

AGENDA
KANSAS DEPARTMENT OF WILDLIFE, PARKS & TOURISM
COMMISSION MEETING AND PUBLIC HEARING
Thursday, January 10, 2013
Butler County Community College
Clifford/Stone Community Room, 901 S Haverhill Rd, El Dorado

- I. CALL TO ORDER AT 1:30 p.m.**
- II. INTRODUCTION OF COMMISSIONERS AND GUESTS**
- III. ADDITIONS AND DELETIONS TO AGENDA ITEMS**
- IV. APPROVAL OF THE October 18, 2012 MEETING MINUTES**
- V. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS**
- VI. DEPARTMENT REPORT**
 - A. Secretary's Remarks**
 - 1. Agency and State Fiscal Status (Robin Jennison)**
 - 2. 2013 Legislature (Chris Tymeson)**
 - B. General Discussion**
 - 1. Commissioner Permit Update and Drawing (Keith Sexson)**
 - 2. Public Land Regulations (Brad Simpson)**
 - C. Workshop Session**
 - 1. Agritourism Regulations (Chris Tymeson)**
 - 2. Camping and Utility Fees (Rick Martin)**
 - 3. Deer 25-Series Regulations (Lloyd Fox)**
 - 4. Deer Permanent Regulations (Lloyd Fox)**
 - 5. Antelope and Elk 25-Series Regulations (Matt Peek)**
 - 6. Fall Turkey (Jim Pitman)**
 - 7. Turkey Permanent Regulations (Jim Pitman)**
- VII. RECESS AT 5:00 p.m.**

VIII. RECONVENE AT 7:00 p.m.

IX. RE-INTRODUCTION OF COMMISSIONERS AND GUESTS

X. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS

XI. DEPARTMENT REPORT

B. General Discussion (continued from afternoon)

3. Lesser Prairie Chicken Federal Listing Briefing (Keith Sexson and Jim Pitman)

4. Upland Bird Regulations (Jim Pitman)

D. Public Hearing

1. KAR 115-9-8. Migratory bird harvest information program; requirements, exemptions. (Mike Miller)

2. KAR 115-14-14. Falconry; taking, banding, transporting, and possessing raptors. (Mike Mitchener)

XII. OLD BUSINESS

XIII. OTHER BUSINESS

A. Future Meeting Locations and Dates

XIV. ADJOURNMENT

If necessary, the Commission will recess on January 10, 2013, to reconvene January 11, 2013, at 9:00 a.m., at the same location to complete their business. Should this occur, time will be made available for public comment. If notified in advance, the department will have an interpreter available for the hearing impaired. To request an interpreter call the Kansas Commission of Deaf and Hard of Hearing at 1-800-432-0698. Any individual with a disability may request other accommodations by contacting the Commission Secretary at (620) 672-5911. The next commission meeting is scheduled for Thursday, March 21, 2013 at Kansas Historical Museum, 6425 SW 6th Ave, Topeka, KS.

**Kansas Department of Wildlife, Parks and Tourism
Commission Meeting Minutes
Thursday, October 18, 2012
Flint Oak
2639 Quail Rd, Fall River**

Subject to
Commission
Approval

I. CALL TO ORDER AT 1:30 p.m. CDT

The October 18, 2012 meeting of the Kansas Wildlife, Parks and Tourism Commission was called to order by Chairman Gerald Lauber at 1:30 p.m. at Flint Oak, Fall River, Kansas. Chairman Lauber and Commissioners Debra Bolton, Don Budd, Randy Doll, Tom Dill, Roger Marshall and Robert Wilson were present.

II. INTRODUCTION OF COMMISSIONERS, STAFF AND GUESTS

The Commissioners and Department staff introduced themselves (Attendance roster - Exhibit A).

III. ADDITIONS AND DELETIONS TO AGENDA ITEMS

Sheila Kemmis – Added Item 4 under Workshop, HIP Stamp cleanup, Mike Miller will present. Changed presenters on General Discussion Item 1 and renamed to Governor’s Eco-Tourism Committee Briefing, Robin will present; Rick Martin will present Item 2; under Workshop, Chris Tymeson will present Item 3 on Agritourism.

IV. APPROVAL OF THE August 23, 2012 MEETING MINUTES

Commissioner Roger Marshall moved to approve the minutes as presented, Commissioner Debra Bolton second. Approved. (Minutes – Exhibit B).

V. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS

None

Chairman Lauber - Nice facility appreciate them working with us.

VI. DEPARTMENT REPORT

A. Secretary’s Remarks

1. Agency and State Fiscal Status – Robin Jennison, secretary, presented this update to the Commission. – Park region map (Exhibit C) shows reorganization of park regions. We announced this yesterday to Parks, but it has been in planning for two years. Future advantages; increased regions to 6 instead of 3, and tried to create clusters to coordinate and cooperate with

administrative, maintenance, law enforcement and temporary employees. Each year we spend \$1.5 million in temporary salaries. By clustering and having regional managers, we feel we can put together plan and consolidate duties, particularly of maintenance, because budget has not been there. With park pass and purchase of cabins, we will be on sounder financial footing and do a better job of maintaining our parks. I will talk to legislature about more full-time maintenance personnel (instead of temporary employees) and hope regional managers will be able to put together regional staff for maintenance. Hope to be able to better staff our parks and have impact on law enforcement aspect in the future. The other side item is marketing and tourism, a work in progress. We will rename regions to more define the area, could be High Plains, possibly Smokey Hills, Kaw River region and like that; more for marketing and tourism to put a descriptive term on regions. Two other aspects: one is negative, last year presented park pass to become more self-sufficient this year, but lost 10 percent of EDIF budget due to state budget cuts. We feel we can absorb this cut in parks if park pass turns out the way we expect in 2014 budget and not reduce tourism budget at all to meet budget reduction. Should we have a bad year, with mechanism already in place to share staffing, we can better use the resources and better serve our constituents/patrons in a reasonable manner. On positive side, something I would like to do and which in a reality needs to be discussed in Washington DC has to do with Corps need to have areas around our federal reservoirs. The Corps parks are tough competitors for us. They are cheaper and in some places have a better location. I have talked to the Governor and we want to take over some of the Corps parks around the federal reservoirs. I'm confident that we can run those parks cheaper than what we and the Corps do right now and would not have them as a competitor. We have had preliminary discussions with Kansas City Corps folks and congressional delegation, Linda Craghead met with a DC Corps person in Kentucky and found out the feds need to take \$50 million out of their recreational budget, and she approached them about us taking on some of Kansas parks to help them meet that requirement. This would give us the opportunity to take quicker advantage of having smaller park cluster/regions with significant level of management and decide how smaller region reassesses need for employees to help us respond better. We have not had a discussion with Oklahoma Corps, but could pick up three more parks in southeastern Kansas (Marion, Council Grove and Big Hill). Feel this is a better scenario to deal with possible budget issues in Kansas and federally. Commissioner Marshall – Who makes decision on Corps properties? Jennison – Congress or Corps either one could make it, feel budget will help them make that decision. Offered this in mid-1990s and they offered us \$45 million to go with it, but couldn't do it then because of Corps employees in Kansas, but they may not have a choice now. Commissioner Marshall – Think they would give us the land or just want us to run their parks? Jennison – We have lease on land where our parks are now. We don't own it; and we would operate those like we operate our own. Commissioner Wilson – Will there be monetary compensation from them? Jennison – No, because of the budget, but we expect would increase our visitation and income. This is an informational item for the Commission for now. One other item I want to tell you about is the possible resort at Clinton, which has been discussed a number of times before. Spoke to City of Lawrence, Corps and developers who seem to be interested. Talking to developers who got RFP in 1997 to try and build a resort, which fell through then because City of Lawrence didn't want to extend utilities out to the park. They are more open to that now because city has grown to the west. Working with three cabinet agencies on this: KDWPT, Dept of Commerce, Dept of Transportation and Kansas Development Finance Authority might have a role (if we decide to get a bond). Meeting with the developers to see how the funding scheme worked in the 1997 proposal, as well as look at the proposal. They will meet

with the Governor and the secretaries of the agencies to make a proposal. There may need to be legislative adjustments to Kansas Lake Resorts bill. Commissioner Dill – Weren't there other lakes under consideration? Jennison – All lakes were under consideration with the top three being Clinton, Milford and Perry. Plan to stay away from Milford because Acorn Resort has been developed there. It is doing a great job and was able to do something the state could not do. Also, looking at Wilson. Commissioner Budd – Look at other parts of state if this works out? Jennison – Resort is a broad term and with additional assets, Clinton will be considered a resort; at Perry, may not be a resort; or at Wilson. U.S. Hotel and Resorts people told us most people who go to a lake prefer cabin setting and central building. This would go beyond seasonal business because so near Lawrence, it would be year-round business with conference center and hotel. It would be more seasonal at other lakes; we're talking about a hotel and convention center as well as an added attraction at Clinton.

2. 2013 Legislative Update – Chris Tymeson, chief legal counsel, presented this update to the Commission. Primaries in August, November 6 is general election. We'll have no packet formulated by then, but in January we'll have a better idea of what we are going to pursue. Knocked out number of major items this past year, so don't expect as many next session. Boat taxation is up for vote in November election, HCR1057; Kansas has extremely high taxation on boats compared to surrounding states and people register boats out of state. If this passes, we would expect fleet to be newer and increase the number of registered boats in Kansas. Commissioner Dill – Would legislature take action? Tymeson – If passed, legislature doesn't have to, but can bring forward legislation. Chairman Lauber – Most voters are not aware it is going to be on ballot? Does it need majority or two-thirds vote? Tymeson – Last time included aircraft, picked up as a story in Wichita, Topeka and Hutchinson. The department will continue to release articles and it is on the website. Some smaller groups also trying to get the word out. People are starting to pick it up. Commissioner Wilson – States that are surrounding us with no boat tax, how do they compensate or what do they do to bring in funds? Tymeson – Personal property tax, get more federal aid tied to registrations. Don't know how other states are valuing taxes to generate income. Taking boats that would be registered here out of state, losing not only personal property tax, but federal dollars from them not being registered here.

B. General Discussion

1. Governor's Eco-Tourism Committee Briefing – Robin Jennison, secretary, presented this report to the Commission. Committee was requested by the Governor, and we have held our first meeting. Eco-tourism means different things to different people. Originally it meant not leaving sign you were there, but it is now a more popular term. Sixteen folks on committee who I picked and none are really tourism folks. We wanted no tourism because did not want that level. We hope to give report to Governor in January. Ted Eubanks is facilitating the meetings. Never spend money on tourism, advertised by word of mouth only. I-70 not a pretty drive, but key strategy is new highway strategy and expect staffed visitor centers in Flint Hills and Cheyenne Bottoms/Post Rock area. Will go through assets in Kansas and pick three to four key assets. Report next meeting on what is going on in Flint Hills and other assets identified. Commissioner Doll – How is this different than tourism department? What does eco really mean? Jennison – Started out as being able to go out and leave no footprint, some people think hunting is and some don't. High impact, low impact and six subsets of eco-tourism. Committee focuses on heritage tourism as well as eco-tourism. Commissioner Bolton – Agritourism part of that too? Jennison – It can be. Opportunities for agriculture can be significant if they embrace eco-tourism.

2. Camping and Utility Fees – Rick Martin, parks regional supervisor, presented this report to the Commission (gave additional handout – Exhibits D, E). Currently, our short-term parking is \$125.00 per month, and this is an effort to respond to the requests for offering competitive short-term RV and boat parking fees in state parks. Surveyed all parks and many areas do not have local businesses offering this service. Some, like Cheney, have plenty and might not be a good location to have this, and Clinton also not feasible. We would like to offer this service at a competitive rate for our customers to mitigate the high cost of fuel used in transporting campers and boats to our recreational areas. Show some figures on what we might bring in. We're working on a draft agreement, and used Kanopolis State Park as an example to show possible income. If we have 50 percent occupancy and are charging \$40 a month, we could generate about \$12,000 a year. Would also need approval from Corps or BOR on their lakes. It would basically be a gravel lot with fence around area. Commissioner Doll – What kind of costs? Martin – Gravel, fencing and lighting, vary at different facilities and may try pilot program at a few parks. We can run through our office or through reservation system and get daily, weekly and monthly reports and don't anticipate need for additional staff. Commissioner Doll – What about law enforcement? Martin – Have same safety as private-owned areas, key or code lock, but open once people get in there. Commissioner Doll – What about liability? Martin- Have not got that far. Commissioner Marshall – What is driving this, need for money or public wanting this? Martin – Both, cost of fuel is a big incentive. Commissioner Marshall – What about private entrepreneurs, they won't like this. Chairman Lauber – Will have some issues, most private entrepreneurs prefer we keep our prices higher. Martin – Don't want to undercut anyone else. Have a regulation which will require Commission approval, 115-2-3, item (h), currently \$125 a month for short term parking, asking for change in pricing; variable pricing. Commissioner Marshall – New area up by Wilson, hate to think we are competing with people who have invested money. Commissioner Bolton – Not undercutting them and we do need to generate revenue. Martin – Hope they will use our facilities more if there equipment is already stored in the park. Friends group operates one at Cedar Bluff. Chairman Lauber – Use on needs basis, really a need in some places, but share his concern about Wilson. Balance need with desire to go there. Martin – Not proposing one at Wilson for that reason. Some remote areas, like Kanopolis have few storage places. Commissioner Budd – Can you give list of current facilities? Martin – None. Linda Lanterman – We have campers who push campers off to the side and don't pay fee and we have to give them a citation. Understand concern for local businesses, but have locations that have a desperate need. If we don't allow it, they will sell campers and we will lose them completely. Don't throw them all out because some places really need them. Want to know who owns the campers and we don't know who they are when they push the camper up against the trees and leave them. Commissioner Budd – Like to see you prioritize areas, cost and local impact (opinion of local business owners). Lanterman – Of course. Other states are doing it, don't plan to put them everywhere. Commissioner Marshall – Agree as long as no competition. Commissioner Dill – Legal still has to go over this so it will not happen overnight. Tymeson – Probably March. Chairman Lauber – Stay out of areas that have private sectors. Commissioner Bolton – In some states can't leave campers for more than 24 hours. Commissioner Doll – Do you have to haul campers off? Lanterman – Sometimes. Martin – Asking if you would consider and go from there.

3. Fall Turkey – Jim Pitman, small game biologist, presented this report to the

Commission (Exhibit F). Last year we sold 12,913 permits and harvested an estimated 3,677 turkeys. Over the last couple of years, the wild turkey population has declined in every region except the southeast due to inadequate weather and/or habitat conditions during the reproductive season. Drier than average conditions in the southeast region over the last couple of years have led to improved productivity and as a result, populations have begun to recover from their recent lows. As a result, populations in the eastern half of the state have generally increased over last year. The department is considering a recommendation to overlap the fall turkey season with the extended firearm deer season. We are considering this recommendation to increase consistency in the fall turkey season dates from one year to the next and minimize confusion. Currently, the fall turkey season is closed during the regular firearm deer season and the extended firearm deer season; it is open during the early firearm deer season (DMU 19) and the special extended firearm deer season and has created confusion. We are talking about adding eight days to the beginning of the fall turkey season. Lloyd Fox – Because of calendar, twelve days for next fall. Pearce – Why closed during deer season? Pitman – Didn't want to create competition, or to use a rifle to kill a turkey and also a safety issue. Chairman Lauber – Blaze orange was a controversy, too.

