

Kentucky Department of Fish & Wildlife Resources



Quarterly Commission Meeting

December 2, 2022 | 8:30 AM (ET)

In person: #1 Sportsman's Lane, Frankfort, KY 40601

Livestream: [YouTube.com/FishandWildlifeKY](https://www.youtube.com/FishandWildlifeKY)

AGENDA

Opening

- Call to Order and Welcome
- Invocation
- Pledge of Allegiance
- Chair's Remarks
- Commissioner's Remarks & Presentations

Action Items

- Election of Commission officers
- Minutes from August 26, 2022 quarterly meeting
Attachment A-1
- Quarterly Financial Reports
Attachment A-2
- Clarify that Captive Cervid Facilities Shall Only Hold Captive Cervids
 - Amend 301 KAR 2:083 Holding and intrastate transportation of captive cervids
Attachment A-3

Discussion Items

- Change Simpson Co. from Zone 3 to Zone 2 for Deer Hunting
Attachment D-1

- Update and Clarify Prohibited Aquatic Species Regulation
 - Amend [301 KAR 1:122](#) – Importation, possession, and prohibited aquatic species.
 - Clarify that goldfish are legal species to use as bait
 - Provide clarification that there shall be an exception for legal release of aquatic species back into waters from which caught at the time of take
 - Restrict transportation and sale of live tilapia within Kentucky to food consumption purposes only, with some exceptions
 - Explicitly prohibit possession of live Asian carp species
 - Allow sport fishing anglers to possess, sell, and transport Asian carp under the same three conditions allowed for licensed commercial fisherman

Attachment D-2

- Clarify Propagation of Aquatic Organisms Permit Requirements
 - Amend [301 KAR 1:115](#) – Propagation of aquatic organisms.
 - Explicitly provide for the option of denying a propagation permit for aquatic organisms that we determine are potentially damaging to native ecosystems

Attachment D-3

- Clarify Transportation of Fish Permit Requirements
 - Amend [301 KAR 1:125](#) – Transportation of fish.
 - Explicitly provide for the option of denying a transportation permit for aquatic organisms that we determine are potentially damaging to native ecosystems

Attachment D-4

- Establish Experimental Commercial Fishing Methods Program
 - Amend [301 KAR 1:152](#) – Harvest and sale of Asian carp;
[301 KAR 3:022](#) – License, tag, and permit fees.
 - Establish a program that allows commercial fishers to use special commercial fishing gear and methods to further the goal of Asian carp harvest in mass quantities and be eligible for the existing carp subsidy

Attachment D-5

- Define “Gill Net” and “Trammel Net” in Regulation
 - Amend [301 KAR 1:146](#) – Commercial fishing gear.

Attachment D-6

- Establish Special Regulations for Walleye and Smallmouth Bass on Barren River and Add Special Regulations for Catfish at Yatesville Lake
 - Amend [301 KAR 1:201](#) – Taking of fish by traditional fishing methods.
 - Define new lower boundary for walleye and smallmouth existing special regulations on the Barren River due to imminent removal of Lock and Dam 1
 - Add aggregate limit on blue catfish/channel catfish

Attachment D-7

- Add Special Regulations for Hand-Grabbing of Catfish at Yatesville Lake
 - Amend [301 KAR 1:410](#) – Taking of fish by nontraditional fishing methods.
 - Add aggregate limit on catfish

Attachment D-8

- Modify Special Commission Permits regulation (for 2023)
 - Amend [301 KAR 3:100](#)
 - Substitute bear for waterfowl in special commission permits to improve fundraising capacity for recipient organizations and eliminate scheduling challenges for applicable WMA waterfowl blind sites
 - Remove the requirement for permittee-hunter's date of birth as it is already in Department records associated with the hunter's hunting license
 - Require email or online submission of applications, hunter information, and reporting
 Attachment D-9

New Business

- Hunting on Conservation Camp Properties
 - Create a regulation that will allow for special hunts on all 3 conservation camp properties.
 - Hunts for designated game species will be conducted as department-sponsored events for mentor/youth hunters only.
 Attachment NB-1
- Commercial Guide License and License, tag and permit fees
 - Amend [301 KAR 2:030](#) and [301 KAR 3:022](#)
 - Create harvest reporting requirements
 - Modify the requirements and application for a commercial guide license
 - Increase the commercial guide license fees
 Attachment NB-2
- Modify water bodies open to commercial fishing
 - Amend [301 KAR 1:150](#) – Waters open to commercial fishing.
 - Remove water bodies open to commercial fishing that have low use and harvest
 - Define new upper boundary for waters open to commercial fishing on the Green River
 Attachment NB-3
- Modify catfish commercial fishing regulations and reporting requirements
 - Amend [301 KAR 1:155](#) – Commercial fishing requirements.
 - Expand locations with trophy catfish harvest regulations
 - Modify Trophy Catfish Harvest Permit regulations downstream of Cannelton Lock and Dam
 - Fix formatting of material incorporated by reference called “Monthly Report of Commercial Fish Harvest in Kentucky,” 2019 edition
 Attachment NB-4
- Informational Update: Consolidating Fisheries Definitions in [301 KAR Chapter 1](#)

- Informational Update: Small Game & Migratory Bird Programs
- Informational Update: Multi-state Wild Turkey Disease Testing Project
- Informational Update: Elk Population Model Status & Research Update
- Prohibit Hunting of Wild Pigs in Kentucky
 - Amend [301 KAR 3:030](#)
 - Remove wild pigs from list of species with year-round seasons
- Informational Update: Engineering & IT Division – 2021-22 Projects

Closed Session - Discussion Items

- Land Acquisition Project A
- Land Acquisition Project B
- Land Acquisition Project C
- Land Acquisition Project D

Action Items

- Land Acquisition Project A
- Land Acquisition Project B
- Land Acquisition Project C

Public Comments¹

¹Public comments regarding New Business Items or Discussion Items on the agenda may be submitted by email to FW.PublicAffairs@ky.gov until 5:00pm (eastern) the day preceding the meeting, and those comments will be distributed to all Commission members prior to the meeting and read by staff during the Commission meeting by KDFWR staff for up to 3 minutes total per commenter, time permitting and at the discretion of the Commission chair. Emailed comments allow Commission members adequate time for consideration and correspondence if necessary, and they allow the Commission to conduct business more efficiently during meetings. Note: A commenter's contact information is not required for emailed comments, but will be necessary if information is requested, and other than name and affiliation it will not be publicly disclosed if provided. Anonymous comments will be distributed to the Commission members but may not be read during the meeting. The Commission chair reserves the right to not read publicly any comments that are libelous, profane, derogatory of others, redundant, or not relevant to the meeting agenda. Questions will receive an email response. Commenters should include "Commission meeting" in their email subject line and include their first and last name(s), Kentucky county(s) of residence (or state of residence if a nonresident), and organizational affiliation and position if they are an officer or official representative for a particular organization. In-person attendees of meetings may also request to speak up to 3 minutes total per commenter on New Business Item(s) or Discussion Item(s) on the agenda, but will be required to sign-in on the public comment request form on the counter at the meeting room entrance by 9:00am (eastern) on the day of the meeting, and provide name, county and state of residence, organization represented and position (if applicable), and applicable agenda items. Commenters who speak in person will not have their emailed comments read publicly at the meeting and are asked to avoid voicing comments that are redundant with others speaking prior to them during the allotted public comments time.

Adjourn

Next Scheduled Quarterly Commission Meeting Date: March 3, 2023

Kentucky Fish and Wildlife Commission Meeting

ACTION ITEM

DATE: December 2, 2022

Regulation Number: N/A

Regular or Emergency: N/A

Action Item: Approval of August 26, 2022 Quarterly Commission Meeting Minutes

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Kentucky Department of Fish & Wildlife Resources



Quarterly Commission Meeting

MINUTES

Video Recording: [YouTube.com/FishandWildlifeKY](https://www.youtube.com/FishandWildlifeKY)

August 26, 2022

#1 Sportsman's Lane

Frankfort, KY

8:30 AM (ET)

Call to Order (Video: 07:27) – Chairman Clinard

Commission Members in Attendance (Video 07:48) – Dr. Karl Clinard, Jerry Ferrell, Brian Fisher, Dr. Robin Floyd, Paul Horn, Josh Lillard, Doug Morgan and Ralph Swallows.

