

Kansas Administrative Regulations Economic Impact Statement (EIS)

Kansas Department of Agriculture
Agency

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Agency Contact

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K.A.R. 4-15-5; K.A.R. 4-15-7 through K.A.R. 4-15-10
K.A.R. Number(s)

Permanent Temporary

Is/Are the proposed rule(s) and regulation(s) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program?

- Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.
- No If no, do the total annual implementation and compliance costs for the proposed rule(s) and regulation(s), calculated from the effective date of the rule(s) and regulation(s), exceed \$1.0 million or more in implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governmental units and individuals as a result of the proposed rule and regulation over the initial five-year period following adoption of such rule(s) and regulation(s) (as calculated in Section III, F)?
- Yes If “Yes,” then the agency shall not adopt the rule(s) and regulation(s) until the rule(s) and regulation(s) has been ratified by the Legislature with a bill, unless the proposed rule(s) and regulation(s) are: 1) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program, as described in K.S.A. 77-416(b)(1)(B), and amendments thereto; 2) temporary rule(s) and regulation(s) adopted pursuant to K.S.A. 77-722, and amendments thereto; or 3) rules and regulations adopted pursuant to K.S.A. 2-3710 (Kansas Agricultural Remediation Board). Continue to fill out the remaining EIS form to be included with the regulation packet in the review process to the Department of Administration and the Attorney General. The submitted EIS will be independently analyzed by the Division of the Budget for approval.
- No If no, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. The submitted EIS will be analyzed by the Division of the Budget for approval.

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Section I

Analysis, brief description, and cost and benefit quantification of the proposed rule(s) and regulation(s). If the approach chosen by the Kansas agency to address the policy issue is different from that utilized by agencies of contiguous states or of the federal government, the economic impact statement shall include an explanation of why the Kansas agency's rule and regulation differs.

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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 the proposed regulations is as 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.

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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 for 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 in Section III.D. 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.

Section II

Explain whether the proposed rule and regulation is mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program and whether the proposed rules and regulations exceed the requirements of applicable 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.

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Section III

Agency analysis specifically addressing the following:

- A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

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 twenty dollar 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.

- B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that will be affected by the proposed rule(s) and regulation(s) and on the state economy as a whole;

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.

- C. Businesses that would be directly affected by the proposed rule(s) and regulation(s);

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.

- D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

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 trace-ability 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.

- E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and 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

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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.

F. An estimate of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governments, or individuals. *Note: Do not account for any actual or estimated cost savings that may be realized. Implementation and compliance costs determined shall be those additional costs reasonably expected to be incurred and shall be separately identified for the affected businesses, local governmental units, and individuals.*

Costs to Affected Businesses – \$56,614

Costs to Local Governmental Units – \$0

Costs to Individuals – Some businesses included in the cost estimate above will be individuals. There are no separate costs to individuals.

Total Annual Costs – \$56,614
(sum of above amounts)

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

A detailed statement of the data and methodology used in estimating the above cost estimate is set forth in Section I above.

- Yes If the total implementation and compliance costs exceed \$1.0 million or more in implementation and compliance costs over the initial five-year period following adoption of such rule(s) and regulation(s) that are reasonably expected to be incurred by or passed along to businesses, local governmental units and individuals as a result of the proposed rule and regulation, did the agency hold a public hearing to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.
- No
- Not Applicable

If applicable, click here to enter public hearing information.

Provide an estimate to any changes in aggregate state revenues and expenditures for the implementation of the proposed rule(s) and regulation(s), for both the current fiscal year and next fiscal year.

The proposed rules and regulations will increase state revenues by approximately \$56,614 per fiscal year, as the implementation and compliance costs set out above will all be paid to the agency.

Provide an estimate of any immediate or long-range economic impact of the proposed rule(s) and regulation(s) on any individual(s), small employers, and the general public. If no dollar estimate

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can be given for any individual(s), small employers, and the general public, give specific reasons why no estimate is possible.

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.

- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

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.

- H. Describe how the agency consulted and solicited information from businesses, business associations, local governmental units, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s) or may provide relevant information.

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.

Section IV

Does the Economic Impact Statement involve any environmental rule(s) and regulation(s)?

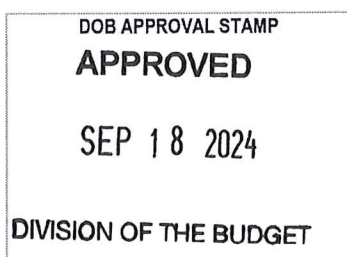
- Yes If yes, complete the remainder of Section IV.
 No If no, skip the remainder of Section IV.

- A. Describe the capital and annual costs of compliance with the proposed rule(s) and regulation(s), and the individuals or entities who would bear the costs.

[Click here to enter agency response.](#)

- B. Describe the initial and annual costs of implementing and enforcing the proposed rule(s) and regulation(s), including the estimated amount of paperwork, and the state agencies, other governmental agencies, or other individuals who will bear the costs.

[Click here to enter agency response.](#)



- C. Describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, the individuals or entities who will bear the costs and who will be affected by the failure to adopt the rule(s) and regulation(s).

[Click here to enter agency response.](#)

- D. Provide a detailed statement of the data and methodology used in estimating the costs used.

[Click here to enter agency response.](#)

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