4. Deer 25-Series Regulations - Lloyd Fox, big game research biologist, presented this report to the Commission (Exhibit G). The regulation (115-25-9) contains the following items: dates of deer seasons when equipment such as archery, firearms, muzzleloader may be used; provisions when seasons may occur on military subunits within management units; dates for a special firearm deer season and extended archery seasons in urban units; dates of deer seasons for designated persons; dates and units when extended firearm seasons are authorized and the type of permits and changes in the species and antler categories of those permits; and limitations in obtaining multiple permits. We will workshop this in January with the public hearing in March. A new item came up because of legislation, SB 314, directs the department to develop a pre-rut white-tailed deer antlerless-only season. The deer hunting season structure is already considered by many to be too complicated, so an additional season could be met by dissatisfaction from hunters and landowners. Replacement of that season with a pre-rut white-tailed deer antlerless-only season would keep our current season structure similar to what we have had for many years. Key points made for a pre-rut season: the season must be short in duration, during a pleasant time of the year and limited by a special and specific permit. The goal is to motivate deer hunters to use an additional weekend and special tag to take additional deer, as opposed to having hunters simply shift the season dates when they take their antlerless deer. The weekend in Kansas which best fit the goals of a pre-rut deer season appears to be the second Saturday and Sunday in October. Season dates suggested for deer hunting during 2013-14 are as follows: Youth and Disability - September 7-15, 2013; Early Muzzleloader - September 16-29, 2013; Archery - September 16-December 31, 2013; Pre-Rut WAO - October 12-13, 2013; Regular Firearms - December 4-15, 2013; Extended WAO- January 1-12, 2014; Special Extended WAO- January 13-19, 2014; and Extended Archery (DMU 19) - January 13-31, 2014. Consideration will be made on inclusion of DMUs where an extended firearms season will be authorized after additional data becomes available. Effects of factors like mortality due to hemorrhagic disease and fawn recruitment influenced by the drought will be considered. The proposed dates for the firearm season at the Fort Leavenworth subunit are November 23-24, 2013, November 28-December 1, 2013, December 7-8, 2013, December 14-15, 2013, and December 21-22, 2013. The proposed dates for the firearms season for deer hunting at the

Smoky Hill Air National Guard subunit will be the same as the rest of the state. Firearm season dates for deer hunting at Fort Riley will be established in KAR 115-25-9a which will be covered in a workshop at a later date. Application deadlines are now provided in KAR 115-4-11. Consideration will be made on the number of white-tailed deer antlerless-only permits that may be used in each DMU after additional data becomes available. Following same guidelines as last year with no additional units for game tags this year. Commissioner Wilson – One antlerless deer per pre-rut permit? Fox – That hasn't been determined yet. In some units five deer can be taken. We haven't made a decision and have no recommendation at this time. Commissioner Wilson – Over the counter or application? Fox – All antlerless permits are sold online and through vendors with no quota for them. Commissioner Bolton – Could take five, but we don't make them take a doe? We want them to take a doe and not just trophy deer? Fox – Yes, need special permit or use permits you have, like Robert mentioned; if special permit would be antlerless, but if use existing permit can use one they already have purchased. Pearce – What about Unit 19 season? Fox – Nine-day season. Pearce – Statewide for pre-rut season? Fox – Had discussions for statewide two-day season. Nine-day in Unit 19, not well received and had trouble getting hunters out. Archery is dominating that season and only a couple of hundred deer are being taken by firearms hunters in Unit 19. Chairman Lauber – Came about antidotal not scientific, right? Fox – On that particular portion of senate bill they did not designate how many units, crossbow is specifically four units. We felt better off to look at statewide in pilot project. Chairman Lauber – Better to have time period where existing game tags could be used because in some areas don't want additional antlerless does taken? Fox – Touchy subject, not dealing with carrying capacity here at all, dealing with cultural carrying capacity in the Midwest and differences of how people feel the deer herd should be regulated. Have had substantial mortality and possibly reduced productivity as a result of weather conditions and disease factors. Some areas we may not recommend additional harvest pressure, but most of Kansas can still survive additional antlerless harvest. In good shape and close to 50/50 harvest ratio. Commissioner Budd – Regulated by anyone other than ourselves on when seasons open and close? Fox – Public trust resource, department can be called to account for too many or too few and we have our traditions and our system that is different than other states. Commissioner Budd – Set up to maximize harvest? Fox – Maximize opportunity and to be sure we are doing a good job of managing wildlife resource. Commissioner Budd – Youth and disability season is a 9-day season? Fox – Two weekends. Commissioner Budd – Set for maximum season? Fox – Yes, and a great deal to do with Kansas landowners, starts on Wednesday and includes two weekends and is a 12-day season since 1988. Started with 5-day season back in 1965. Commissioner Dill – Set to maximize opportunity? Fox – Made major changes in 2008; prior to that could hunt with archery equipment in firearms permit, so started archery season concurrent with muzzleloader season. Commissioner Doll – Done pre-rut before? What is population? Fox – 600,000 to 650,000. Commissioner Doll? How many permits? Fox - 118,000 deer hunters, who buy 186,000 deer permits and last year harvested about 98,000 deer, (40- to 50 percent). Commissioner Doll – Legislative bill a push to harvest more deer? What about Unit 19? Fox – Pre-rut is designated in SB 314 and discussed in many other states, popular notion that can reduce accidents if reduce number of female deer. Commissioner Doll – How many deer taken, educated guess? Fox – No. Chairman Lauber – Follow spirit of request. Commissioner Doll – Seems two-day season is symbolic and won't reduce the numbers much, why not make it a week? Fox – One of points that keep coming up is to make it short. Used 9-days in Unit 19 which allowed them to procrastinate and two-days makes them get more highly motivated. Had special Unit 12a here and gave them a whole month

and couldn't get hunters out. Marvin Whitehead – If hunters don't bring in deer in first four or five days they don't bring them in. Commissioner Marshall – That is K-State/KU game weekend and will discourage hunters? Fox – Hunt in morning, watch game in the afternoon. Commissioner Wilson – Considered reduced price? Fox – No, if you devalue permit, hunters may not feel they are losing anything if they don't use it.

5. Antelope and Elk 25-Series Regulations – Matt Peek, furbearer biologist, presented this report to the Commission (Exhibit H). This regulation (KAR 115-25-7) pertains to seasons, bag limits, unit boundaries, permits and tags for pronghorn antelope. No changes are recommended for season structure, unit boundaries, bag limits, or permits. Pronghorn populations within each of the three units are monitored twice annually by aerial survey. Production surveys occur in July and August and are used to determine buck:doe:fawn ratios. Buck ratios serve as a forecast for the harvest seasons, whereas fawn ratios are an indicator of annual productivity, which will have greater impact on harvest levels in future years. Conditions were poor because of the prolonged drought, and this year we found a doe:fawn ratio of 100 does to 19 fawns. We'd like to see 60-80 fawns per 100 does, but this is the lowest we've recorded since 1963. Population surveys occur primarily in January because pronghorn are found in larger herds and therefore are more visible at this time. This survey is a stronger indicator of the population size and, used in conjunction with production survey results, landowner issues, and staff input, is the primary tool used to determine permit allocations for the upcoming season. We propose unlimited archery permits be allocated for both residents and nonresidents. Firearm and muzzleloader permits will remain restricted to residents, with half assigned to landowner/tenants and the remainder awarded to general residents. Firearm and muzzleloader permit allocations will be determined following winter aerial surveys. Chairman Lauber – Does drought affect how they produce milk? Peek – We don't have very good data on that, but it probably has more to do with predation than anything else. Pearce – What did you find in Flint Hills this year? Peek – About 30, production not good there either. Chairman Lauber – What was high there? Peek – About 50 or 54 animals. Don't know why increase that year. Pearce – How many released? Peek – A couple of hundred, total.

Elk: This regulation (115-25-8) pertains to seasons, bag limits, unit boundaries, permits and tags for elk hunting. Had changes every year for years, but we've come up with something we can live with what we have and complaints are minimal. Elk hunting on and around Fort Riley was initiated in 1990, and most of the hunting opportunity in the state occurs on the Fort, about 1,000 applications with about half of these permits are allocated to military personnel. We do have elk on private lands, though unpredictably in most of the state. Elk also occur in the vicinity of Cimarron National Grasslands, but these elk are primarily found in neighboring states. We have three elk hunting units and Unit 1, which is close to elk hunting, includes the Grasslands. This unit hasn't been open to elk hunting since 1995, but herd is only about 50 animals now, and they spend most of their time in Colorado. Unit 2 is on and around Fort Riley and Unit 3 is the rest of the state, except Morton County and will be open to hunting. An unlimited number of hunt-on-your-own-land antlerless only and any elk permits will also be authorized in Units 2 and 3. An unlimited number of general resident and landowner tenant antlerless only and any elk permits will be authorized in Unit 3. Limited draw permit numbers will be determined closer to the completion of the ongoing season. We recommend elk hunters be required to contact the department when an elk is harvested to submit samples for CWD testing. Elk permits will be

available only to Kansas residents, and permit applications will be separated into military and nonmilitary applicants. The bag limit shall be one elk as specified on the permit. Commissioner Budd – How many applicants do you get for Fort Riley? Peek – About 1,000. Commissioner Budd – How many tags? Peek – About 13 any-elk and 15 antlerless. Have bonus points. Commissioner Budd – Are commissioner tags included in this? Peek – No. Chairman Lauber – Are there any elk harvested in Unit 3? Peek – We have one bull harvest and probably four or five elk harvested in Unit 3 last year. And we sold 40-50 permits. Pearce – What have success rates been on Unit 2? Peek – Seven of 13 any elk permits sold last year, including two antlerless elk, and five of 15 antlerless permits, which is down some. Had high success rate in past, but has dropped off. Pearce – Can HOL shoot bull or cow? Peek – If they have any-elk permit and we have had a few bulls killed off of Fort Riley.

6. Lesser Prairie Chicken Federal Listing Briefing – Keith Sexson, assistant secretary, presented this update to the Commission (PowerPoint – Exhibit I and Exhibit J). Give credit to Jim Pitman for all of his work on this. Declines in lesser prairie chicken (LEPC) populations and their range caused the U.S. Fish and Wildlife Service (USFWS) to list the species as “warranted but precluded from listing” in 1996, but that a review would not take place because there were higher priority species. Recently the priority status for LEPC review went from a level 8 to a level 2 and as such, a preliminary review has been accomplished and a proposed rule for listing was to be announced on September 30, 2012. That proposed rule announcement has been postponed for 60 days and should come out by mid- to late-November. If the decision is made to list the species, the LEPC will be listed federally as threatened or endangered one year after the announced proposed rule. In anticipation that the proposed rule will be to list the species, the five-state LEPC Interstate Working Group (Kansas, Colorado, Oklahoma, New Mexico, and Texas) and its many partners have initiated the development of a range-wide plan directing the conservation and management of the species. If this plan can show with certainty that the number of birds and their habitats can be managed to levels that provide for a viable and stable population throughout the LEPC’s range, it could influence the USFWS’s final decision. Three categories of impacts that need to be addressed in the plan: conversion of prairie into cropland, oil production and wind energy (direct conversion); and changes in grazing, fire and encroachment of eastern red cedar (indirect conversion); invasive species of grass like brome and exotic species like old world bluestem. Kansas used native grasses for plantings and incorporated native forbs in later plantings in CRP program, and we need to thank those people for that. Purpose of plan is to address listing issue and will be presented to the USFWS by the end of March 2013. The final decision for listing will be announced by the end of November, but the clock started at the end of September and is due by September 30, 2013. Need to protect, enhance and restore habitat; identify research needs; identify management actions to support responsible development; and develop incentives to landowners to improve or restore suitable habitat. Population and habitat goals were set by a science team made up of people from the five states and other professional groups with knowledge related to these goals. Goal is 66,000 birds. Last spring the five states did a helicopter survey designed to give reliable estimate and came up with a range-wide population of about 37,000 birds. Didn’t break this out by state, but Kansas has an estimated two-thirds of that number. Broke range into four eco-regions found in the range: shinnery oak, sand sagebrush, mixed grass and short grass; with a fair amount of these ranges found in Kansas. The focal areas are where conservation efforts will be concentrated and require large blocks of habitat necessary to support these birds. Focal area characteristics: average

50,000 acres in size with 70 percent in good- to high-quality habitat with 25,000 minimum in good- to high-quality habitat and be within 20 miles of each other. Habitat goals: five birds/square mile, or 66,000 birds would be 6.3 million acres in the range, which would include about 126 focal areas with 4.5 million acres in Kansas. Selection of focal areas: existing populations; best habitat; best habitat potential; proximity to wildlife management areas or similar; and avoid high priority development areas where possible. Choosing focal areas should not impact existing development areas. Additional science team tasks were to develop habitat evaluation tool for site level analyses to be consistent in habitat management/planning, foundation for metrics for impact and mitigation. International working group (IWG) developed landscape GIS tool (CHAT) and population monitoring protocol and analyses. Focal area management-stacked incentive programs, coordinated management, to make as inviting as we can for landowners to maximize habitat quality in core areas and minimize development within those areas (oil and gas and wind energy). Habitat: breeding grounds and leks – low vegetation or ridges, focus of monitoring surveys and limiting factor for habitat improvements. Standards for nesting: native grass and shrub cover, native CRP, denser vegetations, herbaceous cover and primary need. Brood cover goes right along with that and is standard for all upland game birds. Providing winter cover, grain field for foraging and nesting, and brood rearing habitat are necessary. And we don't want trees, so control through cutting, burning, etc. Drought has not helped burning conditions. Fences and utility lines are felt to be a factor in mortality, especially near leks and marking fences to minimize collisions. Human structures and activities: avoiding roads, building, oil and gas, transmission lines and wind farms; minimize focal areas; and high priority for research. Wind farms have worked with our agency on placing of these large farms. Habitat fragmentation, link zones to have connectivity of best habitat to enhanced and improved areas. Put together implementation team, held one meeting and had members from partners in target range. Landowner/land management incentive programs are available from multiple agencies (NRCS, FSA, KDWPT, USFWS, TNC and others). Trying to put all of these programs together to identify appropriate initiatives, identify opportunities, and develop "one-stop shopping". Working with industry involved with oil and gas, wind, and transmission on impact avoidance. Get good landowner input into this program to avert listing. Communication has to continue and be a paramount part, developing websites and working with other stakeholder groups. Have three public meetings scheduled for November 13, 14 and 15 in Ness City, Ulysses and Greensburg. Invite anyone who is interested to come so we can explain what is taking place. We won't know final decision of listing until a year from now, but working hard to meet goals to keep from listing. Pearce – You need more burning? Sexson – When enter into red cedar program, burn to keep eastern red cedars out of the grass. Neighbors notice what is happening and it expands in a certain area. Commissioner Doll – Westar Green Team involved in this? Sexson – Yes, on siting of wind farms and siting of transmission lines and how involves LEPC and other species in Flint Hills and Smokey Hills and are a leader in this area. Oil and gas throughout the range are pretty well organized and are on board to develop planning efforts. Will keep you briefed on this.

C. Workshop Session

1. Falconry Regulations – clean up – Mike Mitchener, wildlife section chief, presented this update to the Commission. After review by the U.S. Fish and Wildlife Service (USFWS), they found a little glitch in regulations we passed. It dealt with banding of captive bred raptors,

USFWS requires band if lost or taken off and we missed that, we said band or microchip and have corrected that. Will go forward with January 1 implementation, but will require clean up vote at January meeting.

