

REVISED AGENDA
KANSAS DEPARTMENT OF WILDLIFE, PARKS & TOURISM
COMMISSION MEETING AND PUBLIC HEARING

Thursday, October 16, 2014
Martenelli's Restaurant
158 S Santa Fe, Salina, KS

- I. CALL TO ORDER AT 1:00 p.m.**
- II. INTRODUCTION OF COMMISSIONERS AND GUESTS**
- III. ADDITIONS AND DELETIONS TO AGENDA ITEMS**
- IV. APPROVAL OF THE August 21, 2014 MEETING MINUTES**
- V. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS**
- VI. DEPARTMENT REPORT**

ESGR Statement of Support Signing (Walt Frederick)

- A. Secretary's Remarks**
 - 1. Agency and State Fiscal Status (Robin Jennison)**
 - 2. 2015 Legislature (Chris Tymeson)**
- B. General Discussion**
 - 1. Tourism Briefing (Linda Craghead)**
 - 2. Antelope and Elk 25-Series Regulations (Matt Peek)**
 - 3. Big Game Permanent Regulations (Lloyd Fox)**
 - 4. Deer 25-Series Regulations (Lloyd Fox)**
- C. Workshop Session**
 - 1. 115-7-2. Fishing; general provisions. (Bryan Sowards)**
 - 2. 115-30-1. Display of identification number and decal. (Kevin Jones)**
 - 3. 115-9-6. Vehicle permits; display. (Linda Lanterman)**

- VII. RECESS AT 5:00 p.m.**
- VIII. RECONVENE AT 6:30 p.m.**
- IX. RE-INTRODUCTION OF COMMISSIONERS AND GUESTS**
- X. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS**

XI. DEPARTMENT REPORT

D. Public Hearing

- 1. KAR 115-18-21.** This regulation shall be revoked on and after January 1, 2015 – floatline fishing. (Bryan Sowards)
- 2. KAR 115-2-1.** Amount of fees – floatline fishing. (Bryan Sowards)
- 3. KAR 115-7-3.** Fish; taking and use of baitfish or minnows. (Bryan Sowards)
- 4. KAR 115-25-14.** Fishing; creel limit, size limit, possession limit, and open season. (Bryan Sowards)
- 5. KAR 115-7-10.** Fishing; special provisions. (Bryan Sowards)
- 6. KAR 115-2-3.** Camping, utility, and other fees. (Linda Lanterman)
- 7. KAR 115-15-1.** Threatened and endangered species; general provisions. (Ed Miller)
- 8. KAR 115-15-2.** Nongame species; general provisions. (Ed Miller)

XII. OLD BUSINESS

XIII. OTHER BUSINESS

A. Future Meeting Locations and Dates

XIV. ADJOURNMENT

If necessary, the Commission will recess on October 16, 2014, to reconvene October 17, 2014, 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, January 8, 2015 at Bonner Springs Parks & Rec, Sunflower Room, 200 E 3rd St, Bonner Springs, KS.

**Kansas Department of Wildlife, Parks and Tourism
Commission Meeting Minutes
Thursday, August 21, 2014
Kansas Wetlands Education Center
592 NE K156 Hwy, Great Bend, KS**

Subject to
Commission
Approval

I. CALL TO ORDER AT 1:00 p.m. CDT

The August 21, 2014 meeting of the Kansas Wildlife, Parks and Tourism Commission was called to order by Chairman Gerald Lauber at 1:00 p.m. at the Kansas Wetland Education Center, Great Bend. Chairman Lauber and Commissioners Don Budd, Randy Doll, Gary Hayzlett, Roger Marshall and Aaron Rider were present.

II. INTRODUCTION OF COMMISSIONERS, STAFF AND GUESTS

Chairman Lauber welcomed new Commissioner, Aaron Rider from Columbus, to the meeting. Asked people to sign the roster before speaking.

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

Cris Collier, Great Bend CVB – Welcome to Great Bend. Work hard to partner with you, have national scenic byway, with wetlands as an anchor, brought a few brochures: “Night Skies” and “Photo Contest” (Exhibit B); had excellent shots of the wetlands submitted for the contest. Commissioner Marshall – Tell us more about the byway? Collier – It is 77 miles long, one of 11 byways in the state, one of two scenic byways and one of 150 in the country. Wraps around Quivira, includes seven communities and is a great partnership with communities, state, and federal. Designated in 2004, and in 2005 designated National Byway, the leading one in the state right now. Commissioner Marshall – Know how many visitors go through it? Collier – No, can look at visitation here at the Wetlands and get a rough idea. It is easy to tell when hunters are around, but hard to tell with hikers and bikers are and to track that visitation. This is what we want, non-consumptive users who like history and culture of the area and will roam through the communities; and they don’t leave a heavy footprint.

III. ADDITIONS AND DELETIONS TO AGENDA ITEMS

None

IV. APPROVAL OF THE June 19, 2014 MEETING MINUTES

Commissioner Marshall moved to approve the minutes as presented, Commissioner Hayzlett second. Approved. (Minutes – Exhibit C).

V. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS

Tom Walsh, Wilson Lake – Looking at data, walleye population of lake is going down and no input to repopulate it. Wondering why? Other lakes have had several hundreds of thousands stocked? Nygren – Wilson has been one of the lakes that had good natural reproduction, but fish grow slower. I can consult with Scott Waters, the fisheries biologist; the lake is down about six feet and we may need to rethink our strategy. The low level is not why it is not being stocked. Walsh – We want to catch our limit, not over a year's time. Nygren – We will discuss it and I will report back to the Commission. What do you want change in, regulation or stocking? Walsh – want more stocking, like regulations, in fact would change from 15 inches to 18 inches. Nygren – Will get back with you. Chairman Lauber – Like to have natural recruitment and like to keep that whenever we can, but understand your issue. Walsh – Appreciate you doing anything you can. Commissioner Marshall – Why do they grow slow? Nygren – It is a clear lake with low nutrients, there are a lot of fish there and a white perch issue. Blaine Parker, Wilson Lake – There are not many walleye over 15 inches. Are running out of white perch, could catch 20-100 at a time, neighbor caught only eight in six hours a few days ago. Because invasive species, sure you are not going to stock those, but like to have something to catch. Would appreciate whatever you can do. It is a clean, pretty, lake.

VI. DEPARTMENT REPORT

A. Secretary's Remarks

1. Agency and State Fiscal Status – Robin Jennison, Secretary, presented this update to the Commission. Giving tourism recap first (Exhibit D); thank Cris for all of her efforts over the last four years; when we brought Tourism onboard there was a natural nexus, now efforts we were making are paying off. Emphasis on accomplishments; without any additional money, we are forty-seventh in nation on amount of money to promote Kansas. Lots of people want to see Tourism managed better. We have done some TV ads and Wichita, Hutchinson, Kansas City and Salina have allowed us to put other things on their ads. This year we advertized within the state to our own residents; people want to see we are doing something, because they see ads for Oklahoma and Missouri, naturally because they want our people to come there. Basis for tourism is development in outdoors; byways are very important to our strategy. Have videos for each byway, with quality production and will use that in a number of ways. Out of eco-tourism committee, Ted Cable had grad student stop in Flint Hills at convenience store to ask what there was to do in the area and was told, nothing; so we created “At Your Service”, a training video for CVBs and businesses (our staff has taken the training). Holding Fall Kansas Media event to kick off hunting season and economic impact for Kansas at Horse Thief Reservoir in October. On fiscal status (Exhibit E) - Revenues for the state have gotten a lot of attention. In previous years we have been asked to roll our budgets back, but not anticipating that this year, in fact anticipating small growth. Progress made in four years in park fee fund (PFF), state budget general tax fund was reduced; but changed over to economic development (EDIF - lottery) monies, used for parks and tourism. Given state budgets, there was more need to get EDIF monies and we had a cut there too. Have increased our PFF; in FY 2011 had \$857,000 at the end of the year; but \$3.1 million at the beginning of this fiscal year. This should have been one of the worst times with drought and blue green algae outbreaks and to still have these types of balances that is in thanks to Linda Lanterman and her staff; they are going without equipment and are

short staffed. We would like to start rebuilding our employee base now. Changes and benefits to the cabin program; would be nonexistent if not for Wildscape, we had \$1.7 million borrowed against cabins and was receiving 10 percent of the income, four years ago increased to 25 percent; making it hard to cash flow the cabin program and was using PFF monies. Talked to the Governor about paying off the cabins and now we get 90 percent of those monies. At the end of FY 2012 we had \$137,000, and last year it was almost \$800,000; in fact the first month was \$102,000, almost the same as the annual revenue before. New cabins coming at Hillsdale, modeling after Clinton and Perry, which are the highest-use areas. Working on 10-cabin deal at Hillsdale; hope to build with cash and expect \$120,000 revenue a year from those. Impact of drought has caused loss of hunting license sales, when you look at wildlife fee fund (WFF), but still in pretty good shape; because of federal funds, Pittman Robertson (PR) continues to go up because of sale of guns and ammo. Try to utilize those funds and get those obligated when the money comes in. The parks has not had the amount of money to operate for about 15 years, so trying to do some things and increase that budget a little bit; reliance on state revenues will be about the same. Chairman Lauber – Sold \$21 million in license in FY2014? Jennison – Cindy, what are other things in wildlife fee fund? Cindy Livingston – Money in wildlife fee fund is oil and gas income, easements, sale of surplus properties, housing rent for few houses we rent on our properties as well as license sales. Chairman Lauber – Not too significant, so license sales is at least 90 percent of income, then an additional \$18 million from PR funds? Jennison – That has to be in a grant, 25 percent we pay, and feds pay 75 percent. Chairman Lauber – In initial stages of gun and ammo hoarding, which seems like bigger jump. Jennison – We run about a year behind on sales and have to have a grant that qualifies for that. We may have more money as we have two years to obligate those funds. Chairman Lauber – WFF history is fairly stable, but big increase in federal aid is excise dollars? Jennison – Yes, has guys responding on those projections. Commissioner Budd – Have questions of Linda. What did you attribute big dollar increases to? Lanterman – It is strategic, got rid of second vehicle permits and did not see drop in permits; park passes through DMV; cabin programs with new users who had to buy vehicle permits to come in park; and cut back on staffing. We implemented some changes so we wouldn't have to go through not having enough money to make salaries. Capturing stay-cation people; doing movies and events in state parks. It is multiple things we have done.

Commissioner Budd – Do you think paying off cabins contributed? Lanterman – Different funds. Jennison – Last year CFF paid electric bill. Lanterman – Yes, about \$799,000 to pay utilities, which we didn't in the past. Held camping fees low, but increased utility fees. A fine line in industry of camping and recreation and need to make it affordable. Blue-green algae has been a real problem. Commissioner Budd – I think all of you need to be congratulated. Jennison – Couldn't have done it without the people out in the parks. What did you get last year in EDIF? Lanterman – About \$2 million less. Not without challenges, but sleep better when money in the bank.

B. General Discussion

1. Update on Pheasant Tour – Robin Jennison, Secretary, presented this update to the Commission. Last winter in western Kansas, concern in lack of deer in southwest Kansas and last year with pheasants and became clear we needed to go out and talk to the people. We had hoped to have a number of legislators, but only had one legislator present, had participation from Pheasants Forever, and Commissioner Rider came on the tour. Saw good cover crop, pollinators

and held public meetings. Heard from biologists and CVB people who attended the last part. It was a great meeting and plan to continue to do that in some form. Great opportunity for agency to interact with each other (all over the state) and with the public. Did see some pheasants, heard innovative things; expect some good and some bad areas of hunting. Interesting to see people working together. June is month where those birds need cover and insects to eat; productive meeting and will try to continue. Chairman Lauber – What is pollinator, bugs or bees or something? Jennison – Yes. Chairman Lauber – Good for department and understanding the public opinion; drought definitely is an issue.

2. Wildscape Presentation – Charlie Black, Executive Director, Wildscape, presented this report to the Commission (Exhibit F). Thank Secretary Jennison for offering this opportunity. Also, would like to possibly recruit one of you to our board. Established in 1991, as a nonprofit 501(c)(3); and we have a board of directors that are not paid. Maintain staff of three, Debbie Brandt, Director of Administration, Lynn Gentine is Director of Development and myself. Broad array of various outdoor interests. Helping at Mined Land area, where Wildscape helped secure matching funds to add handicap access. Today working on river access on Arkansas River by Belle Plaine and working on three more locations; long stretch of river with no public access, trying to have enough areas to float to in a day and be able to get on and off the river. We will take friends groups, with like interests, under our 501 (c)(3) umbrella to help them out. Our flagship was the cabin program, created opportunities to go to state parks and not have to pitch a tent; and a source of revenue to Wildlife and Parks, raised \$500,000 in private funding and have \$230,000 for that program for additional cabins (from private donors) and will be using that money at Hillsdale. Very involved in recruitment efforts, with OK Kids and Wildlifer Challenge programs. Many OK kids programs are on state parks and there are 20 challenges on the program. Hope to get people outdoors where it begins to become a lifestyle for them. Can use smart phones to perform challenges and have the people take pictures of themselves doing something with wildlife and upload the photo; working on manual, at the request of teachers who are using this for curriculum. Wildscape continues to look for opportunities and will work closely with Wildlife and Parks, a smart partnership. The sitting secretary has always sat on our board and in the past a commissioner too; so am interested in having one of you to become involved. Could help us steer the organization and lead to more opportunities. Jennison – What prompted this, was looking at bylaws and it said a member of Wildlife and Parks, which was meant to read a member of Wildlife and Parks Commission, would be great if one of you would want to be on there; if not we can remove it from Wildscape bylaws. Also, plan to have Charlie come and report on a regular basis. Also, helped on wetland at Milford. Just contemplate your interest; we view this as important. Chairman Lauber – How many meetings a year? Black – Three, one March, June and October and two fund raising events, Governor's event and shooting event at Pittsburg. Chairman Lauber – You do a good job.

3. Update on Electronic Daily Hunt Permit for Public Lands – Brad Simpson, public lands section chief, presented this program to the Commission (Exhibit G). We have been using paper system for 25 years on select wildlife areas and are looking at implementing electronic system, focusing on automated access. John Silovsky was driver behind this system; which has been used at Fort Riley for 4-5 years. As part of his sales pitch, can't manage what you don't use. Have kiosks in parking lots and a person would fill out paper and drop top part in the box and when done hunting, fill out bottom part and drop it in the box. Will show what kind of game

hunted and how much used. Electronic permit will give more timely harvest information, takes 2-3 months after season right now; will provide cost savings through manpower, printing and data entry; special hunt management in the future; better marketing public land opportunities; safety/emergency situations (for example, road closure or flooding) once signed up it will tell them when they check into the system. Will know who is on the area if something happens. We also believe it will be more convenient for users; and will give opportunity for timely information (like whooping cranes on pool two – and that pool is closed, etc.). Goals: no barriers/burden, user friendly, timely information, quality product; use of smart phone and internet. Looking for two years now and seeing what everyone else has been using, going with iSportsman, the first state agency to use this. In April 2014, signed contract and hope to implement on September 1; trying to get word out via news releases, hunting regulations, signs on Kiosks, post card notices, windshield cards, and social media. Not using on all areas at once, add the rest of the areas next year. Plan to run dual system this year, paper and electronic, until March 2015.

Mike Nyhoff, public lands supervisor at Hays - I picked up this program when John Silovsky retired. Commissioner Budd – Terminals onsite? Nyhoff – Yes, some, the cost \$30,000 each. Have some programs for dumb phones too. We have an automated voice, will ask for user ID and pin number, have 14 properties going online right now. Will ask activity (hunting waterfowl), at end of the day check out. Link <https://kdwpt.isportsman.net> hope to have maps online soon. Upon registration it gives them an account number, but this must be done online; once in the system they can do it by phone. Has to be web-based or smart phone or by phone before and after hunt. We believe sportsman will prefer this and will give us better information. Commissioner Doll – When you go to Cheyenne Bottoms you fill out paper; any way to see if someone has gone out or not? Nyhoff – Through backdoor can check who is on an area and what vehicle they are driving. When they first register will be given paper certificate with number. Commissioner Rider – Everyone will have to be registered by September 1? Nyhoff – Both systems will be there until March 15. Commissioner Rider – Register one time only? Nyhoff – If they register today it will be good until 2030. Check in each time, if you don't check out, can't check in the next day until finished with check out. We will send them reminders until they check out. Unknown audience – As a user will I be able to see my history? Nyhoff – Not sure at this point. Unknown audience – Would be nice, like a journal. Marc Murrell – Even kids register? Nyhoff – Yes, can certify that they don't have a KDWP number and still fill it out. Unknown audience – Can we check in ahead? Nyhoff – Evening before the hunt. Commissioner Rider – Think this will be beneficial, will take care of backup in lines at kiosks. Nyhoff – Almost everyone has a cell phone now. Talked to individual today, who said they will help each other out. Commissioner Rider – What will happen with hunter if system is down? Nyhoff – That can happen, not going to do anything to them; that can happen, but number of times is very small. Cell phone service may be a problem, but hopefully you will check in before you get to the property. Simpson – We are not flipping the switch on until all of the bugs are worked out. Mike has been working with iSportsman people all week on the demo.

Break

C. Workshop Session

1. 2015 Turkey Regulations - Jim Pitman, wildlife biologist, presented this report to the

Commission (Exhibit H). This is 115-25-5 and -6, the fall and spring turkey season. There are six management units across the state. Sold almost 72,000 spring permits this past spring and 15,000 permits last fall. Hunt success was 55 percent, with 75 percent adult gobblers and we use that data to help set seasons. Had 55 percent success across the board this last year, the highest in the nation. Looking at success rates, look at different regulation packages, based on hunt success and percentage of jakes in harvest. Did not reach any triggers so we are not recommending any changes. We did make changes for this fall, already approved at previous meeting, to reduce bag from four to one in Units 3, 5 and 6, (NE, SE and southcentral Kansas). Also, voted to change youth season dates which will take effect next year; regular season will be one week later.

Chairman Lauber – When will we vote on 2016 spring season? Pitman – Try to do ahead of schedule, probably be at the next meeting. Chairman Lauber – I have had constituents who have contacted me about shortened season to accommodate bowhunters. I thought more people were aware of it. We postponed change to benefit Governor's Hunt, but may be huge dissatisfaction from those who feel shorted and expecting some retaliation on that. Not in support of change we made, but made for a sound reason. Surprised when people realized that most have lost a week during the prime week. Pitman – Haven't heard a lot, but have heard some and I explained it to them, and further explained that three out of seven years the season will be the same as in the past; still a week to ten days earlier than most openings in the Midwest. Go back and look at youth participation, which was the goal and why this was done; removing the competition.

Commissioner Budd – Modeled after Nebraska? Pitman – That is where we set up the archery. Commissioner Budd – Would you vote differently if this was up for vote today? Chairman Lauber – Yes, I would.

2. Park Regulations – Linda Lanterman, Parks Division director, presented this update to the Commission (Exhibit I). This will be 115-2-3, in anticipation of the completion of Sand Hills State Park. We will have soft opening before the state fair starts. We have only 64 campground sites and we are looking at the higher rate, which would be the same as El Dorado, Milford, and Tuttle Creek State Parks; would need annual camping permit, plus \$332 for one utility, \$392 for two, and \$432 for three. We will vote on this in October.

3. Fishing Regulations – Doug Nygren, Fisheries Section chief, presented this report to the Commission (Exhibit J). First workshop on proposed changes for next calendar year. At Glen Elder and Lovewell, add 35-inch minimum length limit on blue catfish, it takes eight years to reach sexual maturity so after natural reproduction will be more liberal. Coffey County Lake, managers of Wolf Creek want to change to five-day creel limit on blue catfish. These changes are on the reference document. Commissioner Budd – How do you notify the anglers? Nygren – Newsletters that all of the biologists have and in the fishing regulations. Also, post at the lake. Chairman Lauber – Why would Coffey County want to increase the harvest? Nygren – Have had explosion of fish. There concern is there are so many that they are not going to grow well. Changes to 115-25-14 to include a new trout stocking location: Father Padilla Pond at Herington will be added to the list of Type 2 waters, which means you need the permit if fishing for trout. Revoke 115-18-21 that requires floatline fishing permit, a no cost permit that was added to six trial locations so we could survey permittees to determine what impact they might be having on the resource; we had expanded to twelve lakes and no longer see a need to survey the floatline users so would like to remove the requirement to possess a permit. There are still certain waters you can use floatlines on, but no permit will be required. Have been asked to change cast net,

from 3/8- to ½-inch mesh; still have to release sport fish. We have been asked to use KDWPT ID number to mark gear instead of name and address, too late to vote this time, but can pursue and have a hearing in January. Chairman Lauber – I think we should pursue it.

4. Five-year Review of the Kansas Threatened and Endangered Species Lists – Ed

Miller, wildlife biologist, presented this report to the Commission (Exhibit K). This is the fourth time this has been in workshop; been working on this since October 2013, will vote in October. Our agency has the authority to list species through the Nongame and Species Conservation Act of 1975. This year the agency and the T&E Task committee (Bill Busby, Kansas Biological Survey; Mark Eberle, Fort Hays State University; Elmer Finck, Fort Hays State University (who is here today); David Haukos, Kansas State University; Jason Goeckler, KDWPT; and Dan Mulhern, USFWS) have the following recommendations: two species are being recommended for removal from the threatened and added to SINC list (they probably do not have a viable population in Kansas although there has been one record of each within the last 35 years), the SINC list would allow them to still be on the radar and sightings would be recorded and would still rank higher for survey or research funding; the chestnut lamprey and silverband shiner. Three species are being shifted from threatened to SINC list, survey data shows that they have crossed the threshold to this list; the spring peeper (a small woodland frog), the longnose snake and the smooth earth snake. One species was being recommended to retain its current status as threatened, but the Secretary is asking for SINC status; the redbelly snake, recent research show it is more of a habitat and diet specialist than previously thought. It requires old growth hickory forest with proper moisture gradient to maintain its staple food supply of slugs and snails. The northern long-eared bat was petitioned to be removed from threatened status, but the committee recommended it for SINC list, primarily because there is too little known about this bat and the possible disease status (a fungus known as white-nosed syndrome), nor do we know where this bat hibernates, habitat used by maternity colonies or how restricted or widespread it is in Kansas. (listed all ten species). Commissioner Budd – Tell me the difference between threatened and SINC? Miller – Have authority on threatened to protect from take, no authority on SINC.

Chairman Lauber – Article on redbelly snake, opinion stated they thought there were more snakes than we think. Miller – Travis Taggart did a “found on road” survey, not good information for trend data. We have funded research through Kansas Biological Survey, which we based our information on. It is presence/absence data, mark point on GPS, not scientific.

Chairman Lauber – I support the Secretary’s recommendation. My analysis is the redbelly snake falls from threatened in Kansas, not that way in a lot of its other native habitat. As drought conditions lessen, it may correct itself. It is short in number in Kansas, but not in the Midwest and the trend has been bad and you believe it is drought related? Miller – That is part of it.

Chairman Lauber – In a state with economic activity, don’t want to fight this issue.

Joni Godsy, Shawnee, Kansas – On front lines of this, in economic area you are speaking of. When I came to Kansas, I couldn’t believe how beautiful it is, like the forested areas in east and the Flint Hills. Nine years ago we bought five acres in Shawnee that is heavily wooded. Photos are all taken on our property (showed slide show). People love the commerce Johnson County brings in. You are the custodians of green space for the state. This area is devouring the green space, dead area in the middle and keeps getting wider and wider (like donut). Have owls, deer, snakes (smooth earth snake); our woods are going to be torn up for sewer system, developers are a small group of people in this area; this snake is eating into their profits. Also, have hawks, canopy/song birds, deer, generations of birds, small mammals, turkeys, predators and they all

have their place. I am not anti-hunting, but am anti-poaching. In 2012, put baby pool out for water for the animals, ponds in area will be taken out. Kansas wildlife are on products being sold internally, several of my artwork is on puzzles and bedding, etc. People on social media have fallen in love with the animals in Shawnee, one of my biggest followers is a man in Bangladesh; that area is about to be destroyed. I am working on a book, about our bucks "The Boys of Bell Road," with artwork and stories. Picture your home and then picture an Applebee's right beside it - that is what we are facing. The houses are sprawled apart in our area and heavily wooded. The point of all this is, the smooth earth snake has a petition to delist, the state of Kansas is a big place, small part of entire state; two developers tired of paying for this snake, going through politicians to get these snakes delisted. Who is driving your bus, you are the stewards and if you aren't driving the bus then maybe we don't need you guys. If you did a poll, the vast majority would not be for this delisting. Commissioner Marshall – We are not in charge of the zoning in your area. Godsry – Zoning has not been changed yet, trying to delist snake and force sewer in. Commissioner Marshall – If we leave it where it is? Godsry - It forces them into mitigation. It bothers me that this is not based on science, it is based on politics. Commissioner Marshall – Are there other areas that had to mitigate? Godsry – Yes, west of there.

Troy Schroeder, Kansas Wildlife Federation – Recommend that you stay with recommendation the scientists came up with, to keep redbelly snake as threatened. Lose sight of species, overloaded aquifers, etc.; all in the idea of economic development. Need to think about this, 100 year anniversary of passenger pigeon, last one died and became extinct a 100 years ago.

Commissioner Budd – What is going to be staff/department recommendation? Tymeson – In the briefing book. Commissioner Marshall – Will we vote for one species at a time, or all together? Tymeson – As one document. Chairman Lauber – Smooth earth snake is going to be delisted to SINC, but the redbelly snake is the issue. Where I live this is happening, too. On lesser prairie chicken feel we could have handled that issue ourselves; there are a lot of issues with being federally listed. The agency deals with issues where people are not happy with something that is a lawful act, like leasing land. Commissioner Marshall – Mr. Secretary, can you talk to us today? Jennison – We take this as a serious issue, we are stewards of green space. To take off smooth earth snake off was a scientific decision. The redbelly snake was not. We are not saying it is not an issue, but don't want to go into this with a hammer, because of lesser prairie chicken. We are driving the bus, but don't want to drive it off the cliff. Last year a bill was introduced to get rid of Nongame Threatened and Endangered Act. I think the USFWS did overstep on lesser prairie chickens; we can't keep using the hammer, have to protect the natural resources in this country; but do it in such a manner not to hurt economy and social structure. Wanted to talk about strategy of why we should move to SINC, Travis Taggart is noted herpetologist, on whether redbelly snake is rare or reclusive; so that needs to enter into this decision. We are on the edge of the redbelly snake range. We are trying to conserve for Kansas and Kansans, not giving up our responsibility to conserve the natural resources, but have a necessary strategy to keep that authority for a long time to come.

Felix Revello, Kansas Chapter of the Sierra Club – Appreciate what KDWPT is doing, facing adverse political environment; offer our thoughts and help on whatever we can do (Exhibit L). Some people are asking why we should go to extreme to protect two species that are shy, hard to find and less than a foot long; because they are valuable component in eco-system, which makes it less viable for supporting life, even human life. We recognize they are component of moist oak/hickory forest; downlisting of either species is not scientific-based. Is department trying to get ahead of vocal politicians, we believe so. Delisting the redbelly, in spite of T&E task force

recommendations, is this case on socio-economic basis. Moist oak/hickory forests are under long-term threat from population growth; quoted percentages of loss in the eastern counties. In smooth earth snake petition it states “an increase in forestland habitat in eastern Kansas.” Is there more and is it the right kind of forest? Mitigation requirements, SINC species will not compete with threatened species for funds. Do not delist until more is known about them. We don’t have the right to decide for future generations which species they will inherit. Commissioner Doll – The committee recommends, retaining threatened status for redbelly, but recommendation is to change to SINC status, correct? Miller – The Secretary moved that recommendation on the redbelly. Commissioner Marshall – What is population on snakes nationwide? Revello – Other populations east of us. Requirement of Kansas Endangered Species Act, we must protect it to protect natural heritage of Kansas. Have not studied dynamics outside our state. (Handout – Exhibit L).