Invocation and Pledge of Allegiance (Video: 08:23) – Jenny Gilbert and Officer Robin Wiley

Welcome and Chair's Remarks (Video: 11:17) - Chairman Clinard

Remarks by Commissioner Rich Storm (Video: 13:11)

Public Comments Process (Video: 31:35) – Kevin Kelly, Public Information Officer

Litigation Update (Video 33:53) – Scott Porter, Staff Attorney

Action Items

- Minutes from June 3, 2022 quarterly meeting (Video 36:19)
 - Commission member Paul Horn made a **motion to accept the minutes for both meetings as corrected**, seconded by Ralph Swallows. Votes were as follows: Yes: Brian Fisher, Paul Horn, Josh Lillard, Ralph Swallows, Doug Morgan, Dr. Robin Floyd, Jerry Ferrell and Dr. Clinard. ***The motion carried unanimously.***
- Quarterly Financial Reports (Video 37:28)
 - Lisa Cox, Administrative Services Director presented the quarterly financial report. Josh Lillard made a **motion to approve the financial report as presented**, seconded by Dr. Robin Floyd. Votes were as follows: Yes: Dr. Floyd, Brian Fisher, Ralph Swallows, Josh Lillard, Jerry Ferrell, Paul Horn, Doug Morgan. ***The motion carried.***

- Prohibit Use of Aircraft (drones, helicopters, airplanes, etc.) for Taking Fish or Wildlife (Video 43:30)
 - Dr. Clinard recommended this item be tabled until more research can be done and detailed recommendations can be presented; further action on the item was postponed without objection.

- Reduce Bag Limit of Fall Turkeys to 2 males (no more than 1 with ≥ 3 " beard) (Video 44:33)
 - Deputy Commissioner Clark and Zak Danks, Wildlife Division Turkey Program Coordinator, proposed the recommendation to remove hens to comport with removal of hens from the fall bag limit in [301 KAR 2:144](#), voted in December 2021.
 - Based on feedback from numerous constituents, Commission members discussed modifying the recommended regulation amendments voted up during the December 2021 quarterly commission meeting, since those amendments had not yet been filed with the legislature.
 - Paul Horn made a **motion to reduce Fall Wild Turkey Bag Limit to 2 wild turkeys, with no more than 1 with ≥ 3 " beard and no more than 1 hen/beardless bird**, seconded by Dr. Robin Floyd. The votes were as follows: Yes: Dr. Floyd, Ralph Swallows, Josh Lillard, Jerry Ferrell, Paul Horn, Doug Morgan; No: Brian Fisher. The ***motion carried***.

- Clarify Definition of Fall Hunting of Wild Turkeys with Unlawful Aid of Bait (Video 1:17:58)
 - Brian Clark and Zak Danks recommended amending [301 KAR 2:144](#) – Fall Wild Turkey hunting to specify a set distance (600') from bait for hunting wild turkeys in fall to simplify regulation for hunters and conservation officers.
 - Doug Morgan made a **motion to accept amendment as written with prohibition not applicable across property boundaries** seconded by Dr. Floyd. The votes were as follows: Yes, Dr. Robin Floyd, Brian Fisher, Ralph Swallows, Josh Lillard, Jerry Ferrell, Paul Horn and Doug Morgan. The ***motion carried***.

- Clarify Bear Chase Permit Requirements (Video 1:28:11)
 - Brian Clark and Dr. John Hast, Bear Program Coordinator, proposed amending [301 KAR 2:300](#) Black bear seasons and requirements and [302 KAR 3:022](#) License, tag and permit fees to specify that all participants in a bear chase shall have a bear chase permit in addition to any valid Kentucky hunting license; clarify that those attempting to harvest a bear shall have a bear permit in addition to a valid annual Kentucky hunting license and chase permit; create nonresident bear chase permits.
 - Paul Horn made a **motion to accept the proposal as written with the inclusion of resident combo bear chase permit and bear permit for \$50**. The votes were as follows: Yes, Dr. Robin Floyd, Brian Fisher, Ralph Swallows, Jerry Ferrell, Paul Horn and Doug Morgan; No, Josh Lillard. The ***motion carried***.

- Expansion of Falconry Waterfowl Hunting Opportunity (Video 1:34:57)
 - Brian Clark proposed amending [301 KAR 2:221](#) – Waterfowl seasons and limits to extend the end of falconry season from Feb. 15 to last Sunday of Feb.
 - Brian Fisher made a **motion to accept the proposal as written**, seconded by Ralph Swallows. Votes were as follows: Yes: Dr. Floyd, Brian Fisher, Ralph Swallows, Josh Lillard, Jerry Ferrell, Paul Horn, Doug Morgan. ***The motion carried.***

- Remove Requirement for Sandhill Crane Hunters to Use Metal Leg Tags (Video 1:36:30)
 - Brian Clark proposed amending [301 KAR 2:228](#) – Sandhill Crane Hunting to remove the requirement for the department to issue and hunters to use metal leg-tags on harvested cranes. Instead, hunters will be able to conveniently print tags with their crane hunting permit.
 - Ralph Swallows made a **motion to approve the proposal as written**, seconded by Brian Fisher. Votes were as follows: Yes: Dr. Floyd, Brian Fisher, Ralph Swallows, Josh Lillard, Jerry Ferrell, Paul Horn, Doug Morgan. ***The motion carried.***

- Special Commission Permits (Video 1:54:56)
 - Dr. Karl Clinard explained the selection of nonprofit conservation organizations to receive 2023 special permits for deer, wild turkey, elk and waterfowl to raise funds for projects in Kentucky.
 - Brian Fisher made a **motion to reward 10 deer, 10 waterfowl and 10 turkey special commission permits**, seconded by Ralph Swallows. Votes were as follows: Yes, Dr. Floyd, Brian Fisher, Ralph Swallows, Josh Lillard, Jerry Ferrell, Paul Horn, Doug Morgan. ***The motion carried.***
 - Ralph Swallows made a **motion to award 10 elk special commission permits**, seconded by Dr. Robin Floyd. Votes were as follows: Yes: Dr. Floyd, Brian Fisher, Ralph Swallows, Josh Lillard, Jerry Ferrell, Paul Horn, Doug Morgan. ***The motion carried.***
 - Deputy Commissioner Clark explained the electronic tabulation process and members were able to begin their selections. During the voting period, a discrepancy was found in the list and some application documentation received by some members before the meeting, so the vote was paused to ensure all members received complete documentation from all applicants before casting their votes for special permit recipients.

New Business Items

- Change Simpson Co. from Zone 3 to Zone 2 for Deer Hunting (Video 2:30:20)
 - Deputy Commissioner Clark presented a recommendation by the Wildlife Division to amend 301 KAR 2:172 – Deer hunting seasons, zones, and requirements. Specifically, they recommend re-zoning Simpson County from Zone 3 to Zone 2.

- Update and Clarify Prohibited Aquatic Species Regulation (Video 2:32:55)
 - Fisheries Division Director Dave Dreves recommended the following provisions to amend [301 KAR 1:122](#) – Importation, possession, and prohibited aquatic species:
 - Clarify that goldfish are legal species to use as bait;
 - Provide clarification that there shall be an exception for legal release of aquatic species back into waters from which caught at the time of take;
 - Restrict transportation and sale of live tilapia within Kentucky to food consumption purposes only, with some exceptions;
 - Explicitly prohibit possession of live Asian carp species; and
 - Allow sport fishing anglers to possess, sell, and transport Asian carp under the same three conditions allowed for licensed commercial fisherman

- Clarify Propagation of Aquatic Organisms Permit Requirements (Video 2:38:19)
 - Dave Dreves presented information to amend [301 KAR 1:115](#) – Propagation of aquatic organisms. This recommendation would provide for the option of denying a propagation permit for aquatic organisms that we determine are potentially damaging to native ecosystems.

- Clarify Transportation of Fish Permit Requirements
 - Dave Dreves presented information to amend [301 KAR 1:125](#) – Transportation of fish. This is a recommendation with companion language presented for 301 KAR 1:115. This would establish a program to explicitly provide for the option of denying a transportation permit for aquatic organisms that we determine are potentially damaging to native ecosystems.

- Establish Commercial Fishing Methods and Experimental Gear Exemption (Video 2:40:12)
 - Dave Dreves presented information to amend [301 KAR 1:146](#), [301 KAR 1:152](#), or possibly file a new regulation. Staff attorneys recommend the department establish a program that allows commercial fishers to use special commercial fishing gear and methods to further the goal of Asian carp harvest in mass quantities and be eligible for the existing carp subsidy.

- Define “Gill Net” and “Trammel Net” in Regulation (Video 2:42:58)
 - Dave Dreves presented information to amend [301 KAR 1:146](#) – Commercial fishing gear. This would clarify legal definitions in conjunction with recommendations made by the Law Enforcement Division.

- Establish Special Regulations for Walleye and Smallmouth Bass on Barren River and Add Special Regulations for Catfish at Yatesville Lake (Video 2:44:50)
 - Dave Dreves presented information to amend [301 KAR 1:201](#) – Taking of fish by traditional fishing methods. The proposed language would define new lower boundary for walleye and smallmouth existing special regulations on the Barren River due to imminent removal of Lock and Dam 1 and add aggregate limit on blue catfish/channel catfish.

