

AGENDA
KANSAS DEPARTMENT OF WILDLIFE, PARKS & TOURISM
COMMISSION MEETING AND PUBLIC HEARING
Thursday, June 22, 2017
Kansas Dept of Wildlife, Parks & Tourism
George Meyn Center, 126th & State Ave,
Kansas City, Kansas

- 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 April 20, 2017 MEETING MINUTES**
- V. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS**

Welcome – Doug Bach, Wyandotte County Administrator

Law Enforcement Division Award (Dan Heskett)

VI. DEPARTMENT REPORT

A. Secretary's Remarks

- 1. Agency and State Fiscal Status (Robin Jennison)**
- 2. 2017 Legislature (Chris Tymeson)**

B. General Discussion

- 1. Private Owned Cabin Permit Fees (Steve Adams)**
- 2. Archery Program Update (Aaron Austin)**
- 3. Kansas National Archery in the Schools Program Update (Gary Keehn)**
- 4. 2018 Turkey Regulations (Kent Fricke)**

C. Workshop Session

- 1. Park Regulations (Linda Lanterman)**
- 2. Fishing Regulations (Doug Nygren)**
- 3. Fees and Licenses (Mike Miller)**
- 4. Threatened and Endangered Species Regulations (Chris Berens)**

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 115-16-3. Nuisance bird control permit; application, provisions, and requirements. (Richard Schultheis)**
- 2. KAR 115-20-2. Certain wildlife; legal equipment, taking methods, possession, and license requirement – exotic doves. (Richard Schultheis)**
- 3. KAR 115-20-7. Migratory doves; legal equipment, taking methods, and possession. (Richard Schultheis)**
- 4. KAR 115-25-19. Doves; management unit, hunting season, shooting hours, and bag and possession limits. (Richard Schultheis)**
- 5. KAR 115-25-9a. Deer; open season, bag limit, and permits; additional considerations; Fort Riley. (Matt Peek)**

XII. OLD BUSINESS

XIII. OTHER BUSINESS

A. Future Meeting Locations and Dates

XIV. ADJOURNMENT

If necessary, the Commission will recess on June 22, 2017, to reconvene June 23, 2017, 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, August 10, 2017 at Ninnescah Sailing Association, 15500 NE 50th St, Cheney, KS.

Kansas Department of Wildlife, Parks and Tourism
Commission Meeting Minutes
Thursday, April 20 2017
Kansas Department of Wildlife, Parks & Tourism
Basement Conference Room, Pratt, Kansas

Subject to
Commission
Approval

The April 20, 2017 meeting of the Kansas Wildlife, Parks and Tourism Commission was called to order by Chairman Gerald Lauber at 1:00 p.m. at the KDWPT Headquarters, Pratt. Chairman Lauber and Commissioners Ward Cassidy, Emerick Cross, Tom Dill, Gary Hayzlett, Aaron Rider and Harrison Williams were present.

II. INTRODUCTION OF COMMISSIONERS, STAFF AND GUESTS

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

III. ADDITIONS AND DELETIONS TO AGENDA ITEMS

Sheila Kemmis - Added Emergency Management Update, Item #1 under General Discussion and renumbered following items (Exhibit B).

IV. APPROVAL OF THE March 23, 2017 MEETING MINUTES

Discussion with member from general public earlier, told corrections made by Commission. Misspelling of name, Coffman, first name not Lucy, asked to use initials. Commissioner Ward Cassidy moved to approve the minutes, Commissioner Gary Hayzlett second. *Approved.* (Minutes – Exhibit C).

V. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS

Commissioner Rider – Contacted by constituent regarding coyote populations, talked to Matt; problems in southeast Kansas, population higher and influx of animals and looking for ways to curb that. They suggested bounty of some sort. Coyote hunters are a dying breed. In last 20 years, access not what it used to be and don't want dogs running through property. Increasing population is causing ranchers to have problems with cattle being harassed and calves being killed. With budget concerns not sure if that would be route to go, but might look at night vision or something along those lines. Commissioner Hayzlett – In past years the county offered the bounty if they had it in their budget; had bounty for years in Kearney County. Chairman Lauber – In past you could go to the courthouse and get \$2, not much incentive today. Couple of problems I see, not sure bounty sends appropriate message we want to see and hear. It is true coyote populations are greater and causing significant damage, but in other areas a balance and comfortable with that. From sociological perspective, not sure I like the bounty idea. Matt Peek – Coyote problems best handled on case-by-case basis rather than within county. The department helps fund an extension specialist out of K-State and you can refer them to Charlie Lee and he will work with them on depredation. Various problems with coyotes, but small number offending and those can be removed, and next group of animals may not cause the same problems. Chairman Lauber – A good friend of mine's father who was a pilot and right after World War II, state of New Mexico gave him an award for helping to control eagles. They were causing problems in sheep country and there was a bounty. Bounties are an old thing; not sure we want to go that way. Peek – With year-long season that helps and I would disagree that coyote hunters are a dying breed. Coyote calling has increased in

popularity. The opportunity exists to find people who are willing to come in and trap and hunt. Commissioner Dill – We don't have statistics or measurements do we? Peek – Indices show increase in population. Commissioner Cassidy – What does mange does to the population. We have a lot of mange in my area. Peek – It's variable. When mange comes through the animals may come into barns in the winter and around houses trying to stay warm. Small effect in Kansas, but more up north. Only coyotes that reproduce when mange comes through are those that don't have it because pups born of coyotes with mange die. Will work its way through the area and persist at lower density eventually.

VI. DEPARTMENT REPORT

Welcome to Pratt

Keith Sexson – Snacks and drinks furnished by office employee group. Introduced local dignitaries and talked about lake and baseball, softball and soccer fields. Appreciate relationship we have with these people.

County – Joe Reynolds, Commissioner – In 1905, the county deeded 12 acres to wildlife and parks area we have today. I didn't know that before. Appreciate all you have done for us. Appreciate county and city people, this office is vital to our area, helps with overall community.

City – Doug Meyer, Vice-Mayor – Thanks for management of wildlife and parks. We don't take this office for granted, want to keep it in Pratt. Thanks for being here.

A. Secretary's Remarks

1. Agency and State Fiscal Status – Robin Jennison, Secretary, presented this update to the Commission. I have three handouts (Exhibit D). Should put an asterisk on the report this month, Kyle (Jackson) reported last month on new license system and money collected goes into a suspended account and takes time to get into the right accounts. Made estimates in March, not all money in proper place yet. Park fee fund (PFF) continues to respond well, significant increase over last year, 10 percent ahead. Note PFF balance reduction, trying to increase balance. In governor's budget get EDIF money and Governor took \$500,000 of EDIF money this fiscal year, in January in his budget, expected to take money from EDIF and had to quit with \$480,000 left, still \$20,000 short. Add \$400,000 to balance and that is where we operated in the past. Steady in Cabin fee fund in last few years, paid off debt to Wildscape, now get 90 percent of revenues from cabin rentals rather than 25 percent. Downturn started in January. PFF graph similar to past several years. We hope we will not be affected with EDIF money in FY18 and FY19, slightly below last year and if we can mirror that the rest of the year we will be in same place as we came into FY17; no talk of taking money right now, but could lose that \$500,000 again next year if state budget doesn't improve. Wildlife fee fund (WFF), \$1.1 million is what we believe would have been put in there, have money just not in correct place, \$13.2 million last year; \$12.4 million year before; have \$9 million balance as of end of March. New on this report, other numbers are cash balance in WFF federal, where PR and DJ money flows into, \$590,000; we can run those funds in negative throughout the year, but have to be positive at the end of the year; may have to use WFF to bring those balances up if we need to. Keith Sexson – In early days in grants we spent the money and then get reimbursed from PR/DJ and wildlife grants. In old days, reimbursements would go back to fund they came from, WFF. Legislature decided they wanted separate accounts to show federal fee funds, so added line item; process the same but reimbursements went back into WFF federal. When SMART came along, established separate fund for every grant. On last page, each line represents a different federal fund where we get reimbursement. Don't spend fee fund money before we can get a reimbursement; grants are 25 percent wildlife funds and 75 percent federal funds and we maintain a negative balance and in theory bring it back to zero at the end of the year. What has happened for instance in 3418, Pittman Robertson fund generally runs in the negative, in FY11, had budget issues and took monies from WFF federal and put money in WFF and set us to zero as we started the process, don't have all of reimbursements in at the end of a fiscal year because not all of the monies are reimbursed and

have to balance from WFF; as reimbursements take place on previously closed grants we try to pay back that WFF federal account. Juggling finances and trying to get back to having a balance in there. Technically it all works out. Most of you know PR dollars that have come in have been healthy as result of firearm and ammunition sales, \$12 to \$13 million a year, and \$5 million a year on fishing side. Taken advantage of those funds to run our programs and don't let any of that money revert back to the feds. Negative figures mean waiting on reimbursements. Jennison – When SMART went live at beginning of FY 11 had to populate these funds with money. Had to go in and make an educated guess on how much money had to go into that and since then some adjustments were made. One year we did bring up and by end of federal fiscal year at end of October, may not have enough to get funds back up until then. Coffman – Federal funds? Jennison – Making commission aware of how we do those funds. Coffman – Renewable grants? Jennison – Federal funds used for those grants, specific to grant. Coffman – Do you read them? Jennison – No, but somebody does. Commission Harrison – Explain PR/DJ funds? Jennison – Monies collected from hunters and anglers, calculation based on number of hunters/anglers (guns, ammunition and fishing equipment); does not come from taxes other than what hunters and anglers pay. Chairman Lauber – Spend on specific projects? Jennison – Audited every three years to make sure spending money appropriated.

2. 2017 Legislature – Chris Tymeson, chief legal counsel, presented this update to the Commission. On legislative break, comes back May 1. Have 15 to 16 bills on website, track 120. This is the first year of two-year cycle. Three big things left to accomplish before they leave. Signed budget, have to do FY19 and FY20. Seven department initiatives, three signed by Governor. SB 24 – department initiative designating channel catfish as state fish. SB 25 – remove requirement for public hearing and have dynamic pricing of cabins. Provisions were added to another bill we were not comfortable with. It made it through Senate but not House. SB 26 – vessel fee cap increase, signed by the Governor and we will come back with proposal for the commission sometime in the future. SB 77 – would rename bison herd at Mined Land WA in Crawford County as the “Bob Grant Bison Herd,” on general orders; the companion bill is HB 2098, which passed the House early in the session, on consent calendar and will likely be passed when they come back. SB 162 – dangerous regulated animals (adding nonhuman primates and wolves); had hearing in House but didn't go anywhere. SB 240 – came in late in session, championed locally, authorizes purchase of 1,100 acres in Sherman County from Pheasants Forever, land is adjacent to Sherman County WA, on Senate general orders. HB 2191 – department initiative relating to licenses, permits and stamps to clarify suspended license means paper license; stuck in conference committee, but signed by the Governor April 7. HB 2192- renaming Lake Scott SP to Historic Lake Scott SP, signed by the Governor. HB 2193 – boating safety had a hearing, but didn't go anywhere. HB 2199 – would have allowed counties to regulate conservation easements, no hearing this year, similar to other bills introduced previously. HB 2207 – requiring written permission for persons hunting, shooting, fishing, furharvesting or pursuing bird or animal on private property; opposed by department in that form, amended and sent to House floor and re-referred to committee. HB 2208 – transferable landowner or tenant hunt-on-your-own-land big game permit; attempted to add to cabin fee bill and scuttled everything to get rid of it. HB 2276 – was companion bill to dangerous animals Senate bill 162. HB 2363 - concerning state surplus property, we opposed as several of our public lands were listed as surplus; didn't go anywhere. Commissioner Rider – Transferable deer permit didn't go anywhere, dead for this year? Tymeson – Not yet, never dead until end of session; successful in stopping it twice. Coffman – Governor signed some bills on April 7, 2017? Tymeson – He signed three, SB 76 on April 5, HB2191 on April 7, and HB 2192 on March 28. Commissioner Williams – Come to the microphone when asking questions.

B. General Discussion

1. Emergency Management Update – Major Dan Heskett, Law Enforcement assistant director, presented this update to the Commission (Exhibit E). Department personnel have always responded to

emergency calls on our managed lands and waters; however, in 2005, two crews went to Gulf Port, Mississippi to assist with Hurricane Katrina. Shortly after that, retired Colonel Jones tasked me to set up emergency management system with connections to Kansas Department of Emergency Management (KDEM). Set up by retired Captain Rob Ladner, Topeka. We supplied information on our resources, from state park locations that could set up shelters and hospitals, agency offices which could be used for command and operation centers, heavy equipment for debris removal and wild land fire suppression to water and land based search and rescue capabilities including K-9s and law enforcement. None of list would amount to anything without employees who are willing to drop normal job duties and assist citizens of Kansas or in the nation. Dedication displayed in March of this year when resources and personnel helped fight uncontrolled prairie fires; declaration of emergency by the Governor which mobilized KDEM, which in turn contacted Captain Jason Sawyers. He requested resources and personnel from multiple divisions. Resources began trying to fight the fires, 21 separate fires at one time. Response was true testimony of agency employees: 54 from department, with six from parks; 24 from public lands; one from wildlife division; and 24 from law enforcement (named all, listed in Exhibit E). List includes those who reported under Emergency Management Directive. Quote by Neil deGrasse Tyson: "Even with all of our technology and the inventions that make modern life so much easier than it once was, it takes just one big natural disaster to wipe all that away and remind us that, here on Earth, we are still at the mercy of nature." I plan on giving my crew (law enforcement) a challenge coin during break and you are welcome to interact with them if you wish.

2. Tourism Update – Linda Craghead, assistant secretary of Parks and Tourism divisions, presented this update to the Commission (Exhibit F – Earth Day and Faces of Kansas flyers; Kansas sunflower seeds for planting; Kansas map; and publications). It's been a busy first part of calendar year with a lot of new things going on. Did website redesign, travelks.com; doesn't have a lot of verbiage, inspire by pictures and photography to capture desire to travel to Kansas. Other thing we have done is make it responsive, don't have to maintain two separate websites; incorporated separate mobile site for phone now. Persona focus, 10 different, hunting, fishing, outdoor activities, family activities, bird watching who have a whole different desire than those that hunt and fish. We also have incorporated Crowdriff, only eight people on team, work with 105 counties and municipalities in those counties and interact and get fresh photography on regular basis. Try to capture what, have multiple galleries on website, for instance sunset gallery, and has comments from constituents; capture best friend telling you what to see and do in Kansas. Also, hunting gallery, lot of turkeys right now, pictures don't automatically go in, we search by hash tags hunt KS and go through and identify pictures we are trying to promote and incorporated in state park site also. Enables us to communicate with that person, social aggregator pulls all of them into one site and ask permission to use on website, send note to show they are on travelks website, which they share on Facebook and twitter. Now team of eight becomes hundreds of thousands to inspire people to come to Kansas to hunt, fish, experience a sunset, etc. Started a travelks app and working closely with other agencies in the state; Cargill wanted something and millennials want apps to know where they are at in conjunction to something. If you go to app store and search for Kansas tourism this app will come up and is free to the user and if you have your locator turned on it will put up food, etc., in the area, it is geo-located. Information comes from our website, laid out in different format on website, easier to find things in the area you are. Can go offline and information is there for those with poor signal; also video accessible. Working on major campaign to get people engaged, #noplacelikeks is the motto agreed on across the state. Encouraging people to use a hashtag and picture with most likes for the month will get used in digital advertising nationally and internationally. Professional photographers don't like it but most people do. Kicked it off with an Instameet event, an opportunity to share (Instagram) photos for example. Went out and looked at Instagram to see who the major influencers were, the ones with the highest number of followers, and did an event on Easter Saturday and had over 70 people present, partnered with City of Lindsborg and had Jim Richardson, National Geographic photographer, came and talked about how to use your phone as a key tool in photography efforts; took them to Maxwell Wildlife Refuge, Coronado Heights, took them

around town, and many of them went out to the state park and promoted those things. We had eight VIPs with heavy following and had specific things we wanted them to capture so they could message out to their followers. Had over 3.5 million followers with those 70 people and they are excited and ready for the next one. Utilized Kansas bucket list campaign, successful, over 300 communities nominated, via social media, for top 70 communities and narrowed to top 10. Have responsibility to promote Kansas as a whole, every town, no matter their size. Keying all information for every new restaurant, hotel or attraction would be impossible for our small team; work with communities to key that information in, to upload into our system. Found we were missing a lot of information so working on implementing an aggregator to connect with city/community websites, link to those sites and pull information in; excited about time savings. Implemented dashboard to analyze data all the time to show if trending up or down, concerns or items to be noted. It is maintained on website and can be utilized by our partners or entire agency. Gave bag of publications to you (Exhibit F): Visitors guide, work with Meredith Publications on that; Kansas! Magazine produced quarterly with over 20,000 subscribers; outdoors guide, print 125,000 copies, distribute 40,000 with Kansas Department of Wildlife and Parks magazine and Kansas! Magazine; State Parks guide; and Kansas Byways guide; and a lot of other things including making sure the legislators understand what we do. Recently we had an event, brought 10 communities together, only nine could come, and took to Meredith Communications in Des Moines, Iowa. They also own KCTV 5 in Kansas City area, produce Midwest Living, Better Homes and Gardens, All Recipes, 14 or 15 different publications they own and are looking at buying Time Magazine. We took communities there so editors could come together and find out what's special about Kansas. Phenomenal response and expect a lot of coverage. Have a meeting with our international team, we have two representatives who work for us, one from UK and one from Austria/Germany/Switzerland area; they are here looking at new product so they can "sell" Kansas. We partner with Oklahoma, important for people who work for us to understand us. They are excited about birders (they're called twitchers in Europe), we push that we are on Central Flyway for North American continent; developing programs and they are bring a group this fall to see where they want to lead expedition to bird watch, spend 10-14 days here. Another thing they are working on, worked with organization with Historical Harley dealership, we will be home to the only Evil Knieval museum with soft opening May 9; working with them to begin renting motorcycles for travel, excited about that. Finalizing details for three TV shows for upland game this fall. Putting bid in for Pheasant Fest for Wichita. Flint Hills Nature Trail, completed eight bridges along that thoroughfare, have 100 miles of trail accessible, but not finished, but plan for trail opening October 7 that Governor will be part of; will have 100 mile bike ride, 50 mile bike ride, 25 mile bike ride as well as a 100 mile relay run. Awarded bid for new marina store at Cheney State Park and installation and fuel dock and rental slips at Cheney. Working on shoreline project at Glen Elder and new shower buildings at Wilson, El Dorado and Eisenhower; 10 new 3-utility campsites at Cedar Bluff along with 40 upgraded sites. When Robin talks about park fee fund that is down not only for the reasons he talked about, but we made conscious decision to invest some money; mostly money comes from grants, LWCF, BOR and Recreational Trails grants leverage as much money as we can to do what we are doing. New campground at Prairie Dog and new water tower; have 62 new sites at Hillsdale; new shower houses at Wilson, El Dorado and Eisenhower. Linda Lanterman spoke to Congressional Committee on how federal government can improve their efficiencies, she was selected because of what are able to do at our state parks. We have Saturday as park clean up day at Fall River, Glen Elder, Hillsdale, Meade and Kaw River, still time to sign up, love to have big team to help. Working at El Dorado on Dam Music Festival, first event similar to Country Stampede at Tuttle, July 28 and 29. National Tourism week is May 7-13. Thank you for what you do in wildlife, state parks, and communities.

