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Proposed

Department of Agriculture, Division of Conservation
Notice of Hearing on Proposed
Administrative Regulation, Statewide

A public hearing will be conducted at 1:00 p.m., March 9, 2021, by the Kansas Department of Agriculture to consider the adoption of a proposed regulation. The public hearing will be conducted only via video conferencing system due to concerns posed by the COVID-19 pandemic. Members of the public will not be permitted to attend the public hearing in person. Anyone desiring to participate in the public hearing via video conference must pre-register at: <https://kansasag.zoom.us/meeting/register/tJMpduqvqDsJH9HMPVP80roy1NnG7tt-5LPz>.

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 rule and regulation. Prior to the hearing, all interested parties may submit written comments by mail to the Secretary of Agriculture, 1320 Research Park Dr., Manhattan, Kansas 66502, or by e-mail to ronda.hutton@ks.gov. All interested parties will also be given a reasonable opportunity to orally present their views on the adoption of the proposed rule and regulation 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. The rule and regulation are proposed for adoption on a permanent basis. A summary of the proposed rule and regulation and its economic impact follows:

The proposed revision in K.A.R. 11-9-5 will provide for a one-time early payout of existing long-term state incentive contracts for landowners already enrolled in Conservation Reserve Program ("CRP") conservation practices under the Kansas Water Quality Buffer Initiative ("KWQB Initiative") authorized by K.S.A. 2-1915(d).

Economic Impact Statement:

KWQB Initiative payments are not mandated by the federal government but are state authorized additional payments to encourage participation in existing federal programs.

The state of Missouri offers a similar buffer incentive program in which state incentive payments are paid in amounts ranging from \$100 - \$150 per acre in addition to a federal riparian, wetland or wildlife conservation program. The state of Nebraska offers a similar buffer incentive program in which an incentive payment is paid in amounts ranging up to \$250 per acre, either in combination with enrollment in a federal riparian, wetland or wildlife conservation program, or as just a state enrollment in a riparian, wetland or wildlife conservation program. These states make payments over the life of the CRP contract as well. The states of Colorado and Oklahoma do not appear to offer similar state incentives for buffer enrollments.

Business activities and growth may see a minor increase due to the accelerated financial revenues which landowners will realize from the early state incentive contract payouts rather than having to collect small payouts over a longer period.

There will not be an economic impact on implementation and compliance because landowners have already agreed to implement the conservation practices for an agreed incentive payment.

Businesses that will be directly affected by the proposed rule and regulation are farming operations, environmental non-profits, and other land-owning entities.

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The state of Kansas has already committed to the costs of these state incentive contracts. Providing an early payout to landowners will drastically reduce the administrative cost to the agency by reducing the staff time involved with constantly updating the changes in ownership information and processing of updates to the state incentive contracts which are associated with the federal CRP contracts. Mailing costs will also be drastically decreased because one final check will be mailed to the recipients instead of repeated mailings over the remaining life of the contracts. Allowing early payouts will reduce costs to the state and allow landowners to maximize their incentive money.

The estimated total annual implementation, total implementation and compliance costs that are expected to be incurred by or passed along to businesses, local governments, or members of the public is zero.

It is estimated that approximately 160 staff hours are spent each year by administrative and financial personnel who are involved in the annual updating and processing of these state incentive contract records and payments. At an average salary of \$25 per person, at least \$4,000 per year are invested in the annual upkeep of the contract records and mailings. Considering a remaining average contract life of 6.25 years per contract, approximately \$40,000 could be saved by reducing the payments to one early final payment.

In FY2021, the annual payment for these 627 remaining state incentive contracts will be \$82,320. The last of these 627 contracts will not expire until September 30, 2031. The total remaining liability for all of these remaining 627 state incentive contracts is approximately \$657,000.

The Kansas Department of Agriculture mailed notification letters to the League of Kansas Municipalities, Kansas Association of Counties and the Kansas Association of School Boards along with a copy of the proposed amended regulation and impact statement.

The Kansas Department of Agriculture consulted with the State Conservation Commission, the Kansas Association of Conservation Districts, and with many individual county conservation districts and individual state incentive contract holding landowners about the benefits of providing these early contract payouts.

No costs will accrue if the proposed rule and regulation are not adopted, other than the previously mentioned administrative costs. The environmental impact portion of the regulation will be completed regardless of when the incentive payment is complete.

Any individual with a disability may request accommodations to participate in the public hearing and may request the proposed regulation 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 regulation and its 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 web site at [agriculture.ks.gov](https://www.agriculture.ks.gov). Comments may also be made through our web site at the following link <https://www.agriculture.ks.gov/document-services/public-comment>.

Mike Beam
Secretary

K.A.R. 11-9-5. Annual payments; exception. (a) Payments shall be made on an annual basis coinciding with federal payments for the purpose of providing an incentive to enroll in the CRP for 10 to 15 years, except as specified in subsection (e).

