

115-13-5. Pen-raised, banded birds; recapture. (a) Recapture call pens may be used to recapture pen-raised, banded birds and birds that have been otherwise marked according to K.A.R. 115-13-3. A recapture call pen permit shall be required to use a recapture call pen.

(b) The application shall be submitted on a form provided by the department, and each applicant shall provide the following information:

- (1) The name of the applicant;
- (2) the address of the applicant;
- (3) the telephone number of the applicant;
- (4) the purpose for the use of recapture call pens;
- (5) the period of time that recapture call pens would be in use; and
- (6) the legal description including range, township, and section number where recapture call pens would be located.

(c) Issuance of a recapture call pen permit may be denied by the secretary if any of the following conditions exists:

- (1) The permit application is unclear or incomplete.
- (2) The need for use of a recapture call pen has not been established.
- (3) The use of recapture call pens would pose inordinate risk to non-target wildlife or wild game birds.

(4) The applicant has been convicted of or plead guilty or nolo contendere to a recapture call pen violation.

(d) Only pen-raised, banded birds and birds that have been otherwise marked according to K.A.R. 115-13-3 may be taken in recapture call pens. Each permittee shall attend to each of the permittee's recapture call pens at least once every 24-hour period while the recapture call pen

is in use. Except as may otherwise be authorized by law or by rule and regulation, all nonbanded birds and other wildlife shall be released and shall not be restrained or used in any manner.

(e) The name and permit number of the permittee shall be attached to the roof of the recapture call pen while the recapture call pen is in use.

(f) Each recapture call pen permit shall expire at the close of the expiration date specified in the permit.

(g) Each recapture call pen permittee shall provide a report of permit activity to the department within 10 days after permit expiration. The report shall contain the following information:

- (1) The name of the permittee;
- (2) the permit number;
- (3) the number of days each recapture call pen was used;
- (4) the number and species of pen-raised, banded birds and birds otherwise marked according to K.A.R. 115-13-3 that were recaptured;
- (5) the number, species, and disposition of other wildlife captured; and
- (6) other information as required by the secretary.

(h) In addition to other penalties prescribed by law, a recapture call pen permit may be revoked by the secretary if either of the following applies:

- (1) The permit was secured through false representation.

(2) The permittee fails to meet permit requirements or violates permit conditions.

(Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002; effective Aug. 5, 1991; amended Oct. 5, 2001.)