3. Park Regulations – Linda Lanterman, Parks Division director, presented this report to the Commission. Still working on new fee structure for state parks, counting on senate bill to go through, but it did not, hope to present next time on some better ways to maneuver our state parks into more effective future for our pricing purposes. Linda did a great job announcing what is going on in our state

parks. We are on our 18th consecutive year with AmeriCorps program, a federal program put in early during the Clinton administration; we put in application for another year; provides 70 volunteers in state park system and also provides disaster response; about a \$1 million program, with 50 percent match, invaluable to us. Have several members in Pratt that I put at Green Recreational Trail; gave bluebird boxes to each of Commissioners that our AmeriCorps workers here in Pratt put together. Glad you are here in Pratt; seems like we are growing, today Casey's opened. Commissioner Aaron Rider went with me to Washington DC when I testified. It was an incredible experience, and he got a perspective of what we do on a national level, not just in Kansas borders. What we do resonates at national and international level. Thank you for coming Commissioner Rider. Commissioner Rider – Connections at state and federal level is so much more, a great experience for me as well; you did a great job.

4. Fishing Regulations – Doug Nygren, Fisheries Division director, presented this report to the Commission (Exhibit G). Reference document: protecting large blue catfish at Milford, catfish committee reviewed process and come forward to add new option, add a 25- to 40-inch slot length limit and no more than 1/day 40 inches or larger creel limit; falls in line with what anglers were hoping for. Glen Elder Reservoir, change to a 21-inch minimum length limit on smallmouth bass, best smallmouth bass fishery in state developing there and want to protect them. Cedar Bluff Reservoir, change to a 21-inch minimum length limit on walleye. Walleye program depends on these brood fish for eggs and this will enhance walleye initiative in western Kansas; Kirwin and Webster have 15-inch length limits; and at Norton, there is an 18-inch limit on saugeye. Marion Reservoir, reduce to a 20/day creel limit on crappie for more equitable harvest, make people feel better about an obtainable goal and no excessive harvest; Milford Reservoir, change wipers from 2/day to 5/day. Tuttle Creek Reservoir has a developing blue catfish population, so add a 35-inch minimum length limit while population develops and matures. Potential for floatline fishing at Perry Reservoir, looked at that internally and biologically, we don't see any issues allowing floatline fishing for catfish, but locals were concerned about conflict with recreational boaters. Hesitant because this is the first year of year-round floatline fishing. Recommendation, at this time is to not allow floatline fishing at Perry. Chairman Lauber – Does Marion Reservoir have 10-inch minimum length limit? Nygren – No. Chairman Lauber – Is it unusual that a lake with a 20 fish limit and not a 10-inch size limit? Nygren – Done that in several places, reservoirs that have fast growth and stock piling, sometimes bloom and bust, hard to predict what minimum length limit would do when changes occur pretty quickly. Commissioner Cross – What is the length limit on Milford wipers? Nygren – Don't have one, have 2/day creel. Change 115-7-4, people can give fish without any paper trail or documentation; it is difficult for law enforcement to enforce over-harvest of fish when all an angler has to do is state that someone else gave them the fish. In contrast, hunting regulations allow for the transfer of small and big game and we want to include something similar to that. We have two designated Type 1 trout waters at Cedar Bluff Stilling Basin and the Sandsage Bison Range and we want to change them to Type 2 waters as these locations are not being stocked with trout due to poor conditions and we want anglers to be able to fish these locations during the trout season without a trout permit. In addition, the Scott State Park Pond is currently designated Type 2 water, which requires a trout permit only for anglers fishing for or possessing trout. We propose changing the Scott State Park Pond trout stocking location to Type 1 water, which requires a trout permit to fish there during trout season. An interesting deal came up, currently it is illegal to sell gizzard shad for bait. Gizzard shad in dead form or plastic packages that have been sold in bait stores for years. Want to change regulation to say it is okay to sell gizzard shad for bait commercially if dead. Don't want live gizzard shad hauled around for fear of misidentification with Asian carp and don't want introduced into bodies of water. Change last sentence; allow "dead" gizzard shad to be sold commercially. One of biggest suppliers is Rusty's Bait out of Anthony, Kansas; a successful business that can't sell in their own state. Major change in how we manage channel and blue catfish, for many years under one regulation on creel limits. It is somewhat difficult for the public to tell the difference so used look-alike approach to managing those two species, it was 10/day blue catfish, channel catfish combination. Proposing splitting them out and allowing 10/day channel catfish limit and 5/day blue catfish creel limit.

If it is a catfish with more than 30 rays in the anal fin it will be considered blue catfish and those with less a channel; this gives law enforcement a way to regulate. Chairman Lauber – What is word in italics? Nygren – *Ictalurid* is genus. Reviewed 115-7-1, a request to the Commission to allow bowfish on water that have length limits in place.

Releasing a misidentified fish after being hit wouldn't be an option. Some people think archers can tell the difference. After considered this, our staff has come to conclusion that is not the right thing to do; and would like to leave regulation as it is, allow on lakes with no length limit. Change 115-25-14. Fishing; size limits. For long time, statewide 2/day creel limits on striped bass and wiper and asked why so low. It goes back to history and production of those fish in our hatchery system. For many years at mercy of other states and would trade or try to acquire those fish from other states because we didn't have the ability to produce our own. The hatchery at Milford has perfected our techniques using our own domesticated brood stock and we feel it is time to loosen the regulations to 5/day. We can restrict to 2/day, but can do in the reference document as needed. Not trying to manage wipers caught in rivers and streams, just reservoirs. One item not in the book; taking look at process to permit commercial bait stores, currently apply annually for their permit, like to possibly make that a three-year permit. Will save vendors and us time and effort too because we have to inspect each time licensed, can inspect as needed. All fish leaving Arkansas are certified and looking at water supply, especially if using well water as opposed to someone who uses pond or creek water. May come back with some recommendations. Chairman Lauber – Bringing up youth mentor program? Nygren – Lakes around state with variety of different approaches to providing places for kids to fish and some cities have places where only children can fish. We would like to have a youth/mentor fishing pond where kids can fish and adults can accompany them. Fishing is a social activity and when kids fish with friends and family repeatedly they are more like to become long-term purchaser of licenses and supporter of our resources. Like to set up official process within our department to set up kids fishing ponds as youth/mentor ponds with strategy to provide opportunity. Similar to pond right next to our agency, create legal youth/mentor designation that would say anyone under 15 or younger; and adults fishing with them would have to have valid fishing license and would have to accompany a youth to fish in the pond. Chairman Lauber – Good idea, I have three-year-old grandson who can't hold pole all the time by himself.

Sean James, Niles – Thank Doug for Milford area, agree with length limit on blue catfish. Have a new game warden, Amanda, in Wakefield area, give her a little recognition because she is making an impact and doing a good job.

Jay Smith, Concordia – Agree with length limits at Milford. It is so popular that when I fished February 18, there were 39 other boats out chasing blue catfish on north end of lake. Blue cats draw more people to Milford than any other fish. Mentioned gizzard shad, that is good deal especially if local people producing and providing it.

Josh Failes, Salina – Been guide on Milford lake, clients from other states, Colorado Springs, Colorado, Omaha, Nebraska and Des Moines, Iowa; people are traveling to catch big blue cats at Milford, excited you are considering this proposal. Regional popularity now, but will be national in short amount of time.

Commissioner Williams – Where do we rank in Kansas on blue cats; one or two in the draw? Failes – Several lakes, one is Alabama is a national lake, one east of Dallas; top 10, maybe top five.

Commissioner Cross – Are most people keeping those trophy fish or releasing? Failes – Believe most are letting them go, but a lot being kept; so both, in spring time lot of big fish being cleaned in that area. Many do put fish back, but it takes so long for those fish to get big, when handful taken off a lot of years off the lake.

James – Fishing for years out there and bigger fish population has gone down.

Break

Keith Sexson – For housekeeping, rest rooms down the hall and soda vending machines in break room as well.

5. Statewide Action Plan Update – Daren Riedle, nongame coordinator, presented this update to the Commission (Exhibit H). Handed out copy of statewide action plan (Exhibit I). Plan is requirement for state wildlife grant funding. Megan Rohweder talked about this plan nine 9 months or so ago. Plan has been approved by the U.S. Fish and Wildlife Service. State wildlife grants (SWG) are federal appropriation that goes to each of 50 states that can be used to keep common species from declining and rare species from becoming endangered. It provides financial support to state agencies. It is a decadal plan, a dynamic action plan for the state, a broad plan that outlines what we as an agency and our partners will be doing for the next ten years as far as wildlife management in the state; provides Commission with what our outline is. For those in the public, plan is available online in pdf form for free on our website. This plan has been in place since 2005/06, had previous version of this as we have to update it every 10 years. Some of success stories from implementing these plans: collecting population data that has led to preclusion of need to list the Arkansas Darter under the Endangered Species Act; developed recovery plans for state listed species; most recently, worked internally and externally with NRCS to link the conservation issues in the SWAP plan to NRCS's EQIP or equality improvement program and provided fact sheets to NRCS employees and landowners in regards to EQIP and SWAP plan; partnering with federal, state and local entities on implementing aquatic organisms, passage of water structures, continuing monitoring of multiple species of wildlife, particularly species on federal radar, which includes Scott riffle beetle, alligator snapping turtle, Eastern spotted skunk, pepper chub and Arkansas river shiner.

6. Fees and Licenses – Mike Miller, Information chief, presented this report to the Commission (Exhibit J). First step in discussion of a potential recommendation that came out of a committee talking about auto-renewal feature that we should have in place on our licensing system on January 1, 2018. This option would allow someone to have a credit card on file with our licensing vendor and they would get automatic renewals for anything they signed up for every year. One of the things the committee wanted to look into was providing 365-day annual licenses rather than calendar year licenses. Talked to other states that do this and it seems to be a good customer service for hunters and anglers. We haven't come up with firm list of issuances we want to do this with, but for sure hunting and fishing. So if you bought your hunting and fishing license today it would expire one year from today. We would like to have an email on hand to remind people it is coming up or about to expire. We would do the same thing on auto-renewal to see if they still want to do it or ask if the information is still current; and probably the same with the 365-day licenses. Georgia did it and ran a special where they offered a discount for somebody who went ahead and renewed before there license expired to keep people from lapsing; sent email for expiration date that said if they renew today, save "x" amount of money.. If we go to 365-day license early combo would be obsolete because it is a calendar year license. Could buy between December 15 through the end of January for \$42.50 rather than \$47.50 or \$52.50 if you buy separate during the year. This discount could provide incentive to prevent lapses and reduce churn; 365-day license would be a customer service item. This may require a change to 115-9-5, which lists expiration dates. It may also require amending 115-2-1. Oklahoma has as an option, 365-day hunting license or a calendar year license; confusing, rather provide one way. Looking at value added packaging also. Difficult to come up to package to market, talked about promo code or percentage discount based on number of issuances purchased at one time, a way to incentivize people to purchase at one time and help with churn. Chairman Lauber – In all cases, would you notify when permit getting ready to expire? Miller – Definitely on auto-renewal to be sure information on file is correct. Chairman Lauber – I have lifetime license, but a lot of guys you don't and somehow remember to buy their licenses. Also fish at resort in Missouri and have my credit card on file, but expiration dates change on that and messes that up and that is the dilemma of having a card on file. Miller – Correct. Another reason this came up is because we start reminding people about expiration dates on about December 15 and we're told that is the worst time to market, right before Christmas, and may be able to avoid that difficult time frame. Chairman Lauber – For hunting and fishing? Miller – Correct, listed variety of annual permits we might include, but we have just discussed this and come up with ideas but has to be staff input as well.

Chairman Lauber – Makes sense to review. Commissioner Dill – Any update on licensing system now; still majority of calls and questions on that? Miller – Todd may have a better idea. Todd Workman – 594 total agents across the state and right now 480 of them with sales and 114 with no sales; 62 of those are considered seasonal with businesses not opened yet and 44 have discontinued selling because businesses have closed or for whatever reasons. Feel this is almost over. We have four Wal-Marts left not online out of 62; so have rounded the corner on that. Commissioner Williams – Were those Wal-Marts in southeast Kansas, that is where my calls have come from? Workman – One is in Liberal, one in Wellington, one in Salina and don't remember where the other one was. Fixes have been identified, but not applied yet. Commissioner Williams – A time frame when that might be? Workman – They are working on them every day and daily calls with Wal-Mart to update us on getting those up. Commissioner Williams - Due to their software? Workman – They have a unique security sweep and it wasn't identified that they were going to have an issue before new system was put in place. Problems identified after installed and worked on; everyone put resources to it, us, Wal-Mart and Active all worked together to figure them out and when you fixed one problem another one would come up. Their unique security had stiff protocols, stiffer than any other retailer. Commissioner Dill – Asked to revisit actual tag issue. Workman – Asked to try and fix that and have a product change request in to revert back to the way we used to do tags. Had enough public outcries that the Secretary and Keith asked me to revert back, in process of doing that; so sometime in month of June. Jennison – It was a problem for us too, it was overwhelming our offices. Commissioner Dill – Knowing it is reverting back will be good for public knowledge. LJ Coffman – Possibly you have already addressed 2016 regulation summary? Have you corrected errors? Miller – Not aware of errors. Coffman - How many were published? Miller – 295,000. Coffman – Do people pay for these? Miller – No, free. Coffman – Do they read them? Miller – If they want to know the regulations they do. Coffman - Hunter education paragraph on page 5, have you read it? Miller – We have had this discussion on this phone, yes I have read the entire publication. Coffman – You can correct everything on line at the speed of a bullet, but the fact remains there are 295,000 volumes out there somewhere. Chairman Lauber – We will take that under consideration; make what point you have to make. Coffman – Instructed me you didn't want to read anything; primitive cabins at Prairie Dog; just want to know, have you read this? Did you do your addition; two primitive and four modern cabins, four total. Miller – Cabins at Prairie Dog State Park? Coffman – Don't want to read, do you want to do some math? Chairman Lauber – I am going to ask you to sit down. Coffman – Thank you.

7. Kansas Wildlife & Parks Magazine Update – Nadia Reimer, managing editor, Kansas Wildlife & Parks Magazine, presented this update to the Commission (Exhibit K). Publication you should all be receiving. Our agency has published magazine for over 70 years. Next year will mark our 75th anniversary. Our editorial creed has been: “To promote the conservation and wise use of our natural resources,” and “to instill an understanding of our responsibilities to the land.” We cover fish and wildlife, state parks in conjunction with tourism magazine. Started as a seven page typed and stapled monthly pamphlet, *Outdoors With the Forestry, Fish & Game Commission*, to inform Kansas sportsmen about hunting and fishing opportunities, regulation and to gain support. First covers were illustrated by Luther Hanson, a commercial artist from Greenleaf. The pamphlet was retitled in 1939 to *Kansas Fish and Game* and first photos were used. Ceased five years later because of inadequate staff, when came back in 1949 came back bigger and better with 26 pages; in 1960s used spot color; full color covers in 1971, was produced bi-monthly and was free, around 32,000 sent out. Paid subscriptions started July 1, 1976, single copy for \$.50, one-year subscription for \$3, two years for \$5 or three years for \$7. In 1981, retitled to *Kansas Wildlife* and retitled again in 1988 to *Kansas Wildlife & Parks*, following merger with Kansas State Parks and Resources Authority. Now 48-page full-color magazine, circulation of around 15,000 read in 47 states and three countries. Cost is \$2.75 for single copy, one year subscription for \$12, two years for \$20 or three years for \$29. Over course of 74 years taken on many changes, still worry about some of the same issues. Our recipes are more sophisticated now and greater diversity in demographics. Better representation of Kansas and outdoor community today. Used to have 10 staff,

now Mike, myself, Dustin, Annie and Marc Murrell. Magazine is self-sustaining, it pays for itself. This is only a portion of what our section does, also oversee agency's news release program; produce 200 plus state park, wildlife area and general information brochures; produce annual regulation summaries and atlases; majority of agency's signage; social media efforts; field media requests; select website changes; and oversee Pass It On program among other special projects. Use a lot of freelance material and have 20 contributing writers and 15 photographers as well as staff who volunteer to author material. In 2015, thanks to contributions of many staff, received national award on deer issue, very proud of that. It commemorated 50 years of deer management in Kansas and was single most popular issue of magazine to date. Hope to bring into internet world and offer an e-version and have newsstand sales at select locations. Can't talk about magazine without talking about editors, have had seven long standing editors, with Mike Miller being longest running at 28 years. Thanks to Sheila Kemmis for maintaining historical records on the magazine.

8. Falconry Regulations – Jake George, Wildlife Division director, presented this report to the Commission (Exhibit L). Have some potential changes, but more of a brief update because we can change permitting process without changing regulations. To allow additional take, potentially in Central Flyway, from 12 to 48 permits, allocated throughout the region. Of those 12, it was two in Oklahoma, and 10 in Texas; no permits were allocated for take in Kansas, and we have not previously been permitted for the take of peregrine falcons. Continue on that route and depending on number of permits, will be some available for applications, two in the state. Coffman – In minutes, two questions with no recommendations? Could you approach legislation to have regulation change? What were two questions posed on exhibit? George – Don't understand question? Coffman – Did you read the two questions? Chairman Lauber – You are holding the meeting hostage. I try to be patient and let you say what you want to say. Have combative and confused approach to what you want to talk about. Commissioner Hayzlett – Combative and harassing and suggest we take no more questions. Coffman – Thank you for your presence here.

