

Proposed

**Department of Agriculture, Division of Animal Health
Notice of Hearing on Proposed
Administrative Regulations, Statewide**

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**SCOTT SCHWAB
SECRETARY OF STATE**

A public hearing will be conducted at 10:00 a.m., Tuesday, October 13, 2020, via a telephone conferencing system to consider the adoption of proposed regulations. To participate you will need to dial 1-866-620-7326 at the designated time. When prompted, enter the following conference code number 7504763771, followed by the pound sign (#). If asked if you are the leader, do nothing. When prompted, state your name. You will then be placed in a holding pattern until all participants are on the line. Public comments will be limited to written and/or telephonic comments only.

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 Secretary of Agriculture, 1320 Research Park Dr., Manhattan, Kansas, 66502, or by e-mail at ronda.hutton@ks.gov. Comments may also be submitted online at <https://www.agriculture.ks.gov/document-services/public-comment>. All interested parties will be given a reasonable opportunity to present their views orally on 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. A summary of the proposed regulations and their economic impact follows:

K.A.R. 9-2-35 establishes the interstate entry requirements for sexually intact cattle or bison from Designated Surveillance Areas (DSA) into Kansas. This regulation will require cattle or bison being imported from DSA's to be officially identified. Currently, the United States Department of Agriculture's (USDA) Animal Disease Traceability rule requires animals to be identified only if they are aged 18 months or older. However, this regulation does not require anything beyond what origination states commonly require for intrastate movement from DSA's.

This regulation should not restrict any business opportunities as the only requirement is that the animals being moved be identified and that information be provided to the state. Business opportunities may be enhanced because this regulation will make it easier to trace the spread of a contagious disease and potentially limit its overall impact on the livestock markets.

This regulation is not expected to have an economic effect on specific businesses, sectors, public utility ratepayers, individuals, or local governments.

Farmers and ranchers importing sexually intact cattle or bison from DSA's would be directly affected by the proposed regulation.

Cost is minimal or none for Kansas entities. Benefit is to ensure origin of cattle or bison is established as part of the import record and testing has been accomplished to prove negative status for those cattle or bison that pose the greatest risk exposing Kansas cattle herds to contagious diseases.

The steps required for entry of sexually intact cattle or bison from DSA's into Kansas will be the responsibility of the importing party. Regulation compliance costs will be incurred by the importing party. No expected financial impact on Kansas producers.

The proposed regulation was mailed to the League of Kansas Municipalities, the Kansas Association of Counties and the Kansas Association of School Boards for review and comments. No comments have been received from any of the entities.

The proposed regulation was sent to Kansas livestock stakeholder associations such as Kansas Livestock Association (KLA) and Kansas Farm Bureau. It was presented at the KLA annual conference for review and discussion. It was presented to the Animal Health Advisory Board for review and comments.

K.A.R. 9-3-9 removes the negative brucellosis test requirement for imported adult domesticated cervids. It also adds the genera, Rangifer (reindeer and caribou) to the list of cervids required to have a five-year chronic wasting disease (CWD) herd status before being imported into the state.

This regulation will add the genera, Rangifer, to those cervid genera that are required to have a negative CWD herd status before they will be allowed import to Kansas. This requirement exceeds the current United States Department of Agriculture (USDA) requirements because the susceptibility of the Rangifer genera has just been established.

Removal of the brucellosis testing requirement may enhance business activity by reducing the regulatory requirements currently in place for imported cervids by no longer requiring testing. Entities importing reindeer and caribou will potentially see an increase in restrictions and testing requirements to qualify as part of the USDA-Animal and Plant Health Inspection Service herd certification program to import those animals into the state.

No significant impact is expected on local or state entities. Minimal savings may occur due to the reduction in inspections and paperwork review costs by KDA. Cervid importers may also see some small savings in paperwork and verification costs. Reindeer and caribou owners may incur increased costs by locating USDA certified herds or for certifying their own herds.

