

## **301 KAR 1:152. Asian Carp and Scaled Rough Fish Harvest Program.**

RELATES TO: KRS 150.010, 150.170, 150.175, 150.445, 150.450(2), (3), 150.990

STATUTORY AUTHORITY: KRS 150.025(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish seasons for the taking of fish and wildlife, to regulate creel limits and methods of take, to regulate the buying, selling, or transporting of fish and wildlife, and to make these requirements apply to a limited area. This administrative regulation establishes the requirements for the department's Asian Carp and Scaled Rough Fish Harvest Program.

Section 1. Definitions. (1) "Asian carp" means:

- (a) Bighead carp;
- (b) Black carp;
- (c) Grass carp; or
- (d) Silver carp.

(2) "By-catch" means any fish that is not an Asian carp or scaled rough fish.

(3) "Program participant" means a commercial fisherman who is:

- (a) Enrolled in the Asian Carp and Scaled Rough Fish Harvest Program; and
- (b) Fishing in restricted water.

(4) "Restricted water" means those areas, pursuant to 301 KAR 1:140, 1:150, and 1:155, where:

- (a) Commercial fishing is prohibited; or
- (b) Commercial fishing with gill or trammel nets is prohibited.

(5) "Scaled rough fish" means any scaled fish that is not an Asian carp or sport fish pursuant to 301 KAR 1:060.

(6) "Whip net set" means a gill or trammel net that is set to encircle and harvest Asian carp and scaled rough fish.

Section 2. Qualifications. A commercial fisherman shall:

- (1) Contact the department and request to be included in the program; and
- (2) Possess a valid Kentucky commercial fishing license.

Section 3. Program Participant Requirements. A program participant shall:

(1) Call the department at 800-858-1549 prior to the requested fishing date and provide the information established in paragraphs (a) through (e) of this subsection:

- (a) The participant's name;
- (b) The fish buyer's name and phone number;
- (c) Date requested;
- (d) The location in the restricted water to be fished; and
- (e) The name or location of the boat ramp that will be used;

(2) Harvest a weight ratio of at least sixty-five (65) percent Asian carp to thirty-five (35) percent scaled rough fish over a one (1) month period, except that a commercial fisherman whose license fee has been waived pursuant to Section 4 of this administrative regulation shall only harvest Asian carp and not retain any by-catch;

(3) Only fish:

- (a) On dates approved by the department; and
- (b) At a location approved by the department;

(4) Immediately notify the department if the participant changes the:

- (a) Fishing location in the restricted water body; or
- (b) Boat ramp being used;
- (5) Only use a whip net set:
  - (a) With a minimum bar mesh size of three and one-quarter (3.25) inches;
  - (b) That is always tended by a program participant when set less than three (3) feet below the surface of the water;
  - (c) That is not left unattended by a program participant for more than six (6) hours when set at least three (3) feet below the surface of the water from April 1 through September 30; and
  - (d) That is not left unattended by a program participant for more than eight (8) hours when set at least three (3) feet below the surface of the water from October 1 through March 31;
- (6) Complete and submit to the department a Daily Harvest and Release Summary Card immediately after each day's fishing;
- (7) Be allowed to sell all harvested Asian carp and scaled rough fish as established in Section 2 of this administrative regulation;
- (8) Immediately release all by-catch;
- (9) Report all harvest on a Monthly Report of Commercial Fish Harvest form, pursuant to the requirements of 301 KAR 1:155; and
- (10) Be suspended from the program:
  - (a) For a three (3) month period beginning on the first day of the next month if the minimum requirements established in subsection (2) of this section are not met; and
  - (b) For a period of one (1) year beginning on the first day of the next month if the requirements are not met a second time.

Section 4. Commercial Fishing License Fee Waiver. The commercial fishing license fees as established in 301 KAR 3:022 shall be waived for a commercial fisherman who only harvests Asian carp in restricted waters.

Section 5. Department Requirements. (1) The department shall:

- (a) Maintain a list of program participants and their contact information, which shall be:
  1. Provided to known fish buyers; and
  2. Updated at least weekly; and
- (b) Review all restricted water fishing requests as established in Section 3 of this administrative regulation.
- (2) The department shall approve a qualified fishing request by assigning:
  - (a) A fishing location and boat ramp to a program participant, except that no more than two (2) program participants shall be assigned to the same one-half (1/2) mile section of water; and
  - (b) The time period when fishing may occur, not to exceed a three (3) consecutive day period.
- (3) The department shall not approve a fishing request for reasons established in paragraphs (a) through (c) of this subsection:
  - (a) Higher than normal by-catch is likely to occur at that location and time;
  - (b) Two (2) program participants have already been approved for the same one-half (1/2) mile section of water at the same time; or
  - (c) A requested date falls on:
    1. Memorial Day;
    2. Labor Day;
    3. July 4; or
    4. A Saturday or prior to sunset on a Sunday from April 1 through September 30.

Section 6. Program disqualification. (1) A program participant whose commercial fishing license becomes revoked or suspended pursuant to 301 KAR 1:155 shall be disqualified from participating in the Asian Carp and Scaled Rough Fish Harvest Program while that license is revoked or suspended.

(2) Any participant who is disqualified from participation in the program may appeal the decision in accordance with KRS Chapter 13B.

Section 7. Incorporation by Reference. (1) "Daily Harvest and Release Summary Card", 2011 Edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. (38 Ky.R. 434; eff. 10-6-2011; 38 Ky.R. 1473; 1724; eff. 5-4-2012; 39 Ky.R. 647; 1041; eff. 11-7-2013; 41 Ky.R. 854; eff. 1-5-2015; 43 Ky.R. 1440; eff 5-5-2017; 44 Ky.R. 132; eff. 9-8-2017.)