

Proposed

State of Kansas
Kansas Human Rights Commission
Notice of Public Hearing on Proposed Administrative Regulations

August 2, 2018

A public hearing will be conducted on October 19, 2018, at 11:00 a.m. in Suite 568-S of the Landon State Office Building, 900 S.W. Jackson, Topeka, Kansas, to consider the revocation of rules and regulations of the Kansas Human Rights Commission on a permanent basis.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the Kansas Human Rights Commission, 900 S.W. Jackson, Suite 568-S, Topeka, KS 66612-1258 or by email to Ruth.Glover@ks.gov. All interested parties will be given a reasonable opportunity to present their views orally regarding the proposed revocation of the regulations during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Ruth Glover at (785) 296-3206 (or TYY (785) 296-0245). The north entrance to the Landon State Office Building is accessible. Handicapped parking is located at the south end of the Landon State Office Building, across the street from the north entrance to the building, and on Ninth Street, just around the corner from the north entrance to the building.

Summaries of the proposed revocations and their economic impact follow. (Note: Statements indicating that a regulation is "not anticipated to have any economic impact" are intended to indicate that no economic impact on the Kansas Human Rights Commission, other state agencies, state employees, other governmental entities, or the general public has been identified.)

Copies of the proposed revocation of regulations and the Economic Impact Statements for each of the proposed regulation revocations can be located at http://www.khrc.net/Proposed_Regulations/Proposals201807.pdf; or obtained from the Kansas Human Rights Commission, 900 S.W. Jackson, Suite 568-S, Topeka, KS 66612-1258 or by email to Ruth.Glover@ks.gov.

Revocation of K.A.R. 21-30-18. This proposal revokes a regulation that provides a single type of affirmative action. Since it was adopted, court analysis has evolved regarding what is permitted in an affirmative action plan. The commission will still be able to order affirmative action. The purpose of this revocation is to eliminate confusion, so that, if ordered, affirmative action is tailored to each case. The revocation is not anticipated to have any economic impact.

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SECRETARY OF STATE**

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Revocation of K.A.R. 21-40-5. This proposal revokes a regulation that states the commission may use the executive director as its agent, and directs the timing and form of the commission's performance evaluation of the executive director. The purpose of this revocation is to eliminate confusion created by an unnecessary self-directing regulation. The revocation is not anticipated to have any economic impact.

Revocation of K.A.R. 21-45-1 through 21-45-18. This proposal revokes regulations that set the procedures to be followed in a post-probable cause public hearing. Since they were adopted, K.S.A. 44-1005 was amended to provide that such hearings are governed by the Kansas Administrative Procedures Act. The purpose of the revocation is to avoid confusion, as these regulations are no longer necessary. The revocation is not anticipated to have any economic impact.

Revocation of K.A.R. 21-45-21 through 21-45-25. This proposal revokes regulations that set the procedures to be followed in a post-probable cause public hearing. Since they were adopted, K.S.A. 44-1005 was amended to provide that such hearings are governed by the Kansas Administrative Procedures Act. The purpose of the revocation is to avoid confusion, as these regulations are no longer necessary. The revocation is not anticipated to have any economic impact.

Revocation of K.A.R. 21-46-2 and 21-46-3. This proposal revokes two regulations that the Kansas appellate courts have determined to be invalid. The purpose is to eliminate confusion by removing the text of these regulations from the published Kansas Administrative Regulations. The revocation is not anticipated to have any economic impact.

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Proposed

21-30-18. (Authorized by K.S.A. 1974 Supp. 44-1003, 1004; effective, E-74-14, Dec. 28, 1973;
effective May 1, 1975; revoked P-_____.)

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JUL 16 2018

ATTORNEY GENERAL

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JUL 11 2018

DEPT. OF ADMINISTRATION

APPROVED

JUN 26 2018

Division of the Budget

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21-40-5. (Authorized by K.S.A. 1974 Supp. 44-1004; effective, E-74-14, Dec. 28, 1973;
effective May 1, 1975; revoked P-_____.)

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21-45-1, 21-45-2, 21-45-3, 21-45-4, 21-45-5, 21-45-6, 21-45-7, 21-45-8, 21-45-9, 21-45-10,
21-45-11, 21-45-12, 21-45-13, 21-45-14, 21-45-15, 21-45-16, 21-45-17, and 21-45-18.

(Authorized by K.S.A. 1974 Supp. 44-1003, 44-1004; effective, E-74-14, Dec. 28, 1973;
effective May 1, 1975; revoked P-_____.)

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21-45-21, 21-45-22, 21-45-23, 21-45-24, and 21-45-25. (Authorized by K.S.A. 1974 Supp. 44-

1003, 44-1004; effective, E-74-14, Dec. 28, 1973; effective May 1, 1975; revoked P-

_____.)

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21-46-2 and 21-46-3. (Authorized by K.S.A. 1974 Supp. 44-1003, 44-1004; effective, E-74-14,
Dec. 28, 1973; effective May 1, 1975; revoked P-_____.)

