

115-15-1. Threatened and endangered species; general provisions. (a) The following species shall be designated endangered within the boundaries of the state of Kansas:

(1) Invertebrates

Flat floater mussel, ~~Utterbackia~~ Utterbackiana *suborbiculata* (Say, 1831)

Rabbitsfoot mussel, ~~Thaliderma~~ Thaeliderma *cylindrica* (Say, 1817)

Western fanshell mussel, *Cyprogenia aberti* (Conrad, 1850)

Neosho mucket mussel, *Lampsilis rafinesqueana* (Frierson, 1927)

Elktoe mussel, *Alasmidonta marginata* (Say, 1818)

Ellipse mussel, *Venustaconcha ellipsiformis* (Conrad, 1836)

Slender walker snail, *Pomatiopsis lapidaria* (Say, 1817)

Scott optioservus riffle beetle, *Optioservus phaeus* (White, 1978)

American burying beetle, *Nicrophorus americanus* (Olivier, 1890)

Mucket, ~~Actinonaias~~ Ortmanniana *ligamentina* (Lamarck, 1819)

Cylindrical papershell mussel, *Anodontoides ferussacianus* (I. Lea, 1834)

(2) Fish

Arkansas River shiner, *Notropis girardi* (Hubbs and Ortenburger, 1929)

Pallid sturgeon, *Scaphirhynchus albus* (Forbes and Richardson, 1905)

Sicklefin chub, *Macrhybopsis meeki* (Jordan and Evermann, 1896)

Peppered chub, *Macrhybopsis tetranema* (Gilbert, 1886)

Silver chub, *Macrhybopsis storeriana* (Kirtland, 1845)

(3) Amphibians

Cave salamander, *Eurycea lucifuga* (Rafinesque, 1822)

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Grotto salamander, *Eurycea spelaea* (Stejneger, 1892)

(4) Birds

Least tern, *Sternula antillarum* (Lesson, 1847)

Whooping crane, *Grus americana* (Linnaeus, 1758)

(5) Mammals

Black-footed ferret, *Mustela nigripes* (Audubon and Bachman, 1851)

Gray myotis, *Myotis grisescens* (A.H. Howell, 1909)

(b) The following species shall be designated threatened within the boundaries of the state of Kansas:;

(1) Invertebrates

Rock pocketbook mussel, *Arcidens confragosus* (Say, 1829)

Flutedshell mussel, *Lasmigona costata* (Rafinesque, 1820)

Butterfly mussel, *Ellipsaria lineolata* (Rafinesque, 1820)

Ouachita kidneyshell mussel, *Ptychobranhus occidentalis* (Conrad, 1836)

Sharp hornsnail, *Pleurocera acuta* (Rafinesque, 1831)

Delta hydrobe, *Probythinella emarginata* (Kuster, 1852)

(2) Fish

Flathead chub, *Platygobio gracilis* (Richardson, 1836)

Hornyhead chub, *Nocomis biguttatus* (Kirtland, 1840)

Neosho madtom, *Noturus placidus* (Taylor, 1969)

Redspot chub, *Nocomis asper* (Lachner and Jenkins, 1971)

Blackside darter, *Percina maculata* (Girard, 1859)

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Sturgeon chub, *Macrhybopsis gelida* (Girard, 1856)

Western silvery minnow, *Hybognathus argyritis* (Girard, 1856)

Topeka shiner, *Notropis topeka* (Gilbert, 1884)

~~Shoal chub, *Macrhybopsis hyostoma* (Gilbert, 1884)~~

Plains minnow, *Hybognathus placitus* (Girard, 1856)

(3) Amphibians

Eastern newt, *Notophthalmus viridescens* (Rafinesque, 1820)

Longtail salamander, *Eurycea longicauda* (Green, 1818)

Eastern narrow-mouthed toad, *Gastrophryne carolinensis* (Holbrook, 1836)

Green frog, *Lithobates clamitans* (Latreille, 1801)

Strecker's chorus frog, *Pseudacris streckeri* (Wright and Wright, 1933)

Chihuahuan Green toad, *Anaxyrus debilis* (Girard, 1854)

(4) Reptiles

~~Broad-headed skink, *Plestidon laticeps* (Schneider, 1801)~~

Checkered gartersnake, *Thamnophis marcianus* (Baird and Girard, 1853)