Farmers and ranchers importing cervids from specific listed genera would be directly affected by this proposed regulation.

Cost is minimal or none for Kansas entities. The redaction of the brucellosis testing requirement will potentially allow for importation at a reduced cost to producers. Addition of reindeer and caribou to the CWD susceptible species list and the subsequent certification required will increase the due diligence and potential cost of importation for herds outside of Kansas.

Steps required for adult domesticated cervids entry into Kansas will be the responsibility of importing party. Regulation compliance costs will be incurred by importing party. No expected financial impact on Kansas producers.

The proposed regulation was mailed to the League of Kansas Municipalities, Kansas Association of Counties and the Kansas Association of School Boards for review and comments. No comments have been received from the entities.

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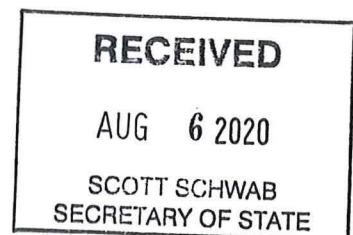
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The proposed regulation was sent to the Kansas livestock stakeholder associations such as Kansas Livestock Association (KLA) and Kansas Farm Bureau. It was presented at the KLA annual conference for review and discussion. It was also presented to the Animal Health Advisory board for review and comments.

Any individual with a disability may request accommodations in order to participate in the public hearing and may request the proposed regulations and 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 at (785) 564-6715 or fax (785) 564-6777.

Copies of the regulations and their economic impact statement may be obtained by contacting the Department of Agriculture, Ronda Hutton, 1320 Research Park Drive, Manhattan, KS 66502 or (785) 564-6715 or by accessing the department's website at agriculture.ks.gov. Comments may also be made through our website under the proposed regulation.

Michael M. Beam
Secretary
Kansas Department of Agriculture



K.A.R. 9-2-35. Movement of sexually intact cattle and bison from designated surveillance

areas. (a) Each of the following terms, as used in this regulation, shall have the meaning specified in this subsection:

(1) "Designated surveillance area" and "DSA" mean any area identified by the USDA with an elevated risk for brucellosis infection due to serological evidence of brucella exposure in wild elk sampled in that area.

(2) "Official identification" means a unique and permanent form of individual animal identification approved by the USDA's animal and plant health inspection service or the animal health commissioner. This term shall not include breed registration tattoos, brands, or any registered brand even if the registered brand is accompanied by a brand inspection certificate.

(3) "Official test" means a USDA-approved test for brucellosis conducted at a USDA-approved lab pursuant to "brucellosis eradication: uniform methods and rules," which is adopted by reference in K.A.R. 9-2-32.

(4) "USDA" means United States department of agriculture.

(b) All sexually intact cattle or bison, regardless of age and sex, moving from a DSA into Kansas shall have official identification for each animal, shall obtain a movement permit number from the Kansas animal health commissioner, and shall be accompanied by a certificate of veterinary inspection issued by a state-licensed and federally accredited veterinarian in the state of origin. The certificate of veterinary inspection shall include the movement permit number and a statement verifying that each animal has official identification.

(c) In addition to the requirements of subsection (b), the certificate of veterinary inspection for all sexually intact cattle and bison aged 12 months or older moving from a DSA

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into Kansas and all sexually intact cattle and bison moving from a DSA into Kansas for breeding or exhibition purposes, regardless of age, shall also include official identification for each animal and a statement that each animal being moved meets one of the following requirements:

(1) Originates and moves directly from a USDA-certified brucellosis-free herd in the state of origin;

(2) originates and moves directly from a herd that has had a negative whole-herd test for brucellosis conducted within the previous 12 months, including the date of the last qualifying whole-herd test; or

(3) has tested negative in response to an official test for brucellosis within the 30 days before movement to Kansas, including the date of the last qualifying test for the animal.