- Add Special Regulations for Hand-Grabbing of Catfish at Yatesville Lake (Video 2:49:24)
 - Dave Dreves presented information to amend [301 KAR 1:410](#) – Taking of fish by nontraditional fishing methods. The proposed amendment would add an aggregate limit on catfish.
- Modify Special Commission Permits regulation (for 2023) (Video 2:52:11)
 - Deputy Commissioner Clark and Steven Fields, Staff Attorney, presented the following recommendations to amend [301 KAR 3:100](#):
 - Substitute bear for waterfowl in special commission permits to improve fundraising capacity for recipient organizations and eliminate scheduling challenges for applicable WMA waterfowl blind sites;
 - Remove the requirement for permittee-hunter’s date of birth as it is already in Department records associated with the hunter’s hunting license; and
 - Require email or online submission of applications, hunter information, and reporting to ensure both the applicants and the Department will have date- and time-stamped applications.

Lunch Break

- Special Commission Permit (Video 3:48:10)
 - Scott Porter, Staff Attorney, provided clarification for special commission permit packet discrepancy. All members received a complete list of applicants, but a clerical error occurred in the dissemination of copies. Full packets were provided to the Commission members for review during the lunch break.

Public Comments (Video 3:54:58) - Kevin Kelly, Chief Communications Officer, read the comment submitted via email until the time allotted expired:

- Mr. Andrew Shutt and Mr. Roger LaPointe signed up to speak but had been given an opportunity to voice their position earlier in the meeting and therefore declined to speak again during the public comment period.
- Mr. Brian Mackey requested to speak on an issue not listed on the agenda. He asked when the fourth district Commission seat would be filled. Dr. Clinard said staff would look into the matter provide him with a response.
- Email Comments were then read to the Commission:
 We recently learned, with the agenda posting for the August 26th commission meeting, that the Special Commission Permits regulation (301 KAR 3:100) will be opened for amendments. With regards to the last change to this regulation, where each Special Commission Permit for elk receives random unit selection, the Kentucky Fish and Wildlife Foundation would like to request that the assigned unit shall not apply to private property. The Kentucky Fish & Wildlife Foundation has had much success with partnering with private landowners to provide a great hunt for our Special Commission Permit elk hunter. We do not foresee creating issues with

overuse of public areas, but this amendment will allow us to continue in our success. We would greatly appreciate the opportunity to continue to discuss this further, prior to the opening of regulation 301 KAR 3:100. Thank you for your time and for serving the people of Kentucky.

Sincerely,

--Rachel Young, Kentucky Fish and Wildlife Foundation Executive Director
and Jon Woodall, Foundation Board President

To Whom it May Concern:

We would ask that you allow for applications to be submitted earlier before the deadline so that they can be reviewed, and notification sent back to those applying if they are missing anything. This seems necessary as the rules are either changed or applied differently from year to year.

We would also ask that you change the Elk Permits back to the way they were before they each had their own zone. This has dramatically reduced the value of these permits and made it very difficult to raise funds on some. In our opinion this only hurts us as conservation groups from helping the department in the future. We would also like to support replacing the Duck Permit with a Bear Permit in the future.

--Brian Jones, President, Northern Kentucky Quail Forever Chapter

Executive Session (Video 4:10:21) - Scott Porter, Staff Attorney, read the following statement for public notice about the Commission meeting in closed session:

“All meetings of a quorum of the members of any public agency at which any public business is discussed or at which any action is taken by the agency, shall be public meetings, open to the public at all times except for specific exceptions listed in KRS 61.810 or otherwise provided for by law.

The Commission has business today that will require entering into a closed session. KRS 61.815 requires notice of the general nature of the business to be discussed in the closed session, the reason for the closed session, and the provision of KRS 61.810 that authorizes it be publicly announced prior to entering closed session for most open meetings exceptions. In the proposed closed session, the Commission shall perform the annual review of the Fish and Wildlife Resources Commissioner, Rich Storm’s performance, a potential land acquisition, and discuss ongoing litigation. Closed sessions for litigation matters are not subject to the requirements of KRS 61.815, however, in the interest of transparency, that information will be provided.

In today’s closed session, the Commission shall perform the annual review of the Fish and Wildlife Resources Commissioner’s performance. KRS 61.810(1)(f) authorizes closed sessions for discussions which might lead to the appointment, discipline, or dismissal of an individual employee. As confirmed by opinion of the Attorney General’s Office in 21-OMD-091, the annual review is required to be in closed session pursuant to KRS 150.061(1)(a) and in accordance with 61.810(1)(f).

Additionally, the commission will be discussing a potential land acquisition through a donation during the closed session. This portion of the closed session is authorized by KRS 61.810 under Section 1(b) for the potential land acquisitions.

The discussion is permitted to occur in the closed session in order to protect the Commonwealth's interests in the acquisition of land. By identifying the KDFWR's interest in, and location of, the particular parcels, the general public would be alerted to the owners' willingness to transfer the property to a state agency and that KDFWR may be the recipient of the property. As such, the publicity increases the likelihood other parties may make offers to buy the property. Such competing offers could increase the value of the subject property. Alternatively, a private party could purchase a property from the current owner more quickly than the Commonwealth and require the Commonwealth to pay a premium to acquire it.

During the closed session, the Commission will receive a status update regarding the pending appeal from the Franklin Circuit Court action with the Kentucky Open Government Coalition (21-CI-0680). This status update and discussion shall occur in closed session to protect attorney-client privilege and the Commission's litigation interests. The discussion of all pending and ongoing litigation during the closed session is authorized by KRS 61.810(1)(c).

Upon an approved motion, the Commission will enter into closed session. The Commission shall not discuss any other matters and no action shall be taken occur during the closed session.

During the closed session, counsel and necessary members of staff will be present to advise the Commission."

Dr. Robin Floyd made a **motion to enter executive session**, seconded by Paul Horn. Commission members voted unanimously by verbal "aye." ***The motion carried unanimously.***

Action Item

After open session resumed, Dr. Clinard entertained motions concerning the items discussed in closed session.

- Land Acquisition Project (Video 5:37:40) - Paul Horn made a ***motion to proceed forward with acquisition of donated land described in executive session.*** Paul Horn seconded the motion. Vote was taken by raising of hands. Votes were as follows: Yes - Dr. Robin Floyd, Brian Fisher, Ralph Swallows, Josh Lillard, Paul Horn, and Doug Morgan. ***The motion carried unanimously.***
- Special Commission Permit Recipients (Video 5:38:48) – Kevin Kelly announced recipients of special commission permits by category:
 - **Deer:**
 - Carr Creek Fish and Game Club

- Kentucky Ducks Unlimited
 - Kentucky Elk Guide Association, Inc.
 - Kentucky Fish and Wildlife Foundation
 - Kentucky Houndsmen Association Foundation for Sportsman's Rights
 - Kentucky Hunters for the Hungry
 - Kentucky River Longbeards NWTF Chapter
 - National Deer Association (formerly QDMA)
 - The Nature Conservancy
 - Wildlife Women
- **Spring Turkey:**
 - Carr Creek Fish and Game Club
 - Kentucky Ducks Unlimited
 - Kentucky Elk Guide Association, Inc.
 - Kentucky Fish and Wildlife Foundation
 - Kentucky Houndsmen Association Foundation for Sportsman's Rights
 - Kentucky Hunters for the Hungry
 - Kentucky River Longbeards NWTF Chapter
 - National Deer Association (formerly QDMA)
 - The Nature Conservancy
 - Wildlife Women
- **Waterfowl:**
 - Camp Hero
 - Carr Creek Fish and Game Club
 - Kentucky Ducks Unlimited
 - Kentucky Elk Guide Association, Inc.
 - Kentucky Fish and Wildlife Foundation
 - Kentucky Hunters for the Hungry
 - Kentucky River Longbeards NWTF Chapter
 - Outdoor Stewards of Conservation Foundation
 - The Nature Conservancy
 - Wildlife Women
- **Elk (and assigned elk hunting unit):**
 - Carr Creek Fish and Game Club – Unit 5
 - Kentucky Ducks Unlimited – Unit 6
 - Kentucky Elk Guide Association, Inc. – Unit 7
 - Kentucky Field Trial Association – Unit 3
 - Kentucky Fish and Wildlife Foundation – Unit 6
 - Kentucky Houndsmen Association Foundation for Sportsman's Rights – Unit 2
 - Kentucky Hunters for the Hungry – Unit 2
 - Kentucky River Longbeards NWTF Chapter – Unit 3
 - National Deer Association (formerly QDMA) – Unit 4
 - The Nature Conservancy – Unit 7

Note: Elk Special Commission Permit Drawing (5:42:00) – Deputy Commissioner Brian Clark, Conservation Officer Robin Wiley, and Mr. Shutt (a sportsman attending the Commission meeting as a member of the public), witnessed and verified a printed copies of the electronic ballots (votes submitted online) for reporting to the Commission and public in the meeting. Officer Wiley facilitated assignment of elk hunting units by randomly drawing a Special Commission Permit recipient and a corresponding elk hunting unit number from separate containers in the presence and view of the Commission members and others attending the meeting.