New Mexico Threadsnake, *Rena ~~dissectus~~ dissecta* (Cope, 1896)

(5) Birds

Piping plover, *Charadrius melodus* (Ord, 1824)

Snowy plover, *Charadrius nivosus* (Linnaeus, 1758)

(6) Mammals

~~Eastern~~ Plains spotted skunk, *Spilogale ~~putorius~~ interrupta* (~~Linnaeus, 1758~~ Rafinesque, 1820)

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(7) Turtles

Northern map turtle, *Graptemys geographica* (Le Sueur, 1817)

(c) A threatened or endangered species taken during established trapping seasons, authorized commercial wildlife operations, fishing by hook and line, bait fish seining, or other lawful activity shall not be unlawfully taken if immediately released.

(d) Any threatened or endangered species in possession before the effective date of this regulation and not prohibited by any previous regulation of the department or national listings may be retained in possession if either of the following conditions is met:

(1) An application of affidavit to that effect has been filed with and approved by the secretary before January 1, 1990 within six months of the species listing as a threatened or endangered species in Kansas that states the circumstances of how the species came into the applicant's possession; or

(2) Possession of the animal has been previously approved by the department.

(Authorized by K.S.A. 32-960 and 32-963; implementing K.S.A. 32-960, K.S.A. 2018-Supp. 32-961, K.S.A. 32-963, K.S.A. 32-1010, and K.S.A. 32-1011; effective Oct. 30, 1989; amended Aug. 31, 1992; amended Nov. 29, 1999; amended Feb. 18, 2005; amended July 24, 2009; amended Nov. 14, 2014; amended Dec. 20, 2019; amended P-_____.)

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Kansas Administrative Regulations Economic Impact Statement (EIS)

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Kansas Department of Wildlife and Parks
Agency

Kurtis Wiard
Agency Contact

785-296-1032
Contact Phone Number

115-15-1; 115-15-2
K.A.R. Number(s)

☒ Permanent ☐ Temporary

Is/Are the proposed rule(s) and regulation(s) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program?

☐ Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.

☒ No If no, do the total annual implementation and compliance costs for the proposed rule(s) and regulation(s), calculated from the effective date of the rule(s) and regulation(s), exceed \$1.0 million or more in implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governmental units and individuals as a result of the proposed rule and regulation over the initial five-year period following adoption of such rule(s) and regulation(s) (as calculated in Section III, F)?

☐ Yes If "Yes," then the agency shall not adopt the rule(s) and regulation(s) until the rule(s) and regulation(s) has been ratified by the Legislature with a bill, unless the proposed rule(s) and regulation(s) are: 1) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program, as described in K.S.A. 77-416(b)(1)(B), and amendments thereto; 2) temporary rule(s) and regulation(s) adopted pursuant to K.S.A. 77-722, and amendments thereto; or 3) rules and regulations adopted pursuant to K.S.A. 2-3710 (Kansas Agricultural Remediation Board). Continue to fill out the remaining EIS form to be included with the regulation packet in the review process to the Department of Administration and the Attorney General. The submitted EIS will be independently analyzed by the Division of the Budget for approval.

☒ No If no, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. The submitted EIS will be analyzed by the Division of the Budget for approval.

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Section I

Analysis, brief description, and cost and benefit quantification of the proposed rule(s) and regulation(s). If the approach chosen by the Kansas agency to address the policy issue is different from that utilized by agencies of contiguous states or of the federal government, the economic impact statement shall include an explanation of why the Kansas agency's rule and regulation differs.

Analysis: K.S.A. 32-960 requires the Secretary to review these regulation every five years to consider changes to the Kansas lists of threatened and endangered species (K.A.R. 115-15-1) and species in need of conservation (K.A.R. 115-15-2). The Department gathers information regarding the status of native species from the public and experts through a petition process. These petitions for status changes are reviewed by a committee of internal and external conservation professionals and researchers to determine if the information presented warrants further consideration. Species for which substantial information is presented are further reviewed by experts on the species to formulate a recommended status (endangered, threatened, species in need of conservation, unlisted). The KDWP Secretary uses the aforementioned information to develop the proposed regulation change. Multiple opportunities are provided for public input, which is detailed under Section III, H.

