

***2011***  
***MOTOR CARRIER REGULATIONS***  
***OF THE***  
***TRANSPORTATION DIVISION***  
**OF**  
**THE STATE CORPORATION COMMISSION**  
**OF**  
**THE STATE OF KANSAS**

**1500 SW ARROWHEAD ROAD**  
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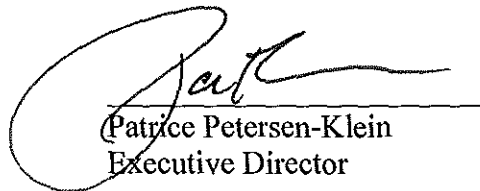
***REVISED NOVEMBER 14, 2011***

**MOTOR CARRIER REGULATIONS  
OF THE TRANSPORTATION DIVISION**

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**CERTIFICATE**

I. Patrice Petersen-Klein, Executive Director of the State Corporation Commission of the State of Kansas, do hereby certify that I have compared the annexed copy of regulations pertaining to motor carriers, and that the same is a true copy of the regulations pertaining to motor carriers as amended and promulgated by the State Corporation Commission. The regulations can be found in the Kansas Administrative Regulations 82-4-1 *et seq.*, effective November 14, 2011.

  
Patrice Petersen-Klein  
Executive Director

2011 Motor Carrier Regulations

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**82-4-1. Definitions.** The following terms used in connection with the regulations of the state corporation commission governing motor carriers shall be defined as follows:

(a) "Affiliate" means a person or company controlling, controlled by, or under common control or ownership with, another person or company.

(b) "Authorized agent" and "authorized representative" mean any authorized special agent or employee of the commission, any member of the Kansas highway patrol, or any law enforcement officer in the state certified in the inspection of motor carriers and authorized in accordance with the requirements of the Kansas motor carrier safety program.

(c) "Certificate" means a document evidencing a certificate of convenience and necessity or a certificate of public service issued to an intrastate common carrier to operate motor vehicles as a common carrier.

(d) "Commercial motor vehicle" means any of the following, except when used in 49 C.F.R. Part 382 as adopted by K.A.R. 82-4-3c:

(1) A vehicle that has a gross vehicle weight rating or gross combination weight rating, or a gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater;

(2) a vehicle designed or used to transport more than eight passengers, including the driver, for compensation;

(3) a vehicle that is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(4) a vehicle used in transporting material found by the secretary of transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity

requiring placarding according to regulations prescribed by the secretary under 49 C.F.R. Part 172 as adopted in K.A.R. 82-4-20.

(e) "Commission" means the Kansas corporation commission.

(f) "Conviction" means any of the following, regardless of whether or not the penalty is reduced, suspended, or resolved by means of a probationary agreement:

(1) An unvacated adjudication of guilt or a determination by a federal, state, or local court of original jurisdiction or by an authorized administrative tribunal that a person has violated or failed to comply with the law;

(2) an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court;

(3) a plea of guilty or nolo contendere accepted by the court;

(4) the payment of a fine or court cost; or

(5) violation of a condition of release without bail.

(g) "Director" means the director of the transportation division of the commission.

(h) "Distance" means airline distances.

(1) Distances shall be computed from the corporate limits of incorporated communities and from the post office of unincorporated communities.

(2) If there is no post office in the unincorporated community, the distance shall be computed from the center of the business district.

(i) "Docketing" means entering a proposal in the organization files and then giving notice of the proposal to other carrier members of the organization and shipper subscribers.

(j) “Driveaway operation” and “towaway operation” mean any operation in which an empty or unladen motor vehicle with one or more sets of wheels on the surface of the roadway is being transported, according to one of the following:

(1) Between a vehicle manufacturer’s facilities;

(2) between a vehicle manufacturer and a dealership or purchaser;

(3) between a dealership, or other entity selling or leasing the vehicle, and a purchaser or lessee;

(4) to a motor carrier’s terminal or repair facility for the repair of disabling damage, as defined in K.A.R. 82-4-3f, following a crash;

(5) to a motor carrier’s terminal or repair facility for repairs associated with the failure of a vehicle component or system; or

(6) by means of a saddle-mount or towbar.

(k) “Driver” means any person who operates any commercial motor vehicle.

(l) “Entire direct case” shall include, for the purpose of this article, all testimony, exhibits, and other documentation offered in support of the proposed rates.

(m) “Express carrier” means a common carrier who carries packages or parcels, the maximum weight of which does not exceed 350 pounds for each package or parcel.

(n) “FHWA” means the federal highway administration.

(o) “FMCSA” means the federal motor carrier safety administration.

(p) “General increase” and “general decrease” mean a common motor carrier rate increase or decrease proposed as a general adjustment of substantially all the rates published in a tariff.

(q) “Hazardous material” means a substance or material that the U.S. secretary of transportation has determined is capable of posing an unreasonable risk to health, safety, and property when transported in commerce and has designated as hazardous under section 5103 of federal hazardous materials transportation law, 49 U.S.C. 5103. This term shall include hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous in the hazardous materials table in 49 C.F.R. 172.101 as adopted in K.A.R. 82-4-20, and materials that meet the criteria for hazard classes and divisions in 49 C.F.R. Part 173, subpart C as adopted in K.A.R. 82-4-20.

(r) “Hazardous materials regulations” and “HMR” mean the federal hazardous material regulations as adopted in K.A.R. 82-4-20.

(s) “Industry average carrier cost information” means the average intrastate cost of the carriers who participate in an organization tariff and who have authority from the commission to transport the commodities indicated in the organization tariff.

(t) “Joint line rate” means a rate, charge, or allowance established by two or more common motor carriers of property or passengers that is applicable over the carriers’ lines and for which the transportation can be provided by these carriers.

(u) “License” means the document or registration receipt evidencing the registration of an interstate common motor carrier or interstate exempt motor carrier to operate motor vehicles in the state of Kansas in interstate commerce.

(v) “Licensed medical examiner” means a person who meets one of the following conditions:

(1) Is licensed by the Kansas state board of healing arts to practice medicine and surgery, osteopathic medicine and surgery, or chiropractic;

(2) is licensed by the Kansas state board of healing arts as a physician assistant; or

(3) is licensed by the Kansas state board of nursing as a registered professional nurse qualified to practice as an advanced registered nurse practitioner.

(w) “Motor carrier” means any corporation, limited liability company, partnership, limited liability partnership, or individual subject to the provisions of the motor carrier laws of Kansas and under the jurisdiction of the Kansas corporation commission.

(x) “Moving violation” means the commission or omission of an act by a person operating a motor vehicle that could result in injury or property damage and that is also a violation of a statute, ordinance, or regulation of this state or any other jurisdiction.

(y) “Notice” means advance notification to shipper subscribers through an organization’s docket service.

(z) “Organization” means a legal entity that administers an agreement approved under K.A.R. 82-4-69.

(aa) “Out-of-service” and “OOS,” when used to describe a driver, a commercial motor vehicle, or a motor carrier operation, mean that the driver, commercial motor vehicle, or motor carrier has ceased to operate or move pursuant to the statutes and regulations of the state of Kansas, the federal motor carrier safety administration regulations, or the industry standards specified in the “North American standard out-of-service criteria,” including the appendixes, published by the commercial vehicle safety alliance, revised

on April 1, 2011, and hereby adopted by reference.

(bb) “Ownership” means an equity holding in a business entity of at least five percent.

(cc) “Permit” means the document evidencing authority of a motor carrier to operate motor vehicles as a private carrier.

(dd) “PHMSA” means pipeline and hazardous materials safety administration of the United States department of transportation.

(ee) “Single line rate” means a rate, charge, or allowance established by a single common motor carrier of property or passengers that is applicable only over its line and for which the transportation can be provided by that carrier.

(ff) “Tariff publication” means the rates, charges, classification, ratings, or policies published by, for, or on behalf of common motor carriers of property or passengers.

(gg) “Transportation” means the movement of property and passengers and the loading, unloading, or storage incidental to this movement.

(hh) “USDOT” means the United States department of transportation. (Authorized by and implementing K.S.A. 2010 Supp. 66-1,112, K.S.A. 66-1,112g, K.S.A. 2010 Supp. 66-1,129; effective Jan. 1, 1971; modified, L. 1981, Ch. 424, May 1, 1981; amended, T-83-45, Dec. 8, 1982; amended May 1, 1983; amended May 1, 1984; amended April 30, 1990; amended Sept. 16, 1991; amended July 6, 1992; amended May 10, 1993; amended Oct. 3, 1994; amended Jan. 30, 1995; amended Jan. 4, 1999; amended July 28, 2000; amended Nov. 14, 2011.)

**82-4-2. General duty of carrier.**

(a) Each motor carrier shall instruct its

officers, agents, employees, and representatives to comply with all the regulations of the commission.

(b) Each motor carrier and its officers, agents, employees, and representatives shall comply with the regulations of the commission and with any reasonable requests of the commission or its authorized agents for inspection or examination of any operating credentials of motor carrier equipment or required parts and accessories.

(c) Each motor carrier who has obtained a certificate, license, or permit from the commission shall notify the commission within 10 days of any change of business or mailing address. (Authorized by K.S.A. 2009 Supp. 66-1,112 and K.S.A. 66-1,112g; implementing K.S.A. 2009 Supp. 66-1,111; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1984; amended May 1, 1987; amended Sept. 16, 1991; amended Jan. 31, 2003; amended Oct. 22, 2010.)

**82-4-2a. Authority of agents, employees, or representatives authorized by commission.** The special agents, agents, employees, or representatives authorized by the commission shall have the authority to perform the following:

(a) Examine motor carrier equipment operating on the highways in this state;

(b) enter upon any motor carrier's premises located in the state of Kansas and inspect and examine the motor carrier's records, books, and equipment located on the premises; and

(c) examine the manner of the motor carrier's conduct as it relates to the public safety and the operation of commercial motor vehicles in this state. (Authorized by K.S.A. 2010 Supp. 66-1,108a and K.S.A. 2010 Supp. 66-1,108c; implementing K.S.A. 2010 Supp. 66-1,108b; effective Nov. 14, 2011.)

## **MOTOR CARRIER SAFETY REGULATIONS.**

**82-4-3. Exemption from the motor carrier safety regulations.** The commission's safety regulations and the federal safety regulations adopted by reference in this article shall not apply to the following:

(a) The occasional transportation of personal property by private motor carriers that is not for compensation and is not in the furtherance of a commercial enterprise;

(b) the operation of fire trucks and rescue vehicles while involved in emergency and related operations;

(c) the operation of commercial motor vehicles designed or used to transport between nine and 15 passengers, including the driver, not for compensation, if the commercial motor vehicle does not otherwise meet the definition of a commercial motor vehicle, except that motor carriers operating these vehicles shall comply with 49 C.F.R. 390.15, 49 C.F.R. 390.19, and 49 C.F.R. 390.21(a), as adopted by K.A.R. 82-4-3f;

(d) the operation of commercial motor vehicles designed or used to transport between nine and 15 passengers, including the driver, for direct compensation, if the vehicle is not being operated beyond a radius of 75 air miles from the driver's normal work-reporting location and if the vehicle does not otherwise meet the definition of a commercial motor vehicle, except that motor carriers operating these vehicles shall comply with 49 C.F.R. 390.15, 49 C.F.R. 390.19, and 49 C.F.R. 390.21(a), as adopted by K.A.R. 82-4-3f. (Authorized by and implementing K.S.A. 2003 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2003 Supp. 66-1,1129, as amended by L. 2004, Ch. 152, § 7; effective Jan. 1, 1971; modified L. 1981, ch. 424, May 1, 1981; amended May 1, 1984; amended May 1, 1985; amended May 1, 1987; amended April 30, 1990; amended Sept. 16, 1991; amended July 6, 1992; amended May 10, 1993; amended

Oct. 3, 1994; amended Jan. 30, 1995; amended Jan. 4, 1999; amended, T-82-3-7-00, April 17, 2000; amended July 28, 2000; amended, T-82, 10-25-01, Oct. 25, 2001; amended Dec. 28, 2001; amended, T-82-12-29-04, Dec. 29, 2004; amended April 29, 2005.)

**82-4-3a. Hours of service.** (a) With the following exceptions, 49 C.F.R. Part 395, as in effect on October 1, 2009, is hereby adopted by reference:

(1) The following revisions shall be made to 49 C.F.R. 395.1:

(A) 49 C.F.R. 395.1(a)(2), 49 C.F.R. 395.1(h), and 49 C.F.R. 395.1(i) shall be deleted.

(B) 49 C.F.R. 395.1(k) shall be deleted and replaced by the following:

“(k)(1) The provisions of this regulation shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes if the transportation meets the following conditions:

“(A) Is limited to an area within a 100-air-mile radius from the source of the commodities or the distribution point for the farm supplies; and

“(B) is conducted within the planting and harvesting seasons.

“(2) ‘Planting and harvesting seasons’ means the time periods for planting and harvesting that occur between January 1 and December 31.”

(C) 49 C.F.R. 395.1(q) shall be deleted.

(2) The following revisions shall be made to 49 C.F.R. 395.2:

(A) The definition of “agricultural commodity” shall be deleted and replaced by the following: “‘Agricultural commodity’ means the unprocessed products of agriculture, horticulture, and cultivation of the soil,

including wheat, corn, hay, milo, sorghum, sunflowers, and soybeans. Agricultural commodities shall not include livestock, honey, poultry products, timber products, and nursery stock.”

(B) The definition of “farm supplies” shall be deleted and replaced by the following: “‘Farm supplies’ means supplies or equipment for use in the planting or harvesting of agricultural commodities and livestock feed.”

(C) The definition of “sleeper berth” shall be deleted and replaced by the following: “‘Sleeper berth’ means a berth conforming to the requirements of 49 C.F.R. 393.76, as adopted in K.A.R. 82-4-3i.”

(D) The phrase “found by the Secretary to be hazardous under 49 U.S.C. 5103 in a quantity requiring placarding under regulations issued to carry out such section,” which appears in the definition of “transportation of construction materials and equipment,” shall be deleted and replaced by “requiring placarding pursuant to 49 C.F.R. Part 172, as adopted in K.A.R. 82-4-20.”

(3) The following revisions shall be made to 49 C.F.R. 395.8:

(A) The last sentence in 49 C.F.R. 395.8(a)(1) shall be deleted.

(B) The “Note” that appears between 49 C.F.R. 395.8(c) and (d) shall be deleted.

(C) The “Note” that appears between 49 C.F.R. 395.8(h)(5) and (i) shall be deleted.

(D) The “Note,” including the graphic, that appears after 49 C.F.R. 395.8(k)(2) shall be deleted.

(4) The following revisions shall be made to 49 C.F.R. 395.13:

(A) In paragraph (a), the phrase “every special agent” shall be deleted and replaced by “any authorized representative of the commission, and any member of the

Kansas highway patrol or any other law enforcement officer in the state who has been certified in the inspection of motor carriers based on the motor carrier safety assistance program.”

(B) 49 C.F.R. 395.13(c)(2) shall be deleted and replaced by the following: “Within fifteen days following the date any driver is placed out of service, the motor carrier that employed the driver shall personally deliver or place in the U.S. mail to the division administrator or the state director of transportation and to the federal motor carrier safety administration a signed certification in a form acceptable to the commission. Any signed certification acceptable to the commission shall include the following information:

“(i) All violations have been corrected;

“(ii) action has been taken to assure compliance with 49 C.F.R. 395.1, 49 C.F.R. 395.2, 49 C.F.R. 395.3, 49 C.F.R. 395.5, 49 C.F.R. 395.8, 49 C.F.R. 395.13, and 49 C.F.R. 395.15; and

“(iii) the motor carrier understands that false certification can result in appropriate enforcement action.”

(C) The phrase “as adopted in K.A.R. 82-4-3k” shall be added before the phrase “pertaining to attendance and surveillance of commercial motor vehicles,” which appears in 49 C.F.R. 395.13(d)(4).

(5) The last sentence in 49 C.F.R. 395.15(b)(3) shall be deleted.

(6)(A) The phrase “special agent of the Federal Motor Carrier Safety Administration (as defined in appendix B to this subchapter),” which appears in 49 C.F.R. 395.5 and 49 C.F.R. 395.15, shall be deleted and replaced by “any authorized representative of the commission, and any member of the Kansas highway patrol or any other law enforcement officer in the state who has been certified in the inspection

of motor carriers based on the motor carrier safety assistance program standards.”

(B) The phrases “Federal Motor Carrier Safety Administration” and “FMCSA,” which appear in 49 C.F.R. 395.1, 49 C.F.R. 395.2, 49 C.F.R. 395.3, 49 C.F.R. 395.5, 49 C.F.R. 395.8, 49 C.F.R. 395.13, and 49 C.F.R. 395.15, shall be deleted and replaced by “commission.”

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted.

(c) No wrecker or tow truck, as defined by K.S.A. 66-1329 and amendments thereto, with a gross vehicle weight rating or gross combination vehicle weight rating of 26,000 pounds or less shall be subject to this regulation. (Authorized by and implementing K.S.A. 2010 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2010 Supp. 66-1,129; effective, T-82-12-16-03, Jan. 4, 2004; effective, T-82-4-27-04, May 3, 2004; effective, T-82-8-23-04, Aug. 31, 2004; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended, T-82-10-25-05, Nov. 1, 2005; amended Feb. 17, 2006; amended, T-82-3-21-06, March 21, 2006; amended June 30, 2006; amended Oct. 2, 2009; amended Oct. 22, 2010; amended Nov. 14, 2011.

**82-4-3b. Procedures for transportation workplace drug and alcohol testing programs.**

(a) With the following exceptions, 49 C.F.R. Part 40, as in effect on October 1, 2007, is hereby adopted by reference:

(1) The following changes shall be made to 49 C.F.R. 40.1:

(A) In paragraph (a), the phrase “Department of Transportation (DOT) agency” shall be deleted and replaced by “commission.”

(B) In paragraph (b), the phrase “DOT agency” shall be deleted and replaced, by “commission.”

(C) Paragraph (c) shall be deleted.

(2) The following revisions shall be made to 49 C.F.R. 40.3:

(A) The following definition of “approved test” shall be added after the definition of “Alcohol use”:

“‘Approved test’ means a drug or alcohol test conducted in compliance with this regulation and K.A.R. 82-4-3c.”

(B) The following definition of “Custody and control form” shall be added after the definition of “Cancelled test”:

“‘Custody and control form’ (CCF) means a form as described in 49 C.F.R. 40.45.”

(C) “In the definition of “Employee,” the term “DOT agency” shall be deleted and replaced by “Commission.” The term “U.S.” shall be inserted before the phrase “Department of Health and Human Services.”

(D) In the definition of “Employer,” the phrase “subject to DOT agency regulations requiring compliance with this part” shall be deleted and replaced by “subject to this regulation and K.A.R. 82-4-3c.”

(E) In the definition of “Evidential Breath Testing Device,” the phrase “as in effect on July 14, 2004, and hereby adopted by reference,” shall appear after the phrase “NHTSA’s Conforming Products List (CPL).”

(F) The following revisions shall be made to the definition of “Laboratory”:

(i) The words “by DOT” shall be deleted.

(ii) The last sentence shall be deleted.

(G) The definition of “Office of Drug and Alcohol Policy and Compliance” shall be deleted.

(H) The following definition of “motor carrier” shall be added after the definition of “Office of Drug and Alcohol Policy and Compliance (ODAPC)”:

“‘Motor carrier.’ The definition of motor carrier found in 49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f, shall apply to this section.”

(I) In the definition of “Qualification Training,” the term “DOT” shall be deleted and replaced by “commission.”

(J) In the definition of “Refresher Training,” the phrase “DOT agency drug and alcohol testing regulations” shall be deleted and replaced by “K.A.R. 82-4-3c.”

(K) The definition of “Secretary” shall be deleted.

(L) The following definition of “special agent or authorized representative” shall be added after the definition of “Shipping container”:

“‘Special agent or authorized representative’ means an authorized representative of the commission, and members of the Kansas highway patrol or any other law enforcement officers in the state who have been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.”

(M) In the definition of “Substance Abuse Professional,” the term “DOT” shall be deleted and replaced by “commission.”

(N) The following definition of “unapproved test” shall be added after the definition for “Substituted specimen”:

“‘Unapproved test means a drug or alcohol test not conducted in compliance with this regulation or K.A.R. 82-4-3c.’”

(3) 49 C.F.R. 40.5 and 49 C.F.R. 40.7 shall be deleted.

(4) The following revisions shall be made to 49 C. F. R. 40.11:

(A) In paragraph (b), the phrase “the DOT agency regulations” shall be deleted and replaced by “this regulation and K.A.R. 82-4-3c.”

(B) Paragraph (c) shall be deleted and replaced by the following:

“All agreements and arrangements, written or unwritten, between and among employers and service agents concerning the implementation of the commission’s drug and alcohol testing requirements shall require compliance with all applicable provisions of this regulation and K.A.R. 82-4-3c.”

(5) The following revisions shall be made to 49 C.F.R. 40.13:

(A) The following revisions shall be made to paragraphs (a) and (b):

(i) The term “DOT” shall be deleted and replaced by “These approved.”

(ii) The term “non-DOT” shall be deleted and replaced by “unapproved.”

(B) In paragraph (b), the phrase “a DOT” shall be deleted and replaced by “an approved.”

(C) The following revisions shall be made to paragraph (c):

(i) The first instance of the term “DOT” found in the first sentence shall be deleted and replaced by “an approved.”

(ii) The phrase “DOT agency regulations” appearing in the first sentence shall be deleted and replaced by “K.A.R. 82-4-3c.”

(iii) The phrase “a DOT” found in the second sentence shall be deleted and replaced by “an approved.”

(D) The following revisions shall be made to paragraph (d):

(i) The phrase “a DOT” shall be deleted and replaced by “an approved.”

(ii) The phrase “DOT agency” shall be deleted and replaced by “commission.”

(E) The following revisions shall be made to paragraph (e):

(i) The first two instances of the term “DOT” shall be deleted and replaced by “approved.”

(ii) The term “non-DOT” shall be deleted and replaced by “unapproved.”

(iii) The last instance of the term “DOT” shall be deleted.

(F) The following revisions shall be made to paragraph (f):

(i) The words “the CCF or the ATF” shall be deleted and replaced by “an approved form.”

(ii) The term “non-DOT” shall be deleted and replaced by “unapproved.”

(iii) The term “DOT” shall be deleted and replaced by “approved.”

(iv) The words “and agencies” shall be deleted.

(v) In the last sentence, the phrase “CCF and ATF” shall be deleted and replaced by “approved forms.”

(vi) The term “DOT-mandated” shall be deleted and replaced by “approved.”

(6) The following revisions shall be made to 49 C.F.R. 40.15:

(A) In paragraph (a), the term “DOT agency” shall be deleted and replaced by “commission.”

(B) The following revisions shall be made to paragraph (c):

(I) The first and second instance of the term “DOT” shall be deleted and replaced by “approved.”

(ii) All instances of the phrase “a DOT agency” shall be deleted and replaced by “the commission.”

(7) The last sentence of 49 C.F.R. 40.17 shall be deleted.

(8) The following revisions shall be made to 49 C.F.R. 40.21:

(A) In paragraph (a), the phrase “a DOT agency” shall be deleted and replaced by “the commission.”

(B) In paragraph (b), the term “concerned DOT agency” shall be deleted and replaced by “commission.”

(C) Paragraphs (b)(1), (b)(2), and (b)(3) shall be deleted.

(D) Paragraph (c)(1)(iv) shall be deleted.

(E) The following revisions shall be made to paragraph (d)

(i) The phrase “Administrator of the concerned DOT agency” shall be deleted and replaced by “commission.”

(ii) The words “he or she” shall be deleted and replaced by “the commission.”

(F) In paragraph (d)(1), the phrase “Administrator, or his or her designee” shall be deleted and replaced by “commission.”

(G) The following revisions shall be made to paragraph (d)(2):

(i) The phrase “Administrator, or his or her designee” shall be deleted and replaced by “commission.”

(ii) The term “DOT agency” shall be deleted and replaced by “commission.”

(H) In paragraph (e), the term “DOT agency” shall be deleted and replaced by “commission.”

(9) The following revisions shall be made to 49 C.F.R. 40.25:

(A) In paragraph (b), the term “DOT-regulated” shall be deleted and replaced by “commission-regulated.”

(B) In paragraph (b)(4), the term “DOT agency” shall be deleted and replaced by “commission.”

(C) The following revisions shall be made to paragraph (b)(5):

(I) The phrase “a DOT” shall be deleted and replaced by “an approved.”

(ii) The remaining term “DOT” shall be deleted and replaced by “the commission’s.”

(D) The following revisions shall be made to paragraph (e):

(i) The phrase “a DOT agency drug and alcohol regulation” shall be deleted and replaced by “this regulation or K.A.R. 82-4-3c or both.”

(ii) The remaining term “DOT agency” shall be deleted and replaced by “commission.”

(10) 49 C.F.R. 40.26 shall be deleted and replaced by the following: “Management information system (“MIS”) data shall be reported to the commission within 10 days of the commission’s request for the information. MIS data shall be reported in a certified form acceptable to the commission. A certified form acceptable to the commission shall include the following information:

“(A) Information regarding the employer, including:

“(1) The name of the employer’s business and, if applicable, the name it does business as;

“(2) the company’s physical address and, if applicable, e-mail address;

“(3) the printed name and signature of the company’s official certifying the MIS data;

“(4) the date the MIS data was certified;

“(5) the name and telephone number of the person preparing the form, if it is different from the person certifying the MIS data;

“(6) the name and telephone number of the C/TPA, if applicable; and

“(7) the employer’s motor carrier identification number.

“(b) Information regarding the covered employees, including:

“(1) the total number of safety-sensitive employees in all categories;

“(2) the total number of employee categories;

“(3) the name of the employee category or categories; and

“(4) the total number of employees for each category.

“(c) Information regarding the drug testing data, including:

“(1) The type of test, which includes:

- “(A) Pre-employment;
- “(B) random;
- “(C) post-accident;
- “(D) reasonable suspicion or cause;
- “(E) return-to-duty; and
- “(F) follow-up.

“(2) The number of tests by result, including:

- “(A) Total number of test results;
- “(B) verified negative results;
- “(C) verified positive results for one or more drugs;

- “(D) positive for marijuana;
- “(E) positive for cocaine;
- “(F) positive for PCP;
- “(G) positive for opiates;
- “(H) positive for amphetamines;
- “(I) canceled results; and

“(J) refusal results, including:

- “(i) Adulterated;
- “(ii) substitutes;
- “(iii) shy bladder with no medical explanation; and

“(iv) other refusals to submit to testing.

“(d) Information resulting alcohol testing data, including:

“(1) The type of test, including the same types as listed in paragraph (c)(1) above;

“(2) The number of tests by results, including:

- “(A) Total number of screen test results;
- “(B) screening tests with results below 0.02;

“(C) Screening tests with results of 0.02 or greater;

“(D) number of confirmation test results;

“(E) confirmation tests with results of 0.02 through 0.039;

“(F) confirmation tests with results of 0.04 or greater;

“(G) canceled results; and

“(H) refusal results, including:

“(i) Shy lung with no medical explanation; and

“(ii) other refusals to submit to testing.”

(11) The following changes shall be made to 49 C.F.R. 40.29:

(A) The first sentence shall be deleted and replaced by “Other information regarding the responsibilities of employers can be found in the following sections of 49 C.F.R. Part 40. as adopted by this reaulation:”.

(B) The word “non-Federal” shall be deleted and replaced by “unapproved.”

(C) The term “DOT” shall be deleted and replaced by “approved.”

(D) The word “Federal” shall be deleted.

(E) The term “non-DOT” shall be deleted and replaced by “unapproved.”

(F) The phrase “Sec. 40.227--Use of non-DOT forms for DOT tests or DOT ATFs for non-DOT tests” shall be deleted.

(12) The following revisions shall be made to 49 C.F.R. 40.31:

(A) In paragraph (a), the term “DOT” shall be deleted and replaced by “approved.”

(B) In paragraph (c), the phrase “DOT agency” shall be deleted and replaced by “commission.”

(13) The following revisions shall be made to 49 C.F.R. 40.33:

(A) In the first paragraph, the term “DOT” shall be deleted and replaced by “approved.”

(B) The following revisions shall be made to paragraph (a):

(i) The words “this part, the current ‘DOT Urine Specimen Collection Procedures Guidelines,’ and DOT agency” shall be deleted and replaced by “commission.”

(ii) The last sentence of paragraph (A) shall be deleted.

(C) In paragraph (c)(2)(i), the term “DOT” shall be deleted and replaced by “approved.”

(D) Paragraphs (d), (d)(1), (d)(2), and (d)(3) shall be deleted.

(E) In paragraph (g), the phrase “DOT agency” shall be deleted and replaced by “special agents and authorized.”

(14) The first sentence of 49 C.F.R. 40.37 shall be deleted and replaced by “Other information regarding the role and functions of collectors can be found in the following sections of 49 C.F.R. Part 40, as adopted by this regulation.”

(15) In paragraph 49 C.F.R. 40.41(a), the term “a DOT” shall be deleted and replaced by “an approved.”

(16) In 49 C.F.R. 40.43(e)(1), the term “DOT agency representatives” shall be deleted and replaced by “special agent or authorized representative.”

(17) The following revisions shall be made to 49 C.F.R. 40.45:

(A) Paragraph (A) shall be deleted and replaced by the following:

“(1) A commission-approved CCF form shall be used to document every urine collection required by the approved drug testing program. A commission-approved CCF form shall be a form containing the information listed below. There shall be five copies of the CCF form. Each form shall be labeled as follows:

“(A) ‘Copy 1 - Laboratory’;

“(B) ‘Copy 2 - Medical Review Officer Copy’;

“(C) ‘Copy 3 - Collector Copy’;

“(D) ‘Copy 4 - Employer Copy’; and

“(E) ‘Copy 5 - Donor Copy.’