Elmer Finck, professor Fort Hays State University, also member of T&E Task Committee – Comments not as part of the Task Committee; Travis did not share any data with us, other than finding six snakes on the road; I can take you out now and find ten lesser prairie chicken, not a good indication of population. Commissioner Marshall – What is population? Miller – Observation data done by Kansas Biological Survey. Commissioner Marshall – Trying to get a handle on how many? Miller – Difficult and costly to come up with those numbers, would only be documentations of sightings. Commissioner Marshall – How do you get to the fact they are endangered? Finck – Only whooping cranes and condors have numbers. Commissioner Marshall – How are you estimating populations? Finck – Survey areas. Commissioner Doll – What is estimated population? Finck – There is none, no density study. Flipping rocks or putting out structures to see how many we trap. Jennison – What was baseline data when snake was listed? Miller – It was 1986 and input came from Joe Collins, based on his survey work and comparing herps, according to his recommendation. Finck – Gathered biologists across the state to develop a list and looked at our particular group and made estimates, some we didn’t know much about so put on SINC list, others we knew were rare we listed. We now have data sets that give us feel for the species. Commissioner Marshall – Trend for last 10 years? Finck – Don’t have that data. Commissioner Budd – Why don’t we? Miller – Costly to do that. Commissioner Budd – Would you support funding that data (Sierra Club and Kansas Wildlife Federation)? See what interest is, to have starting point, no reference point. Need a scientific number. This question is going to continue to come up, no different than whooping crane or prairie chicken; we don’t have anything to wrap our arms around. If we want to be true stewards, have to put some skin in the game. We can’t change the information we have today. Finck – I have been on that committee and base on as good of science we have at the time. Chairman Lauber – Like Sierra Club to devote budget to research. Best attempt at accurate science, good minds have come up with what is good for the species; be mindful of practical constraints. Like to see scientific report like Don is talking about. There have been battles about development for a long time; especially as green space diminishes. There is also the economic factor; jobs and tax receipts, etc. I think Secretary Jennison has made a recommendation that the department do this. Vote in October. Finck – We look at the data we can get and send out to professionals, can’t consider anything but the biology. Commissioner Budd – The one thing I want to caution everybody about is the dynamics of the department, the state that are big factors of what we have to consider; when I hear scientific data and we ask where starting point and where we are today and we don’t have it, it is disappointing. Finck – For some groups and species it goes back to 1965 and that can be done; but reptiles it is just beginning. Commissioner Budd – We understand we can’t go back. Finck – We would like

starting point, too.

Alan Godsy, Shawnee – Heard you speak about budgets and working within budget constraints; what about developers paying for it, get your studies and data. I object that taxpayers and you have to come up with the funds. Commissioner Budd – Asking someone to prove a negative. Godsy – It is already endangered. Commissioner Budd – Need better data. Godsy – We are providing push back to these developers. Chairman Lauber – I don't know who the developers are, but I probably wouldn't want to go fishing with them; but it may be there lawful right to do some of these things. Work with zoning commission, can't force them to pay for research. I don't think our agency has that ability. Commissioner Doll – Chris, gentleman from Sierra Club mentioned statute? Tymeson – Statute, Nongame Species Act, in 1973, some changes in 1990s. Commissioner Doll – Are we violating rule or statute and putting us in danger of lawsuit? Chairman Lauber – Never taken litigation seriously. Jennison – I went through the statutes at last meeting, in 1990s is when they added social and economic standards; instructed to have an advisory committee of local people when we do a recovery plan.

Commissioner Marshall – Ask department to look into sailboards, registration sticker won't stick. Tymeson – Under Kansas statute, registered if on public waters, exemption in regulations, no requirement for KA number but on sailboard, which would reduce funding base. We could make recommendation to carry registration form on them, rather than on the sailboard, which is a possible solution. If law enforcement is satisfied with that solution I could prepare regulatory change. Commissioner Rider – For all watercraft? Tymeson – For sailboards. Commissioner Rider – Jon boats, for instance in winter the numbers flake off. Tymeson – If carry registration in the boat you should be okay. Kevin Jones – Have KA number on hull and carry registration with you. That is why certificate of numbers is required to be carried onboard. Commissioner Budd – What about an Argo? Jones – We abide by U.S. Coast Guard law, when on the water it is boat. Tymeson – Need to analyze that based on statute.

Chairman Lauber – New book out on Kansas fishes, includes maps and photos and is best reference book for fishes.

VII. RECESS AT 4:45 p.m.

VIII. RECONVENE AT 6:30 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 M).

1. KAR 115-4-4. Big game; legal equipment and taking methods - Lloyd Fox, big game research biologist, presented this report to the Commission (Exhibit N). Change is underlined, on page three, regarding the use of dogs to retrieve wounded or dead animals. Our recommendations are: dogs would be remain on a hand-held leash at all times while tracking is being done; restricted to dispatch wounded animal with legal equipment during that season; and each person assisting would be required to have a hunting license. We are eliminating the requirement to contact the agency and the restriction of tracking during shooting hours. Unknown audience - Tracking dog out of another state, may allow tracking after shooting hours, however no weapon may be possessed by participants; need nonresident license? Fox – Yes. Unknown audience - How long is leash? Fox – Haven't specified. Tymeson – We had discussion on leash length, we went with hand held, because too long of leash would get caught up.

**Commissioner Hayzlett moved to approve KAR 115-4-4 before the Commission.
Commissioner Budd second.**

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

Commissioner Budd	Yes
Commissioner Dill	Absent
Commissioner Doll	Yes
Commissioner Hayzlett	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented KAR 115-4-4 passed 6-0.

2. Late Migratory Bird Seasons - Tom Bidrowski, migratory game bird program manager, presented this update to the Commission (Exhibit P, PowerPoint – Exhibit Q, Hunter Survey – Exhibit R). Update on frameworks and season dates. Annual USFWS frameworks establish maximum bag and possession limits, season lengths, as well as earliest opening and latest closing dates. Kansas has been in liberal package since 1997. What considerations in developing regulations, our objective is to provide the greatest opportunity for Kansas waterfowl hunters within the biological capacity of the species using: history of populations and migrations, timing of harvest and human dimensions.

High Plains unit initiated in 1972 and covers the area west of Highway 283. There are a variety of hunting preferences for early migrants on prairie potholes and late migrants on lakes and rivers. Waterfowl are counted twice a month at 38 locations from September 1 to March 31. Depending on year, see additional peaks in January. Chronology of duck harvest, with low numbers of hunters, data is limited. Six season dates were presented on hunter survey. Used negative/plus scale to rate responses. Traditionally opens October 1 and runs through January 1 and reopened the end of January. In waterfowl survey we offered six options for each season. With a 9-day teal season and youth season to stay within 107-day season we are allowed 96 days. Staff recommends federal frameworks for bag and possession limits and shooting hours; Option

E season for the High Plains unit (Saturday, October 11- Monday, December 8 and Saturday, December 20-Sunday, January 25). This has a starting date a week later than the last two years, but provides more dates later in the season. Commissioner Budd – Why does the High Plains get 97 days and Low Plains get 74 days, set by USFWS? Bidrowski – It is set by 100th meridian for each state in the Central Flyway. Commissioner Budd – Talk of increasing Low Plains at all? Bidrowski – Examining packages and one of the requests Kansas made is looking at a possible trade offs for more days. It has to be harvest neutral. Chairman Lauber – Should we vote on each one of these? Prefer to vote at end and entertain more speakers and vote separately. Finish presentation now.

Bidrowski - Irregular shapes of Units are to capture hunting areas. Starts early October and runs through end of December. Duck numbers build in October and start dropping off at Thanksgiving. Commissioner Marshall – What is reason for second peak in January? Bidrowski – Pintails are coming back at this time. Commissioner Marshall – Where are we surveying in this area? Bidrowski – Mostly Cheyenne Bottoms and McPherson Wetlands. This is based off of waterfowl counts by area managers. Chronology of mallards of 40 percent to 60 percent of harvest. Mallards are dominant after Thanksgiving. Alternative D was most popular, followed by E. Staff is recommending Option E (Sat Oct 11 – Sun Dec 7 & Sat Dec 20 – Sun Jan 4). One week later than last two years, but close to historic date. Captures early migrants and allows hunting over the holidays.

The Low Plains Late Zone was separated from early zone in 1997, builds in October and again in December. Patterns in harvest: high in early season and again in January season. Maintaining pattern, no preference is most popular. Survey preferred Option D, followed by F and E. Staff recommends Option F (Sat Nov 1 – Sun Jan 4 & Sat Jan 17 – Sun Jan 25). Unknown audience - Why do you include Quivira in late zone? Bidrowski – At request of Quivira staff.

Commissioner Marshall – Zone boundaries are set by USFWS so there is nothing we can do? Bidrowski – We have two more years with these zones.

Later migrations in southeast zone, mostly mallards, increases in late October with peak around Thanksgiving. Neosho and Marais des Cygnes wildlife areas are driving forces in this zone. Marais des Cygnes has more early migrants. Early season dates are important to harvest of other species (not mallards). Staff recommends Option E (Sat Nov 8 – Sun Jan 4 & Sat Jan 10 – Jan 25). Only five week days in January that are closed and does have a conflict with opening day for upland game birds. Commissioner Budd – Consistent to this point, this survey shows choice of Option F, why would you go with Option E? Bidrowski – Don't treat season dates as public opinion poll and trying to provide for all hunters. Avoid Thursday opener and looking at other items into decision. Unknown audience – Do you hunt SE zone? Bidrowski – No, do help with check stations there.

Canada geese are 2-3 weeks later, show up in early November and have passed through by mid-March. Steep harvest at beginning and end of harvest. Opening day is traditionally the same as Low Plains opener. In 2013, bag limit increased to 8, Kansas set 6 per day. Staff recommends Option (Sat Nov 1 – Sun Nov 9 & Wed Nov 12 – Sun Feb 15).

White fronts show up late November to early February. Federal frameworks allows 74-day season with two bird limit or 88-day with one bird; chose 74-day. Staff recommends Option H (Sat Nov 1 – Sun Dec 14 & Sat Jan 17 – Sun Feb 15).

Recommendation is to adopt federal frameworks for the extended falconry season.

High Plains – Recommendation for Option A Bag, Option E Dates.

Commissioner Roger Marshall moved to approve Option A for bag and Option E for bird season dates in High Plains zone before the Commission. Commissioner Gary Hayzlett second.

The roll call vote on late migratory seasons as recommended was as follows (Exhibit S):

Commissioner Budd	Yes
Commissioner Dill	Absent
Commissioner Doll	Yes
Commissioner Hayzlett	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented late migratory seasons passed 6-0.

Low Plains Early – Troy Schroeder – a week later than last year, why? Bidrowski – It is how the calendar falls out, fluctuation of calendar dates. Chairman Lauber – Duck season has become increasingly controversial and staff has tried to represent best interests of everybody who participates and is not always majority rules. Option E is staff recommendation. Commissioner Marshall – Who makes recommendation? Bidrowski – We have five regions, one from public lands, one district biologists, migratory gamebird biologist and DU; then reviewed by administration. Commissioner Doll – Indicated four variables? Bidrowski - Migration phenology, harvest (hunter and peak), human dimensions and social.

Commissioner Roger Marshall moved to approve Option E for bird season dates in Low Plains early zone before the Commission. Commissioner Randy Doll second.

The roll call vote on late migratory seasons as recommended was as follows (Exhibit S):

Commissioner Budd	Yes
Commissioner Dill	Absent
Commissioner Doll	Yes
Commissioner Hayzlett	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented late migratory seasons passed 6-0.

Low Plains Late – Jeff Carmichael, Wichita – Consider not using November 1, Quivira will be shut down and will take away best place to hunt. Commissioner Marshall – Like to see two weeks earlier? Carmichael – One week earlier would be better. Commissioner Rider – When do whooping cranes come through? Bidrowski – November, sometimes as late as February. Commissioner Doll – When do birds show up at Quivira? Bidrowski – Week or two later than Cheyenne Bottoms. post Thanksgiving. Commissioner Budd – How many times did Quivira shut down last year? Bidrowski – They shut the entire area down multiple times. Their hunt plan is different. Nationwide whooping cranes are protected, they close it. Carmichael – It is an area-by-

area policy? Bidrowski – Correct, they lose well over 75 percent of season. Tymeson – Have we requested that Quivira be in Low Plains early? Bidrowski – In 2010, decided to stay in late at that time. Commissioner Budd – If we took away whooping crane issue would you have conflict with dates? Carmichael – No, but best place to hunt. It is world class. Wally Eldridge – Private club near Quivira, and I agree because we close. Unknown audience - In favor of Tom's recommendation because of youth. Tim Keenan – Don't like November 1, too late, historically been fourth Saturday in October which is too late; opening weekend is usually the best, October 25. Ryan Warden – Agree with recommendations, understand their dilemma, need to petition federal people about when the whooping cranes arrive. Influx of mallards and pintails late. Reno County has highest duck populations. Glad to see season dates moved back. Daryl Towsley – agree with staff recommendation, Quivira needs to taken up with feds. Come to Cheyenne Bottoms, mallards are primary duck, opening in late November would be great. Chairman Lauber – Move into early zone? Towsley – Majority of ducks will move to Cheyenne Bottoms, gone after that and would be late migratory birds. Warden – Field hunting all around it is good. Larry Fry – Moving Quivira into early zone would be a mistake for many of us. When we have split seasons, when Cheyenne Bottoms closed Quivira is still open, which is good, would take away one of our choices; selfish reason. Commissioner Budd – How many public waterfowl opportunities are in late zone? Bidrowski – Most of major reservoirs. Commissioner Marshall – In description, Quivira wants a late season, why? Bidrowski – Not sure, they believe popular to hunters; like to keep season around Halloween. Warden – What about rules for whooping cranes? Bidrowski – In their hunt plan, we provided comments; speak on behalf of their constituents. They will redo in 15 years, but can reopen CCP if the manager wishes. Warden – can you recommend that? Bidrowski – We do consider them a partner so we try to work closely with them. Commissioner Marshall – They hold town hall meetings. Hard to keep everyone happy, what is best for average hunter, the one who goes twice, drive in, get one or two weekends, like students able to hunt. Staff has bent over backwards to do what the people want. Commissioner Rider – If you look at scores, the only one in positive, fits what hunters are looking for.

Commissioner Randy Doll moved to approve Option F for bird season dates in Low Plains late zone before the Commission. Commissioner Don Budd second.

The roll call vote on late migratory seasons as recommended was as follows (Exhibit S):

Commissioner Budd	Yes
Commissioner Dill	Absent
Commissioner Doll	Yes
Commissioner Hayzlett	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented late migratory seasons passed 6-0.

SE Zone – Daryl Towsley – Friends live in Kansas City and they hunt Marais des Cygnes, should not be in SE zone; know we can't do anything for a few years, but should consider putting in Low Plains zone. That would also help with the issues in that zone. Chairman Lauber

– That is what we want to do, boundaries were made too large. Commissioner Budd – The only one there was the Chairman, the rest of us were not on Commission then. Commissioner Doll – On methodology, when hunters come up with strong preference for later zone, aren't they dovetailing into harvest, you want to hunt when ducks are flying, aren't they voting for what they want? Bidrowski - Survey shows they are hunting early in season, but preference says they want late. Had one of latest seasons in nation two years ago. About 2,100 surveys (30 percent answered). Commissioner Budd – The three we voted on, graph says it is irrelevant to a point; least no-preference responses. When we started this survey, we put a lot of opinion in to survey. Bidrowski – Removed comments referring to last season. Through all surveys, chart shows the best way they want to harvest duck? Bidrowski – They are putting their preference, don't set by popular opinion polls. Commissioner Marshall – Statistically, overwhelming number of people want latest date and suppose you are doing for a reason, shutting out Marais des Cygnes hunters? Bidrowski – Yes, and Thursday opener shuts out a lot of hunters. Taking days in November when numbers are starting to build. Andy Fanter – Marais des Cygnes data quoted on temperatures. You are arguing about five days, that is not a bad recommendation. Late season mallard hunters want to hunt in January. Commissioner Budd – About temperatures? Fanter – It is about killing. Commissioner Rider – Looking at surveys from last year and this year; earlier in Option A, 50 percent don't want that, Option F, 46 percent. Bidrowski – Not percentages, but preference. Commissioner Rider – Can tweak that correct? Chairman Lauber – Staff recommendation? Commissioner Rider – Ninety-five want as late as possible, survey is voice of average "Joe." I would go with your recommendation.

Commissioner Don Budd moved to approve November 8 and 9, close season and reopen on November 15 and run through January 25 for bird season dates in the Southeast zone before the Commission. Commissioner Aaron Rider second.

The roll call vote on late migratory seasons as presented was as follows (Exhibit S):

Commissioner Budd	Yes
Commissioner Dill	Absent
Commissioner Doll	Yes
Commissioner Hayzlett	No
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	No

The motion as presented late migratory seasons passed 4-2.

Light and Canada goose season – Tim Keenan – A week too late, but makes no sense to separate the two geese. Commissioner Marshall – Would prefer week later in season, but agree with staff recommendation. Wally Eldridge - Old enough to remember point system, don't agree with six geese, think four is enough. For most part, the problem geese are resident geese. Tymeson – Tom, on survey data, showed slightly higher percentage wanted eight instead of six, why did we go with six? Bidrowski – Smaller preference for an even smaller bag limit, from six to eight, smaller impact on harvest. Can stand some more harvest; sociological reason, lower bag limits are easier to obtain; biologically about the same. Tymeson – In reference to early goose season, would take away from the end. Larry Fry, Great Bend – Think four geese is plenty, but no one

forces anyone to shoot the full limit. Ryan Warden – Not sure what limits are in Nebraska. Bidrowski – Nebraska and Oklahoma have five, some other states have taken eight. Warden - Aware goose if federally regulated; in South Dakota they are not. Bidrowski – They work under conservation order. Going to eight will impact those birds.

Commissioner Roger Marshall moved to approve Option F for Canada goose season dates before the Commission. Commissioner Gary Hayzlett second. Amended to accept bag limit of six.

The roll call vote on late migratory seasons as recommended was as follows (Exhibit S):

Commissioner Budd	Yes
Commissioner Dill	Absent
Commissioner Doll	Yes
Commissioner Hayzlett	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented late migratory seasons passed 6-0.

White fronted geese – Ryan Warden – Who sets limits on those? Bidrowski – Central Flyway Council, we make recommendations to USFWS, similar process and once frameworks are set start on state process. Limit is two if shorter season. Warden – Significantly higher numbers statewide? Bidrowski – When show up, see within five days, Wichita to Great Bend is primary range. Warden – Commonly occur in January? Bidrowski – Took some days off in December and put in January. Warden – More or less common to see them?

Commissioner Gary Hayzlett moved to approve Option H for white front goose season dates before the Commission. Commissioner Randy Doll second.

The roll call vote on late migratory seasons as recommended was as follows (Exhibit S):

Commissioner Budd	Yes
Commissioner Dill	Absent
Commissioner Doll	Yes
Commissioner Hayzlett	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented late migratory seasons passed 6-0.

Youth – Week before other general seasons.

Commissioner Roger Marshall moved to approve youth season as recommended. Commissioner Randy Doll second.

The roll call vote on late migratory seasons as recommended was as follows (Exhibit S):

Commissioner Budd	Yes
Commissioner Dill	Absent
Commissioner Doll	Yes
Commissioner Hayzlett	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented late migratory seasons passed 6-0.

Falconry – All four recommendations in one...

**Commissioner Randy Doll moved to approve falconry seasons as recommended.
Commissioner Gary Hayzlett second.**

The roll call vote on late migratory seasons as recommended was as follows (Exhibit S):

Commissioner Budd	Yes
Commissioner Dill	Absent
Commissioner Doll	Yes
Commissioner Hayzlett	Yes
Commissioner Marshall	Yes
Commissioner Wilson	Yes
Commissioner Lauber	Yes

The motion as presented late migratory seasons passed 6-0.

Tymeson – This will be handled differently next year. Bidrowski – Set out early spring after one year. Commissioner Rider – Talked to people who received survey and heard this was a good survey that addressed all of our desires.

XII. Old Business

None

XIII. Other Business

A. Future Meeting Locations and Dates

October 16, 2014 – Martinelli's Restaurant meeting room, Salina

January 8, 2015 – Bonner Springs Parks and Recreation, Sunflower Room

March 26, 2015 – Topeka

April 23, 2015 – GPNC, Wichita

Chairman Lauber - Appreciate participation at this meeting and feedback.

XIV. ADJOURNMENT

The meeting adjourned at 8:30 p.m.

(Exhibits and/or Transcript available upon request)

Secretary's Remarks

Agency and State Fiscal Status
No briefing book items – possible handout at meeting

2015 Legislature
No briefing book items – possible handout at meeting

General Discussion

Tourism Briefing
No briefing book items – possible handout at meeting

KAR 115-25-7
Antelope; open season, bag limit and permits

Background

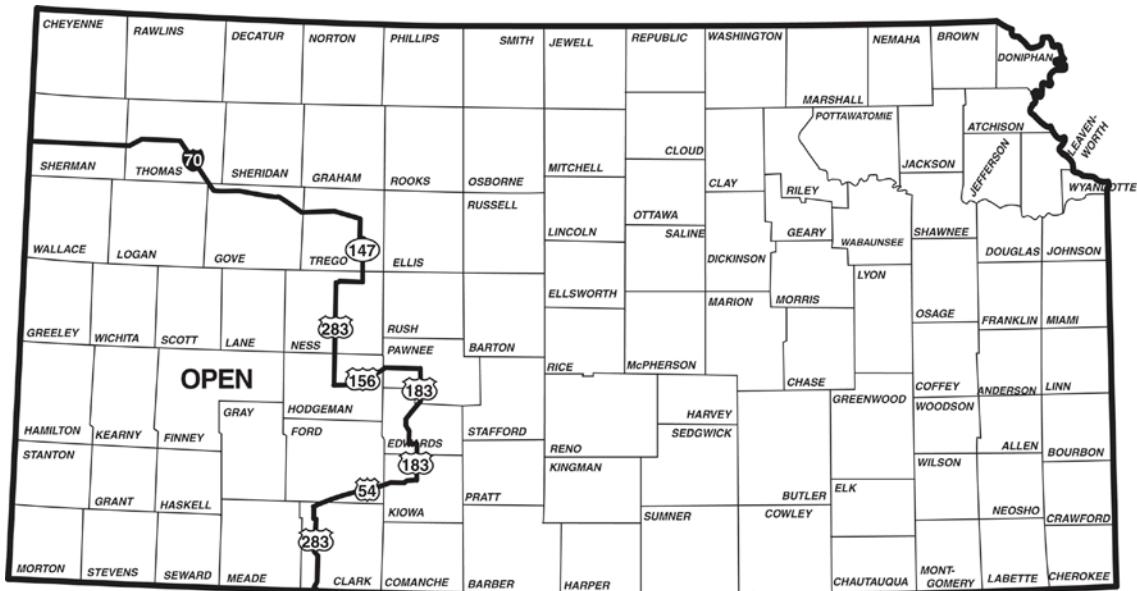
This regulation pertains to seasons, bag limits, unit boundaries, permits and tags for hunting pronghorn antelope.

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 firearm 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.

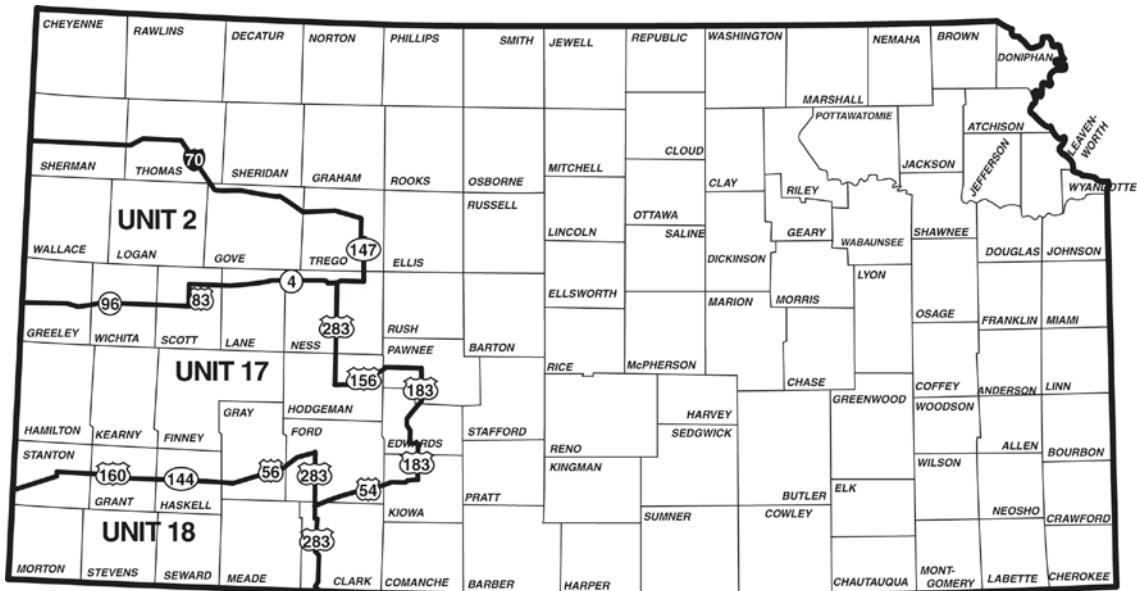
Discussion & Recommendations

With the exception of annual adjustments in permit allocations, this regulation has basically been unchanged since 2006. The archery season doesn't conclude until the end of October, and it will take some time to collect and analyze this year's harvest data, but we do not anticipate any changes to season structure, bag limits, unit boundaries or permit types at this time.

Antelope Pronghorn Archery 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.