2. Big Game Permanent Regulations - Lloyd Fox, big game research biologist, presented this report to the Commission (Exhibit L). The following big game permanent regulations have been reviewed and discussed and no further action is anticipated on them this year: KAR 115-4-2 big game; general provisions; KAR 115-4-6 deer; firearm management units; and KAR 115-4-11 big game and wild turkey permit applications. We will have changes in January to KAR 115-4-4 big game; legal equipment and taking methods, which is still in discussion phase. We will discuss KAR 115-4-13 deer permits; descriptions and restrictions today. The department conducted public meetings and opinion surveys last year on various aspects of a combination permit for deer hunters. Creating an optional combination permit that contained two carcass tags, (one carcass tag valid for either sex of deer and one carcass tag restricted to an antlerless-only white-tailed deer) adds additional complexity for deer hunters. An additional option of that type of permit for deer would also fail to increase the harvest of antlerless deer. A conversion of a permit type to a two-tag permit does not increase the level of permit complexity in our permit system that adding an optional combo permit would. A review of hunting practices and harvest information indicated that the conversion of the non-resident white-tailed deer either-sex permit to a combination two-tag permit held the highest potential to accomplish improved deer management. Limiting the combination permit to just nonresidents with a white-tailed deer either-sex permit would increase by approximately 16,000 the number of white-tailed deer antlerless-only tags in the hands of nonresidents. It is anticipated that approximately 6,500 more white-tailed antlerless deer would be taken than the current level of 3,000 on the nonresident white-tailed deer antlerless only permits. The majority of that increase in harvest of white-tailed deer would be taken on private properties where the harvest of antlerless deer in recent years had been inadequate. The current price of a nonresident deer permit that allows the hunter to take either sex of white-tailed deer is \$300 and their price for a white-tailed deer antlerless only permit is \$50. It is recommended that the new combination permit should be established at \$315. The additional increase in price for a nonresident deer permit would be the same amount as the current price for a resident to purchase their first white-tailed deer antlerless-only permit. Nonresidents would also be allowed to purchase additional antlerless-only deer permits at the established price of \$50. Additional review is necessary on this regulation. It is recommended that this regulation be brought back to the Commission at the January workshop session and that it be brought to public hearing in March.

3. Agritourism Regulations – Chris Tymeson, legal counsel, presented this report to the Commission (Exhibit M). Discussed last time, but when Governor issued ERO in 2011, which merged the Division of Travel and Tourism into our agency. In oversight, agritourism was not technically part of tourism. With agritourism there are a lot of duties and liabilities that come with that. Once the statutes are renumbered and cleaned up, we will be presenting those regulations to you for your review and approval, probably in January or March of next year.

4. HIP Stamp – cleanup – Mike Miller information publications chief, presented this report to the Commission (Exhibit N). This is a clean-up necessary because of Senate Bill 314, which removed license exemptions on Kansans age 65-74. The federal law requires anyone who

hunts migratory birds in Kansas and who is required to have a hunting license to participate. This regulation was written to exempt resident hunters younger than 16 and older than 64. If you need a license you need a HIP stamp.

VII. RECESS AT 4:37 p.m. (Catered supper in dining hall)

VIII. RECONVENE AT 7:00 p.m.

IX. RE-INTRODUCTION OF COMMISSIONERS AND GUESTS

XI. DEPARTMENT REPORT

X. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS

None

XI. DEPARTMENT REPORT

D. Public Hearing

Notice and Submission Forms; Kansas Legislative Research Letter and Attorney General Letter (Exhibit O).

1. KAR 115-1-1. Definitions (artificial lures) – Doug Nygren, fisheries section chief, presented this report to the Commission (Exhibit P). The proposed change deals with a new definition of artificial lure to clarify the use of Alabama rigs which can hold five lures, but can only put two lures on it legally.

Commissioner Debra Bolton moved to approve KAR 115-1-1 before the Commission. Commissioner Don Budd seconded.

The roll call vote on KAR 115-1-1 as recommended was as follows (Exhibit Q):

Commissioner Bolton	Yes
Commissioner Budd	Yes
Commissioner Dill	Yes
Commissioner Doll	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented KAR 115-1-1 passed 7-0.

2. KAR 115-18-18. Hand fishing permit; requirements, restrictions, and permit duration. – Doug Nygren, fisheries section chief, presented this report to the Commission (Exhibit R). The proposed amendment would remove the requirement to complete a survey following the hand fishing season. No mandatory report, but still have to buy the permit.

Commissioner Roger Marshall moved to approve KAR 115-18-18 before the Commission. Commissioner Don Budd seconded.

The roll call vote on KAR 115-18-18 as recommended was as follows (Exhibit Q):

Commissioner Bolton	Yes
Commissioner Budd	Yes
Commissioner Dill	Yes
Commissioner Doll	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented KAR 115-18-18 passed 7-0.

3. KAR 115-25-14. Fishing; creel limit, size limit, possession limit, and open season. – Doug Nygren, fisheries section chief, presented this report to the Commission (Exhibit S). The proposed amendments relate to trout waters and updates to the reference document related to length and creel limits for specific bodies of water. Add Cherryvale City Lake Tanko and Stone Lake, Great Bend to trout waters. Glen Elder comments mostly positive; anglers routinely catch 50 crappie, could spread harvest out was comment that came from anglers in the area. Commissioner Marshall – What is crappie size limit? Nygren – None. Looked at placing a length limit, but felt creel limit would be better. Commissioner Dill – Comments I received in favor of reducing. Pearce – Several lakes like this already, has it improved the fisheries there by having reduced creel? Nygren – Others didn't have catch rates high enough to reach limit of 20-a-day. Pearce – How long does year class live? Nygren – Some make it to age seven, but most don't make it past age four.

Commissioner Tom Dill moved to approve KAR 115-25-14 before the Commission. Commissioner Debra Bolton seconded.

The roll call vote on KAR 115-25-14 as recommended was as follows (Exhibit Q):

Commissioner Bolton	Yes
Commissioner Budd	Yes
Commissioner Dill	Yes
Commissioner Doll	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented KAR 115-25-14 passed 7-0.

4. KAR 115-7-3. Fish; taking and use of baitfish or minnows. – Doug Nygren, fisheries section chief, presented this report to the Commission (Exhibit T). The proposed amendments would allow taking and use of live baitfish within a drainage except from a designated aquatic nuisance species water, allow the taking and use of bluegill and green sunfish to be used as baitfish anywhere in the state except if taken from a designated aquatic nuisance species water,

and restrict importation of out-of-state baitfish unless they meet the same criteria as Kansas commercial baitfish sales. The purpose of proposed amendment is to attempt to prevent the further spread of aquatic nuisance species. Commissioner Budd – What made you change the direction on this? Nygren – Fisherman who fish on trot lines, these species are readily identifiable and didn't include any look-alike species. Commissioner Bolton – Most can identify bluegill and green sunfish, lot of confusion on gizzard shad. Commissioner Doll – Give example of how this would occur. Nygren – Collect and take to another lake. Commissioner Bolton – Expect them to know if ANS water or not? Nygren – Yes. Commissioner Bolton – Always posted? Nygren – Yes. Commissioner Doll – Allowing this because readily identifiable? Getting away from what we wanted to accomplish? Nygren – Yes, and can still carry a hitchhiker with fish. Commissioner Budd – Why allowing this? Nygren – A compromise. Have mixed emotions, but have to be realistic and don't want to restrict someone from traditional way of fishing. Can't control movement of fish from private water fish impoundments. Not all are considered private water fish impoundments, only those that are cut off from water source. Chairman Lauber – That made it difficult for enforcement too. Biggest reason fish were there was fear of Asian carp, can't control movement of water, so tried to control movement of water in a boat and chance of misidentification of these two species was just about nil; silver fish misidentification pretty high. Commissioner Bolton – This is a double-edged sword, don't feel we are being a good steward, but will go with the recommendation. Nygren – Problem is private water fish impoundment, can't control anyway. New zebra mussel lakes all the time, and Asian carp have gotten everywhere they can on their own; trying to restrict human movement. Chairman Lauber – On zebra mussels, mystery how villagers are getting moved? Nygren – Turtles may be one way, but don't know for sure. Watching closely at Milford Hatchery Lake. Commissioner Doll – If watering this down so much wonder why doing it at all? Nygren – Gizzard shad confusion with Asian carp is still a big issue and this will still protect that. Only update list once a year. Still can't take fish out of ANS waters. Commissioner Budd – Does this satisfy the guys who signed the petition? Commissioner Wilson – I feel it does. I would be satisfied with green sunfish and bluegill. Commissioner Budd – I like that we are trying to compromise. Chairman Lauber – Most positive is no Asian carp. Nygren – Most of Asian carp are in Kansas and Missouri rivers. Pearce – Put in bluegill, but most are green sunfish. Where do they catch them? Nygren – I know they are catching them at lake in Pratt, most of them come from smaller impoundments. Pearce – If have stream flowing through your pond that is not private impoundment? Nygren – No those are waters of the state.

Commissioner Robert Wilson moved to approve KAR 115-7-3 before the Commission. Commissioner Tom Dill seconded.

The roll call vote on KAR 115-7-3 as recommended was as follows (Exhibit U):

Commissioner Bolton	Yes
Commissioner Budd	Yes
Commissioner Dill	Yes
Commissioner Doll	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented KAR 115-7-3 passed 7-0.

5. KAR 115-7-10. Fishing; special provisions (fishing tournaments). – Doug Nygren, fisheries section chief, presented this report to the Commission (Exhibit V). The proposed amendments would allow transporting live fish from designated waters containing aquatic nuisance species during permitted fishing tournaments for weigh-ins, update the reference document designated aquatic nuisance waters, and require persons fishing with baitfish purchased from a commercial bait dealer to possess the purchase receipt while fishing. Want to trailer fish to weigh-in site as long as they don't use this regulation to transport them. Also, must keep receipt when purchasing from commercial bait dealer. Commissioner Doll – Hold permit? Nygren – Issue card that they are in the tournament. Chairman Lauber – Person who purchased bait has to keep receipt on them while using the bait? Nygren – This is the input we got from you. Commissioner Budd – What is fine? Jones – Misdemeanor C, 30 days in jail, \$500 fine, could be Lacey Act issue and violation of federal law. Tymeson – That is maximum penalty. Commissioner Marshall – Whole purpose is to decrease spread of zebra mussel? Nygren – All invasive species and be free of disease. With receipt we know it would be legal. Zebra mussels can go downstream on their own. Commissioner Marshall – What percentage not infected? Nygren – Over 400 small lakes and I think we have 17 with zebra mussels, but most are bigger reservoirs; so if you talk about surface acres, about 40 percent infected. Commissioner Marshall – Still a lot at stake here. Nygren – Have request to hire people to do boat inspections, but has not been funded. Commissioner Marshall – What are we doing about boats doing this? Nygren – Have great education program. Jason Goeckler was aquatic nuisance species coordinator, but has been promoted. We have educated anglers that they have to pull plug and drain livewells, which is new this year. Receipt is more than just zebra mussels, there are three reportable diseases, and if a commercial bait dealer came in with diseased fish within a week every water body would be contaminated. Chairman Lauber – Asking commercial bait dealer to provide it so asking purchaser to carry it. Don't believe county attorneys are going to be imposing the maximum fines. Early in the game for other ANS issues, more of an aside issue of commercial bait and has merit. Commissioner Budd – What does receipts have to do with contaminated bait you spoke about? Nygren – Feel confident if person is carrying receipt they are certifying that it is safe. Tymeson – Spend lot of time discussing this issue, came down to Kevin's people checking silver fish, boils down to Asian carp issue. Commissioner Budd – Hard to understand. Pearce – How does this affect people who come in from out-of-state? Can they legally bring fish from another state and is it violation of Lacey Act? Nygren – Any bait that comes in has to be certified. Can't seine fish out of pond, if have certification then can bring in; talked with some vendors in Kansas City area about this. Pearce – Have list of certified dealers? Jones – If they say they are certified dealer, we can check. Pearce – Would be Lacey Act violation if no receipt? Jones – Could be. Commissioner Wilson – This also includes some aquatic nuisance vegetation? Nygren – Yes, and inspections is part of this requirement. Commissioner Doll – Had any violations? Nygren – One, had no paperwork, but was from certified source. Jones – Try to work with the people. Chairman Lauber – Law enforcement tries to educate as much as possible, don't just ticket. I think this is what it takes to protect us from these silver fish. Commissioner Marshall – Right now okay to go to Kansas River and get sunfish and use them? Nygren – No, can only use where taken. Risk of what we don't know. Tymeson – Authority of our agency to transfer water, but we did do is take measure to drain livewells and open drain plugs. We have done what we have authority to. Also there is an amendment for reference document for Chase SFL.

Commissioner Robert Wilson moved to approve KAR 115-7-10 before the Commission. Commissioner Tom Dill seconded.

Commissioner Robert Wilson moved to amend to add Chase SFL. Commissioner Debra Bolton seconded.

The roll call vote to KAR 115-7-10 as recommended was as follows (Exhibit U):

Commissioner Bolton	Yes
Commissioner Budd	Yes
Commissioner Dill	Yes
Commissioner Doll	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented KAR 115-7-10 passed 7-0.

The roll call vote to pass KAR 115-7-10 as amended was as follows (Exhibit U):

Commissioner Bolton	Yes
Commissioner Budd	Yes
Commissioner Dill	Yes
Commissioner Doll	Yes
Commissioner Marshall	No
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented KAR 115-7-10 passed 6-1.

6. KAR 115-2-2. Motor vehicle permit fees. – Linda Lanterman, Parks Division assistant director, presented this report to the Commission (Exhibit W). The Park Pass was introduced into the Kansas Legislature as a way to generate additional revenue for state parks and allow constituents easy access to state parks. When you go to register or re-register your vehicles, it will allow you to purchase a park pass or mini park pass permit. This will add easy pass into regulation and will take away seasonal pricing. This permit will cost \$15.50. The daily vehicle permit will increase to \$5 (\$3.50 plus issuance fee) at the gate and the regular vehicle permit at our park offices will increase to \$25. Seniors permits will stay at a discounted rate as it is today. Effective in January.

Commissioner Roger Marshall moved to approve KAR 115-2-2 before the Commission. Commissioner Robert Wilson seconded.

The roll call vote on KAR 115-2-2 as recommended was as follows (Exhibit X):

Commissioner Bolton	Yes
Commissioner Budd	Yes
Commissioner Dill	Yes

Commissioner Doll	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented KAR 115-2-2 passed 7-0.

7. KAR 115-8-19. Personal conduct on department lands and waters; provisions, restrictions and penalties (alcohol). – Linda Lanterman, assistant parks division director, presented this report to the Commission (Exhibit Y). This initiative was looked at as a way to modernize the alcohol laws. This would remove the restriction allowing only cereal malt beverages, but can post where we don't want alcohol. This would allow us to entertain lodges and resorts. Pearce – What is legal now? Tymeson – Basically 3.2 beer.

Commissioner Don Budd moved to approve KAR 115-8-19 before the Commission. Commissioner Debra Bolton seconded.

The roll call vote on KAR 115-8-19 as recommended was as follows (Exhibit X):

Commissioner Bolton	Yes
Commissioner Budd	Yes
Commissioner Dill	Yes
Commissioner Doll	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented KAR 115-8-19 passed 7-0.

8. KAR 115-4-15. Restitution scoring system; white-tailed deer; mule deer; elk; antelope. – Kevin Jones, law enforcement division director, presented this update to the Commission (Exhibit Z). This new regulation establishes scoring systems for restitution for unlawful take of big game animals in Kansas. This restitution scoring system results from legislation from the 2012 legislative session and restitution values increase as the size of the antlers or horns of the animals increase. The passage of Senate Bill 314 requires that true restitution value be placed on trophy-class animals taken in violation of the law. Had broad guidelines and some specific values under commercialization of wildlife, but nothing that really specified restitution values. Value will be determined through a formula based on the gross score of the animal's antlers or horns. The new law establishes a minimum score for the restitution value to be considered under the formula. We have opted to use the Boone and Crockett Club scoring methods. Their process is copyrighted, but they have given us permission to use their method. The formula varies, depending on the species of animal, but it is basically the gross score of the animal in inches minus a constant value for that species; deer is 100, elk is 200 and antelope is 40. This number is then squared and then multiplied by \$2 to arrive at the value. There will be some restitution ordered to the department by the court as a result of convictions for unlawfully taken big game animals, but to estimate would be purely speculative at this time. Marvin Whitehead – As an official measurer, haven't decided who will measure law

enforcement of certified measurer? Jones – Talked to Ohio who has had this law for a number of years, don't need certified measurer if follow rules can come up with score; if prosecuted can have certified measurer. Whitehead – On baselines, both Boone and Crockett and Pope and Young use a cable instead of a tape measure. Tymeson – Litigation on that issue in Ohio.