“(2) All five copies of the CCF form shall contain the following information:

“(A) The following information on the form may be completed by either the collector or the employee representative:

“(i) Employer information, including the name, address, and identification number issued pursuant to K.A.R. 82-4-8h;

“(ii) the MRO name, address, telephone number, and fax number;

“(iii) the donor’s social security or employee identification number;

“(iv) the reason for the testing;

“(v) the tests performed;

“(vi) the collection site address; and

“(vii) the collector’s home telephone number and facsimile number;

“(B) The following information on the form shall be completed by the collector:

“(i) an indication of whether the specimen temperature within four minutes of collection was between 90 degrees and 100 degrees Fahrenheit;

“(ii) an indication regarding whether the specimen was single or split, or whether no specimen was provided; and

“(iii) a space for any other remarks the collector shall provide;

“(C) The collector shall certify the following information with his or her signature:

“(i) the collector’s name, clearly printed;

“(ii) the date and time the collector released the specimen bottle for delivery to the laboratory; and

“(iii) the name of the delivery service transferring the specimen to the laboratory; and

“(D) The laboratory shall certify the following information by signature:

“(i) the name, printed clearly, of the person signing the certification as the employee of the laboratory receiving the specimen;

“(ii) an indication of whether the specimen bottle seal is intact; and

“(iii) an indication of who at the laboratory the specimen bottle was released to.

“(2) In addition to the information required in paragraph (a)(2) above, Copy 1 of the CCF shall include the following:

“(A) A specimen bottle seal, marked as ‘A,’ which shall contain the following information:

“(i) The specimen identification number;

“(ii) a circle in the center of the label which shall indicate which portion of the labels shall be positioned over the cap of the specimen bottle;

“(iii) the date the specimen was collected; and

“(iv) a space for the donor to initial the seal.

“(B) A specimen bottle seal, marked as ‘B,’ which shall contain the following information:

“(i) The specimen identification number;

“(ii) an indication that this is a split of the specimen bottle marked as ‘A’;

“(iii) a circle in the center of the label which shall indicate which portion of the labels shall be positioned over the cap of the specimen bottle;

“(iv) the date the specimen was collected; and

“(v) a space for the donor to initial the seal.

“(C) The following information, which shall be completed by the primary laboratory:

“(i) An indication of whether the test was negative or whether it contained

evidence of the presence of a specific drug in the urine;

“(ii) a space for any additional remarks;

“(iii) the name of the testing laboratory, if it is a laboratory other than the one listed as having received the specimen according to paragraph (1)(D)(i);

“(iv) the printed name and signature of the scientist certifying the chain of custody and the test results; and

“(v) the date the certification was signed.

“(D) The following information, if split specimen results are tested by a secondary laboratory:

“(i) The secondary laboratory’s name and address;

“(ii) an indication of whether the secondary laboratory was able to confirm the primary laboratory’s results;

“(iii) if the secondary laboratory was unable to confirm the primary laboratory’s results, an indication of why;

“(iv) the printed name and signature of the scientist certifying the chain of custody and the test results; and

“(v) the date the certification was signed.

“(3) In addition to the information required in paragraph (a)(2) above, Copy 2, Copy 3, Copy 4, and Copy 5 shall contain the following:

“(A) The following information shall be provided by the donor:

“(i) The printed name and signature of the donor certifying that the donor provided his or her own urine to the collector, that the specimen was unadulterated, that the specimen bottle was sealed with a tamper-evident seal in the donor’s presence, and that the information provided on the seals and the CCF is correct;

“(ii) the date the CCF was signed by the donor;

“(iii) the donor’s daytime and evening telephone numbers; and

“(iv) the donor’s date of birth.

“(B) The medical review officer examining the primary specimen shall indicate whether:

“(i) the test was canceled;

“(ii) the donor refused to test because the sample was adulterated, substituted, or diluted;

“(iii) the test results were negative; or

“(iv) the test results were positive.

“(C) The medical review officer examining the primary specimen shall provide the following information:

“(i) Any remarks in addition to the test results;

“(ii) the printed name and signature of the medical review officer examining the specimen; and

“(iii) the date the medical review officer signed the CCF.

“(D) The medical review officer examining the split specimen shall provide the following information:

“(i) whether the primary medical review officer’s test results were confirmed or unconfirmed;

“(ii) If the primary medical review officer’s test results were not confirmed, a reason why;

“(iii) the printed name and signature of the medical review officer examining the split specimen; and

“(iv) the date the CCF was signed by the medical review officer examining the split specimen.”

(B) The following revisions shall be made to paragraph (b):

(i) In the first sentence, the term “a non-Federal” shall be deleted and replaced by “an unapproved.”

(ii) In the first sentence, the words “Federal” and “DOT” shall be deleted.

(iii) In the second sentence, the words “expired Federal” shall be deleted and replaced by “unapproved.”

(iv) The third sentence shall be deleted.

(C) Paragraph (c)(3) shall be deleted.

(D) Paragraph (E) shall be deleted.

(18) The following revisions shall be made to 49 C.F.R. 40.47:

(A) The following changes shall be made to paragraph (a):

(i) The last sentence of paragraph (A) shall be deleted.

(ii) The term “non-Federal” shall be deleted and replaced by “unapproved.”

(iii) The remaining uses of the term “DOT” shall be deleted and replaced by “approved.”

(B) The following changes shall be made to paragraph (b):

(i) The phrase “a non-Federal” shall be deleted and replaced by “an unapproved.”

(ii) The term “non-Federal” shall be deleted and replaced by “unapproved.”

(iii) The term “a DOT” shall be deleted and replaced by “an approved.”

(19) The following revisions shall be made to 49 C.F.R. 40.49:

(A) The term “DOT” shall be deleted and replaced by “approved.”

(B) The phrase “as in effect on October 1, 2007, and hereby adopted by reference” shall be added after the phrase “Appendix A of this part.”

(20) The following revisions shall be made to 49 C.F.R. 40.61:

(A) In paragraph (b)(1), the phrase “a DOT” shall be deleted and replaced by “an approved.”

(B) The following revisions shall be made to paragraph (f)(3):

(i) The phrase “DOT agency authorized” shall be deleted.

(ii) The phrase “required by K.A.R. 82-4-6d, and by 49 C.F.R. 491.45, 391.45, and 391.49, as adopted by K.A.R. 82-4-3g” shall be added after “medical examination.”

(21) The following revisions shall be made to 49 C.F.R. 40.63:

(A) Paragraph (A) shall be deleted and replaced by the following: “Complete the appropriate portions of the CCF as set forth in 49 C.F.R. 40.45.”

(B) In paragraph (e), the term “(Step 2)” shall be deleted.

(22) The following revisions shall be made to 49 C.F.R. 40.65:

(A) Paragraph (b)(3) shall be deleted and be replaced by the following: “Indicate on the CCF whether the specimen temperature is within the acceptable range.”

(B) Paragraph (b)(4) shall be deleted and replaced by the following: “If the specimen temperature is outside the acceptable range, indicate that finding in the space provided on the CCF:”

(23) The following changes shall be made to 49 C.F.R. 40.67:

(A) Paragraph (e)(1) shall be deleted and replaced by the following: “Indicate the reason for the directly observed collection the same as for the first collection.”

(B) Paragraph (e)(2) shall be deleted and replaced by the following: “Indicate on the CCF that the collection was observed and the reasons why.”

(C) In paragraph (f), the term “(Step 2)” shall be deleted.

(24) In 49 C.F.R. 40.69(f), the term “(Step 2)” shall be deleted.

(25) The following revisions shall be made to 49 C.F.R. 40.71:

(A) In paragraph (a), the phrase “DOT agency drug testing regulations” shall be deleted and replaced by “this regulation and K.A.R. 82-4-3c.”

(B) Paragraph (b)(1) shall be deleted and replaced by the following: “Indicate on the CCF that this was a split specimen collection.”

(C) In paragraph (b)(7), the term “(Step 2)” shall be deleted.

(D) In paragraph (b)(8), the term “a DOT agency regulation” shall be deleted and replaced by “K.A. R. 82-4-6d or 49 C.F.R. 391.41, 391.43, 391.45, or 391.49, as adopted by K.A.R. 82-4-3g.”

(26) The following revisions shall be made to 49 C. F. R.40-73:

(A) In paragraph (a)(1), the terms “(Step 5)” and “(Step 2)” shall be deleted.

(B) In paragraph (a)(2). the term “(Step 4)” shall be deleted.

(C) In paragraph (a)(9), the phrase “applicable DOT agency regulations” shall be deleted and replaced by “the commission.”

(27) 49 C.F.R. 40.81(b), (b)(1), (b)(2), (c), and (d) shall be deleted.

(28) The following revisions shall be made to 49 C.F.R. 40.83:

(A) Paragraph (B) shall be deleted.

(B) In paragraph (e), the phrase “in Step 4” shall be deleted.

(C) In paragraph (g), the phrase “a non-Federal form or an expired Federal” shall be deleted and replaced by “an unapproved.”

(D) Paragraph (g)(2) shall be deleted.

(29) In 49 C.F.R. 40.85, the first two sentences shall be deleted and replaced by “The urine specimens shall be tested for only the following five drugs:”

(30) 49 C.F.R. 40.91(e) shall be deleted and replaced by the following: “If a substance appears in a specimen which cannot

be identified, complete testing of the specimen for drugs to the extent technically feasible.”

(31) In 49 C.F.R. 40.99(b), the phrase “in accordance with HHS requirements” shall be deleted.

(32) In 49 C.F.R. 40.101(b), the words “the Department regards as creating” shall be deleted and replaced by “create.”

(33) The following revisions shall be made to 49 C.F.R. 40.103:

(A) In paragraphs (a) and (b), the term “DOT-covered” shall be deleted and replaced by “commission-regulated motor carrier.”

(B) In paragraph (c), the term “DOT” shall be deleted and replaced by “approved.”

(C) In paragraphs (c) and (c)(1), the phrase “with a substance cited in HHS guidance” shall be deleted.

(34) In 49 C.F.R. 40.105(c), the last two sentences shall be deleted.

(35) The following revisions shall be made to 49 C.F.R. 40.107:

(A) The words “ODAPC, a DOT agency, or a DOT-regulated” shall be deleted and replaced by “a special agent or authorized representative or a commission-regulated.”

(B) The remaining term “DOT” shall be deleted and replaced by “approved.”

(36) The following revisions shall be made to 49 C.F.R. 40.111:

(A) In paragraph (a), the phrase “as in effect on October 1, 2003 2007, and hereby adopted by reference,” shall be added after the term “Appendix B to this part.”

(B) In paragraph (b), the phrase “a DOT agency” shall be deleted and replaced by “the commission.”

(37) In 49 C.F.R. 40.113, the first sentence shall be deleted and replaced with “Other information concerning laboratories may be found in the following sections of 49 C.F.R. Part 40, as adopted by this regulation:”.

(38) The following revisions shall be made to 49 C.F.R. 40.121:

(A) In the first paragraph, the term “DOT” shall be deleted and replaced by “approved.”

(B) The following revisions shall be made to paragraph (b)(3):

(I) The first instance of the phrase “the DOT MRO Guidelines, and the DOT agency regulations” shall be deleted and replaced by “K.A.R. 82-4-3c.”

(ii) The last sentence shall be deleted.

(C) Paragraph (c)(1)(vi) shall be deleted and replaced by “Provisions of this regulation and K.A.R. 82-4-3c, as well as issues that MROs confront in carrying out their duties under this regulation and K.A.R. 82-4-3c.”

(D) In paragraph (c)(2), the term “DOT-mandated” shall be deleted and replaced by “approved.”

(E) Paragraphs (c)(3), (c)(3)(i), (c)(3)(ii), (c)(3)(iii), and (d)(3) shall be deleted.

(F) In paragraph (e), the term “DOT agency” shall be deleted and replaced by “special agents and authorized.”

(39) The following revisions shall be made to 49 C.F.R. 40.123:

(A) The following revisions shall be made to paragraph (b)(3):

(i) The words “the ODAPC or a relevant DOT agency” shall be deleted and replaced by “the commission.”

(ii) The second occurrence of the term “DOT” shall be deleted.

(iii) The remaining occurrences of the term “DOT” shall be deleted and replaced by “the commission.”

(B) In paragraph (e), the first parenthetical phrase shall be deleted.

(C) In paragraph (h), the term “other DOT agency regulations” shall be

deleted and replaced by “this regulation and K.A.R. 82-4-3c.”

(40) The following revisions shall be made to 49 C.F.R. 40.127:

(A) In paragraph (E) the words “place a check mark in the ‘Negative’ box (Step 6)” shall be deleted and replaced by “indicate whether the results were negative.”

(B) In paragraph (g), the words “check the ‘Test Cancelled’ box (Step 6)” shall be deleted and replaced by “indicate that the test was cancelled.”

(C) In paragraph (g)(4), the term “DOT agencies” shall be deleted and replaced by “the commission.”

(41) The following revisions shall be made to 49 C.F.R. 40.129:

(A) In paragraph (c), the words “place a check mark in the ‘Positive’ box (Step 6)” shall be deleted and replaced by “indicate that the test was positive.”

(B) In paragraph (d), the words “check the ‘test cancelled’ box (Step 6)” shall be deleted and replaced by “indicate that the test was cancelled.”

(C) The following revisions shall be made to paragraph (f):

(i) The words “check the ‘refusal to test because:’ box (Step 6)” shall be deleted and replaced by “indicate that the test was refused because it was adulterated or substituted.”

(ii) The words “check the ‘Adulterated’ or ‘Substituted’ box, as appropriate” shall be deleted.

(42) 49 C.F.R. 40.145 shall be revised as follows:

(A) In paragraph (g)(2)(ii)(A), the term “a DOT” shall be deleted and replaced by “an approved.”

(B) In paragraph (g)(2)(ii)(B), the term “DOT agency regulation” shall be deleted and replaced by “commission statute, regulation, or order.”

(C) In paragraph (g)(5), the term “ODAPC” shall be deleted and replaced by “the commission.”

(43) The following revisions shall be made to 49 C.F.R. 40.151:

(A) In paragraph (a), the term “DOT” shall be deleted.

(B) In paragraph (c), the phrase “DOT agency drug or alcohol regulation” shall be deleted and replaced by “this regulation or K.A.R. 82-4-8c.”

(C) In paragraph (e), a period shall be placed after the word “drug,” and the remainder of the paragraph shall be deleted.

(44) In 49 C.F.R. 40.155(b), the words “check the ‘dilute’ box (Step 6)” shall be deleted and replaced by “indicate that the specimen is dilute.”

(45) In 49 C.F.R. 40.159(a)(4)(i) and (a)(5)(i), and 49 C.F.R. 40.161(a), the words “Place a check mark in the ‘Test Cancelled’ box (Step 6)” shall be deleted and replaced by “Indicate that the test was cancelled.”

(46) In 49 C.F.R. 40.163(e), the term “DOT” shall be deleted and replaced by “special agent or authorized.”

(47) 49 G.F.R. 40.169 shall be deleted. In 49 C.F.R. 40.169, the first sentence shall be deleted and replaced with “Other information concerning the role of MROs and the verification process can be found in the following sections of 49 C.F.R. Part 40, as adopted by this regulation:”.

(48) The following revisions shall be made to 49 C.F.R. 40.183:

(A) In paragraph (a), the words “checking the ‘Reconfirmed’ box or the ‘Failed to Reconfirm’ box (Step 5(b))” shall be deleted and replaced by “indicating whether the test was reconfirmed.”

(B) The following revisions shall be made to paragraph (b):

(i) The words “check the ‘Failed to Reconfirm’ box” shall be deleted and

replaced by “indicate that the attempt to reconfirm failed.”

(ii) The term “(Step 5(b))” shall be deleted.

(49) The following revisions shall be made to 49 C.F.R. 40.187:

(A) The following revisions shall be made to paragraphs (b)(2), (c)(2), (d)(3), (e)(3), and (f)(3):

(i) The phrase “Appendix D to this part” shall be deleted and replaced by “paragraph (i).”

(ii) The term “ODAPC” shall be deleted and replaced by “commission.”

(B) In paragraph (g), the words “sign and date (Step 7) of” shall be deleted and replaced by “signature and date on.”

(C) The following paragraph shall be added after paragraph (h):

“(i) When there is a failure to reconfirm, the MRO shall inform the commission by telefacsimile to (785) 271-3283, or by mail to the transportation division, Kansas corporation commission, 1500 S.W. Arrowhead Road, Topeka, KS 66604. The following format shall be used to provide the information to the commission:

“(1) MRO name, address, phone number, and telefacsimile number;

“(2) collection site name, address, and phone number;

“(3) date of collection;

“(4) specimen identification number;

“(5) laboratory accession number;

“(6) primary specimen laboratory name, address, and telephone number;

“(7) date result reported or certified by primary laboratory;

“(8) split specimen laboratory name, address, and telephone number;

“(9) date split specimen result reported or certified by split specimen laboratory;

“(10) primary specimen results for the primary specimen;

“(11) reason for split specimen failure-to-reconfirm result;

“(12) actions taken by the MRO;

“(13) additional information explaining the reason for cancellation; and

“(14) name of individual submitting the report, if not the MRO.”

(50) In 49 C.F.R. 40.189, the first sentence shall be deleted and replaced with “Other information concerning split specimens can be found in the following sections of 49 C.F.R. Part 40, as adopted by this regulation:”.

(51) The following revisions shall be made to 49 C.F.R. 40.191:

(A) In paragraph (d)(1), the term “(Step 2)” shall be deleted.

(B) In paragraph (d)(2), the words “checking the ‘refused to test because’ box (Step 6)” shall be deleted and replaced by “indicating that the test was refused.”

(52) The following revisions shall be made to 49 C.F.R. 40.193:

(A) In paragraph (b)(2), (b)(3), and (b)(4), the term “(Step 2)” shall be deleted.

(B) In paragraph (d)(1)(i), the words “Check ‘Test Cancelled’ (Step 6)” shall be deleted and replaced by “Indicate that the test was cancelled.”

(C) In paragraph (d)(2)(i), the words “Check ‘Refusal to test because’ (Step 6)” shall be deleted and replaced by “Indicate that the test was refused.”

(53) In 49 C.F.R. 40.195(b)(1), the words “Check ‘Negative’ (Step 6)” shall be deleted and replaced by “Indicate that the results are negative.”

(54) The following revisions shall be made to 49 C.F.R. 40.203(d)(3):

(A) The words “a non-Federal form or an expired Federal” shall be deleted and replaced by “an unapproved.”

(B) The last two sentences shall be deleted.

(55) The following revisions shall be made to 49 C.F.R. 40.205(b)(2):

(A) In the first sentence, the words “a non-Federal form or an expired Federal” shall be deleted and replaced by “an unapproved.”

(B) The first instance of the term “DOT” shall be deleted and replaced by “commission.”

(C) In the third sentence, the words “non-Federal forms or expired Federal” shall be deleted and replaced by “unapproved.”

(D) The second instance of the term “DOT” shall be deleted and replaced by “approved.”

(56) The following revisions shall be made to 49 C.F.R. 40.207:

(A) In paragraphs (a)(1) and (b), the term “DOT” shall be deleted and replaced by “commission.”

(B) The following revisions shall be made to paragraph (c):

(i) The term “DOT” shall be deleted and replaced by “approved.”

(ii) The term “a non-DOT” shall be deleted and replaced by “an unapproved.”

(57) The following revisions shall be made to 49 C.F.R. 40.208:

(A) The following revisions shall be made to paragraph (a):

(i) The term “DOT” shall be deleted and replaced by “commission.”

(ii) The word “checked” shall be deleted and replaced by “noted.”

(B) Paragraph (c) shall be deleted.

(58) The following revisions shall be made to 49 C.F.R. 40.213:

(A) In the first paragraph, the term “DOT” shall be deleted and replaced by “commission.”

(B) In paragraph (a), the words “and the current DOT guidance” and the last sentence of the paragraph shall be deleted.

(C) Paragraph (b)(1) shall be deleted.

(D) Paragraphs (d), (d)(1), (d)(2), and (E) shall be deleted and replaced by the following: “All BAT’s and STT’s shall, no less frequently than every five years from the date on which they met the requirements of paragraphs (b) and (c), complete refresher training which meets the requirements of paragraphs (b) and (c).”

(E) In paragraph (g), the phrase “DOT agency” shall be deleted and replaced by “special agent and authorized.”

(F) In paragraph (h)(2), the term “DOT” shall be deleted and replaced by “commission.”

(59) In 49 C.F.R. 40.217, the first sentence shall be deleted and replaced with “Other information on the role of STTs and, BATs can be found in the following sections of 49 C.F.R. Part 40, as adopted by this regulation.”

(60) In 49 C.F.R. 221(a), the term “DOT” shall be deleted and replaced by “commission.”

61) In 49 C.F.R. 40.223(a) and (b), the phrase “DOT agency” shall be deleted and replaced by “special agent or authorized.”

(62) The following revisions shall be made to 49 C.F.R. 40.225:

(A) Paragraph (a) shall be deleted and replaced by the following:

“(a)(1) A commission-approved alcohol testing form (‘ATF’) shall be used for every approved alcohol test. There shall be three copies of the ATF form. Each form shall be labeled as follows:

“(A) ‘Copy 1 - Original - Forward to the Employer’;

“(B) ‘Copy 2 - Employee Retains’; and

“(C) ‘Copy 3 - Alcohol Technician Retains.’

“(2) All three copies of the ATF form shall contain the following information:

“(A) The top of the form shall be referred to as ‘step 1’ and shall consist of information completed by the alcohol technician, and shall include:

“(i) The employee’s name;

“(ii) the employee’s social security number or employee identification number;

“(iii) the employer’s name and address;

“(iv) the DER’s name and telephone number; and

“(v) whether the test is being done at random, for reasonable suspicion, post-accident, for return to duty, as a follow-up, or for pre-employment.

“(B) The second part of the form shall be referred to as ‘step 2’ and shall be a dated certification signed by the employee that he or she is about to submit to alcohol testing and that the identifying information on the form is true and correct.

“(C) The third part of the form shall be referred to as ‘step 3’ and shall consist of information completed by the alcohol technician, including:

“(i) A signed and dated certification that the alcohol technician conducted the alcohol testing on the named employee in compliance with the alcohol testing regulations, that the alcohol technician is certified to conduct such testing, and that the results were properly recorded;

“(ii) an indication of whether the technician is a BAT or STT;

“(iii) an indication of whether a saliva or breath device was used to conduct the test;

“(iv) an indication of whether there was a 15-minute wait;

“(v) the test number;

“(vi) the testing device name;

“(vii) the testing device lot number and expiration date, or serial number;

“(viii) the testing device activation time;

“(ix) the time the testing device was read;

“(x) the result indicated by the testing device;

“(xi) the results of any confirmation test;

“(xii) any additional remarks;

“(xiii) the alcohol technician’s company name, address, and telephone number;

“(xiv) the alcohol technician’s printed name;

“(xv) the date the alcohol technician signed the form.

“(D) The fourth part of the form shall be referred to as ‘step 4’ and shall be a signed and dated certification completed by the employee if the test result is 0.02 or higher. The certification shall state that the employee submitted to the alcohol test, and that the test results are accurately recorded on the form. The certification shall further state that the employee understands he or she shall not drive, perform safety-sensitive duties, or operate heavy equipment because the alcohol test result is 0.02 or higher.”

(B) In paragraph (b), the term “DOT” shall be deleted and replaced by “approved.”

(C) Paragraph (c) shall be deleted.

(63) The following revisions shall be made to 49 C.F.R. 40.227:

(A) In paragraph (a), the term “non-DOT” shall be deleted and replaced by “unapproved.”

(B) The term “DOT” as it appears in the first instance in paragraph (a) shall be deleted and replaced by “approved.”

(C) In paragraph (a), the last sentence shall be deleted.

(D) In paragraph (b), the term “a non-DOT” shall be deleted and replaced by “an unapproved.”

(E) In paragraph (b), the term “a DOT” shall be deleted and replaced by “an approved.”

(64) The following changes shall be made to 49 C.F.R. 40.229:

(A) The phrase “adopted in this regulation” shall be added after “conforming products lists (CPL).”

(B) The term “DOT” shall be deleted and replaced by “approved.”

(65) In 49 C.F.R. 40.231(a), the last sentence shall be deleted.

(66) The following revisions shall be made to 49 C.F.R. 40.233:

(A) Paragraphs (a), (a)(1), and (a)(2) shall be deleted.

(B) The following changes shall be made to paragraph (c):

(1) In paragraph (c)(2), the words “as in effect on August 13, 1997, and appearing in Volume 62 of the Code of Federal Regulations, beginning at page 43425, and hereby adopted by reference” shall be added after the phrase ““Calibrating Units for Breath Alcohol Tests.””

(2) In paragraph (c)(3), the term “DOT” shall be deleted and replaced by “approved.”

(67) In 49 C.F.R. 40.241. the phrase “a DOT” shall be deleted and replaced by “an approved.”

(68) In 49 C.F.R. 40.251(q). the phrase “DOT agency” shall be deleted and replaced by “commission.”

(69) The following revisions shall be made to 49 C.F.R. 40.261(d):

(A) In paragraphs (a)(1), (a)(3), and (b), the phrase “DOT agency” shall be deleted and replaced by “commission.”

(B) The following changes shall be made to paragraph (d):

(1) The phrase “a non-DOT” shall be deleted and replaced by “an unapproved.”

(2) The phrase “DOT agency” shall be deleted and replaced by “commission.”

(3) The phrase “a DOT” shall be deleted and replaced by “an approved.”

(70) The following revisions shall be made to 49 C.F.R. 40.265:

(A) In paragraph (c)(1)(i), the term “DOT” shall be deleted and replaced by “commission.”

(B) In paragraph (c)(1)(ii), the phrase “of the appropriate DOT agency regulations regulation” shall be deleted and replaced by “of the applicable commission statutes, regulations, and orders.”

(71) In 49 C. F. R. 40.269(c), the term “a non-DOT” shall be deleted and replaced by “an unapproved.”

(72) The following revisions shall be made to 49 C.F.R. 40.271 (b)(2):

(A) The term “a non-DOT” shall be deleted and replaced by “an unapproved.”

(B) The phrase “a valid DOT” shall be deleted and replaced by “an approved.”

(C) The remaining term “non-DOT” shall be deleted and replaced by “unapproved.”

(D) The remaining term “DOT” shall be deleted and replaced by “approved.”

(73) The following revisions shall be made to 49 C.F.R. 40.273:

(A) In paragraph (b), the term “DOT” shall be deleted and replaced by “commission.”

(B) The following revisions shall be made to paragraph (d):

(i) The term “DOT” shall be deleted and replaced by “approved.”

(ii) The words “a non-DOT” shall be deleted and replaced by “an unapproved.”

(74) In paragraph 49 C.F.R. 40.275, the phrase “DOT agency” shall be deleted and replaced by “commission.”

(75) The following revisions shall be made to 49 C.F.R. 40.281:

(A) In the first sentence, the term “DOT” shall be deleted and replaced by “commission.”

(B) The following revisions shall be made to paragraph (b)(3):

(i) The term “DOT agency” shall be deleted and replaced by “commission.”

(ii) The words “and the DOT SAP guidelines” shall be deleted.

(iii) The last sentence shall be deleted.

(C) The following changes shall be made to paragraph (c)(1)(ii):

(i) The phrase “as adopted by K.A.R. 82-4-3b” shall be inserted after “49 C.F.R. Part 40.”

(ii) The phrase “DOT agency” shall be deleted and replaced by “commission.”

(D) In paragraphs (c)(1)(iii) and (c)(1)(iv), the term “DOT” shall be deleted and replaced by “commission.”

(E) Paragraphs (c)(3), (c)(3)(i), (c)(3)(ii), and (c)(3)(iii) shall be deleted.

(F) In paragraph (d)(1), the term “DOT” shall be deleted and replaced by “commission drug and alcohol testing.”

(G) In paragraph (e), the phrase “DOT agency” shall be deleted and replaced by “special agent and authorized.”

(76) 49 C.F.R. 40.283 shall be deleted.

(77) The following revisions shall be made to 49 C.F.R. 40.285:

(A) The following revisions shall be made to paragraph (a):

(i) The term “DOT” shall be deleted and replaced by “commission.”

(ii) The term “DOT agency” shall be deleted and replaced by “commission.”

(B) The following revisions shall be made to paragraph (b):

(i) The first instance of the term “DOT” shall be deleted.

(ii) The words “a DOT” shall be deleted and replaced by “an approved.”

(iii) The words “DOT agency” shall be deleted and replaced by “commission.”

(iv) The last instance of the term “DOT” shall be deleted and replaced by “commission.”

(78) In 49 C.F.R. 40.287, the term “DOT” shall be deleted and replaced by “commission.”

(79) In 49 C.F.R. 40.289(a) and (b), the term “DOT” shall be deleted and replaced by “commission.”

(80) In 49 C.F.R. 40.293, the term “DOT” in the first paragraph and paragraphs (b), (b)(1), (f), and (f)(2) shall be deleted and replaced by “commission.”

(81) In 49 C.F.R. 40.295(a), the term “DOT” shall be deleted and replaced by “commission.”

(82) In 49 C.F.R. 40.305(c), the term “DOT agency” shall be deleted and replaced by “commission.”

(83) The following revisions shall be made to 49 C.F.R. 40.307:

(A) In paragraph (a), the term “DOT” shall be deleted and replaced by “commission.”

(B) In paragraph (c), the term “DOT agency” shall be deleted and replaced by “commission.”

(84) The following revisions shall be made to 49 C.F.R. 40.311:

(A) In paragraph paragraphs (c)(3), (d)(3), and (e)(3), the term “DOT” shall be deleted and replaced by “commission.”

(B) In paragraph (g), the words “DOT agency representatives (e.g., inspectors conducting an audit or safety investigation) and representatives of the NTSB in an

accident investigation” shall be deleted and replaced by “special agents and authorized representatives.”

(85) In paragraph 49 C.F.R. 40.313, the first sentence shall be deleted and replaced by “Other information on the role of functions of SAPs can be found in the following sections:”.

(86) In the first paragraph of 49 C.F.R. 40.321, the term “DOT” shall be deleted and replaced by “commission.”

(87) In 49 C.F.R. 40.323(a)(1), the term “DOT” shall be deleted and replaced by “commission.”

(88) The following revisions shall be made to 49 C.F.R. 40.327:

(A) In paragraph (a)(1), the term “DOT agency” shall be deleted and replaced by “commission.”

(B) The following revisions shall be made to paragraph (b):

(i) The first instance of the term “DOT agency” shall be deleted and replaced by “commission.”

(ii) The words “the commission” shall be added before the phrase “a DOT agency.”

(89) In 49 C.F.R. 40.329(a), the term “DOT-mandated” shall be deleted and replaced by “commission.”

(90) The following revisions shall be made to 49 C.F.R. 40.331:

(A) In paragraph (b), the phrase “DOT agency” shall be deleted and replaced by “special agent or authorized.”