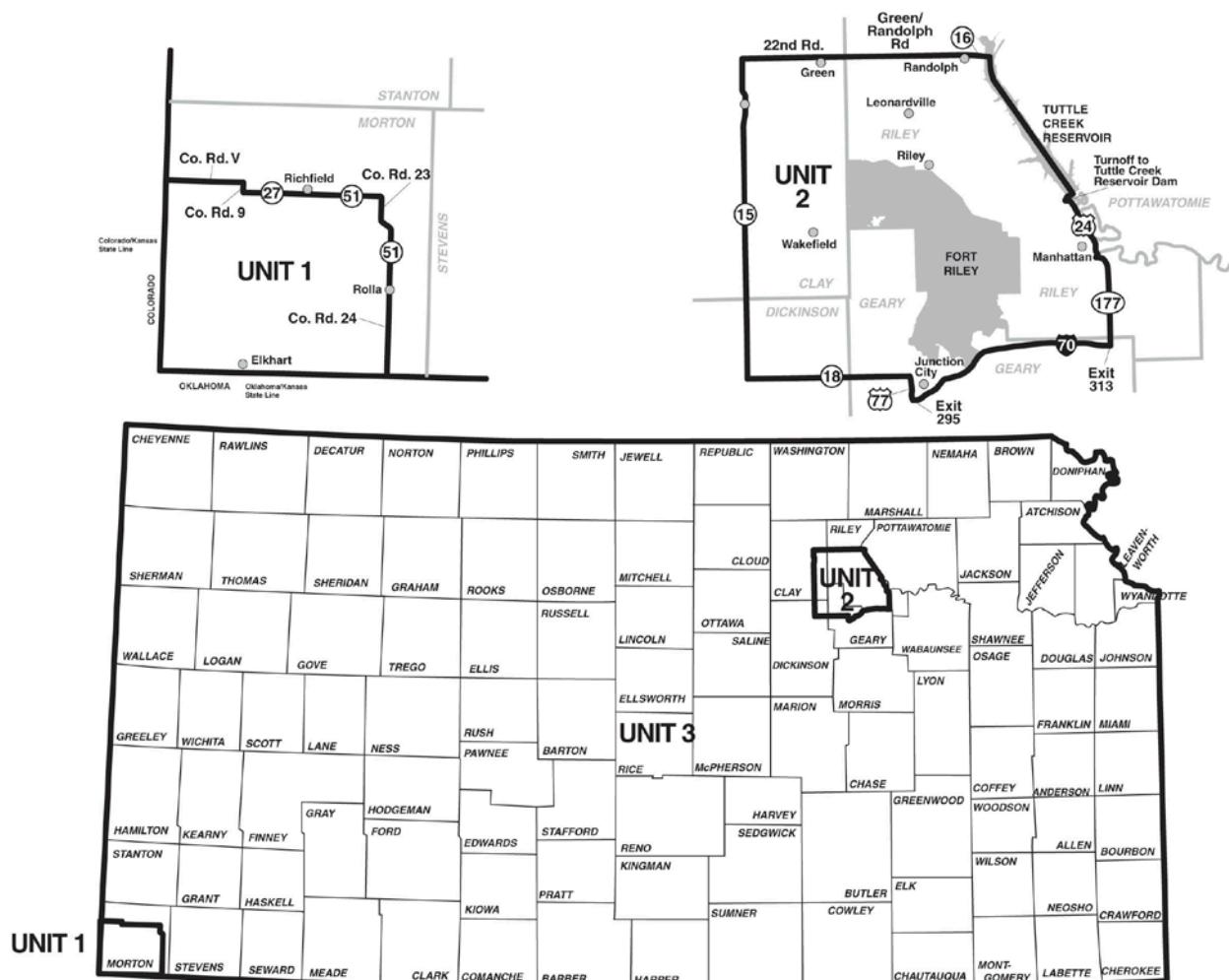
Elk hunting on and around Fort Riley was initiated in 1990, and most of the hunting opportunity in the state occurs on the Fort. However, elk do exist on private lands, though unpredictably in most of the state, with parts of southwest Kansas being the main exception. Elk also occur in the vicinity of 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 heavy harvest pressure.

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

This regulation has basically been unchanged since 2011. The current season is ongoing and issues could arise, but at this time we do not anticipate any changes to season structure, bag limits, unit boundaries or permit types.

Elk Units



VI. DEPARTMENT REPORT

B. General Discussion

3. Big Game Permanent Regulations.

- | | |
|----|--|
| a) | K.A.R. 115-4-2. Big game; general provisions. |
| b) | K.A.R. 115-4-4. Big game; legal equipment and taking methods. |
| c) | K.A.R. 115-4-6. Deer; firearm management units. |
| d) | K.A.R. 115-4-11. Big game and wild turkey permit applications. |
| e) | K.A.R. 115-4-13. Deer permits; descriptions and restrictions. |
| f) | K.A.R. 115-4-15. Restitution scoring system. |

These are permanent regulations dealing with deer. No action is required to maintain any of these regulations in their current form for the 2015 seasons. These regulations have been opened for public review. No action is proposed by the department on these regulations this year.

a) K.A.R. 115-4-2. Big game; general provisions.

Background

This regulation contains the following items:

- Information that must be included on the carcass tag
- Registration (including photo check) needed to transport certain animals
- Procedures for transferring meat to another person
- Procedures for possessing a salvaged big game carcass
- Who may assist a big game permittee and how they may assist, including the provisions for designated individuals to assist disabled big game permittees.

Discussion

A photo check deer registration system was initiated for the 2010 seasons and modified for the 2012 season to allow people to process their deer in the field and transport it without the head being attached if the hunter had photos necessary for completing the photo check system. No comments from staff or public were received on this regulation last year.

Recommendation

No change is proposed for this regulation.

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

Background

This regulation contains the following items:

- Specific equipment for hunting various big game species
- Specifications for bright orange colored clothing, which must be worn when hunting during certain big game seasons
- Accessory equipment such as calls, decoys, and blinds
- Shooting hours
- Special restrictions on the use of horses or mules to herd or drive elk

Discussion

Extensive modifications of this regulation were approved in 2012, including changes to allow center-fire rifles and handguns, adding crossbows as archery equipment, and authorizing additional accessory equipment. After the 2013-2014 deer seasons with these changes in effect, the department collected information on hunters' use of equipment. This regulation was further modified in 2014 to allow hunters to use dogs to recover dead or wounded big game. No additional requests have been received from the public for modifications of the regulation.

Recommendation

No change is proposed for this regulation.

c) K.A.R. 115-4-6. Deer; firearm management units.

Background

This regulation established the boundaries for the 19 Deer Management Units in Kansas.

Discussion

Changes in the boundaries of management units complicate trend analysis of things like hunter participation and harvest of deer. Subdivision of units increases the need for larger sample sizes and more expense to obtain adequate information. No changes in deer management unit boundaries are currently being discussed within the department. No requests for change have been received from the public.

Recommendation

No change is proposed for this regulation.

d) K.A.R. 115-4-11. Big game and wild turkey permit applications.

Background

This regulation describes general application procedures, including the establishment of priority drawing procedures when the number of applicants exceeds the availability of authorized permits. The regulation also authorized hunters to purchase a preference point for future applications.

Discussion

No changes in the application process of big game or wild turkey permits are currently being discussed within the department. No requests for change in this regulation were received from department staff or from the public.

Recommendation

No change is proposed for this regulation.

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

Background

This regulation contains the following items:

- Creates permit types that includes:
 - 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 hunt.
 - Either-species, Either-sex Permit 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

Last year the permit system was modified to require a nonresident who obtained a limited quota

either-sex deer permit to also obtain a White-tailed Deer Antlerless-only Permit. This change was made to encourage nonresident hunters to harvest antlerless deer in the areas they hunt at rates similar to resident hunters.

Recommendation

No change is proposed for this regulation.

f) K.A.R. 115-4-13. Restitution scoring system.

Background

This regulation describes procedures for measuring and scoring certain species of big game to determine a restitution value when these animals are killed in violation of department regulations or state law. K.S.A. 32-1032 directed the secretary to establish through rules and regulations the procedures for measuring and scoring these animals.

Discussion

The measuring and scoring procedures follow the general techniques of the Boone and Crockett Club for the various species. Changes in this regulation were made last year to clarify some procedures.

Recommendation

No change is proposed for this regulation.

VI. DEPARTMENT REPORT

B. General Discussion

2. Deer 25-Series Regulations.

Background

The KAR 115-25 series are regulations dealing with season dates, bag limits and similar topics. Within this series are two regulations which deal with deer. They are 115-25-9 and 115-25-9a. The department reviews 115-25-9 in a General Discussion during the October Commission Meeting, in a Workshop Session in January, and a Public Hearing in March. This allows the regulation to be completed before applications must be submitted by hunters for limited quota permits. KAR 115-25-9 covers items statewide as well as seasons at two military areas, whereas 115-25-9a covers deer seasons at Fort Riley and has typically been used to address deer issues which developed during the legislative session. KAR 115-25-9a is reviewed through the same department and Commission review process starting in January and generally being completed in June.

KAR 115-25-9 contains the following items:

- < Dates of deer seasons when equipment such as archery, firearms, or muzzleloaders may be used
- < Dates of deer seasons on the military subunits at Ft Leavenworth and Smoky Hill ANG
- < Dates for a deer seasons in urban units
- < Dates of deer seasons for designated persons
- < Dates and units when firearm seasons are extended in length for the taking of only antlerless white-tailed deer
- < Procedures by which unfilled deer permits become changed and restricted to only white-tailed deer and modified from an antler category to an antlerless-only category during an antlerless-only season
- < Limitations in obtaining multiple permits

Discussion

K.A.R. 115-25-9 is an exempt regulation which must be reviewed and passed each year to establish the deer hunting season dates for the following year. At this time we are considering a deer season structure for 2015-16 similar to the season structure used during 2014-15.

The following dates are being considered for deer hunting season dates during 2015-16:

Youth and Disability	September 5, 2015 – September 13, 2015
Early Muzzleloader	September 14, 2015 – September 27, 2015
Archery	September 14, 2015 – December 31, 2015
Pre-Rut WAO	October 10, 2015 – October 11, 2015

Regular Firearms	December 2, 2015 – December 13, 2015
Extended WAO in DMU 6, 9, 10, & 17	January 1, 2016 – January 3, 2016
Extended WAO in DMU 1, 2, 3, 4, 5, 7, 8, 11, 12, 13, 14, & 16	January 1, 2016 – January 10, 2016
Extended WAO in DMU 10A, 15, & 19	January 1, 2016 – January 17, 2016
Extended Archery in DMU 10A & 19)	January 18, 2016– January 31, 2016

The pre-rut season was established in 2013 as a result of a state law which required the department to initiate a two-year pilot study. Results from the 2013 season showed that few people took advantage of that opportunity with few deer being taken. Consideration could be made to continue or to eliminate this season in 2016. Few research studies have been made on pre-rut hunting designed to increase an early removal of antlerless deer and none of that research has been done in Kansas or in habitats and latitudes similar to those in Kansas.

The proposed dates for the firearm season at the Fort Leavenworth subunit are November 21 2015 through November 22, 2015, November 26, 2015 through November 29, 2015, December 5, 2015 through December 6, 2015, December 12, 2015 through December 13, 2015, and December 20, 2014 through December 21, 2014. The proposed dates for the firearms season for deer hunting at the Smoky Hill Air National Guard subunit are December 2, 2015 through December 13, 2015.

Last year the first WAO permit was valid statewide except in DMU 18. That included on lands management by the department within those units. The second WAO permit was also valid statewide except DMU 18. However, that permit was only valid at KDWPT managed Wildlife Areas at Cedar Bluff, Glen Elder, Kanopolis, Lovewell, Norton, Webster, and Wilson. Kirwin NWR was included within those public access areas where the second WAO was valid. DMU 14 was unique last year being included among units where only two WAO permits could be used but then included within a different group of DMUs where more days were allowed during an extended white-tailed deer antlerless-only season. For clarity we will place DMU 14 into one or the other of those groups of units. It currently seems likely that it will be in the group where five WAO permits are allowed and 10 days of antlerless-only hunting is allowed. Thus, the last three WAO permits for 2015-16 may be DMUs, 1, 2, 3, 4, 5, 7, 8, 11, 12, 13, 14, 15, 16, and 19. Those additional permits will also most likely be valid at Wildlife Areas at Cedar Bluff, Glen Elder, Kanopolis, Lovewell, Norton, Webster, and Wilson Wildlife, and Kirwin NWR

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

Recommendation

Additional information from deer population indices, hunter harvest success and satisfaction, unusual deer mortality, and changes in fawn recruitment will be examined before a final recommendation is prepared. Hunter, landowner and public input will be considered. The

number of white-tailed deer antlerless-only (WAO) permits that a hunter may obtain and used in each unit will also be determined after those data are reviewed. At this time it does not appear that additional KDWPT Wildlife Areas will be considered where more than one WAO permit could be used during the 2015-16 seasons.

Application deadlines have been established in KAR 115-4-11. The deadline for nonresidents to apply for a limited quota deer permit is the last Friday in April, or April 24th in 2015. The deadline for residents to apply for a firearm either species deer permit is the second Friday in July, or July 10th in 2015.

2015-16

September

Youth and Disabled

Early Muzzleloader
and Archery

October

Pre-Rut Whitetail
Antlerless-Only
Firearms and
Archery

Only Archery

November

December

Regular Firearms
and Archery

January WAO

DMU 8, 9, 10, & 17 only brown

DMU 1, 2, 3, 4, 5, 7, 8, 11, 12,
13, 14, & 18 brown plus pink

DMU 10a, 16 & 19 brown,
pink and red

DMU 10a, 8 & 18 Archery WAO

Sun	Mon	Tue	Wed	Thur	Fri	Sat
						5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

Workshop

Session

VI. DEPARTMENT REPORT

B. Workshop Session

1. Fishing; general provisions.

Change 115-7-2. Currently 115-7-2 states that anglers must have their name and address attached to trotlines, setlines, tip-ups, floatlines, and unattended fishing lines. Staff recommends that we amend 115-7-2 to allow anglers using trotlines, setlines, tip-ups, floatlines, and unattended fishing lines to have the option of either putting their KDWPT number on the tag **or** their name and address.

VI. DEPARTMENT REPORT

B. Public Hearing

2015 Reference Document Proposed Changes for Special Length and Creel Limits:

- Glen Elder Reservoir -- add a 35-inch minimum length limit on blue catfish.
- Lovewell Reservoir -- add a 35-inch minimum length limit on blue catfish.
- Lenexa - Lake Lenexa -- change to a 13- to 18-inch slot length limit on largemouth bass.
- Coffeyville - LeClere Lake -- remove the 15-inch minimum length limit on channel catfish and change to an 18-inch minimum length limit and 2/day creel limit on largemouth bass.
- Hays - Vineyard Park Pond -- add a 2/day creel limit on channel catfish.
- Hutchinson - North Pond -- add an 18-inch minimum length limit and 2/day creel limit on largemouth bass and add a 15-inch minimum length limit and 2/day creel limit on channel catfish.
- Scott State Fishing Lake – change to an 18-inch minimum length limit on walleye and saugeye.
- Linn Co. - Critzer Reservoir -- remove the 10-inch minimum length limit and remove the 10/day creel limit on crappie.
- Humboldt - Franklin Street Pond -- add an 18-inch minimum length limit and 2/day creel limit on largemouth bass, add a 15-inch minimum length limit and 2/day creel limit on channel catfish, and add a 10-inch minimum length limit and 10/day creel limit on crappie.

Length and Creel Limits for Coffey County Lake:

The following change is being proposed.

- Change to a 5/day creel limit on blue catfish.

Other Proposed 2015 Fishing Regulation Changes.

Revoke 115-18-21. Floatline fishing permit; requirements, restrictions, and permit duration. We would like to remove the requirement to possess a permit while floatline fishing because program evaluation is no longer necessary.

Change 115-2-1. Amount of fees. The floatline fishing permit (\$2.50) was established so that the Department could evaluate the program by sending out a survey to all permittees.

Change 115-7-3. The current regulation states that dip and cast nets with mesh not larger than 3/8 inch can be used for the taking of baitfish and minnows. Staff recommends that the maximum mesh size be increased to ½ inch to allow anglers to collect more bait with less effort.

Change 115-25-14 to include a new trout stocking location.

Herington – Father Padilla Pond will be added to the list of Type 2 Waters, which require a trout permit only for trout anglers from November 1 through April 15.

Change 115-7-10. Fishing; special provisions. We will update the ANS waters list.

K.A.R. 115-30-1. Display of identification number and decal.

A request was made to address the problem of displaying registration decals on sailboards. Because the surface of the board is rough textured, allowing the operator to stand on the board without slipping, decals usually do not adhere to the board. The current regulation does require that, at minimum, the registration decal must be attached to the front half of the top of the sailboard. In order to address the problem of the decals not adhering properly, the recommendation is being made that in lieu of displaying the decal on the board, the operator may carry the registration decal on their person while operating the sailboard. This allowance is currently being granted to operators of sailboards, but this change would establish in regulation that this allowance will be made. Because similar problems are seen with kiteboards, the recommendation is being made to include them, as well.

General Discussion Item

Park Regulations

Regulation 115-9-6, display of vehicle permits. This amendment would remove the reference to second vehicle permit and include direction that Park Passports shall be permanently affixed to the outside of the windshield on the lower corner of the driver's side of the vehicle.

Background

This proposal brings Regulation 115-9-6 in line with the state park motor vehicle permits available to the public. The option to purchase a second motor vehicle permit was eliminated in Calendar Year 2012 by the Commission.

The Park Passport legislation was passed by the State Legislature in 2012 and became effective January 1, 2013. Because of the material of the passport permits issued by the Department of Motor Vehicles, they must be permanently affixed to the outside of the vehicle windshield.

These changes are required to update regulation 115-9-6 to reflect what is now available to the public for state park motor vehicle access.

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 - July 17, 2014

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

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Wildlife, Parks, and Tourism Commission

Notice of Public Hearing

A public hearing will be conducted by the Wildlife, Parks, and Tourism Commission at 6:30 p.m., Thursday, October 16, 2014 at the Martinelli's Restaurant Meeting Room, 158 S Santa Fe Ave, Salina, Kansas, to consider the approval and adoption of proposed regulations of the Kansas Department of Wildlife, Parks, and Tourism.

A general discussion and workshop meeting on business of the Wildlife, Parks, and Tourism Commission will begin at 1:00 p.m., October 16 at the location listed above. The meeting will recess at approximately 5:00 p.m. then resume at 6:30 p.m. at the same location for the regulatory hearing and more business. There will be public comment periods at the beginning of the afternoon and 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. October 17 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 90-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. 115-2-1. This permanent regulation establishes the amount of fees for certain issues of the department. The proposed amendment would remove the floatline fishing permit from the list of available issues in conjunction with the revocation of K.A.R. 115-18-21.

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

K.A.R. 115-18-21. This permanent regulation establishes floatline fishing permit requirements, restrictions and permit duration. The regulation is proposed for revocation.

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

K.A.R. 115-7-3. This permanent regulation establishes taking and use of baitfish or minnows. The proposed amendment would allow the use of larger mesh size for dip and cast nets to accommodate anglers on restricted bait waters.

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

K.A.R. 115-25-14. This exempt regulation establishes creel limits, size limits, possession limits and the open season for fishing. The proposed version of the regulation would add one new trout location and update the reference document.

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

K.A.R. 115-2-3. This permanent regulation establishes camping, utility and other fees. The proposed amendment would add Sand Hills State Park to the list of locations for seasonal RV camping.

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

K.A.R. 115-15-1. This permanent regulation establishes general provisions for threatened and endangered species. The proposed amendments would remove three endangered species and six threatened species from the threatened and endangered species lists.

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

K.A.R. 115-15-2. This permanent regulation establishes general provisions for nongame species. The proposed amendment would add seven species to the list of species in need of conservation.

Economic Impact Summary: The proposed amendment to the regulation 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

RANEY L. GILLILAND
Director
MELISSA S. CALDERWOOD
Assistant Director for Research
J. G. SCOTT
Chief Fiscal Analyst
AMY DECKARD
Assistant Director for Information Management



STAFF
LEGISLATIVE COORDINATING COUNCIL
INTERIM COMMITTEES
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KANSAS LEGISLATIVE RESEARCH DEPARTMENT

Room 68-West — State Capitol Building — 300 SW Tenth Avenue — Topeka, Kansas 66612-1504
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September 5, 2014

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 September 2, 2014, the Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning KAR 115-2-1, amount of fees; KAR 115-2-3, camping, utility, and other fees; KAR 115-7-3, fish, taking and use of baitfish or minnows; KAR 115-15-1, threatened and endangered species, general provisions; KAR 115-15-2, nongame species, general provisions; KAR 115-18-21, revocation (floatline fishing permit); KAR 115-25-14, fishing, creel limit, size limit, possession limit, and open season. After discussion, the Committee had no comment.

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 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 that 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



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

DEREK SCHMIDT
ATTORNEY GENERAL

June 30, 2014

MEMORIAL HALL
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Chris Tymeson
Chief Legal Counsel
Kansas Department of Wildlife, Parks and Tourism
1020 S. Kansas Ave., Suite 200
Topeka, KS 66612-1327

RE: K.A.R. 115-2-1; K.A.R. 115-2-3; K.A.R. 115-7-3; K.A.R. 115-15-1;
K.A.R. 115-15-2; K.A.R. 115-25-14 (permanent regulations)

K.A.R. 115-18-21 (revocation)

Dear Mr. Tymeson:

Pursuant to K.S.A. 2013 Supp. 77-420(b), we have reviewed the above-referenced regulations and have approved them for legality. The stamped original regulations are enclosed with this letter.

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. Sharon Schwartz, Vice Chair, Joint Committee on Rules and Regulations
Sen. Oletha Faust-Goudeau, Ranking Minority Member, Joint Committee on
Rules and Regulations
Raney Gilliland, Legislative Research, State Capitol, Room 68-W
Natalie Scott, Office of Revisor, State Capitol, Room 24-E

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 - August 7, 2014

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

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A general discussion and workshop meeting on business of the Wildlife, Parks, and Tourism Commission will begin at 1:00 p.m., October 16 at the location listed above. The meeting will recess at approximately 5:00 p.m. then resume at 6:30 p.m. at the same location for the regulatory hearing and more business. There will be public comment periods at the beginning of the afternoon and 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. October 17 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.

In addition to previously published notices, 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. 115-7-10. This permanent regulation establishes special provisions for fishing. The proposed amendment would update the reference document regarding waters containing invasive species.

Economic Impact Summary: The proposed amendment to the regulation 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

RANEY L. GILLILAND
Director
MELUSSA S. CALDERWOOD
Assistant Director for Research
J. G. SCOTT
Chief Fiscal Analyst
AMY DECKARD
Assistant Director for Information Management



STAFF
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LEGISLATIVE INQUIRIES

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

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September 5, 2014

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 September 2, 2014, the Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning KAR 115-7-10, fishing, special provisions. After discussion, the Committee had no comment.

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 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 that 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



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

DEREK SCHMIDT
ATTORNEY GENERAL

July 29, 2014

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Chris Tymeson
Chief Legal Counsel
Kansas Department of Wildlife, Parks and Tourism
1020 S. Kansas Ave., Suite 200
Topeka, KS 66612-1327

RE: K.A.R. 115-7-10

Dear Chris:

Pursuant to K.S.A. 2013 Supp. 77-420(b), we have reviewed K.A.R. 115-7-10 and have approved the regulation for legality. The stamped regulation is enclosed with this letter.

Sincerely,

OFFICE OF THE ATTORNEY GENERAL
DEREK SCHMIDT

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

Sarah Fertig
Assistant Attorney General

Enclosure

cc: Sen. Vicki Schmidt, Chair, Joint Committee on Rules and Regulations
Rep. Sharon Schwartz, Vice Chair, Joint Committee on Rules and Regulations
Sen. Oletha Faust-Goudeau, Ranking Minority Member, Joint Committee on
Rules and Regulations
Raney Gilliland, Legislative Research, State Capitol, Room 68-W
Natalie Scott, Office of Revisor, State Capitol, Room 24-E

115-18-21. This regulation shall be revoked on and after January 1, 2015. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 2007 Supp. 32-1002; effective Dec. 1, 2008; revoked P-_____.)

ECONOMIC IMPACT STATEMENT

K.A.R. 115-18-21. Floatline fishing permit; requirements, restrictions, and permit duration.

DESCRIPTION: This permanent regulation establishes the floatline fishing permit. The proposed version of the regulation would repeal requirements related to floatline permits.

FEDERAL MANDATE: None.

ECONOMIC IMPACT: No substantial economic impact to the department, other state agencies, small businesses, or members of the public is anticipated.

ALTERNATIVES CONSIDERED: None.

115-2-1. Amount of fees. The following fees shall be in effect for the following licenses, permits, and other issues of the department: (a) Hunting licenses and permits.

Resident hunting license	\$18.00
Resident senior hunting license (annual purchase, 65 years of age through 74 years of age)	9.00
Resident hunting license (one-time purchase, valid from 16 years of age through 20 years of age).....	40.00
Nonresident hunting license	70.00
Nonresident junior hunting license (under 16 years of age)	35.00
Resident big game hunting permit:	
General resident: either-sex elk permit	250.00
General resident: antlerless-only elk permit	100.00
General resident youth (under 16 years of age): either-sex elk permit.....	125.00
General resident youth (under 16 years of age): antlerless-only elk permit	50.00
Landowner/tenant: either-sex elk permit	125.00
Landowner/tenant: antlerless-only elk permit	50.00
Hunt-on-your-own-land: either-sex elk permit.....	125.00
Hunt-on-your-own-land: antlerless-only elk permit	50.00
General resident: deer permit	30.00
General resident youth (under 16 years of age): deer permit	10.00
General resident: antlerless-only deer permit	15.00
General resident youth (under 16 years of age): antlerless-only deer permit	7.50
Landowner/tenant: deer permit	15.00

Hunt-on-your-own-land: deer permit	15.00
Special hunt-on-your-own-land: deer permit	30.00
General resident: antelope permit	40.00
General resident youth (under 16 years of age): antelope permit	10.00
Landowner/tenant: antelope permit	20.00
Hunt-on-your-own-land: antelope permit	20.00
Antelope preference point service charge	5.00
Any-deer preference point service charge	5.00
Application fee for elk permit.....	5.00

Wild turkey permit:

General resident: turkey permit (1-bird limit)	20.00
General resident youth (under 16 years of age): turkey permit (1-bird limit)	5.00
Landowner/tenant: turkey permit (1-bird limit)	10.00
Nonresident: turkey permit (1-bird limit)	30.00
Nonresident youth (under 16 years of age): turkey permit (1-bird limit)	10.00
Resident: turkey preference point service charge	5.00

Wild turkey game tag:

Resident: turkey game tag (1-bird limit)	10.00
Resident youth (under 16 years of age): turkey game tag (1-bird limit)	5.00
Nonresident: turkey game tag (1-bird limit)	20.00
Nonresident youth (under 16 years of age): turkey game tag (1-bird limit)	10.00

Spring wild turkey permit and game tag combination (2-bird limit, must be purchased

before April 1 of year of use):

General resident: turkey permit and game tag combination (2-bird limit)	25.00
General resident youth (under 16 years of age): turkey permit and game tag combination (2-bird limit)	10.00
Landowner/tenant: turkey permit and game tag combination (2-bird limit)	15.00
Nonresident: turkey permit and game tag combination (2-bird limit)	45.00
Nonresident youth (under 16 years of age): turkey permit and game tag combination (2-bird limit)	20.00
Nonresident big game hunting permit:	
Nonresident hunt-on-your-own-land: deer permit	75.00
Nonresident: deer permit (antlered deer)	300.00
Nonresident youth (under 16 years of age): deer permit (antlered deer)	75.00
Nonresident: deer permit (antlerless only)	50.00
Nonresident: combination 2-deer permit (antlered deer and antlerless white-tailed deer)....	
.....	315.00
Nonresident youth (under 16 years of age): combination 2-deer permit (antlered deer and antlerless white	
Nonresident: antelope permit (archery only)	200.00
Nonresident youth (under 16 years of age): antelope (archery only)	100.00
Nonresident: deer permit application fee.....	20.00
Nonresident: mule deer stamp	100.00
48-hour waterfowl hunting permit	25.00
Field trial permit: game birds	20.00
Lifetime hunting license	440.00
or eight quarterly installment payments of	60.00

Migratory waterfowl habitat stamp	5.00
Special dark goose hunting permit	5.00
Sandhill crane hunting permit: validation fee	5.00
Disabled person hunt-from-a-vehicle permit	0
(b) Fishing licenses and permits.	
Resident fishing license	18.00
Resident senior fishing license (annual purchase, 65 years of age through 74 years of age)	9.00
Resident fishing license (one-time purchase, valid from 16 years of age through 20 years of age).....	40.00
Nonresident fishing license	40.00
24-hour fishing license	3.00
Three-pole permit.....	4.00
Tournament bass pass	10.00
Paddlefish permit (six carcass tags).....	10.00
Paddlefish permit youth (under 16 years of age) (six carcass tags).....	5.00
Hand fishing permit	25.00
Floatline fishing permit.....	0
Lifetime fishing license	440.00
or eight quarterly installment payments of	60.00
Five-day nonresident fishing license	20.00
Institutional group fishing license	100.00
Special nonprofit group fishing license	50.00

Trout permit 10.00

(c) Combination hunting and fishing licenses and permits.

Resident combination hunting and fishing license 36.00

Resident senior combination hunting and fishing license (annual purchase, 65 years of age

through 74 years of age) 18.00

Resident combination hunting and fishing license (one-time purchase, valid from 16

years of age through 20 years of age) 70.00

Resident lifetime combination hunting and fishing license 880.00

or eight quarterly installment payments of 120.00

Resident senior lifetime combination hunting and fishing license (one-time purchase, valid

65 years of age and older) 40.00

Nonresident combination hunting and fishing license 110.00

(d) Furharvester licenses.