C. Workshop Session

1. Webless Migratory Bird Regulations – Rich Schultheis, migratory game bird biologist, presented this report to the Commission (Exhibit M). Second workshop for proposed changes to Eurasian and collared doves that are not governed by those laws. Staff recommends regulation changes to allow year-round take of Eurasian collared and ringed turtle doves with no daily bag or possession limit; which include eliminating the second segment of dove season open to the taking of exotic doves only in KAR 115-25-19, and instead including Eurasian Collared and Ringed Turtle Doves in KAR 115-20-2, which would allow year-round take and much broader method of take. An additional amendment to KAR 115-20-2 is needed to require a fully feathered wing on all Eurasian Collared or Ringed Turtle doves taken during the migratory dove season if birds possessed exceed the daily bag of migratory doves. Changes are also recommended for KAR 115-20-7 to apply only to migratory doves (mourning and white-winged doves). Finally, a change to the species table in KAR 115-16-3 is suggested to remove feral pigeons (rock dove), which is included in KAR 115-20-2. These will require vote which will take place at June commission meeting. I did include table with proposed changes in briefing item. Chairman Lauber – Ron Klataske sent a document for us to review (Exhibit N), while I don't always agree he has good intentions; talking about bad image being put forth with no closed season. Making point, as I understand, while not natural or indigenous they are permanent species. Not sure I agree with what he wants to do, to not have year long season. Ask you to review and respond. Schultheis – Welcome comments, not a decision we considered lightly, internally reviewed and with the commission. Made comments on devalued resource, we are seeing exponential population growth in the state and feel this is the best step to take, but appreciate his comments. Commissioner Cassidy – What is history of Eurasian collared dove, background? Schultheis – Arrived early in Florida and some talk of in California too and spreading across the U.S. See in towns and cities and spreading out, seeing them in farmsteads

within 10 miles or so of a town. Not unique to Kansas, included image of what is in other Central Flyway states in briefing book. Chairman Lauber – While considered migratory, do they migrate? Schultheis – Can, but also stay put if they can. Commissioner Cassidy – They are a pest and make a mess in small towns; it is a problem and you are not going to slow them down. Schultheis – Especially in areas where you can't shoot them. This regulation will open that up quite a bit with trapping and air rifles and will not eliminate the issue. Chairman Lauber – Over in museum today, thought coot and gallinule were the same thing, but coots don't float, don't have webbed feet or pads? Schultheis – Can float and walk too.

2. Threatened and Endangered Species Regulations – Chris Berens, environmental services chief, presented this report to the Commission (Exhibit O). We will presenting this for vote in a meeting or two. Changes to Threatened and Endangered Species Act are due to a bill which took effect in July. Majority of changes have to do with recovery plan process, no time limit currently. Changed to within four years and after that time we cannot regulate if no recovery plan is in place as far as action permits and project development reviews. Tymeson – Note, while on the agenda for some time, through initial drafting phase, going to Attorney General's office and Department of Administration and once they have worked through that process have 90-day publication period because of threatened and endangered species so takes longer; will probably vote in August or October depending on government process.

3. KAR 115-25-9a. Deer; open season, bag limit, and permits; additional considerations; Fort Riley – Matt Peek, research biologist, presented this report to the Commission (Exhibit P). This regulation exists to better accommodate military personnel who hunt deer on military bases in Kansas. Separate from, and voted on later, than other deer regulations in order to account for unpredictable schedule of military training activities. The department works with military bases to come up with these recommendations. Smoky Hill has requested to have deer hunting seasons at the same dates as the seasons established in KAR 115-25-9. The other two bases have slight variations I covered at the last meeting. Only one antlerless-only white-tailed permit is valid on Fort Riley or Smoky Hill and up to five of those permits valid on Fort Leavenworth. Final action will occur at public hearing in June. Coffman – Is there a state law you wear blaze hunter orange? Peek – Yes, during firearm deer seasons. Coffman – Expect people to be directed by individuals to hunt with a firearm? Chairman Lauber – What is your question? Coffman - Do you have contract with publisher on hunter education manual? Chairman Lauber – Yes we do. Coffman – When does it run out? Chairman Lauber – I don't know. Coffman - Do you want the page number? Chairman Lauber – No, I don't. I am trying to be kind about this. Commissioner Williams – I think the Commission has been more than patient and tolerant on this. Coffman – Use same company (did not hear rest of statement). Chairman Lauber – Law enforcement is going to remove you. Heskett – Come speak to us outside.

Commissioner Rider – Earlier, I didn't mean to say coyote hunters were entirely dying breed, I meant the running of coyotes with dogs. I know some still do that, some in my wife's family. Running of coyotes is what I was alluding to, not overall coyote hunters are not prevalent in the state. Chairman Lauber – Good point, coyote hunting evolved from sight dog and hound sport to more of a calling sport; understand where you were coming from.

VII. RECESS AT 3:49 p.m.

Keith Sexson – Hatchery guys have set up across the street and we have about 45 minutes to an hour for a tour before dinner where we have a reserved a room at the Club d'est.

VIII. RECONVENE AT 6:31 p.m.

IX. RE-INTRODUCTION OF COMMISSIONERS AND GUESTS

X. GENERAL PUBLIC COMMENT ON NON-AGENDA ITEMS

Ryan Warden – At Emporia meeting I talked about tagging by waterfowl hunters. Here to talk about tagging again and have given out items for you to take home and consider (Exhibit Q). Checked with Greyhound and they will not let you ride with dead stuff on the bus. KLETC taught us that care, custody and control of a vehicle, and the transporter is the driver not passengers. According to you not driving so we did not need tags. Called USFWS migratory game bird division, Denver, Staci Campbell said driver will get the ticket. Discovered Kansas Highway Patrol controls truck drivers and they have to take an 80-hour course, then complete 30 hours of supervised training, they have to mirror federal law, not less strict. Do we do anything like that with USFWS? Mark Rankin – Have MOU with USFWS, Region 6 based out of Denver; a year after an officer off probation we send to class taught by federal action and act under federal agent? Warden – Like sheriff's deputy? Rankin – No, not quite. Warden – Do you go to Denver to take the class? Rankin – No, one going on today in Hays, it is eight hours long; cover duties and responsibilities. Warden – See emails from Missouri Department of Conservation to me; they covered questions within handout to me. He talked about Missouri code, keeping wildlife separate or distinctly identified. They hold a three day conference with USFWS and officers assigned to MO, in entirety go over USFWS regulations. Send officers when they first come out, after a year on duty? Rankin – No, don't enforce federal law because don't have blue card. Warden – Difference is what court we go through, not laws. Where is gap between Kansas and USFWS? Appears we are sending guys after a year in enforcement, to learn about the laws to get a blue card. Rankin – Learn in academy training. Warden – Updating after 40 years? Rankin – 40 hours of training a year. Warden – How much federal law taught? Rankin – Varies by year, selection committee chooses training. Warden – MO sends to training every year. Field possession law, federal law, tagged or not, a hunter has to have his birds in possession until he gets to the truck; can't leave gun and birds in blind and go get the truck. Birds have to be separated. Spoke to two-thirds of guys in these photos, 13 of 19 people involved in these hunts. None of them said they tagged their birds and had never heard of separating birds. Second page of photos, birds separated and tagged in various ways. Which page has clearer violations, page one or two? Instead of making you answer that, first page does, taken off Kansas Department of Wildlife and Parks Facebook page, posted by game wardens or had game wardens in the pictures. USFWS says they monitor Facebook and other social media and piles of birds are the first violations they look for to start an investigation; watching and working these guys. Chairman Lauber – Confused on where we are going? You received state or federal citation? Warden – Federal citation with state's help, same with other two outfitters, Prairie Thunder and Eagle Head. Chairman Lauber – You believe this agency didn't instruct, follow law or train? Warden – No, believe lack of clarity in regulations and Kevin Jones giving out misinformation. Why, in five years, have we had three federal cases on waterfowl violations all on tagging violations? Commissioner Rider – Weren't only tagging violations were they? Warden – No, but tagging violations are a felony for commercial outfitters, punishable to up to six months in prison and \$15,000 in fines per instance. Commissioner Williams – Heard you speak in Emporia, just now understanding why you are here. You were cited, correct? Is your case still pending? Warden – I was and no case is not pending; can't hunt, fish or trap, or be with anyone doing it for five years, plus paid \$7,500 in fines and \$20,000 on a federal lawyer. Nine violations for tagging, storing untagged birds, transporting untagged birds, one dove over the limit; received plea agreement for shooting off bed of flatbed truck/shooting off motor vehicle, one over limit and not tagging doves. Ever tagged doves or had over two doves with a friend in a vehicle? Chairman Lauber – See never ending deal, what do you want us to do? Warden – Asked about baiting, asked about when to tag and not tag, Chris said if give examples you can end up varying from the law, or something along those lines; page 27 of our regulations give examples of baiting birds. Try to figure out why not given examples of tagging. I have solutions for you. Is hunting over a cattle feedlot pond hunting over bait? Rankin – Yes, according to court opinions, ducks coming within zone of influence to grain in feedlot. Warden – How far away from feedlot do you have to be to hunt? Rankin – No set distance it is zone of influence, if coming off feedlot,

in violation, if coming from somewhere else, no. Warden – Solution would be to put example of tag; birds have to be separated and/or tagged; keep separate until return to vehicle; tagged separately; storage of birds anywhere besides your abode; and explain that wing or head has to be attached and tagging is not required but is best practice. When guys at lodges, keep birds with them. Asked Staci Campbell if it was safe to say tagging is the best practices, he said absolutely, if on bumpy road and birds in separate piles combine, a tag will save a lot of trouble. You will continue to see me until we have some results. Chairman Lauber – Welcome to public meeting, but we will not solve this here. You have put a lot of effort into this and we will have law enforcement and legal review this to see what has to be done; I am clueless on the solution, I don't totally understand problems and violations. Warden – Initially started this issue with Facebook page, Lt. Dan Melson out of Hays, and made two phone calls to Ron Kaufman because he was in charge of media part of Facebook page; tried to make comments on Facebook about there being tag issues, they blocked the comments; sent private messages that said your job is to educate and here is your mission statement. They both continued to ignore me and banned me from the site; and comments were made that I need educated. Obviously not working together here. Chairman Lauber – No one has told the Commission anything and impossible for us to do anything. Will try to get some resolution, want to have law enforcement's input as well. Commissioner Cassidy – What are other outfitters doing, are they tagging? Warden – No, only one told me they were tagging was Prairie Thunder. Commissioner Cassidy – No outfitter you know of is following the tagging process? Warden – No. If we store birds with wing or head attached, because we thought it was the law, problem wasn't storing birds but according to who shot what; not separately bagged. Commissioner Cassidy – Nobody knows what to do to your knowledge? Warden – No. Commissioner Cassidy – Your point is basically people need to know what they should be doing. Warden – Yes, I think it is not fair to enforce a law when people don't know what the law is. Commissioner Cassidy – Did anyone else getting tagging violations? Warden – Eagle Head Outfitters is currently being indicted on multiple charges and several are not tagging. Encourage you to call Staci Campbell, USFWS, Denver and he will tell you tagging is number one issue. Commissioner Dill – Comments you brought and fact is if we can provide additional information or clarification in regulations on tagging, in my opinion would be fine. Warden – This hits closer to home. Youth age, if 16 year old buys youth deer permit they can hunt during youth season, if 17 year old can buy adult permit can they hunt in youth season because they are 17 years and younger; why do we not have a consistent age? Chris Tymeson – Slightly wrong, only get youth permit if 15 and under, so 15 and 16, not 16 and 17. Warden – At what age do you buy stamps; what age do you buy a license? Tymeson – 16. Warden – Why not consistent youth age, 16 year old can hunt in youth season, but has to buy adult tag? Tymeson – Different for federal waterfowl youth days; it is 15 or under; but we include 16 year olds in youth season for turkey and deer. Warden – Back to outfitters licenses; when leaving Emporia, officer asked how we funnel nonresidents to an outfitter. How many outfitters in the state of Kansas? No clue, because no governing body. How many hunters got left in stands overnight? How many outfitters have insurance? Chairman Lauber – Part of the problem is we tried to regulate outfitters in the past, outfitters were trying to get something cheap and went around our agency to the legislature and began to take away enforcement opportunity. They wanted to be considered an economic development unit, not conservation unit, so figured outfitters could govern themselves. Warden – In midst of these four pages, not just here to complain. Losing nonresident sales, hunter is spending \$2,500 to come into hunting doesn't know if he is going to be with a farmer that knows nothing or a guide that knows the difference. Chairman Lauber – Part of problem I have, most of constituents don't care about outfitters, feel outfitters have caused deterioration in hunting quality for the average citizen. Our job is not to sell more nonresident licenses, our job is to protect the resources of the state. We will look at the issue on tagging and we will study it.

XI. DEPARTMENT REPORT

D. Public Hearing

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

1. KAR 115-8-1. Department lands and waters: hunting, furharvesting, and discharge of firearms – Stuart Schrag, public lands division director, presented this regulation to the Commission (Exhibit S). Two proposed changes to reference document under KAR 115-8-1: section 15, daily hunt permits, basically electronic iSportsman hunts; under Region 3, add Marion Wildlife Area and Region 1 want to take out wording for Glen Elder Wildlife Area so that encompasses all of it. Possible amendment to change date from February 1, 2017 to March 23, 2017; and include, under section three of reference document, under no alcohol, to include all walk-in hunting access areas.

Commissioner Ward Cassidy to bring KAR 115-8-1 before the Commission. Commissioner Harrison Williams second.

Commissioner Harrison Williams moved to amend KAR 115-8-1. Commissioner Aaron Rider second.

Warden - Violations? Schrag – Violation of alcohol on WIHA, not a new regulation, this is something we have enforced since inception of WIHA, but established by posted notice. Any regulation that we feel is going to be long term we incorporate into the reference document instead of posted notice in the field. Tymeson – Class C misdemeanor of our regulations. Commissioner Dill – Why March 23 date? Tymeson – I turned in version of the regulation with the reference document to the Attorney General’s office; February 1 was when I got first approval, but approval has to be on date we amended that document as proposed.

The roll call vote to amend KAR 115-8-1 as recommended was as follows (Exhibit T):

Commissioner Cassidy	Yes
Commissioner Cross	Yes
Commissioner Dill	Yes
Commissioner Hayzlett	Yes
Commissioner Rider	Yes
Commissioner Williams	Yes
Commissioner Lauber	Yes

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

The roll call vote on regulation KAR 115-8-1 as amended was as follows (Exhibit T):

Commissioner Cassidy	Yes
Commissioner Cross	Yes
Commissioner Dill	Yes
Commissioner Hayzlett	Yes
Commissioner Rider	Yes
Commissioner Williams	Yes
Commissioner Lauber	Yes

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

2. Waterfowl Regulations – Tom Bidrowski, migratory game bird program manager, presented this update to the Commission (Exhibit U). Briefing item included background information and season staff recommendations for the 2017 and 2018 September teal, duck, goose, youth and extended falconry seasons. The only change in federal frameworks from last year is the reduction in daily bag limit for

northern pintails, from two to one. Staff recommendations and season dates similar to previous seasons with minor changes to adjust for calendar shift and moving goose split from January back to November. Staff recommendations can be found on page 5 of briefing book item. Warden – Moved split back on dark geese? Bidrowski – Correct, last year we had a two day split that ran from January 2 and 3 this year, so now nine day split, so will have opening of late zone open 28 and 29, close for nine days and open on November 8 and run to latest in frameworks, to February 18.

Joshua McCormick – Talked to Tom on phone and in person. Friends and relatives from Stafford/Ellinwood area. Hunt a lot in low plains late zone; our concern is like to see more hunting days in January rather than late October and early November. Break split back from the beginning of January to the early part of December and land us more days in January. I know that we try to open duck season with goose season to be able to shoot everything. Know hunter numbers are high in November up to early December; duck number build throughout the year. We have a ton of ducks in the area in January and a lot of mallards and pintails coming back through and we can't hunt them. Like to see another week, possibly two weeks hunting time in January in late zone, because creeks and rivers there and ducks build there; and gives us a better chance to shoot six duck limit. Not trying to change early zone in refuges because we know they freeze up. Just want more time in January, two week split in December possibly; and then back open for holiday. Commissioner Rider – Move back one week and adding another week in January? Jacob McCormick – Go 74 days and right now opened up October 8 in early zone, it was 80 degrees that day, selling more tags to fair-weather hunters; late zone is October 29. If want three weeks off and split, between November and end of January, would solve problem for fair-weather hunters and us who hunt late season; best hunting in late season when it freezes. Go seven days later than October 29 in first part of November, still week before opening pheasant season, and take two weeks out of early December. In last few years still 40 to 60 degrees in early December; ducks still not here yet. Live in middle of Central Flyway; ducks might be on refuge, but caters to people hunting public areas. This last year, I watched and saw 100,000 mallards on refuge and we didn't get to hunt them. We work so we only get to hunt Saturday and Sunday, like to hunt when birds are good. Can miss best part of duck season. Chairman Lauber – Not first time we have had variety of people wanting to amend the season, have varying opinions and can't please everyone. Unfortunately every hunter can't pick their 74 days and hunt whenever they want; Tom doesn't have that privilege. Not against looking at it and reviewing what you want, but also think hunters who hunts earlier and hunts non-mallards has some rights in the state. Suggest we follow staff recommendations, but take these thoughts into consideration. Jacob McCormick – (couldn't hear comments, something about number of days). Chairman Lauber – That won't help our ability to have more days. Bidrowski – Have a set framework, only have 74 days to work with and can have up to six ducks; we can be more conservative, but not more liberal. Commissioner Rider – White-fronts have the option. Bidrowski – White-fronts have an 88 day season. Chairman Lauber – Follow staff recommendations. Warden – When is peak population? Bidrowski – Usually around Thanksgiving statewide, depends on which area. It is a hunter preference issue, similar to when we had zone discussions. Warden - So moving it back a week wouldn't hurt? Bidrowski – It depends, arguments could be made for the front end and moving it up a week. Commissioner Williams – Everyone that has been afield has experienced this warming effect; unusually warm for last three to four years, when will that pattern break and we don't know. Jacob McCormick – Never want to hunt January. Commissioner Williams – I understand, if move around weather patterns, don't know when it will break, don't know if that would be beneficial. I like to hunt colder weather too. I like your idea and perhaps we could adjust that a little bit down the road. Jacob McCormick – Early hunters would get their season and later season guys get their season too. Commissioner Williams – Fair-weather hunters are older hunters, like to hunt warmer weather; want things different, us as sportsmen get selfish of what we want to do, keep that in mind. Commissioner Rider – Something to look at. If I had my way would have no days off in January and Tom knows that. Try to accommodate a wide variety of sportsmen. Go with recommendations for today.

Commissioner Aaron Rider moved to approve waterfowl regulations as presented to the

Commission. Commissioner Harrison Williams second.

