

Department of Agriculture, Plant Protection and Weed Control
Notice of Hearing on Proposed
Administrative Regulations, Statewide

A public hearing will be conducted at 10:00 a.m. on December 11, 2024, in the 1st floor meeting room 124 of the Kansas Department of Agriculture, 1320 Research Park Dr., Manhattan, Kansas, to consider the adoption of the proposed regulations. The public hearing will be conducted in person and via video conferencing system. Members of the public who wish to attend the public hearing virtually must pre-register at <https://kansasag.zoom.us/meeting/register/tZwsfu2qpjgoHdLroXgIU6EFTZpuPPgcq7B7>. After registering, you will receive a confirmation email containing information about joining the meeting.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments regarding the proposed regulations. All interested parties may submit written comments prior to the hearing by mail or email to Kansas Department of Agriculture, Attn: Ronda Hutton, 1320 Research Park Dr., Manhattan, Kansas 66502, or ronda.hutton@ks.gov. Comments may also be made via the Kansas Department of Agriculture's website at <https://www.agriculture.ks.gov/public-resources/public-comments>.

All interested parties will also be given a reasonable opportunity to orally present their views regarding the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes. These regulations are proposed for adoption on a permanent basis.

The Kansas Department of Agriculture (KDA) is proposing regulations to implement changes to the Plant Pest and Agriculture Commodity Certification Act, K.S.A. 2-2112, et seq. The regulations will implement changes to the structure of KDA's live plant dealer licensing framework as well as changes to licensing and voluntary inspection and certification fees. A summary of each proposed regulation and their economic impact follows:

K.A.R. 4-15-5 would increase the cost for a live plant dealer license from \$80 to \$100. It would also allow for a "reduced fee" application of \$30 if the requirements of K.S.A. 2-2010(c) have been met.

K.A.R. 4-15-7 sets requirements for "special event live plant dealers" to register annually and at least 10 days prior to any "special event" for which the license is sought.

K.A.R. 4-15-8 sets the basis for calculating fees for inspections of live plants, plant products, bees, bee-keeping equipment, and regulated articles.

K.A.R. 4-15-9 sets fees for certain inspections and the issuance of certain certificates.

K.A.R. 4-15-10 sets forth "pest freedom standards" applicable to live plant dealers, including requirements related to the presence of quarantine pests and regulated nonquarantine pests. The regulation also establishes the classes of regulated nonquarantine pests and creates an exemption from the requirements related to limits on the presence of regulated nonquarantine pests if the plant pest at issue is known to infect a large percentage of a particular plant species, is confined to that species, and is generally accepted to cause little or no known injury to its host. This regulation further provides that pest freedom standards more stringent than those set forth in

the regulation may be applied when doing so is necessary in order to meet other states' or countries' import requirements.

A detailed quantification of implementation and compliance costs is difficult to predict with certainty because of fluctuations in the number of licenses issued and requested inspections performed, but an estimate of these costs based on previous years' license numbers, voluntary requested inspections performed, and inspection miles logged is as follows:

Previously, the Department has licensed approximately 1,436 live plant dealers at a fee of \$80 per license. 1,386 of those licensees will incur the increased live plant dealer license fee of \$100 under these proposed regulations, and 50 of those licensees will be eligible for no-cost licenses under the proposed regulations. Previously, approximately 521 live plant dealers were exempt from licensing fees. 100 of those will remain exempt from any fee under the proposed regulations, and approximately 421 of those licensees will incur a license fee of \$30 under the proposed regulations. In total, the new licensing framework will result in increased implementation and compliance costs of approximately **\$36,350**.

Changes to "inspection fees" proposed in the regulations relate to voluntary inspections requested by exporters in order for them to obtain certification for domestic or international exports. These fee increases reflect increases in the costs KDA incurs in actually providing these certificates to private exporters. The industry members most likely to be impacted by the increase for these inspections are those dealers that request domestic inspection certificates, such as European Corn-Borer and State Phytosanitary certificates. The \$10 cost increase for these certificates (from \$20 to \$30) will amount to an approximate increase in costs of **\$3,000**, based upon KDA having issued approximately 300 such certificates in prior years. The \$15 increase in the hourly rate of fees for requested inspections (from \$30-\$45) similarly reflects the increase in costs incurred by KDA in conducting those inspections. Based upon approximately 1,104 hours of voluntary requested inspection time logged previously, this fee increase will result in an increase in implementation and compliance costs of approximately **\$16,564**. There will be no change to the costs for a certificate for international shipment, which will remain at \$50.