(B) In paragraphs (b)(1), (b)(2), and (c)(1), the term “DOT agency” shall be deleted and replaced by “commission.”

(C) In paragraph (c), the term “DOT agency representatives” shall be deleted and replaced by “a special agent or authorized representative.”

(D) In paragraph (c)(2), the term “DOT agency” shall be deleted and replaced by “commission.”

(E) In paragraph (f), the term “ODAPC” shall be deleted and replaced by “the commission.”

(91) The following revisions shall be made to 49 C.F.R. 40.333:

(A) In paragraph (b), the parenthetical text shall be deleted.

(B) The following revisions shall be made to paragraph (d):

(i) The term “DOT agency” shall be deleted and replaced by “commission.”

(ii) The last sentence shall be deleted.

(C) In paragraph (e), the phrase “DOT agency personnel” shall be deleted and replaced by “a special agent or authorized representative.”

(92) 49 C.F.R. 40.341 shall be deleted.

(93) In 49 C.F.R. 40.343, the term “DOT agency” shall be deleted and replaced by “commission.”

(94) In 49 C.F.R. 40.345(b), the phrase “to this part” shall be deleted and replaced by “as in effect on October 1, 2007, and hereby incorporated by reference.”

(95) The following revisions shall be made to 49 C.F.R. 40.347:

(A) In paragraph (b), the phrase “the DOT agency” shall be deleted and replaced by “commission.”

(B) In paragraph (b)(1), the phrase “each DOT agency” shall be deleted and replaced by “the commission.”

(C) The following revisions shall be made to paragraph (b)(2):

(i) The term “DOT agency” shall be deleted and replaced by “commission.”

(ii) The term “DOT covered” shall be deleted and replaced by “commission-regulated.”

(96) The following revisions shall be made to 49 C.F.R. 40.349:

(A) In paragraph (a), the term “DOT” shall be deleted and replaced by “commission.”

(B) In paragraph (e), the term “DOT agency” shall be deleted and replaced by “special agent or authorized.”

(97) In 49 C.F.R. 40.353(c), the term “DOT agency” shall be deleted and replaced by “commission.”

(98) The following revisions shall be made to 49 C.F.R. 40.355:

(A) In the first sentence, the term “DOT” shall be deleted and replaced by “commission.”

(B) The following revisions shall be made to paragraph (m):

(I) The term “DOT” shall be deleted and replaced by “commission.” (ii) The last sentence shall be deleted.

(8) (C) The following revisions shall be made to paragraph (o):

(i) The term “DOT agency” shall be deleted and replaced by “commission.”

(ii) The term “DOT” shall be deleted and replaced by “commission.”

(iii) The word “Department” shall be deleted and replaced by “commission.”

(99) 49 C.F.R. 40.361 through 49 C.F.R. 40.413 shall be deleted.

(100) In the title and the first sentence of Appendix H to Part 40, the terms “DOT” and “DOT agency” shall be deleted and replaced by “commission.”

(B) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2008 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2008 Supp. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009.)

**82-4-3c. Testing for controlled substances and alcohol use.** (a) With the following exceptions, 49 C.F.R. Pot 382, as in effect on October 1, 2007, is hereby adopted by reference:

(1) The following revisions shall be made to 49 C.F.R. 382.103:

(A) In paragraph (a), the phrase “any State” shall be deleted and replaced by “the state of Kansas.”

(B) In paragraph (a)(2), the word “or” shall be deleted.

(C) Following paragraph (a)(3), delete the period, add a semicolon, and insert the following: “or (4) the Kansas uniform commercial drivers’ license act, found at K.S.A. 8-2,126 et seq.”

(D) In paragraph (c), the phrase “Sec. 390.3(f) of this subchapter” shall be replaced by “49 C.F.R. 390.3(f), as adopted by KA 82-4-3f.”

(E) Paragraph (d)(1) shall be deleted.

(F) Paragraph (d)(2) shall be deleted and replaced by the following: “(2) Operating vehicles exempted from the Kansas uniform commercial drivers’ license act by K.S.A. 8-2,127.”

(G) 49 C.F.R. 382.103(d)(3) shall be deleted.

(2) In 49 C.F.R. 382.105, the phrase “part 40 of this title” shall be deleted and replaced by “49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f, and 49 C.F.R. 40.3, as adopted by K.A.R. 82-4-3b.”

(3) The following revisions shall be made to 49 C.F.R. 382.107:

(A) In the first paragraph, the phrase “Secs. 386.2 and 390.5 of this subchapter, and Sec. 40.3 of this title” shall be deleted and replaced by “49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f, and 49 C.F.R. 40.3, as adopted by K.A.R. 82-4-3b.”

(B) The definition of “commerce” shall be deleted and replaced by the following:

“‘Commerce’ means any trade, traffic or transportation within the jurisdiction of the state of Kansas, and any trade, traffic and transportation which affects any trade, traffic and transportation within the jurisdiction of the state of Kansas.”

(C) The phrase “as adopted by K.A.R. 82-4-30” shall be inserted after the phrase “(49 C.F.R. part 172, subpart F)” in the definition of commercial motor vehicle.

(D) In the definition of “consortium/third party administrator,” the phrase “DOT-regulated employers” shall be deleted and replaced by the phrase “Kansas-regulated or USDOT-regulated employers.” The phrase “DOT drug and alcohol testing programs” shall be deleted and replaced by “Kansas or USDOT drug and alcohol testing programs.”

(E) In the definition of “controlled substances,” the phrase “Sec. 40.85 of this title” shall be deleted and replaced by “49 C.F.R. 40.85, as adopted by K.A.R. 82-4-3b.”

(F) The definition of “DOT agency” shall be deleted and replaced by the following: “‘USDOT agency’ means an agency of the United States department of transportation administering regulations requiring alcohol or drug testing or both in accordance with 49 C.F.R. Part 40, as adopted by K.A.R. 82-4-3b.”

(G) The following revisions shall be made to the definition of “employer”:

(i) The phrase “DOT agency regulations” shall be deleted and replaced by “Kansas or USDOT agency regulations.”

(ii) The phrase “DOT drug and alcohol program requirements” shall be deleted and replaced by “Kansas or USDOT drug and alcohol program requirements.”

(iii) The phrase “DOT agency regulationsd” shall be deleted and replaced by “Kansas or USDOT agency regulations.”

(H) The following revisions shall be made to the definition of “refusal to submit”:

(i) The phrase “DOT agency regulations” shall be deleted and replaced by “Kansas and USDOT agency regulations.”

(ii) In paragraph (1), the phrase “Sec. 40.61(a) of this title” shall be deleted and replaced by “49 C.F.R. 40.61(a), as adopted by K.A.R. 82-4-3b.”

(iii) In paragraphs (2) and (3), the phrase “Sec. 40.63(c) of this title” shall be deleted and replaced by “49 C.F.R. 40.63(c), as adopted by K.A.R. 82-4-3b.”

(iv) In paragraph (4), the phrase “Secs. 40.67(l) and 40.69(g) of this title” shall be deleted and replaced by “49 C.F.R. 40.67(l) and 40.69(g), as adopted by K.A.R. 82-4-3b.”

(v) In paragraph (5), the phrase “Sec. 40.193(d)(2) of this title” shall be deleted and replaced by “49 C.F.R. 40.193(d)(2), as adopted by K.A.R. 82-4-3b.”

(vi) In paragraph (7), the phrase “Sec. 40.193(d) of this title” shall be deleted and replaced by “49 C.F.R. 40-193(d), as adopted by K.A.R. 82-4-3b.”

(I) The following revisions shall be made to the definition of “safety-sensitive function”:

(i) The phrase “Secs. 392.7 and 392.8 of this subchapter” shall be deleted and replaced by “49 C.F.R. 392.7 and 392.8, as adopted by K.A.R. 82-4-3h.”

(ii) The phrase “Sec. 393.76 of this subchapter” shall be deleted and replaced by “49 C.F.R. 393.76, as adopted by K.A.R. 82-4-3i.”

(4) 49 C.F.R. 382.109 shall be deleted.

(5) In 49 C.F.R. 382.117, the phrase “49 CFR part 40, Subpart R” shall be deleted and replaced by “49 C.F.R. Part 40, Subpart R, as adopted by K.A.R. 82-4-3b.”

(6) The following revisions shall be made to 49 C.F.R. 382.119:

(A) The phrase “Federal Motor Carrier Safety Administration” shall be deleted and replaced by “transportation division of the corporation commission.”

(B) The phrase “as adopted by K.A.R. 82-4-3b” shall be inserted after the phrase “49 CFR 40.21.”

(C) The last sentence of paragraph (b) shall be deleted and replaced by the following: “The employer shall send a written request, which shall include all of the information required by that section to the Director of the Transportation Division, Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, KS 66604.”

(D) In paragraph (c) and (d), the phrase “Administrator or the Administrator’s designee” shall be deleted and replaced by “director of the transportation division of the Kansas corporation commission.”

(E) Paragraph (e) shall be deleted.

(7) In 49 C.F.R. 382.12(a), the phrase “part 40 of this title” shall be deleted and replaced by “49 C.F.R. Part 40, as adopted by 82-4-3b.”

(8) The following revisions shall be made to 49 C.F.R. 382.301:

(A) In paragraph (b)(3), the phrase “DOT agency” shall be deleted and replaced by “state or USDOT agency.”

(B) In paragraphs (c)(1)(iii) and (c)(2), the phrase “part 40 of this title” shall be deleted and replaced by “49 C.F.R. Part 40, as adopted by K.A.R. 82-4-3b.”

(C) In paragraph (d)(4), the phrase “49 CFR Part 40 of this title” shall be deleted and replaced by “49 C.F.R. Part 40, as adopted by K.A.R. 82-4-3b.”

(9) The following revisions shall be made to 49 C.F.R. 382.202(h)(3):

(A) The phrase “(as defined in Sec. 571.3 of this title)” shall be deleted.

(B) the phrase “Sec. 177.823 of this title” shall be deleted and replaced by “49 C.F.R. 177.823, as adopted by K.A.R. 82-4-20.”

(10) The following revisions shall be made to C.F.R. 382.305:

(A) Paragraphs (c), (d), (e), (f), (g), (h), and (n) shall be deleted.

(B) In paragraph (o), the phrase “DOT agency” shall be deleted and replaced by “USDOT or state agency.”

(11) In 49 C.F.R. 382.309, 382.311, and 382.605, the phrase “49 CFR part 40, Subpart O” shall be deleted and replaced by “49 C.F.R. Part 40, Subpart O, as adopted by K.A.R. 82-4-3b.”

(12) In 49 C.F.R. 382.503 and 382.601(b)(9), the phrase “part 40, subpart O, of this title” shall be deleted and replaced by “49 C.F.R. Part 40, Subpart O, as adopted by K.A.R. 82-4-3b.”

(13) The following revisions shall be made to 49 C.F.R. 382.401:

(A) In paragraph (b)(3), the phrase “part 40 of this title” shall be deleted and replaced by “49 C.F.R. Part 40, as adopted by K.A.R. 82-4-3b.”

(B) In paragraph (c)(2)(iii), the phrase “part 40, subpart G, of this title” shall be deleted and replaced by “49 C.F.R. Part 40, as adopted by K.A.R. 82-4-3b.”

(C) In paragraph (c)(5)(iv), the phrase “Sec. 40.213(a)” shall be deleted and replaced by “49 C.F.R. 40.213(a), as adopted by K.A.R. 82-4-3b.”

(D) In paragraph (c)(6)(iii), the phrase “Sec. 40.111(a)” shall be deleted and replaced by “49 C.F.R. 40.111(a), as adopted by K.A.R. 82-4-3b.”

(E) The following revisions shall be made to paragraph (d):

(i) The phrase “390.31 of this subchapter” shall be deleted and replaced by “49 C.F.R. 390.31, as adopted by K.A.R. 82-4-3f.”

(ii) The phrase “Federal Motor Carrier Safety Administration” shall be deleted and replaced by “transportation division of the Kansas corporation commission.”

(F) Paragraph (e) shall be deleted.

(14) 49 C.F.R. 382.403 shall be revised as follows:

(A) In paragraph (a), the words “the Secretary of Transportation, any DOT agency, or” shall be deleted.

(B) The following changes shall be made to paragraph (b):

(i) The terms “Federal Motor Carrier Safety Administration” and “FMCSA” shall be deleted and replaced by “transportation division of the Kansas corporation commission.”

(ii) The phrase “sec. 40.26” shall be deleted and replaced by “49 C.F.R. 40.26, as adopted by K.A.R. 82-4-3b.”

(iii) The phrase “part 40” shall be deleted and replaced by “49 C.F.R. Part 40, as adopted by K.A.R. 82-4-3b.”

(iv) The term “DOT” shall be deleted and replaced by “Kansas Corporation Commission or the USDOT.”

(v) The word “Administrator” shall be deleted and replaced by “Director of the Transportation Division of the Kansas Corporation Commission.”

(C) In paragraph (c), the term “FMCSA” shall be deleted and replaced by “Transportation Division of the Kansas Corporation Commission.”

(D) In paragraph (d), the phrase (state or” shall be inserted before all occurrences of the term “DOT.” The term “DOT” shall be replaced by the term “USDOT.”

(15) The following revisions shall be made to 49 C.F.R. 382.504:

(A) In paragraphs (c) and (d), the words “the Secretary of Transportation, any DOT agency, or” shall be deleted.

(B) In paragraph (e), the phrase “National Transportation Safety Board” shall be deleted and replaced by “commission.”

(C) In paragraph (g), the phrase “state or” shall be added before the phrase “DOT drug.”

(D) In paragraph (g), the phrase “Sec. 40.323(a)(2)” shall be deleted and

replaced by “49 C.F.R. 40.323(a)(2), as adopted by K.A.R. 82-4-3b.

(E) In paragraph (h), the phrase “Sec. 40.321(b) of this title” shall be deleted and replaced by “49 C.F.R. 30.321(b), as adopted by K.A.R. 82-4-3b.”

(16) In 49 C.F.R. 382.407 and 382.409, the phrase “part 40, Subpart G, of this title, shall be deleted and replaced by “49 C.F.R. 40.321(b), as adopted by K.A.R. 82-4-3b.”

(17) In 49 C.F.R. 382.413, the phrase “Sec. 40.25 of this title” shall be deleted and replaced by “49 C.F.R. 40.25, as adopted by K.A.R. 82-4-3b.”

(18) The following revisions shall be made to 49 C.F.R. 382.501:

(A) The phrase “state or” shall be added before the phrase “DOT agency.”

(B) The phrase “part 390 of this subchapter” shall be deleted and replaced by “49 C.F.R. Part 390, as adopted by K.A.R. 82-4-3f.”

(19) 49 C.F.R. 382.507 shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2008 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2008 Supp. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009.)

#### **82-4-3d. Safety fitness procedures.**

(a) With the following exceptions, 49 C.F.R. Part 385, as in effect on October 1, 2009, is hereby adopted by reference:

(1) In 49 C.F.R. 385.1, paragraphs (a) and (b) shall be deleted.

(2) The following revisions shall be made to 49 C.F.R. 385.3:

(A) In paragraph (1) of the definition of “Reviews,” the last sentence shall be deleted.

(B) The definition of “Safety ratings,” including paragraphs (1), (2), (3), and (4), shall be deleted.

(3) The first paragraph of 49 C.F.R. 385.5 shall be deleted and replaced by the following: “In cooperation with the FMCSA, special agents and authorized representatives shall conduct reviews in order to gather the information necessary for the FMCSA to issue a safety rating for a motor carrier. Information gathered shall include information necessary to demonstrate that the motor carrier has adequate safety management controls in place which comply with the applicable safety requirements in order to reduce the risks associated with:”.

(4) The first paragraph of 49 C.F.R. 385.7 shall be deleted and replaced by the following: “In cooperation with the FMCSA, special agents and authorized representatives shall conduct reviews in order to gather the information necessary for the FMCSA to determine and issue an appropriate safety rating for a motor carrier. Information gathered shall be information the FMCSA may consider in assessing a safety rating, including:”.

(5) 49 C.F.R. 385.9 through 49 C.F.R. 385.19 shall be deleted.

(6) 49 C.F.R. 385.101 through 49 C.F.R. 385.119 shall be deleted.

(7) In 49 C.F.R. 385.301(c), the last sentence shall be deleted.

(8) In 49 C.F.R. 385.331, the phrase “K.S.A. 66-1,129a, and K.S.A. 66-1,142b” shall be added after each occurrence of the phrase “49 U.S.C. 521(b)(2)(A).”

(9) In 49 C.F.R. 385.333, the phrase “or the commission in cooperation with the FMCSA” shall be added after each occurrence of the phrase “The FMCSA.”

(10) In 49 C.F.R. 385.335, the phrase “FMCSA” shall be deleted and replaced by “the commission.”

(11) In 49 C.F.R. 385.337, the phrase “or the commission in cooperation with the FMCSA” shall be added after the phrase “The FMCSA.”

(12) The following changes shall be made to 49 C.F.R. 385.402:

(A) The phrase “§171.8 of this title” shall be deleted and replaced by “49 C.F.R. 171.8 as adopted by K.A.R. 82-4-20.”

(B) The phrase “§172.101 of this title” shall be deleted and replaced by “49 C.F.R. 172.101 as adopted by K.A.R. 82-4-20.”

(C) The term “FMCSA” shall be deleted and replaced by “the commission.”

(13) The following shall be inserted after the last sentence in 49 C.F.R. 385.405(b): “All Kansas-based interstate motor carriers and all Kansas intrastate motor carriers transporting hazardous materials are required to obtain a hazardous materials safety permit from the FMCSA and are subject to FMCSA jurisdiction for hazardous materials safety requirements as set forth in 49 C.F.R. 385.401 through 382.423, and in 49 C.F.R. Parts 171, 172, 173, 177, 178 and 180, as adopted by K.A.R. 82-4-20.”

(14) 49 C.F.R. 385.407 through 49 C.F.R. 385.411 shall be deleted.

(15) 49 C.F.R. 385.415 through 49 C.F.R. 385.717, including appendix A, shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g, K.S.A. 2009 Supp. 66-1,129; implementing K.S.A. 2009 Supp. 66-1,112,

K.S.A. 66-1,112g, K.S.A. 2009 Supp. 66-1,129, and K.S.A. 2009 Supp. 66-1,142a; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Oct. 22, 2010.)

**82-4-3e.** (Authorized by and implementing K.S.A. 2003 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2003 Supp. 66-1,129, as amended by L. 2004, Ch. 152, § 7; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; revoked Oct. 2, 2009.)

**82-4-3f. General motor carrier safety regulations.** (a) With the following exceptions, 49 C.F.R. Part 390, as in effect on October 1, 2009, is hereby adopted by reference:

(1) The following revisions shall be made to 49 C.F.R. 390.3:

(A) In paragraph (a), the phrase “or intrastate” shall be added after the word “interstate.”

(B) In paragraph (e)(1), the phrase “all regulations contained in this subchapter” shall be deleted and replaced by “K.A.R. 82-4-3a through K.A.R. 82-4-3o, and K.A.R. 82-4-20.”

(C) In paragraph (e)(2), the phrase “all applicable regulations contained in this subchapter” shall be deleted and replaced by “K.A.R. 82-4-3a through K.A.R. 82-4-3o, and K.A.R. 82-4-20.”

(D) Paragraph (g)(1) shall be deleted and replaced with the following: “(1) 49 C.F.R. Part 385, subparts A and E, as adopted by K.A.R. 82-4-3d, for carriers subject to the requirements of 49 C.F.R. 385.403, as adopted by K.A.R. 82-4-3d.”

(E) Paragraph (g)(4) shall be deleted.

(2) The following revisions shall be made to 49 C.F.R. 390.5:

(A) The following definitions shall be deleted:

- (i) Conviction;
- (ii) driveaway-towaway operation;
- (iii) exempt motor carrier;
- (iv) hazardous waste;
- (v) operator;
- (vi) other terms;
- (vii) school bus;
- (viii) school bus operation;
- (ix) secretary;
- (x) state; and
- (xi) United States.

(B) In the definition of “commercial motor vehicle,” the phrase “or intrastate” shall be inserted following the term “interstate.”

(C) In the definition of “exempt intracity zone,” the following text shall be deleted: “of a municipality or the commercial zone of that municipality described in appendix F to subchapter B of this chapter. The term ‘exempt intracity zone’ does not include any municipality or commercial zone in the State of Hawaii.” The deleted text shall be replaced by the following: “described in section 8 of appendix F to Title 49, Chapter III, Subchapter B, as in effect on October 1, 2007, and hereby adopted by reference.”

(D) The definition of “for hire motor carrier” shall be deleted and replaced by the following: “For purposes of this regulation, ‘for-hire motor carrier’ shall have the same meaning as ‘public motor carrier of household goods,’ ‘public motor carrier of passengers,’ or ‘public motor carrier of property,’ as defined in K.S.A. 66-1,108 and amendments thereto.”

(E) The definition of “gross combination weight rating (GCWR)” shall be deleted and replaced by the following:

“Gross combination weight rating (GCWR)’ shall have the same meaning as defined in K.S.A. 66-1,108 and amendments thereto.”

(F) The definition of “gross vehicle weight rating (GVWR)” shall be deleted and replaced by the following: “Gross vehicle weight rating (GVWR)’ shall have the same meaning as defined in K.S.A. 66-1,108 and amendments thereto.”

(G) In the definition of “Hazardous material,” the phrase “United States” shall be inserted immediately before the phrase “Secretary of Transportation.”

(H) The following changes shall be made in the definition of “hazardous substance”:

(i) Both instances of the phrase “Section 172.101” shall be deleted and replaced by “49 C.F.R. 172.101.”

(ii) The first instance of the phrase “of this title” shall be deleted and replaced by “as adopted by K.A.R. 82-4-20.”

(iii) The phrase “Section 171.8 of this title” shall be deleted and replaced by “49 C.F.R. 171.8, as adopted by K.A.R. 82-4-20.”

(I) The definition of “highway” shall be deleted and replaced by the following: “Highway’ shall have the same meaning as ‘public highway,’ as defined by K.S.A. 66-1,108 and amendments thereto.”

(J) The definition of “motor carrier” shall be deleted and replaced by the following: “Motor carrier’ shall have the same meaning as defined in K.S.A. 66-1,108 and amendments thereto.”

(K) The definition of “motor vehicle” shall be deleted and replaced by the following: “Motor vehicle’ shall have the same meaning as defined in K.S.A. 66-1,108 and amendments thereto.”

(L) The definition of “out of service order” shall be deleted.

(M) The definition of “person” shall be deleted and replaced by the following: “Person’ shall have the same meaning as defined in K.S.A. 66-1,108 and amendments thereto.”

(N) The following revisions shall be made to the definition of “principal place of business”:

(i) The phrase “parts 382, 387, 390, 391, 395, 396, and 397 of this subchapter” shall be deleted and replaced by “K.A.R. 82-4-3a, K.A.R. 82-4-3c, K.A.R. 82-4-3f, K.A.R. 82-4-3g, K.A.R. 82-4-3j, K.A.R. 83-4-3k, and K.A.R. 82-4-3n.”

(ii) The first instance of the term “Federal” shall be deleted.

(iii) The phrase “of the Federal Motor Carrier Safety Administration” shall be deleted.

(O) The following sentence shall be inserted before the definition of “radar detector”:

“Private motor carrier of passengers’ shall have the same meaning as defined in K.S.A. 66-1,108 and amendments thereto.”

(P) The definition of “Special agent” shall be deleted and replaced by the following: “Special agent or authorized representative means an authorized representative of the commission, and members of the highway patrol or any other law enforcement officers in the state who have been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.”

(3) 49 C.F.R. 390.7 and 49 C.F.R. 390.9 shall be deleted.

(4) In 49 C.F.R. 390.11, the phrase “part 325 of subchapter A or in this subchapter” shall be deleted and replaced by “K.A.R. 82-4-3a through K.A.R. 82-4-3o, and K.A.R. 82-4-20.”

(5) In 49 C.F.R. 390.13, the phrase “violate the rules of this chapter” shall be deleted and replaced by “operate in Kansas in a manner which violates any order, decision, or regulation of the commission.”

(6) The following revisions shall be made to 49 C.F.R. 390.15:

(A) In paragraph (a)(1), the phrase “of the Federal Motor Carrier Safety Administration, an authorized State or local enforcement agency representative or authorized third party representative” shall be deleted.

(B) In paragraph (b)(1), the phrase “Section 390.5 of this chapter” shall be deleted and replaced by “49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f.”

(7) The following revisions shall be made to 49 C.F.R. 390.19:

(A) In paragraph (a)(1), the phrase “interstate commerce” shall be deleted and replaced by “Kansas.”

(B) In paragraph (a)(2), the phrase “as adopted by K.A.R. 82-4-3d,” shall be inserted following “49 C.F.R. part 385, subpart E.” The phrase “of this chapter” shall be deleted.

(C) Paragraph (b) shall be deleted and replaced by the following: “The Form MCS-150 shall contain the following information:

“(1) The USDOT number assigned to the carrier;

“(2) the legal name of the motor carrier;

“(3) the trade or ‘doing business as’ name of the motor carrier, if applicable;

“(4) the street address of the motor carrier, including city, state, and zip code;

“(5) the mailing address of the motor carrier, including city, state, and zip code;

“(6) the motor carrier’s principal telephone number and facsimile number;

“(7) whether the motor carrier conducts intrastate only carriage of hazardous materials or intrastate carriage of non-hazardous materials;

“(8) the motor carrier’s mileage, rounded to the nearest 10,000, for the last calendar year;

“(9) the type of operations the motor carrier conducts;

“(10) the classification of cargo that the motor carrier transports;

“(11) the hazardous materials transported by the motor carrier;

“(12) the type of equipment owned or leased or both for transporting property or passengers;

“(13) the number of drivers that operate within a 100-mile radius of the carrier’s principal place of business;

“(14) the number of drivers that operate outside a 100-mile radius of the carrier’s principal place of business;

“(15) the number of drivers with commercial drivers’ licenses;

“(16) the total number of drivers; and

“(17) for Kansas-based, intrastate carriers, a signed and dated statement with the signatory’s printed name and title, certifying that the signatory is familiar with the commission’s safety regulations and that the information contained in the report is accurate.”

(D) In paragraph (d), the term “agency’s” shall be deleted and replaced by “FMCSA’s.” The following sentence shall be inserted after the last sentence in paragraph (d): “Kansas-based motor carriers may file the completed Form MCS-150 online at [fmcsa.dot.gov](http://fmcsa.dot.gov) or with the Kansas Corporation Commission at 1500

S.W. Arrowhead Road, Topeka, Kansas 66604.”

(E) In paragraph (g), the words “the penalties prescribed in 49 U.S.C. 521(b)(2)(B)” shall be deleted and replaced by “civil penalties as provided in K.S.A. 66-1,142b.”

(F) Paragraph (h) shall be deleted.

(G) Paragraph (i) shall be deleted and replaced by the following: “Kansas-based motor carriers that register vehicles with the Commission and the Kansas Trucking Connection ([www.truckingks.org](http://www.truckingks.org)) are exempt from the requirements of this section, provided the carriers file all required information with the Commission and update the MCS-150 information annually.”

(8) The following revisions shall be made to 49 C.F.R. 390.21:

(A) In paragraph (a), the words “subject to subchapter B of this chapter must” shall be deleted and replaced by “required to be marked pursuant to K.A.R. 82-4-8h shall.”

(B) Paragraph (e)(2)(iii)(C) shall be deleted and replaced by the following: “A statement that the lessor cooperates with all relevant special agents and authorized representatives to provide the identity of customers who operate the rental commercial motor vehicles; and.”

(C) The last sentence of paragraph (e)(2)(iv) shall be deleted.

(D) In paragraph (g)(1), the phrase “§390.5” shall be deleted and replaced by “49 C.F.R. 390.5.”

(9) The following changes shall be made to 49 C.F.R. 390.23:

(A) In paragraphs (a), (a)(1)(B), and (a)(2)(B), the phrase “Parts 390 through 399 of this chapter” shall be deleted and

replaced by “K.A.R. 82-4-3a, and K.A.R. 82-4-3f through K.A.R. 82-4-3o.”

(B) In paragraph (b), both instances of the phrase “parts 390 through 399 of this chapter” shall be deleted and replaced by “K.A.R. 82-4-3a, and K.A.R. 82-4-3f through K.A.R. 82-4-3o.”

(C) In paragraph (c)(1), the phrase “Secs. 395.3(a) and 395.5(a) of this chapter” shall be deleted and replaced by “49 C.F.R. 395.3(a) and 49 C.F.R. 395.5(a), as adopted by K.A.R. 82-4-3c.”

(10) 49 C.F.R. 390.27 shall be deleted.

(11) The following revisions shall be made to 49 C.F.R. 390.29:

(A) In paragraph (a), the phrase “this subchapter” shall be deleted and replaced by “K.A.R. 82-4-3a through K.A.R. 82-4-3o, and K.A.R. 82-4-20.”

(B) The following revisions shall be made to paragraph (b):

(i) The phrase “of the Federal Motor Carrier Safety Administration” shall be deleted.

(ii) The word “Federal” appearing in the last sentence shall be deleted.

(12) In 49 C.F.R. 390.33, the phrase “this subchapter and part 325 of subchapter A” shall be deleted and replaced by “K.A.R. 82-4-3a through K.A.R. 82-4-3o, and K.A.R. 82-4-20.”

(13) The following revisions shall be made to 49 C.F.R. 390.35:

(A) In paragraph (a), the phrase “by part 325 of subchapter A or this subchapter” shall be deleted and replaced by “K.A.R. 82-4-3a through K.A.R. 82-4-3o, and K.A.R. 82-4-20.”

(B) In paragraphs (b) and (c), the phrase “this subchapter or part 325 of subchapter A” shall be deleted and replaced

by “K.A.R. 82-4-3a through K.A.R. 82-4-3o, and K.A.R. 82-4-20.”

(14) 49 C.F.R. 390.37 shall be deleted.

(15) In 49 C.F.R. 390.40(j), the phrase “as defined in § 386.72(b)(1) of this chapter” shall be deleted and replaced with “as defined in K.A.R. 82-4-3o.”

(16) The following revisions shall be made to 49 C.F.R. 390.42:

(A) In paragraph (a), the phrase “listed in §392.7(b) of this subchapter” shall be deleted and replaced by “specified in K.A.R. 82-4-3h.”