Resident furharvester license 18.00

Resident junior furharvester license 10.00

Lifetime furharvester license 440.00

or eight quarterly installment payments of 60.00

Nonresident furharvester license 250.00

Nonresident bobcat permit (1-bobcat limit per permit) 100.00

Resident fur dealer license 100.00

Nonresident fur dealer license 400.00

Field trial permit: furbearing animals 20.00

(e) Commercial licenses and permits.

Controlled shooting area hunting license	15.00
Resident mussel fishing license	75.00
Nonresident mussel fishing license	1,000.00
Mussel dealer permit	200.00
Missouri river fishing permit	25.00
Game breeder permit	10.00
Controlled shooting area operator license	200.00
Commercial dog training permit	20.00
Commercial fish bait permit	20.00
Commercial prairie rattlesnake harvest permit (without a valid Kansas hunting license)	20.00
Commercial prairie rattlesnake harvest permit (with a valid Kansas hunting license or exempt from this license requirement)	5.00
Commercial prairie rattlesnake dealer permit.....	50.00
Prairie rattlesnake round-up event permit	25.00
(f) Collection, scientific, importation, rehabilitation, and damage-control permits.	
Scientific, educational, or exhibition permit	10.00
Raptor propagation permit	0
Rehabilitation permit	0
Wildlife damage-control permit	0
Wildlife importation permit	10.00
Threatened or endangered species: special permits	0
(g) Falconry.	
Apprentice permit	75.00

General permit	75.00
Master permit	75.00
Testing fee	50.00

(h) Miscellaneous fees.

Duplicate license, permit, stamp, and other issues of the department10.00

Special departmental services, materials, or supplies At cost

Vendor bond

For bond amounts of \$5,000.00 and less50.00

For bond amounts of more than \$5,000.0050.00

plus \$6.00 per additional \$1,000.00 coverage or any fraction thereof.

This regulation shall be effective on and after January 1, 2015. (Authorized by K.S.A.

~~2012~~ 2013 Supp. 32-807 and K.S.A. ~~2012~~ 2013 Supp. 32-988; implementing K.S.A. ~~2012~~ 2013

Supp. 32-807, K.S.A. ~~2012~~ 2013 Supp. 32-988, and K.S.A. ~~2012~~ 2013 Supp. 32-9,100; effective

Dec. 4, 1989; amended Sept. 10, 1990; amended Jan. 1, 1991; amended June 8, 1992; amended

Oct. 12, 1992; amended April 11, 1994; amended Aug. 29, 1994; amended June 5, 1995;

amended Aug. 21, 1995; amended Feb. 28, 1997; amended July 30, 1999; amended Jan. 2, 2002;

amended Jan. 1, 2003; amended Jan. 1, 2004; amended Feb. 18, 2005; amended Jan. 1, 2006;

amended May 1, 2006; amended Jan. 1, 2007; amended Jan. 1, 2008; amended Jan. 1, 2009;

amended Jan. 1, 2010; amended Aug. 1, 2010; amended Jan. 1, 2011; amended Jan. 1, 2013;

amended April 19, 2013; amended Nov. 15, 2013; amended P-_____.)

ECONOMIC IMPACT STATEMENT

K.A.R. 115-2-1. Amount of fees.

DESCRIPTION: This permanent regulation establishes fish and wildlife-related license and permit fees. The proposed amendment would remove the floatline permit from the list of possible permits with fees.

FEDERAL MANDATE: None.

ECONOMIC IMPACT: Because the permit is a no-cost permit, no negative economic impact is anticipated for the department, other agencies, small businesses, or the public.

ALTERNATIVES CONSIDERED: None.

115-7-3. Fish; taking and use of baitfish or minnows. (a) Baitfish may be taken for noncommercial purposes by any of the following means:

(1) A seine not longer than 15 feet and four feet deep with mesh not larger than 1/4 inch;

(2) a fish trap with mesh not larger than 1/4 inch and a throat not larger than one inch in diameter;

(3) a dip or cast net with mesh not larger than ~~3/8~~ 1/2 inch; or

(4) a fishing line.

(b) Each fish trap shall be tagged with the operator's name and address when the fish trap is in use.

(c) Baitfish taken, except gizzard shad, shall not exceed 12 inches in total length.

(d) The possession limit shall be 500 baitfish.

(e) Live baitfish, except for bluegill and green sunfish from non-designated aquatic nuisance waters and baitfish from designated aquatic nuisance waters, may be caught and used as live bait only within the common drainage where caught. However, live baitfish shall not be transported and used above any upstream dam or barrier that prohibits the normal passage of fish. Bluegill and green sunfish collected from non-designated aquatic nuisance waters may be possessed or used as live bait anywhere in the state. Live baitfish collected from designated aquatic nuisance waters shall be possessed or used as live bait only while on that water and shall not be transported from the water alive.

(f) No person shall import live baitfish that does not meet the requirements of K.A.R.

115-17-2 and K.A.R. 115-17-2a.

This regulation shall be effective on and after January 1, ~~2013~~ 2015. (Authorized by and implementing K.S.A. 2013 Supp. 32-807, as amended by L. 2012, Ch. 47, Sec. 25; effective

Sept. 10, 1990; amended Nov. 20, 2009; amended Jan. 1, 2012; amended Jan. 1, 2013; amended

P-_____.)

ECONOMIC IMPACT STATEMENT

K.A.R. 115-7-3. Fish; taking of bait fish or minnows.

DESCRIPTION: This permanent regulation establishes provisions applicable to taking and use of bait fish in Kansas. The proposed amendment would increase cast net and dip net mesh size to $\frac{1}{2}$ inch to offset restrictions on bait movement.

FEDERAL MANDATE: None.

ECONOMIC IMPACT: The proposed amendments are not anticipated to have any substantive economic impact to the department, other state agencies, small businesses, or the public.

ALTERNATIVES CONSIDERED: No alternative amendments are being considered at this time.

115-25-14. Fishing; creel limit, size limit, possession limit, and open season. (a) The open season for the taking of fish in Kansas shall be January 1 through December 31, with the following exceptions:

(1) The flowing portions and backwaters of the Missouri river and any oxbow lake through which the Kansas-Missouri boundary passes, for which the open snagging season for the taking of paddlefish shall be March 15 through May 15;

(2) the flowing portions of the Kansas river from its origin downstream to its confluence with the Missouri river and the flowing portions of the Arkansas river from its origin downstream to the Kansas-Oklahoma border and on federal reservoirs from 150 yards away from the dam to the upper end of the federal property, for which the open hand-fishing season for the taking of flathead catfish shall be from sunrise to sunset, June 15 through August 31;

(3) the open season for floatline fishing shall be from sunrise to sunset, July 15 through September 15, on designated federal reservoirs; and

(4) those areas closed by posted notice.

(b) Pursuant to K.A.R. 115-18-12, a trout permit shall be required for each individual who wants to fish on the following waters during the specified time periods:

(1) November 1 through April 15:

(A) Cedar Bluff Stilling Basin;

(B) Dodge City Lake Charles;

(C) Fort Scott Gun Park Lake;

(D) Garnett Crystal Lake;

(E) Glen Elder State Park Pond;

(F) Kanopolis Seep Stream;

- (G) KDOT East Lake, located in Wichita;
 - (H) Lake Henry, located in Clinton State Park;
 - (I) Pratt Centennial Pond;
 - (J) Sandsage Bison Range and Wildlife Area Sandpits;
 - (K) the following Sedgwick County Park waters;
 - (i) Vic's Lake; and
 - (ii) Slough Creek;
 - (L) Topeka Auburndale Park;
 - (M) Walnut River Area, located in El Dorado State Park;
 - (N) Webster Stilling Basin; and
 - (O) Willow Lake, located in Tuttle Creek State Park; and
- (2) November 1 through October 31: unit number 30, located in the Mined Land Wildlife Area.

(c) Pursuant to K.A.R. 115-18-12, a trout permit shall be required for each individual who wants to fish for and possess trout on the following waters from November 1 through April 15:

- (1) Atchison City Lake No. 1;
- (2) Belleville City Lake (Rocky Pond);
- (3) Cameron Springs, located on Fort Riley;
- (4) Cherryvale City Lake (Tanko);
- (5) Cimarron Grasslands Pits;
- (6) Colby-Villa High Lake;
- (7) Great Bend Veterans Memorial Park Lake;

- (8) Great Bend Stone Lake;
- (9) Herington-Father Padilla Pond;
- (10) Holton-Elkhorn Lake;
- (11) Hutchinson Dillon Nature Center Pond;
- (12) Kanopolis State Park Pond;
- (13) Lake Shawnee, located in Shawnee County;
- (14) Meade State Fishing Lake;
- (15) Moon Lake, located on Fort Riley;
- (16) Salina Lakewood Lake;
- (17) Scott State Fishing Lake;
- (18) Scott State Park Pond;
- (19) the following Sedgwick County Park waters:
 - (A) Moss Lake; and
 - (B) Horseshoe Lake;
- (20) Sherman County Smoky Gardens Lake;
- (21) Solomon River between Webster Reservoir and Rooks County #2 Road; and
- (22) Syracuse-Sam's Pond.

(d) The following daily creel limits and size limits shall apply to each pond, lake, impoundment, and other water of the state that is open to public fishing access, and to all perennial and intermittent watercourses of the state, unless special creel limits and size limits apply pursuant to subsection (f).

<u>Species</u>	<u>Creel Limit</u>	<u>Size Limit</u>
Black bass: largemouth,	5*	15"

spotted, or smallmouth

Channel catfish or blue catfish	10*	--
Trout	5*/2***	--
Flathead catfish	5	--
Walleye, sauger, saugeye	5*	15"
Pike family: northern pike, tiger, or muskellunge	2*	30"
Striped bass	2	--
Wiper: striped bass hybrid	2	--
Paddlefish	2**	--
Crappie: white or black	50*	--
All other species	No limit	--

* The daily creel limit shall be composed of a single listed species or a combination of the species in the listed species group.

** The total snagging creel limit of paddlefish per calendar year shall be six paddlefish.

*** The two-trout-per-day creel limit shall be applicable to individuals under 16 years of age not in possession of a valid trout permit.

(e) The possession limit shall be three daily creel limits.

(f) Special size limits, creel limits, and bait restrictions for designated waters shall be those limits and restrictions specified in the department's "Kansas special size limits, creel limits, and bait restriction tables," dated June 30, 2014, which is hereby adopted by reference.

All fish caught from these designated waters that are of a size or number that is illegal to possess shall be released unrestrained to the water immediately.

This regulation shall be effective on and after January 1, 2015. (Authorized by and implementing K.S.A. 2013 Supp. 32-807.)

ECONOMIC IMPACT STATEMENT

K.A.R. 115-25-14. Fishing; creel limit, size limit, possession limit, and open season.

DESCRIPTION: This exempt regulation establishes statewide limits and open seasons for fishing in Kansas. The proposed amendments relate to updates to the reference document related to length and creel limits for specific bodies of water and the addition of one trout water.

FEDERAL MANDATE: None.

ECONOMIC IMPACT: The proposed changes would likely have no substantive economic impact to the department, other state agencies, small businesses, or the public.

ALTERNATIVES CONSIDERED: None.

Kansas Department of Wildlife, Parks, and Tourism

Kansas Special Size Limits, Creel Limits, and Bait Restriction Tables

Dated: June 30, 2014

Blue Catfish Creel Limits

5 fish daily creel limit

Cheney Reservoir, El Dorado Reservoir, Glen Elder Reservoir, Kanopolis Reservoir, Lovewell Reservoir, Milford Reservoir, Perry Reservoir, Wilson Reservoir

Blue Catfish Length Limits

35 inch minimum. Blue catfish of a length less than thirty-five (35) inches are protected and must be returned to the water immediately when taken from the following waters:

Cheney Reservoir, El Dorado Reservoir, Perry Reservoir, Wilson Reservoir, Glen Elder Reservoir, Lovewell Reservoir

Channel Catfish Creel Limits

2 fish daily creel limit

Andale-Renwick USD 267 Pond, Andover - Lake George, Arma City Lake, Atchison State Fishing Lake, Blue Mound City Lake, Bonner Springs - North Park Lake, Bourbon Co. Cedar Creek, Bourbon Co. Elm Creek Lake, Bourbon State Fishing Lake, Brown State Fishing Lake, Buhler City Pond, Butler State Fishing Lake, Chanute City Lake, Clinton State Park - Lake Henry, Clinton State Park - Picnic Area Pond, Columbus - VFW Pond, Colwich City Lake, Emporia - Jones Park Ponds, Emporia - Peter Pan Park, Fall River State Park Kids Pond, Fort Scott - Gunn Park Lake Fern, Fort Scott - Gunn Park Lake West, Fort Scott - Lake Fort Scott, Fort Scott Community College Lakes, Frontenac City Lake, Gardner City Lake, Garnett City Lake North, Garnett City Lake South, Greenbush Community Lake, Gridley City Lake, Harvey Co. Camp Hawk, Hays - Vineyard Park Pond, Haysville - Riggs Lake, Humboldt - Franklin Street Pond, Hutchinson - North Pond, Impounded F.I.S.H. Waters, Johnson Co. - Kill Creek Park Lake, Johnson Co. - Shawnee Mission Park, Johnson Co. - Shawnee Mission Pond, Johnson Co. Antioch North & South, Kanopolis State Park Pond, Kechi Lake, Kingman State Fishing Lake, Lansing City Lake, Lansing City Lake #2-Kenneth W. Bernard Community Park Pond, Lawrence - Mary's Lake, Lawrence Pat Dawson Billings N & S, Leavenworth - Jerry's Lake, Leavenworth State Fishing Lake, Leawood - Tomahawk Parkway Middle, Leawood - Tomahawk Parkway North , Leawood - Tomahawk Parkway South , Lebo City Lake, Lebo Kid's Pond, Lenexa – Mize Blvd. Lake, Lenexa - Rose's Pond, Linn Co. - Critzer Reservoir, Linn Co. Strip Pits, McPherson State Fishing Lake, Melvern River Pond, Milford Hatchery Water Supply Pond, Mound City Lake, Mt. Hope - Oak Street Park Pond, Mulberry City Park

Lake, Mulvane – Cedar Brook Pond, Nebo State Fishing Lake, New Strawn City Lake, Olathe - Black Bob Park Pond, Olathe - Cedar Lake, Olathe - Frisco Lake, Olathe - Mahaffie Farmstead Pond, Olathe - North Waterworks Park Lake, Olathe-Oregon Trail Park Pond, Olathe-Prairie Center Park Pond, Olathe - Prairie Center Pond, Olathe - Waterworks Lake, Olpe - Jones Park Pond, Osage City Lake, Osage State Fishing Lake, Overbrook City Lake, Overland Park - Amesbury Lake, Overland Park - Kingston Lake, Overland Park - Regency Lake, Overland Park - South Lake, Overland Park - Summercrest Lake, Overland Park - Wilderness Lake, Parker City Lake, Pittsburg - Lincoln Park Pond, Pittsburg - Lakeside Park Lake, Pittsburg - Wilderness Pond, Pleasanton City Lake - East, Pleasanton City Lake - West, Pratt County Lake, Richmond City Lake, Rose Hill – School Street Pond, Shawnee Co. Shawnee Jr., Spring Hill Woodland Ridge Pond, Topeka-Auburndale Park Stream, Topeka - Cedar Crest Pond, Topeka - Central Park Lake, Topeka - Clarion Lake, Topeka - Freedom Valley Lake, Topeka - Governor's Ponds East & West, Topeka-Horseshoe Bend Park Pond, Topeka - West Lake, Uniontown School Pond, Valley Center - McLaughlin Pond, Wichita - Harrison Park Lake, Woodson State Fishing Lake, Wyandotte Co. Big 11, Wyandotte Co. Bonner Lake, Wyandotte Co. Pierson Park Lake, Yates Center - South, Yates Center Reservoir – New

5 fish daily creel limit

Altamont City Lake, Arkansas City - Knebbler #2, Arkansas City 6th Street Pond, Arkansas City, Knebbler #1, Atchison City Lakes 1-4, 6-9, 23, 24, Atchison County Lake, Atwood Lake, Barber Lower, Barber Upper, Belleville City Lake (Rocky Pond), Benton - Poling Lake, Black Kettle State Fishing Lake, Bone Creek Reservoir, Carbondale East Lake, Centralia City Lake, Chase State Fishing Lake, Cherryvale City Lake (Tanko), Cimarron Grasslands Fishing Pits, Clark State Fishing Lake, Clearwater - Chisholm Ridge Lake, Coffeyville-LeClere Lake, Colby - Villa High Lake, Coldwater City Lake, Concannon State Fishing Lake, Council Grove City Lake, Cowley State Fishing Lake, Crawford State Fishing Lake, Derby - High Park, Derby - Rainbow Valley, Derby - Stone Creek, Dodge City - Lake Charles, Dodge City - Mariah Hills Golf Course, Douglas State Fishing Lake, Edna City Lake, Ellis City Lake, Eureka City Lake, Finney State Fishing Lake, Ford State Fishing Lake, Fort Scott - Rock Creek Lake, Garnett - Cedar Valley Reservoir, Geary State Fishing Lake, Goodman State Fishing Lake, Graham County - Antelope Lake, Great Bend Stone Lake, Great Bend Veteran's Park, Hain State Fishing Lake, Hamilton State Fishing Lake, Harvey County East Lake, Harvey County West Lake, Herington - Father Padilla Pond, Hiawatha City Lake, Hodgeman State Fishing Lake, Holton - Elkhorn Lake, Holton City (Prairie) Lake, Horsethief Reservoir, Horton Little Lake, Horton Mission Lake, Howard - Polk Daniels Lake, Hutchinson - Carey Park Lagoon & Pond, Hutchinson - Dillon Nature Center, Independence Community College-Campus Pond, Jackson County - Banner Creek , Jeffrey Energy Center, Jetmore City Lake, Jewell City Lake (Emerson Lake), Jewell State Fishing Lake, Junction City-Bluffs, Junction City - Rim Rock Lake, Junction City-Riverwalk, Junction City - Wetland Park, Kiowa State Fishing Lake, LaCrosse Warren Stone Memorial , Liberal-Arkalon Recreation Area, Logan City Lake, Logan State Fishing Lake, Louisburg - Middle Creek, Lyon State Fishing Lake, Madison City Lake, Marion County Lake, Meade State Fishing Lake, Miami State Fishing Lake, Milford State Park Pond, Mined Land Wildlife Area, Moline New City Lake, Moline Old City Lake, Montgomery State Fishing Lake, Neosho State Fishing Lake, Neosho Wildlife Area Pond, Newton-Sand Creek, Ogden City Lake, Olathe – Lake Olathe, Olpe City Lake, Osawatomie - Beaver Lake, Osawatomie City Lake,

Ottawa State Fishing Lake, Park City - Chisholm Pointe, Parsons City Lake, Plainville Township Lake, Pottawatomie 1, Pottawatomie 2, Pottawatomie Co. Cross Creek Lake, Prescott City Lake, Rooks State Fishing Lake, Sabetha - Pony Creek Lake, Sabetha City Lake, Salina - Indian Rock Pond, Salina - Lakewood Lake, Saline State Fishing Lake, Sandsage Bison Range & Wildlife Area, Scott State Fishing Lake, Sedan New City Lake, Sedan Old City Lake, Sedgwick Co. Lake Afton, Sedgwick Co. Park Lakes, Severy City Lake, Shawnee State Fishing Lake, Sheridan State Fishing Lake, Sherman County - Smoky Gardens, Sherman State Fishing Lake, St. Francis - Keller Lake, St. Francis Sand Pits, Syracuse-Sam's Pond, Thayer City Lake (New), Thayer City Lake (Old), Troy - 4-H Lake, Ulysses City Lake, Washington State Fishing Lake, Wellington - Hargis Creek Lake, Wellington City Lake, Wichita - Buffalo Park Lake, Wichita - Chisholm North Lake, Wichita - Cruiser Lake, Wichita - Dillon's Pond, Wichita - East KDOT, Wichita - Emery Park Pond, Wichita - South Lake, Wichita - SP1, Wichita - SP2, Wichita - Watson Park Lake, Wichita - West KDOT, Wilson State Fishing Lake, Wyandotte Co. Lake

Channel Catfish Length Limits

15 inch minimum. Channel catfish of a length less than fifteen (15) inches are protected and must be returned to the water immediately when taken from the following waters:

Altamont City Lake, Arma City Lake, Atchison City Lakes 1-4, 6-9, 23, 24, Atchison County Lake, Atchison State Fishing Lake, Atwood Lake, Belleville City Lake (Rocky Pond), Black Kettle State Fishing Lake, Blue Mound City Lake, Bone Creek Reservoir, Bourbon Co. Cedar Creek, Bourbon Co. Elm Creek Lake, Bourbon State Fishing Lake, Brown State Fishing Lake, Butler State Fishing Lake, Centralia City Lake, Chanute City Lake, Chase State Fishing Lake, Cherryvale City Lake (Tanko), Columbus - VFW Pond, Cowley State Fishing Lake, Crawford State Fishing Lake, Douglas County - Lonestar Lake, Douglas State Fishing Lake, Edgerton - Bridgewater Lake, Edna City Lake, Emporia - Jones Park Ponds, Emporia - Peter Pan Park, Eureka City Lake, Fall River State Park Kid's Pond, Fort Scott - Gunn Park Lake Fern, Fort Scott - Gunn Park Lake West, Fort Scott - Lake Fort Scott, Fort Scott Community College Lakes, Frontenac City Lake, Gardner City Lake, Garnett City Lake North, Garnett City Lake South, Greenbush Community Lake, Gridley City Lake, Harvey Co. Camp Hawk, Harvey County West Lake, Humboldt - Franklin Street Pond, Hutchinson - North Pond, Hiawatha City Lake, Holton Elkhorn Lake, Holton City Prairie Lake, Horton Little Lake, Horton Mission Lake, Howard - Polk Daniels Lake, Independence Community College-Campus Pond, Jackson County - Banner Creek Reservoir, Jewell City Lake (Emerson Lake), Jewell State Fishing Lake, Johnson Co. - Kill Creek Park Lake, Johnson Co. - Shawnee Mission Park , Johnson Co. - Shawnee Mission Pond, Johnson Co. Antioch North & South , Kingman State Fishing Lake, Leavenworth State Fishing Lake, Lebo City Lake, Linn Co. - Critzer Reservoir, Linn Co. Strip Pits, Logan City Lake, Louisburg-Middle Creek SFL, Lyon State Fishing Lake, Madison City Lake, Marion County Lake, McPherson State Fishing Lake, Melvern River Pond, Miami State Fishing Lake, Mined Land Wildlife Area, Moline New City Lake, Moline Old City Lake, Montgomery State Fishing Lake, Mound City Lake, Mulberry City Park Lake, Nebo State Fishing Lake, Neosho State Fishing Lake, Neosho Wildlife Area Pond, New Strawn City Lake, Olathe-Stagecoach Park Pond, Olpe City Lake, Olpe - Jones Park Pond, Osage City Lake, Osage State Fishing Lake, Osawatomie – Beaver Lake, Osawatomie City Lake, Overbrook City Lake, Overland Park - Amesbury Lake, Overland Park - Summercrest Lake, Overland Park - Wilderness Lake, Parker

City Lake, Parsons City Lake, Pittsburg - Lincoln Park Pond, Pittsburg - Lakeside Park lake, Pittsburg - Wilderness Pond, Pleasanton City Lake - East, Pleasanton City Lake - West, Pottawatomie 1, Pratt County Lake, Prescott City Lake, Richmond City Lake, Rose Hill – School Street Pond, Sabetha City Lake, Sabetha - Pony Creek Lake, Sedan New City Lake (South), Sedan Old City Lake (North), Severy City Lake, Sherman County – Smoky Gardens, Spring Hill Woodland Ridge Pond, Thayer City Lake (New), Thayer City Lake (Old), Troy 4-H Lake, Uniontown School Pond, Wellington – Hargis Creek Lake, Wellington City Lake, Wilson State Fishing Lake, Woodson State Fishing Lake, Yates Center - South, Yates Center Reservoir – New

Crappie Creel Limits

10 fish daily creel

Garnett City Lake North, Garnett City Lake South, Gridley City Lake, Holton - Elkhorn Lake, Humboldt - Franklin Street Pond, Lebo City Lake, Melvern River Pond, Milford Hatchery Water Supply Pond, New Strawn City Lake, Osage City Lake, Osage State Fishing Lake, Overbrook City Lake, Pleasanton City Lake – West, Troy - 4-H Lake, Wichita - Buffalo Park Lake, Wichita - Chisholm North Lake, Wichita - Cruiser Lake, Wichita - Dillon's Pond, Wichita - East KDOT, Wichita - South Lake, Wichita - Watson Park Lake, Wichita - West KDOT, Yates Center - South

20 fish daily creel

Atchison State Fishing Lake, Bone Creek Reservoir, Brown State Fishing Lake, Clinton Reservoir, Council Grove City Lake, Council Grove Reservoir, Frontenac City Lake, Glen Elder Reservoir, Hillsdale Reservoir, Jackson County - Banner Creek , Melvern Reservoir, Perry Reservoir, Sabetha - Pony Creek Lake, Thayer City Lake (New), Thayer City Lake (Old), Wellington City Lake, Winfield City Lake, Yates Center Reservoir – New

Crappie Length Limits

10 inch minimum. Crappie species of a length less than ten (10) inches are protected and must be returned to the water immediately when taken from the following waters:

Frontenac City Lake, Cheney Reservoir, Clinton Reservoir, Garnett City Lake North, Garnett City Lake South, Gridley City Lake, Hillsdale Reservoir, Humboldt - Franklin Street Pond, LaCygne Reservoir, Lebo City Lake, Melvern Reservoir, Melvern River Pond, Overbrook City Lake, Perry Reservoir, Pleasanton City Lake – West, Yates Center – South

Largemouth Bass Creel Limits

2 fish daily creel limit

Andale-Renwick USD 267 Pond, Andover - Lake George, Arma City Lake, Atchison State Fishing Lake, Atwood Lake, Benton - Poling Lake, Bourbon Co. Cedar Creek, Bourbon Co. Elm Creek Lake, Brown State Fishing Lake, Buhler City Pond, Carbondale East Lake, Chanute City Lake, Clearwater - Chisholm Ridge Lake, Coffeyville - LeClere Lake, Columbus - VFW Pond,