Brief description: These existing permanent regulations designate species classified as endangered and threatened in Kansas. The proposed amendments to the regulations would downlist three species (Shoal Chub, Broad-headed Skink, Northern Map Turtle) by removing them from the list of threatened species contained in K.A.R. 115-15-1 and placing them on the species in need of conservation list in K.A.R. 115-15-2. The downlistings of these species is the result of extensive research and survey efforts that have documented greater abundances and geographic distribution of these species than previously believed. The proposed regulations also update common and scientific names of listed species in these regulations to reflect current naming conventions adopted by NatureServe. The proposed regulations also add a durable date for when an individual must have an approved affidavit allowing the individual to possess species listed in either regulation.

Cost/Benefit quantification: There are no compliance costs imposed by these proposed changes because all three species are being downlisted. The primary benefits of moving the three species from threatened to species in need of conservation will be allowing the Department to better prioritize conservation efforts and educate the public of species in Kansas.

Comparison to contiguous states: The Shoal Chub does not exist in Colorado and has no listing status in Nebraska, Missouri, or Oklahoma. The Broad-headed Skink does not exist in Nebraska or Colorado and has no listing status in Missouri or Oklahoma. The Northern Map Turtle does not exist in Nebraska or Colorado and has no listing status in Missouri or Oklahoma. Listing statuses between states vary based on a number of factors including but not limited to the distribution of the species (some may not exist in neighboring states), available regional data on the species, and population statuses of the species (some species may be doing well in one state, but poorly in another).

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Section II

Explain whether the proposed rule and regulation is mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program and whether the proposed rules and regulations exceed the requirements of applicable federal law.

The proposed rules are not federally mandated, but they relate to federal funding the Department receives. The Secretary of the 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. 1535(c). State law or regulation respecting threatened or endangered species may be more restrictive but cannot be less restrictive than federal law or regulation. 16 U.S.C. 1535(f). With such cooperative agreements comes financial assistance to the state to develop conservation programs. The federal cost share for these programs is 75%, with the other 25% being non-federal. A determination by the Secretary of the Interior that a state is not maintaining an “adequate or active” program could jeopardize federal assistance to the state.

Section III

Agency analysis specifically addressing the following:

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

The proposed regulation change will neither restrict nor enhance business activities, as it simply moves three species from the threatened species list to the species in need of conservation list. The proposed change could possibly enhance business activities in the future, though any possible benefit is too speculative to estimate.

- 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 will be affected by the proposed rule(s) and regulation(s) and on the state economy as a whole;

The proposed regulation change does not impose implementation or compliance costs on any of the above-mentioned entities. It simply moves three species from the threatened species list to the species in need of conservation list.

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

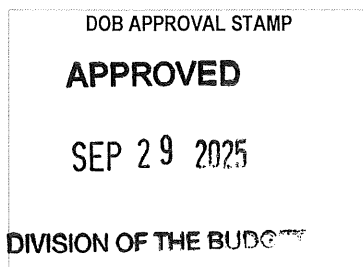
The proposed regulation change will not directly affect any businesses.

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

The proposed regulation change will better reflect the Kansas population statuses of the three species in question. No cost is anticipated to individuals or entities, all implementation costs will be incurred by KDWP and other state offices involved in the regulation change.

- 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;

Since the proposed regulation change will not impose any costs, no measures have been taken.



F. An estimate of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governments, or individuals. *Note: Do not account for any actual or estimated cost savings that may be realized. Implementation and compliance costs determined shall be those additional costs reasonably expected to be incurred and shall be separately identified for the affected businesses, local governmental units, and individuals.*

Costs to Affected Businesses – \$0

Costs to Local Governmental Units – \$0

Costs to Individuals – \$0

Total Annual Costs – \$0

(sum of above amounts)

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

There are no compliance costs for regulations K.A.R. 115-15-1 or 115-15-2.

- ☐ Yes If the total implementation and compliance costs exceed \$1.0 million or more in implementation and compliance costs over the initial five-year period following adoption of such rule(s) and regulation(s) that are reasonably expected to be incurred by or passed along to businesses, local governmental units and individuals as a result of the proposed rule and regulation, did the agency hold a public hearing 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.
- ☐ No
- ☒ Not Applicable

Although the proposed regulations impose no compliance costs, the Department has held multiple public hearings to gather public input (detailed in Section III, H).

Provide an estimate to any changes in aggregate state revenues and expenditures for the implementation of the proposed rule(s) and regulation(s), for both the current fiscal year and next fiscal year.