Finally, the cost of weed-free forage tags will increase by 5 cents per tag from 20 cents to 25 cents. This increase also reflects the real-world cost of procuring these tags for exporters to attach to their products to certify their "Weed Free" status to end-users in other states/countries. Based upon the number of weed-free forage tags issued in previous years, this fee increase will result in increased implementation and compliance costs of approximately **\$700**. In total, these regulations will result in increased implementation and compliance costs of approximately **\$56,614**. Increased costs to individual licensees will be quite small, as detailed in this section. The costs and benefits of the proposed rules and regulations more generally are set forth below.

The proposed rules and regulations are similar to rules and regulations of contiguous states in this area and are consistent with the requirements of federal law.

The proposed rules and regulations are not mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program and do not exceed any requirements of federal law.

The proposed regulations will not significantly enhance or restrict business activities and growth. Some licensees will incur small increases in licensing, inspection, and certification fees and may pass those increased costs on to their customers, but the overall impact of this on

business activities should be small, as the various increases in fees and costs associated with these regulations range from less than a dollar for weed-free forage tags to a \$20 increase for a live plant dealer's license. Additionally, some smaller live plant dealers who will be eligible for no-cost licenses under these proposed regulations will save costs.

A detailed quantification of implementation and compliance costs to businesses and individuals licensed as live plant dealers is set out above. The rules and regulations will not affect public utility ratepayers or local governments.

Individuals and entities licensed as live plant dealers, such as greenhouses, nurseries, garden centers, retail centers, and exporters of plant products will be directly affected by the proposed rules and regulations.

These regulations will clarify and streamline the live plant dealer licensing process. Additionally, they will reduce fees for non-profits using special event plant sales to meet short-term fundraising goals. A further benefit will be the increased traceability of plants brought into the State and sold for short-term fundraising purposes, which could be of great benefit in the event of a plant disease or pest outbreak. These regulations will also ensure the agency is able to cover its costs in administering the Act, in accordance with the wishes of the legislature. The regulations also create an exemption to requirements limiting the presence of plant pests in instances where the pests at issue are not harmful. The agency believes the benefits of these regulations will outweigh the relatively small costs borne by regulated individuals.

The regulations provide for low to no cost licensing classifications depending on the purpose and the gross sales of the person or entity seeking the license. This is in contrast to the existing fee structure, which charges many smaller dealers the same license fee as much larger dealers. The agency also created the exemption contained within K.A.R. 4-15-10 in order to not impose an undue regulatory burden when a plant pest is essentially harmless. This regulation also sets costs for inspections based on more current economic standards while not imposing more costs than are necessary to cover the costs KDA incurs in administering the Act.

The agency does not expect the rules and regulations to have any significant immediate or long-range economic impact on individuals, small employers, or the general public, as individual cost increases will be relatively small, as discussed herein. Additionally, many licensees who are individuals or smaller operators may be subject to the no-cost license provided for by these regulations, though that number is difficult to predict with certainty.

The agency reached out to those entities and none of them indicated any economic impact to their organization as a result of these regulations. The agency does not expect any impact to the revenues of cities, counties, or school districts to occur.

In developing the proposed regulations, the agency consulted with the Kansas Nursery Landscape Association, Kansas Greenhouse Growers Association, the Kansas Turf Foundation, and the Kansas Grain and Feed Association.

Any individual with a disability may request accommodations to participate in the public hearing and may request the proposed regulations and their economic impact statement in an accessible format. Requests for accommodations should be made at least five working days in advance of the hearing by contacting Ronda Hutton, via telephone at (785) 564-6715 or via fax

at (785) 564-6777. Handicapped parking is located on the west side of the building at 1320 Research Park Dr., Manhattan, and the west entrance to the building is accessible to individuals with disabilities.

Copies of the regulations and their economic impact statement may be obtained by contacting the Department via mail at Kansas Department of Agriculture, Attn: Ronda Hutton, 1320 Research Park Dr., Manhattan, KS 66502, via telephone at (785) 564-6715, or via the Department's website at agriculture.ks.gov.

Michael M. Beam
Secretary
Kansas Department of Agriculture