Colwich City Lake, Concannon State Fishing Lake, Crawford State Fishing Lake, Derby - High Park, Derby - Rainbow Valley, Derby - Stone Creek, Dodge City - Lake Charles, Emporia-Jones Park Ponds, Emporia-Peter Pan Park, Fall River State Park Kids Pond, Fort Scott - Gunn Park Lake Fern, Fort Scott - Gunn Park Lake West, Fort Scott - Lake Fort Scott, Fort Scott Community College Lakes, Frontenac City Lake, Greenbush Community Lake, Gridley City Lake, Harvey Co. Camp Hawk, Harvey County West Lake, Hiawatha City Lake, Holton City (Prairie) Lake, Horton Little Lake, Horton Mission Lake, Humboldt - Franklin Street Pond, Hutchinson - North Pond, Impounded F.I.S.H. Waters, Jackson County - Banner Creek , Johnson Co. - Kill Creek Park Lake, Johnson Co. - Shawnee Mission Park , Johnson Co. - Shawnee Mission Pond, Johnson Co. Antioch North & South , Kanopolis State Park Pond, Kechi Lake, Lansing City Lake, Lebo City Lake, Lebo Kid's Pond, Linn Co. - Critzer Reservoir, Linn Co. Strip Pits, Louisburg - Middle Creek, Melvern River Pond, Milford Hatchery Water Supply Pond, Mt. Hope - Oak Street Park Pond, Mulberry Park Lake, Mulvane – Cedar Brook Pond, Nebo State Fishing Lake, New Strawn City Lake, Olpe-Jones Park Pond, Osage City Lake, Osage State Fishing Lake, Overbrook City Lake, Overland Park - Kingston Lake, Overland Park - Regency Lake, Overland Park - South Lake, Park City - Chisholm Pointe, Parker City Lake, Pittsburg - Lincoln Park Pond, Pittsburg - Lakeside Park lake, Pittsburg - Wilderness Pond, Pleasanton City Lake - East, Pleasanton City Lake - West, Pratt County Lake, Richmond City Lake, Rose Hill – School Street Pond, Sabetha - Pony Creek Lake, Sabetha City Lake, Sandsage Bison Range & Wildlife Area, Sedgwick Co. Park Lakes, Shawnee County - Lake Shawnee, Sherman County - Smoky Gardens, Uniontown School Pond, Valley Center-Arrowhead Park Lake, Valley Center - McLaughlin Pond, Wellington - Hargis Creek Lake, Wellington City Lake, Wichita - Buffalo Park Lake, Wichita - Chisholm North Lake, Wichita - Cruiser Lake, Wichita - Dillon's Pond, Wichita - East KDOT, Wichita - Emery Park Pond, Wichita - Harrison Park Lake, Wichita - South Lake, Wichita - SP1, Wichita - SP2, Wichita - Watson Park Lake, Wichita - West KDOT, Wyandotte Co. Bonner Lake

Largemouth Bass Length Limits

13 -18 inch slot limit. Largemouth bass between the lengths of thirteen (13) and eighteen (18) inches are protected and must be returned to the water immediately when taken from the following waters:

Altamont City Lake, Bone Creek Reservoir, Chase State Fishing Lake, Council Grove City Lake, Douglas County - Lonestar Lake, Douglas State Fishing Lake, Garnett City Lake North, Garnett City Lake South, Goodman State Fishing Lake, Graham County - Antelope Lake, Harvey County East Lake, Holton - Elkhorn Lake, Howard - Polk Daniels Lake, Jetmore City Lake, Jewell State Fishing Lake, Lenexa - Lake Lenexa, Linn Co. Strip Pits, Lyon State Fishing Lake, Madison City Lake, McPherson State Fishing Lake, Meade State Fishing Lake, Melvern River Pond, Miami State Fishing Lake, Mined Land Wildlife Area, Moline New City Lake, Moline Old City Lake, Montgomery State Fishing Lake, Mound City Lake, Osage State Fishing Lake, Osawatomie - Beaver Lake, Osawatomie City Lake, Overbrook City Lake, Paola - Lake Miola, Parker City Lake, Pottawatomie Co. Cross Creek Lake, Richmond City Lake, Sedan New City Lake, Sedan Old City Lake, Thayer City Lake (New), Thayer City Lake (Old), Troy - 4-H Lake, Woodson State Fishing Lake, Yates Center Reservoir – New

18 inch minimum. Largemouth bass of a length less than eighteen (18) inches are protected and must be returned to the water immediately when taken from the following waters:

Alma City Lake, Andale-Renwick USD 267 Pond, Andover - Lake George, Arma City Lake, Atchison State Fishing Lake, Atwood Lake, Benton - Poling Lake, Black Kettle State Fishing Lake, Brown State Fishing Lake, Buhler City Pond, Carbondale East Lake, Centralia City Lake, Cherryvale City Lake (Tanko), Clearwater - Chisholm Ridge Lake, Clinton Reservoir, Clinton State Park - Lake Henry, Clinton State Park - Picnic Area Pond, Coffeyville - LeClere Lake, Colwich City Lake, Crawford State Fishing Lake, Derby - High Park, Derby - Rainbow Valley, Derby - Stone Creek, Dodge City - Lake Charles, Douglas State Fishing Lake, Edna City Lake, El Dorado Reservoir, Emporia-Jones Park Ponds, Emporia-Peter Pan Park, Eskridge - Lake Wabaunsee, Eureka City Lake, Fall River State Park Kids Pond, Fort Scott - Gunn Park Lake Fern, Fort Scott - Gunn Park Lake West, Fort Scott - Lake Fort Scott, Fort Scott Community College Lakes, Frontenac City Lake, Garnett - Cedar Valley Reservoir, Glen Elder Park Pond, Glen Elder Reservoir, Greenbush Community Lake, Gridley City Lake, Harvey County West Lake, Harveyville City Lake, Herington City Lake - New, Herington City Lake - Old, Herington - Father Padilla Pond, Hillsdale Reservoir, Holton City (Prairie) Lake, Horton – Mission Lake, Horton Little Lake, Humboldt - Franklin Street Pond, Hutchinson - North Pond, Impounded F.I.S.H. Waters, Jackson County - Banner Creek , Jewell City Lake (Emerson Lake), Johnson Co. - Kill Creek North Pond, Johnson Co. - Kill Creek Park Lake, Johnson Co. - Kill Creek South Pond, Johnson Co. - Shawnee Mission Park , Johnson Co. - Shawnee Mission Pond, Johnson Co. Antioch North & South , Kanopolis State Park Pond, Kechi Lake, Kingman State Fishing Lake, LaCygne Reservoir, Lebo City Lake, Lebo Kid's Pond, Logan City Lake, Louisburg - Middle Creek, Marion County Lake, Marion Reservoir, Melvern Reservoir, Mt. Hope - Oak Street Park Pond, Mulvane – Cedar Brook Pond, Nebo State Fishing Lake, Neosho State Fishing Lake, Olathe - Cedar Lake, Olathe - Lake Olathe, Olpe-Jones Park Pond, Osage City Lake, Park City - Chisholm Pointe, Perry Reservoir, Pratt County Lake, Rooks State Fishing Lake, Rose Hill – School Street Pond, Sabetha - Pony Creek Lake, Sabetha City Lake, Salina - Indian Rock Pond, Salina - Lakewood Lake, Sedgwick Co. Lake Afton, Sedgwick Co. Park Lakes, Shawnee Co. Lake Shawnee, Sherman County - Smoky Gardens, Tuttle Creek Reservoir, Tuttle Creek Willow Lake, Uniontown School Pond, Valley Center-Arrowhead Park Lake, Valley Center - McLaughlin Pond, Wellington - Hargis Creek Lake, Wellington City Lake, Wichita - Buffalo Park Lake, Wichita - Chisholm North Lake, Wichita - Cruiser Lake, Wichita - Dillon's Pond, Wichita - East KDOT, Wichita - Emery Park Pond, Wichita - Harrison Park Lake, Wichita - South Lake, Wichita - SP1, Wichita - SP2, Wichita - Watson Park Lake, Wichita - West KDOT, Yates Center - South

21 inch minimum. Largemouth bass of a length less than twenty-one (21) inches are protected and must be returned to the water immediately when taken from the following waters:

Big Hill Reservoir, Big Hill Wildlife Area, Bourbon Co. Cedar Creek, Bourbon Co. Elm Creek Lake, Harvey Co. Camp Hawk, Linn Co. - Critzer Reservoir, New Strawn City Lake, Pleasanton City Lake - East, Pleasanton City Lake - West

Smallmouth Bass Creel Limit

2 fish daily creel limit

Atchison State Fishing Lake, Bourbon Co. Cedar Creek, Bourbon Co. Elm Creek Lake, Douglas County - Lonestar Lake, Fort Scott - Lake Fort Scott, Garnett City Lake North, Gridley City Lake, Jackson County - Banner Creek , Johnson Co. - Kill Creek Park Lake, Leavenworth State Fishing Lake, Lebo City Lake, Linn Co. - Critzer Reservoir, Milford Hatchery Water Supply Pond, New Strawn City Lake, Osage State Fishing Lake, Overbrook City Lake, Pleasanton City Lake - East, Pleasanton City Lake - West, Sabetha - Pony Creek Lake, Shawnee Co. Lake Shawnee, Woodson State Fishing Lake

Smallmouth Bass Length Limit

18 inch minimum. Smallmouth bass of a length less than eighteen (18) inches are protected and must be returned to the water immediately when taken from the following waters:

Bourbon Co. Cedar Creek, Bourbon Co. Elm Creek Lake, Alma City Lake, Atchison State Fishing Lake, Big Hill Reservoir, Douglas County - Lonestar Lake, El Dorado Reservoir, Eskridge - Lake Wabaunsee, Fort Scott - Lake Fort Scott, Garnett City Lake North, Glen Elder Park Pond, Glen Elder Reservoir, Gridley City Lake, Jackson County - Banner Creek , Johnson Co. - Kill Creek Park Lake, LaCygne Reservoir, Leavenworth State Fishing Lake, Lebo City Lake, Linn Co. - Critzer Reservoir, Marion County Lake, Melvern Reservoir, New Strawn City Lake, Osage State Fishing Lake, Overbrook City Lake, Perry Reservoir, Sabetha - Pony Creek Lake, Shawnee Co. Lake Shawnee, Woodson State Fishing Lake, Wyandotte Co. Lake

Spotted Bass Creel Limit

2 fish daily creel limit

Chanute City Lake, Fort Scott - Lake Fort Scott, Melvern River Pond, Milford Hatchery Water Supply Pond

Spotted Bass Length Limit

18 inch minimum. Spotted bass of a length less than eighteen (18) inches are protected and must be returned to the water immediately when taken from the following waters:

El Dorado Reservoir, Eureka City Lake

Walleye Creel Limits

2 fish daily creel limit

Atchison State Fishing Lake, Bone Creek Reservoir, Bourbon Co. Cedar Creek, Bourbon Co. Elm Creek Lake, Bourbon State Fishing Lake, Brown State Fishing Lake, Carbondale East Lake, Cheney Reservoir, Crawford State Fishing Lake, El Dorado Reservoir, Fort Scott - Lake Fort Scott, Garnett – Cedar Valley Reservoir, Garnett City Lake North, Garnett City Lake South,

Gridley City Lake, Harvey County East Lake, Jackson County - Banner Creek , Jeffery Energy Center, Johnson Co. - Kill Creek Park Lake, Leavenworth State Fishing Lake, Lebo City Lake, Linn Co. - Critzer Reservoir, Marion County Lake, Melvern River Pond, Milford Hatchery Water Supply Pond, Mound City Lake, New Strawn City Lake, Osage City Lake, Osage State Fishing Lake, Overbrook City Lake, Paola - Lake Miola, Pleasanton City Lake - East, Pratt County Lake, Richmond City Lake, Sabetha - Pony Creek Lake, Sabetha City Lake, Sedgwick Co. Lake Afton, Shawnee Co. Lake Shawnee, Wichita - Chisholm North Lake, Woodson State Fishing Lake, Wyandotte Co. Lake, Yates Center - South, Yates Center Reservoir – New

Walleye Length Limits

18 inch minimum. Walleye of a length less than eighteen (18) inches are protected and must be returned to the water immediately when taken from the following waters:

Alma City Lake, Atchison State Fishing Lake, Big Hill Reservoir, Bone Creek Reservoir, Bourbon Co. Cedar Creek, Bourbon Co. Elm Creek Lake, Bourbon State Fishing Lake, Brown State Fishing Lake, Carbondale East Lake, Cedar Bluff Reservoir, Centralia City Lake, Chase State Fishing Lake, Council Grove City Lake, Crawford State Fishing Lake, Eskridge - Lake Wabaunsee, Eureka City Lake, Fort Scott - Lake Fort Scott, Garnett – Cedar Valley Reservoir, Garnett City Lake North, Garnett City Lake South, Glen Elder Reservoir, Gridley City Lake, Harvey County East Lake, Harveyville City Lake, Herington City Lake - New, Hillsdale Reservoir, Jackson County - Banner Creek, Johnson Co. - Kill Creek Park Lake, Keith Sebelius (Norton), Kingman State Fishing Lake, Lebo City Lake, Linn Co. - Critzer Reservoir, Lovewell Reservoir, Marion County Lake, Marion Reservoir, Melvern River Pond, Melvern Reservoir, Milford Reservoir, Mined Land Wildlife Area, Mound City Lake, Osage City Lake, Perry Reservoir, Pleasanton City Lake - East, Pomona Reservoir, Pratt County Lake, Richmond City Lake, Sabetha - Pony Creek Lake, Sabetha City Lake, Scott State Fishing Lake, Wellington City Lake, Wichita - Chisholm North Lake, Wilson State Fishing Lake, Winfield City Lake, Woodson State Fishing Lake, Wyandotte Co. Lake

21 inch minimum. Walleye of a length less than twenty-one (21) inches are protected and must be returned to the water immediately when taken from the following waters:

Cheney Reservoir, El Dorado Reservoir, Sedgwick Co. Lake Afton

Sauger Creel Limit

2 fish daily creel limit

Jackson County - Banner Creek, Milford Hatchery Water Supply Pond

Sauger Length Limits

18 inch minimum. Sauger of a length less than eighteen (18) inches are protected and must be returned to the water immediately when taken from the following waters:

Jackson County - Banner Creek, Perry Reservoir

Saugeye Creel Limits

2 fish daily creel limit

Bourbon Co. Elm Creek Lake, Bourbon State Fishing Lake, Carbondale East Lake, Chanute City Lake, Crawford State Fishing Lake, Douglas State Fishing Lake, Gardner City Lake, Graham County - Antelope Lake, Harvey County East Lake, Harvey County West Lake, Louisburg - Middle Creek, Marion County Lake, Milford Hatchery Water Supply Pond, Nebo State Fishing Lake, Pleasanton City Lake - East, Sabetha City Lake, Sedgwick Co. Lake Afton, Sherman County - Smoky Gardens, Wellington - Hargis Creek Lake, Wichita - Buffalo Park Lake, Wichita - Chisholm North Lake, Wichita - Watson Park Lake

Saugeye Length Limits

18 inch minimum. Saugeye of a length less than eighteen (18) inches are protected and must be returned to the water immediately when taken from the following waters:

Bourbon Co. Elm Creek Lake, Bourbon State Fishing Lake, Carbondale East Lake, Centralia City Lake, Chanute City Lake, Chase State Fishing Lake, Crawford State Fishing Lake, Eskridge - Lake Wabaunsee, Eureka City Lake, Gardner City Lake, Geary State Fishing Lake, Graham County - Antelope Lake, Harvey County East Lake, Harvey County West Lake, Harveyville City Lake, Keith Sebelius (Norton), Louisburg - Middle Creek, Marion County Lake, McPherson State Fishing Lake, Nebo State Fishing Lake, Ottawa State Fishing Lake, Parsons City Lake, Perry Reservoir, Pleasanton City Lake - East, Sabetha City Lake, Scott State Fishing Lake, Sherman County - Smoky Gardens, Washington State Fishing Lake, Wellington - Hargis Creek Lake, Wellington City Lake, Wichita - Buffalo Park Lake, Wichita - Chisholm North Lake, Wichita - Watson Park Lake

21 inch minimum. Saugeye of a length less than twenty-one (21) inches are protected and must be returned to the water immediately when taken from the following waters:

Sedgwick Co. Lake Afton

Striped Bass Length Limits

18 inch minimum. Striped bass of a length less than eighteen (18) inches are protected and must be returned to the water immediately when taken from the following waters:

Crawford State Fishing Lake, LaCygne Reservoir, Pleasanton City Lake – East

21 inch minimum. Striped bass of a length less than twenty-one (21) inches are protected and must be returned to the water immediately when taken from the following waters:

Cheney Reservoir

Wiper Creel Limits

5 fish daily creel limit

Coldwater City Lake, Douglas County - Lonestar Lake, Leavenworth State Fishing Lake, Marion Reservoir, Paola - Lake Miola, Shawnee Co. Lake Shawnee

Wiper Length Limits

18 inch minimum. Wipers of a length less than eighteen (18) inches are protected and must be returned to the water immediately when taken from the following waters:

Atchison City Lake #7, Carbondale East Lake, Chanute City Lake, Clinton Reservoir, Council Grove Reservoir, Douglas County - Lonestar Lake, El Dorado Reservoir, Garnett - Cedar Valley Reservoir, Garnett City Lake North, Garnett City Lake South, Great Bend Stone Lake, Gridley City Lake, Horton Little Lake, Jetmore City Lake, Kiowa State Fishing Lake, LaCygne Reservoir, Leavenworth State Fishing Lake, Lebo City Lake, Louisburg - Middle Creek, Marion County Lake, Melvern River Pond, Mined Land Wildlife Area, New Strawn City Lake, Olathe - Cedar Lake, Olathe - Lake Olathe, Osage City Lake, Osage State Fishing Lake, Ottawa State Fishing Lake, Overbrook City Lake, Plainville Township Lake, Pleasanton City Lake - East, Pomona Reservoir, Pratt County Lake, Sabetha - Pony Creek Lake, Shawnee Co. Lake Shawnee, Wellington City Lake, Wichita - Buffalo Park Lake, Wichita - Chisholm North Lake, Wichita - East KDOT, Wichita - Watson Park Lake, Wichita - West KDOT, Winfield City Lake, Woodson State Fishing Lake, Wyandotte Co. Lake, Yates Center - South, Yates Center Reservoir – New

21 inch minimum. Wipers of a length less than twenty-one (21) inches are protected and must be returned to the water immediately when taken from the following waters:

Cheney Reservoir, El Dorado Reservoir, Sedgwick Co. Park Lakes

Paddlefish Length Limits

34 inch minimum length limit. Measured from eye to middle of fork of tail.

Marais des Cygnes River

Brown Trout Length Limits

20 inch minimum. Brown Trout of a length less than twenty (20) inches are protected and must be returned to the water immediately when taken from the following waters:

Mined Land Wildlife Area

Brown Trout Creel Limits

1 fish daily creel limit

Mined Land Wildlife Area

Length and Creel Limits for the Missouri River (Kansas-Missouri Boundary Waters which includes the Browning Oxbow):

Length limits on that portion of the Missouri River which bound the Kansas-Missouri state boundary (Kansas-Missouri Boundary Waters and the Browning Oxbow): Black bass (largemouth, spotted and smallmouth bass) of a length less than twelve (12) inches, Channel Catfish, Sauger, and Walleye of a length less than fifteen (15) inches, and only paddlefish of a length less than twenty-four (24) inches are protected and must be returned to the water immediately.

Daily creel limits on that portion of the Missouri River which bound the Kansas-Missouri state boundaries (Kansas-Missouri Boundary Waters and the Browning Oxbow): Catfish (Blue and Flathead) daily creel limit of five (5) fish each; Channel Catfish daily creel limit of ten (10) fish; Crappie (white and black; single species or in combination) daily creel limit of thirty (30) fish; Walleye, Sauger and their hybrids (single species or in combination) daily creel limit of four (4) fish; *Morone* sps. (Yellow bass, Striped bass, White bass and their hybrids; single species or in combination) daily creel limit of fifteen (15) fish; Paddlefish daily creel limit of two (2) fish; Black Bass (Largemouth, Spotted, and Smallmouth; single species or in combination) daily creel limit of six (6) fish; all other species (excluding T&E and SINC species) daily creel limit of fifty (50) fish.

All fish caught from the Missouri River Boundary Waters that are a size or number that is illegal to possess, shall be released unrestricted to the water immediately.

Kanopolis Seep Stream (Sand Creek)

Artificial bait only (lures or fly fishing) at power poles number 9 through number 16.

Pratt Backwaters, Pratt Centennial Pond & Pratt Kids' Fishing Pond:

Pratt Centennial Pond: Fishing hours shall be from 6 a.m. to 10 p.m. All species of fish caught shall be immediately returned to the waters of Centennial Pond, except there shall be a daily creel limit of two (2) rainbow trout.

Pratt Kids' Fishing Pond: Fishing Hours shall be from 6 a.m. to 10 p.m. Children ten (10) years of age or less shall be accompanied by a person sixteen (16) years of age or older. The following creel limits on the Pratt Kids' Fishing Pond: Two fish of a single species or a combination of species per day.

Pratt Backwaters: Fishing Hours shall be from 6 a.m. to 10 p.m.

Length and Creel Limits for Coffey County Lake:

Length limits on Coffey County Lake: Wipers of a length less than twenty-one (21) inches, largemouth bass of a length less than eighteen (18) inches, smallmouth bass of a length less than eighteen (18) inches, walleye of a length less than twenty-one (21) inches, and crappie (black and white species) of a length less than twelve (12) inches are protected and must be returned to the water immediately.

Daily creel limits on Coffey County Lake: Wiper creel limit of one (1), largemouth bass creel limit of two (2), smallmouth bass creel limit of two (2), crappie, black and white species (single species or in combination) creel limit of five (5), walleye creel limit of two (2), blue catfish creel limit of five (5), and channel catfish creel limit of ten (10) per day.

No trotlines or setlines allowed.

Paddlefish Snagging Locations:

Locations open to paddlefish snagging during the paddlefish season (March 15-May 15): Posted areas inside the city parks at Burlington and Chetopa on the Neosho River, Neosho River at Iola downstream from dam downstream to posted Iola city property boundary, Marais des Cygnes River below Osawatomie Dam downstream to posted boundary, Marais des Cygnes River on the upstream boundary of the Marais des Cygnes Wildlife Area downstream to Kansas-Missouri state line, and the Browning Oxbow Lake of the Missouri River.

At the posted area inside the city park at Chetopa on the Neosho River, each individual fishing for paddlefish shall use barbless hooks while fishing. "Barbless hook" shall mean a hook without barbs or upon which the barbs have been bent completely closed.

Float Fishing Locations:

Locations open to float fishing during the float fishing season (July 15-September 15): Council Grove Reservoir, Elk City Reservoir, Fall River Reservoir, Glen Elder Reservoir, Hillsdale Reservoir, John Redmond Reservoir, Kanopolis Reservoir, Lovewell Reservoir, Pomona Reservoir, Toronto Reservoir, Tuttle Creek Reservoir, Wilson Reservoir.

Tallgrass Prairie Preserve F.I.S.H. Properties:

All species of fish are protected and must be returned to the water immediately when taken from this property.

Wichita – Chisholm Island Pond:

All fishing shall be with artificial flies and lures only and shall be the only tackle allowed on such person while fishing this water, except for during KDWP-sponsored fishing clinics. All

species of fish caught shall be immediately returned to the waters of Wichita - Chisholm Island Pond.

Sedgwick County - Slough Creek:

All fishing during trout season (October 15-April 15) will be done with flies only. A fly is defined as: a device constructed on a single-pointed hook from feather, chenille, yarn, silk, rayon, nylon thread or floss, with or without a spinner. The following are not flies and are not allowed in your possession while fishing this area: Molded plastic or rubber baits; foods and organic baits such as worms, grubs, crickets, leeches, minnows and fish eggs; and manufactured baits, including imitation fish eggs, dough baits and stink baits.

Length and Creel Limits for Grand Osage Wildlife Area:

Length limits on Grand Osage Wildlife Area: Largemouth bass between the lengths of thirteen (13) and eighteen (18) inches, and channel catfish of a length less than fifteen (15) inches are protected and must be returned to the water immediately.

Daily creel limits on Grand Osage Wildlife Area: Largemouth bass creel limit of five (5), and channel catfish creel limit of two (2).

115-7-10. Fishing; special provisions. (a) A person who takes any fish from a body of water shall not tag, mark, brand, clip any fin of, mutilate, or otherwise disfigure any fish in a manner that would prevent species identification, examination of fins, recovery of tags, or determination of sex, age, or length of the fish before releasing the fish back into the body of water, unless a permit authorizing this activity has been issued to that person by the department.

(b) No person may possess any live fish upon departure from any designated aquatic nuisance body of water, except during a department-permitted fishing tournament. During a department- permitted fishing tournament, any individual may possess live fish upon departure from designated aquatic nuisance waters along the most direct route to the weigh-in site if the individual possesses a department authorization certificate as a participant in the tournament. Designated aquatic nuisance waters shall be those specified in the department's "Kansas designated aquatic nuisance waters tables," dated ~~October 2, 2012~~ July 24, 2014, which is hereby adopted by reference.

(c) Each person who purchases live baitfish from a commercial bait dealer shall possess the receipt while fishing with the live baitfish.

(d) No person may fish or collect bait within a fish passage, fish ladder, fish steps, or fishway. "Fish passage, fish ladder, fish steps, or fishway" shall mean a structure that facilitates the natural migration of fish upstream on, through, or around an artificial barrier or dam.

(Authorized by and implementing K.S.A. ~~2012~~ 2013 Supp. 32-807; effective Nov. 20, 2009; amended Jan. 1, 2012; amended Jan. 1, 2013; amended Nov. 15, 2013; amended P-_____.)

ECONOMIC IMPACT STATEMENT

K.A.R. 115-7-10. Fishing; special provisions.

DESCRIPTION: This permanent regulation establishes special provisions related to fishing.

The proposed amendments would update the reference document related to new invasive species waters.

FEDERAL MANDATE: None.

ECONOMIC IMPACT: It is anticipated that there would be no substantive economic impact to the department, other state agencies, small businesses, or the public.

ALTERNATIVES CONSIDERED: None.

Kansas Department of Wildlife, Parks, and Tourism
Kansas Designated Aquatic Nuisance Waters Tables

Dated: July 24, 2014

Designated waters containing select prohibited species

Kansas River

Missouri River

El Dorado Reservoir

Walnut River from El Dorado Reservoir dam to Oklahoma

Winfield City Lake

Timber creek from Winfield City Lake dam to confluence of the Walnut River

Cheney Reservoir

North Fork Ninnescah River from Cheney Reservoir dam to confluence of the Arkansas River

Arkansas River from Lincoln Street Dam in Wichita to Oklahoma state line

Perry Reservoir

Delaware River from Perry Reservoir dam to confluence of the Kansas River

Marion Reservoir

Cottonwood River from Marion Reservoir dam to confluence of the Neosho River

John Redmond Reservoir

Milford Reservoir

Republican River from Milford Reservoir dam to confluence of the Smoky Hill River

Jeffery Energy Center Make-up Lake

Jeffery Energy Center Auxiliary Lake

Council Grove City Lake

Council Grove Reservoir

Neosho River from Council Grove Reservoir dam to Oklahoma state line

Kanopolis Reservoir

Smoky Hill River from Kanopolis Reservoir dam to confluence of the Republican River

Melvern Reservoir

Marais des Cygnes River from Melvern Reservoir dam to Missouri state line

Melvern Reservoir River Pond

Melvern Reservoir Rearing Pond

Wilson Reservoir

Saline River from Wilson Reservoir dam to confluence of the Smoky Hill River

Lake Afton

Clearwater Creek to confluence of the Ninnescah River

Coffey County Lake (Wolf Creek Nuclear Operating Corporation Lake)

Kingman Hoover Pond

Kingman State Fishing Lake

Camp Minnescah dam, South Fork Ninnescah River to confluence of the North Fork Ninnescah

Chase County State Fishing Lake

Sedgwick County Park Lakes

Vic's Lake, Horseshoe Lake, Tom Scott Lake, Moss Lake and Kids Pond at Sedgwick County Park

Hutchinson Carey Park Pond

Lagoon and Fishing pond

Clinton Reservoir

Wakarusa River from Clinton Reservoir dam to confluence of the Kansas River

Big Blue River from Rocky Ford dam to confluence of the KS River

Browning Oxbow

Spirit/Boeing Employee Association Lake

Glen Elder Reservoir (Waconda Lake)

Solomon River from Glen Elder Dam to confluence with the Smoky Hill River

Lake Wabaunsee

East Branch of Mill Creek below Lake Wabaunsee

Lake Shawnee

Deer Creek from Lake Shawnee dam to confluence with the Kansas River

Atchison County

Independence Creek from Atchison SFL to confluence of MO River

Walnut Creek to confluence of MO River

Lang Hollow to confluence of MO

Owl Creek to confluence of MO

Little Walnut Creek to confluence with MO

Brown County

Terrapin Creek to confluence of Walnut Creek

Mulberry creek to confluence of Walnut Creek

Walnut Creek to Nebraska state line

Doniphan County

Squaw creek to confluence of the MO

Spring Creek to confluence of MO

Mill Creek to confluence of MO

Mission creek to confluence of MO

Wolf River

Brush Creek to confluence of the MO

Mosquito Creek to confluence of the MO

Smith Creek to confluence of the MO

Peters Creek to confluence of the MO

Douglas County

Mud Creek to confluence of the KS

Nemaha County

S Fork Big Nemaha River to Nebraska State Line

Burger Creek to confluence of Turkey Creek

Turkey Creek to confluence of the S Fork Big Nemaha River

Clear Creek to confluence of Turkey Creek

Negro Creek to confluence of Clear Creek

Manley Creek to confluence of Pole Creek

Pole Creek to confluence of Turkey Creek

Harris Creek to Confluence of the S Fork Big Nemaha River

Wildcat Creek to confluence of Harris Creek

S Fork Wildcat Creek to confluence of Wildcat Creek

N Fork Wildcat Creek to confluence of Wildcat Creek

Fisher Creek to confluence of S Fork Big Nemaha River

Tennessee Creek to confluence of S Fork Big Nemaha River

Illinois Creek to confluence of the S Fork Big Nemaha River

Deer Creek from Sabetha City Lake to confluence of the S Fork Big Nemaha River

Wolf Pen Creek to confluence of Deer Creek

Four Mile Creek to Nebraska State Line

Rock Creek to Nebraska State Line

Johnson County

Coffee Creek to confluence of Wolf Creek

Wolf Creek to confluence of the Little Blue River

Little Blue River to Big Blue River

Big Blue River to Missouri State Line

Leavenworth County

Stranger Creek to confluence of the KS

115-2-3. Camping, utility, and other fees. (a) Each overnight camping permit shall be valid only for the state park for which it is purchased and shall expire at 2:00 p.m. on the day following its effective date.