(d) One copy of the certificate of veterinary inspection shall accompany the cattle or bison shipment, one copy shall be retained by the official state agency in the state of origin, and one copy shall be sent by the inspecting veterinarian in the state of origin to the office of the Kansas animal health commissioner. (Authorized by K.S.A. 2019 Supp. 47-610 and 47-657; implementing K.S.A. 2019 Supp. 47-607, K.S.A. 2019 Supp. 47-608, K.S.A. 2019 Supp. 47-610, K.S.A. 2019 Supp. 47-657, K.S.A. 47-661, K.S.A. 47-663 and K.S.A. 47-664; effective P_____.)

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K.A.R. 9-3-9. Certificate of veterinary inspection; importation and intrastate movement requirements and permits. (a) Each cervid imported into Kansas shall be identified with official identification and shall be accompanied by a certificate of veterinary inspection.

(b) Each individual importing a cervid into Kansas shall obtain an import permit from the Kansas department of agriculture, division of animal health before the cervid enters Kansas. The cervid shall not be allowed entry into Kansas without this permit.

(c) Each animal of the genera *Odocoileus*, *Cervus*, and *Alces*, including whitetail deer, mule deer, black-tailed deer and associated subspecies, North American elk (wapiti), red deer, sika deer, moose, and any hybrids of these species, and the genera *Rangifer*, including reindeer and caribou, regardless of age, not moving directly to a licensed slaughter establishment within Kansas shall originate and move directly from a herd with at least five years of herd status in the APHIS herd certification program or an equivalent program administered by the office of the state veterinarian in the state of origin.

Muntjacs, Père David's deer, ~~reindeer or caribou~~, fallow deer, and axis deer shall be exempt from the monitoring requirements for CWD in K.A.R. 9-3-15 and 9-3-16. Other cervid species may be exempted by the commissioner if the species are determined by APHIS to be nonsusceptible to CWD.

~~(d) Each adult domesticated cervid, except whitetail deer and mule deer, that is entering Kansas from another state, is not moving directly to a licensed slaughter establishment within Kansas, and has not originated and moved directly from an APHIS-certified brucellosis free herd shall be required to test negative for brucellosis, using an approved test, within 45 days before entry into Kansas. Any imported cervid required to have tested negative for brucellosis under~~

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~~this subsection may be quarantined for a test or retest for brucellosis by order of the commissioner. Each test or retest shall be at the owner's expense.~~

(~~e~~) (d) All cervids originating from an area identified by APHIS as a designated surveillance area shall be prohibited entry into Kansas.

(~~f~~) (e) Each domesticated cervid, except nursing young under four months of age and accompanied by their dam, that is entering Kansas, is not from a herd accredited by APHIS to be TB-free, and is not moving directly to a licensed slaughter establishment in Kansas shall be required to test negative for TB, using an approved test administered twice at least 90 days apart. The first test shall be administered no more than 180 days before entry into Kansas, and the second test shall be administered no more than 90 days before entry.

(~~g~~) (f) Any imported cervid may be quarantined for a retest for TB by order of the commissioner.

(~~h~~) (g) Each domesticated cervid, alive or dead, transported within the state of Kansas shall be accompanied by a completed transportation notice signed by the shipper on a form provided by the Kansas department of agriculture, division of animal health. One copy of the notice shall be mailed to the commissioner, one copy shall accompany the shipment, and one copy shall be retained by the shipper. The shipper shall possess a current domesticated cervid permit. (Authorized by K.S.A. 2016 2019 Supp. 47-607, 47-607d, and 47-2101; implementing K.S.A. 2016-2019 Supp. 47-607, 47-607a, and 47-2101; effective Sept. 19, 2014; amended March 10, 2017; amended P- _____.)

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

Kansas Dept of Agriculture
Agency

Ronda Hutton
Agency Contact

(785) 564-6715
Contact Phone Number

K.A.R. 9-2-35
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).

Establish the interstate entry requirements for sexually intact cattle or bison from Designated Surveillance Areas (DSA) into Kansas

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 regulation will require cattle or bison being imported from DSAs to be officially identified. Currently, the United States Department of Agriculture's (USDA) Animal Disease Traceability rule requires animals to be identified only if they are aged 18 months or older. However, this regulation does not require anything beyond what origination states commonly require for intrastate movement from DSAs.