(b) Incentive payments shall not exceed the following:

(1) 30% of the total federal payment, excluding the maintenance fee for the establishment of filter strips; or

(2) 50% of the total federal payment, excluding the maintenance fee for the establishment of riparian forest buffers.

(c) All acres determined to be in an unfarmable field shall be eligible for the state incentive if the applicant agrees to establish and maintain permanent vegetative cover for the duration of the continuous CRP contract.

(d) The total state and federal payment shall not exceed \$150.00 per acre unless an exception is granted by the commission.

(e) In lieu of the annual payments described in subsection (a), the director may make a single lump-sum payment for the remaining amount of any contract. Upon a participant's receipt of a lump-sum payment, the participant shall still be responsible for meeting the requirements of all other terms and practices contained in the contract. Any failure to meet these requirements may result in termination of the agreement and repayment of all or part of any incentive payments. (Authorized by and implementing K.S.A. 2000 2020 Supp. 2-1915, as amended by L. 2001, Ch. 64, Sec. 1; effective Feb. 5, 1999; amended Aug. 23, 2002; amended P-_____.)

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

Kansas Department of Agriculture
Agency

Ronda Hutton
Agency Contact

785-564-6715
Contact Phone Number

11-9-5
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).

The proposed revision in K.A.R. 11-9-5 will provide for a one-time early payout of existing long-term state incentive contracts for landowners already enrolled in Conservation Reserve Program ("CRP") conservation practices under the Kansas Water Quality Buffer Initiative ("KWQB Initiative") authorized by K.S.A. 2-1915(d).

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)

KWQB Initiative payments are not mandated by the federal government but are state authorized additional payments to encourage participation in existing federal programs.

The State of Missouri offers a similar buffer incentive program in which state incentive payments are paid in amounts ranging from \$100 - \$150 per acre in addition to a federal riparian, wetland or wildlife conservation program. The State of Nebraska offers a similar buffer incentive program in which an incentive payment is paid in amounts ranging up to \$250 per acre, either in combination with enrollment in a federal riparian, wetland or wildlife conservation program, or as just a state enrollment in a riparian, wetland or wildlife conservation program. These states make payments over the life of the CRP contract as well. The states of Colorado and Oklahoma do not appear to offer similar state incentives for buffer enrollments.

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;

Business activities and growth may see a minor increase due to the accelerated financial revenues which landowners will realize from the early state incentive contract payouts rather than having to collect small payouts over a longer period.

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- 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;

There will not be an economic impact on implementation and compliance because landowners have already agreed to implement the conservation practices for an agreed incentive payment.

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

Farming operations, environmental non-profits, and other land-owning entities.

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

The State of Kansas has already committed to the costs of these state incentive contracts. Providing an early payout to landowners will drastically reduce the administrative cost to the agency by reducing the staff time involved with constantly updating the changes in ownership information and processing of updates to the state incentive contracts which are associated with the federal CRP contracts. Mailing costs will also be drastically decreased because one final check will be mailed to the recipients instead of repeated mailings over the remaining life of the contracts.

- 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;

Allowing early payouts will reduce costs to the state and allow landowners to maximize their incentive money.

- 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.

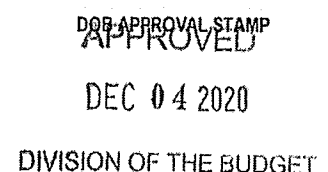
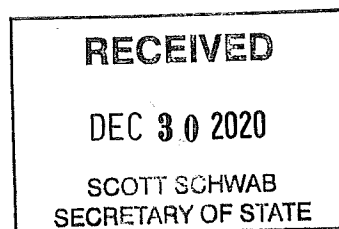
\$0

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.

It is estimated that approximately 160 staff hours are spent each year by administrative and financial personnel who are involved in the annual updating and processing of these state incentive contract records and payments. At an average salary of \$25 per person, at least \$4,000 per year are invested in the annual upkeep of the contract records and mailings. Considering a remaining average contract life of 6.25 years per contract, approximately \$40,000 could be saved by reducing the payments to a one early final payment.

In FY2021, the annual payment for these 627 remaining state incentive contracts will be \$82,320. The last of these 627 contracts will not expire until September 30, 3031. The total remaining liability for all of these remaining 627 state incentive contracts is approximately \$657,000.

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.

The Kansas Department of Agriculture mailed notification letters to the League of Kansas Municipalities, Kansas Association of Counties and the Kansas Association of School Boards along with a copy of the proposed amended regulation.

- 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 Kansas Department of Agriculture consulted with the State Conservation Commission, the Kansas Association of Conservation Districts, and with many individual county conservation districts and individual state incentive contract holding landowners about the benefits of providing these earl contract payouts.

- 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).

None, other than the previously mentioned administrative costs. The environmental impact portion of the regulations will be completed regardless of when the incentive payment is complete.

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