Commissioner Roger Marshall moved to approve KAR 115-4-15 before the Commission. Commissioner Tom Dill seconded.

The roll call vote on KAR 115-4-15 as recommended was as follows (Exhibit AA):

Commissioner Bolton	Yes
Commissioner Budd	Yes
Commissioner Dill	Yes
Commissioner Doll	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented KAR 115-4-15 passed 7-0.

9. KAR 115-8-1. Department lands and waters: hunting, furharvesting, and discharge of firearms. – Brad Simpson, public lands section chief, introduced public land managers (Exhibit BB). This is another clean up regulation to cover alcohol you just passed. Reference document is adopted in 8-1. Commissioner Doll – Only change is wording from cereal malt beverage to alcohol? Simpson – Yes.

Commissioner Debra Bolton moved to approve KAR 115-8-1 before the Commission. Commissioner Don Budd seconded.

The roll call vote on KAR 115-8-1 as recommended was as follows (Exhibit CC):

Commissioner Bolton	Yes
Commissioner Budd	Yes
Commissioner Dill	Yes
Commissioner Doll	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented KAR 115-8-1 passed 7-0.

10. KAR 115-25-6. Turkey; spring season, bag limit, permits, and game tags. – Jim Pitman, small game biologist, presented this report to the Commission (Exhibit DD). The proposed changes would change management units from 4 units to 6 units to coincide with changes previously made in the fall turkey season; would increase the bag limit in Unit 1; and would allow the use of Unit 4 permits in adjoining units.

Commissioner Tom Dill moved to approve KAR 115-25-6 before the Commission.

Commissioner Debra Bolton seconded.

The roll call vote on KAR 115-25-6 as recommended was as follows (Exhibit EE):

Commissioner Bolton	Yes
Commissioner Budd	Yes
Commissioner Dill	Yes
Commissioner Doll	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented KAR 115-25-6 passed 7-0.

11. KAR 115-2-1. Amount of fees (resident senior hunting license). – Mike Miller, Information Production Section chief, presented this report to the Commission (Exhibit FF). Senate Bill 314 during the legislative process staff indicated that a fee of \$40 would be adequate to ensure federal aid. The fee for a half-price annual hunting or fishing license would be \$9 and for a hunt/fish combination half-price is \$18. Commissioner Budd – This is what you gave legislature? Jennison – Can charge up to one-eighth, get 18 years, but Iowa is being challenged on that, but we are going ahead because this would place us an even keel with other states for federal aid. Commissioner Marshall – Biggest one that my constituents want to know. How are we going to use this money? Jennison – to provide opportunity, use significant amount of money for WIHA, access, shooting ranges; PR money is growing, same types of things we have been doing in the past. Most important thing to tell seniors who are paying excess taxes when they purchase equipment right now we cannot show them as a hunter. With this change we can show them as a hunter or angler and get federal dollars. Can show deer hunter or trout stamp buyer, so doesn't encompass everyone, but will encompass quite a few. Puts us on par with other states; one of 14 states that don't have a license for 65 and over. Chairman Lauber – If buy lifetime license today don't have \$40 to spend, have maybe \$4? Jennison – Iowa taken to task on that and opinion of USFWS; what they said before was that if you made a dollar a year that would get us to 18 years of federal funds; not looking at Iowa because of audit. Hope to at least get a minimum of 3-4 years out of them. Commissioner Marshall – What does it amount to a year? Tymeson - \$16 and \$9, total \$25. Commissioner Budd – Robin has taken this to best possible end it could be. Commissioner Marshall – What are we going to do with the money is what people want to know? Chairman Lauber – There are restrictions on what we can spend the federal money on. Jennison – About 65 years ago there were no federal reservoirs, now 24 state parks and wildlife areas and one million acres; didn't have deer, turkey, pheasants, community lakes (200) and had only about 50 state fishing lakes and fish hatcheries. What we are doing in Kansas is significant; we are one of the most conservative agencies in the nation. Hunters and anglers are getting the biggest bang for their buck in this state. Have most diverse opportunity of any state around and management since 1905 has been phenomenal. Miller – When we started doing research, over 65 group is fastest growing group and have always been a user-based system so this continues that tradition. Pearce – Talked to several license vendors because not getting information from the department. Need to explain this to the public and help them calm down. Miller – Publicized in a number of different ways, at state fair Marc Murrell only got two negative comments on this.

Commissioner Robert Wilson moved to approve KAR 115-2-1 before the Commission. Commissioner Tom Dill seconded.

The roll call vote on KAR 115-2-1 as recommended was as follows (Exhibit GG):

Commissioner Bolton	Yes
Commissioner Budd	Yes
Commissioner Dill	Yes
Commissioner Doll	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented KAR 115-2-1 passed 7-0.

12. KAR 115-18-22. Senior pass valid for hunting and fishing; requirements, restrictions, and permit duration. – Mike Miller, Information Production Section chief, presented this report to the Commission (Exhibit HH). Senate Bill 314 was a department-sponsored bill that proposed eliminating the hunting and fishing license exemption for Kansans 65 and older. The bill was amended and passed that allows Kansans 65 and older to purchase a resident combination hunting and fishing pass. The bill also provides residents 65 and older half-price annual fishing, hunting or hunting/fishing combination licenses. This clears up license if valid to come back and buy permits at resident price.

Commissioner Robert Wilson moved to approve KAR 115-18-22 before the Commission. Commissioner Debra Bolton seconded.

The roll call vote on KAR 115-18-22 as recommended was as follows (Exhibit GG):

Commissioner Bolton	Yes
Commissioner Budd	Yes
Commissioner Dill	Yes
Commissioner Doll	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented KAR 115-18-22 passed 7-0.

XII. Old Business

None

XIII. Other Business

A. Future Meeting Locations and Dates

January 10, 2013 - Butler Community College new facility, El Dorado
March 21, 2013 – Topeka (History Center)
April 25, 2013 – Wichita – (GPNC)
June 27, 2013 – (Garden City)

Invitation to come to Manhattan.

XIV. ADJOURNMENT

The meeting adjourned at 8:32 p.m.

(Exhibits and/or Transcript available upon request)

Secretary's Remarks

**Agency and State Fiscal Status
2013 Legislature**

No briefing book items – possible handout at meeting

General Discussion

Commission Permits Update

Background

In January 2006, the Kansas Wildlife and Parks Commission held the first drawing for Commission Big Game Permits when one elk and six deer permits were issued to applying conservation organizations. As stated in the statute, there can be one elk, one antelope and up to seven deer permits issued with the limit of permits issued being seven.

Qualified applicants include local chapters of nonprofit organizations based or operating in Kansas that actively promote wildlife conservation and the hunting and fishing heritage. An organization or chapter is eligible to receive a permit only once in a three-year period.

In 2006, permits sold for \$49,000 with 59 applications being received; 2007, \$26,973.56 with 119 applicants; 2008, \$24,200 and 113 applicants; 2009, \$34,951 with 111 applicants; 2010, \$47,000 and 108 applicants; and in 2011, permits sold for \$41,700.00 with 100 applications being received.

In 2012, permits were won by one Rocky Mountain Elk Foundation chapter – Wichita; two Ducks Unlimited chapters – Wichita and Topeka; two National Wildlife Federation chapters – Hays and Iola; and two Friends of NRA chapters – Pratt and McPherson Counties. There were 104 applicants and the permits sold for \$41,881.

After the permits are sold by the organization, the amount of the permit is subtracted and 85 percent of the proceeds are sent to KDWP to be used on approved projects. After the projects are approved, the money is sent back to the organization. The other 15 percent can be spent at the organization's discretion.

2013 Public Lands Regulations Reference Document Changes under consideration

Access Restrictions

Region 3

Playa Lakes (Herron, Stein & Wild Turkey) Closed to all activities from February 1 through August 31. Open until noon for migratory bird seasons from September 1 through November 22. Open all day during designated youth upland bird season. Open to all hunting all day November 23 through January 31. – REMOVE

Region 5

Grand Osage WA – Access by special permit ~~or Army authorization only~~

Age Restrictions

Region 1

Glen Elder WA- Walnut Creek area, mentor area-all species, all seasons - REMOVE
Glen Elder WA- Granite Creek area, youth/mentor area-all species, October 1 – January 31 – ADD

Region 2

Milford WA-West Broughton area, youth/mentor area hunting-all species, all seasons - ADD

No alcohol

Region 2

Rocky Ford Fishing Area – REMOVE

Region 5

LaCygne Lake & WA- ADD

Non-toxic Shot

Statewide

Designated dove fields – ADD

Boating Restrictions

No Motorized Boats

Region 5

Elk City WA-Widgeon and Simmons Marshes --REMOVE
Elk City WA – Developed wetlands – ADD

Refuges

Refuge Area Closed to All Activities Year Round

Region 5

Mined Land WA-portions of Units 28 and 29-REMOVE

Shooting Hours Restrictions -REMOVE

The following properties have shooting hour restrictions that are more restrictive than statewide regulations. These restrictions may be species specific and regulated only on portions of the property.

Shooting Hours End 1 PM - REMOVE

Region 5

Neosho WA-South Unit for waterfowl – REMOVE

Special Permits (Daily/ Use* Hunt Permits)

Region 1

Glen Elder WA – Granite Creek Area during youth/mentor seasons - ADD

Also under consideration

KAR 115-8-23. Bait, hunting – definition of baiting. A possible issue is the Department managed dove fields under the current definition.

KAR 115-8-2. Blinds, tree stands, and decoys. Under consideration is clarifying or defining stands and blinds. Current regulation refers to stands as only to tree stands.

Lesser Prairie Chicken Federal Listing Briefing

Significant declines in lesser prairie chicken (LEPC) populations and their range were cause enough for the U.S. Fish and Wildlife Service (USFWS) to list the species as “warranted but precluded from listing” in 1996. This simply meant that it deserved a review for listing under the Endangered Species Act, but that a review would not take place because there were higher priority species. However, recently the priority status for LEPC review went from a level 8 to a level 2 and as such, a preliminary review was accomplished. After a 60-day extension for a proposed ruling, on November 30, 2012, the USFWS announced the proposed listing for the LEPC as threatened. The final rule will be announced on September 30, 2013. As the result of the listing proposal, public hearings are being held by the USFWS in four of the five states (KS, OK, TX and NM) for the purpose of gathering public comments. The hearing for Kansas will be held as follows:

Thursday, February 7, 2013
6:30 p.m. – 8:30 p.m.
Garden City Community College
801 N. Campus Drive
Garden City, KS 67846

It was anticipated that the proposed rule would be to list the species, and therefore the Five-state LEPC Interstate Working Group (Kansas, Colorado, Oklahoma, New Mexico, and Texas) and its partners initiated and have continued to develop a range-wide conservation plan. If this plan can show with certainty that the number of birds and their habitats can be managed to levels that provide for a viable and stable population throughout the LEPC’s range, it could influence the USFWS’s final decision. This plan will be presented to the USFWS in March 2013, so that it can be considered before a final listing is announced.

The presentation at the January 2013 Commission meeting is intended to brief the Commission and others of the current status of this planning effort since it has been moving forward rapidly since our last briefing in October 2012.

Upland Bird Regulations

K.A.R. 115-25-1. Prairie Chickens; seasons, bag limits & possession limits

DISCUSSION

The intent of this discussion will be to provide some information about how a listing of the lesser prairie-chicken as a federally threatened species might affect prairie chicken hunting regulations for the state (Figure 1). Specific items that will be discussed include how a federal listing might affect our ability to hunt populations of solely lesser prairie-chickens and populations where both prairie chicken species co-exist (Figure 1). More detailed information will be available. The U.S. Fish and Wildlife Service is scheduled to release their final ruling on the listing status of the species by the end of September, 2013, but there is a possibility for a six-month extension on that decision.

Figure 1. Prairie chicken hunting units, season dates, and bag limits in Kansas, 2012-2013.

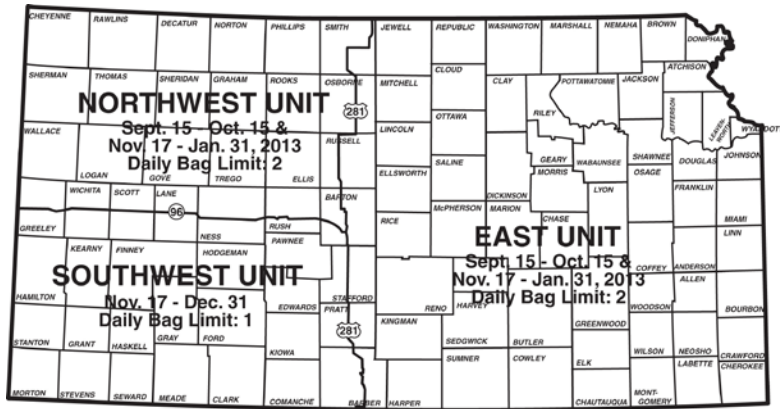
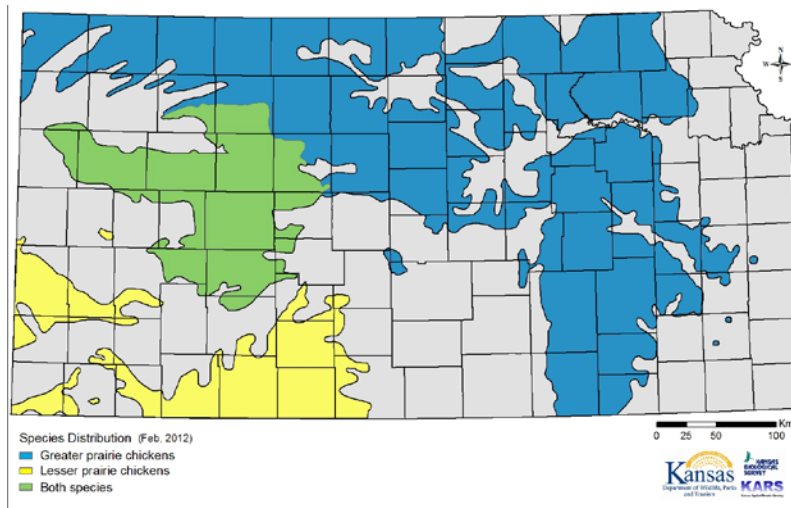


Figure 2. Current distributions of greater and lesser prairie-chicken in Kansas, 2011.



Workshop Session

Agritourism Regulations

Background

In 2011, Governor Brownback issued Executive Reorganization Order No. 36, which merged the Division of Travel and Tourism of the Department of Commerce with the Department of Wildlife and Parks. The ERO created a new Assistant Secretary for Parks and Tourism, and it created the Tourism Division within the Kansas Department of Wildlife, Parks and Tourism (KDWPT).

In 2012, the Legislature passed Senate Bill 316 in response to ERO 36. SB 316 is commonly known as the trailer bill, which transfers the statutory authorities of the former Division of Travel and Tourism to KDWPT. Trailer bills also provide opportunities to address any unanticipated issues with ERO. EROs, while specific to the topic, are generally generic in nature. Trailer bills are very specific and address items like name changes in the statutes.

Discussion

The Department of Commerce has several regulations in place that deal with agritourism. Since the agritourism duties have been transferred to the KDWPT, the regulations should at some point be brought into the Department's regulation numbering system and the statutory references updated. We anticipate that this change will occur in January or March of next year, once the new statute numbers have been assigned.

**Camping and Utility Fees
(2013 Recreation Vehicle Short-Term Parking
Effective Calendar Year 2013)**

Background: This initiative is in an effort to respond to the many requests for offering competitive short-term RV and boat parking fees in state parks. Currently, our short-term parking is \$125.00 per month. An inventory of area storage businesses has been completed for each state park. Many areas do not have local businesses offering this service. We would like to offer this service at a competitive rate for our customers to mitigate the high cost of fuel used in transporting campers and boats to our recreational areas.