(B) In paragraph (b), the phrase “in §396.11(a)(2) of this chapter” shall be deleted and replaced by “required by K.A.R. 82-4-3j.”

(17) The following revisions shall be made to 49 C.F.R. 390.44:

(A) The following revisions shall be made to paragraph (a):

(i) The phrase “listed in §392.7(b) of this subchapter” shall be deleted and replaced by “specified in K.A.R. 82-4-3h.”

(ii) The phrase “pursuant to §392.7(b)” shall be deleted and replaced by “K.A.R. 82-4-3h.”

(B) The following revisions shall be made to paragraph (b):

(i) The phrase “listed in §392.7(b) of this subchapter” shall be deleted and replaced by “adopted and specified in K.A.R. 82-4-3h.”

(ii) The phrase “with §392.7(b)” shall be deleted and replaced by “with K.A.R. 82-4-3h.”

(C) The following revisions shall be made to paragraph (c):

(i) The term “FMCSA” shall be deleted and replaced by “the commission.”

(ii) The phrase “under 49 U.S.C. 31151 or the implementing regulations in this subchapter regarding interchange of intermodal equipment by contacting the appropriate FMCSA Field Office” shall be deleted and replaced by “adopted in this subchapter by filing a written complaint with the commission by: fax –785-271-3124; email: [trucking\\_complaint\\_questions@kcc.ks.gov](mailto:trucking_complaint_questions@kcc.ks.gov); or by mail addressed to: 1500 SW Arrowhead Rd, Topeka, KS 66604-3124. The commission may also be contacted by phone number: 785.271.3145, select option one.”

(18) 49 C.F.R. 390.46 shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2010 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2010 Supp. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Oct. 8, 2010; amended Nov. 14, 2011.)

#### **82-4-3g. Qualifications of drivers.**

(a) With the following exceptions, 49 C.F.R. Part 391, as in effect on October 1, 2009, is hereby adopted by reference:

(1) In 49 C.F.R. 391.2(c), the phrase “Sec. 390.5” shall be deleted and replaced by “49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f.”

(2) 49 C.F.R. 391.11(b)(1) shall apply only to commercial motor vehicle operations in interstate commerce.

(3) In 49 C.F.R. 391.13, the phrase “Sec. 392.9(a) and Sec. 393.9 of this subchapter” shall be deleted and replaced by

“49 C.F.R. 392.9(a), as adopted by K.A.R. 82-4-3h, and 49 C.F.R. 393.9, as adopted by K.A.R. 82-4-3i.”

(4) The following revisions shall be made to 49 C.F.R. 391.15:

(A) In paragraphs (c)(1)(i) and (c)(2)(iii), the phrase “Sec. 395.2 of this subchapter” shall be deleted and replaced by “49 C.F.R. 395.2(a), as adopted by K.A.R. 82-4-3a.”

(B) In paragraph (c)(2)(i)(C), the phrase “Sec. 392.5(a)(2)” shall be deleted and replaced by “49 C.F.R. 392.5(a)(2), as adopted by K.A.R. 82-4-3h.”

(C) In paragraphs (c)(2)(ii) and (iii), the phrase “as adopted by K.A.R. 82-4-3h(b)” shall be added after the phrase “21 C.F.R. 1308.11 Schedule I.”

(5) In 49 C.F.R. 391.21(b)(11), the phrase “as defined by Part 383 of this subchapter” shall be deleted.

(6) The following changes shall be made to 49 C.F.R. 391.23:

(A) In paragraph (a)(2), (h)(i)(1) and (h)(iii)(2), the term “U.S.” shall be inserted before the phrase “Department of Transportation.” The phrase “or commission” shall be inserted after the phrase “Department of Transportation.”

(B) Paragraph (c)(3) shall be deleted and replaced by the following: “Prospective employers shall submit a report noting any failure of a previous employer to respond to an inquiry into a driver’s safety performance history to the commission.

“(A) Reports shall be addressed to the Director, Transportation Division, Kansas Corporation Commission, 1500 SW Arrowhead Road, Topeka, KS 66604.

“(B) Reports shall be submitted to the commission within 90 days after the inquiry was submitted to the previous employer.

“(C) Reports must be signed by the prospective employer submitting the report and must include the following information:

“(i) The name, address, and telephone number of the person who files the report;

“(ii) The name and address of the previous employer who has failed to respond to the inquiry into a driver’s safety performance history;

“(iii) A concise but complete statement of the facts, including the date the inquiry was sent to the previous employer, the method by which the inquiry was sent, and the dates of any follow-up communications with the previous employer.”

(C) In paragraphs (c)(4), (e), and (g)(1), the term “U.S.” shall be inserted before the term “DOT” and the phrase “or commission” shall be inserted after the term “DOT.”

(D) In paragraph (d)(2), the phrase “Sec. 390.15(b)(1) of this chapter” shall be deleted and replaced by “49 C.F.R. 390.15(b)(1), as adopted by K.A.R. 82-4-3f.”

(E) In paragraph (d)(2)(i), the phrase “Sec. 390.5 of this chapter” shall be deleted and replaced by “49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f.”

(F) In paragraph (d)(2)(ii), the phrase “Sec. 390.15(b)(2)” shall be deleted and replaced by “49 C.F.R. 390.15(b)(2), as adopted by K.A.R. 82-4-3f.”

(G) In paragraph (e), the phrase “, as adopted by K.A.R. 82-4-3b” shall be added at the end of the last sentence.

(H) In paragraph (e)(1), the phrase “part 382 of this subchapter” shall be deleted and replaced by “49 C.F.R. part 382, as adopted by K.A.R. 82-4-3c.” The phrase “, as adopted by K.A.R. 82-4-3b” shall be inserted at the end of the last sentence.

(I) In paragraph (e)(2), the phrase “Sec. 382.605 of this subpart” shall be deleted and replaced by “49 C.F.R. 382.605, as adopted by K.A.R. 82-4-3c.” The phrase “part 40, subpart 0” shall be deleted and replaced by “40.281 through 49 C.F.R. 40.313, as adopted by K.A.R. 82-4-3b.”

(J) In paragraph (f), the term “Sec. 40.321(b)” shall be deleted and replaced by “49 C.F.R. 40.321(b), as adopted by K.A.R. 82-4-3b.”

(K) In paragraph (j)(6), the following changes shall be made:

(i) In the first sentence, the comma following the phrase “safety performance information” shall be deleted, and the following text shall be inserted at the end of the first sentence: “if the previous employer is an interstate motor carrier, the driver may submit a complaint.”

(ii) The term “Sec. 386.12” shall be deleted and replaced with “49 C.F.R. 386.12.”

(iii) The following sentence shall be inserted at the end of the paragraph: “If the motor carrier is a Kansas-based interstate motor carrier, or an intrastate motor carrier, the driver may submit such report in writing to Director, Transportation Division, Kansas Corporation Commission, 1500 SW Arrowhead Road, Topeka, KS 66604.”

(7) In 49 C.F.R. 391.25(b)(1), the phrase “Federal Motor Carrier Safety Regulations in this subchapter or hazardous materials regulations (49 CFR chapter 1, subchapter C)” shall be deleted and replaced by “commission motor carrier safety regulations as adopted by K.A.R. 82-4-20.”

(8) The following revisions shall be made to 49 C.F.R. 391.27:

(A) In paragraph (c), the words “be prescribed by the motor carrier. The following form may be used to comply with

this section” shall be deleted and replaced by “read substantially as follows.”

(B) Paragraph (e) shall be deleted.

(9) In 49 C.F.R. 391.33(a)(1), the phrase “Sec. 383.5 of this subchapter” shall be deleted and replaced by “K.S.A. 8-234b.”

(10) The following revisions shall be made to 49 C.F.R. 391.41:

(A) The paragraph that appears between paragraphs (a) and (b) shall be deleted.

(B) In paragraph (b)(11), the clause “when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5 1951” shall be deleted.

(C) In paragraph (b)(12)(i), the phrase “as adopted by K.A.R. 82-4-3h” shall be added after the phrase “21 C.F.R. 1308.11 Schedule I.”

(11) The following changes shall be made to 49 C.F.R. 391.43:

(A) In paragraph (a), the phrase “licensed medical examiner as defined in Sec. 390.5 of this subchapter” shall be deleted and replaced by “licensed medical practitioner, as defined by K.A.R. 82-4-1.”

(B) In paragraph (b), the phrase “licensed optometrist” shall be deleted and replaced by “licensed medical practitioner, as defined by K.A.R. 82-4-1.”

(C) The last sentence of paragraph (f) shall be deleted.

(D) In the portion titled “Extremities” in paragraph (f), the words “Field Service Center of the FMCSA, for the State in which the driver has legal residence” shall be deleted and replaced by “commission.”

(E) The last sentence of paragraph (h) shall be deleted.

(F) The editorial note found after paragraph (h) shall be deleted.

(12) The following revisions shall be made to 49 C.F.R. 391.47:

(A) Paragraph (b)(8) shall be deleted.

(B) In paragraph (b)(9), the words “or intrastate” shall be inserted following the word “interstate.”

(C) In paragraphs (c) and (d), the phrase “Director, Office of the Bus and Truck Standards and Operations (MC-PSD)” shall be deleted and replaced by the phrase “director of the commission’s transportation division.”

(D) The last two sentences of paragraph (e) shall be deleted and replaced by the following sentence: “Petitions shall be filed in accordance with K.A.R. 82-1-225 and K.S.A. 77-601 et seq.”

(E) In paragraph (f), the first two occurrences of the phrase “Director, Office of the Bus and Truck Standards and Operations (MC-PSD)” shall be deleted and replaced by the phrase “director of the commission’s transportation division.” The clause “or until the Director, Office of Bus and Truck Standards and Operations (MC-PSD) orders otherwise” shall be deleted.

(13) The following revisions shall be made to 49 C.F.R. 391.49:

(A) The phrase “Division Administrator, FMCSA” in paragraph (a) and the phrase “State Director, FMCSA” in paragraphs (g), (h), (j)(1), and (k) shall be deleted and replaced by “director of the commission’s transportation division.”

(B) The remainder of paragraph (b)(2) after “The application must be addressed to” shall be deleted and replaced by “: Director of the Transportation Division, Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, KS 66604.”

(C) In paragraph (b)(3), the words “field service center, FMCSA, for the state in which the driver has legal residence”

shall be deleted and replaced by “director of the commission’s transportation division at the address provided in paragraph (b)(2).”

(D) Paragraph (c)(2)(i) shall be deleted.

(E) The phrase “Medical Program Specialist, FMCSA service center” in paragraph (e)(1), the words “Medical Program Specialist, FMCSA for the State in which the carrier’s principal place of business is located” in paragraph (e)(1)(i), and the words “Medical Program Specialist, FMCSA service center, for the State in which the driver has legal residence” in paragraph (e)(1)(ii) shall be deleted and replaced by “director of the transportation division of the commission.”

(F) In paragraph (i), the words between “submitted to the” and “The SPE certificate renewal application” shall be deleted and replaced by “director of the transportation division of the commission.”

(G) The following revisions shall be made to paragraph (j)(2):

(i) The words “State Director, FMCSA, for the State where the driver applicant has legal residence” shall be deleted and replaced by “director of the transportation division of the commission.”

(ii) The phrase “the following form” shall be deleted and replaced by “a form substantially similar to the following.”

(iii) The phrase “subchapter B of the Federal Motor Carrier Safety Regulations” shall be deleted and replaced by the phrase “as adopted by K.A.R. 82-4-3g.”

(iv) The term “FMCSRs” shall be deleted and replaced by “commission’s regulations regarding motor carrier safety.”

(14) The following revisions shall be made to 49 C.F.R. 391.51(b)(8):

(A) The phrase “Field Administrator, Division Administrator, or

State Director” shall be deleted and replaced by “the director of the transportation division of the commission.”

(B) The phrase “or under K.A.R. 82-4-6d” shall be added at the end of the paragraph.

(15) In 49 C.F.R. 391.55, the clause “, which are hereby adopted by reference” shall be inserted at the end of paragraph (b)(1).

(16) The following revisions shall be made to 49 C.F.R. 391.62:

(A) In paragraph (c), the phrase “, as adopted by K.A.R. 82-4-3f” shall be added after the phrase “49 C.F.R. 390.5.”

(B) In paragraph (d), the phrase “under regulations issued by the Secretary under 49 U.S.C. chapter 51” shall be deleted and replaced by “under the regulations adopted by K.A.R. 82-4-20.”

(C) In paragraph (e)(1), the phrase “Federal Motor Carrier Safety Regulations” shall be deleted and replaced by “commission’s motor carrier regulations found in Article 4.”

(17) 49 C.F.R. 391.64 shall be revised as follows:

(A) In paragraph (a)(2)(iii), the phrase “an authorized agent of the FMCSA” shall be deleted and replaced by “the director of the transportation division of the commission.”

(B) In paragraphs (a)(2)(v) and (b)(3), the phrase “duly authorized federal, state or local enforcement official” shall be deleted and replaced by the phrase “any authorized representative of the commission, and any member of the Kansas highway patrol or any other law enforcement officer in the state who has been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.”

(18) The form set out in 49 C.F.R. 391.65 shall be revised as follows:

(A) The phrase “as adopted by K.A.R. 82-4-3f” shall be added after the phrase “Sec. 390.5.”

(B) The phrase “Federal Motor Carrier Safety Regulations” shall be deleted and replaced by the phrase “as adopted by K.A.R. 82-4-3g.”

(19) 49 C.F.R. 391.67 shall be deleted.

(20) In 49 C.F.R. 391.68(a), “(b)(1)” shall be deleted.

(21) In 49 C.F.R. 391.69, the phrase “Sec. 390.5 of this subchapter” shall be deleted and replaced by “49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f.” The term “(business)” shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by K.S.A. 2010 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2010 Supp. 66-1,129; implementing K.S.A. 2010 Supp. 66-1,112, K.S.A. 66-1,112g, K.S.A. 2010 Supp. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Nov. 14, 2011.)

**82-4-3h. Driving of commercial motor vehicles.** (a) With the following exceptions, 49 C.F.R. Part 392, as in effect on October 1, 2007, is hereby adopted by reference:

(1) In 49 C.F.R. 392.2, the words after the word “jurisdiction,” including the last sentence of this section, shall be deleted and replaced by “of the state of Kansas.”

(2) 49 C.F.R. 392.4 shall be revised as follows:

(A) Paragraph (a)(1) shall be deleted and replaced by the following: “(1) Any substance listed in schedule I of 21 C.F.R. 1308.11, which is hereby adopted by reference as in effect on April 1, 2007.”

(B) In paragraph (c), the phrase “Sec. 382.107 of this subchapter” shall be deleted and replaced by “49 C.F.R. 382.107, as adopted by K.A.R. 82-4-3c.”

(3) 49 C.F.R. 392.5 shall be revised as follows:

(A) In paragraph (a)(1), the phrase “Sec. 382.107 of this subchapter” shall be deleted and replaced by “49 C.F.R. 382.107, as adopted by K.A.R. 82-4-3c.”

(B) In paragraph (a)(3), the phrase “and hereby adopted by reference as in effect on July 1, 2008” shall be added after the phrase “26 U.S.C. 5052(a).”

(C) In paragraph (a)(3), the phrase “section 5002(a)(8), of such Code” shall be deleted and replaced by “26 U.S.C. 5002(a)(8), hereby adopted by reference as in effect on July 1, 2008.”

(D) In paragraph (d)(2), a period shall be placed after the phrase “affirmation of the order”; the remainder of the paragraph shall be deleted.

(E) Paragraph (e) shall be deleted and replaced by the following: “(e) Any driver who is subject to an out of service order may petition for reconsideration of that order in accordance with K.A.R. 82-1-235 and the provisions of the act for judicial review and civil enforcement of agency actions, found at K.S.A. 77-601 et seq.”

(4) In 49 C.F.R. 392.8, the phrase “Sec. 393.95 of this subchapter” shall be deleted and replaced by “49 C.F.R. 393.95, as adopted by K.A.R. 82-4-3i.”

(5) In 49 C.F.R. 392.9, the phrase “Secs. 393.100 through 393.136 of this subchapter” shall be deleted and replaced by “49 C.F.R. 393.100 through 393.136, as adopted by K.A.R. 82-4-3i.”

(6) 49 C.F.R. 392.9a(b) shall be deleted.

(7) 49 C.F.R. 392.10 shall be revised as follows:

(A) In paragraph (a)(4), the phrase “Parts 107 through 180 of this title” shall be deleted and replaced by “49 C.F.R. 107.105, 107.502, and Parts 171, 172, 173, 177, 178, and 180, as adopted by K.A.R. 82-4-20.”

(B) In paragraph (a)(5), the phrase “Sec. 173.120 of this title” shall be deleted and replaced by “49 C.F.R. 173.120, as adopted by K.A.R. 82-4-20.”

(C) In paragraph (a)(6), the phrase “subpart B of part 107 of this title” shall be deleted and replaced by “49 C.F.R. 107.105, as adopted by K.A.R. 82-4-20.”

(D) In paragraph (b)(1), the phrase “Sec. 390.5 of this chapter” shall be deleted and replaced by “49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f.”

(8) The phrase “Sec 393.95 of this subchapter “ in 49 C.F.R. 392.22(b) shall be deleted and replaced by “49 C.F.R. 393.95, as adopted by K.A.R. 82-4-3i.”

(9) In 49 C.F.R. 393.33, the phrase “subpart B of part 393 of this title” shall be deleted and replaced by “49 C.F.R. 393.9 through 393.33, as adopted by K.A.R. 82-43i.”

(10) The following revisions shall be made to 49 C.F.R. 392.51:

(A) In paragraph (b), the phrase “as adopted by K.A.R. 82-4-20” shall be inserted after the phrase “Parts 171, 172, 173, and 178.”

(B) In paragraph (b), the phrase “hereby incorporated by reference as in effect on July 1, 2008” shall be inserted after the phrase “29 CFR 1910.106.”

(11) 49 C.F.R. 392.62 shall be revised as follows:

(A) In paragraph (a), the phrase “Sec. 393.90 of this subchapter” shall be deleted and replaced by “49 C.F.R. 393.90, as adopted by K.A.R. 82-4-3i.”

(B) In paragraph (b), the phrase “Sec. 393.91 of this subchapter” shall be deleted and replaced by “49 C.F.R. 393.91, as adopted by K.A.R. 82-4-3i.”

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2008 Supp. 66-1,112, K.S.A. 661,112g, and K.S.A. 2008 Supp. 66-1,129; effective, T-82-1229-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009.)

**82-4-3i. Parts and accessories necessary for safe operation.** (a) With the following exceptions, 49 C.F.R. Part 393, as in effect on October 1, 2009, is hereby adopted by reference:

(1) The following revisions shall be made to 49 C.F.R. 393.5:

(A) The following definition shall be added after the definition of “curb weight”: “DOT C-2, DOT C-3, and DOT C-4. These terms shall be defined by figure 29, found in 49 C.F.R. 571.108 as in effect on October 1, 2009, and figure 29 is hereby adopted by reference.”

(B) In the definition of “low chassis vehicle,” the phrase “of Sec. 571.224 in effect on the date of manufacture, or a subsequent edition” shall be deleted and replaced by “found in S5.1.1, S5.1.2, and S5.1.3 of 49 C.F.R. 571.224, as in effect on October 1, 2009, and hereby adopted by reference.”

(C) The definition of “manufactured home” shall be deleted and replaced by the following: “Manufactured home means a structure as defined by K.S.A. 58-4202(a), as in effect April 21, 2005 and amendments thereto, and hereby

adopted by reference. The term shall also include structures that meet the requirements of K.S.A. 58-4202(a) except the size requirements. These structures shall be considered manufactured homes when the manufacturer files with the transportation division a certification that it intends that these structures shall be considered manufactured homes. The manufacturer shall also certify that, if at any time it manufactures structures it does not intend to be manufactured homes, it shall identify those structures by a permanent serial number placed on the structure during the first stage of production and that the series of serial numbers for such structures shall be distinguishable on the structures and in its records from the series of serial numbers used for manufactured homes.”

(D) The following definition shall be added after the definition of “manufactured home”: “Optically combined. This term refers to two or more lights that share the same body and have one lens totally or partially in common.”

(E) The definition for “reflective material” shall be deleted.

(F) In the definition of “special purpose vehicle,” the phrase “of Sec. 571.224 (paragraphs S5.1.1 through S5.1.3), in effect on the date of manufacture or a subsequent edition” shall be deleted and replaced by “found in S5.1.1, S5.1.2, and S 5.1.3 of 49 C.F.R. 571.224, as adopted by reference above.”

(2) 49 C.F.R. 393.7 shall be deleted.

(3) The following revisions shall be made to 49 C.F.R. 393.13:

(A) In paragraph (a), the phrase “Sec. 390.5 of this subchapter” shall be deleted and replaced by “49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f.” The last two sentences of paragraph (a) shall be deleted.

(B) Paragraph (b) shall be deleted and replaced by the following: “(b) Retroreflective sheeting and reflex reflectors. Unless otherwise preempted by federal law, motor carriers shall retrofit their trailers with a conspicuity system that meets the following requirements:

(1) Conspicuity systems. Each trailer not exempted from the commission’s safety regulations found in Article 4 of these regulations shall be equipped with either retroreflective sheeting that meets the requirements of paragraph (B), reflex reflectors that meet the requirements of paragraph (C), or a combination of retroreflective sheeting and reflex reflectors that meets the requirements of paragraph (D).

(2) Retroreflective sheeting.

(A) Construction. Retroreflective sheeting shall consist of a smooth, flat, transparent exterior film with retroreflective elements embedded or suspended beneath the film so as to form a non-exposed retroreflective optical system.

(B) Performance requirements. Retroreflective sheeting shall meet the minimum photometric performance requirements specified in Figure 29 as found in 49 C.F.R. 571.108, and adopted by reference above.

(C) Sheeting pattern. Retroreflective sheeting shall be applied in a pattern of alternating white and red color segments to the sides and rear of each trailer, and to the rear of each truck tractor, and in white to the upper rear corners of each trailer and truck tractor as specified in this paragraph, and, as appropriate, as shown in figures 30-1 through 30-4, or figure 31 found in 49 C.F.R. 571.108. Figures 30-1 through 30-4 and figure 31, as found in 49 C.F.R. 571.108 and as in effect on October 1, 2009, are hereby adopted by reference.

(D) Sheeting length. Except for a segment that is trimmed to clear obstructions or lengthened to provide red sheeting near red lamps, each white or red segment shall have a length of 300 mm plus or minus 150 mm. Neither white nor red sheeting shall represent more than two-thirds of the aggregate of any continuous strip marking the width of a trailer, or any continuous or broken strip marking its length.

(E) Sheeting width. Retroreflective sheeting shall have a width of not less than 50 mm for grade DOT-C2 sheeting, 75 mm for grade DOT-C3 sheeting, or 100 mm for grade DOT-C4 sheeting.

(F) Sheeting retroreflection. The coefficients for retroreflection of each segment of red or white sheeting shall not be less than the minimum values specified in Figure 29 as adopted above for grades DOT-C2, DOT-C3, and DOT-C4.

(G) Location. Retroreflective sheeting shall be applied to each trailer and truck tractor as specified in paragraphs (c) and (d) below, but need not be applied to discontinuous surfaces such as outside ribs, stake post pickets on platform trailers, and external protruding beams, or to items of equipment such as door hinge and lamp bodies on trailers and body joints, stiffening beads, drip rails and rolled surfaces on truck tractors. The edge of white sheeting shall not be located closer than 75 mm to the edge of the luminous lens area of any red or amber lamp that is required by K.A.R. 82-4-3i. The edge of red sheeting shall not be located closer than 75 mm to the edge of the luminous lens area of any amber lamp that is required by K.A.R. 82-4-3i.

(H) Certification. In order to demonstrate that the retroreflective sheeting meets the standards of paragraphs (B)(i) and (ii), the letters DOT-C2, DOT-C3, or DOT-C4, as appropriate, shall appear at least once on the exposed surface of each white or red

segment of reflective sheeting, and at least once every 300 mm on the retroreflective sheeting that is white only. The characters shall not be less than 3 mm high, and shall be permanently stamped, etched, molded, or printed in indelible ink.

(3) Reflex Reflectors. Each trailer or truck tractor to which paragraph (b)(2)(C) applies that does not conform with either paragraph (B) or paragraph (D) shall be equipped with reflex reflectors as set forth in this paragraph.

(A) Visibility of reflector by color.

(i) Red reflex reflector. Each red reflex reflector shall provide, at an observation angle of 0.2 degree, not less than 33 millicandelas per lux at any light entrance angle between 30 degrees left and 30 degrees right, including an entrance angle of 0 degree, and not less than 75 millicandelas per lux at any light entrance angle between 45 degrees left and 45 degrees right.

(ii) White reflex reflector. Each white reflex reflector shall also provide at an observation angle of 0.2 degree, not less than 1,250 millicandelas per lux at any light angle of 0.2 degree, not less than 1,250 millicandelas per lux at any light entrance angle between 30 degrees left and 30 degrees right, including an entrance angle of 0 degree, and not less than 33 millicandelas per lux at any light entrance angle between 45 degrees left and 45 degrees right. A white reflex reflector complying with this paragraph when tested in a horizontal orientation may be installed in all orientations specified for rear upper locations in paragraphs (viii) element 2, and (x), element 2 above if, when tested in a vertical orientation, it provides an observation angle of 0.2 degree not less than 1,680 millicandelas per lux at a light entrance angle of 0 degree, not less than 1,120 millicandelas per lux at any light

entrance angle from 10 degrees down to 10 degrees up, and not less than 560 millicandelas per lux at any light entrance angle from 20 degrees right to 20 degrees left.

(B) Certification. In order to demonstrate that the retroreflective sheeting meets the standards of K.A.R. 82-4-3i, the letters DOT-C shall appear on the exposed surface of each reflex reflector. The letters shall not be less than 3 mm high, and shall be permanently stamped, etched, molded, or printed in indelible ink.

(4) Combination of sheeting and reflectors. Each trailer to which paragraph (b)(1) applies may use a combination of retroreflective materials as long as they are located as specified by paragraphs (c) and (d) below.

(5) In 49 C.F.R. 393.17(c)(1), the phrase "under Sec. 392.30" shall be deleted.

(6) The following revisions shall be made to 49 C.F.R. 393.26: in paragraph (d)(4), the phrase "Sec. 177.823 of this title" shall be deleted and replaced by "49 C.F.R. 177.823, as adopted by K.A.R. 82-4-20."

(7) In 49 C.F.R. 393.45, the phrase "and hereby adopted by reference" shall be added following "49 C.F.R. 517.106" in paragraph (a).

(8) The note following 49 C.F.R. 393.51 (b) shall be deleted.

(9) 49 C.F.R. 393.67(c)(3) shall be deleted and replaced by "Threads. At least four full threads must be in engagement in each fitting."

(10) The following revisions shall be made to 49 C.F.R. 393.71:

(A) Paragraph (h)(8) and the related footnote shall be deleted.

(B) In paragraph (h)(9), the phrase "requirements of the Federal Motor Carrier Safety Administration" shall be

deleted and replaced by “appropriate requirements.”

(C) In paragraph (m)(8), the phrase “requirements of the Federal Motor Carrier Safety Administration” shall be deleted and replaced by “appropriate requirements.”

(11) The following revisions shall be made to 49 C.F.R. 393.75:

(A) In paragraphs (g)(1) and (g)(2), the clause “that are labeled pursuant to 24 C.F.R. 3282.362(c)(2)(i)” shall be deleted and replaced by “built.”

(B) In paragraph (g)(1), the phrase “Or, in the absence of such a marking, more than 18 percent over the load rating specified in any of the publications of any of the organizations listed in FMVSS No. 119 (49 CFR 571.119, S5.1(b))” shall be deleted.

(C) In paragraph (g)(2), the phrase “or, in the absence of such a marking, the load rating specified in any of the publications of any of the organizations listed in FMVSS No. 119 (49 CFR 571.119, S5.1(b))” shall be deleted.

(12) In 49 C.F.R. 393.77(15)(i), the phrase “Sec. 177.834(1) of this title” shall be deleted and replaced by “49 C.F.R. 177.834(a) as adopted by K.A.R. 82-4-20.”

(13) In 49 C.F.R. 393.90, the phrase “of the Federal Motor Carrier Safety Administration’s regulations” shall be deleted.

(14) In 49 C.F.R. 393.94, paragraph (c)(4) shall be deleted and replaced by the following: “Set the sound level meter to the A-weighting network, ‘fast’ meter response.”

(15) In 49 C.F.R. 393.95, in paragraph (f)(1) the clause “that conform to the requirements of Federal Motor Vehicle Safety Standard No. 125, Sec. 571.125 of this title” shall be deleted.

(16) 49 C.F.R. 393.104(e), the related table, and the related footnotes shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2010 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2010 Supp. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Nov. 14, 2011.)

**82-4-3j. Inspection, repair, and maintenance.**

(a) With the following exceptions, 49 C.F.R. Part 396, as in effect on October 1, 2007, is hereby adopted by reference:

(1) In 49 C.F.R. 396.3(a)(1), the phrase “part 393 of this subchapter” shall be deleted and replaced by “49 C.F.R. Part 393, as adopted by K.A.R. 82-4-3i.”

(2) The following revisions shall be made to 49 C.F.R. 396.9:

(A) In paragraph (a), the phrase “Every special agent of the FMCSA (as defined in appendix B to this subchapter)” shall be deleted and replaced by “Any authorized representative of the commission, and any member of the Kansas highway patrol or any other law enforcement officer in the state who has been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.”

(B) In paragraph (b), the sentence after “Prescribed inspection report” shall be deleted and replaced by the following sentence: “Motor vehicle inspections conducted by authorized personnel as described in paragraph (a) shall be made on forms approved by the commission.”

(C) In paragraph (c)(1), the term “‘Out of Service Vehicle’ sticker” shall mean “a form approved by the commission, as described in K.A.R. 82-4-31(a)(6)(C).”

(D) In paragraph (c)(2), the term “Vehicle Examination Report” shall mean the form described in K.A.R. 82-431(a)(6)(B).

(E) In paragraph (d)(3)(ii), the phrase “issuing agency” shall be deleted and replaced by “transportation division of the commission.”

(3) The following revisions shall be made to 49 C.F.R. 396.17:

(A) In paragraph (a), the phrase “of this subchapter” shall be deleted and replaced by “as in effect on October 1, 2007, which is hereby adopted by reference.”

(B) The “Note” appearing between paragraphs (a) and (b) shall be deleted.