Adjournment (Video: 5:47:08)

- Brian Fisher made a ***motion to adjourn***, seconded by Doug Morgan. Commission members voted unanimously to adjourn. ***The motion carried unanimously.***

ACTION ITEM

Kentucky Fish and Wildlife Commission Meeting
DATE: December 2, 2022

Regulation Number: N/A

Regular or Emergency: N/A

Proposed Effective Timeframe: N/A

Action Item: [Quarterly Financial Statements](#)

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**Department of Fish & Wildlife Resources
Income Statement - FY23/Q1**

25%

	REVENUE				FY23 Year To Date TOTALS	FY23 BUDGET	Percent Earned / Expended
	July	August	September				
Restricted Fish and Game Fund							
Hunting and Fishing Licenses	\$ 1,156,095.00	\$ 1,060,481.00	\$ 3,102,059.70	\$ 5,318,635.70	\$ 39,000,000	13.64%	
Boat Registration Fees	\$ 295,455.85	\$ 108,855.52	\$ 153,486.23	\$ 557,797.60	\$ 7,000,000	7.97%	
Interest Income	\$ 136,464.14	\$ (219,143.16)	\$ (230,235.83)	\$ (312,914.85)	\$ 100,000	-312.91%	
Camp Income	\$ (50,131.87)	\$ (39,085.18)	\$ 199.30	\$ (89,017.75)	\$ 685,000	-13.00%	
General Sales	\$ 18,703.98	\$ 22,910.28	\$ 23,777.04	\$ 65,391.30	\$ 240,000	27.25%	
Otter Creek Outdoor Recreation Area	\$ 44,613.48	\$ 34,760.54	\$ 25,980.62	\$ 105,354.64	\$ 450,000	30.10%	
Proceeds from Asset Disposition	\$ -	\$ -	\$ -	\$ -	\$ -	0.00%	
Fish and Game Fines & Forfeitures/ Restitution	\$ 11,764.60	\$ 8,547.04	\$ 8,516.05	\$ 28,827.69	\$ 250,000	11.53%	
Miscellaneous Receipts	\$ 18,405.48	\$ 72,560.64	\$ 54,798.64	\$ 145,764.76	\$ 1,900,000	7.67%	
Sub-Total Restricted Fish and Game Fund	\$ 1,631,370.66	\$ 1,049,886.68	\$ 3,138,581.75	\$ 5,819,839.09	\$ 49,975,000	11.65%	
Sub-Total FILO Stream Mitigation Fund (matches FILO Fund Used for Operating Costs Only)							
	\$ 130,014.08	\$ 155,893.62	\$ 161,163.46	\$ 447,071.16	\$ 1,837,800	24.33%	
Sub-Total Federal Fish and Wildlife Fund	\$ 273,794.97	\$ 1,069,924.36	\$ 1,289,695.93	\$ 2,633,405.26	\$ 25,000,000	10.53%	
TOTAL REVENUE	\$ 2,035,169.71	\$ 2,275,704.66	\$ 4,589,441.14	\$ 8,900,315.51	\$ 76,812,800	11.59%	
EXPENDITURES							
Commissioner's Office	\$ 131,261.92	\$ 132,345.59	\$ 161,392.53	\$ 425,000.04	\$ 7,272,900	5.84%	
Commission	\$ 387.79	\$ 4,633.75	\$ 2,852.06	\$ 7,873.60	\$ 21,200	37.14%	
Marketing Division	\$ 59,763.95	\$ 76,834.78	\$ 118,054.39	\$ 254,653.12	\$ 1,389,000	18.33%	
Administrative Services Division	\$ 872,328.59	\$ 358,446.47	\$ 205,343.00	\$ 1,436,118.06	\$ 4,392,300	32.70%	
Engineering Infrastructure and Technology Division	\$ 160,251.45	\$ 191,348.34	\$ 193,941.18	\$ 545,540.97	\$ 3,052,500	17.87%	
Wildlife Division	\$ 1,162,519.88	\$ 1,384,893.28	\$ 1,355,051.27	\$ 3,902,464.43	\$ 20,432,100	19.10%	
Fisheries Division	\$ 873,034.17	\$ 984,600.28	\$ 960,277.43	\$ 2,817,911.88	\$ 15,478,200	18.21%	
Information & Education	\$ 848,923.81	\$ 897,096.20	\$ 623,282.48	\$ 2,369,302.49	\$ 8,976,900	26.39%	
Law Enforcement	\$ 1,097,323.15	\$ 1,288,556.03	\$ 1,075,098.22	\$ 3,460,977.40	\$ 15,797,700	21.91%	
OPERATING EXPENDITURES	\$ 5,205,794.71	\$ 5,318,754.72	\$ 4,695,292.56	\$ 15,219,841.99	\$ 76,812,800	19.81%	
NET Gain/Loss Operating	\$ (3,170,625.00)	\$ (3,043,050.06)	\$ (105,851.42)	\$ (6,319,526.48)	\$ -	-	

¹ Excludes \$9M FILO Third-Party Agreements paid as operating, which are included in the approved budget.

² Includes approved contingency budget held in Commissioner's Office for entire department.

³ Includes statewide charges paid centrally for workers' compensation, personnel board assessment, insurance premiums, payroll system charge, etc.

DEPARTMENT OF FISH AND WILDLIFE RESOURCES
 Operating Budget Review
 For the Month of September 2022 (FY23)

	September			Fiscal Year To Date		
	FY23	FY22	FY21	FY23	FY22	FY21
REVENUE						
Restricted Funds						
Hunting and Fishing Licenses	\$ 3,102,059.70	\$ 1,511,430.00	\$ 3,014,551.01	\$ 5,318,635.70	\$ 4,799,831.75	\$ 6,131,908.51
Boat Registration Fees	\$ 153,486.23	\$ 66,772.77	\$ 189,770.03	\$ 557,797.60	\$ 528,643.72	\$ 1,389,898.71
Interest Income	\$ (230,235.83)	\$ (27,674.87)	\$ 4,720.63	\$ (312,914.85)	\$ 17,972.94	\$ 27,930.51
Camp Income	\$ 199.30	\$ (35,215.30)	\$ -	\$ (89,017.75)	\$ (25,232.72)	\$ -
General Sales	\$ 23,777.04	\$ 19,013.55	\$ 22,394.80	\$ 65,391.30	\$ 82,628.21	\$ 51,509.54
Otter Creek Outdoor Recreation Area	\$ 25,980.62	\$ 18,642.20	\$ 21,106.70	\$ 105,354.64	\$ 89,768.87	\$ 51,448.87
Proceeds from Asset Disposition	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 78,000.00
Fish and Game Fines & Forfeitures/ Restitution	\$ 8,516.05	\$ 13,360.40	\$ 12,779.53	\$ 28,827.69	\$ 31,184.03	\$ 33,448.24
Miscellaneous Receipts	\$ 54,798.64	\$ 140,135.88	\$ 30,441.98	\$ 145,764.76	\$ 188,982.71	\$ 73,717.21
Sub-Total Restricted Fish and Game Fund	\$ 3,136,581.75	\$ 1,706,464.63	\$ 3,295,764.68	\$ 5,819,839.09	\$ 5,713,779.51	\$ 7,837,861.59
Sub-Total FILO (=Operating Costs of FILO Fund)	\$ 161,163.46	\$ 114,208.02	\$ 105,003.26	\$ 447,071.16	\$ 444,529.24	\$ 359,942.69
Sub-Total Federal Fish and Wildlife Fund	\$ 1,289,695.93	\$ 247,268.21	\$ 1,331,955.11	\$ 2,633,405.26	\$ 2,160,626.64	\$ 2,847,471.76
TOTAL REVENUE	\$ 4,589,441.14	\$ 2,067,940.86	\$ 4,732,723.05	\$ 8,900,315.51	\$ 8,318,935.39	\$ 11,045,276.04
EXPENDITURES						
Commissioner's Office	\$ 161,392.53	\$ 139,965.99	\$ 151,636.50	\$ 425,000.04	\$ 507,560.84	\$ 563,328.73
Commission	\$ 2,852.06	\$ 531.90	\$ 78.00	\$ 7,873.60	\$ 6,898.09	\$ 4,048.19
Marketing Division	\$ 118,054.39	\$ 69,261.83	\$ 69,172.95	\$ 254,653.12	\$ 213,016.86	\$ 233,859.56
Administrative Services Division	\$ 205,343.00	\$ 214,414.20	\$ 203,747.79	\$ 1,436,118.06	\$ 1,346,063.38	\$ 1,331,608.53
Engineering Infrastructure and Technology Division	\$ 193,941.18	\$ 232,834.41	\$ 196,905.74	\$ 545,540.97	\$ 765,728.55	\$ 712,579.26
Wildlife Division	\$ 1,355,051.27	\$ 1,257,617.60	\$ 1,195,598.41	\$ 3,902,464.43	\$ 4,272,343.37	\$ 4,030,692.22
Fisheries Division	\$ 960,277.43	\$ 881,634.60	\$ 810,837.08	\$ 2,817,911.88	\$ 2,926,327.97	\$ 2,798,977.86
Information & Education	\$ 623,282.48	\$ 566,229.70	\$ 509,106.94	\$ 2,369,302.49	\$ 2,480,419.71	\$ 1,816,030.36
Law Enforcement	\$ 1,075,098.22	\$ 1,163,096.66	\$ 980,911.21	\$ 3,460,977.40	\$ 3,914,919.86	\$ 3,498,604.65
OPERATING EXPENDITURES	\$ 4,695,292.56	\$ 4,525,586.89	\$ 4,117,994.62	\$ 15,219,841.99	\$ 16,433,278.63	\$ 14,989,729.36
NET Gain / Loss Operating	\$ (105,851.42)	\$ (2,457,646.03)	\$ 614,728.43	\$ (6,319,526.48)	\$ (8,114,343.24)	\$ (3,944,453.32)

