

# Kansas Register

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Volume 41 - Issue 43 - October 27, 2022

State of Kansas

## Kansas Bureau of Investigation

### Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted at 9:00 a.m. Tuesday, January 10, 2023, in the Headquarters Main Conference Room at the Kansas Bureau of Investigation (KBI), 1620 SW Tyler, Topeka, Kansas, to consider the adoption of proposed rules and regulations of the Kansas Bureau of Investigation (KBI), on a permanent basis.

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 Kansas Bureau of Investigation, 1620 SW Tyler, Topeka, KS 66612 or by email to [Kelly.McPherron@kbi.ks.gov](mailto: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 regulations 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 regulations 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 TTY 1-800-766-3777). Handicapped parking is located on the south end of the KBI building, off of Tyler Street.

Summaries of the proposed regulations and their economic impact follow. (Note: 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 regulations and the Economic Impact Statement for the proposed regulations can be requested from [Kelly.McPherron@kbi.ks.gov](mailto: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. 10-25-1 – Definitions. This is a new regulation that defines the following terms: "Agency"; "Director"; "KBI"; "Preliminary oral fluid screening test"; "Preliminary oral fluid screening test device"; and "Preliminary oral fluid screening test device operator." These definitions serve to assist in understanding the terms as they are used in K.A.R. 10-25-2.

K.A.R. 10-25-2 – Preliminary oral fluid screening test devices. This is a new regulation that identifies a preliminary oral fluid screening test device approved by the director of the KBI.

The proposed new regulations are not anticipated to have any economic impact.

Kirk D. Thompson  
Director

Doc. No. 050617

## Article 25. Testing Oral Fluid for Law Enforcement Purposes

**10-25-1. Definitions.** As used in this article of the KBI's regulations, each of the following terms shall have the meaning specified in this regulation:

(a) "Agency" means any law enforcement agency under whose authority preliminary oral fluid screening tests are performed.

(b) "Director" means director of the KBI.

(c) "KBI" means Kansas bureau of investigation.

(d) "Preliminary oral fluid screening test" means a test to determine the presence or absence of drugs in the oral fluid of a person for the purpose of assisting law enforcement officers in determining whether an arrest should be made and whether to request the tests authorized in K.S.A. 8-1001, and amendments thereto.

(e) "Preliminary oral fluid screening test device" and "device" mean an instrument designed to perform a preliminary oral fluid screening test.

(f) "Preliminary oral fluid screening test device operator" means the employee at an agency who is responsible for administering preliminary oral fluid screening tests. (Authorized by and implementing K.S.A. 75-712h, as amended by L. 2022, ch. 80, sec. 23; effective P-\_\_\_\_\_.)

**10-25-2. Preliminary oral fluid screening test devices.** (a) Each preliminary oral fluid screening test conducted shall be performed on a device approved by the director.

(b) The device approved for use shall be the Abbott SoToxa™ model.

(c) Each agency shall be responsible for the training of preliminary oral fluid screening test device operators. All training shall follow the operational instructions supplied by the manufacturer for the device in use. (Authorized by and implementing K.S.A. 75-712h, as amended by L. 2022, ch. 80, sec. 23; effective P-\_\_\_\_\_.)