(C) In paragraph (h), the words “penalty provisions provided by 49 U.S.C. 521(b)” shall be deleted and replaced by “civil penalties provided by K.S.A. 66-1,142b, K.S.A. 66-1,142c, and other applicable penalties.”

(4) The following revisions shall be made to 49 C.F.R. 396.19(a)(1):

(A) The phrase “as adopted by K.A.R. 82-4-31” shall be added after “49 C.F.R. Part 393.”

(B) The phrase “as adopted by K.A.R. 82-4-31” shall be added after the phrase “and appendix G.” The phrase “of this subchapter” shall be deleted.

(5) In 49 C.F.R. 396.21(b)(2) and (3), the word “Federal” shall be deleted.

(6) The following revisions shall be made to 49 C.F.R. 396.23:

(A) In paragraph (b)(1), the phrase “by the Administrator” shall be deleted.

(B) In paragraph (b)(2), the term “FMCSA” shall be deleted and replaced by “transportation division of the Kansas corporation commission.”

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2008 Supp. 66-1,112, K.S.A. 661,112g, and K.S.A. 2008 Supp. 66- 1,129; effective, T-8212-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009.)

**82-4-3k. Transportation of hazardous materials; driving and parking rules.** (a) With the following exceptions, 49 C.F.R. Part 397, as in effect on October 1, 2007, is hereby adopted by reference:

(1) In 49 C.F.R. 397.1(a), the phrase “of this title” shall be deleted and replaced by “as adopted by K.A.R. 82-420.”

(2) In 49 C.F.R. 397.2, the phrase “the rules in parts 390 through 397, inclusive, of this subchapter” shall be deleted and replaced by “K.A.R. 82-4-3f through K.A.R. 824-3k.” The phrase “of this title” shall be deleted and replaced by “as adopted by K.A.R. 82-4-20.”

(3) In 49 C.F.R. 397.3, the term “Department of Transportation” shall be deleted and replaced by “commission.”

(4) In 49 C.F.R. 397.5 (a), the phrase “as defined by 49 C.F.R. 172.101 and adopted by K.A.R. 82-4-20” shall be added after “(explosive) material.”

(5) In 49 C.F.R. 397.7(a), the phrase “as defined by 49 C.F.R. 172.101 and adopted by K.A.R. 82-4-20” shall be added after the words “Division 1.1, 1.2, or 1.3 materials.”

(6) The following revisions shall be made to 49 C.F.R. 397.13:

(A) In paragraph (a), the phrase “as defined by 49 C.F.R. 172.101 and adopted by K.A.R. 82-4-20” shall be added after the

words “Division 2.1, Class 3, Divisions 4.1 and 4.2.”

(B) In paragraph (b), the phrase “of this title” shall be deleted and replaced by “as adopted by K.A.R. 82-4-20.”

(7) The following revisions shall be made to 49 C.F.R. 397.19:

(A) In paragraph (a), the phrase “as defined by 49 C.F.R. 172.101 and adopted by K.A.R. 82-4-20” shall be added after the words “(explosive) materials.”

(B) In paragraph (c)(2), the phrase “of this title” shall be deleted and replaced by “as adopted by K.A.R. 82-4-20.”

(8) The following revisions shall be made to 49 C.F.R. 397.65:

(A) The definitions of “Administrator,” “FMCSA,” “Motor carrier,” and “Motor vehicle” shall be deleted.

(B) In the definition of “Indian tribe,” the phrase “as in effect on January 7, 2003, which is hereby adopted by reference” shall be added after “25 U.S.C. 450b.”

(C) In the definition of “NRHM,” the phrase “as adopted by K.A.R. 82-4-20” shall be added after “49 CFR 172.504.”

(D) In the definition of “Radioactive material,” the phrase “as adopted by K.A.R. 82-4-20” shall be added after “49 CFR 173.403.”

(9) The following changes shall be made to 49 C.F.R. 397.67:

(A) In paragraph (b), the phrase “as adopted by K.A.R. 82-4-20” shall be added after “49 CFR 177.823.”

(B) In paragraph (d), the phrase “as adopted by K.A.R. 82-4-20” shall be added after “49 CFR 173.50 and 173.53 respectively.”

(10) In 49 C.F.R. 397.69, paragraph (b) shall be deleted.

(11) The following revisions shall be made to 49 C.F.R. 397.71:

(A) In paragraph (b), the word “Federal” shall be deleted.

(B) Paragraph (b)(1)(ii) and the related footnote shall be deleted.

(C) Paragraph (b)(5) shall be deleted.

(12) The following revisions shall be made to 49 C.F.R. 397.73:

(A) Paragraph (a) and its related footnote shall be deleted and replaced by the following: “Information on NRHM routing designations shall be made available to the public by the States and Indian tribes in the form of maps, lists, road signs, or a combination thereof. If road signs are used, those signs and their placements must comply with all applicable laws.”

(B) Paragraph (b) shall be deleted and replaced by the following: “Each state or Indian tribe, through its routing agency, shall provide information identifying all NRHM routing designations which exist within their jurisdiction to the director of the transportation division, Kansas corporation commission, 1500 S.W. Arrowhead Road, Topeka, KS 66604. Information on any changes or new NRHM routing designations shall be furnished within 60 days after establishment to the director.”

(13) The following revisions shall be made to 49 C.F.R. 397.75:

(A) Unless otherwise noted in this subsection, the word “Administrator” shall be deleted and replaced by “commission.”

(B) Paragraph (b)(1) shall be deleted and replaced by the following: “Be submitted to the director of the transportation division, Kansas corporation commission, 1500 S.W. Arrowhead Road, Topeka, KS 66604.”

(C) In paragraph (b)(7), the word “Federal” shall be deleted.

(D) In paragraph (c)(2), the word “Federal” shall be deleted and replaced by “Kansas.”

(E) In paragraph (g), the last sentence shall be deleted.

(14) 49 C.F.R. 397.77 shall be deleted.

(15) The following revisions shall be made to 49 C.F.R. 397.101:

(A) In paragraph (a), the phrase “as adopted by K.A.R. 82-4-20” shall be added after “49 CFR 172.403” and after “49 CFR part 172.”

(B) In paragraph (b), the phrase “as adopted by K.A.R. 82-4-20” shall be added after “49 CFR 173.403(1).”

(C) In paragraph (b)(2), the phrase “as adopted by K.A.R. 82-4-20” shall be added after “49 CFR 173.403(1) and (y).”

(D) Paragraph (g) shall be deleted and replaced by the following: “Unless otherwise preempted, each motor carrier who accepts for transportation on a highway route a controlled quantity of Class 7 (radioactive) material, as defined by 49 C.F.R. 173.401(1), as adopted by K.A.R. 82-4-20, shall provide the following information to the director within 90 days following acceptance of the package:”.

(E) In paragraph (g)(3), the phrase “as adopted by K.A.R. 82-4-20” shall be added after “49 CFR 172.202 and 172.203.”

(16) The following revisions shall be made to 49 C.F.R. 397.103:

(A) In paragraph (a), the words “Guidelines for Selecting Preferred Highway Routes for Highway Route Controlled Quantity Shipments of Radioactive Materials; or an equivalent” shall be deleted and replaced by “a.”

(B) Paragraph (c)(1) shall be deleted and replaced by the following: “The state gives written notice to the director.”

(C) In paragraph (c)(2), the term “FMCSA” shall be deleted and replaced by “director.”

(D) Paragraph (d) shall be deleted and replaced by the following: “A list of state-designated preferred routes shall be available from the director upon request.”

(17) Subpart E of 49 C.F.R. Part 397 shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2008 Supp. 66-1,112, K.S.A. 661,112g, and K.S.A. 2008 Supp. 66-1,129; effective T-82-1229-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009.)

**82-4-31. Transportation of migrant workers.** (a) With the following exceptions, 49 C.F.R. Part 398, as in effect on October 1, 2007, is hereby adopted by reference:

(1) The following revisions shall be made to 49 C.F.R. 398.1:

(A) The following revisions shall be made to 49 C.F.R. 398.1(a):

(i) A period shall be placed after the word “agriculture.”

(ii) The remainder of the paragraph shall be deleted and replaced by the following: “For the purposes of 49 C.F.R. Part 398 only, the definition of ‘agriculture’ found in 29 U.S.C. 203(f), as in effect on January 3, 2007, is hereby adopted by reference. For the purposes of 49 C.F.R. Part 398 only, the definition of ‘employment in agriculture’ shall be the same as the definition of ‘agricultural labor’ found in 26 U.S.C. 3121(g), as in effect on January 7, 2003, which is hereby adopted by reference.”

(B) In paragraph (b), the words “person, including any ‘contract carrier by motor vehicle’, but not including any ‘common carrier by motor vehicle’, who or which transports in interstate or foreign commerce” shall be deleted and replaced by “motor carrier transporting.”

(C) In paragraph (d), the definition of “motor vehicle” shall be deleted.

(2) The following revisions shall be made to 49 C.F.R. 398.2:

(A) In paragraph (a), the phrase “in interstate commerce, as defined in 49 C.F.R. 390.5” shall be deleted and replaced by “within the state of Kansas.”

(B) In paragraph (b)(2), the phrase “in interstate commerce, must comply with the applicable requirements of 49 CFR parts 385, 390, 391, 392, 393, 395, and 396” shall be deleted and replaced by “must comply with the applicable requirements of 49 C.F.R. Part 385, as adopted by K.A.R. 82-4-3d, 49 C.F.R. Part 390, as adopted by K.A.R. 82-4-3f, 49 C.F.R. Part 391, as adopted by K.A.R. 82-4-3g, 49 C.F.R. Part 392, as adopted by K.A.R. 82-4-3h, 49 C.F.R. Part 393, as adopted by K.A.R. 82-4-3i, 49 C.F.R. Part 395, as adopted by K.A.R. 82-4-3a, and 49 C.F.R. Part 396, as adopted by K.A.R. 82-4-3j.”

(3) In 49 C.F.R. 398.3(b)(9), the phrase “of the Federal Motor Carrier Safety Regulations of the Federal Motor Carrier Safety Administration” shall be deleted.

(4) The following revisions shall be made to 49 C.F.R. 398.4:

(A) In paragraph (b), the words “jurisdiction in which it is being operated, unless such laws, ordinances and regulations are at variance with specific regulations of this Administration which impose a greater affirmative obligation or restraint” shall be deleted and replaced by “state of Kansas.”

(B) In paragraph (k), the phrase “part 393 of this subchapter” shall be deleted and replaced by “49 C.F.R. Part 393, as adopted by K.A.R. 82-4-3i.”

(5) The following revisions shall be made to 49 C.F.R. 398.5:

(A) In paragraph (b), the phrase “part 393 of this subchapter” shall be deleted and replaced by “49 C.F.R. Part 393, as adopted by K.A.R. 82-4-3i.”

(B) In paragraph (c), the phrase “part 393 of this subchapter, except Sec. 393.44 of this subchapter” shall be deleted and replaced by “49 C.F.R. Part 393, as adopted by K.A.R. 82-4-3i.”

(6) The following revisions shall be made to 49 C.F.R. 398.8:

(A) In paragraph (a), the phrase “Special Agents of the Federal Motor Carrier Safety Administration, as detailed in appendix B of chapter III of this title” shall be deleted and replaced by “any authorized representative of the commission, and any member of the Kansas highway patrol or any other law enforcement officer in the state who has been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.”

(B) Paragraph (b) shall be deleted and replaced by the following: “(b) Prescribed inspection report. A compliance report form approved by the commission shall be used to record findings from motor vehicles selected for final inspection by any authorized representative of the commission, and any member of the Kansas highway patrol or any other law enforcement officer in the state who has been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards. A compliance report form approved by the commission shall contain the following information:

“(1) The name, MCID number, and address of the motor carrier;

“(2) information regarding the inspection location;

“(3) the date of the inspection;

“(4) the name, birth date, license number, and employment status of the driver;

“(5) whether hazardous materials were being transported, and if so, what type;

“(6) shipping information regarding the commodity transported;

“(7) identification of the vehicle used;

“(8) brake adjustment information;

“(9) identification of the alleged violations;

“(10) information regarding the authority under which the vehicle could be put out of service for alleged violations discovered during the inspection;

“(11) information regarding the individual who prepares the inspection report; and

“(12) a statement to be signed by the motor carrier that the violations have been corrected.”

(C) In paragraph (c)(1), the last sentence shall be deleted and replaced by the following: “A form approved by the commission shall be used to mark vehicles as ‘out of service.’ An out of service form approved by the commission shall contain the following information:

“(i) A statement that the motor vehicle has been declared out of service;

“(ii) a statement that the out of service marking may be removed only under the conditions outlined in the out of service order or the accompanying vehicle inspection report;

“(iii) a statement that operation of the vehicle prior to making the required repairs will subject the motor carrier to civil penalties;

“(iv) the number and dates of the inspection; and

“(v) a place for the signature of the authorized individual making the inspection.”

(D) The following revisions shall be made to paragraph (c)(2):

(i) The phrase “on Form MCS 63” shall be deleted and replaced by “on a form approved by the commission for driver-equipment compliance reporting.”

(ii) The phrase “Sec. 393.52” shall be deleted and replaced by “49 C.F.R. 393.52, as adopted by K.A.R. 82-43i.”

(E) In paragraph (c)(3), the phrase “on Form MCS 63” shall be deleted and replaced by “on a form approved by the

commission for driver-equipment compliance reporting.”

(F) Paragraph (c)(4) shall be deleted and replaced by the following: “The person or persons completing the repairs required by the out of service notice shall complete a form to certify repairs approved by the commission, which shall include the person’s name and the name of the person’s shop or garage as well as the date and time the repairs were completed. If the driver completes the required repairs, then the driver shall complete the same form.”

(G) In paragraph (d)(1), the phrase “MCS Form 63” shall be deleted and replaced by “on a form approved by the commission for driver-equipment compliance reporting.”

(H) In paragraph (d)(1), the phrase “Federal Motor Carrier Safety Regulations” shall be deleted and replaced by the phrase “commission’s regulations.”

(I) In paragraph (d)(2), the phrase “‘Motor Carrier Certification of Action Taken’ on Form MCS 63” and the phrase “Form MCS 63” shall be deleted and replaced by “form approved by the commission for driver-equipment reporting.”

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2008 Supp. 66-1,112, K.S.A. 661,112g, and K.S.A. 2008 Supp. 66-1,129; effective, T-82-1229-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009.)

**82-4-3m. Employee safety and health standards.** (a) With the following exceptions, 49 C.F.R. Part 399, as in effect on October 1, 2007, is hereby adopted by reference:

(1) 49 C.F.R. 399.201 shall be deleted.

(2) In 49 C.F.R. 399.205, the definition of “person” shall be deleted.

(3) In 49 C.F.R. 399.209, paragraph (b) shall be deleted.

(4) Appendices A through F shall be deleted.

(5) In appendix G, all text following standards 1 through 13, which begins with the heading “Comparison of Appendix G. and the new North American Uniform Driver-Vehicle Inspection Procedure (North American Commercial Vehicle Critical Safety Inspection Items and Out-Of-Service Criteria),” shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission's regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2008 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2008 Supp. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009.)

**82-4-3n. Minimum levels of financial responsibility for motor carriers.**

(a) With the following exceptions, 49 C.F.R. Part 387, as in effect on October 1, 2009, is hereby adopted by reference:

(1) In 49 C.F.R. 387.3, paragraph (a), the phrase “for-hire” shall be deleted and replaced by “public.”

(2) The following revisions shall be made to 49 C.F.R. 387.5:

(A) The term “for-hire” in the definition of “for-hire carriage” shall be deleted and replaced by “public.”

(B) The definition of “motor carrier” shall be deleted.

(3) The following revisions shall be made to 49 C.F.R. 387.7:

(A) Paragraph 49 C.F.R. 387.7(b)(3) shall be deleted.

(B) The following revisions shall be made to paragraph (d)(3):

(i) The phrase “§387.309” shall be deleted and replaced by “49 C.F.R. 387.309.”

(ii) The phrase “part 385” shall be deleted and replaced by “49 C.F.R. 385.”

(C) In paragraph (g), the term “United States” shall be deleted and replaced by “state of Kansas.”

(4) In 49 C.F.R. 387.9, the term “for-hire” shall be deleted and replaced by “public” in the “schedule of limits—public liability.”

(5) The following revisions shall be made to 49 C.F.R. 387.11:

(A) In paragraph (b), the words “any State in which the motor carrier operates” shall be deleted and replaced by “the state of Kansas.”

(B) In paragraph (c), the words “any State in which the motor carrier operates” shall be deleted and replaced by “the state of Kansas.”

(6) In 49 C.F.R. 387.15, the definition of “motor vehicle” shall be deleted in illustration I.

(7) 49 C.F.R. 387.17 shall be deleted.

(8) In 49 C.F.R. 387.25, the term “for-hire” shall be deleted and replaced by “public.”

(9) The following revisions shall be made to 49 C.F.R. 387.29:

(A) In the definition of “for-hire carriage,” the term “for-hire” shall be deleted and replaced by “public.”

(B) The definition of “motor carrier” shall be deleted.

(C) In the definition of “seating capacity,” the phrase “(measured in accordance with SEA Standards J1100(a))” shall be deleted.

(10) The following revisions shall be made to 49 C.F.R. 387.31:

(A) In paragraph (f), the phrase “within the United States” shall be deleted and replaced by “in the state of Kansas.”

(B) In paragraph (g), the phrase “the United States” shall be deleted and replaced by “the state of Kansas.”

(11) In 49 C.F.R. 387.33, the term “for hire” shall be deleted and replaced by “public” in the schedule of limits.

(12) The following revisions shall be made to 49 C.F.R. 387.35:

(A) In paragraph (b), the words “in any State in which the motor carrier operates” shall be deleted and replaced by “in the state of Kansas.”

(B) In paragraph (c), the words “in any State in which the motor carrier operates” shall be deleted and replaced by “in the state of Kansas.”

(13) 49 C.F.R. 387.41 shall be deleted.

(14) The following revisions shall be made to 49 C.F.R. 387.301:

(A) The following revisions shall be made to paragraph (a)(1):

(i) The phrase “§387.303” shall be deleted and replaced by “49 C.F.R. 387.303.”

(ii) The phrase “§387.303” shall be deleted and replaced by “49 C.F.R. 387.303.”

(iii) In each instance, the phrase “§387.303(b)(2)” shall be deleted and replaced by “49 C.F.R. 387.303(b)(2).”

(B) In paragraph (a)(2), the phrase “§387.303(b)(2)” shall be deleted and replaced by “49 C.F.R. 387.303(b)(2).”

(C) In paragraph (b), the phrase “§387.303(b)(2)” shall be deleted and replaced by “49 C.F.R. 387.303(b)(2).”

(15) The following revisions shall be made to 49 C.F.R. 387.303:

(A) In paragraph (b)(1), the phrase “§387.301(a)(1)” shall be deleted and replaced by “49 C.F.R. 387.301(a)(1).”

(B) In paragraph (b)(2), the phrase “§387.301(a)(1)” shall be deleted and replaced by “49 C.F.R. 387.301(a)(1).”

(C) Paragraph (b)(4) shall be deleted.

(16) 49 C.F.R. 387.307 through 49 C.F.R. 387.323 shall be deleted.

(17) The following revisions shall be made to 49 C.F.R. 387.403:

(A) In paragraph (a), the phrase “§387.405” shall be deleted and replaced by “49 C.F.R. 387.405.”

(B) In paragraph (b), the phrase “§387.405” shall be deleted and replaced by “49 C.F.R. 387.405.”

(18) In 49 C.F.R. 387.407(a), the phrase “§387.405” shall be deleted and replaced by “49 C.F.R. 387.405.”

(19) 49 C.F.R. 387.409 through 49 C.F.R. 387.419 shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g, K.S.A. 2009 Supp. 66-1,128, and K.S.A. 2009 Supp. 66-1,129; effective Oct. 22, 2010.)

**82-4-30. Imminent hazard.** (a)

With the following exceptions, 49 C.F.R. Part 386, Subpart F, as in effect on October 1, 2009, is hereby adopted by reference:

(1) 49 C.F.R. 386.71 shall be deleted.

(2) The following revisions shall be made to 49 C.F.R. 386.72:

(A) In paragraph (a), the first sentence shall be deleted and replaced by the following sentence: “Whenever it is determined that an imminent hazard exists as a result of the transportation by motor vehicle of

a particular hazardous material, the director of the commission's transportation division may request an emergency suspension order from the commission for the purposes of suspending or restricting the transportation by motor vehicle of the hazardous material or for such other order as is necessary to eliminate or mitigate the imminent hazard."

(B) In paragraph (b)(1), the phrase "the Director of the Office of Enforcement and Compliance or a Division Administrator, or his or her delegate" shall be deleted and replaced by "the commission."

(C) In paragraph (b)(1)(i), the phrase "as provided by 49 U.S.C. 521(b)(5)" shall be deleted and replaced by "in the state of Kansas."

(D) In paragraph (b)(1)(ii), the phrase "49 U.S.C. 521(b)(5) and" shall be deleted.

(E) In paragraph (b)(4), the words "in accordance with 5 U.S.C. 544, except that such review shall occur" shall be deleted.

(F) In paragraph (b)(4), the words "as provided by section 213(b) of the Motor Carrier Safety Act of 1984 (49 U.S.C. 521(b)(5))" shall be deleted.

(3) 49 C.F.R. 386.72(b)(6) shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission's regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2009 Supp. 66

(B) The definition of "motor carrier" shall be deleted.

(3) The following revisions shall be made to 49 C.F.R. 387.7:

(A) Paragraph 49 C.F.R. 387.7(b)(3) shall be deleted.

(B) The following revisions shall be made to paragraph (d)(3):

(i) The phrase "§387.309" shall be deleted and replaced by "49 C.F.R. 387.309."

(ii) The phrase "part 385" shall be deleted and replaced by "49 C.F.R. 385."

(C) In paragraph (g), the term "United States" shall be deleted and replaced by "state of Kansas."

(4) In 49 C.F.R. 387.9, the term "for-hire" shall be deleted and replaced by "public" in the "schedule of limits—public liability."

(5) The following revisions shall be made to 49 C.F.R. 387.11:

(A) In paragraph (b), the words "any State in which the motor carrier operates" shall be deleted and replaced by "the state of Kansas."

(B) In paragraph (c), the words "any State in which the motor carrier operates" shall be deleted and replaced by "the state of Kansas."

(6) In 49 C.F.R. 387.15, the definition of "motor vehicle" shall be deleted in illustration I.

(7) 49 C.F.R. 387.17 shall be deleted.

(8) In 49 C.F.R. 387.25, the term "for-hire" shall be deleted and replaced by "public."

(9) The following revisions shall be made to 49 C.F.R. 387.29:

(A) In the definition of "for-hire carriage," the term "for-hire" shall be deleted and replaced by "public."

(B) The definition of "motor carrier" shall be deleted.

(C) In the definition of "seating capacity," the phrase "(measured in accordance with SEA Standards J1100(a))" shall be deleted.

(10) The following revisions shall be made to 49 C.F.R. 387.31:

(A) In paragraph (f), the phrase “within the United States” shall be deleted and replaced by “in the state of Kansas.”

(B) In paragraph (g), the phrase “the United States” shall be deleted and replaced by “the state of Kansas.”

(11) In 49 C.F.R. 387.33, the term “for hire” shall be deleted and replaced by “public” in the schedule of limits.

(12) The following revisions shall be made to 49 C.F.R. 387.35:

(A) In paragraph (b), the words “in any State in which the motor carrier operates” shall be deleted and replaced by “in the state of Kansas.”

(B) In paragraph (c), the words “in any State in which the motor carrier operates” shall be deleted and replaced by “in the state of Kansas.”

(13) 49 C.F.R. 387.41 shall be deleted.

(14) The following revisions shall be made to 49 C.F.R. 387.301:

(A) The following revisions shall be made to paragraph (a)(1):

(i) The phrase “§387.303” shall be deleted and replaced by “49 C.F.R. 387.303.”

(ii) The phrase “§387.303” shall be deleted and replaced by “49 C.F.R. 387.303.”

(iii) In each instance, the phrase “§387.303(b)(2)” shall be deleted and replaced by “49 C.F.R. 387.303(b)(2).”

(B) In paragraph (a)(2), the phrase “§387.303(b)(2)” shall be deleted and replaced by “49 C.F.R. 387.303(b)(2).”

(C) In paragraph (b), the phrase “§387.303(b)(2)” shall be deleted and replaced by “49 C.F.R. 387.303(b)(2).”

(15) The following revisions shall be made to 49 C.F.R. 387.303:

(A) In paragraph (b)(1), the phrase “§387.301(a)(1)” shall be deleted and replaced by “49 C.F.R. 387.301(a)(1).”

(B) In paragraph (b)(2), the phrase “§387.301(a)(1)” shall be deleted and replaced by “49 C.F.R. 387.301(a)(1).”

(C) Paragraph (b)(4) shall be deleted.

(16) 49 C.F.R. 387.307 through 49 C.F.R. 387.323 shall be deleted.

(17) The following revisions shall be made to 49 C.F.R. 387.403:

(A) In paragraph (a), the phrase “§387.405” shall be deleted and replaced by “49 C.F.R. 387.405.”

(B) In paragraph (b), the phrase “§387.405” shall be deleted and replaced by “49 C.F.R. 387.405.”

(18) In 49 C.F.R. 387.407(a), the phrase “§387.405” shall be deleted and replaced by “49 C.F.R. 387.405.”

(19) 49 C.F.R. 387.409 through 49 C.F.R. 387.419 shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g, K.S.A. 2009 Supp. 66-1,128, and K.S.A. 2009 Supp. 66-1,129; effective Oct. 22, 2010.)

**82-4-4 and 82-4-5.** (Authorized by and implementing K.S.A. 66-1,129, effective Jan. 1, 1971; amended May 1, 1981; revoked May 1, 1984.)

**82-4-6.** (Authorized by K.S.A. 65-1,129; effective Jan. 1, 1971; amended Jan. 1, 1972; amended, E-79-23, Sept. 21, 1978; amended May 1, 1979; revoked May 1, 1981.)

**82-4-6a. Minimum requirements of drivers.** Each motor carrier and driver shall comply with the following:

(a) The motor carrier regulations established by the federal department of transportation and the federal motor carrier safety administration (FMCSA), as adopted by the commission in this article;

(b) the state traffic laws and regulations of the Kansas department of revenue pertaining to driver's licenses as established in the Kansas driver's license act, K.S.A. 8-222 et seq. and amendments thereto;

(c) the uniform act regulating traffic and the size, weight, and load of vehicles as established in K.S.A. 8-1901 et seq. and amendments thereto; and

(d) the regulations issued by the commission pertaining to the driving of commercial motor vehicles as adopted in K.A.R. 82-4-3h. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,108a, 66-1,108b, and 66-1,129; effective May 1, 1981; amended Sept. 16, 1991; amended Oct. 22, 2010.)

**82-4-6b.** (Authorized by and implementing K.S.A. 66-1,129; effective May 1, 1981; revoked Sept. 16, 1991.)

**82-4-6c.** (Authorized by and implementing K.S.A. 66-1.129; effective May 1, 1981; revoked May 1, 1984.)

**82-4-6d. Waiver of physical requirements.** (a) Any person failing to meet the requirements of K.A.R. 82-4-3g may be permitted to drive a vehicle, other than a vehicle transporting passengers, if the director finds that the granting of a waiver is consistent with highway safety and the public interest.

(b) The application for a waiver shall meet these requirements:

(1) The application shall be submitted jointly by the person seeking the

waiver and by the motor carrier wishing to employ the person as a driver.

(2) The application shall be accompanied by the following:

(A) A copy of the driver applicant's motor vehicle driving record. Any changes to this record occurring after submission of the application shall be immediately forwarded to the commission;

(B) reports of medical examinations, administered by a licensed medical practitioner, that are satisfactory to the director; and

(C) letters of recommendation from at least two licensed medical practitioners, written on their personalized or institutional letterhead and meeting the following requirements:

(i) The reports and letters of recommendation shall indicate the opinions of the licensed medical practitioners regarding the ability of the driver to safely operate a commercial motor vehicle of the type to be driven;

(ii) letters of recommendation regarding vision impairments shall be provided by a licensed ophthalmologist or optometrist who treated the driver applicant;

(iii) letters of recommendation regarding limb impairment or amputation shall include a medical summary conducted by a board of qualified, or board-certified, physiatrists or orthopedic surgeons, preferably associated with a rehabilitation center; and

(iv) letters of recommendation shall include a description of any prosthetic or orthopedic devices worn by the driver applicant.

(3) The application shall contain a description that is satisfactory to the director of the type, size, and special equipment of the vehicle or vehicles to be driven, the general area and type of roads to be traversed, the distances and time period contemplated, the nature of the commodities

to be transported and the method of loading and securing them, and the experience of the applicant in driving vehicles of the type to be driven.

(A) If the applicant motor carrier is a corporation, the application shall be signed by a corporation officer and the driver applicant.

(B) If the applicant motor carrier is a limited liability company, the application shall be signed by a company officer and the driver applicant.

(C) If the applicant motor carrier is a limited liability partnership, the application shall be signed by at least one of the members of the partnership and the driver applicant.

(D) If the applicant motor carrier is a partnership, the application shall be signed by at least one of the members of the partnership and the driver applicant.

(E) If the applicant motor carrier is a sole proprietorship, the application shall be signed by the proprietor and the driver applicant.

(4) The application shall specify that both the person and the carrier will file periodic reports as required with the director. These reports shall contain complete and truthful information regarding the extent of the person's driving activity, any accidents in which the person was involved, and all suspension or convictions in which the person is or has been involved.

(5) By completing the application, both the driver applicant and the motor carrier applicant shall be deemed to agree that upon grant of the waiver, they will fulfill all conditions of the waiver.

(c) Each driver applicant shall complete a skill performance evaluation administered by a commission driver waiver program manager or a commission special investigator. The driver and motor carrier applicants shall secure the vehicle and provide the necessary insurance

for the skill performance evaluation. The skill performance evaluation may be waived if the driver applicant has otherwise met the regulatory requirements of 49 C.F.R. 391.49 as adopted in K.A.R. 82-4-3g.

(d) If the application is approved, a driver medical waiver card signed by the director and accompanied by a letter acknowledging approval shall be issued by the commission. While on duty, the driver medical waiver card shall be in the driver's possession. The motor carrier shall retain the accompanying letter in its files at its principal place of business during the period the driver is in the motor carrier's employment. The motor carrier shall retain this letter for 12 months after the termination of the driver's employment.