Department of Fish and Wildlife Resources Cash Fund Balances - September 2022 (FY23)

	Beginning Balance (9/1/2022)	Revenue	Expenditures	Transfers	Ending Balance (9/30/2022)
Agency Revenue Funds					
Restricted Fish & Game Fund (134R)	\$ 28,855,930.41	\$ 3,138,350.25	\$ (3,268,512.48)	\$ (428,933.85)	\$ 28,296,834.33
Nongame Fish and Wildlife Fund (13NY)	\$ 46,120.31	\$ 231.50			\$ 46,351.81
Ky Heritage Land Conservation Mgmt Fund (13KR)	\$ 249,868.67				\$ 249,868.67
JC Williams WMA Management Funds (13QU)	\$ 86,274.90	\$ (350.40)			\$ 85,924.50
Fees in Lieu of ("FILO") Stream Mitigation Fund (134S)	\$ 141,558,216.61	\$ 1,180,801.42	\$ (161,536.21)	\$ 721,964.00	\$ 143,299,445.82
Capital Fund					
Various Capital Funded Projects (FILO, Agency Maintenance, etc.)	\$ 68,513,325.00	-	\$ (532,088.95)	\$208,036.00	\$ 68,189,272.05
Federal Fund					
F&W Federal Fund	\$ 6,812,372.30	\$ 1,355,321.89	\$ (1,310,812.76)	\$ (501,066.15)	\$ 6,355,815.28
Special Deposit Trust Fund					
FW-Commissioner's Office Fund	\$ 8,916.24				\$ 8,916.24
	\$ 247,111,024.44	\$ 5,674,354.66	\$ (5,272,950.40)	\$ -	\$ 247,512,428.70

Attachment A-3

Kentucky Fish and Wildlife Commission Meeting

ACTION ITEM

DATE: December 2, 2022

Regulation Number: 301 KAR 2:083

Regular or Emergency: Regular

Proposed Effective Timeframe: Fall 2023

Discussion Item: [The Wildlife Division recommends amending 301 KAR 2:083 to clarify that only captive cervids may be held in captive cervid enclosures.](#)

The recent change of a Kentucky Department of Agriculture regulation number requires a semantic amendment to our regulations, which reference the Agriculture regulation number. Our required change will be filed in January 2023. Because of the required change, our regulation could be simultaneously amended to address an unintended loophole in the captive cervid regulations created when the regulations were previously promulgated.

The commingling of exotic wildlife species and members of the family Suidae (pig and hog species) with captive cervids poses a significant disease risk to both native wildlife and livestock in Kentucky. A recent study determined that pigs can be experimentally infected with Chronic Wasting Disease (CWD), and thus could be a vector for the spread of CWD across the landscape.

Due to the inherent risk that introduction of CWD poses, captive cervids should not be commingled with any species susceptible to CWD, including swine. Additionally, the commingling of cervids with other exotic wildlife should be prohibited due to the potential for introducing pathogens into new ecosystems with naïve hosts, which could have adverse effects on native wildlife and livestock.

Amending this regulation as proposed will aid with enforcement of laws regarding wild pigs in confinement. Escape of wild pigs from cervid pens poses the risk of new populations forming, which would result in destructive impacts to native wildlife, habitats, wildlife food resources, forest health, water quality, agriculture, and both public and private property.

DISCUSSION ITEM

Kentucky Fish and Wildlife Commission Meeting
DATE: December 2, 2022

Regulation Number: 301 KAR 2:172

Regular or Emergency: Regular

Proposed Effective Timeframe: Fall 2023

Discussion Item: Amend 301 KAR 2:172 – Deer hunting seasons, zones, and requirements

Introduction: The Wildlife Division recommends re-zoning Simpson County from Zone 3 to Zone 2.

All counties surrounding Simpson County are Zone 2. This change will still allow hunters to harvest a maximum of 4 antlerless deer, but it will allow more of those deer to be taken via firearm or air gun. Designating Simpson County as Zone 2 will not be detrimental to the deer population but will provide more opportunity for hunters in that county.

The trends in our deer population model for the area, and density estimates for Simpson County specifically, support this change. Moreover, staff biologists and conservation officers, and hunters and landowners in the county have expressed support for this change.

Specifically, we recommend amending Section 6 (Zones) of the regulation as follows:

(2) Zone 2 shall consist of Adair, Allen, Barren, Bath, Bourbon, Boyd, Boyle, Breckinridge, Butler, Carter, Casey, Clark, Daviess, Edmonson, Fayette, Fleming, Grayson, Greenup, Hancock, Jessamine, Lawrence, Lewis, Lincoln, Logan, Madison, Marion, Meade, Metcalf, Monroe, Montgomery, Nicholas, Ohio, **Simpson**, Taylor, and Warren Counties.

(3) Zone 3 shall consist of Cumberland, Elliott, Estill, Garrard, Johnson, Laurel, Morgan, Powell, Pulaski, Rowan, ~~Simpson~~, Wayne, and Wolfe Counties.

Kentucky Fish and Wildlife Commission Meeting

DISCUSSION ITEM

Kentucky Fish and Wildlife Commission Meeting

DATE: December 2, 2022

Regulation Number: [301 KAR 1:122](#)

Regular or Emergency: Regular

Discussion Item: Importation, possession, and prohibited aquatic species.

Introduction:

This administrative regulation establishes the species of aquatic life that are prohibited in the Commonwealth. The current regulation language specifies the prohibition of various activities with regard to these invasive species. Some simple clarifications and “clean up” language in keeping with the intent of the regulation are needed.

The Fisheries Division recommends adding the following provisions to the regulation:

- [Clarify that goldfish may be used as bait.](#)

There is currently ambiguity in the regulation as to whether goldfish are a legal species for use as bait in Kentucky waters. Though they are a non-native species, but not injurious to native ecosystems and widely found in Kentucky waters. As such Fisheries has already sanctioned the propagation and sale of this species as bait and they are a popular baitfish used by anglers.

- [Individuals of any aquatic species may be released at the time of catch back into the water body from which they are caught.](#)

The regulation currently reads that Asian carp and various other types of invasive aquatic species may not be “released” in Kentucky. The regulation intended to prohibit people from intentionally introducing detrimental species not already established in Kentucky waters in general or a specific water body in particular, but not necessarily to make it illegal to release a species from the water where it was taken. As it stands, the regulation unintentionally makes it unlawful for recreational anglers to release prohibited species back into the water body where they are caught, even if they don’t recognize them.

- [Restrict transportation and sale of live tilapia within Kentucky to:](#)
 - another properly licensed propagator;
 - a properly licensed live fish and bait dealer; or

- a person, corporation, or other business entity that is selling fish for food in establishments licensed for resale by another state agency or for sale as wholesale food products.

The Fisheries Division already allows for the propagation of non-native tilapia species for food consumption; however this exception is currently not in regulation. To ensure tilapia do not become established in Kentucky waters, outside of the aquarium trade, we propose to allow tilapia propagation and transportation within Kentucky *for food consumption only* and therefore not sold live except in specific cases.

The Fisheries Division also recommends amending Section 4 pertaining to Asian carp:

- Explicitly prohibit possession of live Asian carp species.