Regulation: 115-2-3 (h)

Recommendations: To adjust pricing per location.

Deer 25 Series Regulations.

Background

K.A.R. 115-25-9 contains the following items:

- < Dates of deer seasons when equipment such as archery, firearms, and muzzleloader may be used.
- < Provisions when seasons may occur on military subunits within management units.
- < Dates for a special firearm deer season and extended archery seasons in urban units.
- < Dates of deer seasons for designated persons.
- < Dates and units when extended firearm seasons are authorized and the type of permits and changes in the species and antler categories of those permits.
- < Limitations in obtaining multiple permits.

Discussion

Annual adjustments are made in the season dates. The recommendations at this time follow the traditional season structure.

Pre-rut hunting seasons have been suggested by various deer managers and organizations as a tool that might be helpful in controlling deer populations. Among its anticipated advantages are the notions that by removing female deer before the rut, there may be few deer related vehicle accidents, and hunters may have better success at taking a buck deer during traditional season dates. The department has been directed by the state legislature to develop a pre-rut white-tailed deer antlerless-only season for 2013.

The deer hunting season structure is already considered by many to be too complicated. An additional season could be met by dissatisfaction from hunters and landowners. We have had a 9-day early firearms season in DMU 19 since 2003 with limited participation by hunters and relatively minor effects on deer population control. Replacement of that season with a pre-rut white-tailed deer antlerless-only season would keep our current season structure similar to what we have had for many years.

Key points made by deer managers in other states about success for a pre-rut season is that the season must be short in duration, during a pleasant time of the year and limited by a special and specific permit. The goal is to motivate deer hunters to use an additional weekend and special tag to take additional deer, as opposed to having hunters simply shift the season dates when they take their antlerless deer. The timing of an extended season for taking antlerless deer late in the season is frequently controversial. Some deer managers in other states hope that a pre-rut antlerless-only season may allow them to reduce or even eliminate antlerless-only season late in the hunting year.

To give the pre-rut hunting season an adequate evaluation, we are considering a season which is statewide. In reviewing the sportsmen's calendar, there were few weekends before the peak of rut behavior that do not conflict with some existing season. The weekend in Kansas that best fit the goals of a pre-rut deer season appears to be the second Saturday and Sunday in October.

Population indices, mortality due to disease and changes in recruitment due to drought will be examined and public input will be considered in the development of a list of units where an extended firearms seasons and white-tailed deer antlerless-only (WAO) permits will be authorized. The dominant comment from hunters this fall has been the decrease in number of deer they observed compared to previous years. The number of WAO permits that may be used in each unit will be evaluated after additional data becomes available.

Recommendation

Season dates suggested for deer hunting during 2013-14 are as follows:

Youth and Disability	September 7, 2013 – September 15, 2013
Early Muzzleloader	September 16, 2013 – September 29, 2013
Archery	September 16, 2013 – December 31, 2013
Pre-Rut WAO	October 12, 2013 – October 13, 2013
Regular Firearms	December 4, 2013 – December 15, 2013
Extended WAO	January 1, 2014 – January 12, 2014
Special Extended WAO	January 13, 2014 – January 19, 2014
Extended Archery (DMU 19)	January 13, 2014– January 31, 2014

With the proposed initiation of a pre-rut season, a shortening of firearms deer hunting days in DMU 19 would occur. To avoid that situation, it is being proposed that DMU 19 be included with DMU 7, 8, and 15 for the Special Extended WAO Season. This would keep the number of firearms hunting days in DMU 19 the same as it has been since 2003.

The proposed dates for the firearm season at the Fort Leavenworth subunit are November 23 2013 through November 24, 2013, November 28, 2013 through December 1, 2013, December 7, 2013 through December 8, 2013, December 14, 2013 through December 15, 2013, and December 21, 2013 through December 22, 2013. The proposed dates for the firearms season for deer hunting at the Smoky Hill Air National Guard subunit will be the same as the rest of the state, i.e., December 4, 2013 through December 15, 2013.

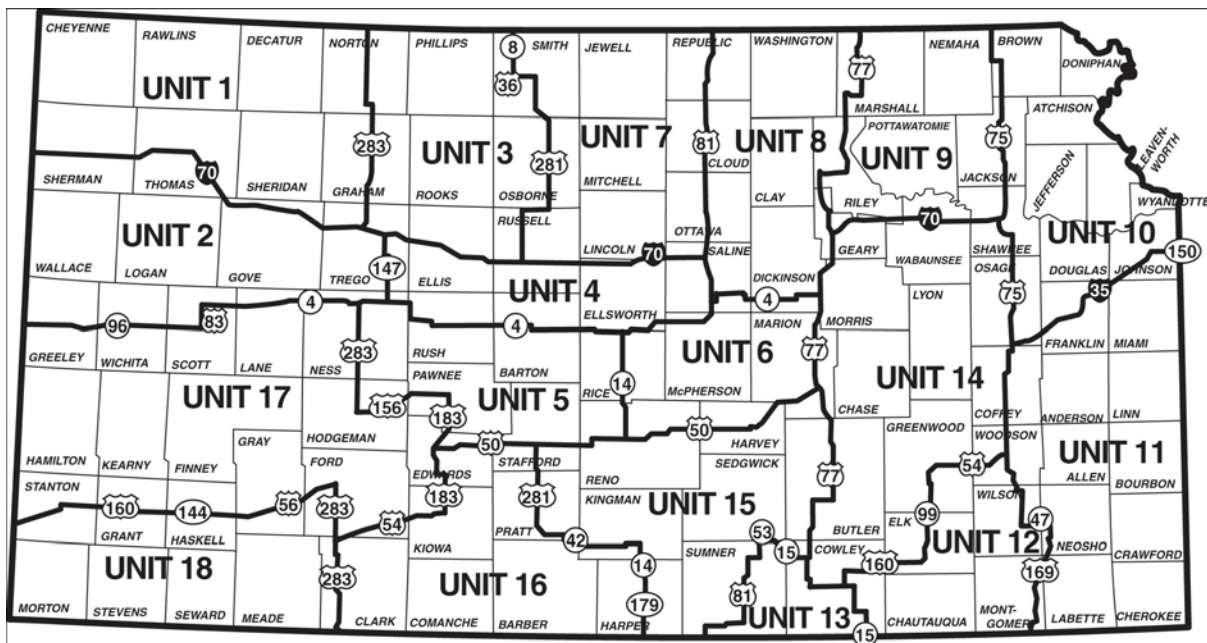
Firearm season dates for deer hunting at Fort Riley will be established in K.A.R. 115-25-9a which will be covered in a Workshop at a later date.

Dates for application deadlines are now established in KAR 115-4-11

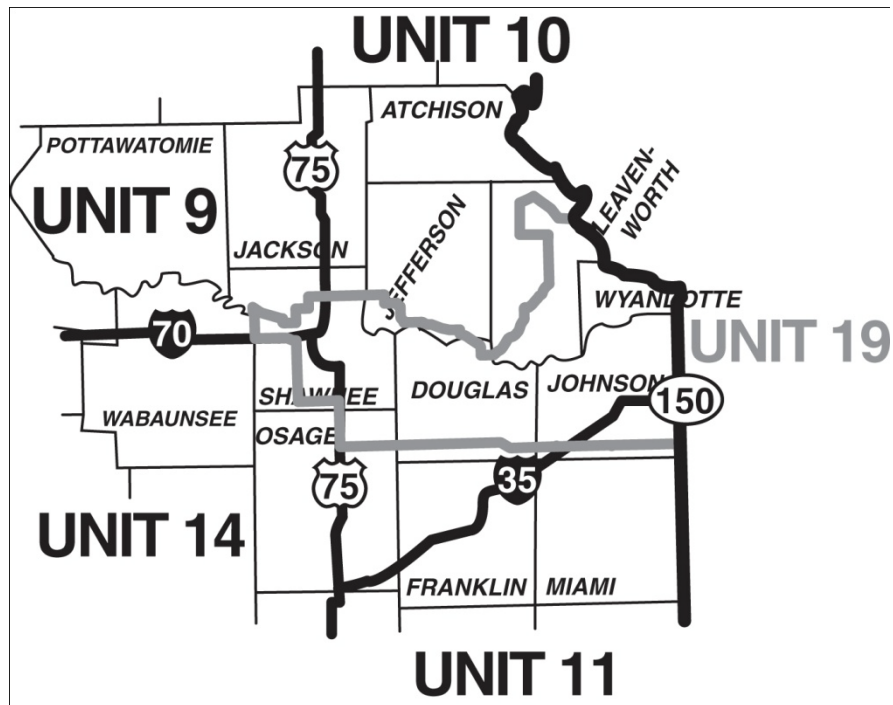
Consideration will be made on the number of white-tailed deer antlerless-only permits that may be used in each DMU after additional data becomes available. Last year the first permit was valid statewide including on lands management by the department. The second WAO permit

was also valid statewide and was valid at Cedar Bluff, Glen Elder, Kanopolis, Kirwin, Lovewell, Norton, Webster, and Wilson wildlife areas. The last three WAO permits were valid on DMUs, 1, 2, 3, 4, 5, 7, 8, 11, 12, 13, 15, 16, and 19 and also at Cedar Bluff, Glen Elder, Kanopolis, Kirwin, Lovewell, Norton, Webster, and Wilson wildlife areas. No additional wildlife areas are being considered where more than one WAO could be used.

Deer Management Units



Deer Management Units with Sub-Unit 19



Deer Permanent Regulations.

The following big game permanent regulations have been reviewed and discussed and no further action is anticipated on them this year:

- **K.A.R. 115-4-2. Big game; general provisions.**
- **K.A.R. 115-4-6. Deer; firearm management units.**
- **K.A.R. 115-4-11. Big game and wild turkey permit applications.**

a) **K.A.R. 115-4-4. Big game; legal equipment and taking methods.**

Background

Public comments have been received and reviewed pertaining to legal equipment and taking methods for big game hunting. Members of the department's deer management committee reviewed those comments and discussed various options for changes that might be made in the regulation. Their input was reviewed by department staff and a draft recommendation of the regulation has been prepared. The regulation is scheduled for a Public Hearing at the March Commission Meeting.

Discussion

The guiding principle for working with this regulation was to identify and keep aspects of the current regulation that were essential for deer management while at the same time simplifying the regulation and allowing hunters additional individual choices on equipment they might use. Conservation of the resource was given top priority with a major effort to keep the regulation simple and able to function in the future with a minimum of annual modifications.

Equipment manufacturers have made numerous changes in equipment designed for big game hunting. As a result there have been annual requests from sportsmen and equipment suppliers to allow new or improved products to be used for big game hunting. Addressing these items individually is both time consuming and tends to result in complicated wording in the regulation. Big game regulations have historically included specific restrictions such as calibers; draw weights, etc. while other conservation regulations have allowed sportsmen to make personal decisions on items they select to use, such as shot size for upland game hunting.

During this review process, we eliminated specifics wherever possible. All draw weight restrictions for archery or crossbow equipment were removed. These restrictions were not necessary from a hunter preference level and probably inappropriate with the technology used in most modern bows. We eliminated the requirement that bows needed to be "hand" drawn, thus allowing archers to use alternatives such as mouth tabs or other portions of the body to assist with the drawing of the bow. We also allowed additional equipment to be attached to the bow or arrow. The new language will allow devices to be attached to the arrow that may assist the hunter in recovering wounded animals.

A significant change included in the revised regulation will allow crossbows to be used during a big game archery hunting season. Information from a post season survey of crossbow hunters in the four unit pilot study will be presented at the commission meeting.

The caliber specifications for all muzzleloading rifles, pistols, and muskets were consolidated into one description for all big game hunting. The minimum size of the components was established at 0.40 inches in diameter.

Firearms and handguns that may be used for big game hunting were expanded to include all centerfire rifles and handguns. Similarly, all gauges of shotguns using only slugs have been included among the equipment that may be used during a firearm big game season. This expansion of the shotgun and slug equipment results in ballistics similar to the muzzleloader equipment.

A section of the former regulation dealing with possession of equipment and the most restrictive big game permit was removed. New sections were added to clarify the use of firearms sound suppression devices and possession of handguns that have been authorized by state law. This regulation does not change requirements dealing with sound suppression devices. Handguns such as a .22 caliber rimfire handgun may be possessed by a person while they are big game hunting but they may not be used for big game hunting, similar to the provision which allows bowhunters to possess a field point arrow while big game hunting but continues to prohibit the use of that equipment for big game hunting.

Some items that had not been part of the previous regulation are being included in the current draft of the regulation, including:

- Rangefinders, film and video cameras, or radio frequency location devices may be attached to bows or arrows
- Sights may not include devices that detect infrared light or thermal energy, and
- Lethal, debilitating, or immobilizing chemical may not be used to take big game.

Minor changes in wording of some sections of this regulation have been made to clarify them or to standardize them with other sections or other regulations.

Recommendation

The department recommends the approval of changes in KAR 115-4-4 to allow big game hunters greater flexibility in the equipment that they may use.

b) **K.A.R. 115-4-13. Deer permits; descriptions and restrictions.**

Background

This regulation contains the following items:

- Creates permit types that include:
 - White-tailed deer, either sex (WTES) permit or white-tailed deer antlerless only (WTAO) permit for residents of Kansas. These permits are valid during all seasons with equipment authorized for that season.
 - White-tailed deer, either sex permit for nonresidents that are valid for one equipment type and one unit. Nonresident hunters may designate one adjacent unit where they may also hunt.
 - Either species, either sex permits are restricted to a season or seasons and units where they may be used by resident and nonresident deer hunters.
 - Hunt-on-your-own-land permits, including resident HOYOL, nonresident HOYOL, and special HOYOL permits for certain direct relatives of the landowner or tenant.
- Each deer permit is valid only for the species and antler category specified on the permit.
- Antlerless deer are defined as a deer without a visible antler plainly protruding from the skull.

Discussion

SB 314 passed last legislative session and it states:

(n) (1) Prior to April 30, 2013, the secretary shall develop and implement a combination antlered and antlerless deer permit and adopt rules and regulations for the administration thereof.

The department conducted public meetings and opinion surveys last year on various aspects of a combination permit for deer hunters. Combination permits with multiple tags have been reviewed by department staff. Experience with the resident combination permit for turkey has shown that an optional combination permit at a reduced fee may not generate sufficient interest by additional hunters to generate the same revenue as a system with separate permits at the regular price.

Creating an optional combination permit that contained two carcass tags, (one carcass tag valid for either sex of deer and one carcass tag restricted to an antlerless-only white-tailed deer) adds additional complexity for deer hunters. An additional option of that type of permit for deer would also fail to increase the harvest of antlerless deer. Approximately the same number of people would purchase the combination permit as had purchased the two permits previously.

Replacing all existing either-sex permits with a 2-tag combination permit has been linked to over-hunting in localized areas of other states in the Midwest. Such a dramatic change is not recommended in a statewide manner for all hunters in Kansas. Factors such as the drought, two consecutive years with hemorrhagic disease, and large changes in acreage from CRP to crop makes large scale application of a combo deer permit a questionable practice at this time.

Combination permits might be established based on conversion of some types of existing either-sex permit type to a 2-tag permit. A conversion of a permit type to a 2-tag permit does not increase the level of permit complexity in our permit system that adding an optional combo permit would. If the change was limited to only certain permit types the adverse consequences of local over-harvest would be minimized.