(b) Any annual camping permit may be used in any state park for unlimited overnight camping, subject to other laws and regulations of the secretary. This permit shall expire on December 31 of the year for which it is issued.

(c) Any 14-night camping permit may be used in any state park. This permit shall expire when the permit has been used a total of 14 nights, or on December 31 of the year for which it is issued, whichever is first.

(d) Camping permits shall not be transferable.

(e) The fee for a designated prime camping area permit shall be in addition to the overnight, annual, 14-night, or other camping permit fee, and shall apply on a nightly basis.

(f) Fees shall be due at the time of campsite occupancy and by noon of any subsequent days of campsite occupancy.

(g) Fees set by this regulation shall be in addition to any required motor vehicle permit fee specified in K.A.R. 115-2-2.

(h) The following fees shall be in effect for state parks and for other designated areas for which camping and utility fees are required:

Camping--per camping unit (April 1 through September 30):

Annual camping permit \$ 200.00

Overnight camping permit 7.00

14-night camping permit 99.00

Prime camping area permit 2.00

Camping--per camping unit (October 1 through March 31):

Annual camping permit 150.00

Overnight camping permit 6.00

14-night camping permit 85.00

Overflow primitive camping permit, per night 5.00

Recreational vehicle seasonal camping permit, except for El Dorado, Milford, Sand Hills, and Tuttle Creek State Parks (includes utilities)--per month, per unit (annual camping permit and annual vehicle permit required):

One utility 270.50

Two utilities 330.50

Three utilities 390.50

Recreational vehicle seasonal camping permit for El Dorado, Milford, Sand Hills, and Tuttle Creek State Parks (includes utilities)--per month, per unit (annual camping permit and annual vehicle permit required):

One utility 310.50

Two utilities 370.50

Three utilities 430.50

Recreational vehicle short-term parking--per month 50.00

Utilities--electricity, water, and sewer hookup per night, per unit:

One utility 9.00

Two utilities 11.00

Three utilities 12.00

Youth group camping permit in designated areas, per camping unit--per night 2.50

Group camping permit in designated areas, per person--per night	1.50
Reservation fee, per reservation (camping, special use, or day use)	10.00
Rent-a-camp: equipment rental per camping unit--per night	15.00
Duplicate permit	10.00
Special event permit negotiated based on event type, required services, and lost revenue—maximum.....	
	200.00

This regulation shall be effective on and after January 1, 2015. (Authorized by and implementing K.S.A. 2013 Supp. 32-807 and 32-988; effective Jan. 22, 1990; amended Jan. 28, 1991; amended June 8, 1992; amended Oct. 12, 1992; amended Aug. 21, 1995; amended Sept. 19, 1997; amended Jan. 1, 1999; amended Jan. 1, 2001; amended Jan. 1, 2003; amended Jan. 1, 2005; amended Jan. 1, 2009; amended Jan. 1, 2011; amended April 8, 2011; amended Jan. 1, 2012; amended May 24, 2013; amended Feb. 7, 2014; amended P-_____.)

ECONOMIC IMPACT STATEMENT

K.A.R. 115-2-3. Camping, utility, and other fees.

DESCRIPTION: This regulation establishes the overnight and annual camping permit prices, fees for utility connections, and related fees within state parks. This is a user fee regulation and the proposed amendments would add Sand Hills state park to the higher priced list of parks for monthly recreational vehicle camping.

FEDERAL MANDATE: None.

ECONOMIC IMPACT: Because this amendment to the regulation is adding a new facility, any amount generated would be purely speculative at this point but it would all be borne from user fees. Otherwise, the proposed amendments are not anticipated to have any appreciable economic impact on the department, small businesses, other agencies, or the public.

ALTERNATIVES CONSIDERED: None.

115-15-1. Threatened and endangered species; general provisions. (a) The following species shall be designated endangered within the boundaries of the state of Kansas.

(1) Invertebrates

Flat floater mussel, *Anodonta suborbicularis* (Say, 1831)

Rabbitsfoot mussel, *Quadrula cylindrica* (Say, 1817)

Western fanshell mussel, *Cyprogenia aberti* (Conrad, 1850)

Neosho mucket mussel, *Lampsilis rafinesqueana* (Frierson, 1927)

Elktoe mussel, *Alasmidonta marginata* (Say, 1818)

Ellipse mussel, *Venustaconcha ellipsiformis* (Conrad, 1836)

Slender walker snail, *Pomatiopsis lapidaria* (Say, 1817)

Scott optioservus riffle beetle, *Optioservus phaeus* (White, 1978)

American burying beetle, *Nicrophorus americanus* (Olivier, 1890)

Mucket, *Actinonaias ligamentina* (Lamarck, 1819)

(2) Fish

Arkansas River shiner, *Notropis girardi* (Hubbs and Ortenburger, 1929)

Pallid sturgeon, *Scaphirhynchus albus* (Forbes and Richardson, 1905)

Sicklefin chub, *Macrhybopsis meeki* (Jordan and Evermann, 1896)

~~Arkansas River speckled Peppered~~ chub, *Macrhybopsis tetraneura* (Gilbert, 1886)

Silver chub, *Macrhybopsis storriiana* (Kirtland, 1845)

(3) Amphibians

Cave salamander, *Eurycea lucifuga* (Rafinesque, 1822)

~~Many ribbed~~ salamander, *Eurycea multiplicata* (Cope, 1869)

Grotto salamander, *Eurycea spelaea* (Stejneger, 1892)

(4) Birds

~~Black-capped vireo, *Vireo atricapilla* (Woodhouse, 1852)~~

~~Eskimo curlew, *Numenius borealis* (Forster, 1772)~~

Least tern, *Sterna antillarum* (Lesson, 1847)

Whooping crane, *Grus americana* (Linnaeus, 1758)

(5) Mammals

Black-footed ferret, *Mustela nigripes* (Audubon and Bachman, 1851)

Gray myotis, *Myotis grisescens* (A.H. Howell, 1909)

(b) The following species shall be designated threatened within the boundaries of the state of Kansas.

(1) Invertebrates

Rock pocketbook mussel, *Arcidens confragosus* (Say, 1829)

Flutedshell mussel, *Lasmigona costata* (Rafinesque, 1820)

Butterfly mussel, *Ellipsaria lineolata* (Rafinesque, 1820)

Ouachita kidneyshell mussel, *Ptychobranchus occidentalis* (Conrad, 1836)

Sharp hornsail, *Pleurocera acuta* (Rafinesque, 1831)

Delta hydrobe, *Probythinella emarginata* (Kuster, 1852)

(2) Fish

Arkansas darter, *Etheostoma cragini* (Gilbert, 1885)

~~Chestnut lamprey, *Ichthyomyzon castaneus* (Girard, 1858)~~

Flathead chub, *Platygobio gracilis* (Richardson, 1836)

Hornyhead chub, *Nocomis biguttatus* (Kirtland, 1840)

Neosho madtom, *Noturus placidus* (Taylor, 1969)

Redspot chub, *Nocomis asper* (Lachner and Jenkins, 1971)

~~Silverband shiner, *Notropis shumardi* (Girard, 1856)~~

Blackside darter, *Percina maculata* (Girard, 1859)

Sturgeon chub, *Macrhybopsis gelida* (Girard, 1856)

Western silvery minnow, *Hybognathus argyritis* (Girard, 1856)

Topeka shiner, *Notropis topeka* (Gilbert, 1884)

Shoal chub, *Macrhybopsis hyostoma* (Gilbert, 1884)

Plains minnow, *Hybognathus placitus* (Girard, 1856)

(3) Amphibians

Eastern newt, *Notophthalmus viridescens* (Rafinesque, 1820)

Longtail salamander, *Eurycea longicauda* (Green, 1818)

Eastern narrowmouth toad, *Gastrophryne carolinensis* (Holbrook, 1836)

Green frog, *Rana Lithobates clamitans* (Latreille, 1801)

~~Spring peeper, *Pseudacris crucifer* (Wied-Neuwied, 1838)~~

Strecker's chorus frog, *Pseudacris streckeri* (Wright and Wright, 1933)

Green toad, *Bufo Anaxyrus debilis* (Girard, 1854)

(4) Reptiles

Broadhead skink, *Eumeces laticeps* (Schneider, 1801)

Checkered garter snake, *Thamnophis marcianus* (Baird and Girard, 1853)

~~Texas blind snake, *Leptotyphlops dulcis* (Baird and Girard, 1853) New Mexico~~

ThreadsnaKE, *Rena dissectus* (Cope, 1896)

~~Redbelly snake, *Storeria occipitomaculata* (Storer, 1839)~~

~~Longnose snake, *Rhinocheilus lecontei* (Baird and Girard, 1853)~~

~~Smooth earth snake, *Virginia valeriae* (Baird and Girard, 1853)~~

(5) Birds

Piping plover, *Charadrius melanotos* (Ord, 1824)

Snowy plover, *Charadrius alexandrinus* (Linnaeus, 1758)

(6) Mammals

Eastern spotted skunk, *Spilogale putorius* (Linnaeus, 1758)

(7) Turtles

Common Northern map turtle, *Graptemys geographica* (Le Sueur, 1817)

(c) A threatened or endangered species taken during established trapping seasons, authorized commercial wildlife operations, fishing by hook and line, bait fish seining, or other lawful activity shall not be unlawfully taken if immediately released.

(d) Any threatened or endangered species in possession before the effective date of this regulation and not prohibited by any previous regulation of the department or national listings may be retained in possession if either of the following conditions is met:

(1) An application of affidavit to that effect has been filed with and approved by the secretary before January 1, 1990 that states the circumstances of how the species came into possession.

(2) Possession of the animal has been previously approved by the department.

(Authorized by K.S.A. 32-960 and ~~K.S.A.~~ 32-963; implementing K.S.A. 32-960, ~~K.S.A.~~ 32-961, ~~K.S.A.~~ 32-963, ~~K.S.A.~~ 32-1010, and ~~K.S.A.~~ 32-1011; effective Oct. 30, 1989; amended Aug. 31, 1992; amended Nov. 29, 1999; amended Feb. 18, 2005; amended July 24, 2009; amended P-

_____.)

ECONOMIC IMPACT STATEMENT

K.A.R. 115-15-1. Threatened and endangered species; general provisions.

REGULATION DESCRIPTION: This permanent regulation designates species classified as endangered and threatened in Kansas. The proposed amendments to the regulation are as follows:

- * Remove three endangered species:
 - Black-capped vireo, *Vireo atricapilla*
 - Eskimo curlew, *Numenius borealis*
 - Many-ribbed salamander, *Eurycea multiplicata*

- * Remove six threatened species:
 - Chestnut lamprey, *Ichthyomyzon castaneus*
 - Silverband shiner, *Notropis shumardi*
 - Spring peeper, *Pseudacris crucifer*
 - Redbelly snake, *Storeria occipitomaculata*
 - Longnose snake, *Rhinocheilus lecontei*
 - Smooth earth snake, *Virginia valeriae*

In conjunction with these proposed amendments, the department is also proposing amendments to K.A.R. 115-15-2, which designated species in need of conservation in Kansas (or SINC species). Proposed amendments to that regulation include the addition of the Chestnut Lamprey, Silverband shiner, Spring peeper, Redbelly snake, Longnose snake, Smooth earth snake and the Northern long-eared bat to the list of SINC species.

The Kansas Nongame and Endangered Species Act, K.S.A. 32-957 et seq., requires the department to adopt rules and regulations which contain a list of all species of wildlife indigenous to this state which have been determined to be endangered species . . . and a list of all such species which have been determined to be threatened . . . (K.S.A. 32-960(c)(1)). In making this determination, a species may be threatened or endangered because of any of the following factors:

- (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (2) the overutilization of such species for commercial, sporting, scientific, educational, or other purposes;
- (3) disease or predation;
- (4) the inadequacy of existing regulatory mechanisms; or
- (5) the presence of other natural or man-made factors affecting its continued existence within this state.

K.S.A. 32-960(a). The law stipulates that the secretary make the above determinations on the basis of the best scientific, commercial, and other data available to the secretary after consultation, as appropriate, with federal agencies, other interested state agencies and interested persons and organizations. In addition, the secretary is required to take into consideration those actions, if any, being carried out or about to be carried out by the federal government, by other

states, by other agencies of this state or political subdivisions thereof, or by nongovernmental persons or organizations which may affect the species under consideration.

BACKGROUND: K.S.A. 32-960(d) requires that every five years the secretary shall conduct a review of the species listed . . . and shall submit any proposed changes in the listings . . . to federal and state agencies and local and tribal governments and to all individuals and organizations that have requested notification of departmental action. In February of 2013, the five-year review of Kansas threatened, endangered and species in need of conservation list was initiated. Following a statewide news release, the blank petitions were made available on the Kansas Department of Wildlife, Parks and Tourism website. Completed petitions were requested by July 31, 2013. This initial process provides opportunity for submitting a petition for removal or addition of species to the Kansas list. By July 31, thirty species had been petitioned. State law also provides that petitions may be submitted outside of the five-year review process.

Of the thirty species petitioned, six species were petitioned to be delisted from the endangered category in Kansas. Twenty-two species were petitioned for removal from the threatened list in Kansas. In addition, two species were petitioned to add to the threatened list.

In September 2013, the department completed a preliminary review that determined which petitions were sufficient to warrant further review for a possible listing status change. This preliminary review was conducted by a scientific task committee composed of personnel from the U.S. Fish and Wildlife service, universities, the Kansas Biological Survey, and the department. The scientific task committee determined that sufficient data existed to further consider whether a listing change action is warranted for ten species:

- Eskimo curlew
- Black-capped vireo
- Many-ribbed salamander
- Chestnut lamprey
- Silverband shiner
- Spring peeper
- Redbelly snake
- Smooth earth snake
- Longnose snake
- Northern long-eared bat

As a component of the prescribed process, notice was published in the *Kansas Register* on March 20, 2014, informing the public that these species were being considered for listing actions, and that the department was obtaining a scientific review of these species' status from sources outside the agency. The notice also informed the public of five public meetings, to be conducted 90 days before submission of any proposed listing to the Wildlife and Parks Commission. Similar information was sent to federal and state agencies and local governments that may be affected by the proposed listings actions, as well as to individuals and organizations that had requested notification of proposed listing actions. Finally, this information was included in a news release sent to local newspapers and radio stations, as well as in the department's March 27, 2014 statewide news release.

Public informational meetings were held April 11, 2014 in Galena, April 14, 2014 in Shawnee Mission, April 15, 2014 in Topeka; April 22, 2014 in Garden City, and April 23, 2014 in Hays. These locations were selected based on their proximity to areas that may be affected by the proposed listing actions. At each meeting, department staff discussed the laws and procedures for listing a species as threatened or endangered, and reviewed each species' description, distribution, life history, and habitat. Staff emphasized that this was merely the beginning of the listing process, and that the public was invited to submit information for scientific review regarding each species' status. Six public participants attended the meeting in Galena; thirteen public participants attended the meeting in Shawnee Mission; eight public participants attended the meeting in Topeka; no public participants attended the meeting in Garden City, and twelve public participants attended the meeting in Hays.

In addition to other public notification efforts, information about each species proposed for listing was made available to the public at department offices in Chanute, Wichita, Hays, Dodge City, Emporia, Topeka, and Pratt, and at public meetings of the Wildlife, Parks and Tourism Commission in Winfield on January 9, 2014, in Topeka on March 20, 2014, in Wichita on April 17, 2014 and in Pittsburg on June 19, 2014.

Finally, the scientific task committee sent information concerning the proposed listings to individuals and organizations believed to have knowledge and scientific information about one or more of the species in question. These individuals and organizations were asked to rate the species from zero (species in no danger) to ten (species near extirpation) for 17 different categories, using the Species Evaluation Categories endorsed by the Commission in the fall of 1997. These numerical evaluations, along with any other biological and scientific information submitted by the public, were collected by the scientific task committee over the 90 day public comment period to formulate recommendations to the Secretary.

Using this collected information, the scientific task committee finalized recommendations on May 20, 2014, and provided them to department administration. These recommendations were presented to the Wildlife and Parks Commission and to the public at the June 19, 2014 Commission meeting in Pittsburg. Taking into consideration the feedback received at that meeting, the department has proceeded to develop regulatory actions, as discussed below.

FEDERAL MANDATE: State law or regulation respecting a threatened or endangered species may be more restrictive, but cannot be less restrictive than federal law or regulation (16 U.S.C.A. 1535(f)). The Secretary of Interior may enter into cooperative agreements with a state, provided that state establishes and maintains an adequate and active program for the conservation of endangered and threatened species (16 U.S.C.A. 1535(c)). With such cooperative agreements come substantial financial assistance to the state to develop conservation programs. The cost sharing for such programs has 75% of the cost being borne by the federal government. Therefore, a determination by the Secretary of Interior that a state was not maintaining an adequate or active program could place in potential jeopardy substantial federal assistance to the state.

Two of the species proposed for listing actions are currently listed as threatened or endangered under federal law.

ECONOMIC IMPACT: The anticipated economic impacts from the proposed listing action of each species are discussed below.

Eskimo curlew: Because this species is probably extinct or near extinction and is no longer a migrant bird that passes through Kansas, the delisting of this species was determined to be appropriate because it is no longer a viable component of the Kansas fauna. Because the Eskimo curlew is being proposed for delisting, no significant economic impacts on the public, small businesses or other state agencies are anticipated from the delisting.

Black-capped vireo: This bird was documented nesting in Comanche County in the 1880's. However, no records have been documented in Kansas since and sufficient survey efforts to document this bird in Kansas have occurred. Once a summer resident of the Red Hills in south-central Kansas, it is now a vagrant, if it occurs at all. Because of the lack of evidence that this bird is a viable component of the Kansas fauna, delisting is appropriate. Because the Black-capped vireo is being proposed for delisting, no significant economic impacts on the public, small businesses or other state agencies are anticipated from the delisting.

Many-ribbed salamander: The documentation of this species from a 1967 collection from Cherokee County was later identified as the Oklahoma salamander. Subsequent surveys for this salamander have all failed to relocate either the Many-ribbed salamander or the Oklahoma salamander. Because of the lack of evidence that this amphibian is a viable component of the Kansas fauna, delisting is appropriate. Because the Many-ribbed salamander is being proposed for delisting, no significant economic impacts on the public, small businesses or other state agencies are anticipated from the delisting.

Chestnut lamprey: This species was petitioned for removal from the Kansas threatened species list on the basis that it is no longer a viable component of the Kansas fauna. Recent fish sampling efforts on the Kansas River and other smaller eastern Kansas streams have failed to reveal this species without any additional sightings. Fish sampling efforts by the Missouri Department of Conservation in the Missouri River between Kansas and Missouri and on the lower Kansas River over the last 8 years have also failed to document this species. Because targeted sampling for this particular species has not occurred, a downlisting to SINC status would keep the species on the radar for data collection and survey efforts. Because the Chestnut lamprey is being proposed for downlisting, no significant economic impacts on the public, small businesses or other state agencies are anticipated from the downlisting.

Silverband shiner: This fish species was petitioned for removal from the Kansas threatened species list on the basis that it is no longer a viable part of the Kansas fauna. One specimen was found during the annual survey efforts on the Missouri and lower Kansas Rivers in 2008. Prior to that, the last record was from 1957. Extensive modification of the Missouri River for navigation has eliminated sandbar habitats which may explain the decline of this species in both the lower Kansas River and Missouri River adjacent to Kansas. Because this species apparently has not been totally eliminated from the large rivers, the recommendation is to downlist to SINC

status to ensure any more occurrences would be added to the data set. Because the Silverband shiner is being proposed for downlisting, no significant economic impacts on the public, small businesses or other state agencies are anticipated from the downlisting.

Spring peeper: This frog species was petitioned to be downlisted from threatened to SINC status on the grounds that recent surveys have documented several additional breeding locations in the last two decades. Small ephemeral wetlands in or near woodlands are essential for the reproduction of this frog. Creation and enhancements of wetland habitat in the eastern border counties through the Wetland Reserve Program have likely improved the population status also. Because the Spring peeper is being proposed for downlisting, no significant economic impacts on the public, small businesses or other state agencies are anticipated from the downlisting.

Redbelly snake: The Redbelly snake was petitioned to be downlisted from threatened to SINC status on the grounds that forestland habitat has increased in eastern Kansas, documentation of the species has occurred in two additional counties since listing in 1987 and the assertion that there might be populations that might not have been sampled due to the secretive nature of the species. The Kansas Biological Survey recently completed research on the habitat requirements, models to predict species distribution, and ecological variables for critical habitats. The research revealed that the Redbelly snake is more of a habitat specialist than previously thought. It requires moist old-forest habitat of oak-hickory to support its food source of snails and slugs. It was also shown to be slower than the Smooth earth snake in recovering from drought conditions. Therefore, it may be more likely to disappear from smaller fragmented habitats. The probability of emigration to nearby habitat is low and no evidence was found that shows the increase in forestland in eastern Kansas would have the proper soil moisture gradient needed to support the species food source. Continuing fragmentation of forestland habitat due to residential and commercial development is a lingering threat to the species and the T&E task committee recommended the species remain threatened. However, the Department is recommending downlisting to SINC status for a variety of reasons including the development of a recovery plan and advisory committee for the species, the ability to secure lands through acquisition and the ability to prevent the species from extirpation simply because of the amount of habitat preserved in perpetuity already. In addition, the existence of the species is secure nationally and the range for the species is from Canada south to the Gulf of Mexico and from the Great Plains states east to the eastern seaboard. Because the Redbelly snake is being proposed for downlisting, no significant economic impacts on the public, small businesses or other state agencies are anticipated from the downlisting.

Smooth earth snake: Similar to the Redbelly snake, the petition to delist the Smooth earth snake cited range expansion over the last 35 years in 5 additional counties, an increase in forestland habitat in eastern Kansas, and the assertion that due to the secretive nature of the species, there may be undocumented populations. Research shows the Smooth earth snake is less specific in its habitat requirements and recovers more quickly from drought than the Redbelly snake. In addition, the species has been documented in many more locations since initially listed in 1987. Because the Smooth earth snake is being proposed for downlisting, no significant economic impacts on the public, small businesses or other state agencies are anticipated from the downlisting.

Longnose snake: This nocturnal snake is a secretive resident of southwest Kansas and spends most of the daylight hours underground. The majority of the records of the Longnose snake come from rocky areas of sand sagebrush of the High Plains and Red Hills prairie. A review of this species status was requested by the Secretary. This snakes range is more extensive with many additional instances of documentation in southwest Kansas since the species was listed in 1987. The numerical evaluation from the expert panel that was consulted regarding its status placed its score in the SINC category. In addition, there is a good probability that this snake may be more common than surveys can reveal. Because the Longnose snake is being proposed for downlisting, no significant economic impacts on the public, small businesses or other state agencies are anticipated from the downlisting.

CAPITAL AND ANNUAL COSTS: Because all of the changes being proposed are for delisting or downlisting, no significant economic impacts on the public, small businesses or other state agencies are anticipated from the proposed changes.

INITIAL AND ANNUAL COSTS OF IMPLEMENTATION AND ENFORCEMENT: Because all of the changes being proposed are for delisting or downlisting, no significant economic impacts on the public, small businesses or other state agencies are anticipated from the proposed changes.

COSTS WHICH WOULD ACCRUE WITHOUT REGULATION: Because all of the changes being proposed are for delisting or downlisting, no significant economic impacts on the public, small businesses or other state agencies are anticipated from the proposed changes.

COST ESTIMATE METHODOLOGY: Because all of the changes being proposed are for delisting or downlisting, no significant economic impacts on the public, small businesses or other state agencies are anticipated from the proposed changes.

ENVIRONMENTAL BENEFIT STATEMENT

K.A.R. 115-15-1. Threatened and endangered species; general provisions.

REGULATION DESCRIPTION: This permanent regulation designates species classified as threatened and endangered in Kansas (“T&E species”). An environmental benefit statement is required by law when amending an environmental rule or regulation. A regulation adopted by the Secretary of Wildlife, Parks and Tourism concerning threatened or endangered species of wildlife is defined as an environmental rule or regulation. Consequently, this environmental benefit statement has been prepared. The proposed amendments to the regulation are as follows:

- * Remove three endangered species:
 - Black-capped vireo, *Vireo atricapilla*
 - Eskimo curlew, *Numenius borealis*
 - Many-ribbed salamander, *Eurycea multiplicata*

- * Remove six threatened species:
 - Chestnut lamprey, *Ichthyomyzon castaneus*
 - Silverband shiner, *Notropis shumardi*
 - Spring peeper, *Pseudacris crucifer*
 - Redbelly snake, *Storeria occipitomaculata*
 - Longnose snake, *Rhinocheilus lecontei*
 - Smooth earth snake, *Virginia valeriae*

In conjunction with these proposed amendments, the department is also proposing amendments to K.A.R. 115-15-2, which designated species in need of conservation in Kansas (or SINC species). Proposed amendments to that regulation include the addition of the Chestnut lamprey, Silverband shiner, Spring peeper, Redbelly snake, Longnose snake, Smooth earth snake and the Northern long-eared bat to the list of SINC species.

The Kansas Nongame and Endangered Species Act, K.S.A. 32-957 et seq., requires the department to adopt rules and regulations “which contain a list of all species of wildlife indigenous to this state which have been determined to be endangered species . . . and a list of all such species which have been determined to be threatened...” (K.S.A. 32-959(c)(1)). In making this determination, a species may be threatened or endangered because of any of the following factors:

- (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (2) the overutilization of such species for commercial, sporting, scientific, educational, or other purposes;
- (3) disease or predation;
- (4) the inadequacy of existing regulatory mechanisms; or
- (5) the presence of other natural or man-made factors affecting its continued existence within this state.

The current proposed amendments stem from petitions for listing actions received by the

department by July 31, 2013, as well as federal threatened and endangered species listings. Since that time, the department has held various public meetings, collected data, and received official recommendations from a task force composed of personnel from the U.S. Fish and Wildlife Service, universities, the Kansas Biological Survey, and the department. In making its recommendation to the department, that task force collected numerical ratings from individuals and companies believed to have knowledge and scientific information about one or more of the species in question, over a 90-day public comment period.