This section already prohibits a person from buying, selling, importing, transporting, or releasing live Asian carp species (notwithstanding the exception for licensed commercial fisherman). We recommend adding “possess” to prohibited activities.

- Allow sport fishing anglers to possess, transport, and sell Asian carp under the same three conditions allowed for licensed commercial fisherman:
 - must not be transported in water;
 - must be moribund (meaning dead or dying); and
 - must be transported to a fish processing facility.

Because we have made the allowance in 301 KAR 1:152, Section 8 for the non-commercial harvest of Asian carp, we also need to make this allowance.

DISCUSSION ITEM

Kentucky Fish and Wildlife Commission Meeting
DATE: December 2, 2022

Regulation Number: [301 KAR 1:115](#)

Regular or Emergency: Regular

Discussion Item: Propagation of aquatic organisms.

Introduction:

This administrative regulation establishes the requirements for obtaining a propagation permit for aquatic organisms and establishes the requirements for propagation permit holders. KRS 150.280 prescribes that the department shall by administrative regulation identify species that are potentially damaging to native ecosystems and shall prohibit the transporting or holding of these species.

The Fisheries Division proposes adding the following procedures change:

- [Provide that the Department may deny a propagation permit for aquatic organisms that we determine are potentially damaging to native ecosystems.](#)

By providing this clarification in regulation, it will also give permit applicants wishing to appeal a decision the recourse of an administrative hearing.

DISCUSSION ITEM

Kentucky Fish and Wildlife Commission Meeting

DATE: December 2, 2022

Regulation Number: [301 KAR 1:125](#)

Regular or Emergency: Regular

Discussion Item: Transportation of fish.

Introduction:

This administrative regulation provides for control of the transportation of fish, fish eggs, live bait, and other aquatic organisms into, through, and within the state to protect the resident fish populations. KRS 150.280 mandates that the department shall by administrative regulation identify species that are potentially damaging to native ecosystems and shall prohibit the transporting or holding of these species.

With that in mind the Fisheries Division proposes a clarification in the regulation, as follows:

- [Provide that the Department may deny a transportation permit for the transportation of aquatic organisms that we determine are potentially damaging to native ecosystems.](#)

By providing this clarifying wording in regulation it will also give those wishing to appeal our decision recourse to an administrative hearing.

DISCUSSION ITEM

Kentucky Fish and Wildlife Commission Meeting
DATE: December 2, 2022

Regulation(s) Number: 301 KAR 1:152 & 3:022 **Regular or Emergency:** Regular

Discussion Item: Harvest and sale of Asian carp.

Introduction:

The Fisheries Division recommends establishment of a program that allows commercial fishers to use special commercial fishing gear and special commercial fishing methods to further the goal of invasive carp harvest and sale in mass quantities. The amendments to existing regulations will create a new Experimental Commercial Fishing Methods Permit that will allow commercial fishers, under the oversight of KDFWR staff, to use and experiment with currently impermissible gear/methods in restricted/designated areas to determine if said methods and gear can be employed safely; are effective at harvesting invasive carp; have minimal by-catch; and cause negligible interference with other recreational users.

KDFWR has limited ability to provide concurrent, in-person oversight of more than just a handful of commercial fishers, so filtering criteria would be established to limit the number of participants in the program at any one time. Through the structured on-site review and evaluation of fisher's methods and efficiency in Tier I of this program, it may become feasible to allow a fisher to continue their methods with less rigorous oversight by assigning them to a 'Tier II' status. This would allow KDFWR to potentially permit an unlimited number of participants in that status and ultimately permit those methods and gears for general use by commercial fishers.

Fisheries proposes the following fee structure for the permits:

- Tier I resident – \$800
- Tier II resident – \$1,200
- Tier I non-resident – \$1,600
- Tier II non-resident – \$2,400

The number of experimentation days allowed will be dependent on number of persons in the program and staff availability. However, applicants selected for entry into Tier I of the Program shall be offered a minimum of 25 days per year of KDFWR-supervised experimentation of fishing methods and gears. The department shall not approve a fishing request for reasons such as: (a) Higher than normal by-catch is likely to occur at

that location and time; (b) Excessive user conflicts would occur, or (c) pending adjudication of a commercial fishing offense.

Experimentation under this program will be allowed in the following waters upon KDFWR approval, including restricted waters:

Kentucky Lake

Lake Barkley

Ohio River downstream of Newburg Lock and Dam

Mississippi River from the mouth of the Ohio River downstream to the Tennessee line

Tennessee River downstream of Kentucky Lake

Cumberland River downstream of Lake Barkley

Green River downstream of Green River Lock and Dam # 4.

The gear tagging requirement for commercial fishing gear is waived when KDFWR observers are present. However, program participants must follow gear tagging requirements if KDFWR staff are not present. If fish must be left overnight in a live holding net, then they must have a commercial fishing gear tag and be marked with equipment issued by KDFWR.

Tier I Experimental Commercial Fishing Methods Program

To be eligible for Tier I of the Experimental Commercial Fishing Methods Program, the applicant must possess the necessary commercial fishing experience and required equipment as follows:

- Have a minimum of three years commercial fishing experience with at least two years holding a valid commercial fishing license
- Have a boat and motor(s) that meet the following minimum requirements:
 - Work boat – at least 22 feet in length and space for essential crew and one agency appointed observer, along with storage capacity for harvested fish
 - Outboard with a minimum of 75 horsepower
 - Required safety equipment and personal flotation devices (PFD)
 - Fishing electronics – traditional and side-imaging sonar, and water temperature
- Valid boat registration
- Have a towing vehicle capable of handling boat transportation to and from designated removal sites and the hauling of harvests for sale or disposal, and if hauling fish within Kentucky, have the necessary Kentucky Department of Transportation identification permits, insurance cards, and federal transportation tags required for commercial transport of fish.

Tier I of the new Experimental Commercial Fishing Methods Program will also have the following requirements:

- Shall be limited to a maximum of three (3) program participants at any one time, selected based on a ranking system developed by KDFWR
- A KDFWR staff member must be present for all commercial fishing methods experimentation
- Program participant shall:
 - purchase valid commercial fishing license
 - purchase Experimental Commercial Fishing Methods Permit
 - be present for all methods experimentation
 - supply KDFWR with a description of experimental commercial fishing gear and practices for prior approval
 - coordinate with the KDFWR point of contact to request a fishing date and location at least 5 days in advance
 - allow fisheries biologists or agency appointed observers onboard vessels to observe and record fish harvesting efforts
 - cease any experimentation considered by KDFWR to be unsafe or unduly interferes with other recreational users, detrimental to non-target species, or unsuccessful for significant invasive carp harvests
 - be responsible for the removal and lawful disposal of all invasive carp species caught from waters during fishing efforts (may be sold to any willing buyer)
 - indicate on the sales receipt that fish were harvested via an experimental gear/method authorized under this special permit and must identify the permit holder
 - submit itemized invoices (by date) to KDFWR each month to allow for clear identification of species and pounds harvested
 - fish under a paid license that allows the harvest and sale of rough fish other than invasive carp, however, the harvest ratios must abide by the limits set under the Asian Carp Harvest Program regulations
 - meet with KDFWR personnel quarterly to review the actions taken under this permit
 - be eligible for the KDFWR Kentucky and Barkley Lake Asian Carp Subsidy Program

Tier II Experimental Commercial Fishing Methods Program

Qualified commercial fishers currently enrolled in Tier I of the Experimental Commercial Fishing Methods Program who have demonstrated competency to harvest mass amounts of invasive carp with little or no negative aspects described above may complete an application to be considered for Tier II of the program where direct KDFWR oversight will not be required.

The Experimental Commercial Fishing Methods Program Tier II applicant will also need to have achieved specific milestones in the Tier I program. KDFWR will assess each

applicant's eligibility for admission to Tier II using the following criteria:

- A valid commercial fishing license
- A valid boat registration
- Maintained satisfactory communication with KDFWR staff during Tier I activities
- At least six (6) months of participation in Tier I of the Experimental Commercial Fishing Methods Program, with gear/method fished a minimum of 20 times
- Bycatch must have represented 20% or less of total catch for the most recent 10 fishing days and bycatch must be in a condition where there is an expectation of survival upon release
- Harvested at least 200,000 lbs. of invasive carps through the Tier I of the Experimental Commercial Fishing Methods Program within the previous year

Tier II Experimental Commercial Fishing Methods Program participants will need to adhere to many of the Tier I requirements along with the following different requirements:

- Coordinate with the KDFWR POC to request a fishing date and location at least 24 hours prior to the requested date
- Allow scheduled ride-alongs or random spot checks by KDFWR staff
- Shall not leave their gear unattended in a manner that will cause conflicts with watercraft navigation or pose risk of injury to other users on the waterways
- The program participant will be required to keep daily records and report the following information to KDFWR point of contact on a monthly basis
 - Pounds of fish harvested by species
 - Number of personnel assisting with the effort
 - Names of sub-contractors that fish were transferred to (if any)
 - Name of processor or fish market receiving fish
 - Number of hours experimental gear was fished
 - Number of times gear was deployed
 - Other pertinent information associated with the gear (mesh size, gear depth, gear length, approximate depth of water gear was used in)
- Restrictions on the time of year or location that experimental gear or fishing methods can be used under Tier II of the program may be imposed by KDFWR on a case-by-case basis

DISCUSSION ITEM

Kentucky Fish and Wildlife Commission Meeting

DATE: December 2, 2022

Regulation(s) Number: 301 KAR 1:146

Regular or Emergency: Regular

Discussion Item: Commercial fishing gear.