A review of hunting practices and harvest information indicated that the conversion of the non-resident white-tailed deer either sex permit to a combination 2-tag permit holds the highest potential to accomplish improved deer management. Nonresident deer hunters do not purchase antlerless-only permits at as high a frequency as residents (a white-tailed deer antlerless-only permit costs a nonresident \$50, whereas the corresponding permit costs a general resident of Kansas \$15 and a youth \$7.50). Nonresident leasing of deer hunting lands in Kansas combined with their low participation in antlerless deer harvesting is frequently mentioned as a key factor leading to localized over abundance of deer and is often associated with crop damage caused by deer to an adjacent landowners. The department's proposal is to place more antlerless deer permits in the hands of nonresidents to help control deer numbers where they hunt.

Last year there were 21,105 nonresident deer hunters who purchased one of the white-tailed deer either sex permits. That included permits for archery, firearms, and muzzleloader hunting. Non-residents purchased only 5,603 antlerless deer permits. Limiting the combination permit to just nonresidents with a white-tailed deer either-sex permit would increase by approximately 16,000 the number of white-tailed deer antlerless-only tags in the hands of nonresidents. It is anticipated that approximately 6,500 more white-tailed antlerless deer would be taken than the current level of 3,000 on the nonresident WAO permits.

The current price of a nonresident deer permit that allows the hunter to take either sex of white-tailed deer is \$300, and their price for a white-tailed deer antlerless-only permit is \$50. It is recommended that the new combination permit should be established at \$315. The additional increase in price for a non-resident deer permit would be the same amount as the current price for a resident to purchase their first white-tailed deer antlerless-only permit. Nonresidents would also be allowed to purchase additional antlerless-only deer permits at the established price of \$50.

Recommendation

A review of this regulation by agency legal counsel determined that no change in this regulation was necessary to create a combo deer permit. An amendment to K.A.R. 115-2-1 will be necessary to establish a fee for the combo deer permit. No further action on this regulation is proposed for this year.

KAR 115-25-7

Antelope; open season, bag limit and permits

Background

This regulation pertains to seasons, bag limits, unit boundaries, permits and tags for pronghorn antelope.

Western Kansas pronghorn antelope populations have supported a hunting season since 1974. The firearm pronghorn season has been four days long since 1990, starting on the first Friday in October. The archery pronghorn season was nine days long from 1985 to 2004, and included the two weekends prior to the firearm season. Since 2005, the archery season has reopened on the Saturday following the firearms season and continued through the end of October. A muzzleloader season was initiated in 2001. It has begun immediately after the archery season and ran for eight days, the last four of which overlap with the firearm season.

Pronghorn populations within each of the three units are monitored twice annually by aerial survey. Production surveys occur in July and August, and are used to determine buck:doe:fawn ratios. Buck ratios serve as a forecast for the harvest seasons, whereas fawn ratios are an indicator of annual productivity, which will have greater impact on harvest levels in future years. Population surveys occur primarily in January because pronghorn are found in larger herds and therefore are more visible at this time. This survey is a stronger indicator of the population size, and, used in conjunction with production survey results, landowner issues, and staff input, is the primary tool used to determine permit allocations for the upcoming season.

Discussion & Recommendations

No changes are recommended for season structure, unit boundaries, bag limits, or permits.

We propose unlimited archery permits be allocated for both residents and nonresidents. Firearm and muzzleloader permits will remain restricted to residents, with half assigned to landowner/tenants and the remainder awarded to general residents. Firearm and muzzleloader permit allocations will be determined following winter aerial surveys.

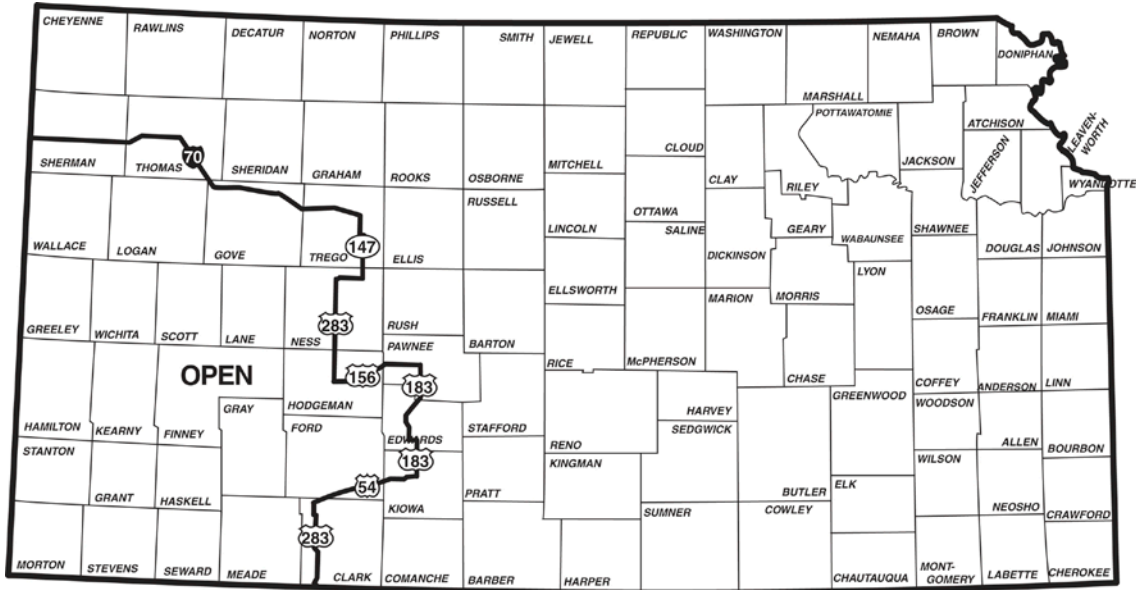
Unit boundaries are proposed to coincide with firearm deer management units defined in K.A.R. 115-4-6, with units 2, 17, and 18 being open. The proposed season dates are:

September 21, 2013 through September 29, 2013 and October 12, 2013 through October 31, 2013 for the archery season.

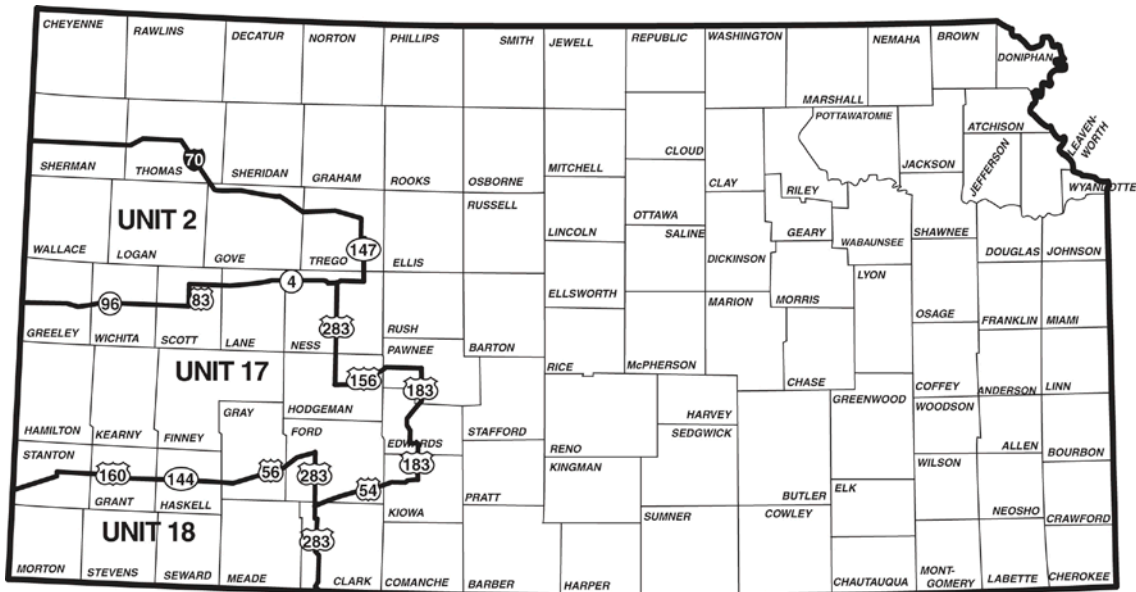
September 30, 2013 through October 7, 2013 for the muzzleloader season.

October 4, 2013 through October 7, 2013 for the firearms season.

Antelope Pronghorn Unit



Firearm, Muzzleloader Pronghorn Units



KAR 115-25-8

Elk; open season, bag limit and permits

Background

This regulation pertains to seasons, bag limits, unit boundaries, permits and tags for elk hunting.

Elk hunting on and around Fort Riley was initiated in 1990, and most of the hunting opportunity in the state occurs on the Fort. However, elk do exist on private lands, though unpredictably in most of the state, with parts of southwest Kansas being the main exception. Elk also occur in the vicinity of Cimarron National Grasslands, but these elk are primarily found in neighboring states, and the Grasslands haven't been open to elk hunting since 1995, following several years of herd reduction.

Since 1999, longer seasons and less restrictive permitting options have been authorized except near Fort Riley and the Grasslands. This framework is intended to allow for elk that may be causing crop damage or other conflicts on private land to be harvested, and for landowners to have the opportunity to maintain elk at desirable numbers on their own property while at the same time allowing the Fort Riley and Cimarron herds to be maintained.

Discussion & Recommendations

No changes are recommended for season structure, unit boundaries, or permits.

Unit boundaries are defined in K.A.R. 115-4-6b. Units 2 and 3 will be open to hunting.

The proposed season dates on Fort Riley are:

- a) September 1, 2013 through September 30, 2013 for a season in which both muzzleloader and archery equipment may be used.
- b) October 1, 2013 through December 31, 2013 for the firearms season with one-third of the antlerless only permits valid during each of the following segments:
 - 1) First segment: October 1, 2013 through October 31, 2013.
 - 2) Second segment: November 1, 2013 through November 30, 2013.
 - 3) Third segment: December 1, 2013 through December 31, 2013.
- c) October 1, 2013 through December 31, 2013 for a firearms season for all holders of any-elk permits.

The proposed season dates outside the boundaries of Fort Riley are:

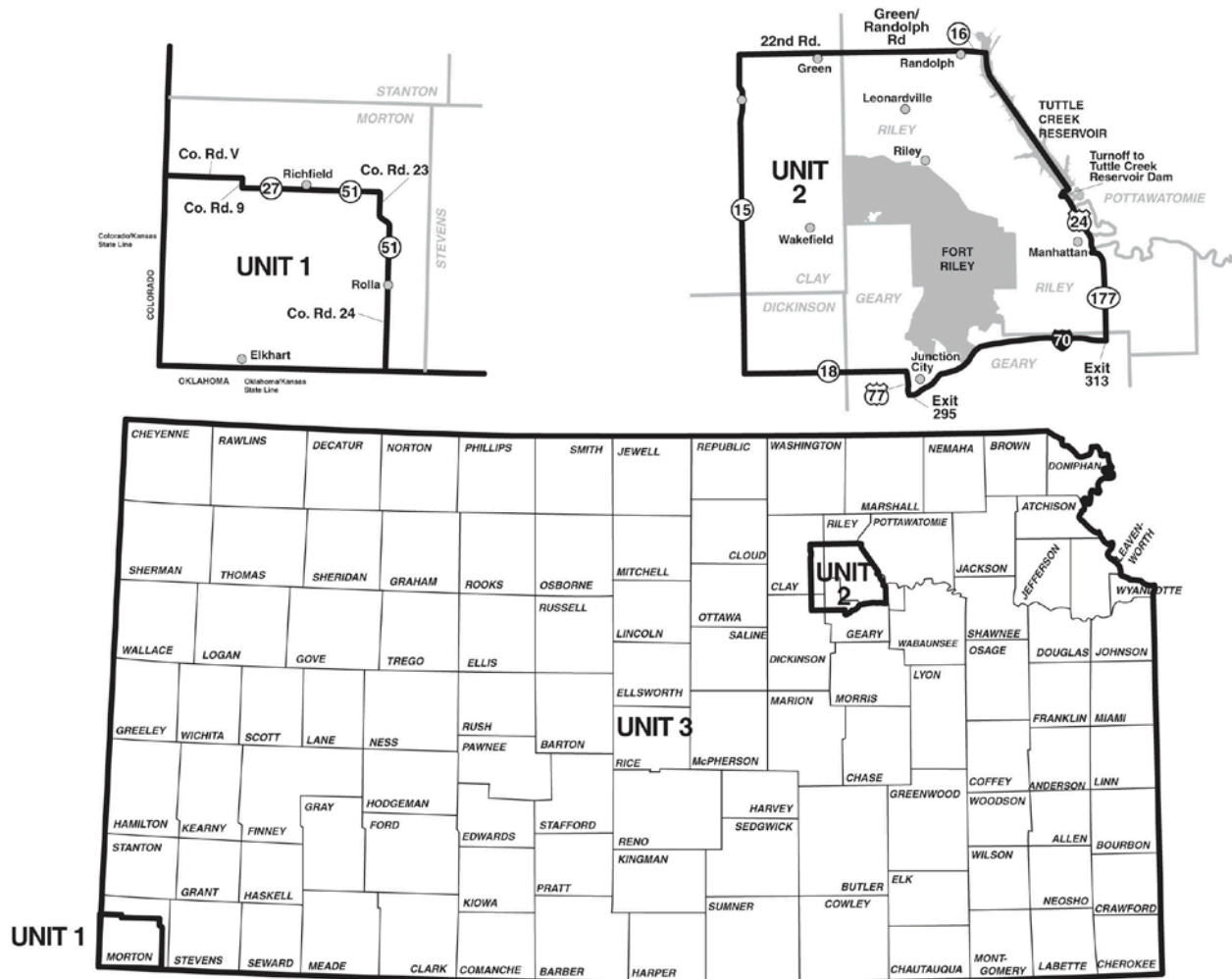
- a) September 1, 2013 through September 30, 2013 for the muzzleloader season.
- b) September 16, 2013 through December 31, 2013 for the archery season.
- c) December 4, 2013 through December 15, 2013, and January 1, 2014 through March 15, 2014 for the firearms seasons.

An unlimited number of hunt-on-your-own-land antlerless only and any elk permits will also be authorized in Units 2 and 3. An unlimited number of general resident and landowner tenant antlerless only and any elk permits will be authorized in Unit 3. Limited draw permit numbers

will be determined closer to the completion of the ongoing season. We recommend elk hunters be required to contact the Department when an elk is harvested to submit samples for CWD testing.

Elk permits will be available only to Kansas residents, and permit applications will be separated into military and nonmilitary applicants. The bag limit shall be one elk as specified on the permit.

Elk Units



Turkey; fall season, bag limit and permits (KAR 115-25-5)

Background

Over the last five years, the fall turkey season in Kansas has averaged nearly 100 days in length, and only Unit 4 has been closed to hunting (Figure 1). Hunters are currently permitted to harvest one bird of sex in Units 1, 2, 3, 5, and 6, and they can purchase three either-sex game tags valid only in Units 2, 3, 5, and 6. The number of permits and game tags issued for the fall 2011-2012 turkey season was 12,914 (includes 2,889 game tags). Total permit sales were very similar to the previous fall but down about 3,500 from the peak in 2006. Thirty-six percent of hunters harvested at least one turkey during the fall 2011-2012. These hunters harvested an estimated 3,677 turkeys (925 archery and 2,753 firearm) of which 39 percent were identified as females. Harvest taken with all the game tags accounted for only 19.5 percent (about 717 birds) of the total statewide harvest.

Population Status and Productivity

Over the last couple of years, the spring wild turkey population has declined in every region except the southeast due to weather and/or habitat conditions during the reproductive season (Figure 1). Drier than average conditions in the southeast region over the last couple of years have resulted in improved productivity and as a result populations have begun to recover from recent lows. Severe drought in far western Kansas, where precipitation is normally low (less than 25 inches) anyway, has led to poor productivity over the last two years and will result in lower populations in the near future. Recent drought conditions in the central and eastern part of the state where precipitation is comparably much greater (25-45 inches) have been beneficial to turkey productivity. As a result, populations in the eastern half of the state have generally increased over last year at this time.