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KRIS W. KOBACH
SECRETARY OF STATE

**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Proposed

Kansas Human Rights Commission
Agency

Deanne Watts Hay (counsel)
Agency Contact

(785) 224-8281
Contact Phone Number

21-30-18
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to:

Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

This proposal revokes a regulation that provides a single type of affirmative action. Since it was adopted, court analysis has evolved regarding what is permitted in an affirmative action plan. The purpose of this revocation is to eliminate confusion, so that, if ordered, affirmative action is tailored to each case. The revocation is not anticipated to have any economic impact.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)*

This revocation is mandated by the federal government in the sense that it is contrary to United States Supreme Court rulings. It is not addressing a policy issue; but due to the precedents set by United States Supreme Court rulings, the revocation is consistent with positions that would be utilized by agencies of contiguous states and the federal government.

III. Agency analysis specifically addressing following:

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

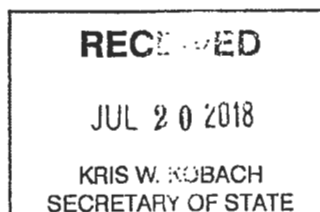
Neither, as this is revocation of a regulation no longer needed.

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 would be affected by the proposed rule and regulation and on the state economy as a whole;

None anticipated.

C. Businesses that would be directly affected by the proposed rule and regulation;

None, as this is a revocation of a regulation no longer needed.



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

There are no costs associated with this revocation. The benefit would be to remove a regulation that has become invalid, and thus avoid confusing the public.

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;

No cost or impact on business and economic development is anticipated.

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$0

An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$0

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES ☐ NO ☒

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

Review of current case law analysis of affirmative action plans by the courts. The revocation of the regulation should have no economic impact.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period 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.

YES ☐ NO ☒

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.

Not applicable, as there should be no such impact.

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

There was no consultation. The regulation is being revoked to comply with court analysis of the law.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

Not applicable.

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Division of the Budget

**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Proposed

Kansas Human Rights Commission

Agency

Deanne Watts Hay (counsel)

Agency Contact

(785) 224-8281

Contact Phone Number

21-40-5

K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to: Division of the Budget

900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

This proposal revokes a regulation that states the commission may use the executive director as its agent, and directs the timing and form of the commission's performance evaluation of the executive director. The purpose of this revocation is to eliminate confusion created by an unnecessary self-directing regulation.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

This is not mandated by the federal government. The regulation being revoked is specific to Kansas law and internal aspects of the Kansas agency. It is not addressing a policy issue that would be utilized by agencies of contiguous states or the federal government.

III. Agency analysis specifically addressing following:

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

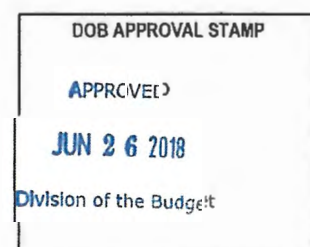
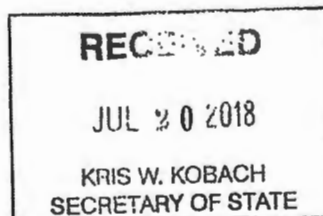
Neither, as this is revocation of a regulation no longer needed.

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 would be affected by the proposed rule and regulation and on the state economy as a whole;

None anticipated.

C. Businesses that would be directly affected by the proposed rule and regulation;

None, as this is a revocation of a regulation no longer needed.



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

There are no costs associated with this revocation. The benefit would be to remove a self-directing statement that is no longer needed.

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;

No cost or impact on business and economic development is anticipated.

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$0

An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$0

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES ☐ NO ☒

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

As the existing regulation does not attempt to regulate anything other than the internal working of the agency itself, the revocation of the regulation should have no economic impact.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period 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.

YES ☐ NO ☒

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.

Not applicable, as there should be no such impact.

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

There was no consultation. The regulation only affects internal matters within the agency.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

Not applicable.

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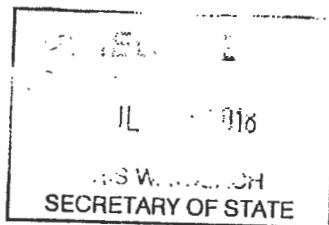
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**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Proposed

Kansas Human Rights Commission

Agency

Deanne Watts Hay (counsel)

Agency Contact

(785) 224-8281

Contact Phone Number

21-45-1 through 21-45-18

K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to: Division of the Budget

900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

This proposal revokes regulations that set the procedures to be followed in a post-probable cause public hearing. Since they were adopted, K.S.A. 44-1005 was amended to provide that such hearings are governed by the Kansas Administrative Procedures Act. The purpose of the revocation is to avoid confusion, as these regulations are no longer necessary. The revocation is not anticipated to have any economic impact.

I. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)*

This is not mandated by the federal government. The regulations being revoked are procedural and specific to Kansas law. The regulations being revoked do not address a policy issue, but only clarify the procedure to be used in compliance with the current Kansas statutes.

III. Agency analysis specifically addressing following:

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

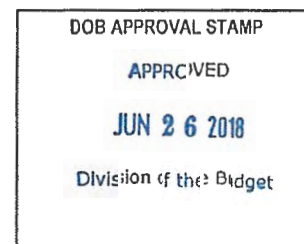
Neither, as this is revocation of regulations declared invalid and no longer needed.

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 would be affected by the proposed rule and regulation and on the state economy as a whole:

None anticipated.

C. Businesses that would be directly affected by the proposed rule and regulation;

None anticipated.



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

There are no costs associated with this revocation. The benefit would be to avoid confusion by removing a group of procedural regulations that have become unnecessary. Since these regulations were enacted, K.S.A. 44-1005 was amended to provide that such hearings are governed by the Kansas Administrative Procedures Act.

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;

No cost or impact on business and economic development is anticipated.

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$0

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\$0

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES ☐ NO ☒

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

Review of current Kansas statutes and regulations governing the procedure for this type of hearing. The revocation of these regulations should have no economic impact.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period 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.

YES ☐ NO ☒

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.

Not applicable, as there should be no such impact.

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

There was no consultation. The regulations are being revoked to avoid confusion, as K.S.A. 44-1005 now states that such hearings are governed by the Kansas Administrative Procedures Act.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).**

Not applicable.

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**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Proposed

Kansas Human Rights Commission
Agency

Deanne Watts Hay (counsel)
Agency Contact

(785) 224-8281
Contact Phone Number

21-45-21 through 21-45-25
K.A.R. Number(s)

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I. Brief description of the proposed rule(s) and regulation(s).

This proposal revokes regulations that set the procedures to be followed in a post-probable cause public hearing. Since they were adopted, K.S.A. 44-1005 was amended to provide that such hearings are governed by the Kansas Administrative Procedures Act. The purpose of the revocation is to avoid confusion, as these regulations are no longer necessary. The revocation is not anticipated to have any economic impact.

I. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)*

This is not mandated by the federal government. The regulations being revoked are procedural and specific to Kansas law. The regulations being revoked do not address a policy issue, but only clarify the procedure to be used in compliance with the current Kansas statutes.

III. Agency analysis specifically addressing following:

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

Neither, as this is revocation of regulations declared invalid and no longer needed.

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 would be affected by the proposed rule and regulation and on the state economy as a whole:

None anticipated.

C. Businesses that would be directly affected by the proposed rule and regulation;

None anticipated.

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

There are no costs associated with this revocation. The benefit would be to avoid confusion by removing a group of procedural regulations that have become unnecessary. Since these regulations were enacted, K.S.A. 44-1005 was amended to provide that such hearings are governed by the Kansas Administrative Procedures Act.

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;

No cost or impact on business and economic development is anticipated.

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

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Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES ☐ NO ☒

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

Review of current Kansas statutes and regulations governing the procedure for this type of hearing. The revocation of these regulations should have no economic impact.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period 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.

YES ☐ NO ☒

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Not applicable, as there should be no such impact.

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

There was no consultation. The regulations are being revoked to avoid confusion, as K.S.A. 44-1005 now states that such hearings are governed by the Kansas Administrative Procedures Act.

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900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

This proposal revokes two regulations that the Kansas appellate courts have determined to be invalid. The purpose is to eliminate confusion by removing the text of these regulations from the published Kansas Administrative Regulations. The revocation is not anticipated to have any economic impact.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

This revocation is not mandated by the federal government. These regulations were determined to be invalid due to limitations in the Kansas statutes so that the court determined the regulations were beyond the agency's power to enact. The regulatory approach of continuous states and the federal government are not at issue, because this is controlled by Kansas statutes.

III. Agency analysis specifically addressing following:

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

Neither, as this is revocation of regulations declared invalid and no longer needed.

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 would be affected by the proposed rule and regulation and on the state economy as a whole;

None anticipated.

C. Businesses that would be directly affected by the proposed rule and regulation;

None, as this is a revocation of regulations previously declared invalid and which are no longer needed.

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

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There are no costs associated with this revocation. The benefit would be to remove invalid regulations and thereby avoid confusion.

- 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;

No cost or impact on business and economic development is anticipated.

- F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$0

An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$0

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES ☐ NO ☒

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

Review of court decisions regarding these regulations. The revocation of the regulations should have no economic impact.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period 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.

YES ☐ NO ☒

- 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.

Not applicable, as there should be no such impact.

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

There was no consultation. The regulations are being revoked to comply with Kansas court analysis that they are invalid.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).**

Not applicable.

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