The roll call vote on to approve was as follows (Exhibit V):

Commissioner Cassidy	Yes
Commissioner Cross	Yes
Commissioner Dill	Yes
Commissioner Hayzlett	Yes
Commissioner Rider	Yes
Commissioner Williams	Yes
Commissioner Lauber	Yes

The motion as presented passed 7-0.

XII. Old Business

None

XIII. Other Business

A. Future Meeting Locations and Dates

June 22, 2017 – Kansas City, George Meyn Community Center

August 10, 2017 – Cheney State Park, Ninnescah Valley Yacht Club (will need special event permit for park entrance)

October 19, 2017 – Scott City, Bryan Conference Center

January 4 or 11, 2018? January 11, 2018, Milford (Acorn Lodge)

XIV. ADJOURNMENT

The meeting adjourned at 7:31 p.m.

(Exhibits and/or Transcript available upon request)

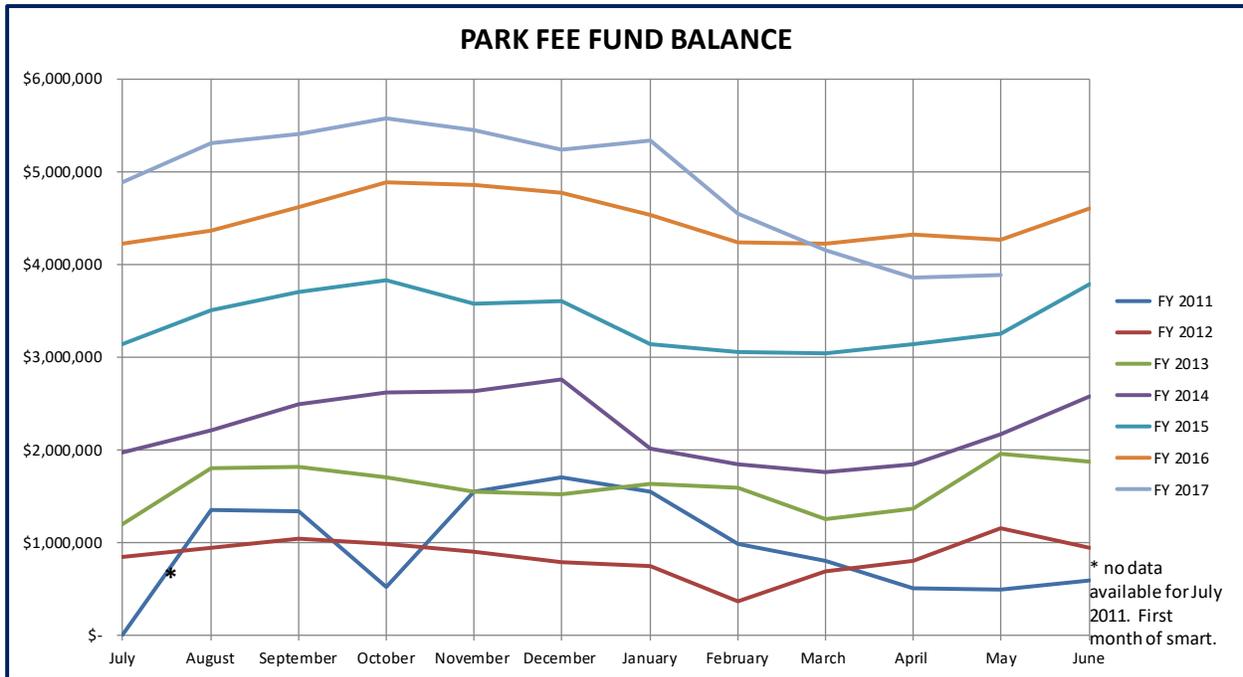
Secretary's Remarks

**Kansas Department of Wildlife & Parks
Park Fee Fund Revenue History**

05-Jun-17

	FY17	FY16	FY15	FY14	FY13	FY12	FY11
July	873,381.25	974,865.89	980,252.80	857,995.99	551,313.01	633,356.54	689,476.98
Aug	1,014,631.88	778,238.68	809,297.48	766,112.37	574,871.10	549,287.76	491,847.20
Sep	594,789.32	612,346.72	548,432.57	496,533.07	450,882.83	410,135.33	565,325.90
Oct	546,656.00	449,208.30	425,388.31	331,403.30	242,324.36	225,694.45	227,224.04
Nov	376,870.52	254,413.16	224,015.18	229,529.11	94,455.39	119,849.62	122,838.69
Dec	389,729.14	344,403.33	335,674.62	297,376.42	190,881.28	88,015.76	83,200.58
Jan	347,375.62	337,700.52	341,691.38	327,705.13	333,250.45	273,633.37	196,801.17
Feb	306,726.82	395,013.17	296,529.37	420,873.55	126,898.56	261,805.59	78,268.88
Mar	< 589,297.07	600,380.61	610,469.79	496,262.86	535,598.26	536,987.75	519,755.03
Apr	= 869,597.02	735,260.67	829,011.56	719,074.74	698,198.97	589,610.15	499,786.77
May	#+ 874,166.06	769,650.50	838,866.75	995,481.06	1,353,580.83	1,187,454.42	674,301.24
Jun		1,352,416.68	1,035,043.04	1,042,609.42	998,546.03	931,035.68	1,119,400.33
Total	6,783,220.70	7,603,898.23	7,274,672.85	6,980,957.02	6,150,801.07	5,806,866.42	5,268,226.81
% change from prior year		4.53%	4.21%	13.50%	5.92%	10.22%	-8.30%
	Current YTD	Prior YTD					
	6,783,220.70	6,251,481.55	6,239,629.81	5,938,347.60	5,152,255.04	4,875,830.74	4,148,826.48
% change from prior year	8.51%	0.19%	5.07%	15.26%	5.67%	17.52%	-4.23%
Cash bal in PFF @ 05/31/17	\$3,665,225.56						
Cash bal in PFF @ 05/31/16	\$4,265,305.20						
Cash bal in PFF @ 05/31/15	\$3,244,927.48						
Cash bal in PFF @ 05/31/14	\$2,163,111.28						

+# Includes May revenue through May 23. Add'l 2 weeks (\$213K) March revenue to be distributed.



Kansas Department of Wildlife & Parks								
			03-Aug-12					
					Cabin Fund Revenue History			
	FY14	FY14	FY15	FY15	FY16	FY16	FY17	FY17
	Gross Rev	Wildscape Pmts	Gross Rev	Wildscape Pmts	Gross Rev	Wildscape Pmts	Gross Rev	Wildscape Pmts
Index 2660: Parks								
July	133,378.00		122,037.00		114,057.02		83,199.29	
Aug	110,612.00	(12,752.80)	117,089.45	(12,337.20)	88,332.87	(11,099.19)	167,298.00	(13,733.53)
Sep	77,473.00	(5,908.10)	62,907.00	(6,622.75)	75,418.50	(6,704.00)	64,776.00	(7,659.00)
Oct	30,820.00	(6,484.20)	53,283.50	(4,879.40)	63,435.00	(5,171.00)	91,015.00	(6,289.10)
Nov	46,876.00	(3,699.40)	60,094.50	(3,191.85)	46,752.71	(3,405.50)	84,537.50	(6,064.90)
Dec	77,465.93	(4,465.00)	68,007.62	(4,939.95)	83,390.00	(5,200.77)	61,691.50	(5,406.70)
Jan	109,913.50	(3,740.74)	103,139.66	(3,591.18)	104,135.50		94,202.50	(4,645.35)
Feb	98,636.00	(8,704.00)	120,628.00	(10,269.90)	123,560.00	(10,128.90)	88,928.52	(10,928.61)
Mar	123,086.04	(7,698.10)	134,103.33	(8,717.90)	132,352.20	(9,638.57)	141,940.50	(7,864.50)
Apr	115,982.00	(11,044.32)	151,430.85	(11,880.74)	125,172.00	(10,265.66)	166,677.00	(11,815.30)
May	84,189.50	(7,933.50)	101,440.50	(8,131.89)	87,319.00	(6,483.74)	79,570.00	(4,841.40)
Jun	131,039.00	(12,205.80)	125,086.99	(12,178.71)	159,751.00	(11,531.50)		
sub TL PK 2660	1,139,470.97	(84,635.96)	1,219,248.40	(86,741.47)	1,203,675.80	(79,628.83)	1,123,835.81	(79,248.39)

FY16 year to date **\$1,043,924.80**

FY15 year to date **\$1,094,161.41**

Cash Balance by BU/LOC as of 05/31/17

BU/LOC	Cash Balance	Category	Total
2660: CRF-PARKS	\$834,259.33		Summary
2665: CRF-PUBLIC LAND	\$50,532.42	PK	\$1,001,639.44
2670: CABIN REV FD-CABIN SITE PREP	\$5,235.72	PL	\$87,220.77
2710: CRF-PARKS-CDBP	\$8,274.95	Site Prep (CI)	\$5,235.72
2711: CRF-PARKS-GELP	\$2,844.74	State Fair	\$869.35
2712: CRF-PARKS-LOVP	\$10,277.24		
2714: CRF-PARKS-PDSP	\$3,846.20		\$1,094,965.28
2715: CRF-PARKS-SCSP	\$7,607.55		
2716: CRF-PARKS-WEBP	\$3,204.76		
2720: CRF-PARKS-CLTP	\$29,953.38		
2721: CRF-PARKS-CRSP	\$2,455.88		
2722: CRF-PARKS-CTSP	\$8,133.24		
2724: CRF-PARKS-FLRP	\$9,728.54		
2726: CRF-PARKS-IKEP	\$6,796.14		
2728: CRF-PARKS-PERP	\$6,629.35		
2729: CRF-PARKS-POMP	\$5,813.33		
2741: CRF-PARKS-ELDP	\$9,299.22		
2742: CRF-PARKS-KANP	\$5,379.86		
2743: CRF-PARKS-MILP	\$21,705.52		
2745: ARF-PARKS-TCRP	\$14,587.68		
2746: CRF-PARKS-WILP	\$10,842.53		
2747: CRF-PARKS-STATE FAIR	\$869.35		
2911: CRF-PUBLIC LAND-OTSL	\$1,780.03		
2920: CRF-PUBLIC LAND-ATSL	\$8,961.39		
2941: CRF-PUBLIC LAND-KMSL	\$10,241.18		
2942: CRF-PUBLIC LAND-MPSL	\$6,671.43		
2953: CRF-PUBLIC LAND-MLWA	\$9,034.32		

Kansas Department of Wildlife & Parks Wildlife Fee Fund Revenue History							
	FY17	FY16	FY15	FY14	FY13	FY12	FY11
Non-Fed Aid Revenue Wildlife Fee Fund 2300:							
July	998,390.72	925,261.11	1,673,391.93	981,935.80	837,024.46	605,873.68	305,978.33
Aug	480,861.09	403,002.28	426,893.12	603,143.62	575,417.86	861,631.94	647,751.20
Sep	1,842,884.42	1,279,278.06	1,290,267.40	1,299,027.64	1,347,938.38	1,342,299.40	1,648,756.32
Oct	1,194,791.18	1,197,044.71	1,129,829.93	1,027,407.80	1,173,700.82	867,309.55	910,294.64
Nov	2,999,214.50	2,086,509.39	1,597,487.28	1,715,732.12	2,625,464.22	3,239,849.04	3,665,596.52
Dec	3,132,818.01	2,466,737.26	2,627,577.56	2,420,531.17	1,754,540.05	1,842,750.56	1,990,918.77
Jan	2,217,774.83	2,550,395.68	2,114,057.88	1,928,212.83	1,942,554.05	1,836,242.19	1,622,272.84
Feb	1,097,049.14	1,007,394.87	465,010.42	370,578.82	205,753.94	660,900.48	300,363.05
Mar	< 366,067.60	1,349,666.12	1,153,694.97	928,596.54	755,754.92	1,247,585.36	1,078,747.03
Apr	@# 10,152,532.40	11,459,013.85	10,759,246.81	7,282,496.59	7,018,250.72	6,461,760.66	6,131,663.09
May	!= 4,732,510.91	3,815,307.16	1,287,697.76	3,991,820.06	4,674,854.85	3,394,263.60	3,394,826.86
Jun		509,146.90	?# 262,162.99	/(806,833.30)	1,714,991.40	1,623,691.09	1,762,974.43
sub TL	29,214,894.80	29,048,757.39	24,787,318.05	21,742,649.69	24,626,245.67	23,984,157.55	23,460,143.08

Cash balance in WFF 2300 at 05/31/17 18,645,876.23

Cash balance in WFF at 05/31/16 \$14,382,889.85

Cash balance in WFF at 05/31/15 \$10,217,086.90

Cash balance in WFF at 05/31/14 \$11,773,403.22

!= Includes May revenue through May 23. Add'l 2 weeks (\$566K) March revenue to be distributed.

2017 Legislature
No briefing book items – possible handout at meeting

General Discussion

PRIVATE OWNED CABIN PERMIT FEES

K.A.R. 115-2-6 sets the permit fee charged for private owned cabins. Every five (5) years, the fees are adjusted by the CPI.

On May 31, 2017, except for Cheney State Park, the Department's twenty-five (25) year Master Lease with the Bureau of Reclamation expired. A new Master Lease has already been executed, however, all the existing third-party agreements associated with the BOR properties expired with the old lease.

BOR is required by 43 CFR Part 429 to have its managing partners, in this case the Department, collect permit fees at the fair market value. BOR's Directive and Standard LND 08-01 requires periodic fair market evaluations. In anticipation of negotiating new third-party agreements, BOR commissioned a "Market Rent Analysis Appraisal Report" for the private owned cabin lots located at Cedar Bluff, Webster, and Lovewell state parks.

The BOR market analysis determined cabin permit fees should be substantially increased. In some cases, they are to increase by more than 10 times the existing rate. Before the Department can issue new lot permits to cabin owners, which is set to occur January 1, 2018, BOR must approve our cabin permit document. Such permits will not be approved by BOR until the permit fees comply with the BOR "Market Rent Analysis Appraisal Report." For that to occur, the cabin permit fees set in K.A.R. 115-2-6 would have to be adjusted by the Commission.

BOR is scheduled to hold public forums to give the cabin owners at the three parks an opportunity to meet with BOR staff and ask questions.

Additional information should be available at the Commission meeting.

R3 and Archery Programs

R3- recruitment, retention and reactivation of hunters and anglers - in the US is becoming a priority for state agencies, industry leaders and conservation organizations. With the falling trend in national license sales, it is important for us to recognize where to focus our efforts. The Outdoor Recreation Adoption model is a tool that many state agencies have used to help themselves understand the needs of both new and seasoned outdoorsmen and women, and how their current programs and efforts fit within the model. To follow the growing trend in archery interest, the department has put a considerable amount of effort into archery programs and archery ranges. By providing recruitment tools, training, social support and places to shoot, these efforts fill an important niche within the model to help produce more outdoor enthusiasts in Kansas.

Kansas National Archery in the Schools Program Update

I will be presenting to the Kansas Wildlife, Parks and Tourism Commissioners the Executive summary from National Archery in the Schools Program (NASP), based on the 2017 student survey. This presentation should point out three main ideas:

1. NASP exposed millions of students to archery who would not otherwise have been introduced to the sport.
2. NASP has created a significant degree of interest from participants looking to experience and investigate other archery and outdoor activities, including hunting and fishing.
3. NASP has served as a tool to motivate students to connect with their school, and perform better in the classroom.

Remember when I use the word **NASP** it is part of the program we have in Kansas known and **Kansas Archery in the Schools**.

Thanks for giving me the time to present this information to you.

Gary Keehn
State Coordinator Kansas Archery in the Schools

VI. DEPARTMENT REPORT

B. General Discussion

2. 2018 Turkey Regulations [KAR 15-25-(5-6)]

Background

The 2017 spring turkey season was open from April 1 to May 31 and included 3 seasons: Youth / Disabled, Archery, and Regular. The fall 2016 season ran from October 1 to January 31, but was closed during the regular firearm deer season (November 30-December 11). Hunting is regulated within the same six turkey management units during both the spring and fall seasons (Figure 1). The six hunt units align with the management units the department uses to monitor turkey populations and hunter activity, which allows us to utilize both population and harvest data to guide harvest and season recommendations.

The department currently sells spring turkey permits to >40,000 hunters and fall turkey permits to >9,000 hunters. Those individuals purchased 71,313 carcass tags for the spring 2016 season and 12,134 tags for the 2015 fall season (Table 1). Non-residents accounted for 39.0 percent of Kansas' spring 2017 hunters and 21.7 percent of the fall 2015 hunters. Harvest has averaged around 33,000 and 13,000 turkeys over the last several spring and fall seasons, respectively (Table 1).

Population Status and Productivity

In recent years, the Kansas turkey population has stabilized (Figure 2). Despite stabilized turkey abundances, the population is still far below the peak levels observed in the mid 2000s. The vegetative conditions were generally good entering the 2017 nesting season across most of the state. However, recent precipitation events in the eastern and north-central portions of the state have coincided with the peak hatching period for turkeys, which is generally detrimental to production.

Discussion

The department uses an adaptive harvest management strategy to guide staff recommendations on wild turkey bag limits for both the spring and fall seasons. The strategy aims to maintain a high level of hunter success in each hunt unit and provides a consistent method of developing staff recommendations. The strategy includes a hierarchy of bag limit combinations and uses established thresholds to determine when each combination will be recommended. At the time of this report, the data from the spring 2017 season has not yet been analyzed. Thus, it is not yet known if any of the established triggers have been hit this year. The staff recommendations for the 2018 turkey bag limits will be presented at the next commission meeting. Recall that recent commission action reduced bag limits during fall 2014 and 2015 seasons, and changed the spring 2015 and 2016 season structure. According to the adaptive harvest management strategy, three units have the potential to be recommended for bag limit changes for the 2018 turkey seasons.

Table 1. Kansas wild turkey permit sales, total harvest, and hunter success for each of the last 5 seasons, 2012-2017.

Year	Spring			Fall		
	Permits & Game Tags	Total Harvest	Success ^a (%)	Permits & Game Tags	Total Harvest	Success ^a (%)
2012	63,928	31,239	60	14,302	4,799 (44%)	45
2013	73,581	33,925	57	13,780	4,152 (42%)	40

2014	71,903	31,988	55	13,064	2,862 (37%)	33
2015	74,609	36,758	55	12,134	2,093 (36%)	26
2016	71,320	30,298	47	NA	NA	NA
2017	65,818	NA ^c	NA	--	--	--

^a Success was the percentage of active hunters harvesting ≥ 1 bird.

^b Percentage of harvest composed of females.