Introduction:

This administrative regulation establishes the legal methods that may be used by commercial fishermen to harvest rough fish.

It has been determined that creating legal definitions for “gill net” and “trammel net” would be beneficial for the Law Enforcement Division during prosecution of commercial fishing violations. Therefore, the Fisheries Division proposes definitions based on wording derived from a standardized sampling manual published by the American Fisheries Society.

Promulgate in regulation legal definitions as follows:

- “Gill net” means a passive capture device in which fishes are captured by becoming wedged, gilled, or entangled in a single panel of webbing fished vertically.
- “Trammel net” means a passive capture device in which fishes are captured by becoming wedged, gilled, or entangled in two or three panels of webbing fished vertically.

DISCUSSION ITEM

Kentucky Fish and Wildlife Commission Meeting

DATE: December 2, 2022

Regulation Number: 301 KAR 1:201

Regular or Emergency: Regular

Discussion Item: Taking of fish by traditional fishing methods.

Proposed Effective Timeframe: Spring 2024

Introduction:

This administrative regulation establishes fish size limits, daily creel limits, and possession limits for fishing.

The U. S. Army Corps of Engineers has deauthorized Barren River Lock and Dam 1 and the U. S. Fish and Wildlife Service is currently in process of the demolition and complete removal of the lock and dam. This structure is currently the boundary for two special regulations. Therefore, we need to establish a new physical boundary.

The Fisheries Division proposes a clarification in the regulation, as follows:

- Provide that the new lower boundary on the Barren River for walleye and smallmouth bass special regulations shall be the mouth of the Barren River.

The special regulation for walleye is an 18-26 inch protective slot limit and 2-fish daily creel limit. The special regulation for smallmouth bass is a 15-inch minimum size limit. This change in the lower boundary will add protection with these special regulations to 15 more miles of Barren River mainstem and since the special regulation also includes all tributaries, it notably also includes Gasper River.

The Fisheries Division has also added Yatesville Lake to the blue catfish stocking program. Reservoirs enrolled in this program typically have restrictive size and daily creel limits. The Fisheries Division proposes the following special regulation for blue catfish and channel catfish at Yatesville Lake:

- Blue catfish and channel catfish will have a 15-fish daily creel limit in aggregate and only 1 fish may be longer than 25 inches

DISCUSSION ITEM

Kentucky Fish and Wildlife Commission Meeting

DATE: December 2, 2022

Regulation Number: [301 KAR 1:410](#)

Regular or Emergency: Regular

Discussion Item: Taking of fish by nontraditional fishing methods.

Proposed Effective Timeframe: Spring 2024

Introduction:

This administrative regulation establishes the procedures for taking sport and rough fish by nontraditional fishing methods.

Because we are proposing to protect blue catfish and channel catfish at Yatesville Lake with special regulations for fishing with *traditional* fishing methods, correspondingly [the Fisheries Division proposes special provisions for hand-grabbing in Yatesville Lake:](#)

- [Catfish will have a 5-fish daily creel limit in aggregate, and only 1 blue catfish or channel catfish may be longer than 25 inches](#)

DISCUSSION ITEM

Kentucky Fish and Wildlife Commission Meeting

DATE: December 2, 2022

Regulation Number: 301 KAR 3:100

Regular or Emergency: Regular

New Business Item: Special commission permits.

Proposed Effective Timeframe: Summer 2023

Introduction:

The Department proposes amending this regulation to substitute bear for waterfowl in available special commission permits. Bear permits offer a much greater fundraising potential for eligible nonprofit conservation organizations. By substituting bear for waterfowl and offering a limited number of special commission bonus bear permits initially such as 3-5 and increased over time to a maximum of 10 in keeping with bear population objectives and this regulation, there would be a premium on these permits.

Special commission waterfowl permits have introduced a number of unintended problems since their inception. The proposed change would eliminate these issues, which include:

- Competing with hunters for the highly demanded and already limited number of public blind sites at applicable WMAs.
- Limited fundraising potential for nonprofit recipients, evidenced by the very low average return of about \$200 per permit as well as the fact that many applying organizations do not apply for a special waterfowl permit.
- Scheduling challenges for permittees who are deferred for 1 or more years because their hunt dates are cancelled due to flooding on applicable WMAs (mainly Ballard WMA, which is most in demand).
- Confusion for the special commission permit holders as this permit does not afford a bonus bag limit (and cannot due to federal regulations), and recipients must still purchase a waterfowl permit and duck stamp in addition to the special commission permit.

The Department also proposes the following amendments to further simplify and standardize the application and record-keeping process:

- Remove the requirement for permittee-hunter's date of birth as it is already in Department records associated with the hunter's hunting license

- Require submission of special commission permit applications via email or online at fw.ky.gov. This requirement will ensure that all organizations who submit their applications on time will have a time-stamped record of their submissions and verifiable records of all supporting materials supplied.
- Require annual reports be submitted via email or online at fw.ky.gov utilizing a standardized form. This requirement will ensure that all organizations who submit their reports will have a time-stamped record of their submissions, will ensure the organizations are specifically prompted to provide all necessary information for a complete report, and will simplify the staff's review process.
- Reduce the disqualification period from 2 years to 1 year for failing to timely submit an annual report or submitting an incomplete report *if* they do subsequently submit the full report after the deadline.
- Amend the requirements for submitting hunter information to avoid penalizing organizations who sell a permit but are unable to obtain the necessary hunter information from the hunter prior to the submission deadline.

NEW BUSINESS ITEM

Kentucky Fish and Wildlife Commission Meeting

DATE: December 2, 2022

Regulation Number: New Regulation **Regular or Emergency:** Regular

New Business Item: Hunting on Conservation Camp Properties

Proposed Effective Timeframe: Fall 2023

Introduction: [The Information and Education Division proposes promulgation of a new regulation to allow for special mentored hunts on all 3 conservation camp properties.](#)

We are increasing the number of Department-sponsored mentor/youth hunts facilitated by Information and Education Division staff, as well as seeking to optimize use of camp properties outside the summer conservation camp timeframe.

Conservation camp properties are publicly owned, thus we propose to formally specify the hunting opportunities to be provided by specifying them as public land in regulation. The I&E division intends to provide special youth and adult mentor hunts, when feasible and under the following stipulations:

- Create a regulation for special hunts on all 3 conservation camp properties.
- Hunts are to be conducted as Department-sponsored events for mentor/youth hunters only.
- Hunts would be conducted during statewide seasons, and license requirements and bag limits for waterfowl, small game, spring and fall turkey and migratory birds would apply.
- Deer hunts would follow statewide bag limits and license requirements, but hunters would be permitted to use any legal hunting equipment as with other special mentored deer hunts already provided for in regulation, from the first Saturday in September to the third Monday in January.

Attachment NB-2

Kentucky Fish and Wildlife Commission Meeting

NEW BUSINESS ITEM

DATE: December 2, 2022

Regulation(s) Number: [301 KAR 2:030](#) Commercial guide license &
[301 KAR 3:022](#) License, tag, and permit fees

Regular or Emergency: Regular

New Business Item: [Update requirements for commercial guides](#)

Introduction:

The Commissioner's Office and Fisheries, Law Enforcement, and Wildlife divisions recommend modifications to the commercial guide regulation to require reporting for both hunting and fishing guides, update the requirements to obtain a commercial guide license, and update the commercial guide license application. Additionally, we recommend an increase in the commercial guide fees.

Wildlife and Fisheries Division staff do not currently receive information related to the number of fish and/or wildlife that are harvested by anglers or hunters with the aid of a commercial guide. Many of the species that commercial guides target with their clients do not have a reporting requirement when harvested, thus the impact on the resource is unknown. Other commercial activities, such as commercial fishing, are required to report harvest to the department. By requiring the reporting of this data, biologists and managers will have a better understanding of the demands on these public resources and gain more consistent effort and harvest data on locations with commercial guiding activity. Additionally, obtaining more data about where commercial guiding is occurring will aid the Law Enforcement Division with proper enforcement and compliance activities.