Recommendation

The department is recommending that fall turkey season be opened during the extended firearm deer season. We are making this recommendation to increase consistency in the fall turkey season dates from one year to the next and to minimize confusion. Currently, the fall turkey season is closed during the regular firearm deer season and the extended firearm deer season. However, it is open during the early firearm deer season (DMU 19) and the special extended firearm deer season. In recent years, the regular changes to the extended and special extended firearms deer seasons have shortened the fall turkey season and/or created confusion about when and where the turkey season was open. Running the fall turkey season concurrent with the extended firearm deer season would alleviate those problems. The department is not planning to recommend overlapping the fall turkey season with the regular firearm deer season to prevent any hunter conflicts that might result from putting turkey hunters in the field simultaneously with the bulk of the firearm deer hunters.

Figure 1. Current fall wild turkey hunting units for Kansas.

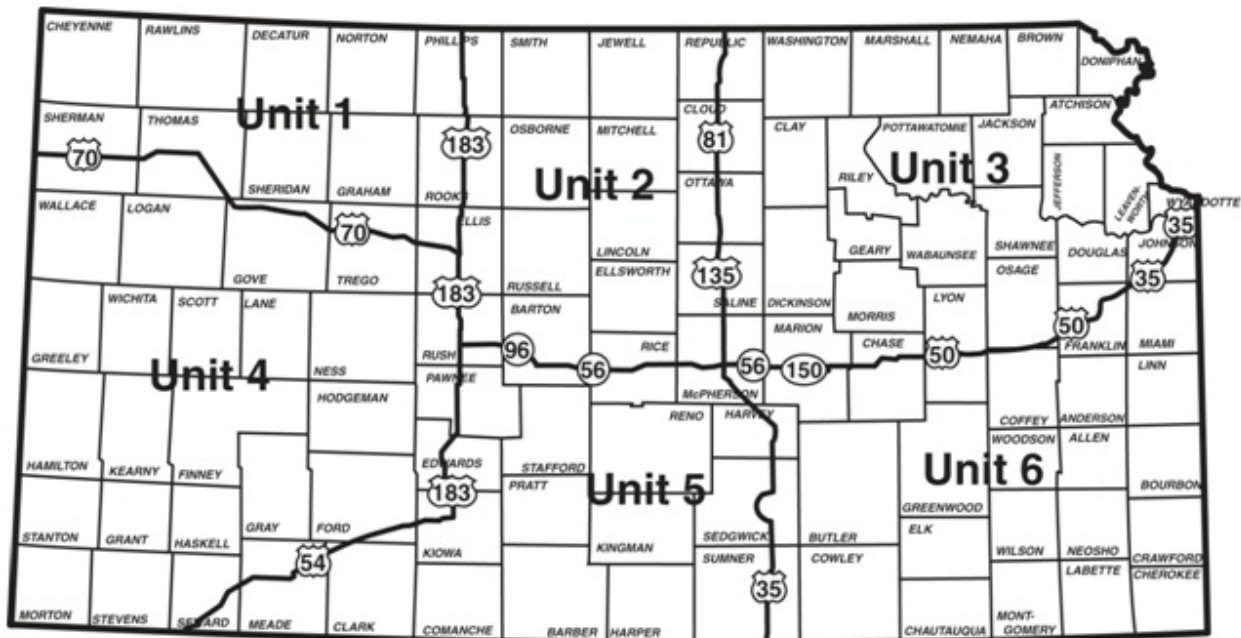
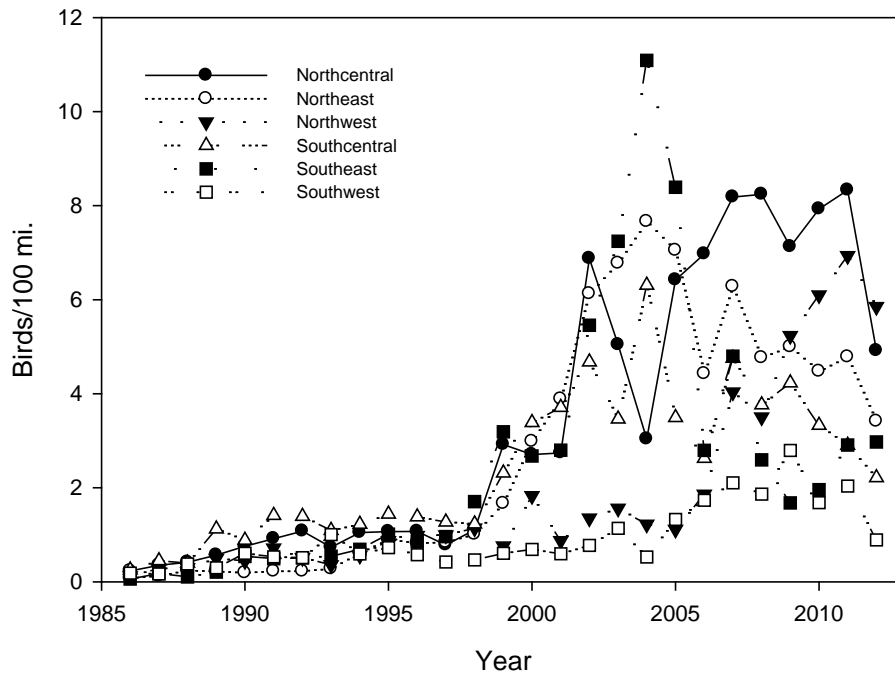


Figure 2. Regional indices (birds/100 mi.) to Kansas' wild turkey population derived from the April rural mail carrier survey, 1986-2012.



Turkey Permanent Regulations

K.A.R. 115-4-4a. Wild turkey; legal equipment and taking methods.

Background

The regulation contains the following items:

- Legal equipment for hunting wild turkey.
- Accessory equipment such as calls, decoys, and blinds.
- Shooting hours
- Special restrictions prohibiting shooting at turkeys while they are in a tree
- The use of dogs while hunting turkey during the fall turkey season.

Recommendation

The Department is recommending that the definition of legal equipment be expanded to include all shotguns and muzzleloading shotguns of not less than .410 bore diameter. Currently, shotguns and muzzleloading shotguns of not less than 20 gauge are legal equipment.

Public Hearing

Document No. _____

KANSAS REGISTER
SUBMISSION FORM

Agency Number -- 710-01

Agency Name -- Kansas Department of Wildlife, Parks and Tourism

Agency Address - 1020 S. Kansas Ave., Suite 200

Topeka, Kansas 66612-1233

Title of Document -- Public Hearing

Desired Date of Publication - Nov 8, 2012

ITEMS SUBMITTED IN DUPLICATE

CERTIFICATION

I hereby certify that I have reviewed the attached documents, and that they conform to all applicable Kansas Register publication guidelines and to the requirements of K.S.A. 75-431, as amended. I further certify that submission of these items for publication is a proper and lawful action of this agency, that funds are available to pay the publication fees and that such fees will be paid by this agency on receipt of billing.

Christopher J. Tymeson
Liaison officer's typed name

Liaison officer's signature

Department Attorney
Title

(785) 296-2281
Phone

This space for Register office use only

Wildlife, Parks, and Tourism Commission

Notice of Public Hearing

A public hearing will be conducted by the Wildlife, Parks, and Tourism Commission at 7:00 p.m., Thursday, January 10, 2013 at Butler County Community College, Clifford Stone Community Room, 901 S. Haverhill Rd., El Dorado, Kansas, to consider the approval and adoption of proposed regulations of the Kansas Department of Wildlife, Parks, and Tourism.

A regulatory hearing on business of the Wildlife, Parks, and Tourism Commission will begin at 7:00 p.m., January 10 at the location listed above. There will be public comment periods at the beginning of the evening meeting for any issues not on the agenda and additional comment periods will be available during the meeting on agenda items. Old and new business may also be discussed at this time. If necessary to complete business matters, the Commission will reconvene at 9:00 a.m. January 11 at the location listed above.

Any individual with a disability may request accommodation in order to participate in the public meeting and may request the meeting materials in an accessible format. Requests for accommodation to participate in the meeting should be made at least five working days in advance of the meeting by contacting Sheila Kemmis, Commission Secretary, at (620) 672-5911. Persons with a hearing impairment may call the Kansas Commission for the Deaf and Hard of Hearing at 1-800-432-0698 to request special accommodations.

This 60-day notice period prior to the hearing constitutes a public comment period for the purpose of receiving written public comments on proposed administrative regulations.

All interested parties may submit written comments prior to the hearing to the Chairman of the Commission, Kansas Department of Wildlife, Parks, and Tourism, 1020 S. Kansas Ave, Suite 200, Topeka, KS 66612 or to sheila.kemmis@ksoutdoors.com if electronically. All interested parties will be given a reasonable opportunity at the hearing to express their views orally in regard to the adoption of the proposed regulations. During the hearing, all written and oral comments submitted by interested parties will be considered by the commission as a basis for approving, amending and approving, or rejecting the proposed regulations.

The regulations that will be heard during the regulatory hearing portion of the meeting are as follows:

K.A.R. 115-9-8. This permanent regulation establishes the requirements and exemptions for the migratory bird harvest information program. The proposed amendments would update the regulation to conform with current program practices as well as update the exemption requirements to conform with statutory changes from the past legislative session.

Economic Impact Summary: The proposed amendment is not anticipated to have any appreciable negative economic impact on the department, other agencies, small businesses or the public.

K.A.R. 115-14-14. This permanent regulation establishes the requirements for taking, banding and transporting raptors. The proposed amendment is necessary to conform with federal law related to possession of raptors and relates to banding and marking of captive bred raptors.

Economic Impact Summary: The proposed amendment is not anticipated to have any appreciable negative economic impact on the department, other agencies, small businesses or the public.

Copies of the complete text of the regulations and their respective economic impact statements may be obtained by writing the chairman of the Commission at the address above, electronically on the department's website at www.kdwpt.state.ks.us, or by calling (785) 296-2281.

Gerald Lauber, Chairman



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

DEREK SCHMIDT
ATTORNEY GENERAL

MEMORIAL HALL
120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.KSAG.ORG

October 18, 2012

Chris Tymeson
Chief Legal Counsel
Kansas Department of Wildlife, Parks and Tourism
1020 S. Kansas Ave., Suite 200
Topeka, KS 666 2-1327

RE: K.A.R. 115-9-8; K.A.R. 115-14-14

Dear Chris:

Pursuant to K.S.A. 77-420(b), we have determined that the above-referenced regulations are within the statutory authority of the agency and do not present any other legal issues of concern. We have therefore approved the regulations for legality. The regulations are stamped and enclosed with this letter.

The originals are enclosed herein.

Sincerely,

OFFICE OF THE ATTORNEY GENERAL
DEREK SCHMIDT

A handwritten signature in black ink, appearing to read "Sarah Fertig".

Sarah Fertig
Assistant Attorney General

Enclosures

cc: Sen. Vicki Schmidt, Chair, Joint Committee on Rules and Regulations
Rep. Carl Holmes, Vice Chair, Joint Committee on Rules and Regulations
Rep. Janice Pauls, Ranking Minority Member, Joint Committee on Rules and Regulations
Raney Gililand, Legislative Research, State Capitol, Room 68-W
Kenneth Wilke, Revisor of Statutes, State Capitol, Ste. 24-E

STATE OF KANSAS

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Interim Director
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December 5, 2012

Mr. Robin Jennison, Secretary
Kansas Department of Wildlife, Parks and Tourism
1020 S. Kansas Avenue, Room 200
Building Mail

Dear Secretary Jennison:

At its meeting on November 26, 2012, the Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning migratory bird harvest information program, requirements, exemptions; and falconry, taking, banding, transporting, and possessing raptors. After discussion the Committee had no comments.

Prior to filing with the Secretary of State, review the history sections of the rules and regulations to update them to the most recent statutory citations, making certain the citations for authorizing and implementing statutes are correct and complete. Please indicate your agency's website address in the filing notice where proposed regulations can be located. In addition, if your agency accepts written comments by e-mail include this information in the public notice. Further, e-mail requests for public accommodation should be included as a part of the notice. Finally, verify that the adoption by reference of any materials included in the regulations is properly completed as prescribed in the *Policy and Procedure Manual for the Adoption of Kansas Administrative Regulations*.

Please make this letter a part of the public record on these regulations. The Committee will review the regulations which the agency ultimately adopts, and reserves any expression of legislative concern to that review.

To assist in that final review:

- Please inform the Joint Committee and me, in writing, at the time the rules and regulations are adopted and filed with the Secretary of State, of any and all changes which have been made following the public hearing.
- Please notify the Joint Committee and me, in writing, when your agency has adopted the regulations as permanent; delayed implementation of the regulations; or decided not to adopt any of the regulations.

- Also, please indicate separately to the Joint Committee and me, any changes made to the proposed regulations reviewed by the Committee.

Based upon direction from the Committee, failure to respond to each and every comment contained in this letter may result in the request that a spokesperson from your agency appear before the Committee to explain the agency's failure to reply.

Sincerely,



Raney L. Gilliland
Director

RLG/db

115-9-8. Migratory bird harvest information program; requirements, exemptions. (a) As used in this regulation, "migratory game bird" shall mean any wild duck, goose, merganser, crane, dove, rail, snipe, woodcock, or other migratory bird for which a hunting season is established in the state of Kansas.

(b) Each person hunting migratory game birds in the state of Kansas shall be required to complete a Kansas migratory bird harvest information ~~card~~ survey, as provided by the secretary.

(c) Upon completion of a Kansas migratory bird harvest information ~~card~~ survey, a harvest information program ~~stamp~~ permit shall be issued by the secretary or the secretary's designee to the person completing the ~~card~~ survey.

(1) Each person required to comply with subsection (b) shall be in possession of a valid harvest information program ~~stamp~~ permit issued to that person while hunting any migratory game bird within the state of Kansas.

(2) Each harvest information program ~~stamp~~ permit shall be validated by the signature of the ~~stamp~~ permit holder written ~~across the face of the stamp~~ in the signature block of the permit.

(3) A Each harvest information program ~~stamp~~ permit shall be valid from the date of issuance through June 30 following the date of issuance.

(4) A harvest information program ~~stamp~~ permit shall not be transferable.

(d) The provisions of subsection (b) shall not apply to the hunting of any migratory game bird by ~~any~~ either of the following:

(1) Tribal members on federal Indian reservations or tribal members hunting on ceded lands; or

(2) ~~a person, or a member of a person's immediate family domiciled with that person, on land owned by that person or on land leased or rented by that person for agricultural purposes; or~~

~~(3)~~ a resident of this state ~~who is less than 16 years of age or who is 65 or more years of age~~ not required by K.S.A. 32-919, and amendments thereto, to hold a hunting license.

(e) This regulation shall ~~take effect~~ be effective on and after ~~July 1, 1998~~ April 1, 2013.
(Authorized by and implementing K.S.A. 32-807, as amended by L. 2012, ch. 47, sec. 25;
effective July 1, 1998; amended P-_____.)

ECONOMIC IMPACT STATEMENT

K.A.R. 115-9-8. Migratory bird harvest information program; requirements, exemptions.

DESCRIPTION: This permanent regulation sets the requirements of the HIP program and the exemptions from participating. The proposed changes would update the regulation to conform with current program practices as well as update the exemption requirements to conform with statutory changes from the past legislative session.

FEDERAL MANDATE: None.

ECONOMIC IMPACTS: The proposed regulation is not anticipated to have any appreciable economic impact on the department, other agencies, small businesses or the public.

ALTERNATIVES CONSIDERED: None.

115-14-14. Falconry; taking, banding, transporting, and possessing raptors. (a) Each person taking a raptor from the wild for falconry purposes shall possess a current, valid hunting license pursuant to K.S.A. 32-919, and amendments thereto, and meet the requirements for hunter education certification pursuant to K.S.A. 32-920, and amendments thereto.