^c NA = not available

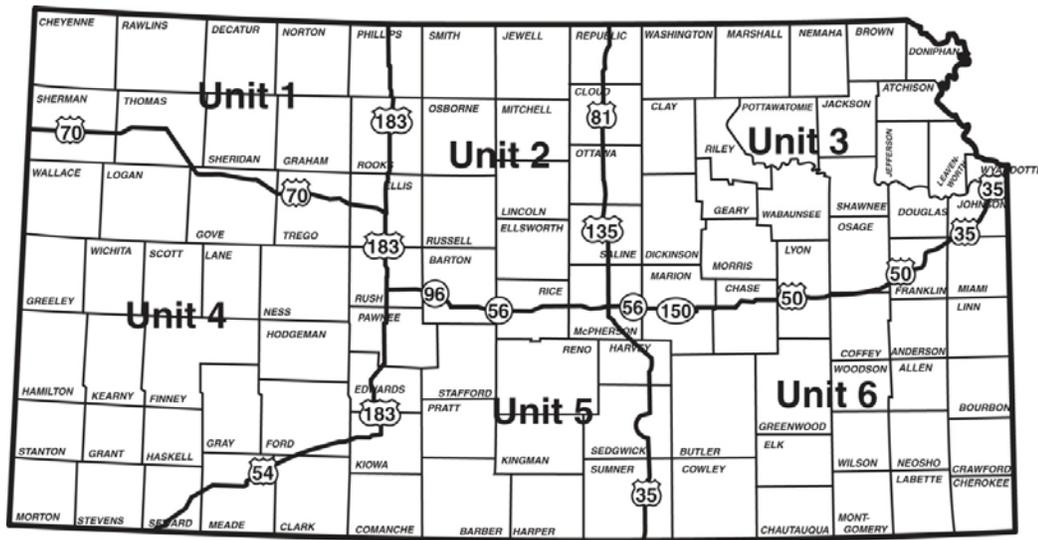


Figure 1. The map depicts the hunting units for Kansas’ 2017 turkey seasons. A spring turkey permit could be purchased over-the-counter for Units 1, 2, 3, 5, and 6, as well as a game tag. Five hundred spring permits were issued for Unit 4 through a pre-season drawing and they were also valid in adjacent units. A fall turkey permit can be purchased over-the-counter for Units 1, 2, 3, 5, and 6. Up to 3 additional fall turkey game tags can be purchased for Unit 2. There will be no fall turkey hunting authorized in Unit 4.

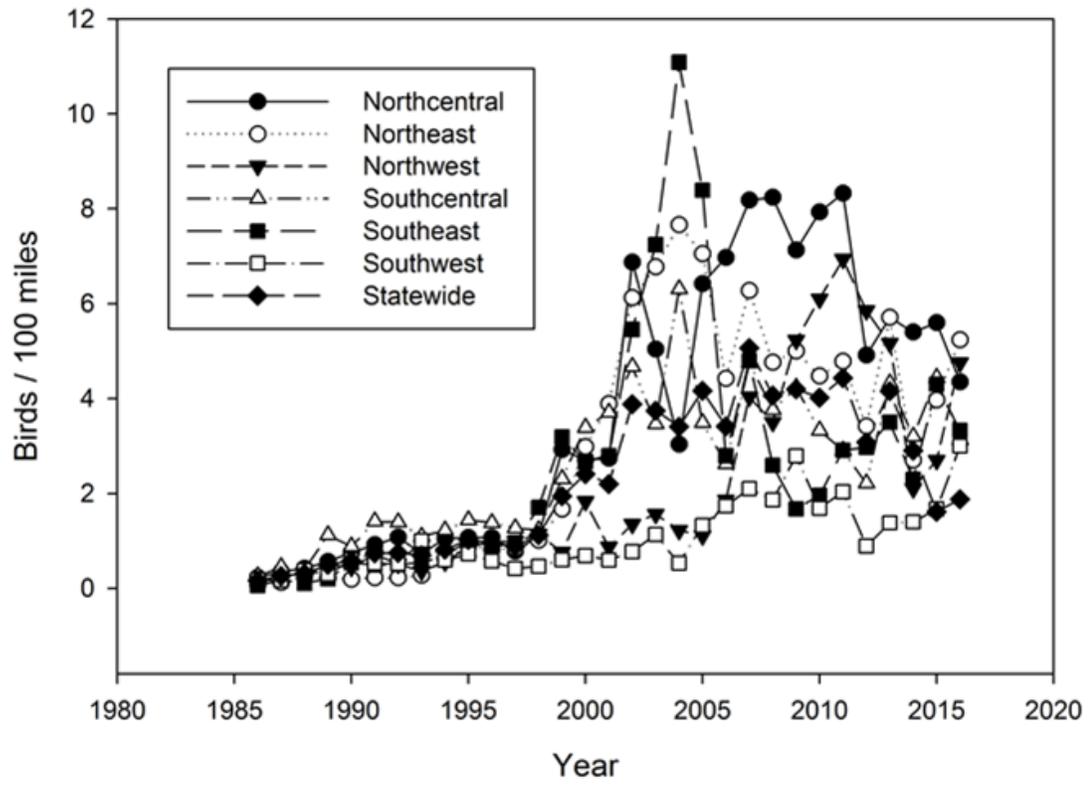


Figure 2. The spring rural mail carrier index (birds/100 miles traveled) to wild turkey populations in the 6 Kansas management regions, 1986-2016.

Workshop Session

Park Regulations

No briefing book items – possible handout at meeting

2018 Reference Document Proposed Changes for Special Length and Creel Limits:

- Milford Reservoir -- add a 25- to 40-inch slot length limit and no more than 1/day 40 inches or larger creel limit on blue catfish.
- Glen Elder Reservoir -- change to a 21-inch minimum length limit on smallmouth bass.
- Jewell State Fishing Lake -- change to an 18-inch minimum length limit on largemouth bass.
- LaCygne Reservoir -- remove the 10-inch minimum length limit on crappie.
- Cedar Bluff Reservoir -- change to a 21-inch minimum length limit on walleye and change to a 10-inch minimum length limit on crappie.
- Crawford State Fishing Lake -- add an 18-inch minimum length limit on wiper.
- Linn County Critzer Reservoir -- change to an 18-inch minimum length limit on largemouth bass.
- Lyon State Fishing Lake -- add an 18-inch minimum length limit on walleye.
- Marion Reservoir -- change to a 20/day creel limit on crappie.
- Meade State Fishing Lake -- add an 18-inch minimum length limit and a 2/day creel limit on saugeye.
- El Dorado Reservoir -- change to a 20/day creel limit on crappie.
- Centralia City Lake -- remove the 15-inch minimum length limit on channel catfish.
- Marion County Lake -- change to a 13- to 18-inch slot length limit on largemouth bass and change to a 20/day creel limit on crappie.
- Overbrook City Lake -- remove the 10/day creel limit and 10-inch minimum length limit on crappie.
- Tuttle Creek Reservoir -- add a 35-inch minimum length limit on blue catfish.
- Jeffery Energy Center -- add a 5/day creel limit on blue catfish.
- Moline New City Lake -- change to an 18-inch minimum length limit on largemouth bass.
- Liberal - Arkalon Recreation Area -- Remove all length and creel limits for largemouth bass and channel catfish. Designate as “catch and release” only.
- **2 fish daily creel limit on Striped Bass**
Cheney Reservoir, Glen Elder Reservoir, LaCygne Reservoir, Pleasanton City Lake - East
- **2 fish daily creel limit on Wiper**
Atchison City Lake #7, Atwood Lake, Carbondale East Lake, Cedar Bluff Reservoir, Council Grove Reservoir, Cheney Reservoir, Clinton Reservoir, Crawford State Fishing Lake, Ellis City Lake, El Dorado Reservoir, Eureka City Lake, Great Bend Stone Lake, Glen Elder Reservoir, Garnett City Lake North, Garnett City Lake South, Garnett - Cedar Valley Reservoir, Gridley City Lake, Herington City Lake - New, Horton Little Lake, Harvey County West Lake, Impounded F.I.S.H. Waters, Region 1 & 3, Johnson Co. - Shawnee Mission Park Lake, Johnson Co. - Kill Creek Park Lake, Jeffrey Energy Center, John Redmond Reservoir, Jetmore City Lake, Kanopolis Reservoir, Wichita - East KDOT, Wichita - West KDOT, Kanopolis State Park Pond, Kiowa State Fishing Lake, Lawrence - Mary's Lake, Louisburg City Lake, LaCygne Reservoir, Lebo City Lake, Lovewell Reservoir, Lyon State Fishing Lake, Madison City Lake, Middle Creek State Fishing Lake, Melvern Reservoir, Melvern River Pond, Milford Hatchery Water Supply Pond, Mined Land Wildlife Area, Marion County Lake, Moline New City Lake (North), New Strawn City Lake, Olathe - Lake Olathe, Olpe City Lake, Osage City Lake, Osage State Fishing Lake, Overbrook City Lake, Overbrook - Kids' Pond, Pleasanton City Lake - East, Pomona Reservoir, Pratt County Lake, Plainville Township Lake, Salina - Lakewood Lake, Sabetha - Pony Creek Lake, Sedgwick Co. Lake Afton, Sedgwick Co. Park Lakes, Sterling City Lake, Topeka - West Lake, Wellington City Lake, Winfield City Lake, Wichita - Watson Park

Lake, Wichita - Buffalo Park Lake, Wichita - Chisholm North Lake, Woodson State Fishing Lake, Wyandotte Co. Lake, Wyandotte Co. Bonner Lake, Yates Center - South (Owl), Yates Center Reservoir - New.

- Floatline fishing at Perry Reservoir: The Commission, in response to public inquiry, recently asked the Department to consider allowing floatline fishing at Perry Reservoir. Local agency personnel were allowed to respond to this request. It is the recommendation, at this time, to not allow floatline fishing at Perry. Local staff is concerned that there is a potential for conflict between recreational boaters and anglers at this high use recreational boating impoundment.

Other 2018 Proposed Fishing Regulation Changes.

Change 115-7-4. Fish; processing and possession.

It is difficult for law enforcement to enforce over-harvest of fish when all an angler has to do is state that someone else gave them the fish. There is no wording in our current fishing regulations that allows for the transfer of fish from one person to another. In contrast, hunting regulations allow for the transfer of small and big game.

We propose changing 115-7-4 by adding a requirement that legally taken fish may be given to another if accompanied by a dated written notice that includes the donor's printed name, signature, address, and license number.

Change 115-25-14 to include new trout water designations.

Currently the Cedar Bluff Stilling Basin and the Sandsage Bison Range and Wildlife Area Sandpits are designated Type 1 waters, which requires a trout permit for all anglers 16 and older who want to fish at these locations from November 1 through April 15.

We propose changing both these trout stocking locations to Type 2 waters, which require a trout permit only for anglers fishing for or possessing trout. Both these locations are currently not being stocked with trout due to poor conditions and we want anglers to be able to fish these locations during the trout season (Nov. 1 through April 15) without requiring them to buy a trout permit.

In addition, the Scott State Park Pond is currently a designated Type 2 water, which requires a trout permit only for anglers fishing for or possessing trout.

We propose changing the Scott State Park Pond trout stocking location to a Type 1 water, which requires a trout permit for all anglers 16 and older who want to fish at this location from November 1 through April 15.

Change 115-17-2. Commercial sale of fish bait.

Currently gizzard shad are not on the list of fish species that may be commercially sold in Kansas for fishing bait. However, many sporting goods stores across the state have dead gizzard shad in commercially processed bags for sale as fish bait. It is illegal to collect/harvest fish species from any public water for commercial sale.

There is always concern that gizzard shad are similar in appearance to invasive Asian carp. Currently, commercially sold live fish bait must be certified free of pathogens and aquatic nuisance species. And of course, commercially packaged dead gizzard shad is not a risk for the spread of pathogens or aquatic nuisance species.

We propose changing 115-17-2 to allow dead gizzard shad to be commercially sold in Kansas for fish bait.

Change 115-25-14. Fishing; creel limit, size limit, possession limit, and open season.

Currently, the statewide regulation states "Channel and blue catfish (single species or in combination - 10/day). We propose separating channel catfish and blue catfish into their own categories. These fish are managed separately. Recent popularity of blue catfish and concerns of overharvest are leading to more restrictive regulations. The majority of reservoirs with blue catfish populations already have a 5/day creel limit on these fish. Therefore, we feel the current statewide regulation is no longer relevant. We propose the following changes to the statewide fishing regulations:

- 1) Remove the channel and blue catfish combination regulation.
- 2) Add "Channel Catfish - 10/day".
- 3) Add "Blue Catfish - 5/day".

This will still allow for harvest of 10 channel catfish per day and we foresee no issues with that. Catfish with more than 30 rays in the anal fin will be considered blue catfish and those with less a channel. This gives anglers and law enforcement a quantitative way to identify exactly what they have for regulation purposes.

Review 115-7-1. Fishing; legal equipment, methods of take, and other provisions.

The catfish committee and the fishing regulation committee have discussed the public request to the Commission to allow bowfishing at water bodies that have length limits for at least one of the three catfish species (channel catfish, blue catfish and flathead catfish).

It could be difficult to correctly identify the different species of catfish at night, under water, several feet away, while being illuminated with boat mounted lights. Releasing a misidentified fish after being hit with a "good shot" won't be an option. Furthermore, both committees have recognized that the majority of our public water bodies do not currently have length limits on any of the three catfish species and would therefore allow bowfishing for said species. Federal reservoirs where this activity would be legal are Big Hill, Cedar Bluff, Council Grove, Fall River, Tuttle Creek, Pomona, John Redmond, Kanopolis, Kirwin, Hillsdale, Norton, Webster, Toronto, LaCygne, and Marion. There is opportunity in every part of the state.

The time and costs associated with building up our trophy blue catfish reservoirs is significant. Some reservoirs take 5 - 7 years to produce mature adults and 12 - 16+ years to produce trophy fish. We feel that without adequate harvest information by bowfishers, we must err on the side of caution and avoid any possible action that could lead to incidental take of these fish prior to realizing their size potential.

It is currently a violation of our regulations to bowfish for catfish at any water body with a length limit on any of the three catfish species and both committees recommend that this regulation remain unchanged.

Change 115-25-14. Fishing; size limits.

Change the statewide 2/day creel limits on striped bass and wiper (striped bass hybrid) to 5/day.

In keeping with the theme of removing barriers impacting Kansas anglers (like we did when we removed the STWD minimum length limit on percids in streams, tailwaters and rivers), allowing increased harvest of the wiper and striper in the tailwaters, rivers, and streams may be the best use of the resource. Many times, the only opportunity for anglers to harvest these fish is in the stilling basin after

being flushed. Wiper and striper are some of the most protected species in Kansas with a statewide 2/day creel. We are recommending changing the STWD daily creel limit for stripers and wipers to 5/day. This would allow our management biologists to have Special Creel Limits of 2/day on the impoundments that need more restriction.

Change 115-18-19. Paddlefish Permit; requirements, restrictions, and permit duration.

We propose changing 115-18-19 section (a) to allow youth anglers (< 16 years old) to use an adult's tags. Youth could snag while accompanied by an adult (\geq 16 years old) with at least one unused tag in possession. Alternatively, youth would still have the option to purchase a youth tag if they wished to fish independently. This would align with how we currently handle trout regulations and provide more opportunity for youth anglers to participate.

In addition, we also propose dropping 115-18-19 section (d), which requires each permit holder to complete and submit a paddlefish snagging questionnaire at the close of the open snagging season. We can gather the information we need through other means.

And lastly, we propose requiring barbless hooks for paddlefish snagging statewide. This would require a change to the 2018 Reference Document. Currently, barbless hooks are only required in the Chetopa fishery. However, catch and release is practiced statewide. Requiring barbless hooks statewide would simplify our regulations, possibly reduce injury to both paddlefish and bycatch, and align with Oklahoma's current barbless hook requirement.

Change 115-17-3. Commercial fish bait permit; requirement, application, and general provisions.

Currently commercial fish bait permits are calendar year permits. We propose changing them from annual permits to multi-year permits. Permit fee will be adjusted accordingly.

Youth/Mentor Fishing Pond Regulation and Management Strategy Under Consideration

Small impoundments can be designated as “youth fishing ponds” with “special regulations” to control angler use and harvest. These waters are identified by the district fisheries biologist, other agency division or personnel, or an outside party with ownership in the property to give young anglers fishing opportunities without actively competing with adults. The most common regulations associated with these impoundments are “youth fishing only,” “catch and release only,” and/or limited harvest of certain species.

Proposal:

1. Create a “Youth/Mentor” fishing pond designation
 - a. Define youth as anyone 15 years of age and younger.
 - b. Allow adults (18 years of age and older) to fish per these conditions:
 - i. Must have a valid Kansas fishing license unless exempt by law
 - ii. Must be accompanied by at least one actively fishing youth
2. Harvest Regulations
 - a. Option 1: Length and harvest limits set by district fisheries biologist
 - b. Option 2: Statewide regulation for designated Youth/Mentor Ponds
 - i. Allow harvest of fish by youth only

Fees and Licenses

115-9-5. Hunting, fishing and furharvester licenses; state park permits; effective dates. 115-2-1 Amount of Fees

Background

While discussing implementation of an auto-renewal option for annual licenses that will be available beginning Jan. 1, 2018, the Auto-renewal Committee supported establishing 365-day annual licenses, rather than the calendar licenses that are currently offered. This may require a change to 115-9-5, which lists expiration dates. There has also been discussion of providing a discount for those who renew their 365-day license before it expires. Another marketing aspect discussed by the committee to address churn was providing value-added license packages or a promo-code, which would give a discount to hunters and anglers who bought a number of licenses and permits in one transaction. The more issuances purchased, the bigger the discount.

Committee members envision license buyers enrolling in auto-renewal by simply checking a box for each license they purchase online that they wish to have automatically renewed. After meeting with Active (license sales contractor) in May to establish that the option will be available by Jan. 1, 2018, the Auto-renewal committee decided that emails will be required for anyone selecting the auto-renewal option. This would allow a heads-up reminder message to be sent several weeks before licenses expire asking if the holder still wanted the auto-renewal option and if the credit card information on file was current. Committee members also want to require emails if we go to the 365-day licenses, again to allow pre-expiration reminders to be sent. In addition to providing more value to the license buyer, the 365-day license will allow for more timely and efficient marketing. December 15, when the next calendar year licenses currently go on sale, is the worst time of the year to market license sales.

Annual permits and licenses being considered for the 365-day expiration include hunting, fishing, or furharvester licenses, annual trail pass, trout permit, three-pole permit, handfishing permit, controlled shooting area permit, commercial dog training permit, and field trail permit.

K.A.R 115-15-3: Threatened and endangered wildlife, special permits, and enforcement actions.