Taking into consideration response from the Wildlife and Parks Commission, the general public, and the task force recommendations, the department has developed these proposed regulatory amendments. A description of the species and related information, as well as a description of the risk or threat to the species and the need for the regulatory amendment, is included for each of the species in question.

Black-capped vireo (*Vireo atricapilla*)

- Federal Status: Endangered
- Current Kansas Listing Status: Endangered
- Proposed Listing Action: De-list the species
- Description: It is a small songbird. Mature males are olive green above and white below with faint yellow flanks. The crown and upper half of the head is black with a partial white eye-ring and lores. The iris is brownish-red and the bill is black. Females are duller in color than males and have a slate gray crown and underparts washed with greenish yellow
- Size: Adults grow to about 4-5 inches length in body.
- Habitat: Present range is Oklahoma to Northern Mexico. In Kansas, the range is the Red Hills region in the south-central part of the state.
- Reproduction: Breeding occurs April through July.
- Food: Adult insects, insect larvae, and spiders

Threat to the species and need for the regulatory amendment: The Black-capped Vireo is threatened by Brown-headed Cowbird (*Molothrus ater*) brood parasitism, human disturbance, and loss of habitat to urbanization, fire exclusion, grazing, and brush control. However, because of the lack of evidence that this bird is a viable component of the Kansas fauna, delisting is appropriate.

Eskimo curlew (*Numenius borealis*)

- Federal Status: Endangered.
- Current Kansas Listing Status: Endangered.
- Proposed Listing Action: De-list the species.
- Description: Adults have long dark greyish legs and a long bill curved slightly downward. The upperparts are mottled brown and the underparts are light brown. They show cinnamon wing linings in flight.
- Size: Eskimo curlews are small curlews, about 12-14 inches in length.
- Habitat: Tundra in the Northern Hemisphere to the pampas of South America. In Kansas, the migratory corridor was all the eastern 2/3rds of the state.

- Reproduction: June with nesting on open ground.
- Food: Insects, snails and other invertebrates.

Threat to the species and need for the regulatory amendment: At one time, the Eskimo curlew may have been one of the most numerous shorebirds in North America, with a population in the millions. As many as 2 million birds per year were killed near the end of the nineteenth century. The last confirmed sightings were in 1962 on Galveston Island, Texas (photographed) and on Barbados in 1963 (specimen). There was a reliable report of 23 birds in Texas in 1981, and more recent additional unconfirmed reports from Texas, Canada (1987), Argentina (1990), and Nova Scotia (2006). No confirmed record of this species has been reported in South America since 1939. Because of the lack of evidence that this bird is a viable component of the Kansas fauna, delisting is appropriate.

Many-ribbed salamander (*Eurycea multiplicata*)

- Federal Status: None
- Current Kansas Listing Status: Endangered
- Proposed Listing Action: De-list the species.
- Description: Variable in coloration from gray to yellowish-tan, 19-20 costal grooves on side, middorsal stripe is slightly paler than the sides.
- Size: The species is between 2 and 3 inches long.
- Habitat: The Ozark Plateaus and the Boston and Ouachita mountains and associated lowland rocky formations in southwestern Missouri, eastern Oklahoma, and northwestern Arkansas. In Kansas, the range is limited to Cherokee County.
- Reproduction: Females lay their eggs in springs, spring-fed pools, and spring-fed ponds from autumn to early spring.
- Food: A variety of aquatic and semi-aquatic vertebrates associated with springs and permanent streams.

Threat to the species and need for the regulatory amendment: Because of the lack of evidence that this amphibian is a viable component of the Kansas fauna, delisting is appropriate.

Chestnut lamprey (*Ichthyomyzon castaneus*)

- Federal Status: None
- Current Kansas Listing Status: Threatened
- Proposed Listing Action: List the species as SINC.
- Description: Eel-like in shape, jawless with disk-shaped mouth, seven pore-like gill openings, single nostril, dorsal fin shallowly notched, back yellowish-tan to light olive-yellow on belly and fins.
- Size: a maximum length of around 14 inches.
- Habitat: Canada, and the Central and Eastern United States, any large lakes or reservoirs and large rivers where large host fish are present. In Kansas, the range is the lower Kansas River and Missouri River main stem.
- Reproduction: Spawning season is from June through July.
- Food: Host species such as fish in a reservoir.

Threat to the species and need for the regulatory amendment: This species was petitioned for removal from the Kansas threatened species list on the basis that it is recently no longer a viable component of the Kansas fauna.

Silverband shiner (*Notropis shumardi*)

- Federal Status: None
- Current Kansas Listing Status: Threatened
- Proposed Listing Action: List as a SINC
- Description: Minnow with a high sharply pointed dorsal fin located directly above the pelvic fins. Its color is pale green with a narrow silvery lateral stripe.
- Size: 2-4 inches.
- Habitat: Large rivers of Missouri-Mississippi basin (mainly Missouri, Mississippi, Illinois, Kaskaskia, lower Ohio, Arkansas, and Red rivers). In Kansas, the range is limited to the Missouri River in deep flowing water along sand or gravel bars.
- Reproduction: Occurs late May through mid-August.
- Food: Unknown.

Threat to the species and need for the regulatory amendment: This fish species was petitioned for removal from the Kansas threatened species list on the basis that it is no longer a viable part of the Kansas fauna. One specimen was found during the annual survey efforts on the Missouri and lower Kansas Rivers in 2008. Prior to that, the last record was from 1957.

Spring peeper (*Pseudacris crucifer*)

- Federal Status: None
- Current Kansas Listing Status: Threatened
- Proposed Listing Action: List as a SINC
- Description: tan or brown with a dark cross that roughly forms an X on their dorsa.
- Size: 1 inch.
- Habitat: Eastern Kansas counties to Eastern United States in regenerating woodlands near ephemeral or semi-permanent wetlands.
- Reproduction: Occurs late March to June.
- Food: small invertebrates, such as beetles, ants, flies, and spiders.

Threat to the species and need for the regulatory amendment: This frog species was petitioned to be downlisted from threatened to SINC status on the grounds that recent surveys have documented several additional breeding locations in the last two decades. Small ephemeral wetlands in or near woodlands are essential for the reproduction of this frog. Creation and enhancements of wetland habitat in the eastern border counties through the Wetland Reserve Program have likely improved the population status as well.

Redbelly snake (*Storeria occipitomaculata*)

- Federal Status: None
- Current Kansas Listing Status: Threatened
- Proposed Listing Action: List as a SINC
- Description: The Redbelly Snake has keeled scales and a divided anal scale. On its dorsal

side, its color may be slate gray or reddish brown. Two thin darker stripes are on each side. The snake's belly may be bright orange-red or jet black. Any combination of dorsal and belly colors can occur. There are three light spots on the neck.

- Size: 8-10 inches long.
- Habitat: Redbelly Snakes prefer deeply wooded regions near rivers and lakes, sandstone woods, wooded hillsides, hillsides near streams, steep slopes of forested hills, moist areas, moist woodlands, woodlands with dense leaf litter, lowlands, forest edge, open fields, the vicinity of old dilapidated farm buildings, and woodlands which remain damp throughout the year. They are usually discovered on damp ground beneath leaf litter, leaf mold, or pine needles mixed with dead leaves; equally as often they are found under flat rocks, logs, rotten logs, boards, and other surface debris.
- Reproduction: Late summer or early fall.
- Food: slugs and snails are the primary food items.

Threat to the species and need for the regulatory amendment: The Redbelly snake was petitioned to be downlisted from threatened to SINC status on the grounds that forestland habitat has increased in eastern Kansas, documentation of the species has occurred in two additional counties since listing in 1987 and the assertion that there might be populations that might not have been sampled due to the secretive nature of the species. The Kansas Biological Survey recently completed research on the habitat requirements, models to predict species distribution, and ecological variables for critical habitats. The research revealed that the Redbelly snake is more of a habitat specialist than previously thought. It requires moist old-forest habitat of oak-hickory to support its food source of snails and slugs. It was also shown to be slower than the Smooth earth snake in recovering from drought conditions. Therefore, it may be more likely to disappear from smaller fragmented habitats. The probability of emigration to nearby habitat is low and no evidence was found that shows the increase in forestland in eastern Kansas would have the proper soil-moisture needed to support the species food source. Continuing fragmentation of forestland habitat due to residential and commercial development is a lingering threat to the species and the T&E task committee recommended the species remain threatened. However, the Department is recommending downlisting to SINC status for a variety of reasons including the development of a recovery plan and advisory committee for the species, the ability to secure lands through acquisition and the ability to prevent the species from extirpation simply because of the amount of habitat preserved in perpetuity already. In addition, the existence of the species is secure nationally and the range for the species is from Canada south to the Gulf of Mexico and from the Great Plains states east to the eastern seaboard.

Longnose snake (*Rhinocheilus lecontei*)

- Federal Status: None
- Current Kansas Listing Status: Threatened
- Proposed Listing Action: List as a SINC
- Description: It has smooth scales, a single anal scale, and at least half the scales on the underside of the tail not divided into rows. The snake's ground color is yellowish or cream with black blotches on the body separated by pink or reddish interspaces.
- Size: 22-30 inches.
- Habitat: Longnose Snakes prefer grassy or brushy, semiarid regions. Open prairies with sandy soils and/or rocky canyons in southwestern counties in Kansas provide suitable

habitat. The snake also ranges south through Oklahoma and Texas.

- Reproduction: clutches of 4-9 eggs in the early summer, which hatch out in the late summer or early fall.
- Food: lizards, amphibians, and sometimes smaller snakes and infrequently rodents.

Threat to the species and need for the regulatory amendment: This nocturnal snake is a secretive resident of southwest Kansas and spends most of the daylight hours underground. The majority of the records of the Longnose snake come from rocky areas of sand sagebrush of the High Plains and Red Hills prairie. A review of this species status was requested by the Secretary. This snakes range is more extensive with many additional instances of documentation in southwest Kansas since the species was listed in 1987. The numerical evaluation from the expert panel that was consulted regarding its status placed its score in the SINC category. In addition, there is a good probability that this snake may be more common than surveys can reveal.

Smooth earth snake (*Virginia valeriae*)

- Federal Status: None
- Current Kansas Listing Status: Threatened
- Proposed Listing Action: List as a SINC
- Description: The Smooth Earth Snake has smooth scales on the front part and weakly keeled scales on the rear part of the body, a divided anal scale, six scales on the upper lip and two or more scales bordering the rear edge of the eye. The head, body and tail are gray or brown with no pattern. The belly is white.
- Size: 7-10 inches.
- Habitat: Smooth earth snakes seem to prefer open sandstone woods, rocky hillsides in moist woodlands, deciduous forests, wooded urban areas, woodland edge situations, open brushy woodlands without a continuous leaf canopy, and abandoned fields in Eastern Kansas. They are frequently found in thick piles of dead leaves, or beneath leaf litter, flat rocks, logs, and other surface debris, most often near forest-edge or on hillsides with sparse tree cover. They also range in the Eastern United States.
- Reproduction: clutches of 4-9 eggs in the early summer, which hatch out in the late summer or early fall.
- Food: primarily earthworms and other soft-bodied arthropods.

Threat to the species and need for the regulatory amendment: Similar to the Redbelly snake, the petition to delist the Smooth earth snake cited range expansion over the last 35 years in 5 additional counties, an increase in forestland habitat in eastern Kansas, and the assertion that due to the secretive nature of the species, there may be undocumented populations. Research shows the Smooth earth snake is less specific in its habitat requirements and recovers more quickly from drought than the Redbelly snake. In addition, the species has been documented in many more locations since initially listed in 1987.

115-15-2. Nongame species; general provisions. (a) The following species shall be designated nongame species in need of conservation within the boundaries of the state of Kansas.

(1) Invertebrates

Cylindrical papershell mussel, *Anodontoides ferussacianus* (I. Lea, 1834)

Snuffbox mussel, *Epioblasma triquetra* (Rafinesque, 1820)

Wartyback mussel, *Quadrula nodulata* (Rafinesque, 1820)

Spike mussel, *Elliptio dilatata* (Rafinesque, 1820)

Wabash pigtoe mussel, *Fusconaia flava* (Rafinesque, 1820)

Fatmucket mussel, *Lampsilis siliquoidea* (Barnes, 1823)

Yellow sandshell mussel, *Lampsilis teres* (Rafinesque, 1820)

Washboard mussel, *Megalonaia nervosa* (Rafinesque, 1820)

Round pigtoe mussel, *Pleurobema sintoxia* (Conrad, 1834)

Creeper mussel, *Strophitus undulatus* (Say, 1817)

Fawnsfoot mussel, *Truncilla donaciformis* (I. Lea, 1828)

Deertoe mussel, *Truncilla truncata* (Rafinesque, 1820)

Ozark emerald dragonfly, *Somatochlora ozarkensis* (Bird, 1833)

Gray petaltail dragonfly, *Tachopteryx thoreyi* (Hagen in Selys, 1857)

Prairie mole cricket, *Gryllotalpa major* (Saussure, 1874)

Neosho midget crayfish, *Orconectes macrus* (Williams, 1952)

(2) Fish

Banded darter, *Etheostoma zonale* (Cope, 1868)

Banded sculpin, *Cottus carolinae* (Gill, 1861)

Black redhorse, *Moxostoma duquesnei* (Lesueur Le Sueur, 1817)

- Blue sucker, *Cycleptus elongatus* (Lesueur Le Sueur, 1817)
- Western blacknose dace, *Rhinichthys atratulus* (Hermann, 1804) *obtusus*
(Agassiz, 1854)
- Bluntnose darter, *Etheostoma chlorosoma* (Hay, 1881)
- Brassy minnow, *Hybognathus hankinsoni* (Hubbs, 1929)
- Gravel chub, *Erimystax x-punctatus* (Hubbs and Crowe, 1956)
- Greenside darter, *Etheostoma blennioides* (Rafinesque, 1819)
- Highfin carpsucker, *Carpiodes velifer* (Rafinesque, 1820)
- Northern hog sucker, *Hypentelium nigricans* (Lesueur Le Sueur, 1817)
- Ozark minnow, *Notropis nubilus* (Forbes, 1878)
- River darter, *Percina shumardi* (Girard, 1859)
- River redhorse, *Moxostoma carinatum* (Cope, 1870)
- River shiner, *Notropis blennius* (Girard, 1856)
- Slough darter, *Etheostoma gracile* (Girard, 1859)
- ~~Speckled~~ Highland darter, *Etheostoma stigmatum teddyroosevelt* (Jordan, 1877)
- Spotfin shiner, *Cyprinella spiloptera* (Cope, 1868)
- Spotted sucker, *Minytrema melanops* (Rafinesque, 1820)
- ~~Stippled~~ Sunburst darter, *Etheostoma punctulatum mihileze* (Agassiz, 1854)
- Tadpole madtom, *Noturus gyrinus* (Mitchill, 1817)
- Brindled madtom, *Noturus miurus* (Jordan, 1877)
- Bigeye shiner, *Notropis boops* (Gilbert, 1884)
- Redfin darter, *Etheostoma whipplei* (Girard, 1859)
- Lake Sturgeon, *Acipenser fulvescens* (Rafinesque, 1817)

Striped shiner, *Luxilus chrysocephalus* (Rafinesque, 1820)

Common shiner, *Luxilus cornutus* (Mitchill, 1817)

Southern Redbelly Dace, *Phoxinus Chrosomus erythrogaster* (Rafinesque, 1820)

Cardinal Shiner, *Luxilus cardinalis* (Mayden, 1988)

Johnny Darter, *Etheostoma nigrum* (Rafinesque, 1820)

Chestnut lamprey, *Ichthyomyzon castaneus* (Girard, 1858)

Silverband shiner, *Notropis shumardi* (Girard, 1856)

(3) Amphibians

Red-spotted toad, *Bufo Anaxyrus punctatus* (Baird and Girard, 1852)

Crawfish frog, *Rana Lithobates areolata* (Baird and Girard, 1852)

Spring peeper, *Pseudacris crucifer* (Wied-Neuwied, 1838)

(4) Reptiles

Rough earth snake, *Virginia striatula* (Linnaeus, 1766)

Western hognose snake, *Heterodon nasicus* (Baird and Girard, 1852)

Timber rattlesnake, *Crotalus horridus* (Linnaeus, 1758)

Eastern hognose snake, *Heterodon platirhinos* (Latreille, 1801)

Glossy snake, *Arizona elegans* (Kennicott, 1859)

Chihuahuan night snake, *Hypsiglena jani* (Duges, 1865)

Redbelly snake, *Storeria occipitomaculata* (Storer, 1839)

Longnose snake, *Rhinocheilus lecontei* (Baird and Girard, 1853)

Smooth earth snake, *Virginia valeriae* (Baird and Girard, 1853)

(5) Birds

Bobolink, *Dolichonyx oryzivorus* (Linnaeus, 1758)

Cerulean warbler, *Dendroica Setophaga cerulea* (Wilson, 1810)

Curve-billed thrasher, *Toxostoma curvirostre* (Swainson, 1827)

Ferruginous hawk, *Buteo regalis* (Gray, 1844)

Golden eagle, *Aquila chrysaetos* (Linnaeus, 1758)

Short-eared owl, *Asio flammeus* (Pontoppidan, 1763)

Henslow's sparrow, *Ammodramus henslowii* (Audubon, 1829)

Ladder-backed woodpecker, *Picoides scalaris* (Wagler, 1829)

Long-billed curlew, *Numenius americanus* (Bechstein, 1812)

Mountain plover, *Charadrius montanus* (Townsend, 1837)

Chihuahuan raven, *Corvus cryptoleucus* (Couch, 1854)

Black tern, *Chlidonias niger* (Linnaeus, 1758)

Black rail, *Laterallus jamaicensis* (Gmelin, 1789)

Eastern whip-poor-will, *Caprimulgus Antrostomas vociferus* (Wilson, 1812)

Yellow-throated warbler, *Dendroica Setophaga dominica* (Linnaeus, 1776)

(6) Mammals

Franklin's ground squirrel, *Spermophilus Poliocitellus franklinii* (Sabine, 1822)

Pallid bat, *Antrozous pallidus* (LeConte, 1856)

Southern bog lemming, *Synaptomys cooperi* (Baird, 1858)

Southern flying squirrel, *Glaucomys volans* (Linnaeus, 1758)

Texas mouse, *Peromyscus attwateri* (J.A. Allen, 1895)

Townsend's big-eared bat, *Corynorhinus townsendii* (Cooper, 1837)

Northern long-eared bat, *Myotis septentrionalis* (Trouessart, 1897)

(7) Turtles

Alligator snapping turtle, *Macrochelys temminckii* (Troost, in Harlan, 1835)

(b) Any nongame species in need of conservation taken during established trapping seasons, authorized commercial wildlife operations, fishing by hook and line, bait fish seining, or other lawful activity shall not be unlawfully taken if immediately released.

(c) Any nongame species in need of conservation in possession before the effective date of this regulation and not prohibited by any previous regulation of the department or national listings may be retained in possession if either of the following conditions is met:

(1) An application of affidavit to that effect has been filed with and approved by the secretary before January 1, 1990, that states the circumstances of how the species came into possession.

(2) Possession of the animal has been previously approved by the department.

(Authorized by K.S.A. 32-959 and ~~K.S.A.~~ 32-963; implementing K.S.A. 32-959 and K.S.A. 2008 2013 Supp. 32-1009; effective Oct. 30, 1989; amended Aug. 31, 1992; amended Nov. 29, 1999; amended Feb. 18, 2005; amended July 24, 2009; amended P-_____.)

ECONOMIC IMPACT STATEMENT

K.A.R. 115-15-2. Nongame species; general provisions.

REGULATION DESCRIPTION: This permanent regulation designates species classified as species in need of conservation in Kansas (“SINC species”). The proposed amendments to the regulation are as follows:

- Add seven new SINC species:
 - Chestnut lamprey, *Ichthyomyzon castaneus*
 - Silverband shiner, *Notropis shumardi*
 - Spring peeper, *Pseudacris crucifer*
 - Redbelly snake, *Storeria occipitomaculata*
 - Longnose snake, *Rhinocheilus lecontei*
 - Smooth earth snake, *Virginia valeriae*
 - Northern long-eared bat, *Myotis septentrionalis*

In conjunction with these proposed amendments, the department is also proposing amendments to K.A.R. 115-15-1, which includes the lists of threatened and endangered species in Kansas. Proposed amendments to that regulation include removing the eskimo curlew, black-capped vireo and the many-ribbed salamander from endangered status and removing the chestnut lamprey, silverband shiner, spring peeper, redbelly snake, longnose snake and smooth earth snake from threatened status.

The Kansas Nongame and Endangered Species Act, K.S.A. 32-957 et seq., requires the department to adopt rules and regulations “which contain a list of the nongame species deemed by the secretary to be in need of conservation . . .” (K.S.A. 32-959(a)). The law stipulates that this determination shall be on the basis of information related to population, distribution, habitat needs, limiting factors and other biological and ecological data concerning nongame species, gathered to determine conservation measures necessary for their continued ability to sustain themselves successfully.

BACKGROUND: K.S.A. 32-960(d) requires that “every five years the secretary shall conduct a review of the species listed . . . and shall submit any proposed changes in the listings . . .” to federal and state agencies and local and tribal governments, and to all individuals and organizations that have requested notification of departmental action. In February of 2013, the five-year review of Kansas threatened, endangered and species in need of conservation list was initiated with a press release. A “petition for species review” form was made available on the Kansas Department of Wildlife, Parks and Tourism website or sent out to any individual or organization that requested a copy to be returned by July 31, 2013. This initial process provides opportunity for submitting a petition for removal or addition of species to the Kansas list. By July 31, thirty species had been petitioned. State law also provides that petitions may be submitted outside of the five-year review process.

Of the thirty species petitioned, six species were petitioned to be delisted from the endangered category in Kansas. Twenty-two species were petitioned for removal from the threatened list in Kansas. In addition, two species were petitioned to add to the threatened list.

In September 2013, the department completed a preliminary review that determined which petitions were sufficient to warrant further review for a possible listing status change. This preliminary review was conducted by a scientific task committee composed of personnel from the U.S. Fish and Wildlife service, universities, the Kansas Biological Survey, and the department. The scientific task committee determined that sufficient data existed to further consider whether a listing change action is warranted for ten species:

- * Eskimo curlew
- * Black-capped vireo
- * Many-ribbed salamander
- * Chestnut Lamprey
- * Silverband shiner
- * Spring peeper
- * Redbelly snake
- * Smooth earth snake
- * Longnose snake
- * Northern long-eared bat

As a component of the prescribed process, notice was published in the *Kansas Register* on March 20, 2014, informing the public that these species were being considered for listing actions, and that the department was obtaining a scientific review of these species' status from sources outside the agency. The notice also informed the public of five public meetings, to be conducted 90 days before submission of any proposed listing to the Wildlife and Parks Commission. Similar information was sent to federal and state agencies and local governments that may be affected by the proposed listings actions, as well as to individuals and organizations that had requested notification of proposed listing actions. Finally, this information was included in a news release sent to local newspapers and radio stations, as well as in the department's March 27, 2014 statewide news release.

Public informational meetings were held April 11, 2014 in Galena, April 14, 2014 in Shawnee Mission, April 15, 2014 in Topeka; April 22, 2014 in Garden City, and April 23, 2014 in Hays. These locations were selected based on their proximity to areas that may be affected by the proposed listing actions. At each meeting, department staff discussed the laws and procedures for listing a species as threatened or endangered, and reviewed each species' description, distribution, life history, and habitat. Staff emphasized that this was merely the beginning of the listing process, and that the public was invited to submit information for scientific review regarding each species' status. Six public participants attended the meeting in Galena; thirteen public participants attended the meeting in Shawnee Mission; eight public participants attended the meeting in Topeka; no public participants attended the meeting in Garden City, and twelve public participants attended the meeting in Hays.

In addition to other public notification efforts, information about each species proposed for listing was made available to the public at department offices in Chanute, Wichita, Hays, Dodge City, Emporia, Topeka, and Pratt, and at public meetings of the Wildlife, Parks and

Tourism Commission in Winfield on January 9, 2014, in Topeka on March 20, 2014, in Wichita on April 17, 2014 and in Pittsburg on June 19, 2014.

Finally, the scientific task committee sent information concerning the proposed listings to individuals and companies believed to have knowledge and scientific information about one or more of the species in question. These individuals and companies were asked to rate the species from “zero” (species in no danger) to “ten” (species near extirpation) for 17 different categories, using the Species Evaluation Categories endorsed by the Commission in the fall of 1997. These numerical evaluations, along with any other biological and scientific information submitted by the public, were collected by the Task Force over the 90 day public comment period to formulate recommendations for the Secretary to consider.

Using this collected information, the scientific task committee finalized recommendations on May 20, 2014, and provided them to department administration. These recommendations were presented to the Wildlife and Parks Commission and to the public at the June 19, 2014 Commission meeting in Pittsburg. Taking into consideration the feedback received at that meeting, the department has proceeded to develop regulatory actions, as discussed below.

FEDERAL MANDATE: State law or regulation respecting a threatened or endangered species may be more restrictive, but can not be less restrictive than federal law or regulation (16 U.S.C.A. 1535(f)). The Secretary of Interior may enter into cooperative agreements with a state, provided that state “establishes and maintains an adequate and active program for the conservation of endangered and threatened species” (16 U.S.C.A. 1535(c)). With such cooperative agreements come substantial financial assistance to the state to develop conservation programs. The cost sharing for such programs has 75% of the cost being borne by the federal government. Therefore, a determination by the Secretary of Interior that a state was not maintaining an “adequate or active” program could place in potential jeopardy substantial federal assistance to the state.

Two of the species proposed for listing actions are currently listed as threatened or endangered under federal law.

ECONOMIC IMPACT: The anticipated economic impacts from the proposed listing action of each species are discussed below.

Chestnut lamprey: The chestnut lamprey is proposed to be listed as a SINC species. The species is currently listed as threatened. The current known habitat is the lower Kansas River and may occur in the Missouri River main stem in northeast Kansas. The intentional taking of a SINC species is prohibited. However, SINC species do not receive the same level of protection as threatened or endangered species, and no specific review or permit requirement applies to private or public projects that may affect a SINC species or its habitat. Consequently, no economic impact on the general public, other agencies or small businesses is anticipated due to the listing of the Chestnut lamprey as a SINC species.

The department is required to develop a recovery plan for each SINC species, based on the priority list developed pursuant to K.A.R. 115-15-4. The cost to the department to establish a

recovery plan for the chestnut lamprey is roughly estimated at \$10,000, with an additional \$1,000 in administrative costs. Annual implementation of the recovery plan may cost approximately \$1,000 in field staff time.

Silverband shiner: The Silverband shiner is proposed to be listed as a SINC species. The species is currently listed as threatened. The current known habitat is the Missouri River in northeast Kansas, preferring moderately deep, flowing water along sand or gravel bars. The intentional taking of a SINC species is prohibited. However, SINC species do not receive the same level of protection as threatened or endangered species, and no specific review or permit requirement applies to private or public projects that may affect a SINC species or its habitat. Consequently, no economic impact on the general public, other agencies or small businesses is anticipated due to the listing of the Silverband shiner as a SINC species.

The department is required to develop a recovery plan for each SINC species, based on the priority list developed pursuant to K.A.R. 115-15-4. The cost to the department to establish a recovery plan for the Silverband shiner is roughly estimated at \$10,000, with an additional \$1,000 in administrative costs. Annual implementation of the recovery plan may cost approximately \$1,000 in field staff time.