(e) If the application is denied, an order setting forth an explanation for the denial and specifying the procedure for appeal of the decision shall be issued by the commission.

(f) The waiver shall not exceed two years and may be renewable upon submission and approval of a new application.

(g) All intrastate vision waiver recipients shall be subject to the following conditions:

(1) Each driver shall be physically examined every year by the following individuals:

(A) A licensed ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard specified in 49 C.F.R. 391.41(b)(10) as adopted in K.A.R. 82-4-3g; and

(B) a licensed medical practitioner who attests that the individual is otherwise physically qualified under the standards specified in 49 C.F.R. 391.31 as adopted in K.A.R. 82-4-3g.

(2) Each driver shall provide a copy of the ophthalmologist's or

optometrist's report to the medical practitioner at the time of the annual medical examination.

(3) Each driver shall provide the motor carrier with a copy of the annual medical reports for retention in the motor carrier's driver qualification files.

(4) Each driver shall provide a copy of the annual medical reports to the commission.

(h) The waiver may be revoked by the director after the applicant has been given notice of the proposed revocation and has been given a reasonable opportunity to show cause, if any, why the revocation should not be made.

(i) Each motor carrier and driver shall notify the director within 72 hours upon any conviction of a moving violation or any revocation or suspension of driving privileges.

(j) Written notice shall be given to the director when any of the following occurs:

(1) A driver ceases employment with the "original employer" with whom the waiver was first granted.

(2) A change occurs in employment duties or functions.

(3) A change occurs in the driver's medical condition.

(k) Written notice shall be given by both the motor carrier and the driver within 10 days of any change in employment, duties, or functions, except in cases of termination of employment. Notice of termination of employment shall be given by both the motor carrier and the driver within 72 hours of termination.

(l) A waiver shall become void upon termination of employment from the motor carrier joint-applicant.

(m) Each application for renewal of waiver shall be submitted at least 60 days before the expiration date of the existing waiver. (Authorized by and

implementing K.S.A. 2010 Supp. 66-1,129; effective May 1, 1981; amended Sept. 16, 1991; amended May 10, 1993; amended Oct. 3, 1994; amended Jan. 30, 1995; amended Jan. 4, 1999; amended July 14, 2000; amended Nov. 14, 2011.)

**82-4-7.** (Authorized by K.S.A. 66-1,129; effective Jan. 1, 1971; amended Jan 1, 1972; revoked May 1, 1981.)

**82-4-7a.** (Authorized by and implementing K.S.A. 66-1,129; effective May 1, 1981; revoked May 1, 1984.)

**82-4-7b.** (Authorized by and implementing K.S.A. 66-1,129; modified, L. 1983, ch. 357, May 1, 1983; revoked May 1, 1984.)

**82-4-7c to 82-4-7f.** (Authorized by and implementing K.S.A. 66-1,129; effective May 1, 1981; revoked May 1, 1984.)

**82-4-7g.** (Authorized by and implementing K.S.A. 66-1,129; effective May 1, 1981; revoked May 1, 1984.)

**82-4-7h to 82-4-7i.** (Authorized by and implementing K.S.A. 66-1,129; effective May 1, 1981; revoked May 1, 1984.)

**82-4-8.** (Authorized by K.S.A. 66-1,129; effective Jan. 1, 1971; amended Jan 1, 1972; revoked May 1, 1981.)

**82-4-8a. Accessories and equipment.** Each motor vehicle that meets the definition of commercial motor vehicle shall be equipped with a fire extinguisher.

(a)(1) Each motor vehicle shall be equipped with a fire extinguisher that is properly filled and is readily accessible.

(2) The fire extinguisher shall be securely mounted on the vehicle.

(3) The fire extinguisher shall be designed, constructed, and maintained to permit visual determination of whether it is fully charged.

(4) The extinguisher shall have an extinguishing agent that does not need protection from freezing. Each extinguishing agent shall meet the requirements of the toxicity provisions of the environmental protection agency's significant new alternatives policy (SNAP) regulations under 40 C.F.R. Part 82, subpart G, as adopted by K.A.R. 82-4-3i.

(5) The fire extinguisher shall be labeled or marked with its underwriters laboratories rating.

(6) The fire extinguisher shall be kept in good operating condition, shall be located in an accessible place on each motor vehicle or tank vehicle, and shall be housed in a weathertight enclosure.

(b)(1) Each motor vehicle that is not used to transport hazardous materials shall be equipped with either a fire extinguisher having a rating of at least five B:C or two fire extinguishers, each of which has a rating of at least four B:C.

(2) Each motor vehicle that is used to transport hazardous materials shall be equipped with a fire extinguisher having a rating of at least 10 B:C.

(3) Each cargo tank vehicle requiring flammable liquid placards shall be provided with at least one approved handheld fire extinguisher, whether a dry chemical or carbon dioxide type, having a rating of at least 20 B:C. Two approved handheld fire extinguishers, either a dry chemical or carbon dioxide type, having a rating of at least 10 B:C for each extinguisher, may be used in lieu of one 20 B:C rated extinguisher.

(c) The requirements of this regulation shall not apply to a driveaway or towaway operation. (Authorized by and implementing K.S.A. 2010 Supp. 66-1,129;

effective May 1, 1981; amended May 1, 1984; amended April 30, 1990; amended May 10, 1993; amended July 14, 2000; amended Nov. 14, 2011.)

**82-4-8b to 82-4-8g.** (Authorized by and implementing K.S.A. 66-1,129; effective May 1, 1981; revoked May 1, 1984.)

**82-4-8h. Marking of commercial motor vehicles.** On and after January 1, 2001, each Kansas-based motor carrier shall obtain a USDOT number that meets the requirements for the motor carrier identification report and markings of commercial motor vehicles established under 49 C.F.R. 390.21, as adopted by K.A.R. 82-4-3f. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112 and 66-1,129; effective July 14, 2000; amended Oct. 22, 2010.)

**82-4-9 to 82-4-11.** (Authorized by and implementing K.S.A. 66-1,129; effective Jan. 1, 1971; amended May 1, 1981; revoked May 1, 1984.)

**82-3-12.** (Authorized by and implementing K.S.A. 66-1,129; effective Jan. 1, 1971; modified, L. 1981, ch. 424, May 1, 1981; revoked May 1, 1984.)

**82.4.13.** (Authorized by and implementing K.S.A. 66-1,129; effective Jan. 1, 1971; amended May 1, 1981; revoked May 1, 1984.)

**82-4-14.** (Authorized by and implementing K.S.A. 66-1,129; effective Jan. 1, 1971; modified, L. 1981, ch. 424, May 1, 1981; revoked May 1, 1984.)

**82-4-15 to 82-4-16.** (Authorized by and implementing K.S.A. 66-1,129; effective Jan. 1, 1971; amended May 1, 1981; revoked May 1, 1984.)

**82-4-17.** (Authorized by and implementing K.S.A. 66-1,129; effective Jan. 1, 1971; amended May 1, 1981; revoked May 1, 1985.)

**82-4-18.** (Authorized by and implementing K.S.A. 66-1,129; effective Jan. 1, 1971; revoked May 1, 1981.)

**82-4-19.** (Authorized by and implementing K.S.A. 66-1,129; effective Jan. 1, 1971; amended May 1, 1981; revoked May 1, 1985.)

**82-4-19a.** (Authorized by and implementing K.S.A. 1984 Supp. 66-1,129, as amended by L. 1985, Ch. 227, Sec. 1; effective May 1, 1986; revoked Sept. 16, 1991.)

**82-4-20. Transportation of hazardous materials by motor vehicles.**

(a) The federal regulations adopted by reference in this regulation shall govern the transportation of hazardous materials in Kansas in commerce to the extent that the regulations pertain to the transportation of hazardous materials by commercial motor vehicle.

(b) The following federal regulations, as in effect on October 1, 2009, are hereby adopted by reference:

- (1) 49 C.F.R. 107.105, 107.107, 107.502, and 107.503;
- (2) 49 C.F.R. Part 171, except 171.1(a), 171.1(b), and 171.6;
- (3) 49 C.F.R. Part 172, except 172.1, 172.701, and 172.822;
- (4) 49 C.F.R. Part 173, except 173.10, 173.27, and 173.31;
- (5) 49 C.F.R. Part 177;
- (6) 49 C.F.R. Part 178; and
- (7) 49 C.F.R. Part 180.

(c) When used in any provision adopted from 49 C.F.R. Parts 171, 173, 177, 178, and 180, the following substitutions shall be made unless otherwise specified:

(1) The terms “administrator,” “associate administrator,” and “regional administrator” shall be replaced with “director as defined in K.A.R. 82-4-1.”

(2) The term “commercial motor vehicle” shall be replaced with “commercial motor vehicle as defined in K.A.R. 82-4-1.”

(3) The term “competent authority” shall mean “the Kansas corporation commission or any other Kansas agency or federal agency that is responsible, under its law for the control or regulation of some aspect of hazardous materials transportation.”

(4) The terms “DOT” and “department” shall be replaced with “commission as defined in K.A.R. 82-4-1.”

(5) The term “the United States” shall be replaced with “the state of Kansas.”

(d) Carriers transporting hazardous materials in intrastate commerce shall be subject to the packaging provisions as provided in K.S.A. 66-1,129b, and amendments thereto.

(e) Whenever the adopted federal hazardous materials regulations refer to portions of the federal hazardous materials regulations that are not included under subsection (a), those references shall not be applicable to this regulation. (Authorized by K.S.A. 2010 Supp. 66-1,112, K.S.A. 66-1,112g, K.S.A. 2010 Supp. 66-1,129, and K.S.A. 66-1,129b; implementing K.S.A. 2010 Supp. 66-1,112, K.S.A. 2010 Supp. 66-1,129, and K.S.A. 66-1,129b; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1984; amended May 1, 1985; amended May 1, 1987; amended May 1, 1988; amended April 30, 1990; amended Sept. 16, 1991; amended July 6, 1992;

amended May 10, 1993; amended Oct. 3, 1994; amended Jan. 30, 1995; amended Jan. 4, 1999; amended July 14, 2000; amended Jan. 31, 2003; amended Oct. 2, 2009; amended Nov. 14, 2011.)

## INSURANCE REQUIREMENTS

### **82-4-21. Requiring insurance.**

The following types of carriers shall not operate a motor vehicle, trailer, or semitrailer for the transportation of persons or property within the provisions of the motor carrier law of this state until an insurance policy is filed in compliance with K.S.A. 66-1,128 and amendments thereto, and in accordance with the commission's regulations:

(a) Public motor carriers of property, household goods, or passengers; and

(b) private motor carriers of property or household goods. (Authorized by K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g; implementing K.S.A. 2009 Supp. 66-1,128; effective Jan. 1, 1971; amended May 1, 1981; amended, T-85-48, Dec. 19, 1984; amended May 1, 1985; amended Jan. 4, 1999; amended Jan. 31, 2003; amended Oct. 22, 2010.)

**82-4-22. Intrastate insurance requirements.** (a) (1) Before the commission issues a certificate, permit, or license to an applicant, the following types of applicant carriers shall obtain and keep in force a public liability and property damage insurance policy pursuant to K.S.A. 66-1,128, and amendments thereto:

(A) Public motor carriers of property, household goods, or passengers; and

(B) private motor carriers of property or household goods.

(2) Each applicant shall submit proof of the required policy by filing the uniform standard insurance form as required by K.A.R. 82-4-24a. This policy shall be issued by an insurance company or association meeting the requirements of K.S.A. 66-1,128, and amendments thereto.

(3) The insurance policy shall bind the obligors to pay compensation for the following:

(A) Injuries or death to persons, except injury to the insured's employees while engaged in the course of their employment; and

(B) loss of, or damage to, property of others, not including property usually designated as cargo, resulting from the negligent operation of the carrier.

(4) Each carrier shall file proof of insurance in amounts not less than those required in K.S.A. 66-1,128, and amendments thereto. In special cases and for good cause shown, a carrier may be required by order of the commission to file insurance in additional amounts.

(b) Each public motor carrier of property and household goods that conducts intrastate business shall keep in force a cargo insurance policy in a minimum amount of \$3,000. The motor carrier shall submit proof of the required policy by filing the uniform standard insurance form established in 49 C.F.R. Part 387 and adopted in K.A.R. 82-4-3n. This policy shall be issued by an insurance company or association meeting the requirements of K.S.A. 66-1,128, and amendments thereto.

(c) If a motor carrier is unable to provide the uniform standard insurance form required in subsection (a) or (b), the original or a certified copy of the policy with all endorsements attached may be temporarily accepted by the commission for 30 days. The motor carrier shall then file the form required in subsection (a) or (b) within the 30-day period.

(d) Before the expiration date or cancellation date of an insurance policy filed in compliance with the law and the regulations of the commission, either the motor carrier shall file with the commission a new policy for the vehicle, or the vehicle shall immediately be withdrawn from service and notification of the action shall be given to the commission.

(e) Operation by a motor carrier without compliance with this regulation shall result in emergency proceedings pursuant to K.S.A. 77-536, and amendments thereto, to suspend the certificate, permit, or license issued to the carrier. Each emergency order to cancel the certificate, permit, or license issued to the carrier shall be followed by a notice of the agency action and an opportunity for a hearing on the matter, pursuant to K.S.A. 77-536 and amendments thereto. (Authorized by K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g; implementing K.S.A. 2009 Supp. 66-1,128; effective Jan. 1, 1971; modified, L. 1981, ch. 424, May 1, 1981; amended May 1, 1983; amended, T-85-48, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1987; amended Oct. 3, 1994; amended Jan. 4, 1999; amended, T-82-7-26-02, July 26, 2002; amended Oct. 18, 2002; amended Oct. 22, 2010.)

**82-4-23. General intrastate requirements.** (a) Each insurance policy shall be written in the full and correct name of the individual, partnership, limited liability partnership, limited liability company, or corporation to whom the certificate, permit, or license has been issued, and in case of a partnership, all partners shall be named.

(b) Each policy filed with the commission shall be deemed the property of the commission and shall not be returnable.

(c) Cancellation notices and expiration notices shall be filed in duplicate with the commission on the uniform notice of cancellation of motor carrier insurance policies, form K, or in compliance with

K.A.R. 82-4-24a. The original copy shall be retained by the commission, and the duplicate copy shall be stamped with the date it is received and returned to the insurance company for its files.

(d) A policy that has been accepted by the commission under this article may be replaced by filing a new policy. If the commission determines that the replacement policy is acceptable, then the earlier-filed policy shall no longer be considered the effective policy.

(e) All public liability and property damage insurance policies filed with the commission and motor carriers registered pursuant to K.A.R. 82-4-3n shall fulfill the insurance requirements of K.S.A. 66-1,128, and amendments thereto, and the regulations adopted by the commission.

(f) Each policy of insurance filed with the commission for approval shall be in amounts not less than the minimum of liability required under K.S.A. 66-1,128 and amendments thereto. (Authorized by K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g; implementing K.S.A. 2009 Supp. 66-1,128; effective Jan. 1, 1971; amended May 1, 1981; amended Oct. 3, 1994; amended Jan. 4, 1999; amended July 14, 2000; amended Jan. 31, 2003; amended Oct. 22, 2010.)

**82-4-24.** (Authorized by K.S.A. 66-1,128; effective Jan. 1, 1971; revoked May 1, 1981.)

**82-4-24a. Standard insurance forms.** (a) Each motor carrier shall use the uniform standard insurance forms established under 49 C.F.R. Part 387, as adopted by K.A.R. 82-4-3n.

(b) The uniform motor carrier bodily injury and property damage liability certificate of insurance shall be form E for intrastate regulated and interstate exempt motor carriers.

(c) The uniform motor carrier cargo certificate of insurance shall be form H for intrastate common carriers.

(d) Forms BMC 91 and BMC 91X shall be required for interstate regulated motor carriers in accordance with K.A.R. 82-4-3n.

(e) The uniform notice of cancellation of motor carrier insurance policies shall be form K. (Authorized by K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g; implementing K.S.A. 2009 Supp. 66-1,128; effective May 1, 1981; amended May 1, 1984; amended Oct. 3, 1994; amended Jan. 4, 1999; amended July 14, 2000; amended Oct. 22, 2010.)

**82-4-25.** (Authorized by K.S.A. 66-1,128; effective Jan. 1, 1971; revoked May 1, 1981.)

**82-4-25a.** (Authorized by K.S.A. 66-1,112, 66-1,112a, 66-1,112g; implementing K.S.A. 66-1,128; effective May 1, 1981; revoked May 1, 1987.)

## **APPLICATION REQUIREMENTS AND OTHER GENERAL REGULATIONS**

**82-4-26. General requirements for certificates, permits, and licenses.** (a) Except as otherwise specifically requested by the commission or its staff, each application for a certificate, permit, or license by a partnership shall be accompanied by a copy of the articles of partnership, if in writing. If the articles of partnership are not in writing, a statement of the partnership agreement shall accompany the application. Each limited liability partnership shall provide a copy of its partnership agreement. Each corporation applying for a certificate, permit, or license shall provide a copy of the articles of incorporation. Each limited liability company shall provide a copy of its articles of organization.

(b) In order to demonstrate that each applicant is fit, willing, and able to serve, the applicant shall attend an educational seminar on motor carrier operations conducted by the commission, in compliance with both of the following requirements:

(1) The person attending the seminar shall be the employee of the applicant responsible for the applicant's safety functions.

(2) The person responsible for the applicant's safety functions shall submit written verification on a form provided by the commission to verify that person's attendance at the seminar. (Authorized by K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g; implementing K.S.A. 2009 Supp. 66-1,116, 66-1,117; effective Jan. 1, 1971; amended May 1, 1981; amended Jan. 4, 1999; amended Jan. 31, 2003; amended Oct. 22, 2010.)

**82-4-26a. Certain private motor carriers exempt from obtaining commission authority.** (a) A private motor carrier engaged in the occasional transportation of personal property that is not for compensation and is not in the furtherance of a commercial enterprise shall not be required to apply for a certificate, permit, or license.

(a) A private motor carrier engaged in the occasional transportation of personal property that is not for compensation and is not in the furtherance of a commercial enterprise shall not be required to apply for a certificate, permit, or license.

(b) An interstate private motor carrier shall not be required to perform any of the following to enter the state of Kansas if that private motor carrier is exempt from safety regulations pursuant to 49 C.F.R. 390.23 and 49 C.F.R. 390.25 as adopted by K.A.R. 82-4-3f:

(1) Obtain commission authority under K.A.R. 82-4-29;

(2) carry a registration receipt pursuant to K.A.R. 82-4-30a(c); or

(3) obtain a permit and pay the special clearance fee required by K.A.R. 82-4-42(b). (Authorized by K.S.A. 66-1,112g; implementing K.S.A. 2009 Supp. 66-1,116 and K.S.A. 2009 Supp. 66-1,117; effective, T-82-10-25-01, Oct. 5, 2001; effective Dec. 28,

2001; amended Jan. 31, 2003; amended Oct. 22, 2010.)

**82-4-27. Applications for certificates of convenience and necessity and certificates of public service.** (a) Each application for a certificate of convenience and necessity or a certificate of public service shall be typewritten or printed on forms furnished by the commission. An original and two copies shall be filed and shall contain the following information:

(1) The address of the applicant's principal office or place of business and the applicant's residential address;

(2) a list of each motor vehicle, by make, year, and vehicle identification number (VIN), to be used by the applicant. If buses are to be used, the seating capacity of each bus shall be included;

(3) the commodity or commodities listed on form MCS-150 that the applicant intends to transport;

(4) a current balance sheet and income statement reflecting the most recent 12 months of data available or pro forma statement of the applicant; and

(5) evidence of compliance with the requirements of K.A.R. 82-4-26(b).

(b) If the commission deems a hearing necessary in order to evaluate an application for a certificate of public service, the applicant shall file testimony that details how the applicant is fit, knowledgeable of, and in compliance with all applicable safety regulations. (Authorized by K.S.A. 2009 Supp. 66-1,112 and 66-1,117; implementing K.S.A. 2009 Supp. 66-1,117 and 66-1,139; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1984; amended May 1, 1987; amended Sept. 16, 1991; amended Oct. 3, 1994; amended Jan. 4, 1999; amended Jan. 31, 2003; amended Oct. 22, 2010.)

**82-4-27a. Applications for transfer of certificates of convenience and necessity**

**and certificates of public service.** (a) A certificate of convenience and necessity or a certificate of public service issued to common motor carriers under the provisions of K.S.A. 66-1,114 and K.S.A. 66-1,114b, and amendments thereto, shall not be assigned or transferred without the consent of the commission. The terms and provisions of any certificate may reasonably be altered, restricted, or modified by the commission, or restrictions may be imposed by the commission on any transfers when the public interest may be best served.

(b) An application for the commission's approval of the transfer of the common carrier certificate shall be completed by both transferor and transferee and filed on forms prescribed by the commission. Each applicant shall file an original and two copies of the application with the commission. The application shall contain a certified or sworn contract entered into by the parties that shall meet the following criteria:

(1) Is filed as an exhibit with the application;

(2) sets out in full the agreement between the parties; and

(3) details all transferred items including equipment, property, goodwill, assumption of debt, covenants not to compete, and any other items relevant to the financial stability of the parties.

(c) The transferor or present owner of the certificate shall file a sworn statement containing the following information:

(1) The name and address of the present owner of the certificate;

(2) the date the certificate was obtained;

(3) the reason for the transfer;

(4) an indication of whether the transferor is currently under citation or suspension by the commission;

(5) an indication of whether all ad valorem taxes have been paid to the state of Kansas, or a statement that clearly indicates

which party shall be responsible for filing any delinquent rendition statement and who shall be responsible for paying any outstanding ad valorem tax obligation; and

(6) a statement that the vehicle maintenance records, driver qualification files, driver logs, and bills of lading of the transferor for the three years before the date of the transfer will be in the transferee's possession upon conclusion of the transfer.

(d) The transferee of the certificate shall file a sworn statement containing the following information:

(1) The name and address of the transferee according to one of the following:

(A) If the transferee is a corporation, the application shall designate the state in which the articles of incorporation were issued and shall provide the name and address of all officers;

(B) if the transferee is a limited liability company, the applicant shall designate the state in which the articles of organization were issued, provide the name and address of each officer, and provide a copy of the statement of foreign qualification;

(C) if the transferee is a limited liability partnership, the applicant shall designate the state in which the statement of qualification was issued, provide the name and address of each partner, and provide a copy of the limited liability partnership's statement of qualification; or

(D) if the transferee is an individual, partnership, or association, the application shall indicate the names and addresses of all parties owning an interest in the transferee and the percentage each owns;

(2) a financial statement showing in detail the financial ability and responsibility of the transferee;

(3) a statement specifying the amount the transferee borrowed or otherwise obtained to make the purchase of the items detailed in subsection (b) and specifying all details regarding the transactions;

(4) a sworn statement from the transferee that the vehicle maintenance records, driver qualification files, driver logs, and bills of lading of the transferor will be in the transferee's possession for three years from the date of the transfer. The transferee shall accept all responsibility for the books and records and shall have them available at any time for inspection by the commission or the commission's employees; and

(5) if the transferee is not currently a motor carrier holding authority from the commission, evidence of compliance with K.A.R. 82-4-26(b). (Authorized by K.S.A. 2009 Supp. 66-1,112 and 66-1,117; implementing K.S.A. 2009 Supp. 66-1,117 and K.S.A. 66-1,118; modified, L. 1981, ch. 424, May 1, 1981; amended May 1, 1983; amended May 1, 1987; amended Sept. 16, 1991; amended May 10, 1993; amended Oct. 3, 1994; amended Jan. 4, 1999; amended Jan. 31, 2003; amended Oct. 22, 2010.)

**82-4-27b.** (Authorized by K.S.A. 1983 Supp. 66-1,112; implementing K.S.A. 66-1,117, K.S.A. 1983 Supp. 66-1,112, 66-1,114; effective May 1, 1983; amended May 1, 1984; revoked May 1, 1985.)

**82-4-27c. Applications for transfer for purposes of change in the form of a business organization.** (a) An application to transfer a certificate of convenience and necessity or a certificate of public service issued to a common motor carrier shall be considered by the commission without a hearing, pursuant to K.S.A. 66-1,115a and amendments thereto, if the transfer is required because of any change in the form of business organization, including the following:

(1) Incorporation of the limited liability company, sole proprietorship, limited liability partnership, or partnership holding the certificate or permit to be transferred;

(2) the dissolution of the corporation holding the certificate or permit and the formation of a limited liability company, partnership, limited liability partnership, or

sole proprietorship by the entities comprising the former corporation;

(3) the dissolution of the limited liability company holding the certificate or permit and the formation of a partnership, limited liability partnership, or sole proprietorship by the entities comprising the former limited liability company;

(4) the dissolution of the limited liability partnership holding the certificate or permit and the formation of a limited liability company, partnership, or sole proprietorship by the entities comprising the former limited liability partnership; or

(5) the dissolution of the partnership holding the certificate or permit and formation of a sole proprietorship by a former partner.

(b) The application for transfer shall contain all applicable information required by K.A.R. 82-4-27a and a signed affidavit from the transferor stating both of the following:

(1) That the transfer is for any of the following:

(A) The incorporation of the present limited liability company, sole proprietorship, partnership, or limited liability partnership;

(B) the dissolution of a corporation to form a limited liability company, partnership, limited liability partnership, or sole proprietorship;

(C) the dissolution of a limited liability company to form a partnership, limited liability partnership, or sole proprietorship;

(D) the dissolution of a limited liability partnership to form a limited liability company, partnership, or sole proprietorship;

(E) the dissolution of partnership to form a sole proprietorship; or

(F) any other change in the form of business; and

(2) that the management, operations, and equipment of the transferee will be the same as that of the transferor. (Authorized by K.S.A. 2009 Supp. 66-1,112, 66-1,117; implementing K.S.A. 2009 Supp. 66-1,112,

66-1,114, 66-1,115, 66-1,115a, K.S.A. 66-1,117; effective May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended Sept. 16, 1991; amended July 6, 1992; amended Jan. 4, 1999; amended July 14, 2000; amended Oct. 22, 2010.)

**82-4-27d.** (Authorized by K.S.A. 1983 Supp. 66-1,112, K.S.A. 66-1,112a, K.S.A. 66-1,117; implementing K.S.A. 1983 Supp. 66-1,112, K.S.A. 66-1,112a, K.S.A. 1983 Supp. 66-1,114, and K.S.A. 66-1,115; effective May 1, 1985; revoked May 1, 1986.)

**82-4-27e. Application to merge or consolidate intrastate common authority; application to acquire control or management of an intrastate common motor carrier operation.** (a) All individuals, partnerships, limited liability companies, limited liability partnerships, and corporations who intend to merge, consolidate, or acquire control or management of a motor carrier operation that possesses common interstate authority as well as intrastate authority, or possesses intrastate authority, shall first apply to the commission for authority to do so. The merger, consolidation, or acquisition may be accomplished by means including stock acquisition by a new motor carrier, new owner, or new majority stockholder; transfer of a partnership interest; or a conditional sales contract.

(b) Each entity who has received approval or exemption from the relevant federal agency to make any transaction described in subsection (a) shall send a copy of that approval or exemption to the commission and provide the information specified in subsection (d) on the required application.

(c) Each entity that desires to make any transaction described in subsection (a) and has not received approval or exemption of the relevant federal authority shall provide the information specified in subsections (d) and (e) and comply with the requirements of subsection (f) .

(d) Each applicant shall file an original and two copies of the application with the commission. The application shall contain the following information:

(1) The background of the transaction, including the names of the entities involved, their addresses, the reasons for the transaction, and items to be retained, including equipment, property, and any other item relevant to the transaction; and

(2) a signed affidavit stating whether or not all ad valorem taxes have been paid to the state of Kansas and who shall be responsible for paying any outstanding ad valorem tax obligation.

(e) Those applicants who have not received approval or exemption from the relevant federal agency shall also provide the following information:

(1) With respect to a partnership transaction, the percentage of the partnership being transferred and the percentage of each partner as a result of the transaction;

(2) with respect to a stock transaction, the total number of shares outstanding, the total number of shares being transferred and to whom, and the total number of shares any transferee held before the stock transaction; and

(3) unless preempted by federal law, evidence of compliance by the acquiring party or transferee with K.A.R. 82-4-26(b).

(f) Any application filed under this regulation may be granted without hearing if no protests are lodged and the commission does not require further information to make a determination on the application. (Authorized by K.S.A. 2009 Supp. 66-1,112; implementing K.S.A. 2009 Supp. 66-1,114, 66-1,114b, and K.S.A. 66-1,118; effective May 1, 1986; amended July 6, 1992; amended Jan. 4, 1999; amended July 14, 2000; amended Jan. 31, 2003; amended Oct. 22, 2010.)

**82-4-27f.** (Authorized by K.S.A. 1997 Supp. 66-1,112, K.S.A. 66-1,112a,

K.S.A. 66-1,117; implementing K.S.A. 1997 Supp. 66-1,112, K.S.A. 66-1,112a, K.S.A. 66-1,114, and 66-1,115; effective May 1, 1986; amended May 1, 1987; amended Oct. 3, 1994; amended Jan. 4, 1999; revoked July 14, 2000.)

**82-4-27g. Applications for transfer for purposes of name change of a motor carrier.**

(a) Any application to transfer a certificate of convenience and necessity or a certificate of public service because of a name change of an entity holding a certificate or permit shall be considered by the Commission without a hearing, pursuant to K.S.A. 66-1,115a, and amendments thereto. The application shall state the reasons for the name change.

(b) Any name change requested because of a change in the form of business shall be filed pursuant to K.A.R. 82-4-27c. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,115a; effective July 6, 1992; amended Jan. 4, 1999, amended July 14, 2000.)

**82-4-28.** (Authorized by K.S.A. 2001 Supp. 66-1,112a, 66-1,117; implementing K.S.A. 2001 Supp. 66-1,112b, 66-1,115, 66-1,117, and 66-1,139; effective Jan. 1, 1971; amended May 1, 1981; amended Oct. 3, 1994; amended Jan. 4, 1999; amended Jan. 31, 2003; revoked Oct. 22, 2010.)