K.A.R 115-15-4: Recovery plan procedures.

Update: A notice of public hearing on proposed Administrative Regulations K.A.R. 115-15-3 and K.A.R. 115-15-4 was published in the Kansas Register (Vol. 36, No. 22, June 1, 2017). This notice provides an open 90 day public comment period before final public hearing for approval and adoption of these proposed regulations on October 19, 2017 at the regularly scheduled Commission meeting.

Background

HB 2156 (2016) was passed and signed by the Governor on May 17, 2016. The new law, which took effect July 1, 2016, makes general changes to the Nongame and Endangered Species Act, requiring changes to KAR 115-15-3 and KAR 115-15-4.

Summary of Current Law Changes:

Special Permit Exceptions:

- Normal farming and ranching practices, including government cost-shared agriculture land treatment measures, unless a permit is required by another state or federal agency
- Development of residential and commercial property on privately-owned property financed with private, non-public funds, unless a permit is required by another state or federal agency
- Activities for which a person has obtained a scientific, educational, or exhibition permit
- Declares that a permit required by another state or federal agency shall not include a certification or registration

Recovery Plans

- Requires that on and after July 1, 2016 for all new species listed as threatened or endangered by KDWPT, recovery plans will be completed within four years of the species being listed
- KDWPT is required to submit an annual report to both Senate and House Committees on Ag and Natural Resources
- KDWPT must publish and maintain each developed and implemented recovery plan on KDWPT website

KAR 115-15-3: Threatened and Endangered Wildlife, special permits and enforcement actions

- Changes to the definitions of terms that only apply to this regulation: actions, critical habitat, and permit from another state or federal agency
- Includes the addition of certain portions of the new law that pertain to this regulation as listed in the summary provided above

KAR 115-15-4: Recovery Plans; procedures

- Includes the addition of certain portions of the new law that pertain to this regulation as listed in the summary above

Public Hearing

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 - April 20, 2017

ITEMS SUBMITTED IN DUPLICATE

CERTIFICATION

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

Christopher J. Tymeson
Liaison officer's typed name

Liaison officer's signature

Department Attorney
Title

(785) 296-2281
Phone

This space for Register office use only

Wildlife, Parks, and Tourism Commission

Notice of Public Hearing

A public hearing will be conducted by the Wildlife, Parks, and Tourism Commission at 6:30 p.m., Thursday, June 22, 2017 at the George Meyn Community Center, 126th and State Ave., Kansas City, 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., June 22 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. June 23 at the location listed above.

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

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

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@ks.gov 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 regulation. 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 regulation.

The regulation that will be heard during the regulatory hearing portion of the meeting is as follows:

K.A.R. 115-16-3. This permanent administrative regulation establishes requirements for nuisance bird control permits. The proposed changes would remove one species from the listing of nuisance birds.

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

K.A.R. 115-20-2. This permanent regulation establishes guidelines for the legal equipment, taking methods and possessions and license requirements for certain wildlife. The proposed amendments relate to changing the classification of exotic doves.

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

K.A.R. 115-20-7. This permanent regulation establishes certain requirements for hunting of doves. The proposed amendments would establish methods of take under the regulation would only be for migratory doves.

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

K.A.R. 115-25-19. This exempt regulation establishes requirements for hunting doves. The proposed version of the regulation increases the allowable number of days for taking exotic doves.

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

K.A.R. 115-25-9a. This exempt regulation establishes additional considerations for the 2016-2017 firearm, muzzleloader and archery deer seasons. The main items in the regulation set the deer seasons on Fort Riley, Fort Leavenworth, and Smokey Hill military reservation in order to better accommodate the changing training missions.

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

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

Gerald Lauber, Chairman



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

DEREK SCHMIDT
ATTORNEY GENERAL

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

April 12, 2017

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. 115-16-3, 115-20-2, 115-20-7, 115-26-19

Dear Chris:

Pursuant to K.S.A. 2016 Supp. 77-420(b), we have reviewed the above-referenced regulations and have approved them for legality. The stamped regulations are enclosed with this letter.

Sincerely,

OFFICE OF THE ATTORNEY GENERAL
DEREK SCHMIDT

A handwritten signature in black ink, appearing to read "Athena E. Andaya".

Athena E. Andaya
Deputy Attorney General

Enclosure

Cc: Rep. Ron Highland, Chair, JCARR, State Capitol, Room 561-W
Senator Vicki Schmidt, Vice Chair, JCARR, State Capitol, Room, 441-E
Rep. John Carmichael, Ranking Minority Member, JCARR
State Capitol, Room 451-S
Raney Gilliland, Legislative Research, State Capitol, Room 68-W
Natalie Scott, Office of Revisor, State Capitol, Room 24-E



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

DEREK SCHMIDT
ATTORNEY GENERAL

MEMORIAL HALL
120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
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WWW.AG.KS.GOV

February 3, 2017

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. 115-8-1; K.A.R. 115-25-7; K.A.R. 115-25-8; K.A.R. 115-25-9; K.A.R. 115-25-9a

Dear Chris:

Pursuant to K.S.A. 2016 Supp. 77-420(b), we have reviewed the above-referenced regulations and have approved them for legality. The stamped 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: Rep. Ron Highland, Chair, Joint Committee on Rules and Regulations
Sen. Vicki Schmidt, Vice Chair, Joint Committee on Rules and Regulations
Rep. John Carmichael, 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

STATE OF KANSAS

RANEY L. GILLILAND
Director
MELISSA S. RENICK
Assistant Director for Research
J. G. SCOTT
Assistant Director for Fiscal Affairs
AMY DECKARD
Assistant Director for Information Management



STAFF
LEGISLATIVE COORDINATING COUNCIL
INTERIM COMMITTEES
STANDING COMMITTEES
LEGISLATIVE INQUIRIES

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

Room 68-West — State Capitol Building — 300 SW Tenth Avenue — Topeka, Kansas 66612-1504
PHONE (785) 296-3181 ♦ FAX (785) 296-3824 ♦ TTY (785) 296-3677
INTERNET: <http://www.kslegislature.org/kird> E-MAIL: kslegres@kird.ks.gov

May 17, 2017

Mr. Robin Jennison, Secretary
Kansas Department of Wildlife, Parks and Tourism
1020 S. Kansas Avenue, Room 200
Topeka, KS 66612

Dear Secretary Jennison:

At its meeting on May 16, 2017, the Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning KAR 115-16-3, nuisance bird control permit, application, provisions, and requirements; KAR 115-20-2, certain wildlife, legal equipment, taking methods, possession, and license requirement; KAR 115-20-7, migratory doves, legal equipment, taking methods, and possession; KAR 115-25-9a, deer, open season, bag limit, and permits, additional considerations, military subunits; KAR 115-25-19, doves, management unit, hunting season, shooting hours, and bag and possession limits. After discussion, the Committee had the following comments.

Suggestion. The Committee suggests the agency consider some type of hunter education with respect to the identification of migratory and exotic doves to increase the likelihood hunters will follow the appropriate restrictions.

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/dmb

115-16-3. Nuisance bird control permit; application, provisions, and requirements. (a) The term “nuisance birds” shall include those species specified in the department’s “Kansas nuisance bird species table,” dated ~~May 9, 2011~~ April 11, 2017, which is hereby adopted by reference.

(b) Nuisance birds may be controlled when found depredating or about to depredate upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance.

(c) A nuisance bird control permit shall be required to use any lethal method of control that involves poisons or chemicals for controlling nuisance birds other than the ~~feral pigeon~~, English sparrow, or European starling.

(d) Any person may apply to the secretary for a nuisance bird control permit. The application shall be submitted on forms provided by the department. Each applicant shall provide the following information:

- (1) The applicant’s name;
- (2) the applicant’s address;
- (3) the applicant’s telephone number;
- (4) the location of the nuisance bird problem;
- (5) a description of the problem;
- (6) the species of birds involved;
- (7) the proposed method of control; and
- (8) the length of time for which the permit is requested; ~~and~~
- ~~(9) any other relevant information as required by the secretary.~~

(e) Issuance of a permit may be denied by the secretary if any of the following conditions is met:

- (1) The permit application is unclear or incomplete.
- (2) The need for nuisance bird control has not been established.
- (3) Use of the poison or chemical would pose inordinate risk to the public, non-target wildlife, or the environment.

(f) Each permit shall be valid only for the period specified on the permit, which shall not exceed one year.

(g) A permit may be extended by the secretary upon request and justification by the permittee. However, the combined total of the original and extended time periods shall not exceed one year.

(h) Each permit shall be valid only for the locations specified in the permit.

(i) In addition to other penalties as prescribed by law, a nuisance bird control permit may be revoked by the secretary if either of the following conditions is met:

(1) The permit was secured through false representation.

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

(j) A nuisance bird control permit shall not be required to control nuisance bird problems as described in subsection (b) if the control method is nonlethal or if the control method involves use of firearms, air rifles, air pistols, archery equipment, or falconry.

(k) Nuisance birds killed and the plumage of nuisance birds killed during nuisance bird control may be possessed, transported, and otherwise disposed of or utilized, except that nuisance birds killed and the plumage of nuisance birds killed during nuisance bird control shall not be sold or offered for sale.

(l) Nontoxic shot and bullets shall be required for the taking of nuisance birds pursuant to this regulation, except when using an air rifle, air pistol, or .22 caliber rimfire firearm. (Authorized by K.S.A. 2016 Supp. 32-807 and K.S.A. 32-955; implementing K.S.A. 32-955, ~~K.S.A. 2010 Supp. 32-1002, and K.S.A. 2010 Supp. 32-1003~~; effective Sept. 10, 1990; amended Aug. 31, 1992; amended Sept. 9, 2011; amended P-_____ .)

ECONOMIC IMPACT STATEMENT

K.A.R. 115-16-3. Nuisance bird control permit; application, provisions, and requirements.

DESCRIPTION: This permanent administrative regulation establishes requirements for nuisance bird control permits. These permits authorizes the take of certain species when found depredating. The proposed changes would remove one species from the listing of nuisance birds.

FEDERAL MANDATE: Nontoxic shot and species.

ECONOMIC IMPACT: No economic impact to the department, other agencies, small businesses, or the general public is anticipated.

ALTERNATIVES CONSIDERED: None.

Kansas Department of Wildlife and Parks
Kansas Nuisance Bird Species Table

Dated: April 11, 2017

Blackbirds:

- Brewer's blackbird (*Euphagus cyanocephalus*)
- Red-winged blackbird (*Agelaius phoeniceus*).
- Yellow-headed blackbird (*Xanthocephalus xanthocephalus*)

Cowbirds:

- Bronzed cowbird (*Molothrus aeneus*)
- Brown-headed cowbird (*Molothrus ater*)
- Shiny cowbird (*Molothrus bonariensis*).

Grackles:

- Boat-tailed grackle (*Quiscalus major*)
- Common (*Quiscalus quiscula*)
- Great-tailed (*Quiscalus mexicanus*)
- Greater Antillean (*Quiscalus niger*).

Crows:

- American crow (*Corvus brachyrhynchos*)
- Fish crow (*Corvus ossifragus*)
- Northwestern crow (*Corvus caurinus*)

Magpies:

- Black-billed magpie (*Pica hudsonia*)
- Yellow-billed magpie (*Pica nuttalli*)

Sparrows:

- English (House) Sparrow (*Passer domesticus*)

Starlings:

- European Starlings (*Sturnus vulgaris*)

Nonnative species:

As defined and listed in 70 FR 12710, published March 15, 2005, on the Final List beginning on Page 12714, except those birds listed that are also designated as endangered, threatened, or as a species in need of conservation under K.A.R. 115-15-1 or K.A.R. 115-15-2, or, the Eurasian Collared-Dove (*Streptopelia decaocto*) or the Ringed Turtle-Dove (*Streptopelia risoria*).

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Final List of Bird Species to Which the Migratory Bird Treaty Act Does Not Apply

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We are publishing a final list of the nonnative bird species that have been introduced by humans into the United States or its territories and to which the Migratory Bird Treaty Act (MBTA) does not apply. This action is required by the Migratory Bird Treaty Reform Act (MBTRA) of 2004. The MBTRA amends the MBTA by stating that it applies only to migratory bird species that are native to the United States or its territories, and that a native migratory bird is one that is present as a result of natural biological or ecological processes. This notice identifies those species that are not protected by the MBTA, even though they belong to biological families referred to in treaties that the MBTA implements, as their presence in the United States and its territories is solely the result of intentional or unintentional human-assisted introductions.

ADDRESSES: The complete file for this notice is available for inspection, by appointment (contact John L. Trapp, (703) 358-1714), during normal business hours at U.S. Fish and Wildlife Service, 4501 North Fairfax Drive, Room 4107, Arlington, Virginia.

SUPPLEMENTARY INFORMATION:**What Is the Authority for This Notice?**

Migratory Bird Treaty Reform Act of 2004 (Division E, Title I, Sec. 143 of the Consolidated Appropriations Act, 2005, Pub. L. 108-447).

What Is the Purpose of This Notice?

The purpose of this notice is to make the public aware of the final list of "all nonnative, human-introduced bird species to which the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*) does not apply," as required by the MBTRA of 2004.

This notice is strictly informational. It merely lists some of the bird species to which the MBTA does not apply. The presence or absence of a species on this list has no legal effect. This list does not change the protections that any of these species might receive under such agreements as CITES—the Convention on International Trade in Endangered Species of Wild Fauna and Flora (T.L.A.S. 8249), the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 275), or the Wild Bird Conservation Act of 1992 (16 U.S.C. 4901-4916, 106 Stat. 2224). Regulations implementing the MBTA are found in parts 10, 20, and 21 of 50 CFR. The list of migratory birds covered by the MBTA is located at 50 CFR 10.13.

What Was the Response of the Public to the Draft List?

A notice announcing a draft list of the nonnative human-introduced bird species to which the MBTA does not apply was published on January 4, 2005 (70 FR 372), with a request for public comments. The notice generated approximately 826 nonduplicated comments from the public. The draft list was supported by 21 State wildlife agencies (Arizona Game and Fish Department; Connecticut Bureau of Natural Resources; Delaware Division of Fish and Wildlife; Florida Fish and Wildlife Conservation Commission; Maryland Department of Natural Resources; Massachusetts Division of Fisheries and Wildlife; Michigan Department of Natural Resources; Montana Fish, Wildlife, and Parks; New Hampshire Fish and Game Department; New Jersey Division of Fish and Wildlife; New York State Division of Fish, Wildlife, and Marine Resources; North Carolina Wildlife Resources

Commission; North Dakota Game and Fish Department; Oklahoma Department of Wildlife Conservation; Pennsylvania Game Commission; Rhode Island Division of Fish and Wildlife; South Dakota Department of Game, Fish, and Parks; Vermont Department of Fish and Wildlife; Virginia Department of Game and Inland Fisheries; Wisconsin Department of Natural Resources; and Wyoming Game and Fish Department), 11 nonprofit organizations representing bird conservation and science interests (American Bird Conservancy—submitted on behalf of 10 constituent organizations; Atlantic Flyway Council—representing 17 States, 7 Provinces, Puerto Rico, and the U.S. Virgin Islands; California Partners in Flight; Environmental Studies at Airlie-Swan Research Program; Friends of Iroquois National Wildlife Refuge; National Audubon Society; National Wildlife Federation; Ornithological Council—representing 11 scientific societies of ornithology; Point Reyes Bird Observatory; Tennessee Ornithological Society; and The Nature Conservancy), 1 organization representing an extractive industry (National Mining Association), and 18 private citizens.

Opposition to the draft list came from 4 animal-rights organizations (Ecology Center of Southern California, Friends of Animals, Friends of Montgomery Village Wildlife, and Humane Society of the United States), 2 law firms (representing the Humane Society of the United States and MBTA Advocates—the litigant in an outstanding lawsuit involving the mute swan), and some 770 private citizens. The vast majority of the latter comments are directly traceable to a posting made on January 13 to a free, weekly e-mail subscription service maintained jointly by the Fund for Animals and the Humane Society of the United States to notify their members of "hot issues in animal protection" and encourage them to write to public officials. Nearly all of these comments repeat the four "talking points" included in the alert and exhibit other similarities indicative of a common origin. The "talking points" are addressed in the Service's responses to Issues 1, 2, 3, and 10.

Issue 1: One reviewer argued at length (and numerous others suggested) that the Service must prepare an Environmental Impact Statement (EIS) before publishing the final list of bird species to which the Migratory Bird Treaty Act does not apply.

Service Response: In requiring (a) that the Secretary "provide adequate time for public comment" on a draft list and (b) that a final list be published "not later

than 90 days after the date of enactment" of the MBTRA (December 8, 2004), Congress did not allow sufficient time for the Service to prepare an EIS. The preparation of an EIS would have been inconsistent with the Service's duty to comply with the statutory time period. Furthermore, NEPA does not apply, as this list, which has no legal effect, is not the result of agency decisionmaking; also, publication of the list is a ministerial duty based on factual determinations. To the extent that any change in the scope of the MBTA has occurred, that change occurred upon Public Law 108-447 going into effect.

Issue 2: One reviewer argued at length (and many others agreed) that the draft list was inconsistent with the conventions with Canada, Mexico, Japan, and Russia because it excluded nonnative species from the protection of the MBTA. In particular, the reviewer asserted that Article I of the treaty with Mexico, which states that "it is right and proper to protect birds denominated as migratory, whatever may be their origin," demonstrates that the treaty parties intended to protect nonnative species.

Service Response: Congress explicitly stated its sense that the language of the MBTRA was "consistent with the intent and language of the four bilateral treaties implemented by" the MBTA.

The list is clearly not inconsistent with the conventions with Japan or Russia, as (a) those conventions list in an Annex (Japan) or Appendix (Russia) the individual species that are covered, (b) all of the species listed in the Annex or Appendix are native to both signatory countries, and (c) none of the species on this list appears in the Annex or Appendix.

In the case of the convention with Mexico, the language referred to by the reviewer must be read in the context of the entire sentence. The words "whatever may be their origin" are followed immediately by the words "which in their movements live temporarily" in the United States and Mexico. Therefore, the "whatever may be their origin" language is not inconsistent with the treaty applying only to species that are native to one or both countries. Although the treaty is admittedly silent on the issue, the families of migratory birds that the parties chose to protect strongly suggests that the intention was to protect only native migratory birds, as only families with species native to the United States and Mexico are included. None of the listed families are strictly nonnative to the United States or Mexico.

While the convention with Canada does not specifically make a distinction between native and nonnative or exotic species, the Service has traditionally and consistently interpreted and enforced the convention and the MBTA as applying only to native species. This approach is consistent with the historical fact that all of the contemporaneous concerns leading to enactment of the Canadian convention in 1916 and the MBTA in 1918 focused exclusively on imminent threats to native species, including (a) devastation of native waterfowl, dove and pigeon, and shorebird populations by market hunters; (b) the slaughter of native herons and egrets to supply the millinery trade with their plumes or aigrettes, and (c) the adornment of women's hats with the feathers of native songbirds (Dorsey 1998: 165-246). Moreover, like the treaty with Mexico, the list of bird groups covered by the treaty with Canada strongly suggests that the intent of the parties was to cover native species. Neither the families nor any of the other groupings or individual species mentioned are purely nonnative.

In any case, Congress has acted, and the Service now has no authority to enforce the prohibition of section 703 of the MBTA with respect to nonnative species.

Issue 3: One reviewer argued at length (and many others agreed) that, to avoid unintended consequences, the Service must go through the entire list and provide scientific justification for the inclusion of each individual species, conducting an exhaustive search of existing literature and consulting with ornithologists to ensure that no naturally occurring species have been included.

Service Response: Congress required only that the Service publish a list of species that we deemed to be not protected by the MBTA by virtue of their nonnative human-introduced status. Congress did not require that we publish the actual data on which the list was based. Nevertheless, we did conduct a comprehensive internal review of the relevant ornithological literature in making our determinations. That data was available for inspection during the public comment period as part of the administrative record. In making our determinations, we relied most prominently on the American Ornithologists' Union's (AOU 1998) *Check-list of North American birds*. The *Check-list* was supplemented, where necessary, by Phillips's (1928) *Wild birds introduced or transplanted in North America*, Long's (1981) *Introduced birds of the world*, Berger's

(1981) *Hawaiian birdlife*, Stevenson and Anderson's (1994) *The birdlife of Florida*, and more than 200 other sources. The Ornithological Council concluded in their comments that "the list appears to be entirely consistent with the best available ornithological science." The National Audubon Society and the National Wildlife Federation offered their joint opinion that the list is "scientifically defensible," "thoroughly researched," and "in conformance with the decisions of the American Ornithologists' Union and other proper scientific authorities." The Tennessee Ornithological Society volunteered that, "To the best of our knowledge, no species occur on the list that do not meet the criteria [and] * * * no species have been omitted." In the interest of full public disclosure, the Service has posted—at <http://www.migratorybirds.fws.gov>—a summary of the evidence that it evaluated in reaching its conclusion that all of the species included in the final list are nonnative to the United States and its territories and occur therein solely as a result of human-assisted introductions.

Issue 4: Citing (a) fossil records, (b) historical illustrations, and (c) claims of natural occurrence in western North America, one reviewer claimed that "Under the definitions contained within the MBTRA, the mute swan is indeed a native species and hence entitled to continuing coverage under the Migratory Bird Treaty Act."

Service Response: We disagree for the reasons set forth in the draft list (70 FR 372). To more specifically address this comment, we provide additional information and analysis below.

(a) *Fossil Records.* The relevant scientific literature (Allen 1893; Brodkorb 1958 1964; Howard 1936, 1964; Miller 1948; Parmalee 1961; Shufeldt 1892, 1913a, 1913b; Wetmore 1933, 1935, 1943, 1956, 1957, 1959) reveals that four species of swans are recognized in the prehistoric faunal record of the United States: *Cygnus paloregonus* (extinct), *C. hibbardii* (extinct), *C. columbianus* (tundra swan), and *C. buccinator* (trumpeter swan). Avian paleontologists who examined the remains of *paloregonus* recognized that its skeletal structure was more similar to that of a group of swans formerly lumped together in the subgenus *Sthenelides*, a group that includes *C. olor* (the mute swan), than it was to either the tundra or trumpeter swan. Although sometimes referring to it as "mute-like" in structure, authorities have always recognized *paloregonus* as totally distinct from the mute swan (Brodkorb 1964; Howard

1964; Wetmore 1959), with no evidence of any evolutionary lineage from *paloregonus* to *olor*. Fossil remains of mute swans are known only from present-day Azerbaijan, England, Germany, Ireland, Italy, and Portugal (Howard 1964). In light of the above evidence, Wilmore's (1974:32) unsupported statements regarding the supposed presence of mute swans in North America prior to human settlement (*i.e.*, "From the discovery of swan fossils of the Pleistocene period it is believed the mute swan was indigenous to North America," and "Further proof of the mute being a native of North America has been found") are not scientifically credible.

(b) *Historical Illustrations.* We continue to conclude that none of the birds depicted in Harriot (1590) can be confidently identified to a particular species of swan, and the illustrations certainly do not provide evidence of the presence of mute swans in Pamlico Sound, North Carolina, in the late 16th century. John White (1537–1593), the Governor of the Roanoke colony and the artist whose illustrations grace Harriot (1590), produced a set of 27 portraits of North American birds that now resides in the British Museum; while the trumpeter swan is one of the 25 species illustrated by John White, the mute swan is not (White 2002).

A variety of paper products (such as blotters, calendars, calling cards, postcards, and trade cards) manufactured and sold in the United States in the late 19th and early 20th century often were adorned with fanciful illustrations of birds, and not infrequently the birds depicted were of European origin, including such species as mute swan, European robin, and European goldfinch. For this reason, commercial illustrations such as the Currier & Ives print purportedly depicting mute swans in the Chesapeake Bay in 1872 do not provide reliable evidence of the native occurrence of this species.

It is unreasonable to suggest that a species as large and distinctive as the mute swan—if it was truly a part of the native North American avifauna—would not have been encountered by reputable wildlife artists such as Alexander Wilson or John James Audubon and depicted in their artwork, or collected by any of the early naturalists such as Spencer Fullerton Baird, Charles Lucien Bonaparte, William Brewster, Elliott Coues, Thomas Nuttall, and Robert Ridgway during expeditions of exploration across the length and breadth of the American frontier. The absence of mute swans in the works of Wilson and Audubon,

together with the absence of verifiable 18th or 19th century specimen records, is sufficient evidence for us to conclude that the mute swan is not native to the United States or its territories.

(c) *Claims of natural occurrence in the western United States.* Contrary to the reviewer's claim, the range map in Dement'ev and Gladkov (1952:303) does not depict a mute swan breeding population in extreme northwestern Alaska. In fact, there are no known natural occurrences of mute swans in Alaska (Ciaranca *et al.* 1992; Gabrielson and Lincoln 1959; Gibson 1997). Similarly, the suggestion of "migration" between northeast Siberia and northwest Alaska, "with [mute] swans coming down from Alaska and taking up residence in Washington, Oregon, and parts of Canada in between" is speculation, unsupported by evidence (Ciaranca *et al.* 1992).

All occurrences of the mute swan in British Columbia, Washington, Oregon, and California—including all known instances of breeding—can be confidently attributed to birds originating from human-assisted introductions or escapes (Campbell *et al.* 1990; Washington Ornithological Society 2004; Gilligan *et al.* 1994; Small 1994). The mute swans photographed on a lake in Del Monte, California, and published in the August 1904 issue of *Country Life in America* magazine undoubtedly represent an early introduction of domesticated or semidomesticated birds to the grounds of the luxurious Hotel Del Monte (opened in 1880) or the Old Del Monte golf course (opened in 1897), both located on the Monterey Peninsula. In short, there are no known natural occurrences of mute swans in any of these jurisdictions.

Issue 5: Several reviewers complained that we had not ruled out the possibility of natural occurrence in the United States or its territories for one or more of the species included on the draft list, with the following 19 being specifically mentioned by one or more respondents: bar-headed goose, red-breasted goose, mute swan, white-faced whistling duck, ruddy shelduck, common shelduck, white stork, king vulture, red-backed hawk, great black-hawk, southern lapwing, blue-headed quail-cove, black-throated mango, San Blas jay, great tit, greater Antillean bullfinch, Cuban bullfinch, Cuban grassquit, and European greenfinch.

Service Response: We again reviewed the scientific sources that were used to make a determination that these species are not native to the United States or its territories. We conclude that there is insufficient evidence to show that any

of these species have occurred anywhere in the United States or its territories unaided by human assistance. In particular, the absence of any substantiated record of natural occurrence in the United States or its territories in the AOU Check-list (1998, as amended) or other competent authorities constitutes substantial evidence that none of these species is native to the United States or its territories. This decision does not preclude the addition of any of these species to the list of migratory birds protected by the MBTA (50 CFR 10.13) at some future date should substantive evidence (such as a specimen, identifiable photograph, or sound recording) become available confirming its natural occurrence in the United States or its territories.

Issue 6: Two reviewers questioned the omission of the muscovy duck and requested a clarification as to why this species is not on the list.

Service Response: The muscovy duck (*Cairina moschata*) has been domesticated for hundreds of years, with feral birds now being broadly distributed across the globe. In the United States, domesticated and semidomesticated birds are found in farms, parks, private collections, and zoos, and feral populations have been established in south Texas, Florida, and possibly elsewhere. It is native to the neotropics, where it is "Resident in the lowlands from Sinaloa and Tamaulipas [Mexico], south through most of Middle America (including Cozumel Island) and South America south, west of the Andes to western Ecuador and east of the Andes to northern Argentina and Uruguay" (AOU 1998:64). Through natural expansion, it is now a "Rare visitor on the Rio Grande in Texas (Hidalgo, Starr, and Zapata counties), where breeding was reported in 1994" (*ibid.* 64–65). On that basis, we believe that it now qualifies for protection under the MBTA, and will be making a formal proposal to that effect in a forthcoming revision to the list of migratory birds (50 CFR 10.13) to be published in the Federal Register.

Issue 7: The Service must continue to protect all migratory birds until it promulgates the final list of nonnative species.

Service Response: The Service can only enforce the prohibitions of the MBTA as they exist. To the extent that those prohibitions ever applied to nonnative species, they no longer applied as of December 8, 2004. As discussed above, the publication of this final list does not have any legal effect. Even if it did, this issue is now moot with publication of the final list.

Issue 8: One reviewer noted that the MBTRA does little to resolve the problems caused by nonnative birds in the Hawaiian Islands, where at least seven species native to the continental United States have been intentionally introduced and established, with some of them now being detrimental to native wildlife.

Service Response: The MBTA and the international migratory bird conventions do not allow the exemption of species on a geographic basis. If a species is native anywhere in the United States or its territories and belongs to a family covered by one or more of the four conventions, it is protected anywhere and everywhere that the MBTA applies. Federal regulations implementing the MBTA authorize mechanisms such as depredation permits or depredation orders that may be used to grant local authorities greater leeway in dealing with situations in which protected migratory birds are causing damage to agricultural crops, livestock, or wildlife, or when causing a health hazard or other nuisance.

Issue 9: One reviewer argued that nothing in the MBTA or the MBTRA prevents the Service from affording the protection of the MBTA to species that belong to families not covered by any of the underlying migratory bird treaties, and suggested biologically-based criteria that would consider the population status of a species and its need for conservation action rather than the inclusion or exclusion of a family in one or more of the treaties.

Service Response: We disagree. Neither the MBTA nor the MBTRA provide us the authority to grant MBTA protection to species that (a) don't belong to any of the 69 families covered by the Canadian, Mexican, or Russian conventions; or (b) aren't specifically listed in the Japanese or Russian conventions. The inclusion of species that belong to families not currently covered by any of the conventions (such as Psittacidae or Timaliidae, for example) would require an amendment to one of the conventions to expand the families to which it applies (this was done with respect to the treaty with Mexico in 1972), or an amendment to the MBTA applying its prohibitions to species not covered by any of the treaties.

Issue 10: Many of the 770 private citizens opposed to the Service's determination that these species are not subject to the protection of the MBTA expressed the view that publication of the list "will declare an open season on the killing of over a hundred species of birds, and mark the beginning of a mass

slaughter campaign against mute swans."

Service Response: Of the 124 species included on the final list, only one, the mute swan, has ever been treated as Federally protected under the MBTA. See *Hill v. Norton*, 275 F. 3d 98 (D.C. Cir. 2001). By declaring that the MBTA does not apply to nonnative human-introduced species, the MBTRA merely restores the status quo that prevailed during the first 83 years of the MBTA. More than 100 species of nonnative migratory birds have been introduced into the United States or its territories since enactment of the MBTA in 1918. In the absence of Federal protection, 18 of those species successfully established self-sustaining breeding populations. Today, 16 of these 18 species continue to maintain thriving breeding populations and several have expanded their ranges dramatically, all in the continued absence of Federal protection. In publishing this list, we do not "declare an open season" or promote the killing of any species; we merely list the species that are not Federally protected under the MBTA because they are nonnative and human-introduced.

What Determination Did the Service Make Regarding the Mute Swan?

Because of the previous litigation regarding the mute swan, and because of the comments we received asserting that the mute swan is a native species, we have decided to treat the comments received from MBTA Advocates on the proposed list as a petition for rulemaking pursuant to the Administrative Procedure Act, 5 U.S.C. 553(e), to add the mute swan to the list of birds covered by the MBTA found at 50 CFR 10.13. As noted above, the list of nonnative species in this notice is published for information purposes, and does not constitute a binding factual determination by the agency with respect to any of the species listed. In contrast, we have made, in response to the mute swan petition, a factual determination that the mute swan is not native to the United States or its territories. In a separate letter, we have informed MBTA Advocates that we have denied their petition. Members of the public may at any time provide the Service with information concerning whether (a) birds currently listed in 50 CFR 10.13 are not covered by the MBTA, or (b) birds not listed in 50 CFR 10.13 are covered by the MBTA, for any reason, including their status as native or nonnative species. The public may also petition for specific rulemaking changes. In any case, 50 CFR 10.13, subject to any amendments, constitutes

the Service's binding interpretation of the species covered by the MBTA.

How Does the Final List Differ From the Draft List?

Criteria. We revised the first sentence of criteria 3 by replacing "confidently attributed solely to" with "best (or most reasonably) explained by." As revised, this sentence now reads as follows: "All of its [each species] known occurrences in the United States can be best (or most reasonably) explained by intentional or unintentional human-assisted introductions to the wild." This change reflects the reality that there is sometimes a certain amount of uncertainty about the origin or provenance of individuals of some species that appear in the United States. For example, while it may be possible that an individual of a species with no known history of natural occurrence in the United States represents a natural vagrant, the most plausible or reasonable explanation is often that the individual involved represents an intentional introduction or escape from captivity. This criteria is thus consistent with the requirement for substantial evidence of natural occurrence before adding a species to the list of species protected by the MBTA at 50 CFR 10.13.

The List. After further review of the literature and the draft list, we removed 3 species and added 15.

Lanner falcon (*Falco biarmicus*), saker falcon (*F. cherrug*), and barbary falcon (*F. peregrinoides*) are removed because of a lack of substantial evidence that they meet the criteria for inclusion.

Lanner and saker falcons are regularly imported into this country for use in recreational falconry or bird control at airports, and are believed to sometimes escape from their handlers, but we have found no literature documenting the presence of escapes in the United States.

The barbary falcon is currently protected under the MBTA as a subspecies of the peregrine falcon (*F. peregrinus*), in accordance with the taxonomic treatment of the AOU (1998) Check-list. Like the lanner and saker, barbary falcons are regularly imported into this country for use in recreational falconry or bird control at airports, and are believed to sometimes escape from their handlers, but we have found no literature documenting the presence of escapes in the United States.

The removal of these three species or subspecies from this list does not determine their qualification for protection under the MBTA.

The following 14 species were overlooked in the notice of January 4 but there is substantial evidence of nonnative human-introduced

occurrence in the United States or its territories, so we add them to the final list (the authorities upon which these determinations are based are noted parenthetically):

Nettapus coromandelianus, Cotton Pygmy-goose (Pranty 2004).

Pelecanus rufescens, Pink-backed Pelican (McKee and Erickson 2002; Pranty 2004).

Anhinga melanogaster, Oriental Darter (McKee and Erickson 2002).
Platalea leucorodia, Eurasian Spoonbill (Pranty 2004).

Threskiornis aethiopicus, Sacred Ibis (Pranty 2004).

Terathopus ecaudatus, Bateleur (Small 1994).

Grus virgo, Demoiselle Crane (Bull 1974; Cole and McCaskie 2004).

Vanellus spinosus, Spur-winged Lapwing (Bull 1974).

Corvus albicollis, White-necked Raven (Pranty 2004).

Corvus nasicus, Cuban Crow (Zeranski and Baptist 1990).

Pyrhacorax pyrrhacorax, Red-billed Cough (Zeranski and Baptist 1990).

Dendrocygna vogaunda, Rufous Treepeep (Bull 1974).

Saxicoloides fulicata, Indian Robin (Bull 1974).

Turdus ruficollis, Dark-throated Thrush (Bull 1974).

Cyanerpes cyaneus, Red-legged Honeycreeper (Pranty 2004).

What Criteria Did We Use To Identify Bird Species Not Protected by the MBTA?

In accordance with the language of the MBTRA, the Service relied on substantial evidence in the scientific record in making a determination as to which species qualified as nonnative and human-introduced. Thus, each species in the final list meets the following four criteria:

(1) It belongs to a family of birds covered by the MBTA by virtue of that family's inclusion in any of the migratory bird conventions with Canada, Mexico, Russia, or Japan. The Canadian and Mexican treaties list the families of birds that are protected. In the Russian treaty, the specific species covered are listed in an Appendix in which the species are arranged by family. Article VIII of the Russian treaty allows the parties to protect additional species that belong to the same family as a species listed in the Appendix. The treaty with Japan lists covered species in an Annex without reference to families, and contains no provision that would allow treaty parties to unilaterally add additional species.

(2) There is credible documented evidence that it has occurred at least

once in an unconfined state in the United States or its territories.

(3) All of its known occurrences in the United States can be best (or most reasonably) explained by intentional or unintentional human-assisted introductions to the wild. An intentional introduction is one that was purposeful—for example, the person(s) or institution(s) involved intended for it to happen. An unintentional introduction is one that was unforeseen or unintended—for example, the establishment of self-sustaining populations following repeated escapes from captive facilities. Self-sustaining populations are able to maintain their viability from one generation to the next through natural reproduction without the introduction of additional individuals.

(4) There is no credible evidence of its natural occurrence in the United States unaided by direct or indirect human assistance. The native range and known migratory movements (if any) of the species combine to make such occurrence in the United States extremely unlikely, both historically and in the future. Migratory bird species with credible evidence of natural occurrence anywhere in the United States or its territories, even if introduced elsewhere within these jurisdictions, are listed in 50 CFR 10.13.

The Final List: What Are the Bird Species Not Protected by the MBTA?

