

State of Kansas
Kansas Bureau of Investigation

Notice of Public Hearing on Proposed Administrative Regulation

November 4, 2021

The Kansas Bureau of Investigation (KBI) will conduct a public hearing at 9:00 a.m. Tuesday, January 11, 2022, to consider the adoption of proposed amendments to K.A.R. 10-22-1, on a permanent basis. Due to current COVID-19 restrictions, only remote public participation is available. Anyone wanting to join the public hearing may do so by calling 1-877-278-8686 (Participant PIN: 876424) at the time of the hearing. Public comment will be limited only to written comment and telephonic comment.

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 amended regulation. All interested parties may submit written comments prior to the hearing to the Kansas Bureau of Investigation, 1620 SW Tyler, Topeka, Kansas 66612, or by email to Kelly.McPherron@kbi.ks.gov. All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed amended regulation 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 regulation and economic impact statement 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 Kelly McPherron at 785-296-8200, (or TYY 1-800-766-3777).

Summaries of the proposed amended regulation and its economic impact follow. (Note: Any statements indicating that a regulation is “not anticipated to have any economic impact” are intended to indicate that no economic impact on the KBI, other state agencies, state employees, or the general public has been identified.)

Copies of the proposed amended regulation and the Economic Impact Statement for the proposed regulation can be requested from: Kelly.McPherron@kbi.ks.gov, or by writing to Kansas Bureau of Investigation, 1620 SW Tyler, Topeka, KS 66612 (attn: Kelly McPherron).

K.A.R. 10-22-1 – Approved field tests. This regulation lists approved field tests for controlled substances. For admission of field test results at a preliminary examination, law enforcement officers are required to use the field tests specified in this regulation. The proposed amendments update the list by adding three new instrument-based field tests.

The amendments to K.A.R. 10-22-1 are not anticipated to have any economic impact.

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10-22-1. Approved field tests. (a) Law enforcement officers shall use only the field tests specified in this regulation on suspected controlled substances for admission of the field test results at any preliminary examination pursuant to K.S.A. 22-2902, and amendments thereto.

(b) The following reagents shall be the only reagents approved by the director of the Kansas bureau of investigation (KBI) for reagent-based field tests:

- (1) Chen's reagent;
- (2) cobalt thiocyanate reagent;
- (3) Dille-Koppanyi reagent;
- (4) Duquenois-Levine reagent;
- (5) Ehrlich's reagent;
- (6) fast blue B or BB reagent or the salts of either reagent;
- (7) Fröhdes reagent;
- (8) Mandelin reagent;
- (9) Marquis reagent;
- (10) Mecke's reagent;
- (11) nitric acid reagent;
- (12) Sanchez reagent;
- (13) Scott reagent;
- (14) sodium nitroprusside reagent, which is also known as nitrosylpentacyanoferrate, nitroprussidnatrium, sodium nitroprussate, sodium nitrosylpentacyanoferrate, or disodium pentacyanonitrosylferrate. This reagent may be used only in conjunction with the Marquis reagent; and

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(15) Zwikker reagent.

(c) The following instruments shall be the only instruments approved by the director of the KBI for instrument-based field tests:

(1) B&W Tek TacticID®-N handheld Raman analyzer, without utilizing the "mixture ID" software feature; and

(2) Thermo Scientific TruNarc™ handheld narcotics analyzer;

(3) Thermo Scientific FirstDefender™ RM chemical identification system handheld Raman analyzer;

(4) Thermo Scientific Gemini™ analyzer handheld Raman and Fourier transform infrared (FTIR) analyzer; and

(5) Smiths Detection HazMatID™ Elite handheld FTIR analyzer. (Authorized by and implementing K.S.A. 22-2902c; effective March 11, 2005; amended June 17, 2005; amended Sept. 20, 2019; amended P-_____.)

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Proposed

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

Kansas Bureau of Investigation
Agency

Kelly McPherron
Agency Contact

785-296-3150
Contact Phone Number

10-22-1
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).

K.A.R. 10-22-1 is a regulation listing approved field tests for controlled substances. For admission of field test results at a preliminary examination, law enforcement officers are required to use the field tests specified in this regulation. The proposed amendments to K.A.R. 10-22-1 will update the list by adding three new instrument-based field tests.

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 is not mandated by 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;

This regulation will not enhance or restrict business activities and growth.

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;

This regulation will not have an economic effect on businesses or local government, or on the state economy as a whole.

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

This regulation will not affect businesses.

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

The benefit of the proposed amendments to K.A.R. 10-22-1 is that the amendments provide additional options for law enforcement agencies when administering field tests to detect

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controlled substances. Any costs would result from an agency's decision to acquire certain field tests. The amendments to K.A.R. 10-22-1 alone would not result in any costs being incurred by an agency.

- 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 such measures are necessary, as this regulation will not affect business and economic development.

- 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.

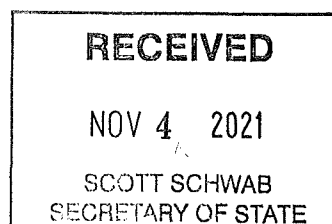
Not applicable.

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.



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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).**

The KBI has not consulted with or solicited information from other entities or agencies because the KBI does not anticipate any effects on such entities or agencies. The proposed amendments do not require agencies to purchase any field tests; rather, the proposed amendments to K.A.R. 10-22-1 simply add to the current list of approved field tests by including new instrument-based field tests.

- 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.