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;

This regulation should not restrict any business opportunities as the only requirement is that the animals being moved be identified and that information be provided to the state. Business opportunities may be enhanced because this regulation will make it easier to trace the spread of a contagious disease and potentially limit its overall impact on the livestock markets.

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.

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

Farmers and ranchers importing sexually intact cattle or bison from DSAs.

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

Cost is minimal or none for Kansas entities. Benefit is to ensure origin of cattle or bison is established as part of the import record and testing has been accomplished to prove negative status for those cattle or bison that pose the greatest risk exposing Kansas cattle herds to contagious diseases.

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;

Steps required for entry into Kansas will be responsibility of importing party.

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.

Regulation compliance costs will be incurred by importing party. No expected financial impact on Kansas producers

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

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League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

The proposed regulation was mailed to the League of Kansas Municipalities, the Kansas Association of Counties and the Kansas Association of School Boards for review and comments. No comments have been received from any of the entities.

- 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).**

The proposed regulation was sent to Kansas livestock stakeholder associations such as Kansas Livestock Association (KLA) and Kansas Farm Bureau. It was presented at the KLA annual conference for review and discussion. It was presented to the Animal Health Advisory Board for review and comments.

- 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**

Kansas Dept of Agriculture
Agency

Ronda Hutton
Agency Contact

(785) 564-6715
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K.A.R. 9-3-9
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).

Removes the negative brucellosis test requirement for imported adult domesticated cervids. It also adds the genera, Rangifer (reindeer and caribou) to the list of cervids required to have a five-year chronic wasting disease (CWD) herd status before being imported into the state.

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 regulation will add the genera, Rangifer, to those cervid genera that are required to have a negative CWD herd status before they will be allowed import to Kansas. This requirement exceeds the current United States Department of Agriculture (USDA) requirements because the susceptibility of the Rangifer genera has just been established.

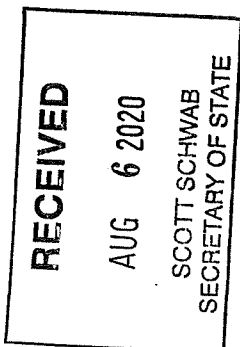
III. Agency analysis specifically addressing following:

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

Removal of the brucellosis testing requirement may enhance business activity by reducing the regulatory requirements currently in place for imported cervids by no longer requiring testing. Entities importing reindeer and caribou will potentially see an increase in restrictions and testing requirements to qualify as part of the USDA-Animal and Plant Health Inspection Service herd certification program to import those animals into the state.

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;

No significant impact is expected on local or state entities. Minimal savings may occur due to the reduction in inspections and paperwork review costs by KDA. Cervid importers may also see some small savings in paperwork and verification costs. Reindeer and caribou owners may incur increased costs by locating USDA certified herds or for certifying their own herds.



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

Farmers and ranchers importing cervids from specific listed genera.

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

Cost is minimal or none for Kansas entities. The redaction of the brucellosis testing requirement will potentially allow for importation at a reduced cost to producers. Addition of reindeer and caribou to the CWD susceptible species list and the subsequent certification required will increase the due diligence and potential cost of importation for herds outside of Kansas.

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;

Steps required for entry into Kansas will be the responsibility of importing party.

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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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.

Regulation compliance costs will be incurred by importing party. No expected financial impact on Kansas producers

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

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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 proposed regulation was mailed to the League of Kansas Municipalities, Kansas Association of Counties and the Kansas Association of School Boards for review and comments. No comments have been received from the entities.

- 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).**

The proposed regulation was sent to the Kansas livestock stakeholder associations such as Kansas Livestock Association (KLA) and Kansas Farm Bureau. It was presented at the KLA annual conference for review and discussion. It was also presented to the Animal Health Advisory board for review and comments.

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Not applicable.

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