Spring peeper: The Spring peeper is proposed to be listed as a SINC species. The species is currently threatened. The current known habitat is small ponds and wetlands having abundant emergent aquatic vegetation and located within or very near woodlands in eastern Kansas. The intentional taking of a SINC species is prohibited. However, SINC species do not receive the same level of protection as threatened or endangered species, and no specific review or permit requirement applies to private or public projects that may affect a SINC species or its habitat. Consequently, no economic impact on the general public, other agencies or small businesses is anticipated due to the listing of the Spring peeper as a SINC species.

The department is required to develop a recovery plan for each SINC species, based on the priority list developed pursuant to K.A.R. 115-15-4. The cost to the department to establish a recovery plan for the spring peeper is roughly estimated at \$10,000, with an additional \$1,000 in administrative costs. Annual implementation of the recovery plan may cost approximately \$1,000 in field staff time.

Redbelly snake: The Redbelly snake is proposed to be listed as a SINC species. The species is currently threatened. The current known habitat is deeply wooded regions near rivers and lakes, sandstone woods, wooded hillsides, hillsides near streams, steep slopes of forested hills, moist areas, moist woodlands, woodlands with dense leaf litter, lowlands, forest edge, open fields, the vicinity of old dilapidated farm buildings, and woodlands which remain damp throughout the year, all located in eastern Kansas. The intentional taking of a SINC species is prohibited. However, SINC species do not receive the same level of protection as threatened or endangered species, and no specific review or permit requirement applies to private or public projects that may affect a SINC species or its habitat. Consequently, no economic impact on the general public, other agencies or small businesses is anticipated due to the listing of the redbelly snake as a SINC species.

The department is required to develop a recovery plan for each SINC species, based on the priority list developed pursuant to K.A.R. 115-15-4. The cost to the department to establish a recovery plan for the Redbelly snake roughly estimated at \$10,000, with an additional \$1,000 in administrative costs. Annual implementation of the recovery plan may cost approximately \$1,000 in field staff time.

Smooth earth snake: The Smooth earth snake is proposed to be listed as a SINC species. The species is currently threatened. The current known habitat is open sandstone woods, rocky hillsides in moist woodlands, deciduous forests, wooded urban areas, woodland edge situations, open brushy woodlands without a continuous leaf canopy, and abandoned fields of eastern Kansas. The intentional taking of a SINC species is prohibited. However, SINC species do not receive the same level of protection as threatened or endangered species, and no specific review or permit requirement applies to private or public projects that may affect a SINC species or its habitat. Consequently, no economic impact on the general public, other agencies or small businesses is anticipated due to the listing of the Smooth earth snake as a SINC species.

The department is required to develop a recovery plan for each SINC species, based on the priority list developed pursuant to K.A.R. 115-15-4. The cost to the department to establish a recovery plan for the Smooth earth snake is roughly estimated at \$10,000, with an additional \$1,000 in administrative costs. Annual implementation of the recovery plan may cost approximately \$1,000 in field staff time.

Longnose snake: The Longnose snake is proposed to be listed as a SINC species. The species is currently threatened. The current known habitat is grassy or brushy, semiarid regions. Open prairies with sandy soils and/or rocky canyons in southwestern counties in Kansas provide suitable habitat. The intentional taking of a SINC species is prohibited. However, SINC species do not receive the same level of protection as threatened or endangered species, and no specific review or permit requirement applies to private or public projects that may affect a SINC species or its habitat. Consequently, no economic impact on the general public, other agencies or small businesses is anticipated due to the listing of the Longnose snake as a SINC species.

The department is required to develop a recovery plan for each SINC species, based on the priority list developed pursuant to K.A.R. 115-15-4. The cost to the department to establish a recovery plan for the Longnose snake is roughly estimated at \$10,000, with an additional \$1,000 in administrative costs. Annual implementation of the recovery plan may cost approximately \$1,000 in field staff time.

Northern long-eared bat: The Northern long-eared bat is proposed to be listed as a SINC species. This bat species is currently not listed. Habitat is predominantly woodlands along riparian zones. There is recent evidence of maternity colonies in central Kansas. The intentional taking of a SINC species is prohibited. However, SINC species do not receive the same level of protection as threatened or endangered species, and no specific review or permit requirement applies to private or public projects that may affect a SINC species or its habitat. Consequently, no economic impact on the general public, other agencies or small businesses is anticipated due to the listing of the Northern long-eared bat as a SINC species.

The department is required to develop a recovery plan for each SINC species, based on the priority list developed pursuant to K.A.R. 115-15-4. The cost to the department to establish a recovery plan for the Northern long-eared bat is roughly estimated at \$10,000, with an additional \$1,000 in administrative costs. Annual implementation of the recovery plan may cost approximately \$1,000 in field staff time.

CAPITAL AND ANNUAL COSTS: At the present time, it is not possible to identify the specific capital and annual costs of compliance with the proposed regulation. Nonetheless, as described above, the capital and annual costs due to these proposed listing actions would be expected to be minimal.

INITIAL AND ANNUAL COSTS OF IMPLEMENTATION AND ENFORCEMENT: Initial and annual implementation costs will be borne entirely by the department, and would be expected to be minimal. As noted above, SINC species do not require the same review of projects that may affect the species' habitat or status as do threatened or endangered species. Consequently, no additional permitting or enforcement activity would be anticipated.

Development of recovery plans for listed species will also be borne by the department.

COSTS WHICH WOULD ACCRUE WITHOUT REGULATION: As noted above, federal law requires that the state establish and maintain an adequate and active program for the conservation of endangered and threatened species, and requires that the state program be at least as restrictive as the federal program. Listing a federally-listed species at the state threatened level meets this requirement. Funding received as a direct result of threatened and endangered species programming currently totals approximately \$25-40,000 annually. Otherwise, costs which would likely accrue if the proposed regulation is not adopted are not readily identifiable.

Two species proposed for de-listing action are listed on the federal level.

COST ESTIMATE METHODOLOGY: Costs associated with work by Department employees are based on current state civil service salary plan. Costs estimates for the development of species' recovery plans are based on contract costs for development of recovery plans for other species.

ENVIRONMENTAL BENEFIT STATEMENT

K.A.R. 115-15-2. Nongame species; general provisions.

REGULATION DESCRIPTION: This permanent regulation designates species classified as species in need of conservation in Kansas (“SINC species”). An environmental benefit statement is required by law when amending an environmental rule or regulation. A regulation adopted by the Secretary of Wildlife, Parks and tourism concerning threatened or endangered species of wildlife is defined as an environmental rule or regulation. Although a SINC species is not a threatened or endangered species, and does not receive the same protections from other regulations requiring permit review for actions that affect threatened or endangered species, the list may be considered one that concerns threatened or endangered wildlife. Consequently, this environmental benefit statement has been prepared. The proposed amendments to the regulation are as follows:

- Add seven new SINC species:
 - Chestnut lamprey, *Ichthyomyzon castaneus*
 - Silverband shiner, *Notropis shumardi*
 - Spring peeper, *Pseudacris crucifer*
 - Redbelly snake, *Storeria occipitomaculata*
 - Longnose snake, *Rhinocheilus lecontei*
 - Smooth earth snake, *Virginia valeriae*
 - Northern long-eared bat, *Myotis septentrionalis*

In conjunction with these proposed amendments, the department is also proposing amendments to K.A.R. 115-15-1, which includes the lists of threatened and endangered species in Kansas. Proposed amendments to that regulation include removing the eskimo curlew, black-capped vireo and the many-ribbed salamander from endangered status and removing the chestnut lamprey, silverband shiner, spring peeper, redbelly snake, longnose snake and smooth earth snake from threatened status.

The Kansas Nongame and Endangered Species Act, K.S.A. 32-957 et seq., requires the department to adopt rules and regulations “which contain a list of the nongame species deemed by the secretary to be in need of conservation . . .” (K.S.A. 32-959(a)). The law stipulates that this determination shall be on the basis of information related to population, distribution, habitat needs, limiting factors and other biological and ecological data concerning nongame species, gathered to determine conservation measures necessary for their continued ability to sustain themselves successfully.

The current proposed amendments stem from petitions for listing actions received by the department by July 31, 2013, as well as federal threatened and endangered species listings. Since that time, the department has held various public meetings, collected data, and received official recommendations from a task force composed of personnel from the U.S. Fish and Wildlife Service, universities, the Kansas Biological Survey, and the department. In making its recommendation to the department, that task force collected numerical ratings from individuals and companies believed to have knowledge and scientific information about one or more of the

species in question, over a 90-day public comment period.

Taking into consideration response from the Wildlife and Parks Commission, the general public, and the task force recommendations, the department has developed these proposed regulatory amendments. A description of the species and related information, as well as a description of the risk or threat to the species and the need for the regulatory amendment, is included for each of the species in question.

Chestnut lamprey (*Ichthyomyzon castaneus*)

- Federal Status: None
- Current Kansas Listing Status: Threatened
- Proposed Listing Action: List the species as SINC.
- Description: Eel-like in shape, jawless with disk-shaped mouth, seven pore-like gill openings, single nostril, dorsal fin shallowly notched, back yellowish-tan to light olive-yellow on belly and fins.
- Size: a maximum length of around 14 inches.
- Habitat: Canada, and the Central and Eastern United States, any large lakes or reservoirs and large rivers where large host fish are present. In Kansas, the range is the lower Kansas River and Missouri River main stem.
- Reproduction: Spawning season is from June through July.
- Food: Host species such as fish in a reservoir.

Threat to the species and need for the regulatory amendment: This species was petitioned for removal from the Kansas threatened species list on the basis that it is recently no longer a viable component of the Kansas fauna.

Silverband shiner (*Notropis shumardi*)

- Federal Status: None
- Current Kansas Listing Status: Threatened
- Proposed Listing Action: List as a SINC
- Description: Minnow with a high sharply pointed dorsal fin located directly above the pelvic fins. Its color is pale green with a narrow silvery lateral stripe.
- Size: 2-4 inches.
- Habitat: Large rivers of Missouri-Mississippi basin (mainly Missouri, Mississippi, Illinois, Kaskaskia, lower Ohio, Arkansas, and Red rivers). In Kansas, the range is limited to the Missouri River in deep flowing water along sand or gravel bars.
- Reproduction: Occurs late May through mid-August.
- Food: Unknown.

Threat to the species and need for the regulatory amendment: This fish species was petitioned for removal from the Kansas threatened species list on the basis that it is no longer a viable part of the Kansas fauna. One specimen was found during the annual survey efforts on the Missouri and lower Kansas Rivers in 2008. Prior to that, the last record was from 1957.

Spring peeper (*Pseudacris crucifer*)

- Federal Status: None
- Current Kansas Listing Status: Threatened
- Proposed Listing Action: List as a SINC
- Description: tan or brown with a dark cross that roughly forms an X on their dorsa.
- Size: 1 inch.
- Habitat: Eastern Kansas counties to Eastern United States in regenerating woodlands near ephemeral or semi-permanent wetlands.
- Reproduction: Occurs late March to June.
- Food: small invertebrates, such as beetles, ants, flies, and spiders.

Threat to the species and need for the regulatory amendment: This frog species was petitioned to be downlisted from threatened to SINC status on the grounds that recent surveys have documented several additional breeding locations in the last two decades. Small ephemeral wetlands in or near woodlands are essential for the reproduction of this frog. Creation and enhancements of wetland habitat in the eastern border counties through the Wetland Reserve Program have likely improved the population status as well.

Redbelly snake (*Storeria occipitomaculata*)

- Federal Status: None
- Current Kansas Listing Status: Threatened
- Proposed Listing Action: List as a SINC
- Description: The Redbelly Snake has keeled scales and a divided anal scale. On its dorsal side, its color may be slate gray or reddish brown. Two thin darker stripes are on each side. The snake's belly may be bright orange-red or jet black. Any combination of dorsal and belly colors can occur. There are three light spots on the neck.
- Size: 8-10 inches long.
- Habitat: Redbelly Snakes prefer deeply wooded regions near rivers and lakes, sandstone woods, wooded hillsides, hillsides near streams, steep slopes of forested hills, moist areas, moist woodlands, woodlands with dense leaf litter, lowlands, forest edge, open fields, the vicinity of old dilapidated farm buildings, and woodlands which remain damp throughout the year. They are usually discovered on damp ground beneath leaf litter, leaf mold, or pine needles mixed with dead leaves; equally as often they are found under flat rocks, logs, rotten logs, boards, and other surface debris.
- Reproduction: Late summer or early fall.
- Food: slugs and snails are the primary food items.

Threat to the species and need for the regulatory amendment: The Redbelly snake was petitioned to be downlisted from threatened to SINC status on the grounds that forestland habitat has increased in eastern Kansas, documentation of the species has occurred in two additional counties since listing in 1987 and the assertion that there might be populations that might not have been sampled due to the secretive nature of the species. The Kansas Biological Survey recently completed research on the habitat requirements, models to predict species distribution, and ecological variables for critical habitats. The research revealed that the Redbelly snake is more of a habitat specialist than previously thought. It requires moist old-forest habitat of oak-

hickory to support its food source of snails and slugs. It was also shown to be slower than the Smooth earth snake in recovering from drought conditions. Therefore, it may be more likely to disappear from smaller fragmented habitats. The probability of emigration to nearby habitat is low and no evidence was found that shows the increase in forestland in eastern Kansas would have the proper soil-moisture needed to support the species food source. Continuing fragmentation of forestland habitat due to residential and commercial development is a lingering threat to the species and the T&E task committee recommended the species remain threatened. However, the Department is recommending downlisting to SINC status for a variety of reasons including the development of a recovery plan and advisory committee for the species, the ability to secure lands through acquisition and the ability to prevent the species from extirpation simply because of the amount of habitat preserved in perpetuity already. In addition, the existence of the species is secure nationally and the range for the species is from Canada south to the Gulf of Mexico and from the Great Plains states east to the eastern seaboard.

Longnose snake (*Rhinocheilus lecontei*)

- Federal Status: None
- Current Kansas Listing Status: Threatened
- Proposed Listing Action: List as a SINC
- Description: It has smooth scales, a single anal scale, and at least half the scales on the underside of the tail not divided into rows. The snake's ground color is yellowish or cream with black blotches on the body separated by pink or reddish interspaces.
- Size: 22-30 inches.
- Habitat: Longnose Snakes prefer grassy or brushy, semiarid regions. Open prairies with sandy soils and/or rocky canyons in southwestern counties in Kansas provide suitable habitat. The snake also ranges south through Oklahoma and Texas.
- Reproduction: clutches of 4-9 eggs in the early summer, which hatch out in the late summer or early fall.
- Food: lizards, amphibians, and sometimes smaller snakes and infrequently rodents.

Threat to the species and need for the regulatory amendment: This nocturnal snake is a secretive resident of southwest Kansas and spends most of the daylight hours underground. The majority of the records of the Longnose snake come from rocky areas of sand sagebrush of the High Plains and Red Hills prairie. A review of this species status was requested by the Secretary. This snakes range is more extensive with many additional instances of documentation in southwest Kansas since the species was listed in 1987. The numerical evaluation from the expert panel that was consulted regarding its status placed its score in the SINC category. In addition, there is a good probability that this snake may be more common than surveys can reveal.

Smooth earth snake (*Virginia valeriae*)

- Federal Status: None
- Current Kansas Listing Status: Threatened
- Proposed Listing Action: List as a SINC
- Description: The Smooth Earth Snake has smooth scales on the front part and weakly keeled scales on the rear part of the body, a divided anal scale, six scales on the upper lip

and two or more scales bordering the rear edge of the eye. The head, body and tail are gray or brown with no pattern. The belly is white.

- Size: 7-10 inches.
- Habitat: Smooth earth snakes seem to prefer open sandstone woods, rocky hillsides in moist woodlands, deciduous forests, wooded urban areas, woodland edge situations, open brushy woodlands without a continuous leaf canopy, and abandoned fields in Eastern Kansas. They are frequently found in thick piles of dead leaves, or beneath leaf litter, flat rocks, logs, and other surface debris, most often near forest-edge or on hillsides with sparse tree cover. They also range in the Eastern United States.
- Reproduction: clutches of 4-9 eggs in the early summer, which hatch out in the late summer or early fall.
- Food: primarily earthworms and other soft-bodied arthropods.

Threat to the species and need for the regulatory amendment: Similar to the Redbelly snake, the petition to delist the Smooth earth snake cited range expansion over the last 35 years in 5 additional counties, an increase in forestland habitat in eastern Kansas, and the assertion that due to the secretive nature of the species, there may be undocumented populations. Research shows the Smooth earth snake is less specific in its habitat requirements and recovers more quickly from drought than the Redbelly snake. In addition, the species has been documented in many more locations since initially listed in 1987.

Northern long-eared bat (*Myotis septentrionalis*)

- Federal Status: None (proposed to threatened final ruling due April 2015)
- Current Kansas Listing Status: not listed
- Proposed Listing Action: List as a SINC
- Description: ears extend beyond the tip of nose when laid forward, tragus sharply pointed gray fur with a golden wash
 - Size: 3-4 inches total length, weight approx. $\frac{1}{4}$ oz.
 - Habitat: wooded riparian corridors; winter in caves, mines, rock crevices; maternity colonies found in hollow trees or under loose bark
 - Reproduction: one pup per female per year born in June.
 - Food: insects (mostly moths, true bugs, ichneumons and flies)

Threat to the species and need for the regulatory amendment: This bat was petitioned to the threatened list primarily due to the threat of a fungal disease (White-nose syndrome). That disease has not been documented in Kansas nor is it known if this is truly a threat in Kansas due to the drier conditions here when compared to the eastern populations. In addition, too little is known about where this bat occurs, locations of maternity colonies or hibernation sites in Kansas to list as Threatened. However, a SINC listing would show a concern for the need for survey and research efforts. A State Wildlife Grant to answer some of these questions has been proposed.

TAKINGS ASSESSMENT STATEMENT

K.A.R. 115-15-1. Threatened and endangered species; general provisions.

K.A.R. 115-15-2. Nongame species; general provisions.

BACKGROUND: The Private Property Protection Act, K.S.A. 77-701 *et seq.*, requires state agencies to evaluate certain governmental actions to determine whether such actions may constitute a taking, and to make the resulting written report available for public inspection. Guidelines to evaluate such governmental actions were established by the Attorney General and first published in the Kansas Register on December 21, 1995. Before a state agency initiates a governmental action, it shall prepare a written report, following the Attorney General's guidelines, and make the report available for public inspection. Two regulations affecting species receiving some level of protected status based on their need for conservation, K.A.R. 115-15-1 and K.A.R. 115-15-2, are jointly assessed in this statement.

ANALYSIS: The analysis used follows the sequence and the scope of the questions from the "Takings Checklist" contained in the Attorney General's Guidelines.

1. Does the government action result in a permanent or temporary physical occupation or invasion of private property?
2. Does the governmental action deny or abrogate a fundamental property right?
3. Does the governmental action deprive the owner of all economically viable uses of the property?
4. Does the governmental action substantially further a legitimate interest?
5. Are the proscribed uses or physical occupation part of a preexisting limitation on the landowner's title?

K.A.R. 115-15-1 identifies species classified as endangered or threatened in Kansas, as required by, and according to the factors listed in K.S.A. 32-960. K.S.A. 32-960 requires the agency secretary to determine whether any species of indigenous wildlife is a threatened or endangered species because of any of the statutorily imposed factors:

- (1) the present or threatened destruction, modification or curtailment of its habitat or range;
- (2) the over utilization of such species for commercial, sporting, scientific, educational or other purposes;
- (3) disease or predation;
- (4) the inadequacy of existing regulatory mechanisms; or
- (5) the presence of other natural or man-made factors affecting its continued existence within this state.

The secretary's determination is to be made on the basis of the best scientific, commercial and other data available to the secretary, and after consultation, as appropriate, with federal agencies, other interested state agencies and interested persons and organizations.

K.A.R. 115-15-2 identifies species in need of conservation, as required by, and according to the factors in K.S.A. 32-959(a). The law stipulates that this determination shall be on the basis of information related to population, distribution, habitat needs, limiting factors and other biological and ecological data concerning nongame species, gathered to determine conservation measures necessary for their continued ability to sustain themselves successfully. Species listed in this classification are not considered to be at the level of danger of threatened or endangered species, and do not receive the same level of legal protection.

1. Do the proposed amendments result in a permanent or temporary physical occupation or invasion of private property?

The listing of a species as threatened, endangered, or in need of conservation does not require an "occupation or invasion" of private property. Investigations surveying for the presence, or absence, of a species are among the statutorily available and authorized activities available to the agency pursuant to K.S.A. 32-959, and that activity does not rise to a level constituting an occupation or invasion. Typically, agency personnel seek consent of the landowner, or manager prior to conducting an inspection. If such consent is withheld, then the agency endeavors to work through a third party intermediary (such as a watershed district or a NRCS representative) to explain to the property owner the relevancy of such inspection to activities beneficial to the property owner. If those efforts fail to generate consent, then the agency typically relies on other scientific data.

2. Do the proposed amendments deny or abrogate a fundamental property right?

Protected fundamental property interests include the right to possess property, the right to exclude others from the property and the right to dispose of the property. By state law, ownership of all wildlife is declared to be in the state, regardless of whether it is listed or not (K.S.A. 32-703). Consequently, the listing of a species as threatened or endangered does not dispose or otherwise impair a property owner's continuing existing use of private property.

Listing a species as threatened or endangered (but not as a species in need of conservation) could have certain indirect effects on the use of a person's property, if a proposed use of the property would result in the alteration of the listed species' habitat or destruction of individuals of the species. Any person sponsoring or responsible for a publicly funded action of this sort, or an action requiring a permit from another state or federal permit from another state or federal government agency, must apply for a permit from the department, pursuant to K.A.R. 115-15-3. However, this permit is not required for normal farming and ranching practices, or for development of residential and commercial property on privately-owned property financed with private, nonpublic funds, unless a permit is required by another state or federal agency, or unless the action would involve an intentional taking (defined as an act or attempt that is willful and done for the purpose of taking a threatened or endangered species). Pursuant to K.A.R. 115-15-

3(d), the secretary is obligated to issue a permit for which a timely and complete application has been submitted, if the proposed action meets with two conditions. First, the application must describe in the action plan sufficient mitigating or compensating measures to ensure protection of critical habitats and listed species, and assurances that such measures will remain in effect. Second, the proposed activity must comply with all federal laws protecting listed species.

The mere listing of a species as threatened, endangered or in need of conservation does not require any action by a property owner. Only if the property owner elects to undertake publicly funded activity that could result in the taking of a threatened or endangered species would a permit be required. In addition, these permits are not required for certain actions, and department regulation states that, in any case, law enforcement action would only be taken in cases involving intentional takings.

3. Do the proposed amendments deprive the owner of all economically viable uses of the property?

The listing of a species as threatened, endangered, or in need of conservation does not, itself, have any impact on the use of property. However, as noted above, a permit may be required if a proposed use would result in the alteration of a threatened or endangered species' habitat or the destruction of an individual of the species. Again, management of private property for normal farming or ranching uses would not be impaired by the listing of a threatened or endangered species, even if such practices were publicly funded or state or federally assisted, unless an intentional taking were involved. In addition, development of residential or commercial property would not be impaired unless publicly funded or an intentional taking were involved.

In addition, no use of private property could ever be restricted under these regulations unless it were publicly funded, state or federally assisted, or destroyed individuals of any listed species. All other economically viable uses of the property not within these categories are still available to the landowner. Furthermore, any use proposed action that would fall within these categories will still receive a permit to proceed, as long as sufficient mitigating or compensating measures are incorporated within the proposed action. Therefore, even in such cases, the regulation would not deprive a property of all economically viable use.

4. Do the proposed amendments substantially further a legitimate state interest?

The general governmental purposes for listing of any threatened or endangered species have been articulated in the Congressional findings and declaration of policies in the Federal Endangered Species Act of 1973 (16 U.S.C.A. 1531). Congress found that “various species of fish, wildlife and plants in the United States have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation,” and that “other species of fish, wildlife and plants have been so depleted in numbers that they are in danger of or threatened with extinction,” and such species are of “esthetic, ecological, educational, historical, recreational and scientific value to the Nation and its people.” Such findings adopted at a national level have equal applicability at the state level.

State statute makes determination of threatened or endangered species by the secretary obligatory, and not merely optional. See K.S.A. 32-960(a) (the secretary shall determine whether any species of wildlife indigenous to the state is a threatened species...) (emphasis added). The Kansas Legislature by statutorily adopting these obligatory requirements and imposing them upon the secretary evidenced that such conservation and protection provisions furthered a legitimate state interest.

A further legitimate state interest is served because federal agencies are directed by statutory federal policy (16 U.S.C.A. 1531(c)) to use their authority in furtherance of the stated federal policy of conserving ecosystems of threatened and endangered species. State law or regulation respecting a threatened species may be more restrictive, but can not be less restrictive than federal law or regulation (16 U.S.C.A. 1535(f)). The Secretary of Interior may enter into cooperative agreements with a state, provided that state "establishes and maintains an adequate and active program for the conservation of endangered and threatened species" (16 U.S.C.A. 1535(c)). With such cooperative agreements come substantial financial assistance to the state to develop conservation programs. The cost sharing for such programs has 75% of the cost being borne by the federal government. Therefore, a determination by the Secretary of Interior that a state was not maintaining an "adequate or active" program could place in potential jeopardy substantial federal assistance to the state.

5. Are any proscribed uses or physical occupation from the proposed amendments part of a preexisting limitation on the landowner's title?

As described above, the listing of a threatened or endangered species does not result in a permanent or temporary physical occupation on private property without consent of the landowner or manager. Second, as described above, the regulations do not deprive an owner of all economically viable uses of the property.

Even if limited proscriptions would exist, however (due to the involvement of public funding, for example), they may be part of a preexisting limitation on the landowner's title. For example, to the extent a landowner is also within a watershed district, and such district wishes to use federal assistance for construction of watershed structures (dams or impoundments), then the statutory rights of the watershed district may be pre-existing limitations that limit the impact of a listing of a species as threatened or endangered. Specifically, K.S.A. 24-1209 vests in an incorporated watershed district the power "where the construction, improvement or operation of such works causes the substantial displacement of a wildlife habitat and when required by the soil conservation service of the United States department of agriculture as a condition precedent of the release of federal funds for such works, to acquire land for the purpose of restoring such wildlife habitat." The watershed district authorizing statutes contemplate that conservation or protection of wildlife habitat may be a factor in the siting and design of structures or impoundments and further, that certain mitigating conditions may have to be developed to gain approval by a federal funding source. Therefore, even if the listing of a threatened or endangered species were to create some limitations on the use of the property, it might not necessarily impose more of a burden for property already within a watershed district.

Also, watershed developments fall within the existing scope of the Kansas Water Projects Environmental Coordination Act (K.S.A. 82a-325, *et seq.*). Such Coordination Act requires the consideration of the environmental effects of any water development project. By statutory definition, the department is an environmental review agency, to whom watershed development projects must be submitted for review and comment. K.S.A. 82a-326(b)(1) and 82a-327. Permissible consideration for such review include:

- (a) beneficial and adverse environmental effects of proposed project on fish and wildlife;
- (b) means and methods to reduce adverse environmental effects; and
- (c) alternatives to a proposed project with significant adverse environmental effects.

Therefore, construction of a watershed dam could require the district to file an application for and obtain a permit if a threatened or endangered species were present, but due to the existing limitation under the Kansas Water Projects Environmental Coordination Act, the impact of such listing is reduced in this context.

Finally, any possible limitation would only occur if the proposed use of the property would impact a listed species. If another listed species already exists in the same habitat as the newly listed species, restrictions on the use of the property, if any, would be pre-existing. For certain of the proposed species for listing (e.g. the Shoal chub, in the Kansas River), that would normally be the case.

CONCLUSION: Based on the foregoing analysis, the agency believes that the proposed amendments to K.A.R. 115-15-1 and to K.A.R. 115-15-2 do not constitute a taking of private property.