Modifications to the requirements to obtain a commercial guide license, the commercial guide application and the fees for the commercial guide license are still being discussed between divisions. However, we anticipate this proposed new structure would be implemented in the license year of 2024. For these modifications to meet the current 3-step Commission business meeting format and be effective in 2024, the proposal needed to be introduced at this meeting. It is our intent to have the final details on harvest reporting, application requirements, an updated application document, and fee proposals finalized and presented as a discussion item at the March 2023 quarterly meeting.

Attachment NB-3

Kentucky Fish and Wildlife Commission Meeting

NEW BUSINESS ITEM

DATE: December 2, 2022

Regulation(s) Number: 301 KAR 1:150 **Regular or Emergency:** Regular

New Business Item: Waters open to commercial fishing.

Introduction:

This administrative regulation establishes the areas where commercial fishing is allowed.

In a review of our commercial fishing reporting records, it has been determined that there are a number of waterbodies currently open to commercial fishing that have either no or very few records of commercial harvest of fish in the last decade. These waterbodies have been sampled and found to have relatively low densities of catfish.

Due to low use of these waters by commercial fishers and to make enforcement easier, we propose removing the following waterbodies from waters open to commercial fishing:

Barren River
Licking River
Rough River
Tradewater River
Salt River
Eagle Creek
Highland Creek
North Fork Kentucky River
South Fork Kentucky River
Panther Creek

Green River Lock and Dam 6 is currently referenced in regulation as an upper boundary for waters open to commercial fishing on the Green River. The U. S. Army Corps of Engineers has deauthorized Green River Lock and Dam 5 and 6. The U. S. Fish and Wildlife Service has completely removed Lock and Dam 6 and partially removed Lock and Dam 5. Therefore, we need to establish a new physical boundary.

The Fisheries Division proposes a clarification in the regulation, as follows:

Provide that the new upper boundary for waters open to commercial fishing on the Green River shall be 200 yards below Green River Lock and Dam 4.

Kentucky Fish and Wildlife Commission Meeting

NEW BUSINESS ITEM

DATE: December 2, 2022

Regulation(s) Number: 301 KAR 1:155

Regular or Emergency: Regular

New Business Item: Commercial fishing requirements.

Introduction:

This administrative regulation establishes commercial fishing requirements, protects certain species from overharvest, and regulates the buying and selling of roe-bearing species of rough fish.

The Fisheries Division proposes:

- 1) To align commercial fishing trophy catfish harvest regulations with recreational fishing trophy catfish harvest regulations and allow the commercial daily harvest of one blue catfish and one flathead catfish that is a minimum of thirty-five (35) inches in length and one channel catfish that is a minimum of twenty-eight (28) inches in length in all waters open to commercial fishing except for the mainstem of the Ohio River downstream of Cannelton Lock and Dam.

If the Commission were to approve the closures of low use waters to commercial fishing outlined above, there would remain seven rivers and four lakes in Kentucky that are open to commercial fishing: Mississippi, Ohio, Tennessee, Cumberland, Pond, Green, and Kentucky Rivers, and Barkley, Kentucky, Herrington, and Cumberland Lakes. Large catfish abundance varies by water body but is generally best in the large rivers. Lake Barkley and Kentucky Lake currently have moderate abundance of large catfish, but with the lack of commercial catfish regulations and high use by commercial fishermen, there is potential for overharvest. Recreational anglers are already restricted to the daily harvest of one trophy catfish of each species statewide. For recreational fishing, a trophy catfish is defined as blue catfish and flathead catfish that is a minimum of thirty-five (35) inches in length or channel catfish that is a minimum of twenty-eight (28) inches in length. This same definition of trophy catfish also applies commercially on the Ohio River and its tributaries open to commercial fishing above Cannelton Lock and Dam (upper river).

- 2) With the declining catfish harvest and commercial fishing use in tributaries open to commercial fishing in the lower Ohio River, it would simplify regulations, provide more clarity, and aid enforcement if the special Trophy Catfish Harvest Permit regulations downstream of Cannelton Lock and Dam only applied to the mainstem of the Ohio River and not the tributaries. The Lower Ohio River Trophy Catfish Harvest Permit

would then entitle the permit holder to harvest four Lower Ohio River Trophy Catfish in only the mainstem of the Ohio River downstream of Cannelton Lock and Dam.

Below Cannelton Lock and Dam, the main stem Ohio River and tributaries are regulated in two ways. Up to fifteen commercial fishers with a free Trophy Catfish Harvest Permit issued by the department, specific to this lower section of the river, have a daily limit of four trophy catfish. Under this permit, trophy catfish are defined as blue catfish or flathead catfish that is a minimum of forty (40) inches in length or channel catfish that is a minimum of thirty (30) inches in length. Commercial fishermen without the Trophy Catfish Harvest Permit, fishing below Cannelton Lock and Dam, must follow the same trophy catfish regulations that apply to the upper Ohio River (above Cannelton Lock and Dam). KDFWR sampling indicates that catfish population density and trophy catfish abundance in several of the tributaries to the lower Ohio River have shown declining harvest and use in the past ten years.

There is also material incorporated by reference for this regulation that is used by commercial fishers for mandatory monthly harvest reporting. We became aware that due to formatting there was wording inadvertently omitted from the printed copy submitted to LRC in 2019.

- 3) Fisheries proposes to resubmit a corrected, print copy of the “Monthly Report of Commercial Fish Harvest in Kentucky.” This same document is referenced in 301 KAR 1:140 so we will also need to file the corrected copy for that regulation.

Kentucky Fish and Wildlife Commission Meeting
NEW BUSINESS ITEM
DATE: December 2, 2022

Regulation Number: 301 KAR 3:030

Regular or Emergency: Regular

Proposed Effective Timeframe: 2023

New Business Item: [The Wildlife Division recommends a prohibition on hunting of wild pigs in Kentucky.](#)

Wild pigs are currently one of the greatest challenges facing natural resource professionals, landowners, and farmers. They cause devastating impacts to native wildlife resources, habitat, and agriculture. Wild pigs are especially fond of acorns, outcompeting many native species that rely on them as a major food source in the fall. White-tailed deer and wild turkey are displaced and preyed upon, which can negatively affect hunter opportunity and harvest. They also prey upon eggs of ground nesting birds, such as wild turkey and quail, adversely affecting reproduction directly. Wild pigs adversely affect water quality through fecal deposition and wallowing, creating unfavorable conditions for many aquatic species and polluting water supplies for humans and other wildlife. Wild pigs are one of the most active carriers of wildlife-related diseases in the U.S., carrying at least 45 different parasites and diseases that are transmissible to native wildlife, livestock, and humans.

Historically, states have liberalized hunting seasons with the goal of promoting opportunity for control of wild pigs. However, this approach has been unsuccessful and even counterproductive. Allowing or promoting hunting effectively encourages the illegal importation and release of wild pigs for hunting, thereby increasing geographic spread and introduction of new populations. In fact, the liberal hunting opportunity is the primary factor responsible for hastening human-influenced spread of pigs across the United States. According to M. Tabek, wild pig hunters and those earning income from these hunters have been identified as a primary cause of wild pig introductions (Tabek et al. 2017). Bevins and Snow also stated "...[the] expansion of wild pig distribution is a direct result of individuals wishing to create or augment hunting opportunities through introductions (Bevins et al. 2014, Snow et al. 2017).

Kentucky implemented a year-round season on wild pigs in the early 1990s in response to small populations of pigs occurring in Cumberland and McCreary counties. Following this action, a marked spread of this invasive species within the Commonwealth occurred, mainly due to releases. In 2012, the threat of release pigs was addressed in part with passage of KRS 150.186—a state law prohibiting the importation, transportation, possession, and release of wild, feral, and Eurasian pigs in Kentucky.

Despite the enactment of KRS 150.186, wild pigs continue to show up in new areas, often far removed from other populations. This is indicative of illegal importation and release and emphasizes the difficulty of catching these illegal acts. To fully eradicate wild

pigs, the incentive for illegal importation and release must be eliminated - and that incentive is hunting.

According to VerCauteren et al. 2020, “states that adopted the prohibited provision... [transportation of wild pigs] are the only states to have achieved meaningful progress towards preventing spread and reducing populations of wild pigs. In addition to prohibiting transport, such states also complement these policies with a prohibition on hunting supported by steep penalties for violators, in theory dissolving existing incentives for residents (or non-residents) to participate in recreational wild pig hunting activities.”

The partnership between the Department, USDA APHIS Wildlife Services, plus other partners and cooperators, has resulted in eradication of several wild pig populations using a science-based and adaptive eradication strategy. A prohibition on hunting of wild pigs in Kentucky would enhance this strategy by reducing occurrence of new wild pig releases and facilitating a more systematic application of proven-effective eradication methods where wild pigs occur in the Commonwealth.