We made this list as comprehensive as possible by including all nonnative, human-assisted species that belong to any of the families referred to in the treaties and whose occurrence(s) in the United States and its territories have been documented in the scientific literature. It is not, however, an exhaustive list of all the nonnative species that could potentially appear in the United States or its territories as a result of human assistance. New species of nonnative birds are being reported annually in the United States, and it is impossible to predict which species might appear in the near future.

The appearance of a species on this list does not preclude its addition to the list of migratory birds protected by the MBTA (50 CFR 10.13) at some later date should substantial evidence come to light confirming natural occurrence in the United States or its territories.

The 125 species on this list are arranged by family according to the American Ornithologists' Union (1998, as amended by Banks *et al.* 2003). Within families, species are arranged alphabetically by scientific name. Common and scientific names follow Monroe and Sibley (1993). Where the

names adopted by the American Ornithologists' Union differ from those of Monroe and Sibley, they are given in parentheses. Species with established, self-sustaining populations are denoted with an asterisk (*).

Family Anatidae

Aix galericulata, Mandarin Duck
Alopochen aegyptiaca, Egyptian Goose
Anas hottentota, Hottentot Teal
Anas luzonica, Philippine Duck
Anser anser, Graylag Goose
Anser anser 'domesticus', Domestic Goose
Anser cygnoides, Swan Goose
Anser indicus, Bar-headed Goose
Branta ruficollis, Red-breasted Goose
Callonetta leucophrys, Ringed Teal
Chenonetta jubata, Manded Duck
Coscoroba coscoroba, Coscoroba Swan
Cygnus atratus, Black Swan
Cygnus melanocoryphus, Black-necked Swan

Cygnus olor, Mute Swan*
Dendrocygna viduata, White-faced Whistling-Duck

Neochen jubata, Orinoco Goose
Netta peposaca, Rosy-billed Pochard
Netta rufina, Red-crowned Pochard
Nettapus coromandelianus, Cotton Pygmy-goose

Tadorna ferruginea, Ruddy Shelduck
Tadorna tadorna, Common Shelduck

Family Pelecanidae

Pelecanus onocrotalis, Great White Pelican
Pelecanus rufescens, Pink-backed Pelican

Family Phalacrocoracidae

Phalacrocorax gaimardi, Red-legged Cormorant

Family Anhingidae

Anhinga melanogaster, Oriental Darter

Family Threskiornithidae

Platalea leucorodia, Eurasian Spoonbill
Threskiornis aethiopicus, Sacred Ibis

Family Ciconiidae

Ciconia abdimii, Abdim's Stork
Ciconia ciconia, White Stork
Ciconia episcopus, Woolly-necked Stork
Ephippiorhynchus asiaticus, Black-necked Stork

Family Cathartidae

Sarcoranphus papa, King Vulture

Family Phoenicopteridae

Phoenicopterus chilensis, Chilean Flamingo
Phoenicopterus minor, Lesser Flamingo

Family Accipitridae

Buteo polyosoma, Red-backed Hawk
Buteogallus urubitinga, Great Black-Hawk
Gyps sp., Griffon-type Old World vulture
Terathopus ecaudatus, Bateleur

Family Rallidae

Aramides cajonea, Gray-necked Wood-Rail

Family Gruidae

Bolearica pavonina, Black Crowned-Crane
Bolearica regulorum, Gray Crowned-Crane

- Grus antigone*, Sarus Crane
Grus virgo, Demoiselle Crane
- Family Charadriidae**
Vanellus chilensis, Southern Lapwing
Vanellus spinosus, Spur-winged Lapwing
- Family Laridae**
Larus novaehollandiae, Silver Gull
- Family Columbidae**
Columba nicobarica, Nicobar Pigeon
Chalcophaps indico, Emerald Dove
Columba livia, Rock Pigeon*
Columba palumbus, Common Wood-Pigeon
Gallicolumba luzonica, Luzon Bleeding-heart
Geopelia cuneata, Diamond Dove
Geopelia humeralis, Bar-shouldered Dove
Geopelia striata, Zebra Dove*
Geophaps lophotes, Crested Pigeon
Geophaps plumifera, Spinifex Pigeon
Geophaps smithii, Partridge Pigeon
Leucosarcia melanoleuca, Wonga Pigeon
Phaps chalcoptera, Common Bronzewing
Stanoenos cyanocephala, Blue-headed Quail-Dove
Streptopelia bitorquata, Island Collared-Dove*
Streptopelia chinensis, Spotted Dove*
Streptopelia decaocto, Eurasian Collared-Dove*
Streptopelia risoria, Ringed Turtle-Dove*
- Family Strigidae**
Pulsatrix perspicillata, Spectacled Owl
- Family Trochilidae**
Anthracoceros nigricollis, Black-throated Mango
- Family Corvidae**
Callocitta colliei, Black-throated Magpie-lay
Corvus albicollis, White-necked Raven
Corvus corone, Carrion Crow
Corvus nasiscus, Cuban Crow
Corvus splendens, House Crow
Cyanocorax caeruleus, Azure Jay
Cyanocorax sanblasianus, San Blas Jay
Dendrocitta vagabunda, Rufous Treepie
Garrulus glandarius, Eurasian Jay
Pyrrhocorax pyrrhocorax, Red-billed Chough
Urocissa erythrorhyncha, Blue Magpie (=Red-billed Blue-Magpie)
- Family Alaudidae**
Alauda japonica, Japanese Skylark
Lullula arborea, Wood Lark
Melanocorypha calandra, Calandra Lark
Melanocorypha mongolica, Mongolian Lark
- Family Paridae**
Parus caeruleus, Blue Tit
Parus major, Great Tit
Parus varius, Varied Tit
- Family Cinclidae**
Cinclus cinclus, White-throated (=Eurasian) Dipper
- Family Sylviidae**
Cettia diphona, Japanese Bush-Warbler*
Sylvia atricapilla, Blackcap
- Family Turdidae**
Copsychus malbaricus, White-rumped Shama*
Copsychus saularis, Oriental Magpie-Robin
Erithacus rubecula, European Robin
Luscinia akahige, Japanese Robin
Luscinia komadori, Ryukyu Robin
Luscinia megarhynchos, Common (=European) Nightingale
Saxicoloides fulicata, Indian Robin
Turdus philomelos, Song Thrush
Turdus ruficollis, Dark-throated Thrush
- Family Prunellidae**
Prunella modularis, Hedge Accentor (=Dunnock)
- Family Thraupidae**
Piranga rubriceps, Red-hooded Tanager
Thraupis episcopus, Blue-gray Tanager
Cyanerpes cyaneus, Red-legged Honeycreeper
- Family Emberizidae**
Emberiza citrinella, Yellowhammer
Gubernatrix cristata, Yellow Cardinal
Loxigilla violacea, Greater Antillean Bullfinch
Melopyrrha nigra, Cuban Bullfinch
Paroaria capitata, Yellow-billed Cardinal*
Paroaria coronata, Red-crested Cardinal*
Paroaria dominicana, Red-cowled Cardinal
Paroaria gularis, Red-capped Cardinal
Sicalis flaveola, Saffron Finch*
Tiaris canora, Cuban Grassquit
- Family Cardinalidae**
Passerina leclacherei, Orange-breasted Bunting
- Family Icteridae**
Gymnostinops montezuma, Montezuma Oropendola
Icterus icterus, Troopial*
Icterus pectoralis, Spot-breasted Oriole*
Leistes (=Sturnella) militaris, Red-breasted Blackbird (=Greater Red-breasted Meadowlark)
- Family Fringillidae**
Carduelis cannabina, Eurasian Linnet
Carduelis carduelis, European Goldfinch
Carduelis chloris, European Greenfinch
Carduelis cucullata, Red Siskin*
Carduelis magellanica, Hooded Siskin
Loxia pyropsittacus, Parrot Crossbill
Serinus canaria, Island (=Common) Canary*
Serinus leucopygius, White-rumped Seedeater
Serinus mozambicus, Yellow-fronted Canary*
- The MBTA also does not apply to many other bird species, including (1) nonnative species that have not been introduced into the U.S. or its territories, and (2) species (native or nonnative) that belong to the families not referred to in any of the four treaties underlying the MBTA. The second category includes the Tinamidae (tinamous), Cracidae (chachalacas), Phasianidae (grouse, ptarmigan, and turkeys), Odontophoridae (New World quail), Burhinidae (thick-knees),
- Clareolidae (pratincoles), Pteroclididae (sandgrouse), Psittacidae (parrots), Todiidae (todies), Dicruridae (drongos), Meliphagidae (honeyeaters), Monarchidae (monarchs), Pycnonotidae (bulbuls), Sylviinae (Old World warblers, except as listed in Russian treaty), Muscicapidae (Old World flycatchers, except as listed in Russian treaty), Timaliidae (wrentits), Zosteropidae (white-eyes), Sturnidae (starlings, except as listed in Japanese treaty), Coerebidae (bananaquits), Drepanidinae (Hawaiian honeycreepers), Passeridae (Old World sparrows, including house or English sparrow), Ploceidae (weavers), and Estrildidae (estrildid finches), as well as numerous other families not represented in the United States or its territories. A partial list of the nonnative human-introduced species included in category 2 is available at <http://migratorybirds.fws.gov>.
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Other Sources

A list of other sources used to compile this list is available upon request from any of the ADDRESSES listed above. It has also been posted online at <http://migratorybirds.fws.gov>.

Dated: March 3, 2005.

Steve Williams,

Director, U.S. Fish and Wildlife Service.

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requirement. (a) Subject to federal and state laws and ~~rules and~~ regulations, wildlife listed ~~below~~ in subsection (b) may be taken for personal use on a noncommercial basis.

(b) For purposes of this regulation, wildlife shall include the following, excluding any species listed in K.A.R. 115-15-1 or K.A.R. 115-15-2:

- (1) Amphibians; ~~2~~ except bullfrogs;
- (2) armadillo;
- (3) commensal and other rodents, excluding game and furbearing animals;
- (4) exotic doves;
- (~~5~~) feral pigeon;
- (~~5~~) (~~6~~) gopher;
- (~~6~~) (~~7~~) ground squirrel;
- (~~7~~) (~~8~~) invertebrates;
- (~~8~~) (~~9~~) kangaroo rat;
- (~~9~~) (~~10~~) mole;
- (~~10~~) (~~11~~) porcupine;
- (~~11~~) (~~12~~) prairie dog;
- (~~12~~) (~~13~~) reptiles, except common snapping turtles and soft-shelled turtles;
- (~~13~~) (~~14~~) woodchuck; and
- (~~14~~) (~~15~~) wood rat.

(c) Wildlife listed ~~above~~ in subsection (b) shall be taken only with any of the following legal equipment or methods:

- (1) Bow and arrow;
- (2) crossbow;

- (3) deadfall;
 - (4) dogs;
 - (5) falconry;
 - (6) firearms, except fully automatic firearms;
 - (7) glue board;
 - (8) hand;
 - (9) net or seine;
 - (10) optical scopes or sights that project no visible light toward the target and do not electronically amplify visible or infrared light;
 - (11) pellet and BB gun;
 - (12) poison, poisonous gas, or smoke, if the toxicant is registered and labeled for that use and if all permit requirements for use of the poison, poisonous gas, or smoke have been met;
 - (13) projectiles hand-thrown or propelled by a slingshot;
 - (14) snare or noose; or
 - (15) trap.
- (d) The open season for the taking of wildlife listed ~~above~~ in subsection (b) shall be year-round.
- (e) There shall be no maximum daily bag or possession limit for wildlife listed ~~above~~ in subsection (b), except that no more than five of any one species of amphibian, reptile, or mussel may be possessed and no more than five live specimens of mussels may be possessed. Two opposing shells shall constitute one mussel.
- (f) Each exotic dove possessed in excess of the aggregate daily bag limit or aggregate possession limit for migratory doves during the open season for migratory doves established in

K.A.R. 115-25-19 shall retain a fully feathered wing. For the purpose of this regulation, “migratory dove” shall mean any mourning dove or white-winged dove, and “exotic dove” shall mean a Eurasian collared dove or ringed turtledove.

(g) Legally taken wildlife listed ~~above~~ in subsection (b) may be possessed without limit in time.

(~~g~~) (h) A hunting license shall not be required to take invertebrates. (Authorized by K.S.A. 2016 Supp. 32-807; implementing K.S.A. 2016 Supp. 32-807; and K.S.A. 2016 Supp. 32-919, ~~K.S.A. 32-1002, and K.S.A. 32-1003~~; effective Sept. 10, 1990; amended Nov. 30, 1998; amended July 13, 2001; amended Nov. 22, 2002; amended Feb. 18, 2005; amended P-
_____.)

ECONOMIC IMPACT STATEMENT

K.A.R. 115-20-2. Certain wildlife; legal equipment; taking methods, possession and license requirement.

DESCRIPTION: This permanent regulation establishes guidelines for the legal equipment, taking methods and possessions and license requirements for certain wildlife. The proposed amendments relate to changing the classification of exotic doves.

FEDERAL MANDATE: None.

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

ALTERNATIVES CONSIDERED: None.

115-20-7. Migratory doves; legal equipment, taking methods, and possession. (a) Legal hunting equipment for migratory doves shall consist of the following:

(1) Shotguns that are not larger than 10 gauge, use shot ammunition, and are incapable of holding more than three shells in total capacity;

(2) pellet and BB guns;

(3) archery equipment;

(4) crossbows;

(5) falconry equipment;

(6) optical scopes or sights that project no visible light toward the target and do not electronically amplify visible or infrared light; and

(7) blinds, stands, calls, and decoys, except live decoys.

(b) The use of dogs shall be permitted while hunting.

(c) Any type of apparel may be worn while hunting migratory doves.

(d) Legally taken migratory doves may be possessed without limit in time and may be given to another if accompanied by an attached, dated written notice that includes the donor's printed name, signature, and address; the total number of birds; the dates the birds were killed; and the permit or license number. The person receiving the meat shall retain the notice until the meat is consumed, given to another, or otherwise disposed of.

(e) Migratory doves shall be taken only while in flight. (Authorized by and implementing K.S.A. 2016 Supp. 32-807; effective Nov. 20, 2009; amended July 20, 2012; amended P-_____.)

ECONOMIC IMPACT STATEMENT

K.A.R. 115-20-7. Migratory doves; legal equipment, taking methods, and possession.

DESCRIPTION: This permanent regulation establishes certain requirements for hunting of doves. The proposed amendments would establish methods of take under the regulation would only be for migratory doves.

FEDERAL MANDATE: None.

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

ALTERNATIVES CONSIDERED: None.

115-25-19. Doves; management unit, hunting season, shooting hours, and bag and

possession limits. (a) The open season for the taking of migratory doves shall begin on the first day of September and shall continue for 90 days, including the opening day. The open season for the taking of exotic doves shall be year-round.

(b) The entire state shall be open for the taking of doves during the dove seasons.

(c) Shooting hours shall be from one-half hour before sunrise until sunset.

(d) The aggregate daily bag limit for migratory doves during the open season shall be 15 migratory doves.

(e) The aggregate possession limit for migratory doves during the open season shall be 45 migratory doves.

(f) There shall be no aggregate daily bag limit or aggregate possession limit for exotic doves during any open season, except as provided in this regulation.

(g) Each exotic dove possessed in excess of the aggregate daily bag limit or aggregate possession limit for migratory doves during the open season for migratory doves shall retain a fully feathered wing.

(h) For the purpose of this regulation, “migratory dove” shall mean any mourning dove or white-winged dove, and “exotic dove” shall mean a Eurasian collared dove or ringed turtledove. (Authorized by and implementing K.S.A. 2016 Supp. 32-807.)

ECONOMIC IMPACT STATEMENT

K.A.R. 115-25-19. Doves; management unit, hunting season, shooting hours, bag and possession limits.

DESCRIPTION: This exempt regulation establishes requirements for hunting doves. The proposed version of the regulation increases the allowable number of days for taking exotic doves.

FEDERAL MANDATES: None.

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

ALTERNATIVES CONSIDERED: Other than to not adopt the proposed amendments, no other alternatives were considered.

115-25-9a. Deer; open season, bag limit, and permits; additional considerations; military subunits. (a) In addition to the archery seasons specified in K.A.R. 115-25-9, the open archery season for the taking of deer in the Fort Riley subunit shall also be September 1, 2017 through September 11, 2017 by individuals who possess the required authorization issued by Fort Riley to hunt for deer during the specified days.

(b) In addition to the season for designated persons specified in K.A.R. 115-25-9, in the Fort Riley subunit the season for designated persons shall also be October 6, 2017 through October 9, 2017.

(c) In the Fort Riley subunit, the open firearm season for the taking of deer shall be November 24, 2017 through November 26, 2017 and December 16, 2017 through December 24, 2017.

(d) In addition to the archery season specified in K.A.R. 115-25-9, the open archery season for the taking of deer in the Fort Riley subunit shall be September 1, 2017 through September 10, 2017 and January 2, 2018 through January 31, 2018 by individuals who possess the required authorization issued by Fort Riley to hunt for deer during the specified days.

(e) In the Fort Riley subunit, the pre-rut white-tailed deer antlerless-only season specified in K.A.R. 115-25-9 shall be closed.

(f) In the Fort Leavenworth subunit, the open firearm season for the taking of deer shall be November 18, 2017 through November 19, 2017, November 23, 2017 through November 26, 2017, December 2, 2017 through December 3, 2017, December 9 through December 10, 2017, and December 16, 2017 through December 17, 2017.

(g) In the Fort Leavenworth subunit, the extended firearms season for the taking of antlerless only white-tailed deer shall be January 1, 2018 through January 14, 2018.

(h) In the Fort Leavenworth subunit, the extended archery season for the taking of antlerless only white-tailed deer shall be January 15, 2018 through January 31, 2018.

(i) In the Smokey Hill subunit, the open firearm season for the taking of deer shall be November 29, 2017 through December 10, 2017.

(j) This regulation shall have no force and effect on and after March 1, 2018.

(Authorized by and implementing K.S.A. 2016 Supp. 32-807 and K.S.A. 2016 Supp. 32-937.)

ECONOMIC IMPACT STATEMENT

K.A.R. 115-25-9a. Deer; open season, bag limit, and permits; additional considerations.

DESCRIPTION: This exempt regulation establishes additional considerations for the 2016-2017 firearm, muzzleloader and archery deer seasons. The main items in the regulation set the deer seasons on Fort Riley, Fort Leavenworth, and Smokey Hill military reservation in order to better accommodate the changing training missions.

FEDERAL MANDATES: None

ECONOMIC IMPACT: No significant economic impact to the department, state agencies, small businesses or the public is anticipated.

ALTERNATIVES CONSIDERED: None.