

Proposed

Wildlife and Parks Commission

Notice of Public Hearing

A public hearing will be conducted by the Wildlife and Parks Commission at 7:00 p.m., Thursday, August 11, 2011 at the Wetlands Education Center, 592 NE K-156 Highway, Great Bend, Kansas, to consider the approval and adoption of proposed regulations of the Kansas Department of Wildlife and Parks.

A general discussion and workshop meeting on business of the Wildlife and Parks Commission will begin at 1:30 p.m., August 11 at the location listed above. The meeting will recess at 5:30 p.m. then resume at 7:00 p.m. at the same location for more business and the regulatory hearing. There will be public comment periods at the beginning of the afternoon and evening meetings 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. August 12 at the location listed above.

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

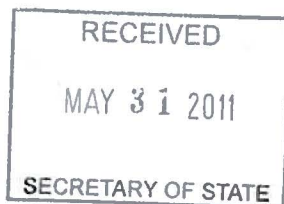
This 60-day notice period prior to the hearing constitutes a public comment period for the purpose of receiving written public comments on proposed administrative regulations.

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

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

K.A.R. 115-16-3. This permanent regulation establishes the application, provisions and requirements for nuisance bird control permits. The proposed amendments would add and remove birds from the nuisance list and require the use of nontoxic shot and bullets.

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



Proposed

K.A.R. 115-2-3a. This permanent regulation establishes fees for department cabins. The regulation is proposed for revocation.

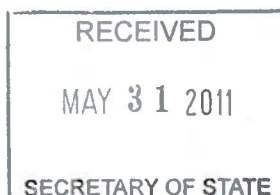
Economic Impact Summary: The proposed amendments are not anticipated to have any appreciable negative economic impact on the department, other agencies, small businesses or the public.

K.A.R. 115-8-13. This permanent regulation establishes authorized operation for motor vehicles on department lands and waters. The proposed amendments would allow certain motor vehicles onto ice covered department waters for the purpose of ice fishing.

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

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

Kelly Johnston, Chairman



Proposed

115-2-3a. This regulation shall be revoked on and after September 15, 2011. (Authorized by and implementing K.S.A. 32-807 and K.S.A. 2009 Supp. 32-988; effective Jan. 1, 2005; amended Jan. 1, 2007; amended July 25, 2007; amended Jan. 1, 2008; amended May 16, 2008; amended Dec. 1, 2008; amended Nov. 20, 2009; amended Jan. 1, 2011; revoked P-_____.)

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ECONOMIC IMPACT STATEMENT

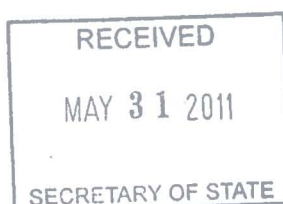
K.A.R. 115-2-3a. Cabin camping permit fees.

DESCRIPTION: This regulation establishes fees for cabin camping within the state parks, state fishing lakes and wildlife areas. Due to legislation passed during the 2011 Session that allows the Commission to set the fees at public meetings without using the regulatory process, the Department is proposing to revoke the regulation.

FEDERAL MANDATE: None.

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

ALTERNATIVES CONSIDERED: None.



Proposed

115-8-13. Motorized vehicles and aircraft; authorized operation. (a) Motorized vehicles shall be operated only on department roads and parking areas, except as otherwise established by this regulation or posted notice or as approved by the secretary.

(b) Motorized vehicles shall be operated at speeds not in excess of 25 miles per hour or as otherwise established by posted notice.

(c) Motorized vehicles shall be operated in accordance with load limits as established by posted notice for roads or bridges.

(d) Motorized aircraft landings and takeoffs shall be allowed in designated areas only or as authorized by the secretary.

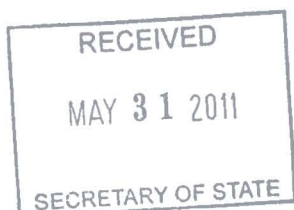
(e) Except as otherwise specified in K.A.R. 115-8-1, posted notice, or this regulation, motorized electric or gasoline-powered two-wheeled vehicles, all-terrain vehicles, work-site utility vehicles, golf carts, and snowmobiles may be operated on ice-covered department waters only for the purpose of ice fishing from one-half hour before sunrise to one-half hour after sunset. These vehicles shall enter onto the ice only from boat ramps and points of entry as established by posted notice.

(f) (1) Except as provided in this regulation, each motorized vehicle that meets either of the following conditions shall be prohibited from being operated on all department lands and roads:

(A) Is not registered with one of the following:

- (i) The director of vehicles pursuant to K.S.A. 8-127 and amendments thereto; or
- (ii) the corresponding authority in another state or country; or

(B) is unlawful to be operated on any interstate highway, federal highway, or state highway pursuant to K.S.A. 8-15,100 and ~~L. 2007, Ch. 140, Sec. 3~~ K.S.A. 8-15,109, and amendments thereto.



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(2) The term "motorized vehicle" shall include cars, trucks, all-terrain vehicles, work-site utility vehicles, golf carts, go-carts, and electric or gasoline-powered two-wheeled vehicles.

(~~f~~) (g) Any person with a disability, as defined by K.S.A. 8-1,124 and amendments thereto, may annually request a permit from the secretary to utilize a motorized vehicle for accessing certain department lands and roads to provide access to recreational opportunities that would otherwise be unavailable to disabled persons. Each written request shall include the following:

- (1) The name, address, and telephone number of the applicant;
- (2) the nature of the disability;
- (3) the name and location of the property to be accessed;
- (4) the date or duration of the entry requested; and

(5) documentation of that person's disability in the form of a disabled accessible parking placard, disabled motor vehicle license plate, or disabled identification card issued by the director of vehicles of the department of revenue pursuant to K.S.A. 8-1,125 and amendments thereto, or similar documentation issued by another state.

(~~g~~) (h) No person who is in possession of a motorized vehicle and has a permit to operate the motorized vehicle on department lands and roads shall perform either of the following:

(1) Allow another person to operate the vehicle on department lands and roads unless that other person has a permit issued by the department; or

(2) operate the vehicle on department lands and roads unless that person is in possession of a permit issued by the department.

(~~h~~) (i) Each permit issued by the department that authorizes the operation of a motorized vehicle

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on department lands and roads shall expire on the last day of the calendar year in which the permit was issued, unless otherwise specified on the permit.

(i) (j) A permit that authorizes the operation of a motorized vehicle on department lands and roads shall not be issued or shall be revoked by the secretary for any of the following reasons:

- (1) The disability does not meet the requirements for the permit.
- (2) The application is incomplete or contains false information.
- (3) The disability under which the permit was issued no longer exists.

(4) The documentation of disability in the form of a disabled accessible parking placard, disabled motor vehicle license plate, or disabled identification card issued by the director of vehicles of the department of revenue pursuant to K.S.A. 8-1,125 and amendments thereto, or similar documentation issued by another state, has expired.

(5) The permit holder fails to comply with the terms and limitations of the permit or with the requirements specified in this regulation.

(6) The issuance or continuation of the permit would be contrary to the preservation of habitat or species located on or in department lands or waters.

(j) (k) This regulation shall not apply to any motorized vehicle that is owned by the department or a designated agent and is used in the operation and maintenance of department lands and roads.

(Authorized by and implementing K.S.A. 32-807; ~~implementing K.S.A. 32-807~~; effective Dec. 4, 1989; amended Feb. 8, 2008; amended P-_____.)

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ECONOMIC IMPACT STATEMENT

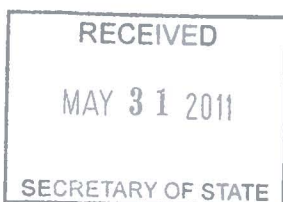
K.A.R. 115-8-13. Motorized vehicles and aircraft; authorized operation.

DESCRIPTION: This permanent regulation establishes the authorized operation of motorized vehicles and aircraft upon department lands and roads. The proposed amendments provide for the use of certain vehicles upon ice covered department waters for the purpose of ice fishing.

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.



Proposed

115-16-3. Nuisance bird control permit; application, provisions, and requirements. (a) The term

“nuisance birds” shall include ~~the following species:~~

~~(1) yellow-headed blackbird;~~

~~(2) red-winged blackbird;~~

~~(3) bi-colored red-winged blackbird;~~

~~(4) rusty blackbird;~~

~~(5) brewer's blackbird;~~

~~(6) cowbird;~~

~~(7) grackle;~~

~~(8) crow;~~

~~(9) magpie;~~

~~(10) feral pigeon;~~

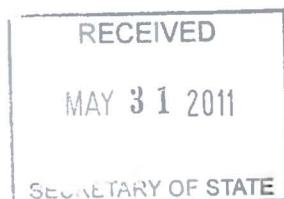
~~(11) english sparrow; and~~

~~(12) starling~~ those species specified in the department's "Kansas nuisance bird species table,"

dated May 9, 2011, which is hereby adopted by reference.

(b) Nuisance birds may be controlled when found depredateing 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 ~~which~~ that involves poisons or chemicals for controlling nuisance birds other than the feral pigeon, English



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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 ~~and~~. Each applicant shall provide the following information:

- (1) The applicant's name ~~of the applicant~~;
- (2) the applicant's address ~~of the applicant~~;
- (3) the applicant's telephone number ~~of the applicant~~;
- (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;
- (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 ~~the~~ 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; ~~or~~.
- (3) Use of the poison or chemical would pose inordinate risk to the public, non-target wildlife, or the environment.

(f) ~~The~~ Each permit shall be valid only for the ~~time~~ period specified on the permit, but which

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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 the extended time ~~period~~ periods shall not exceed one year.

(h) ~~The~~ 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;~~or,~~
- (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) ~~when~~ if the control method is ~~non-lethal~~ nonlethal or ~~when~~ if the control method involves use of firearms, ~~bow and arrow~~ 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) ~~All nuisance bird control activities shall be subject to all federal and state laws and rules and regulations~~ 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. ~~1991 Supp.~~ 32-807 and K.S.A. ~~1991 Supp.~~ 32-955; implementing K.S.A. ~~1991 Supp.~~ 32-955,

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K.S.A. ~~1991~~ 2010 Supp. 32-1002, and K.S.A. ~~1991~~ 2010 Supp. 32-1003; effective Sept. 10, 1990;
amended Aug. 31, 1992; amended P-_____.)

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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 two species from the listing and require the use of nontoxic shot or bullets when using a gun.

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.

