

ECONOMIC IMPACT STATEMENT

K.A.R. 115-15-3. Threatened and endangered wildlife; special permits, enforcement actions.

REGULATION DESCRIPTION: This permanent regulation deals with special permits and enforcement actions related to threatened and endangered species. The proposed amendments are in response to legislation passed during the 2016 Kansas legislative session.

In conjunction with these proposed amendments, the department is also proposing amendments to K.A.R. 115-15-4, which deals with recovery plans and procedures for threatened and endangered species.

The Kansas Nongame and Endangered Species Act, K.S.A. 32-957 et seq., requires the department to adopt rules and regulations “which contain a list of the nongame species deemed by the secretary to be in need of conservation” (K.S.A. 32-959(a)). The law stipulates that this determination shall be on the basis of information related to population, distribution, habitat needs, limiting factors and other biological and ecological data concerning nongame species, gathered to determine conservation measures necessary for their continued ability to sustain themselves successfully.

BACKGROUND: The Kansas legislature passed several changes to the laws dealing with threatened or endangered species in Kansas during the 2016 session. These changes are being implemented in regulation now.

FEDERAL MANDATE: State law or regulation respecting a threatened or endangered species may be more restrictive, but can not be less restrictive than federal law or regulation (16 U.S.C.A. 1535(f)). The Secretary of Interior may enter into cooperative agreements with a state, provided that state “establishes and maintains an adequate and active program for the conservation of endangered and threatened species” (16 U.S.C.A. 1535(c)). With such cooperative agreements come substantial financial assistance to the state to develop conservation programs. The cost sharing for such programs has 75% of the cost being borne by the federal government. Therefore, a determination by the Secretary of Interior that a state was not maintaining an “adequate or active” program could place in potential jeopardy substantial federal assistance to the state.

ECONOMIC IMPACT: The proposed changes are expected to have no substantive economic impact on the department, other state agencies, small businesses or the general public.

CAPITAL AND ANNUAL COSTS: At the present time, it is not possible to identify the specific capital and annual costs of compliance with the proposed regulation. Nonetheless, as described above, the capital and annual costs due to these proposed changes would be expected to be minimal.

INITIAL AND ANNUAL COSTS OF IMPLEMENTATION AND ENFORCEMENT:

Annual implementation costs are borne entirely by the department, and would be expected to be minimal. Consequently, no additional permitting or enforcement activity would be anticipated. Development of recovery plans for listed species is also borne by the department.

COSTS WHICH WOULD ACCRUE WITHOUT REGULATION: As noted above, federal law requires that the state establish and maintain an adequate and active program for the conservation of endangered and threatened species, and requires that the state program be at least as restrictive as the federal program. Funding received as a direct result of threatened and endangered species programming currently totals approximately \$40,000 annually. Otherwise, costs which would likely accrue if the proposed regulation is not adopted are not readily identifiable.

COST ESTIMATE METHODOLOGY: Costs associated with work by Department employees are based on current state civil service salary plan. Costs estimates for the development of species' recovery plans are based on contract costs for development of recovery plans for other species.