(b) Each falconer shall apply for and receive a permit from the department before attempting to take a raptor from the wild in Kansas.

(c) Each capture device used to capture raptors shall have a tag attached showing the permittee's name, address, and current falconry permit number.

(d) The permittee shall acquire permission from the landowner or the person controlling any private land before taking or attempting to take any wild raptor for falconry purposes.

(e) Wild raptors may be taken for falconry purposes if the species is approved by the department to be taken by the permittee and is allowed under the level of falconry permit possessed by the permittee in accordance with K.A.R. 115-14-12.

(1) A permittee shall not intentionally take a raptor species that the permittee is prohibited from possessing by the permittee's classification level.

(2) If a permittee captures a prohibited bird, the permittee shall immediately release it.

(f) A permittee shall take no more than two raptors from the wild each year to use in falconry in accordance with the permit level limitations specified in K.A.R. 115-14-12. The take shall be further restricted by the following provisions:

(1) Passage and haggard raptors may be taken by apprentice falconers, general falconers, and master falconers year-round.

(2) Raptors less than one year of age may be taken only by a general falconer or master falconer and may be taken year-round.

(3) No more than two eyases may be taken by a general falconer or a master falconer per calendar year. At least one eyas shall be left in the nest when an eyas is taken.

An apprentice falconer shall not take an eyas raptor from the wild.

(4) The following raptors may be taken from the wild, but only during the specified stages of development:

(A) Red-tailed hawk (*Buteo jamaicensis*) in the eyas and passage stages;

(B) American kestrel (*Falco sparverius*) in all stages; and

(C) great horned owl (*Bubo virginianus*) in all stages.

(5) Any other species of raptor in the eyas or passage stage of development may be taken by general falconers and master falconers.

(6) The recapture of a falconry bird that has been lost by a falconry permittee shall not be considered to be the capture of a wild raptor to be counted against the annual limit.

(g) Except as provided by this subsection, no species designated by the United States or in K.A.R. 115-15-1 as endangered or threatened shall be taken from the wild.

(1) A general falconer or master falconer may obtain a permit to take one wild raptor listed by federal law as threatened for falconry purposes.

(2) (A) The permittee shall submit an application and receive a federal endangered species permit before taking the bird.

(B) The permittee shall submit an application and receive approval and a permit from the department before taking the bird.

(h) Each raptor taken from the wild shall always be considered a wild bird.

(i) Each raptor taken from the wild in a calendar year by a permittee and then transferred to a second permittee shall count as one of the raptors allowed to be taken by the first permittee

who took the raptor from the wild. The raptor transferred to the receiving permittee shall not count against the limit of wild raptors that may be taken in the calendar year by the receiving permittee.

(j) Each raptor taken from the wild shall be reported as follows:

(1) The permittee who is present and takes possession of a wild raptor at the capture site shall file the required report information within 10 calendar days of the capture by submitting the information to the electronic database of the United States fish and wildlife service.

(2) Any permittee may enlist the assistance of another person to take a wild raptor if the permittee is at the exact location of the capture and takes immediate possession of the bird.

(3) Any permittee who does not take immediate possession of a wild raptor at the exact location of the capture may acquire a wild raptor from a general falconer or master falconer, as defined in K.A.R. 115-14-12, in accordance with the following reporting requirements:

(A) The general falconer or master falconer who takes the raptor from the wild shall report the capture in accordance with paragraph (j)(1).

(B) The permittee receiving the wild raptor from the general falconer or master falconer shall report the transfer of the bird within 10 calendar days of the transfer by submitting the information to the electronic database of the United States fish and wildlife service.

(4) Any permittee who has a long-term or permanent physical impairment that prevents the individual from being present at the exact location of the capture and taking immediate possession of a wild raptor that may be used by the permittee for falconry purposes may acquire a bird by the following means:

(A) Any general falconer or master falconer, as defined by K.A.R. 115-14-12, may capture the wild raptor.

This capture shall not count against the general falconer's or master falconer's calendar-year limit for the take of wild raptors. However, this capture shall count against the calendar-year limit for wild raptors of the permittee with the long-term or permanent physical impairment.

(B) The permittee with the long-term or permanent physical impairment shall file the capture report in accordance with paragraph (j)(1).

(C) The permittee with the long-term or permanent physical impairment shall confirm the presence of the impairment and the need to report in accordance with this subsection at the time of application for the capture permit.

(k) A master falconer may be authorized by permit to possess not more than three eagles, including golden eagles, white-tailed eagles, or Steller's sea eagles, for falconry in accordance with the following provisions:

(1) Each eagle possessed shall count against the possession limit for the permittee.

(2) A golden eagle may be taken in a location declared by the wildlife services of the United States department of agriculture or in an area within a state that has been established as a livestock depredation area in accordance with the following provisions:

(A) An immature or a subadult golden eagle may be taken in a livestock depredation area while the depredation area is in effect.

(B) A nesting adult golden eagle, or an eyas from its nest, may be taken in a livestock depredation area if a biologist that represents the agency responsible for establishing the depredation area has determined that the adult eagle is preying on livestock.

(C) The permittee shall notify the regional law enforcement office of the United States fish and wildlife service of the capture plan before any trapping activity begins. Notification

shall be submitted in person, in writing, or by facsimile or electronic mail at least three business days before the start of trapping.

(l) Any raptor wearing falconry equipment or any captive-bred raptor may be recaptured at any time by any permittee in accordance with the following provisions:

(1) The permittee may recapture the raptor whether or not the permittee is allowed to possess that species.

(2) The recaptured bird shall not count against the permittee's possession limit. This take from the wild shall not count against the capture limit for the calendar year.

(3) The permittee shall report the recapture to the department within five working days of the recapture.

(4) The disposition of any recaptured bird shall be as follows:

(A) The bird shall be returned to the person who lost it, if that person may legally possess the bird and chooses to do so. If the person who lost the bird either is prohibited from taking or chooses not to take the bird, the permittee who captured the bird may take possession of the bird if the permittee holds the necessary qualifications for the species and does not exceed the permittee's possession limit.

(B) The disposition of a recaptured bird whose legal ownership cannot be ascertained shall be determined by the department.

(m) Each goshawk, Harris's hawk (*Parabuteo unicinctus*), peregrine falcon (*Falco peregrinus*), or gyrfalcon (*Falco rusticolus*) taken from the wild or acquired from a rehabilitator by a falconry permittee shall be identified by one or more of the following means:

(1) The bird shall be banded with a black nylon, permanent, nonreusable, numbered falconry registration leg band from the United States fish and wildlife service. The bands shall

be made available through the department. Any permittee may request an appropriate band before any effort to capture a raptor.

(2) In addition to the band specified in paragraph (m)(1), the permittee may purchase and have implanted in the bird a 134.2 kHz microchip that is compliant with the requirements of an international organization for standardization. All costs associated with the implantation of a microchip shall be the responsibility of the permittee.

(3) The permittee shall report the take of any bird within 10 days of the take by submitting the required information, including the band number or the microchip information, or both, to the electronic database of the United States fish and wildlife service.

(4) The permittee shall report to the department the loss or removal of any black nylon, nonreusable leg band within five days of the removal or notice of loss.

(A)(i) When submitting the report, the permittee shall submit a request for a black, nylon, nonreusable leg band to the United States fish and wildlife service.

(ii) The permittee may purchase and implant a 134.2 kHz microchip that is compliant with the requirements of an international organization for standardization, in addition to using the black, nylon, nonreusable leg band for rebanding.

(B) The permittee shall immediately submit the required information relating to the rebanding or the implanting of a microchip by submitting the information to the electronic database of the United States fish and wildlife service.

(n) Each raptor bred in captivity ~~either~~ shall be banded with a seamless metal falconry registration band provided by the United States fish and wildlife service ~~or shall~~. In addition, any such raptor may have implanted a 134.2 kHz microchip that is compliant with the requirements of an international organization for standardization.

The permittee shall report to the department the loss or removal of any seamless band within 10 days of the removal or notice of loss.

(1)(A) When submitting the report, the permittee shall submit a request for a yellow, nylon, nonreusable leg band to the United States fish and wildlife service.

(B) The permittee may purchase and implant a 134.2 kHz microchip that is compliant with the requirements of an international organization for standardization, in addition to using the seamless leg band for rebanding.

(2) The permittee shall immediately submit the required information relating to the rebanding or the implanting of a microchip by submitting the information to the electronic database of the United States fish and wildlife service.

(o) A falconry registration band shall not be altered, defaced, or counterfeited. However, the rear tab on a falconry registration band used to identify a raptor taken from the wild may be removed and any imperfect surface may be smoothed if the integrity of the band and the numbering on the band are not affected.

(p) The falconry registration band requirement may be waived by the secretary and the removal of a registration band may be allowed in order to address a documented health or injury problem caused to a raptor by the registration band in accordance with the following provisions:

(1) The permittee shall be required to carry a copy of the exemption paperwork at all times while transporting or flying the raptor.

(2) A microchip compliant with the requirements of an international organization for standardization and provided by the United States fish and wildlife service shall be used to replace the registration band causing the health or injury problem on a wild-caught goshawk, Harris's hawk, peregrine falcon, or gyrfalcon.

(q) A wild-caught falcon shall not be banded with a seamless numbered band.

(r) Any permittee, with prior authorization, may take a wild raptor, including a wild raptor that has been banded with an aluminum band from the federal bird-banding laboratory of the United States fish and wildlife service, during the legal season using legal methods and equipment, in accordance with the following provisions:

(1) Each captured raptor that has any band, research marker, or transmitter attached to it shall be immediately reported to the federal bird-banding laboratory of the United States fish and wildlife service. The reported information shall include any identifying numbers, the date and location of capture, and any other relevant information.

(2) A peregrine falcon that is banded with a research band or has a research marking attached to the bird shall not be taken from the wild and shall be immediately released.

(3) A captured peregrine falcon that has a research transmitter attached to the bird may be kept by the permittee not more than 30 days if the federal bird-banding laboratory of the United States fish and wildlife service is immediately contacted after the capture. The disposition of the captured peregrine falcon shall be in accordance with the directions provided by the federal bird-banding laboratory or its designee.

(4) Any raptor, other than a peregrine falcon, that has a transmitter attached to it may be possessed by the permittee who captured the bird for not more than 30 days in order to contact the researcher, or the researcher's designee, to determine if the transmitter should be replaced.

(A) The temporary, 30-day possession of the bird shall not count against the permittee's possession limit for falconry raptors.

(B) If the permittee who captured the raptor wishes to possess the bird for falconry purposes, the disposition of the bird shall be at the discretion of the researcher and the secretary

if the species of the bird is allowable under the classification level of the permittee and the permittee's possession of the captured bird does not exceed the established possession limit.

(s) Each raptor, including a peregrine falcon, that is captured and found with a seamless metal band, a transmitter, or any other item identifying it as a falconry bird attached to it shall be reported to the department within five days of capture.

(1) Each such falconry raptor shall be returned to the person who lost the raptor.

(2) If the person who lost the bird is prohibited from possessing the bird or does not wish to possess the bird, the permittee who captured the bird may keep the bird if the permittee holds the necessary qualifications for the species and does not exceed the permittee's possession limit.

(3) If the permittee who captured the bird is prohibited from possessing the bird, the disposition of the bird shall be at the discretion of the secretary.

(4) The recaptured falconry bird shall not count against the possession limit or the calendar-year limit of wild birds that may be taken by the permittee during the time the recaptured bird is being held pending final disposition.

(t) Each raptor that is injured during trapping activities shall be handled in accordance with the provisions of this subsection. It shall be the permittee's responsibility to address any injury occurring to a raptor during trapping activities in one of the following ways:

(1) The permittee may take the raptor into possession and apply it to the permittee's possession limit if the raptor is of a species allowed to be possessed and the permittee's possession limit is not exceeded.

(A) The take shall be reported in accordance with subsection (j).

(B) The raptor shall be treated by a veterinarian or a permitted wildlife rehabilitator. The cost for the care and treatment of the raptor shall be the responsibility of the permittee.

(2) The raptor may be turned over directly to a veterinarian, a permitted wildlife rehabilitator, or a department employee, and the raptor shall not be counted against the permittee's allowable take or possession limit. The permittee shall be responsible for the costs relating to the care and rehabilitation of the bird.

(u)(1) The permittee shall report each raptor that dies or is acquired, transferred, rebanded, implanted with a microchip, lost to the wild and not recovered within 30 calendar days, or stolen by submitting the information to the electronic database of the United States fish and wildlife service.

(2) In addition to submitting the report required in paragraph (u)(1), the permittee shall file a report of the theft of a raptor with the department and the appropriate regional law enforcement office of the United States fish and wildlife service within 10 calendar days of the theft.

(3) The permittee shall keep copies of all electronic database submissions documenting the take, transfer, loss, theft, rebanding, or implanting of microchips of each falconry raptor for at least five years after the bird has been transferred, released to the wild, or lost, or has died.

(v) The intentional release to the wild of any falconry raptor shall be in accordance with the following requirements:

(1) A species of raptor that is not native to Kansas shall not be released to the wild. Any such bird may be transferred to another falconry permittee if the permittee receiving the bird is authorized to possess the age and species of raptor and the transfer does not exceed the possession limit of the permittee receiving the bird.

(2) Any species of raptor that is native to Kansas and is captive-bred may be released to the wild according to the following requirements:

(A) The permittee shall obtain the department's permission to release the bird to the wild before the actual release. The time of year and the location where the release shall take place shall be specified by the department.

(i) The release of a raptor on department lands or waters shall meet the requirements of K.A.R. 115-8-12.

(ii) The permittee shall acquire verbal permission from the landowner or person in control of the private land before the release of the raptor.

(B) The permittee shall remove any tag, transmitter, or nonreusable falconry band, if present, before release. All falconry identification bands, tags, or markers shall then be surrendered to the department within 10 calendar days of the release.

(C) The permittee shall report the release of the bird within 10 calendar days of the release by submitting the required information to the electronic database of the United States fish and wildlife service.

(3) Any species of raptor that is native to Kansas and was taken from the wild may be released to the wild according to the following requirements:

(A) The permittee may release the bird to the wild year-round.

(i) Each release of a raptor on department lands or waters shall meet the requirements of K.A.R. 115-8-12.

(ii) The permittee shall acquire verbal permission from the landowner or person in control of the private land before the release of the raptor.

(B) The permittee shall remove any tag, transmitter, or nonreusable falconry band, if present, before the release. All falconry identification bands, tags, or markers shall then be surrendered to the department within 10 calendar days of the release.

(C) The permittee shall report the release of the bird within 10 calendar days of the release by submitting the required information to the electronic database of the United States fish and wildlife service.

(4) No hybrid raptor, as defined in K.A.R. 115-14-11, shall be intentionally released to the wild permanently.

(5) Hacking, which means temporarily releasing a falconry raptor to the wild for conditioning, shall be permissible.

~~This regulation shall be effective on and after December 31, 2012.~~ (Authorized by and implementing K.S.A. 32-807, as amended by L. 2012, ch. 47, sec. 25; effective Dec. 31, 2012; amended P-_____.)

ECONOMIC IMPACT STATEMENT

115-14-14. Falconry; taking, banding, transporting, and possessing raptors.

DESCRIPTION: This administrative regulation details taking, banding, transporting and possessing raptors. The proposed amendment is necessary to conform with federal law related to possession of raptors and relates to banding and marking of captive bred raptors.

FEDERAL MANDATE: The practice of falconry and the management of raptors as migratory species is governed by the U.S. Fish and Wildlife Service. Any state falconry program must be approved by the USFWS and must operate within federal limits. Kansas has had a federally-approved program since 1988 and moved from a dual management system to a state-only managed system with federal oversight this year.

ECONOMIC IMPACT: The proposed regulation is not anticipated to have any appreciable economic impact on the department, other agencies, small businesses or the public.

ALTERNATIVES CONSIDERED: None.