.m. to 4:30 p.m. Eastern time.

Approved by the Fish and Wildlife Commission


Frank Jemley, Acting Commissioner
Department of Fish and Wildlife Resources


Regina Stivers, Acting Secretary
Tourism, Arts and Heritage Cabinet

Date: 5.3.18

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 25, 2018 at 9 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 June 30, 2018.

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

Mark Cramer
Department of Fish and Wildlife Resources
Arnold L. Mitchell Building
#1 Sportsman's Lane
Frankfort, Kentucky 40601
(502) 564-3400 FAX (502) 564-0506
Email: fwpubliccomments@ky.gov

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

301 KAR 2:176. Deer control tags, deer destruction permits, and landowner designees.

Contact Person: Mark Cramer

Email: mark.cramer@ky.gov

Phone: 502-564-3400

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for the issuance of deer control tags and deer destruction permits, and establishes the requirements for the landowner designee appointment process for the removal of wildlife causing damage.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to allow for increased harvest during the season in localized areas, for out-of-season removal of deer where necessary, and to establish the process for appointing landowner designees.

(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, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.105 authorizes the commissioner with the approval of the commission to destroy or bring under control wildlife causing damage. KRS 150.170(7) authorizes landowners, their spouses or dependent children, or an appointed designee to destroy wildlife causing damage. It also authorizes the department to promulgate administrative regulations that establish procedures for the landowner designee process.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists in the administration of the statutes by establishing requirements to assist landowners experiencing deer damage on their property. This regulation also defines the process for a landowner to appoint a designee to destroy or bring under control deer populations causing damage in localized areas.

(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 amendment gives more flexibility to landowners on how they issue deer control tags to their hunters and how the hunters utilize the deer control tags.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to remove undue burden on landowners who are attempting to alleviate deer damage on their property.

(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 landowner experiencing deer damage will potentially be affected by this regulation.

(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: Landowners who allow other hunters to harvest deer on their property with deer control tags will now be able to issue more tags per hunter. Hunters will only have to sign the control tag if harvesting an antlerless deer.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will not be a cost associated with the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The entities identified will have less hurdles in the issuance and transfer of tags to help alleviate deer damage.

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

(a) Initially: This administrative regulation amendment will result in no initial change in cost to the Kentucky Department of Fish and Wildlife Resources to administer.

(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 funding source 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 fees or funding to implement this administrative regulation as amended.

(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? Tiering was not used because all landowners must follow the same requirements when attempting to control deer on their property.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

301 KAR 2:176. Deer control tags, deer destruction permits, and landowner designees.

Contact Person: Mark Cramer

Email: mark.cramer@ky.gov

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 Kentucky Department of Fish and Wildlife Resources' Divisions of Wildlife and Law Enforcement will be impacted by this amendment.

(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), 150.105 and 150.170(7).

(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 during 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: