



STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL

PAUL J. MORRISON  
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May 30, 2007

Chris Tymeson, Legal Counsel  
Kansas Department of Wildlife and Parks  
1020 S Kansas Avenue, Suite 200  
Topeka, Kansas 66612

Re: **K.A.R. 115-30-1, 115-30-5, 115-30-7, 115-30-8, 115-30-10, 115-30-12 and 115-8-7**

Dear Mr. Tymeson:

We have reviewed the above-referenced regulations for legality and have approved K.A.R. 115-30-5 and 115-30-7. However, at this time we have not approved the other regulations for the following reasons:

**K.A.R. 115-30-15, Display of identification number and decal:** We think the history should reflect "Authorized by K.S.A. 32-807 and K.S.A. 2006 Supp. 32-1110; implementing K.S.A. 2006 Supp. 32-1110."

Our reasoning is that K.S.A. 2006 Supp. 32-1110 is essentially regulation authority to make exemptions to that statute ("unless otherwise provided by rules and regulations of the secretary"), as has been done by exempting sailboards. However, most of the regulation establishes specifications for identifying decals. Thus while the regulation implements K.S.A. 2006 Supp. 32-1110, regulation authority needs to be provided by the general regulation authority statute K.S.A. 32-807, as well as by K.S.A. 2006 Supp. 32-1110.

**K.A.R. 115-30-8, Boating accident reports:** Section (b) of this regulation would change the current requirement that accident reports be filed with the department to a requirement that accident reports be filed with a commissioned law enforcement officer. However, K.S.A. 32-1177 clearly requires that such reports be filed with the department. Thus, this proposed regulation change would conflict with the statute it purports to implement.

**K.A.R. 115-30-10, Personal watercraft; definition, requirements, and restrictions:** Before approving this regulation we would like assurance that its requirements are "in conformity with the provisions of the federal navigation laws or with the navigation rules

Chris Tymeson  
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promulgated by the United States coast guard" as required by K.S.A. 32-1119(k), which is a statute cited as one that this regulation implements.

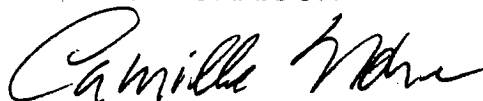
**K.A.R. 115-30-12, Marine sanitation devices; vessel requirements:** The history indicates that this regulation is authorized by K.S.A. 32-1003. However, that statute addresses unlawful methods of taking wildlife.

Additionally, pursuant to K.S.A. 32-1154, the Secretary of Health and Environment (not the Secretary of Wildlife and Parks) has been given authority to "adopt such rules and regulations as are necessary to properly administer and enforce the provisions of K.S.A. 32-1152 through 32-1154" regarding discharge of marine sewage.

**K.A.R. 115-8-7, Boating and general restrictions:** We have a question about the prefatory language in this regulation: How is it that federal reservoirs are considered part of department lands and waters?

Sincerely,

OFFICE OF THE ATTORNEY GENERAL  
PAUL J. MORRISON



Camille Nohe  
Assistant Attorney General

CN:cn

Enclosure: Original document

cc: Representative Carl Holmes, Chair, Joint Committee on Rules and Regulations  
Senator Vicki Schmidt, Vice Chair, Joint Committee on Rules and Regulations  
Representative Janice L. Pauls, Ranking Minority Member, Joint committee on  
Rules and Regulations  
Raney Gilliland, Legislative Research



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June 5, 2007

Chris Tymeson, Legal Counsel  
Kansas Department of Wildlife and Parks  
1020 S Kansas Avenue, Suite 200  
Topeka, Kansas 66612


Re: K.A.R. 115-30-1, 115-30-8, 115-30-10, 115-30-12 and 115-8-7

Dear Mr. Tymeson:

After meeting with you, certain changes were agreed to made in order to bring the above-referenced regulations within legal parameters. We have now reviewed the resubmitted regulations with these changes and have approved them for legality.

Sincerely,

OFFICE OF THE ATTORNEY GENERAL  
PAUL J. MORRISON

  
Camille Nohe  
Assistant Attorney General

CN:cn

Enclosure: Original document

cc: Representative Carl Holmes, Chair, Joint Committee on Rules and Regulations  
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Rules and Regulations  
Raney Gilliland, Legislative Research

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STATE OF KANSAS



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## KANSAS LEGISLATIVE RESEARCH DEPARTMENT

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July 11, 2007

Mr. Michael Hayden, Secretary  
Kansas Department of Wildlife and Parks  
1020 S Kansas Avenue, Room 200  
BUILDING MAIL

Dear Secretary Hayden:

At its meeting on July 9, 2007, the Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning boating and general restrictions; display of identification number and decal; boating, capacity plate and operation, calculation of person capacity; boating, steering, and sailing requirements; boating, accident reports; personal water craft, definition, requirements, and restrictions; and marine sanitation devices, vessel requirements. After discussion, the Committee had the following comments.

KAR 115-8-7. The Committee is concerned with the manner in which boaters will be informed of the new requirement of speed. In addition, the Committee is unclear as to what is meant by "all departmental land and waters." Is this a defined term or is there a list of water bodies to which this regulation would apply?

Question. The Committee would like to know how the agency intends to enforce this set of regulations.

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

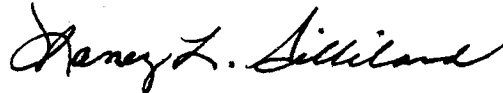
Please make this letter a part of the public record on these regulations. The Committee will review the regulations, which the agency ultimately adopts, and reserves any expression of legislative concern to that review.

To assist in that final review:

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

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

Sincerely,



Raney L. Gilliland  
Assistant Director for Research

RLG/jl