There will be no changes to state revenue from these proposed amendments. Any expenditures will be limited to the Department's change of the regulation.

Provide an estimate of any immediate or long-range economic impact of the proposed rule(s) and regulation(s) on any individual(s), small employers, and the general public. If no dollar estimate can be given for any individual(s), small employers, and the general public, give specific reasons why no estimate is possible.

There will be no immediate or long-range economic impact of this proposed regulation change on any individuals, small employers, or the general public. Any possible beneficial business impact is too speculative for the Department to estimate.

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- 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 proposed regulation changes will not affect the revenues of any cities, counties, or school districts, though some of these entities were consulted in the making of these regulations (detailed in Section III, H).

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

The Department gathered extensive information from various stakeholders.

During the five-year review process, the Department held open meetings to inform the public of proposed changes and to gather public comment. On January 2, 2024, the Department published a news release announcing five public meetings that were held across the state as follows:

- February 6, 2024 (virtual) – 12 attendees;
- February 6, 2024 (Great Bend) – 6 attendees;
- February 7, 2024 (Topeka) – 10 attendees;
- February 12, 2024 (Fort Scott) – 1 attendee;
- February 15, 2024 (virtual) – 7 attendees.

Public information and workshop sessions were held at the following Kansas Wildlife and Parks Commission Meetings:

- August 29, 2024 (Independence);
- October 3, 2024 (Bonner Springs);
- November 21, 2024 (Wichita).

On January 25, 2025, a news release was published advertising a public comment period for the proposed downlisting of the three species. Additionally, federal, state, tribal, and local agencies/entities were notified directly of the comment period. The League of Kansas Municipalities, Kansas Association of Counties, and the Kansas Association of School Boards were provided this notice. The department received no comments during this period.

Section IV

Does the Economic Impact Statement involve any environmental rule(s) and regulation(s)?

- ☒ Yes If yes, complete the remainder of Section IV.
- ☐ No If no, skip the remainder of Section IV.

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- A. Describe the capital and annual costs of compliance with the proposed rule(s) and regulation(s), and the individuals or entities who would bear the costs.

The proposed amendments will not increase capital or compliance costs to individuals or entities because they will simply downlist three species.

- B. Describe the initial and annual costs of implementing and enforcing the proposed rule(s) and regulation(s), including the estimated amount of paperwork, and the state agencies, other governmental agencies, or other individuals who will bear the costs.

Initial costs will be minimal and restricted to completing the regulation change and updating the Department's website and electronic documents. There is no anticipated annual cost beyond these initial minimal costs. No cost to individuals or entities is anticipated.

- C. Describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, the individuals or entities who will bear the costs and who will be affected by the failure to adopt the rule(s) and regulation(s).

No costs will accrue if the proposed amendments are not adopted and, as such, no individuals or entities will bear costs by a failure to adopt the amended regulations.

- D. Provide a detailed statement of the data and methodology used in estimating the costs used.

Since no costs will be imposed by the proposed amendments, the Department did not use any particular method to estimate costs.

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State of Kansas
Kansas Department of Wildlife and Parks
Environmental Benefit Statement for K.A.R. 115-15-1 and 115-15-2

These regulation changes are part of a required (K.S.A. 32-960) periodic review of Kansas's lists of Threatened and Endangered species (KAR 115-15-1), and Species in Need of Conservation (KAR 115-15-2). Wildlife populations and data pertaining to those populations change over time. Reviewing and responding to updated information on imperiled or previously imperiled wildlife allows Kansas Department of Wildlife and Parks to focus efforts on species and habitat that require the most protection to prevent population declines or extirpation of native fauna. Recent data has been presented that indicate Broad-headed Skink, Northern Map Turtle, and Shoal Chub no longer require listing as Threatened species. This proposed regulation change would downlist Broad-headed Skink, Northern Map Turtle, and Shoal Chub from the Threatened list (K.A.R. 115-15-1) to the Species in Need of Conservation list (K.A.R. 115-15-2). Although the three species will continue to be protected from direct take, they will no longer receive protection of critical habitat, meaning impacts to their habitat from development projects will no longer be regulated. However, recent data suggests the species are more broadly distributed and/or use a wider range of habitats than previously understood, so significant impacts to populations of Broad-headed Skink, Northern Map Turtle, and Shoal Chub are not anticipated. No specific contaminants are controlled by these regulations and no public health risks are anticipated.