**82-4-28a.** (Authorized by K.S.A. 2001 Supp. 66-1,112a, 66-1,117; implementing K.S.A. 66-1,112c, K.S.A. 2001 Supp. 66-1,117; effective May 1, 1981; amended Jan. 4, 1999; amended Jan. 31, 2003; revoked Oct. 22, 2010.)

**82-4-28b.** (Authorized by and implementing K.S.A. 1997 Supp. 66-1,112; effective May 1, 1983; amended Jan. 4, 1999; revoked Oct. 22, 2010.)

**82-4-29. Application for private carrier permits.** All applications for private carrier permits shall be on forms furnished by the commission and shall contain the following: (a) The name, street address, and mailing address of the applicant, and the title under which the applicant proposes to operate;

(b) the financial condition of the applicant;

(c) a list of motor vehicles to be used by the applicant by make, year, and vehicle identification number;

(d) the commodities that the applicant intends to transport;

(e) the nature of the enterprise or enterprises for which commodities are to be transported; and

(f) evidence of compliance with K.A.R. 82-4-26(b). (Authorized by K.S.A. 66-1,112g, K.S.A. 2001 Supp. 66-1,117; implementing K.S.A. 66-1,112g, K.S.A. 2001 Supp. 66-1,115, K.S.A. 2001 Supp. 66-1,117; effective Jan. 1, 1971; amended May 1, 1981; amended May 10, 1993; amended Jan. 31, 2003.)

**82-4-29a. Application for authorization of joint registration of equipment.** (a) Each application for authorization of joint registration of equipment shall be typewritten or printed on forms furnished by the commission. An original and two copies shall be filed and shall contain the following:

(1) The full and accurate names and addresses of the applicants;

(2) the motor carrier identification number under which authority for joint registration of equipment is sought;

(3) a balance sheet and income statement issued for the most recent 12 months of data available; and

(4) a certified or sworn statement by each applicant indicating all of the following:

(A) The applicant will jointly be in compliance with the state laws and regulations of the commission.

(B) Equipment utilized by the applicant will be properly marked and identified to reflect the authority under which the equipment is being jointly operated.

(C) The applicant presently has registered and is operating units of motor carrier equipment pursuant to the operating authority issued by the commission.

(D) The applicant will provide a list of the names of other carriers with whom the applicant currently has joint registration issued by the commission.

(E) The applicant will provide a list of the equipment to be registered under the joint application.

(b) If either applicant does not currently hold authority from the commission to operate as a motor carrier, that carrier shall also provide evidence of compliance with K.A.R. 82-4-26(b). (Authorized by K.S.A. 2001 Supp. 66-1,112; implementing K.S.A. 2001 Supp. 66-1,112 and 66-1,139; effective May 1, 1983; amended Oct. 3, 1994; amended Jan. 4, 1999; amended Jan. 31, 2003.)

**82-4-30.** (Authorized by K.S.A. 66-1,112; effective Jan. 1, 1971; revoked May 1, 1981.)

**82-4-30a. Applications for interstate registration.** (a) (1) For the purposes of this regulation, “base state” shall have the meaning assigned to “base-state” in 49 U.S.C. 14504a(a)(2), as adopted in paragraph (a)(2) of this regulation.

(2) 49 U.S.C. 14504a(a)(2), as in effect on October 16, 2008, is hereby adopted by reference.

(3) Each interstate motor carrier designating Kansas as the carrier’s base state and operating in interstate commerce over the highways of this state under authority issued by the relevant federal agency shall file the

uniform application for registration issued by the relevant federal agency. The carrier shall file this application for registration with the transportation division of the state corporation commission.

(b) Each interstate motor carrier designating Kansas as the carrier's base state shall pay a fee to the state corporation commission. This fee shall be in accordance with the fee schedule in 49 C.F.R. 367.30, as in effect on April 27, 2010 and hereby adopted by reference.

(c) An interstate regulated motor carrier shall not operate in interstate commerce over the highways of this state unless the carrier is registered in the carrier's base state pursuant to 49 U.S.C. 14504a(a)(2). (Authorized by K.S.A. 2009 Supp. 66-1,112; implementing K.S.A. 2009 Supp. 66-1,108b, 66-1,116 and 66-1,139; modified, L. 1981, ch. 424, May 1, 1981; amended Oct. 3, 1994; amended Jan. 4, 1999; amended July 14, 2000; amended Jan. 31, 2003; amended, T-82-10-8-07, Oct. 8, 2007; amended, T-82-12-10-07, Dec. 10, 2007; amended July 18, 2008; amended, T-; amended Oct. 15, 2010.)

**82-4-30b.** (Authorized by K.S.A. 1984 Supp. 66-1333; implementing K.S.A. 1984 Supp. 66-1329, 66-1330, 66-1331, 66-1332, 66-1334; effective T-85-48, Dec. 19, 1984; effective May 1, 1985; revoked Jan. 4, 1999.)

**82-4-31.** (Authorized by K.S.A. 1999 Supp. 66-1,112 and 66-1,112a; implementing K.S.A. 1999 Supp. 66-1,112, 66-1,112a, and 66-1a01; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1984; amended Oct. 3, 1994; amended Jan. 4, 1999; amended July 14, 2000; revoked Oct. 22, 2010.)

**82-4-32. Completing motor carrier applications.** (a) Each applicant filing an application for an intrastate common carrier certificate, interstate license, or private carrier permit shall provide the commission

with all information required to complete the application within 30 days of the original filing date. Any application that is not completed within 30 days of the original filing date may be dismissed without further notice, at the discretion of the commission.

(b) All information required to complete a filing for a certificate of convenience and necessity, certificate of public service, or a private carrier permit shall be provided to the commission within 90 days of the date of application, or within 30 days after the date of the hearing if the application requires a hearing. If the required information is not provided within the applicable time period, the application may be dismissed by the commission without further notice.

(c) Required application fees shall not be refunded if the application is dismissed by the applicant or the commission.

(d) Fees may be remitted by personal check, cash, certified check, money order, or electronic transfer of funds. (Authorized by K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2009 Supp. 66-1,117; implementing K.S.A. 2009 Supp. 66-1,117; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1987; amended Oct. 3, 1994; amended Jan. 4, 1999; amended July 14, 2000; amended Jan. 31, 2003; amended Oct. 22, 2010.)

**82-4-33. Service of process.** (a) An applicant for a certificate, permit, or license who is not a resident of Kansas shall not be granted a certificate, permit, or license until the applicant designates an agent who is a resident of the state of Kansas to be a process agent for and on behalf of the applicant.

(b) Each interstate regulated carrier shall provide and maintain the name of the carrier's agent for service of process with the carrier's registration state, pursuant to 49 C.F.R. Part 367, as adopted by K.A.R. 82-4-30a.

(c) This regulation shall not apply to private carrier applicants. This regulation

shall not be construed to relieve motor carriers from the obligation to comply with K.S.A. 66-305a, and amendments thereto. (Authorized by K.S.A. 2009 Supp. 66-1,112; implementing K.S.A. 2009 Supp. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1985; amended Oct. 3, 1994; amended Jan. 4, 1999; amended July 14, 2000; amended Oct. 22, 2010.)

**82-4-34.** (Authorized by K.S.A. 66-1,112, 66-1,112a, 66-1,112g; implementing K.S.A. 66-1,112, 66-1,112a, 66-1,112g; effective Jan. 1, 1971; amended May 1, 1981; revoked May 10, 1993.)

**82-4-35. Preserving certificates or permits.** (a) All intrastate motor carriers and drivers of vehicles registered under certificates or permits shall, at all times, carry on every vehicle operated under the certificate or permit an authority card, issued by the commission, that specifies the operating authority granted by the commission under the certificate or permit.

(b) Copies of certificate or permits issued by the commission shall be carefully preserved by the holders. (Authorized by K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g; implementing K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g, K.S.A. 2009 Supp. 66-1,139; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1984; amended May 1, 1987; amended Jan. 31, 2003; amended Oct. 22, 2010.)

**82-4-35a. Inspections of motor carrier documents.** The following documents shall be made available upon request for inspection by any duly authorized representative of the commission, the state highway patrol, or other law enforcement officers:

- (a) Registration receipts;
- (b) authority cards;
- (c) driver logs;
- (d) bills of lading or shipping receipts;

- (e) waybills;
- (f) freight bills;
- (g) run tickets, or equivalent documents, and orders;
- (h) cab cards;
- (i) fuel receipts;
- (j) toll road receipts; and
- (k) any other documents that would

indicate compliance with hours of service requirements. (Authorized by K.S.A. 2009 Supp. 66-1,112 and K.S.A. 66-1,112g; implementing K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g, 66-1,131, and K.S.A. 2009 Supp. 66-1,139; effective May 1, 1987; amended May 10, 1993; amended Oct. 3, 1994; amended Jan. 4, 1999; amended July 14, 2000; amended Oct. 22, 2010.)

**82-4-36.** (Authorized by K.S.A. 66-1,112, 66-1,112a, 66-1,112f, 66-1,112g; implementing K.S.A. 66-123, 66-1,112g; effective Jan. 1, 1971; amended May 1, 1981; revoked May 1, 1984.)

**82-4-37.** (Authorized by K.S.A. 1999 Supp. 66-1,112, 66-1,112a, K.S.A. 66-1,112g; implementing K.S.A. 1999 Supp. 66-1,112, 66-1,112a, K.S.A. 66-1,112g, K.S.A. 1999 Supp. 66-1,139; effective Jan. 1, 1971; amended May 1, 1981; amended May 10, 1993; amended Oct. 3, 1994; amended Jan. 4, 1999; amended July 14, 2000; revoked Oct. 22, 2010.)

**82-4-38.** Authorized by K.S.A. 66-1,112, K.S.A. 66-1,112a, K.S.A. 66-1,112g, K.S.A. 66-1333; implementing K.S.A. 66-1,129 as amended by L. 1988, ch. 356, §242, K.S.A. 66-1,139 as amended by L. 1989, ch. 208, §1, K.S.A. 66-1329; effective Jan. 1, 1971; amended May 1, 1984; amended T-85-48, Dec. 19, 1984; amended May 1, 1985; amended April 30, 1990; revoked May 10, 1993.)

**82-4-39. Surrender of identification cards.** (a) If operations are abandoned under any certificate, permit or license or upon cancellation or revocation thereof by the commission, all identification cards, authority cards and registration receipts issued under the certificate, permit, or license shall be immediately forwarded to the commission.

(b) If by order of the commission or otherwise, operations are suspended under any certificate, permit, or license, the carrier shall immediately remove all identification cards issued under the certificate, permit, or license, from all vehicles. The identification cards shall be preserved by the carrier who shall, at the request of the commission, immediately forward them to the commission.

(c) If a motor vehicle is removed from service and withdrawn from registration with the commission, all identification cards issued to the motor vehicle shall be immediately forwarded to the commission. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g; effective Jan. 1, 1971; amended May 1, 1981; amended May 10, 1993; amended Oct. 3, 1994.)

**82-4-40. Passengers on property-carrying vehicles.** A certificate, permit, or license authorizing transportation of property shall not authorize the transportation of persons. A motor carrier operating solely as a carrier of property shall not transport passengers or permit passengers to be transported with or without compensation. The owner of the property being transported, or the owner's lawful agent, may be carried in the same vehicle that is transporting the owner's property. (Authorized by K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g; implementing K.S.A. 66-1,108, K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g; effective Jan. 1, 1971; amended May 1, 1981; amended Oct. 22, 2010.)

**82-4-41.** (Authorized by K.S.A. 66-1,112; effective Jan. 1, 1971; revoked May 1, 1981.)

**82-4-42. Emergency and occasional equipment.** (a) Holders of certificates, permits, and licenses who have motor vehicles registered with the commission and who have complied with all lawful requirements may in case of emergency be authorized by the commission by fax, internet communication, or otherwise, to operate additional equipment or special equipment in substitution of regular registered equipment. Any motor carrier authorized to operate in intrastate commerce may perform either of the following:

(1) Transfer Kansas operating authority from regularly registered equipment to temporary or new equipment online. Regular registered equipment for which special equipment is being substituted shall not be operated at the same time that the special equipment is being operated; or

(2) add the special equipment to the motor carrier's profile and submit payment of the registration fee. The registration fee for the additional or special equipment shall be \$10.00 for each truck or truck-tractor .

(b) If a seasonal emergency occurs, a motor carrier may obtain authorization to operate additional or special equipment according to any of the following:

(1) A 30-day temporary wire or letter of authority authorizing the use of additional or special equipment may be issued.

(2) The motor carrier may transfer registration from regularly registered equipment as described in paragraphs (a)(1) and (a)(2).

(3) The motor carrier may apply for Kansas permits online.

(c) Each motor carrier conducting point-to-point intrastate operations in Kansas

shall have obtained appropriate commission operating authority pursuant to K.S.A. 66-1,114 and K.S.A. 66-1,115, and amendments thereto. A carrier registered to conduct both intrastate and interstate operations shall not be required to register equipment as specified in subsections (a) and (b). (Authorized by K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g, K.S.A. 2009 Supp. 66-1,140; implementing K.S.A. 2009 Supp. 66-1,140; effective Jan. 1, 1971; amended May 1, 1981; amended Oct. 3, 1994; amended Jan. 4, 1999; amended July 14, 2000; amended Oct. 22, 2010.)

## **REGULATIONS APPLICABLE ONLY TO COMMON CARRIERS**

**82-4-43.** (Authorized by and implementing K.S.A. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; revoked May 1, 1984.)

**82-4-44. Discontinuing service.** Discontinuance of service by a common motor carrier without approval of the commission shall be deemed grounds for forfeiture of the certificate. (Authorized by K.S.A. 2009 Supp. 66-1,112, K.S.A. 2009 Supp. 66-1,119; effective Jan. 1, 1971.)

**82-4-45.** (Authorized by K.S.A. 66-1,112, 66-1,116; effective Jan. 1, 1971; revoked May 1, 1981.)

**82-4-46. Uniform system of accounts and annual reports.** Each Kansas intrastate common motor carrier of household goods shall maintain a uniform system of accounts, as formulated and compiled by the commission, and shall file an annual financial report on forms prescribed or approved by the commission. The annual financial report for the preceding calendar year shall be filed on or after January 1, but not later than May 1, of each year. (Authorized by K.S.A. 2009 Supp.

66-1,112; implementing K.S.A. 66-123 and K.S.A. 2009 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1986; amended Jan. 4, 1999; amended Jan. 31, 2003.)

**82-4-47. Loss or damage to baggage.** A common motor carrier's liability in case of loss or damage to baggage while in the carrier's possession shall be determined in accordance with the provisions of the motor carrier's tariff on file with the commission, provided, that the provisions are not in conflict with the statutes or the established common law of the state of Kansas. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981.)

**82-4-48. Bills of lading, waybills, and freight bills.** (a) Each common motor carrier of household goods electing to be governed by K.A.R. 82-4-48a, K.S.A. 66-304, and K.S.A. 84-7-101 through K.S.A. 84-7-603, and amendments thereto, shall issue a bill of lading for household goods tendered for intrastate commerce.

(b) Each common motor carrier transporting property, other than household goods, and electing to be governed by K.A.R. 82-4-48a, K.S.A. 66-304, and K.S.A. 84-7-101 through K.S.A. 84-7-603, and amendments thereto, shall issue a bill of lading for property tendered for intrastate commerce.

(c) Each bill of lading shall include the following:

(1) The name and address of the motor carrier;

(2) the name and address of the consignor and consignee;

(3) the date of shipment;

(4) the origin and destination of the shipment;

(5) the signature of the motor carrier or its agent;

(6) a description of the shipment, including the number of packages, or the weight or volume;

(7) a released value clause as prescribed in K.S.A. 84-7-309, and amendments thereto, printed on the front of the document, if applicable; and

(8) on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices upon which any rate applicable to a shipment, or agreed to between the shipper and the carrier, is based. The copy provided by the carrier shall clearly state the dates of applicability of the rate, classification, rules, or practices.

(d) Bills of lading, waybills, and freight bills may be included on one form.

(e) Each transporter of crude petroleum oil, sediment oil, water, or brine shall require its drivers to possess a run ticket or equivalent documents as specified in K.A.R. 82-3-127.

(f) The documents required in subsections (a), (b), and (e) shall be held available upon request for inspection by any authorized representative of the commission, the state highway patrol, or other law enforcement officers.

(g) The bill of lading, waybill, freight bill, run ticket, or equivalent documents as specified in K.A.R. 82-3-127 shall be retained by the transporter for at least three years from the date of shipment. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; amended, T-83-45, Dec. 8, 1982; modified, L. 1983, ch. 362, May 1, 1983; amended Jan. 4, 1999; amended Oct. 22, 2010.)

**82-4-48a. Motor carriers of property other than household goods carriers electing to be subject to uniform**

**bills of lading and antitrust immunity regulations.** (a) Any intrastate common and contract motor carrier of property, other than household goods carriers, may elect to be subject to regulations related to any of the following:

(1) Uniform cargo liability rules for property being transported pursuant to K.S.A. 66-304, and amendments thereto, and K.A.R. 82-4-48 through K.A.R. 82-4-85;

(2) uniform bills of lading or receipts for property being transported pursuant to K.S.A. 66-304 and amendments thereto, K.A.R. 82-4-48, and K.S.A. 84-7-101 through 84-7-603 and amendments thereto; or

(3) antitrust immunity for joint line rates or routes, classification, and mileage guides, pursuant to K.A.R. 82-4-68 through K.A.R. 82-4-85.

(b) All motor carriers electing to be subject to an existing commission regulation dealing with one or more of the subjects specified in subsection (a) shall file written notice with the commission. The written notice filed with the commission shall specify the commission regulations that apply and provide one-day notice of adoption. If the motor carrier elects to opt out of any prior commission regulation listed in subsection (a), the motor carrier shall file written notice with the commission providing 30-day notice of abrogation. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g ; effective Jan. 4, 1999; amended Oct. 22, 2010.)

**82-4-49.** (Authorized by K.S.A. 66-1,112; effective Jan. 1, 1971; revoked May 1, 1981.)

**82-4-49a.** (Authorized by and implementing K.S.A. 1983 Supp. 66-1,112; effective May 1, 1981; amended May 1, 1984; revoked May 1, 1986.)

**82-4-49b.** (Authorized by and implementing K.S.A. 1984 Supp. 66-1,112; effective May 1, 1986; revoked Jan. 31, 2003.)

**82-4-49c.** (Authorized by and implementing K.S.A. 1997 Supp. 66-1,112; effective May 1, 1986; amended Jan. 4, 1999; revoked Jan. 31, 2003.)

**82-4-49d.** (Authorized by and implementing K.S.A. 1984 Supp. 66-1,112; effective May 1, 1986; revoked Jan. 31, 2003.)

**82-4-49e.** (Authorized by and implementing K.S.A. 1984 Supp. 66-1,112; effective May 1, 1986; revoked Jan. 31, 2003.)

**82-4-50. Passenger waiting rooms.** A common motor carrier of passengers shall provide a suitable place adequately heated and ventilated at points where it is necessary that paid passengers wait an appreciable time before boarding buses or where it is necessary that paid passengers, holding tickets for through transportation, wait for a connection with another carrier to proceed on to final destination. Nothing in this rule shall be construed as requiring common motor carriers of passengers to provide waiting places along rural roadsides between villages or cities. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981.)

**82-4-51. Treatment of passengers by common carrier.** (a) Common motor carriers of persons and drivers or operators of a motor vehicle used in the transportation of persons the motor carrier shall not refuse to carry any person offering himself or herself for carriage at any regular stopping place, if the person tenders the regular fare to any regular stopping place on the route operated by the motor carrier. The carrier operating the motor vehicle has the right to carry passengers for hire to that point under a certificate

regularly issued by the commission under the provisions of the motor carrier law, unless at the time the person offers himself or herself the seats of the motor vehicle are fully occupied.

(b) Transportation shall be refused to any person who is in an intoxicated condition or who is conducting himself or herself in a boisterous or disorderly manner, or is using profane language, or is unable to reasonably care for himself or herself unless accompanied by a capable attendant. The driver or operator of motor vehicles used in the transportation of persons as a common motor carrier shall have the right to supervise the seating of his or her passengers at all times. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981.)

**82-4-52.** (Authorized by K.S.A. 66-1,112, 66-1.112a, 66-1,112f; implementing K.S.A. 66-1,112f; effective Jan. 1, 1971; amended May 1, 1981; revoked May 1, 1983.)

## **COMMON AND CONTRACT CARRIER TARIFF REGULATIONS**

**82-4-53. Common motor carrier rates and charges.** (a) Common motor carriers of property or passengers that are engaged in intrastate commerce in Kansas shall maintain on file with the commission a copy of the tariff publications applicable to their lines between points in Kansas. The carriers shall keep open for public inspection, at their principal offices and locations at which they have employed exclusive agents, all intrastate tariff publications applicable to their lines from or to their stations.

(b) Each change to a tariff publication shall be made subject to 30-day notice to the public and the commission, unless otherwise authorized by the commission. Tariff publications of motor carriers effecting

changes resulting in increases in charges, either directly or by means of any change in the regulation or practice affecting a charge or value of service, may be filed on one-day notice to the commission and the public. Applicants granted new authority may file tariffs to be effective on one-day notice. Transferees may adopt the existing tariffs of transferors to be effective on one-day notice.

(c) Tariff publication, except general rate increases, shall not go into effect without prior approval of the commission. The publications shall be subject to protest and suspension. All publications shall be accompanied by a full and complete statement citing the reasons and justifications for the changes.

(d) General rate increases shall be made only by filing an application and after approval of the commission by written order.

(e) Protests of tariff publications shall be considered only if received by the commission at least 12 days before the published effective date of publications. Pursuant to protest or on the commission's own motion without protest, postponement of an effective date may be ordered by the commission to permit the matter to be properly investigated. Unless otherwise ordered by the commission, publication shall become effective as filed. Publications shall not be postponed to exceed 90 days.

(f) All tariff publications shall be made in compliance with the commission's regulations governing the publication and filing of common motor carrier rates and charges. (Authorized by K.S.A. 2009 Supp. 66-1,112; implementing K.S.A. 66-117, K.S.A. 2009 Supp. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; amended Jan. 4, 1999; amended Oct. 22, 2010.)

**82-4-54. Tariff publication to become effective on less than 30-day notice.**

(a) Departure from the commission's requirement in K.A.R. 82-4-53(b) that tariff publications become effective on 30-day notice may be permitted by the commission, if

good and sufficient cause is shown to convince the commission that publication should be made on short notice.

(b) The applicant shall provide all related facts or circumstances that could aid the commission in determining if the request is justified. If permission to establish provisions on less than the required notice is sought, the applicant shall state why the proposed provisions could not have been established upon 30-day notice.

(c) Permission to allow a tariff to become effective on less than 30-day notice shall be granted in cases for which good cause is shown. The desire to meet tariff publications of a competing carrier that has been filed on 30-day notice or one-day notice may be considered a factor for permitting publication on short notice. (Authorized by K.S.A. 66-1,218 and K.S.A. 2009 Supp. 66-1,112; implementing K.S.A. 66-1,218 and K.S.A. 2009 Supp. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1987; amended Jan. 4, 1999; amended Oct. 22, 2010.)

**82-4-55. Procedure for filing a request for postponement of tariff publications.**

(a) Each protested tariff publication sought to be postponed shall be identified by making reference to the name of the publishing carrier or agent, to the motor carrier's K.C.C. tariff number, and to the specific items or particular provisions protested. The protest shall state the grounds, indicate in what respect the protested tariff publication is considered unlawful, and state what the protestant offers as a substitution. Each protest shall be addressed to the commission. A protest shall not include a request that it also be considered as a formal complaint. If a protestant desires to proceed further against a tariff publication that is not postponed or that has been postponed and the postponement vacated, a separate, later, formal complaint or petition shall be filed.

(b) Protests against, and requests for, postponement of tariff publications filed under this regulation shall not be considered unless made in writing and filed with the commission in Topeka, Kansas. The original and five copies of each request for postponement shall be filed with the commission at least 12 days before the effective date of the tariff publication, unless the protested publication was filed on less than 30-day notice under the authority of this commission, in which event the protests shall be filed at the earliest possible date. In an emergency, protests submitted by fax shall be acceptable if they fully comply with subsection (a) and copies are simultaneously faxed by protestants to the respondent carriers or their publishing agents. An original and five copies of the fax shall simultaneously be mailed by the protestants to the commission in Topeka.

(c) An original and five copies of each protest or reply filed under this regulation shall be filed with the commission no later than 10 days after the publication of the tariff, and one copy of the protest shall simultaneously be served upon the publishing carrier or agent and upon other known interested parties.

(d) Each order instituting an investigation shall be served by the commission upon respondents. If the respondent fails to comply with any requirements or time period specified in the order, the respondent shall be deemed to be in default and to have waived any further hearing. The investigation may then be decided without further proceedings. (Authorized by K.S.A. 2009 Supp. 66-1,112; implementing K.S.A. 66-117 and K.S.A. 2009 Supp. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; amended Jan. 4, 1999; amended Oct. 22, 2010.)

**82-4-56.** (Authorized by K.S.A. 66-1,112; effective Jan. 1, 1971; revoked May 1, 1981.)

**82-4-56a. Common motor carrier tariffs.** (a) Each tariff shall be typewritten, printed, or reproduced by other similar, durable process, upon paper of good quality, 8 by 11 or 8½ by 11 inches in size.

(b) The title page shall show the following information:

(1) In the upper right-hand corner, the K.C.C. number of the tariff and, immediately below that, the K.C.C. number of the tariff canceled, if any. The first tariff issued by each carrier shall be numbered “K.C.C. no. 1”; succeeding tariffs shall be numbered consecutively. This information may be shown elsewhere on the page or on the second page of the tariff, if it applies to interstate as well as intrastate traffic;

(2) the name of the carrier, individual, or organization issuing the tariff;

(3) the names of the participating carriers or a reference to the page in the tariff containing that information;

(4) if the tariff is a passenger or household goods tariff, the tariff names’ class rates, commodity rates, mileages, rules, one-way fares, round-trip fares, excursion fares, and appropriate designation, if the tariff applies to local traffic, joint traffic, or both;

(5) the territories or points between which the tariff applies, briefly stated;

(6) specific references to the classification and to publications containing any exceptions to the classification governing the rates named in the tariff;

(7) the issued and effective dates;

(8) the commission’s motor carrier identification number assigned; and

(9) the name, title, and complete address of the party issuing the tariff.

(c) The requirements of subsection (a) shall be observed in the construction of circulars and other governing tariff publications. Tariff supplements shall be numbered consecutively, beginning with the number one, and shall show the K.C.C.

number of the publication amended, the number of any previous supplements or tariffs canceled, and numbers of the supplements containing all changes from the original publication. This information shall appear in the upper right-hand corner of the supplement unless the supplement applies to interstate as well as intrastate traffic, in which case the information may be shown elsewhere on the title page or on the second page.

(d) All household goods tariffs shall contain the following information:

(1) In clear and explicit language, all terms, additional charges, and privileges applicable in connection with the rates and charges named in the tariff, or specific reference to publications naming these terms, additional charges, and privileges;

(2) any exceptions to the application of rates and charges named in the tariff;

(3) a full explanation of reference marks and technical abbreviations used in the tariff;

(4) rates in cents or dollars and cents per 100 pounds or per ton of 2,000 pounds or other definite measure; and

(5) the method by which the distance rates shall be determined. Specific point-to-point rates shall be published whenever practicable.

(e) All passenger tariffs shall show the following information:

(1) Adult fares, definitely and specifically stated in cents or in dollars and cents, per passenger, together with the names of the stations or the stopping places for which the fares apply, arranged in a simple and systematic manner; and

(2) the identification of terms, agreements, or other documentation that is applicable or contains specific reference to the publications in which the fares will be found. (Authorized by K.S.A. 2009 Supp. 66-1,112; implementing K.S.A. 66-117, K.S.A. 2009 Supp. 66-1,112; effective May 1,

1981; amended Jan. 4, 1999; amended Oct. 22, 2010.)

**82-4-57. Powers of attorney and concurrences.**

(a) A common carrier desiring to give a power of attorney to an agent to issue and file tariffs and supplements for the carrier shall file notice of this intention on a form approved by the commission.

(b) If a common carrier desires to concur in tariffs issued and filed by another carrier or by its agent, a concurrence in substantially the same form as that prescribed by the USDOT for use in similar instances, with references to the interstate tariffs, shall be issued in favor of the issuing carrier.

(c) The original of all powers of attorney and concurrences shall be filed with the commission, and a duplicate of the original shall be sent to the agent or carrier on whose behalf the document is issued.

(d) If a common carrier wishes to revoke a power of attorney or concurrence, a notice shall be filed with the commission, the carrier's agent or agents, and any other carrier affected by the revocation. The notice shall be filed at least 30 days before the effective date. (Authorized by K.S.A. 2009 Supp. 66-1,112; implementing K.S.A. 2009 Supp. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1984; amended Jan. 4, 1999; amended July 14, 2000; amended Oct. 22, 2010.)

**82-4-58. Suspension or modification of tariff regulations.**

Upon written application and a showing of good cause, common carrier tariff regulations may be suspended or modified by the commission to cover unusual instances. (Authorized by K.S.A. 2009 Supp. 66-1,112; implementing K.S.A. 2009 Supp. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; amended Oct. 22, 2010.)

**82-4-58a.** (Authorized by K.S.A. 1983 Supp. 66-1,112; implementing K.S.A. 66-117; effective May 1, 1984; revoked Jan. 4, 1999.)

**82-4-58b.** (Authorized by K.S.A. 1983 Supp. 66-1,112; implementing K.S.A. 66-117; effective May 1, 1984; revoked Jan. 4, 1999.)

**82-4-58c.** (Authorized by K.S.A. 1983 Supp. 66-1,112; implementing K.S.A. 66-117; effective May 1, 1984; revoked Jan. 4, 1999.)

**82-4-58d. Financial filing requirements for abandonment of motor carrier passenger service.** In addition to the formal filing of an application for abandonment of intrastate motor carrier passenger service, the applicant shall also provide the following financial data on each route proposed to be abandoned:

(a) U.S. department of transportation or federal highway administration reports or shareholder annual reports for the three previous years;

(b) expense data of the intrastate route or routes in question for the three previous years and an explanation of the methodology used to determine costs;

(c) actual intrastate revenue by category, associated with the route or routes in question, on a monthly basis for the three previous years;

(d) an estimate of the off-route revenue that will be lost as a result of the abandonment and an explanation of how the estimates were derived;

(e) monthly intrastate ridership data for the intrastate route or routes in question for the three previous years;

(f) monthly intrastate variable cost computations for the three previous years; and

(g) copies of interstate tariffs applicable to the routes in question.

(Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective May 1, 1987; amended Jan. 4, 1999.)

## **REGULATIONS APPLICABLE ONLY TO CONTRACT CARRIERS**

**82-4-59.** (Authorized by K.S.A. 66-1,112a; implementing K.S.A. 66-1,112e, 66-1,112f; effective Jan. 1, 1971; amended May 1, 1981; revoked Jan. 4, 1999.)

**82-4-60.** (Authorized by K.S.A. 66-1,112; effective Jan. 1, 1971; revoked May 1, 1981.)

**82-4-61.** (Authorized by K.S.A. 66-1,112; implementing K.S.A. 66-1,112e, 66-1,112f; effective Jan. 1, 1971; modified, 1981 HCR No. 5020, May 1, 1981; revoked May 1, 1983.)

**82-4-62.** (Authorized by K.S.A. 1997 Supp. 66-1,112; effective Jan. 1, 1971; amended Jan. 4, 1999; revoked Oct. 22, 2010.)

## **REGULATIONS APPLICABLE TO COMMON AND CONTRACT CARRIERS**

### **82-4-63. Contested and uncontested motor carrier hearings.**

An application for a common carrier certificate of convenience and necessity, certificate of public service, or abandonment of a common carrier certificate shall be considered as contested if either protestants or intervenors, or both, appear at the hearing held on the application and present testimony or evidence in support of their contentions, present a question or questions of law, or cross-examine the applicant's witnesses with regard to the application. If neither protestants nor intervenors appear and offer testimony or evidence in support of their

contentions, raise a question of law, or cross-examine the applicant's witnesses with reference to any pending application, the application shall be considered as uncontested. (Authorized by K.S.A. 66-106, K.S.A. 2009 Supp. 6-1,112; implementing K.S.A. 66-106, K.S.A. 2009 Supp. 66-1,114, 66-1,115 and 66-1,119; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1987; amended Jan. 4, 1999; amended Oct. 22, 2010.)

**82-4-64.** (Authorized by K.S.A. 66-1,112, 66-1,112a; implementing K.S.A. 66-108, 66-1,118; effective Jan. 1, 1971; amended May 1, 1981; revoked Jan. 4, 1999.)

**82-4-65. Protestants.** Each protest against the granting of a permit, certificate, extension, abandonment, or transfer shall be considered as follows:

(a) Any interested person who believes that the public will be adversely affected by a proposed application may file a written protest. The protest shall identify the name and address of the protestant and the title and docket number of the proceeding. The protest shall include specific allegations as to how the applicant is not fit, willing, and able, or fit, knowledgeable, and in compliance with the commission safety regulations, to perform these services or how the proposed services are otherwise inconsistent with the public convenience and necessity.

(b) If the protestant opposes only a portion of the proposed application, the protestant shall state with specificity the objectionable portion.

(c) The protest shall be filed in triplicate with the commission within 10 days after publication of the notice in the Kansas Register. Failure to file a timely protest shall preclude the interested person from appearing as a protestant.

(d) Each protestant shall serve the protest upon the applicant at the same time or before the protestant files the protest with the

commission. The protest shall not be served on the applicant by the commission.

(e) To secure consideration of a protest, the protestant, intervenor, or a designated representative, as defined in K.A.R. 82-4-63, shall offer evidence or a statement or shall participate in the hearing. (Authorized by K.S.A. 2009 Supp. 66-1,112; implementing K.S.A. 2009 Supp. 66-1,114; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1985; amended May 1, 1987; amended May 1, 1988; amended Jan. 4, 1999; amended Oct. 22, 2010.)

**82-4-66. Intrastate carriers service specified incorporated or specified unincorporated municipalities.** A certificate issued to any intrastate general commodity carrier of property that operates intrastate in Kansas, and that is authorized to serve at a specified municipality, shall authorize service within the limits of that municipality and at the points, places and areas, indicated in (a) and (b) of this regulation. The certificate shall not authorize service beyond the territorial limits, if any, fixed in the certificate.

(a) Operating authority to serve a specified incorporated municipality shall also authorize service to all areas within eight miles of the corporate limits of the specified municipality.

(b) Operating authority to serve a specified unincorporated community shall also authorize services to all places within eight miles of the post office of the same name in the unincorporated community. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1983.)

**82-4-67.** (Authorized by and implementing K.S.A. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; revoked Jan. 4, 1999.)

## COLLECTIVE RATEMAKING REGULATIONS

**82-4-68. Collective rate making agreements.** (a) Motor carriers of property and passengers, joint line rates, and national motor freight classification may enter into an agreement with one or more of these carriers concerning rates, allowances, classifications, divisions, or rules related to them or procedures for joint consideration, initiation, or establishment of them. The agreement and all amendments shall be submitted to the commission for approval by the carriers that are parties to the agreement and shall be approved by the commission upon a finding that the agreement fulfills the requirements of K.S.A. 66-1,112, and amendments thereto, and the rules and regulations of the commission. The agreement shall be administered by an organization designated by the carriers who are parties to the agreement.

(b) The agreement shall contain, at a minimum, provisions for the following:

- (1) Election of rate committees and procedures for appointments to fill vacancies;
- (2) initiation of rate proposals;
- (3) record keeping;
- (4) tariff participation fees for services;
- (5) open meetings;
- (6) quorum standards;
- (7) proxy voting by members;
- (8) role of employees in docketing proposals;
- (9) notice of docket proposals and rate committee hearings;
- (10) voting on rate proposals by member carriers;
- (11) right of independent action;
- (12) docketing of independent action;

(13) the names, addresses, and telephone numbers of carriers who are parties to the agreement;

(14) the names and addresses of each of its affiliates and of officers and directors of the carriers who are parties to the agreement;

(15) the carriers' motor carrier identification number assigned by the commission;

(16) the name, address, and telephone number of the organization that will administer the agreement;

(17) final disposition of cases docketed;

(18) prohibitions of the organization from protesting carrier proposals;

(19) amendments to the agreement; and

(20) powers of attorney (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983; amended Jan. 4, 1999.)

**82-4-69. Applications for approval of collective rate making agreements.** (a) The carriers party to the agreement shall submit an application to the commission and attach a copy of the organization's articles of incorporation, bylaws, or other documents, specifying the powers, duties, and procedures of the organization. The organization for the carriers shall provide the commission with an organization chart, a complete description of the organization, including any subunits and their functions and methods of operations, together with the territorial scope of its operation.

(b) The application and supporting documents shall specify the following items:

- (1) The full and correct name and business address of the carriers who seek approval of the agreement and whether carrier

applicants are corporations, limited liability companies, individuals, partnerships, or limited liability partnerships. If a corporation, the laws under which it was incorporated shall be included. If a limited liability company, the laws under which it was organized shall be included. If a limited liability partnership, the laws under which it was organized shall be included. If a partnership, the names and addresses of all partners and the date of formation of partnerships shall be included;

(2) the motor carrier identification number assigned by the commission to each participating applicant;

(3) the name and business address of the organization that will administer the agreement;

(4) the facts and circumstances relied upon to establish that the agreement is in the public interest;

(5) the name, title, and business address of counsel, officers, or any other person to whom correspondence and notice are to be addressed;

(6) a true copy of the agreement and an opinion of a counsel for the applicant that the application made meets the requirements of K.S.A. 66-1,112, and amendments thereto, and commission regulations; and

(7) a prepared public notice to be published in the Kansas Register stating the fact that an application has been filed under these rules, and the date of the hearing, if required by the commission. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983; amended Jan. 4, 1999.)

**82-4-70. Recordkeeping responsibilities.** The organization shall maintain records and minutes of all acts pertaining to joint consideration, initiation and establishment of tariff publications and shall submit written reports to the commission on these activities as the commission from time to time may require. Minutes and voting

records shall be made available to the commission upon written request. Minutes, voting records and a complete file of all tariffs issued under the agreement shall be maintained by the organization for at least three years. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983.)

**82-4-71. Charges for services.** The organization shall, in the agreement, provide the commission with a basic schedule of its tariff participation fees applicable to parties to the agreement. If expenses are divided among parties to the agreement, the organization shall provide a statement showing how the expenses are divided. The organization shall also provide the commission with any amendments to the basic charges. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983.)

**82-4-72. Open meetings.** (a) An organization shall admit any person to any meeting at which rates or rules will be discussed or voted upon.

(b) Upon written request, the organization shall divulge to any person the name of the proponent of a rule or rate docketed with it, and shall divulge to any person the vote by any member carrier on any proposal before the organization. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983.)

**82-4-73. Quorum standard.** (a) At any meeting of carriers party to the agreement or carrier committees at which rates, rules or classifications are discussed or considered, 30 percent of the carriers party to the agreement or 50 percent of the committee shall constitute a quorum. The quorum requirements shall apply to any meeting when discussion includes general rate increases and decreases, tariff restructuring, commodity classification,

or rules and classifications changes proposed for tariff publication. Carrier members present by means of a proxy shall count towards the satisfaction of the quorum requirement. There shall be no voting unless at least one member carrier is present and possesses the authority for a lawful vote.

(b) Exceptions to the quorum standard may be granted upon a showing to the commission of genuine hardship. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983.)

**82-4-74. Voting on rate proposals.**

The organization shall allow any participating member carrier to discuss any rate proposal docketed. Only those carriers with authority to participate in the transportation to which the rate proposal applies shall vote upon the rate proposal. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983.)

**82-4-75. Proxy voting.** (a) The organization shall not allow a carrier to vote for one or more other carriers without specific written authority from the carrier being represented.

(b) While any member carrier may discuss any collectively established rate proposals docketed, only carriers with authority to participate in the transportation to which the proposed rates apply shall vote on the rates.

(c) To vote for an absentee, a carrier shall possess a written proxy containing the grantor or grantors signature, the specific items or items for which the vote is released, directions on voting, and certification of authority. A written affirmation shall be made by each carrier for itself and by each grantor of a proxy.

(d) The organization shall provide standard proxy forms to members, and a copy of all proxies exercised and the written certification of authority executed by the

proxy holder for the grantor shall be made part of the voting record. There is no limit to the number of proxies a carrier may hold. A proxy may be revoked at any time by a subsequent written revocation or by the carrier appearing at the meeting and voting on its own behalf. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983.)

**82-4-76. Notification and consideration of rate proposals.**

General rate increases or decreases, joint rates, changes in commodity classification, changes in tariff structures and publishing of tariffs may be discussed and voted on at any meeting only if: (a) Shippers receive detailed notice of meetings and agenda, through docket service, at least 15 days prior to the time a proposal is to be discussed or voted upon;

(b) shippers are accorded the opportunity to present either oral or written comments for consideration at the meeting;

(c) shippers' comments are given appropriate weight and consideration in discussion and voting upon the proposals;

(d) discussion of general rate increase or decrease is limited to industry average carrier cost information;

(e) any person attending those meetings is permitted to take notes and make sounds recordings; and

(f) the organization maintains detailed minutes of all meetings. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983.)

**82-4-77. Right of independent action.**

(a) An organization shall not interfere with each of that organization's carrier's right to independent action. That organization shall not change or cancel any rate established by independent action other than a general increase or broad rate restructuring. However, changes in the rates may be effected, with the

written consent of the carrier or carriers that initiated the independent action, for the purpose of tariff simplification, removal of discrimination, or elimination of obsolete items.

(b) Collective adjustments pursuant to K.S.A. 66-1,112, and amendments thereto, shall not cancel rate or rule differentials or differences in rates or rules existing as a result of any independent action taken previously, unless the proponent and any other participant in that independent action desires to eliminate the rate differential or application and notifies the organization in writing of its consent.

(c) Independent action shall mean any action taken by a common carrier member of an organization to perform any of the following:

(1) Establish a rate to be published in the appropriate rate tariff or cancel a rate for that carrier's account;

(2) instruct the organization publishing the rate tariff that the existing rate or rates, whether established by independent action or collective action, proposed to be changed or cancelled be retained for that carrier's account and published in the appropriate tariff; or

(3) publish for the common carrier's account, in the appropriate tariff, a rate established by the independent action of another carrier. This definition shall apply regardless of the manner in which the carrier joins in the rate, if the rate published for the joining carrier's account is the same as the rate established by the other carrier under independent action. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983; amended Oct. 22, 2010.)

**82-4-78. Docketing of independent action.**

(a) Proponents of independent actions shall have the absolute right to decide whether or when organizations will docket these actions.

(b) The organization shall comply with the instructions of the proponent of an independent action with regard to whether or not the action should be docketed, and in the absence of explicit instructions shall refrain from docketing until the proposal has been file with the commission.

(c) There shall be no collective discussion of independent actions as defined in K.A.R. 82-4-77 until they have been filed with the commission. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983.)

**82-4-79. Organization employee limitations.** (a) Employees and employee committees of the organization shall not initiate a proposal not determine whether to adopt, reject, or otherwise dispose of a proposal effecting a change in any tariff item published by or for the account of any member carrier.

(b) Employees and employee committees may provide expert analysis and technical assistance to any member carriers or shippers in developing or evaluating a carrier or shipper initiated rate or rule proposal.

(c) Any advice concerning an independent action as defined in K.A.R. 82-4-77 proposal shall remain confidential. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983.)

**82-4-80. Final disposition of dockets.** The organization shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed. However, if unusual circumstances require, the organization may extend that period, subject to review by the commission. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983.)

**82-4-81. Organization protest.** The organization shall not file a protest or complaint with the commission against any tariff item published by or for the account of any motor carrier of property or passengers. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983.)

**82-4-82. Burden of proof of violations and effects of violations.** In any proceeding in which a party alleges that a carrier voted, discussed, or agreed on a rate or allowance in violation of collective ratemaking regulations of the commission, that party shall have the burden of showing that the vote, discussion, or agreement occurred. A showing of parallel behavior shall not satisfy that burden by itself. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983.)

**82-4-83. Commission review of collective rate making agreements.** The commission shall review each collective rate making agreement approved under these rules at least once every three years to determine whether the agreement or an organization established or continued under an approved agreement still complies with the requirements of the statutes and applicable rules. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983.)

**82-4-84. Revoking collective rate making agreements.** Upon proper notice and hearing, and a finding that the collective rate making procedures are not being followed, the commission may revoke its approval or order corrections to the activities and procedures of persons, groups, agencies, bureaus and other entities engaged in collective rate making before the commission. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112;

effective, T-83-45, Dec. 8, 1982; effective May 1, 1983.)

**82-4-85. Rate applications filed by carriers party to a collective rate making agreements.** (a) Carriers party to a collective rate-making agreement who file an application proposing a general increase or decrease in rates shall submit with the application schedules indicating to the commission the nature and extent of the proposed changes to be effected.

(b) Applications shall be based upon data submitted for a test year. The commission may disapprove, for good cause, the test year selected by the applicant.

The original and nine copies of the application and schedules shall be filed with the commission. Each application and schedule shall be bound together under one loose-leaf binder. If the bulk of the material would make this handling impractical, two or more volumes in loose-leaf form shall be filed. The size of print used in the application and schedules shall be clearly legible. Negative numbers shall be shown in parentheses. Amount included in the application shall be cross-referenced between the appropriate summary schedule and supporting schedules, as well as among the various sections. Referencing shall include allocation ratios, when appropriate. All items shall be self-explanatory. Additional information, cross-references, or explanatory footnotes shall be presented on the schedule. The application shall be supported by schedules as set out below and shall be assembled under topical sections, with index tabs for each section and a page number for each schedule. The form, order, and titles of each section shall be prescribed as follows.

(1) Application, letter of transmittal, and authorization. This section shall contain a copy of the application, a copy of the letter of transmittal, and an appropriate document or documents authorizing the filing of the application, if any.

(2) General information and publicity. This section shall list the means employed by the carriers to acquaint the general public affected by the proposed rate change with the nature and extent of the proposal. These methods may include meetings with public officials, shippers, and citizen groups; newspapers articles; and advertisements. This section shall include general information concerning the application that will be of interest to the public and suitable for publication. That information shall include the following, when applicable:

(A) The percent and dollar amount of the aggregate annual increase or decrease that the application proposes; and

(B) any other pertinent information that the application may desire to submit.

(3) List of carriers participating in the application. This list shall show the motor carrier identification number and the name and address of each carrier that is a participant in the application.

(4) List of carriers in the study group. The list shall state the carriers used in the study group. A detailed explanation of how the study group of carriers was selected shall also accompany this section.

(5) Study group carriers' operating ratios. This section shall contain the Kansas intrastate operating ratios for the actual rest year for the study group carriers.

(6) Study group carriers—test year and pro forma income statements. This section shall present the following:

(A) An operating income statement for each of the study group carriers and a composite statement of all the study group carriers depicting the unadjusted test year operations for the total system; and

(B) a second schedule that expands the actual system composite income statement to a Kansas intrastate operations income statement. This statement shall be adjusted to show pro forma test year operations. Supporting schedules shall set forth a full and complete explanation of the purpose and

rationale for the pro forma adjustments. The pro forma adjustments may include adjustments to reflect the elimination or normalization of nonrecurring and unusual items, and adjustments for known or determinable changes in revenue and expenses.

(7) Capital and cost of money. This section shall be prepared for each participating carrier having total Kansas intrastate system revenue of one million dollars or more. It shall contain the following:

(A) A schedule indicating the amounts of the major components of the capital structures of the carrier that are outstanding at the beginning and at the end of the test year. This schedule shall contain the ratios of each component to the total capital;

(B) a schedule disclosing the cost of each issue of debt and preferred stock outstanding, with due allowance for premium discounts, and issuance expense. Data relating to the other components of capital shall be shown, if appropriate; and

(C) if the applicant is a part of a consolidated group or a division of another company, the consolidated capital structure shall be included in this section.

(8) The proposed tariffs. The application shall contain the proposed tariffs requested for approval.

(9) Prefiled testimony shall be required in all transportation rate cases filed by a tariff publishing organization, and all prefiled testimony shall be filed simultaneously with the filing of the application.

(10) All of the above requirements shall be completed and in proper form. Applications found to be incomplete or not in the form prescribed above shall be rejected by the commission. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983; amended Jan. 4, 1999.)

## INSPECTION STATION

### **82-4-86. Vehicle inspection stations.**

(a) Each commission authorized inspection station shall be located in Kansas. Any carrier with vehicles that are registered with the commission may file an application to serve as an authorized inspection station.

(b) Each application shall be submitted in the form of a letter on company stationery or letterhead and shall be signed by the owner of the company or any authorized officer of the corporation. The letter shall include the following:

(1) the carrier's name, address and telephone number;

(2) geographic description, location or address of the proposed inspection station;

(3) the current number of motor vehicles and trailers operated by the carrier;

(4) the name of the proposed, company-authorized and certified mechanic or mechanics;

(5) a non-refundable check, payable to the state corporation commission of Kansas, for \$100.

(c) An investigation of the application shall be conducted by a designated representative of the state corporation commission who shall report all findings. Upon approval by the commission, an order shall be issued designating the carrier and inspection station as an approved inspection location. The order or a copy shall be retained at the approved inspection station and shall be made available upon request to any representative of the commission and any state or local law enforcement officer.

(d) Any relocation of approved inspection stations or any revision in the name or names of the company-authorized and certified mechanic shall be approved by the commission.

(e) Each approved inspection station shall have:

(1) a minimum of one authorized and certified mechanic on duty or on call;

(2) an inspection area suitable for inspections; and

(3) sufficient tools and equipment to inspect each type of vehicle. All tools and equipment shall be maintained in good operating condition.

(f) The company-authorized and certified mechanic shall inspect the motor vehicle or trailer in accordance with K.A.R. 82-4-3 and K.A.R. 82-4-20. Vehicles in compliance shall be issued a certificate which shows the date of the inspection. The certificate shall be signed by the company-authorized and certified mechanic performing the inspection.

(g) One copy of the certificate shall remain with the motor vehicle or trailer, one copy of the certificate shall be retained by the authorized inspection station for a period of one year from the date of issuance, and one copy shall be forwarded to the Kansas corporation commission within 30 days of the inspection. Each certificate issued shall be valid for 12 months from the date of issuance.

(h) Certificate may be purchased from the commission by an approved inspection station for \$5.00 each. The motor carrier purchasing the certificates shall be accountable for the disposition of each certificate. Abuse of the authority to inspect or abuse of its accountability for the certificate shall be grounds for suspension or revocation of each certificate. Abuse of the authority to inspect or abuse of its accountability for the certificate shall be grounds for suspension or revocation of the carrier's authority by the Commission. (Authorized by K.S.A. 2009 Supp. 66-1,112 and K.S.A. 2009 Supp. 66-1313a; implementing K.S.A. 2009 Supp. 66-1313a; effective T-85-48, Dec, 19, 1984; effective May 1, 1985.)

## **SAFETY REGULATED MOTOR CARRIERS**

Motor carriers who are regulated for safety:

### Public Motor Carrier:

Any person who holds himself out to the public as willing to undertake for hire to transport by motor vehicle, from place to place, persons or the property of others who may choose to employ him.

### Private Motor Carrier:

Any person who provides transportation of property or passengers by commercial motor vehicle and is not a for hire motor carrier.

If you meet the definition of one of the above, you are regulated unless you meet the exemptions found at K.A.R. 82-4-3(d) found on page 27 of this book, or unless you meet one of the exemptions of K.S.A. 66-1,129(c), found below:

(c) Any rules and regulations of the commission, adopted pursuant to this section, shall not apply to the following, while engaged in the carriage of intrastate commerce in this state:

(1) The owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer in or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment.

(2) The transportation of children to and from school, or to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions, or governmental agencies, when used to convey students, inmates, employees, athletic teams, orchestras, bands or other similar activities.

(3) (A) Except for motor vehicles under subparagraph (B), motor vehicles, with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle, and used in repair, building or construction work, not having been sold or being transported for the purpose of sale, except vehicles transporting hazardous materials which require placards.

(B) Except vehicles transporting hazardous materials which require placards, motor vehicles, with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work and such tools, property or material are being transported to or from an active construction site located within a radius of 25 miles of the principal place of business of the motor carrier.

(4) Persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles.

(5) The operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers.

(6) Motor vehicles owned and operated by the United States, the District of Columbia, any state, any municipality or any other political subdivisions of this state.

(7) Any motor vehicle with a normal seating capacity of not more than the driver and 15 passengers while used for vanpooling or otherwise not for profit in transporting persons who, as a

joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity not more than the driver and 15 passengers for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices, institutions, construction sites or other places of like nature where such persons are employed or accustomed to work.

(8) Motor vehicles used to transport water for domestic purposes, as defined by subsection (c) of K.S.A. 82a-701, and amendments thereto, or livestock consumption.

(9) The operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state, unless the implement of husbandry is transported on a commercial motor vehicle.

## **ECONOMIC REGULATED MOTOR CARRIERS**

Motor carriers who need a certificate, license or permit:

### Public Motor Carrier:

Any person who holds himself out to the public as willing to undertake for hire to transport by motor vehicle, from place to place, persons or the property of others who may choose to employ him.

### Private Motor Carrier:

Any person who provides transportation of property or passengers by commercial motor vehicle and is not a for hire motor carrier.

If you meet the definition of one of the above, you need a certificate, license or permit, unless you meet the exemptions found at K.A.R. 82-4-26(a) found on page 59 of this book, or unless you meet one of the exemptions of K.S.A. 66-1,109, found below:

(a) Transportation by motor carriers wholly within the corporate limits of a city or village in this state, or between contiguous cities or villages in this state or in this and another state, or between any city or village in this or another state and the suburban territory in this state within three miles of the corporate limits, or between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the relevant federal authority, except that none of the exemptions specified in this subsection (a) shall apply to wrecker carriers and none of such exemptions shall apply to motor carriers of passengers, other than motor carriers of passengers operating as a part of the general transit system serving any such city or village in this or another state, operating on regular routes and time schedules between any city or village in this or another state, and the suburban territory in this state;

(b) a private motor carrier who operates within a radius of 25 miles beyond the corporate limits of its city or village of domicile, or who operates between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the relevant federal authority;

c) the owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer in a motor vehicle of such owner or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment;

(d) persons operating motor vehicles used only to transport property when no common carrier is accessible, but when common-carrier service is available then this last exemption is limited to the transportation of such property from origin to the nearest practicable common-carrier receiving or loading point, or from a common-carrier unloading point by way of the shortest practicable route to destination, providing such motor vehicle does not pass a practicable delivery or receiving point of a common carrier equipped to transport such load, or when used to transport property from the point of origin to point of destination thereof when the destination of such property is less distant from the point of origin thereof than the nearest practicable common-carrier receiving or loading point equipped to transport such load;

(e) (1) the transportation of children to and from school, or (2) to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions, or governmental agencies, when used to convey students, inmates, employees, athletic teams, orchestras, bands or other similar activities;

(f) a new vehicle dealer as defined by K.S.A. 8-2401, and amendments thereto, when transporting property to or from the place of business of such dealer;

(g) motor vehicles carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work, not having been sold or being transported for the purpose of sale;

(h) persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles;

(i) the operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers;

(j) motor vehicles owned and operated by the United States, the District of Columbia, any state, any municipality or any other political subdivision of this state, including vehicles used exclusively for handling U.S. mail, and the operation of motor vehicles used exclusively by organizations operating public transportation systems pursuant to 49 U.S.C. sections 5307, 5310 and 5311;

(k) any motor vehicle with a normal seating capacity of not more than the driver and 15 passengers while used for vanpooling or otherwise not for profit in transporting persons who, as a joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity of not more than the driver and 15 passengers for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices,

institutions, construction sites or other places of like nature where such persons are employed or accustomed to work;

(l) motor vehicles used to transport water for domestic purposes, as defined by subsection (c) of K.S.A. 82a-701, and amendments thereto, or livestock consumption;

(m) transportation of sand, gravel, slag stone, limestone, crushed stone, cinders, calcium chloride, bituminous or concrete paving mixtures, blacktop, dirt or fill material to a construction site, highway maintenance or construction project or other storage facility and the operation of ready-mix concrete trucks in transportation of ready-mix concrete;

(n) the operation of a vehicle used exclusively for the transportation of solid waste, as the same is defined by K.S.A. 65-3402, and amendments thereto, to any solid waste processing facility or solid waste disposal area, as the same is defined by K.S.A. 65-3402, and amendments thereto;

(o) the transporting of vehicles used solely in the custom combining business when being transported by persons engaged in such business;

(p) the operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state;

(q) transportation by taxi or bus companies operated exclusively within any city or within 25 miles of the point of its domicile in a city;

(r) a vehicle being operated with a dealer license plate issued under K.S.A. 8-2406, and amendments thereto, and in compliance with K.S.A. 8-136, and amendments thereto, and vehicles being operated with a full-privilege license plate issued under K.S.A. 8-2425, and amendments thereto;

(s) any person operating a motor vehicle with a gross vehicle weight rating of 10,000 pounds or less, transporting property sold or to be sold by the owner or operator of such motor vehicle, except motor vehicles transporting hazardous materials which require placards;

(t) the operation of vehicles used for transporting materials used in the servicing or repairing of the refractory linings of industrial boilers;

(u) transportation of newspapers published at least one time each week;

(v) transportation of animal dung to be used for fertilizer; and

(w) the operation of ground water well drilling rigs.

## **KCC IMPOUNDMENT AUTHORITY**

**66-1,129a. Motor carriers, suspension, revocation or amendment of certificate; notice; hearing; impoundment of motor carrier's vehicles; sale of such vehicles; proceeds; requirements.** (a) The commission, at any time for good cause shown, may suspend the operation of

any motor carrier subject to economic or safety rules and regulations adopted by the commission. Upon notice and an opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act, the commission may revoke, amend, initiate sanctions or fine any motor carrier who has a certificate, license or permit issued by the commission or is subject to the safety rules and regulations adopted by the commission. Any motor carrier suspended prior to a hearing must be afforded the opportunity of a hearing on the matter. If such a hearing is requested, the hearing shall be held within 10 days of the request.

(b) The director of the commission's transportation division, at any time for good cause shown, may request the Kansas highway patrol to impound a motor carrier's vehicle or vehicles when that motor carrier has:

- (1) Failed to comply with an out-of-service order;
- (2) failed to comply with a cease or desist order;
- (3) failed to obtain commission authority to operate;
- (4) failed to pay a commission-assessed civil penalty; or
- (5) has otherwise failed to comply with a commission order. Any motor carrier whose vehicle is impounded prior to a hearing must be afforded the opportunity of a hearing on the matter. If such a hearing is requested, the hearing shall be held within 10 days of the request.

(c) The commission is authorized to enter into any contracts or agreements necessary with the superintendent of the Kansas highway patrol, in order to provide facilities and personnel to accomplish the impounding of vehicles.

(d) If the owner of a motor vehicle which has been impounded pursuant to this section refuses to pay any towing, impoundment, storage or other fees relating to the impoundment of such vehicle or fails to take possession of such vehicle within 30 days following the date of the expiration of the impoundment period, such vehicle shall be deemed abandoned and the vehicle may be disposed of by the person having possession of such vehicle.

(1) If the person having possession of such vehicle is a public agency, disposition of such vehicle shall be in compliance with the procedures for notice and public auction provided by paragraph (2) of subsection (a) of K.S.A. 8-1102, and amendments thereto.

(2) If the person having possession of such vehicle is not a public agency, disposition of such vehicle shall be in compliance with K.S.A. 8-1103 through 8-1108, and amendments thereto.

(3) For the purposes of disposing of a vehicle that has been impounded by the state corporation commission under the authority granted by section (b), if the state corporation commission is in possession of the vehicle, the state corporation commission shall be considered a public agency for the purpose of disposing of an abandoned vehicle under the provisions of K.S.A. 8-1102, and amendments thereto.

(e) Notwithstanding the provisions of subsection (c)(3) of K.S.A. 8-1102, and amendments thereto, the proceeds from the sale of any vehicle impounded at the direction of the director of the division of transportation of the state corporation commission, received pursuant to

subsection (b), except for reimbursement of expenses of the impoundment and sale, by any public agency, including the state corporation commission, shall be deposited in the state treasury in accordance with K.S.A. 75-4215, and amendments thereto, and shall be credited to the state general fund.

**History:** L. 1990, ch. 241, § 1; L. 1993, ch. 263, § 7; L. 2003, ch. 124, § 28; L. 2008, ch. 42, § 1; July 1.