

2019

*Motor Carrier Regulations
Of The
Transportation Division
Of
The State Corporation Commission
Of
The State of Kansas*

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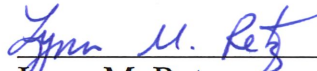
Revised June 3, 2022

**MOTOR CARRIER REGULATIONS
OF THE TRANSPORTATION DIVISION**

CERTIFICATE

I, Lynn M. Retz, Executive Director to the State Corporation Commission of the State of Kansas, do hereby certify that I have compared the annexed copy of the 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 July 26, 2019.

Dated: 10 October 2019



Lynn M. Retz
Executive Director

2019 Motor Carrier Regulations

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MOTOR CARRIERS OF PERSONS AND PROPERTY

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) "Air mile" means nautical mile.

(c) "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.

(d) "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.

(e) "Chameleon carrier" means a motor carrier continuing its motor carrier operation under a new USDOT or motor carrier identification (MCID) number for the purpose of avoiding a fine, penalty, federal out-of-service order, or commission order that was issued against the previously used USDOT or MCID number.

(f) "Commission" means Kansas corporation commission.

(g) "Conviction" means any of the following, 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.

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

(i) "Distance" means distance measured in air miles.

(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.

(j) "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.

(k) "Entire direct case" shall include, for the purpose of this article of the commission's regulations, all testimony, exhibits, and other documentation offered in support of the proposed rates.

(l) "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.

(m) "FHWA" means federal highway administration.

(n) "FMCSA" means federal motor carrier safety administration.

(o) "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.

(p) “Groundwater well drilling rig” means any vehicle, machine, tractor, trailer, semi-trailer, or specialized mobile equipment propelled or drawn by mechanical power and used on highways to transport groundwater well field operating equipment, including any groundwater well drilling and pump service rig equipped to access groundwater.

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

(r) “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.

(s) “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.

(t) “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.

(u) “Medical waiver” means “medical variance” as defined in 49 C.F.R. 390.5, which is adopted by reference in K.A.R. 82-4-3f.

(v) “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.

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

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

(y) “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 “North American standard out-of-service criteria,” including the appendix, published by the commercial vehicle safety alliance, revised on April 1, 2016, and hereby adopted by reference.

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

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

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

(cc) “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.

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

(ee) “Transportation” means the movement of household goods, property, or passengers, or any combination of these, and the loading, unloading, or storage incidental to this movement.

(ff) “USDOT” means the United States department of transportation. (Authorized by and implementing K.S.A. 66-1,112, K.S.A. 66-1,112g, K.S.A. 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; amended Sept. 20, 2013; amended May 6, 2016; amended July 26, 2019.)

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 Kansas and inspect and examine the motor carrier’s records, books, and equipment located on the premises;

(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; and

(d) declare or place, or both, any commercial motor vehicle, driver, or motor carrier “out-of-service” for any “out-of-service” conditions as defined in K.A.R. 82-4-1. Authorized personnel shall declare and mark as out-of-service any commercial motor vehicle, driver, or motor carrier that by reason of its mechanical condition or loading would likely cause an accident or a breakdown or is in violation of any commission economic or safety regulations or “out-of-service” criteria as defined in K.A.R. 82-4-1. An “out-of-service vehicle” sticker shall be used to mark each vehicle and any intermodal equipment as out-of-service. (Authorized by K.S.A. 66-1,108a and 66-1,108c; implementing K.S.A. 66-1,108b; effective Nov. 14, 2011; amended May 6, 2016; amended July 26, 2019.)

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. 66-1,129, as amended by L. 2004, Ch. 152, §F 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-82-9-13-99, Sept. 13, 1999; amended March 3, 2000; amended, T-82-4-7-00, 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)(1) With the following exceptions, 49 C.F.R. Part 395, as in effect on October 1, 2015 and as amended by 80 fed. reg. 78383-78416 (2015), excluding appendix A to subpart B,

and 81 fed. reg. 47721-47722 (2016), is hereby adopted by reference:

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

(i) 49 C.F.R. 395.1(a)(2) shall be deleted.

(ii) In paragraph (b), the phrase "Except as provided in paragraph (h)(2) of this section," shall be deleted.

(iii) In paragraph (g)(1)(i), the phrase "393.76 of this subchapter" shall be deleted and replaced with "49 C.F.R. 393.76 as adopted by K.A.R. 82-4-3i."

(iv) In paragraph (g)(1)(i)(B), the phrase ", or, in the case of drivers in Alaska, the driving limit specified in § 395.1(h)(1)(i)-(ii)," shall be deleted.

(v) In paragraph (g)(1)(i)(C), the phrase ", or in the case of drivers in Alaska, the period specified in § 395.1(h)(1) (ii)," shall be deleted.

(vi) In paragraph (g)(1)(ii)(C), the phrase "— or, for calculation of the 20-hour period in § 395.1(h)(1)(ii) for drivers in Alaska, all on-duty time—" shall be deleted.

(vii) In paragraph (g)(2), the phrase "393.76 of this subchapter" shall be deleted and replaced with "49 C.F.R. 393.76 as adopted by K.A.R. 82-4-3i."

(viii) In paragraph (g)(3), the phrase "393.76 of this subchapter" shall be deleted and replaced with "49 C.F.R. 393.76 as adopted by K.A.R. 82-4-3i."

(ix) 49 C.F.R. 395.1(h) shall be deleted.

(x) 49 C.F.R. 395.1(i) shall be deleted.

(xi) In paragraph (k), the phrase "each State" shall be deleted and replaced with "the state of Kansas." The following shall be added after subparagraph (3): "(4) 'Planting and harvesting seasons' means the time periods for planting, growing, and harvesting that occur between January 1 and December 31."

(xii) In paragraph (q), the phrase “49 CFR 397.5” shall be deleted and replaced with “49 C.F.R. 397.5 as adopted by K.A.R. 82-4-3k.”

(xiii) In paragraph (s), the phrase “49 CFR 390.5” shall be deleted and replaced with “49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f.”

(xiv) In paragraph (x), the phrase “49 CFR 390.38(b)” shall be deleted and replaced with “49 C.F.R. 390.38(b) as adopted by K.A.R. 82-4-3f.”

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

(i) In the definition of “farm supplies for agricultural purposes,” the phrase “each State” shall be deleted and replaced with “the state of Kansas.” The phrase “the State” shall be deleted and replaced with “the commission.”

(ii) In paragraph (4)(i) of the definition of “on duty time,” the phrase “§ 397.5 of this subchapter” shall be deleted and replaced with “49 C.F.R. 397.5 as adopted by K.A.R. 82-4-3k.”

(iii) In paragraph (7) of the definition of “on duty time,” the phrase “part 382 of this subchapter” shall be deleted and replaced with “49 C.F.R. Part 382 as adopted by K.A.R. 82-4-3c.”

(iv) The definition of “signal employee” shall be deleted and replaced with the following: “‘Signal employee’ means an individual who is engaged in installing, repairing or maintaining signal systems.”

(v) 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.”

(vi) In the definition of “transportation of construction materials and equipment,” the following text shall be deleted: “, except that a State, upon notice to the Administrator, may establish a different air mile radius limitation for purposes of this

definition if such limitation is between 50 and 75 air miles and applies only to movements that take place entirely within the State. This paragraph does not apply to the transportation of material 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.”

(C) The following revisions shall be made to 49 C.F.R. 395.3:

(i) Paragraph (c)(1) shall be deleted and replaced with the following: “Any period of 7 consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours.”

(ii) Paragraph (c)(2) shall be deleted and replaced with the following: “Any period of 8 consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours.”

(iii) Paragraph (d) shall be deleted.

(D) The following changes shall be made to 49 C.F.R. 395.8:

(i) In paragraph (a)(1), the phrase “§ 390.5” shall be deleted and replaced with “49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f.”

(ii) All references to “December 18, 2017” shall be replaced with “January 3, 2018.”

(E) The following revisions shall be made to 49 C.F.R. 395.11:

(i) In paragraph (a), “December 18, 2017” shall be replaced by “January 3, 2018.”

(ii) Paragraphs (h)(1), (h)(2), and (h)(3) shall be deleted and replaced with the following: “A carrier utilizing an FMCSA authorized supporting document self-compliance system will be deemed to comply with K.A.R. 82-4-3a.”

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

(i) In paragraph (a), the phrase “every special agent of the Federal Motor Carrier Safety Administration (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 is certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.”

(ii) 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 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 ensure 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, each as adopted by K.A.R. 82-4-3a; and

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

(iii) 49 C.F.R. 395.13(d)(4) shall be deleted and replaced with the following: “49 C.F.R. 395.13 as adopted by K.A.R. 82-4-3a does not alter the hazardous materials requirements prescribed in 49 C.F.R. 397.5 as adopted by K.A.R. 82-4-3k pertaining to attendance and surveillance of commercial motor vehicles.”

(G) The following revisions shall be made to 49 C.F.R. 395.15:

(i) In paragraph (a), “December 18, 2017” shall be replaced with “January 3, 2018.”

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

(iii) In paragraph (i)(4), the term “FMCSA” shall be deleted and replaced by “commission.”

(iv) In paragraph (i)(7), the term “FMCSA” shall be deleted and replaced by “commission.”

(v) In paragraphs (j)(1) and (j)(2), the term “FMCSA” shall be deleted and replaced by “commission.”

(H) In 49 C.F.R. 395.28, “§ 390.3(f)” shall be replaced with “49 CFR 390.3 as adopted by K.A.R. 82-4-3f.”

(I) In 49 C.F.R. 395.34(d)(3), (d)(4), and (d)(5), “FMCSA” shall be replaced by “the Commission.”

(J) 49 C.F.R. 395.38 shall be deleted.

(2) As used in this regulation, each reference to a portion of 49 C.F.R. Part 395 shall mean that portion as adopted by reference in this regulation.

(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 that is operating in intrastate commerce and is not either carrying 16 or more passengers, including the driver, or transporting materials required to be placarded shall be subject to this regulation. (Authorized by and implementing K.S.A. 2017 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2017 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; amended Sept. 20, 2013; amended, T-82-4-14-15, April 14, 2015; amended July 31, 2015; amended, T-82-1-3-18, Jan. 3, 2018; amended April 27, 2018.)

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

(a)(1) With the exceptions specified in this subsection, 49 C.F.R. Part 40, as in effect on October 1, 2015, is hereby adopted by reference.

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

(A) In the definition of “Employee,” the term “U.S.” shall be inserted before the phrase “Department of Health and Human Services.”

(B) In the definition of “HHS,” the phrase “U.S.” shall be added before the phrase “Department of Health and Human Services” in both instances.

(C) 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 officer in the state who is certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.”

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

(4) In 49 C.F.R. 40.21, paragraphs (b), (c), and (d) shall be deleted. In paragraph (e), the text “and DOT agency drug testing regulations” and “by the DOT agency just as you are for other violations of this part and DOT agency rules” shall be deleted.

(5) 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.”

(6) 49 C.F.R. 40.29 shall be deleted.

(7) 49 C.F.R. 40.37 shall be deleted.

(8) Subparts D through N shall be deleted.

(9) Subpart O shall be deleted. Each motor carrier shall use a DOT-certified substance abuse professional.

(10) Subparts P through R shall be deleted.

(11) In 49 C.F.R. Part 40, Appendix A through Appendix H shall be deleted.

(b) As used in this regulation, each reference to a portion of 49 C.F.R. Part 40 shall mean that portion as adopted by reference in this regulation.

(c) 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. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Sept. 20, 2013; amended July 26, 2019.)

82-4-3c Testing for controlled substances and alcohol use. (a) With the following exceptions, 49 C.F.R. Part 382, as in effect on October 1, 2015, 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)(1), the phrase “part 383 of this subchapter” shall be deleted and replaced with “the Kansas uniform commercial drivers’ license act, found at K.S.A. 8-2,125 et seq.”

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

(D) In paragraph (c), the phrase “§ 390.3(f) of this subchapter” shall be deleted

and replaced by “49 C.F.R. 390.3(f) as adopted by K.A.R. 82-4-3f.”

(E) 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 and amendments thereto.”

(F) In paragraph (d)(3), the phrase “a State” shall be deleted and replaced by “the state of Kansas.” The phrase “part 383 of this subchapter” shall be deleted and replaced by “the Kansas uniform commercial drivers’ license act.” The text “These individuals may be:” shall be deleted.

(G) Paragraphs (d)(3)(i) and (d)(3)(ii) shall be deleted.

(H) In paragraph (d)(4), the phrase “49 CFR 390.5” shall be deleted and replaced by “49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f.”

(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. Part 40, 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 “§§ 386.2 and 390.5 of this subchapter, and § 40.3 of this title” shall be deleted and replaced by “49 C.F.R. 386.2, as adopted by K.A.R. 82-4-3b, 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. 82-4-20” 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 “controlled substances,” the phrase “§ 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.”

(E) In the definition of “DOT agency,” 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.”

(F)(i) In paragraph (1) of the definition of “refuse to submit,” the phrase “§ 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.”

(ii) In paragraphs (2) and (3) of the definition of “refuse to submit,” the phrase “§ 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.”

(iii) In paragraph (4) of the definition of “refuse to submit,” the phrase “§§ 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.”

(iv) In paragraph (5) of the definition of “refuse to submit,” the phrase “§ 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.”

(v) In paragraph (7) of the definition of “refuse to submit,” the phrase “§ 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.”

(G)(i) In paragraph (2) of the definition of “safety-sensitive function,” the phrase “§§ 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) In paragraph (4) of the definition of “safety-sensitive function,” the phrase “§ 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) 49 C.F.R. 382.117 shall be deleted.

(6) In 49 C.F.R. 382.119(b), the phrase “49 CFR 40.21” shall be deleted and replaced by “49 C.F.R. 40.21 as adopted by K.A.R. 82-4-3b.”

(7) In 49 C.F.R. 382.121(a), 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.”

(8) The following revisions shall be made to 49 C.F.R. 382.213:

(A) In paragraph (a), the phrase “21 CFR 1308.11 Schedule I” shall be deleted and replaced by “21 C.F.R. 1308.11 Schedule I.”

(B) In paragraph (b), the phrase “21 CFR part 1308” shall be deleted and replaced by “21 C.F.R. Part 1308, dated April 1, 2016, and hereby adopted by reference.”

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

(A) In paragraph (c)(1)(iii), 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), 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.”

(10) In 49 C.F.R. 382.303(h)(3), the phrase “§ 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.”

(11) In 49 C.F.R. 382.309 and 382.311, 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) 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 “, including those required by part 40, subpart G, of this title” shall be deleted.

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

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

(E) In paragraph (d), the phrase “§ 390.29 of this subchapter” shall be deleted and replaced by “49 C.F.R. 390.29, as adopted by K.A.R. 82-4-3f.”

(F) Paragraph (e) shall be deleted.

(13) In 49 C.F.R. 382.403(b), the phrase “49 CFR part 40” shall be deleted and replaced by “49 C.F.R. Part 40 as adopted by K.A.R. 82-4-3b.” The phrase “§ 40.26 and appendix H to part 40” shall be deleted and replaced by “49 C.F.R. 40.26 as adopted by K.A.R. 82-4-3b.”

(14) The following revisions shall be made to 49 C.F.R. 382.405:

(A) In paragraph (g), the phrase “§ 40.323(a)(2) of this title” shall be deleted and replaced by “49 C.F.R. 40.323(a)(2) as adopted by K.A.R. 82-4-3b.”

(B) In paragraph (h), the phrase “§ 40.321(b) 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.”

(15) 49 C.F.R. 382.407 and 382.409 shall be deleted.

(16) In 49 C.F.R. 382.413, the phrase “§ 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.”

(17) In 49 C.F.R. 382.501(c), 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.”

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

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

(20) In 49 C.F.R. 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.”

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

(b) As used in this regulation, each reference to a portion of 49 C.F.R. Part 382 shall mean that portion as adopted by reference in this regulation.

(c) 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. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Sept. 20, 2013; amended July 26, 2019.)

82-4-3d Safety fitness procedures.

(a) With the following exceptions, 49 C.F.R. Part 385, as in effect on October 1, 2015, is hereby adopted by reference:

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

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

(A) In the definition of “Applicable safety regulations or requirements,” the

phrase “as adopted by K.A.R. 82-4-3a through 82-4-3o,” shall be inserted after the phrase “49 CFR chapter III, subchapter B — Federal Motor Carrier Safety Regulations.” The phrase “as adopted by K.A.R. 82-4-20” shall be inserted after the phrase “49 C.F.R. chapter I, subchapter C — Hazardous Materials Regulations.”

(B) In the definition of “CMV,” the phrase “§ 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.”

(C) In the definition of “commercial motor vehicle,” the phrase “§ 390.5 of this subchapter” shall be deleted and replaced with “49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f.”

(D) In the definition of “HMRs,” the phrase “as adopted by K.A.R. 82-4-20” shall be inserted after the phrase “49 C.F.R. parts 171-180.”

(E) In the definition of “motor carrier operations in commerce,” the phrase “or intrastate” shall be added after the word “interstate” in paragraphs (1) and (2).

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

(3) 49 C.F.R. 385.4 shall be deleted.

(4) The following revisions shall be made to 49 C.F.R. 385.5:

(A) The first paragraph 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 to reduce the risk associated with:”

(B) In paragraph (a), the phrase “part 383 of this chapter” shall be deleted and

replaced with “the Kansas uniform commercial drivers’ license act, found at K.S.A. 8-2,125 et seq.”

(C) In paragraph (b), the phrase “part 387 of this chapter” shall be deleted and replaced with “49 C.F.R. Part 387 as adopted by K.A.R. 82-4-3n.”

(D) In paragraph (c), the phrase “part 391 of this chapter” shall be deleted and replaced with “49 C.F.R. Part 391 as adopted by K.A.R. 82-4-3g.”

(E) In paragraph (d), the phrase “part 392 of this chapter” shall be deleted and replaced with “49 C.F.R. Part 392 as adopted by K.A.R. 82-4-3h.”

(F) In paragraph (e), the phrase “part 393 of this chapter” shall be deleted and replaced with “49 C.F.R. Part 393 as adopted by K.A.R. 82-4-3i.”

(G) In paragraph (f), the phrase “part 390 of this chapter” shall be deleted and replaced with “49 C.F.R. Part 390 as adopted by K.A.R. 82-4-3f.”

(H) In paragraph (g), the phrase “part 395 of this chapter” shall be deleted and replaced with “49 C.F.R. Part 395 as adopted by K.A.R. 82-4-3a.”

(I) In paragraph (h), the phrase “part 396 of this chapter” shall be deleted and replaced with “49 C.F.R. Part 396 as adopted by K.A.R. 82-4-3j.”

(J) In paragraph (i), the phrase “part 397 of this chapter” shall be deleted and replaced with “49 C.F.R. Part 397 as adopted by K.A.R. 82-4-3k.”

(K) In paragraph (j), the phrase “parts 170 through 177 of this title” shall be deleted and replaced with “49 C.F.R. Parts 170 through 177 as adopted by K.A.R. 82-4-20.”

(5) 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:”

(6) 49 C.F.R. 385.9 through 49 C.F.R. 385.19 shall be deleted.

(7) 49 C.F.R. 385.101 through 49 C.F.R. 385.119 shall be deleted.

(8) 49 C.F.R. 385.301 through 385.337 shall be deleted.

(9) 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 385.423, and in 49 C.F.R. Parts 171, 172, 173, 177, 178 and 180, as adopted by K.A.R. 82-4-20.”

(10) 49 C.F.R. 385.501 through 385.1019, including appendices A and B, shall be deleted.

(b) As used in this regulation, each reference to a portion of 49 C.F.R. Part 385 shall mean that portion as adopted by reference in this regulation.

(c) 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. 66-1,112, K.S.A. 66-1,112g, K.S.A. 66-1,129; implementing K.S.A. 66-1,112, K.S.A. 66-1,112g, K.S.A. 66-1,129, and K.S.A. 66-1,142a; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Oct. 22, 2010; amended Sept. 20, 2013; amended July 26, 2019.)

82-4-3e Revoked. (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, 2015 and as amended by 81 fed. reg. 47720 (2016) and the portions of 82 fed. reg. 5318 (2017) pertaining to subpart E, is hereby adopted by reference:

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

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

(i) The phrase “subchapter B of this chapter” shall be deleted and replaced with “K.A.R. 82-4-3a through K.A.R. 82-4-3o, and K.A.R. 82-4-20.”

(ii) The phrase “or intrastate” shall be added after the word “interstate.”

(B) Paragraph (b) shall be deleted and replaced with the following: “The Kansas uniform commercial drivers’ license act, found at K.S.A. 8-2,125 et seq., is applicable to every person who operates a commercial motor vehicle in interstate or intrastate commerce and to all employers of such persons.”

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

(i) The phrase “Part 387, Minimum Levels of Financial Responsibility for Motor Carriers” shall be deleted and replaced with “49 C.F.R. Part 387 as adopted by K.A.R. 82-4-3n.”

(ii) The phrase “§ 387.3 or § 387.27” shall be deleted and replaced with “49 C.F.R. 387.3 or 387.27 as adopted by K.A.R. 82-4-3n.”

(D) In paragraph (d), the phrase “subchapter B of this chapter” shall be

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

(E) 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.”

(F) 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.”

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

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

(I) In paragraph (g), the phrase “of Subchapter B of this chapter” shall be deleted.

(J) 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.”

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

(L) Paragraph (g)(3) shall be deleted and replaced with “49 C.F.R. Part 387, as adopted by K.A.R. 82-4-3n, to the extent provided in 49 C.F.R. 387.3 as adopted by K.A.R. 82-4-3n.”

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

(N) The following revisions shall be made to paragraph (h):

(i) The phrase “of subchapter B of this chapter” shall be deleted.

(ii) Paragraph (1) shall be deleted and replaced with “Subpart F of 49 C.F.R. Part 385 as adopted by K.A.R. 82-4-3d.”

(iii) Paragraph (2) shall be deleted and replaced with “49 C.F.R. Part 386, Subpart F as adopted by K.A.R. 82-4-3o.”

(iv) Paragraph (4) shall be deleted and replaced with “49 C.F.R. Part 393 as adopted by K.A.R. 82-4-3i.”

(v) Paragraph (5) shall be deleted and replaced with “49 C.F.R. Part 396 as adopted by K.A.R. 82-4-3j.”

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

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

(B) The following definitions shall be deleted:

- (i) Conviction;
- (ii) exempt motor carrier;
- (iii) other terms;
- (iv) secretary;
- (v) state; and
- (vi) United States.

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

(D) In the definition of “driving a commercial motor vehicle while under the influence of alcohol,” the phrase “Table 1 to §383.51 or §392.5(a)(2) of this subchapter,” shall be deleted and replaced with “K.S.A. 8-2,125 et seq. or 49 C.F.R. 392.5(a)(2) as adopted by K.A.R. 82-4-3h.”

(E) 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 49 C.F.R. Subtitle B, Chapter III, Subchapter B, Appendix F, as adopted by K.A.R. 82-4-3f.” The phrase “§ 391.62” shall

be deleted and replaced with “49 C.F.R. 391.62 as adopted by K.A.R. 82-4-3g.”

(F) In the definition of “farm vehicle driver,” the phrase “§177.823 of this subtitle” shall be deleted and replaced with “49 C.F.R. 177.823 as adopted by K.A.R. 82-4-20.”

(G) In the definition of “for-hire motor carrier,” the term “for-hire” shall have the same meaning as that for the term “public.”

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

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

(i) Both instances of the phrase “§ 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 “§ 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.”

(J) The definition of “medical examiner” shall be deleted and replaced by the following: “‘Medical examiner’ means an individual certified by FMCSA and listed on the national registry of certified medical examiners in accordance with 49 C.F.R. Part 390, Subpart D.”

(K) In the definition of “medical variance,” the phrase “part 381, subpart C, of this chapter or §391.64 of this chapter” shall be deleted and replaced with “K.A.R. 82-4-6d or 49 C.F.R. 391.64 as adopted by K.A.R. 82-4-3g.” The phrase “§ 391.49” shall be deleted and replaced with “49 C.F.R. 391.49 as adopted by K.A.R. 82-4-3g.”

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

(M) 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. 82-4-3k, 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.

(N) 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 officer in the state who is certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.”

(O) In the definition of “use a hand-held mobile telephone,” the phrase “as adopted by K.A.R. 82-4-3i” shall be inserted after the phrase “49 C.F.R. 393.93.”

(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 revision 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.

(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 or with the Kansas Corporation Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604.”

(E) In paragraph (g), “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.

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

(A) In paragraph (a), each instance of “subject to subchapter B of this chapter” shall be deleted.

(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)(2), the phrase “subchapter B of this chapter” shall be deleted and replaced with “49 C.F.R. Subtitle B, Chapter III, Subchapter B as adopted by K.A.R. 82-4-3a through K.A.R. 82-4-3o.”

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

(A) In paragraphs (a), (a)(1)(i)(B), and (a)(2)(i)(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), the phrase “§§ 395.3(a) and (c) and 395.5(a) of this chapter” shall be deleted and replaced by “49 C.F.R. 395.3(a) and (c) and 49 C.F.R. 395.5(a), all as adopted by K.A.R. 82-4-3a.”

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

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

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

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

(12) 49 C.F.R. 390.37 shall be deleted.

(13) With the following exceptions, 49 C.F.R. 390.38 is hereby adopted by reference:

(A) In paragraph (a)(1), the phrase “49 CFR part 365 or” shall be deleted.

(B) In paragraph (a)(2), the phrase “49 CFR part 391” shall be deleted and replaced with “49 C.F.R. part 391 as adopted by K.A.R. 82-4-3g.”

(C) In paragraph (a)(3), the phrase “49 CFR part 392” shall be deleted and replaced with “49 C.F.R. part 392 as adopted by K.A.R. 82-4-3h.”

(D) In paragraph (a)(4), the phrase “49 CFR parts 393 and 396” shall be deleted and replaced with “49 C.F.R. part 393 as adopted by K.A.R. 82-4-3i and 49 C.F.R. part 396 as adopted by K.A.R. 82-4-3j.”

(E) In paragraph (a)(5), the phrase “49 CFR part 395” shall be deleted and replaced with “49 C.F.R. part 395 as adopted by K.A.R. 82-4-3a.”

(14) The following revisions shall be made to 49 C.F.R. 390.39:

(A) In paragraph (a)(1), the phrase “49 CFR Part 383 or controlled substances and alcohol use and testing in 49 CFR Part 382” shall be deleted and replaced with “the Kansas uniform commercial drivers’ license act, found at K.S.A. 8-2,125 et seq. or controlled substances and alcohol testing in 49 C.F.R. Part 382 as adopted by K.A.R. 82-4-3c.”

(B) In paragraph (a)(2), the phrase “49 CFR Part 391, Subpart E, Physical Qualifications and Examinations” shall be deleted and replaced with “49 C.F.R. Part 391, Subpart E as adopted by K.A.R. 82-4-3g.”

(C) In paragraph (a)(3), the phrase “49 CFR Part 395, Hours of Service of Drivers” shall be deleted and replaced with “49 C.F.R. Part 395 as adopted by K.A.R. 82-4-3a.”

(D) In paragraph (a)(4), the phrase “49 CFR Part 396, Inspection, Repair, and Maintenance” shall be deleted and replaced with “49 C.F.R. Part 396 as adopted by K.A.R. 82-4-3j.”

(E) Paragraph (b) shall be deleted.

(F) Paragraph (c) shall be deleted.

(15) The following revisions shall be made to 49 C.F.R. 390.40:

(A) In paragraph (c), the phrase “§ 396.3(a)(1)” shall be deleted and replaced with “49 C.F.R. 396.3(a)(1) as adopted by K.A.R. 82-4-3j.”

(B) In paragraph (e), the phrase “§ 396.11 of this chapter” shall be deleted and replaced with “49 C.F.R. 396.11 as adopted by K.A.R. 82-4-3j.”

(C) In paragraph (f), the phrase “§ 396.3(b)(3) of this chapter” shall be deleted

and replaced with “49 C.F.R. 396.3(b)(3) as adopted by K.A.R. 82-4-3j.”

(D) In paragraph (g), the phrase “§ 396.17 of this chapter” shall be deleted and replaced with “49 C.F.R. 396.17 as adopted by K.A.R. 82-4-3j.”

(E) In paragraph (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(b)(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 chapter” 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 chapter” 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 “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 “K.A.R. 82-4-3a through K.A.R. 82-4-3o and K.A.R. 82-4-20 by filing a written complaint with the commission by: fax-785-271-3124; email: transportation@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.

(19) 49 C.F.R. Part 390, Subpart D shall be deleted.

(b) Section 8 of 49 C.F.R., Chapter III, Subchapter B, Appendix F, as in effect on October 1, 2015, is hereby adopted by reference.

(c) As used in this regulation, each reference to a portion of 49 C.F.R. Part 390 shall mean that portion as adopted by reference in this regulation.

(d) 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. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 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; amended Sept. 20, 2013; amended June 12, 2015; amended July 26, 2019.)

82-4-3g Qualifications of drivers.

(a) With the following exceptions, 49 C.F.R. Part 391, as in effect on October 1, 2015 and as amended by 81 fed. reg. 47720 (2016), is hereby adopted by reference:

(1) The following revisions shall be made to 49 C.F.R. 391.2:

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

(B) In paragraph (e), the phrase “49 CFR 390.38(b)” shall be deleted and replaced with “49 C.F.R. 390.38(b) as adopted by K.A.R. 82-4-3f.”

(C) The phrase “49 CFR 390.5” shall be deleted and replaced with “49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f.”

(2) The following revision shall be made to 49 C.F.R. 391.11: 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 “§§ 392.9(a) and 383.111(a)(16) 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. 383.111(a)(16), as referenced by K.S.A. 8-2,133.”

(4) The following revisions shall be made to 49 C.F.R. 391.15:

(A) In paragraphs (c)(1)(i) and (c)(2)(iii), each instance of “§ 395.2 of this subchapter” and “§ 395.2 of this part” shall be deleted and replaced by “49 C.F.R. 395.2, as adopted by K.A.R. 82-4-3a.”

(B) In paragraph (c)(2)(i)(C), the phrase “§ 391.15(c)(2)(i)(A) or (B), or § 392.5(a)(2)” shall be deleted and replaced by “49 C.F.R. 391.15(c)(2)(i)(A) or (B) as adopted by K.A.R. 82-4-3g or 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 (a)(2)(A)” shall be added after the phrase “21 C.F.R. 1308.11 Schedule I.”

(D) In paragraphs (e)(1), (e)(2)(i), and (e)(2)(ii), the phrase “§ 392.80(a)” shall be deleted and replaced with “49 C.F.R. 392.80(a) as adopted by K.A.R. 82-4-3h.”

(E) In paragraphs (f)(1), (f)(2)(i), and (f)(2)(ii), the phrase “§ 392.82(a)” shall be

deleted and replaced with “49 C.F.R. 392.82(a) as adopted by K.A.R. 82-4-3h.”

(5) The following revisions shall be made to 49 C.F.R. 391.21:

(A) In paragraph (b)(10)(iv)(B), the term “DOT” shall be deleted and replaced by “commission,” and the phrase “as adopted by K.A.R. 82-4-3b” shall be inserted after the phrase “49 C.F.R. Part 40.”

(B) In paragraph (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 “§ 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 “§ 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 “§ 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 “§ 382.605 of this chapter” 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 O” 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 (e)(3), the phrase “§ 382.605” shall be deleted and replaced with “49 C.F.R. 382.605, as adopted by K.A.R. 82-4-3c.” The phrase “part 40, subpart O” shall be deleted and replaced by “49 C.F.R. 40.281 through 40.313, as adopted by K.A.R. 82-4-3b.”

(K) In paragraph (f), the term “§ 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.”

(L) 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 “§ 386.12” shall be deleted and replaced with “K.A.R. 82-4-3g(a)(7)(B).”

(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.”

(M) In paragraph (m)(2), the phrase “part 383 of this chapter” shall be deleted and replaced with “the Kansas uniform commercial drivers’ license act, found at K.S.A. 8-2,125 et seq.”

(N) In paragraph (m)(2)(i)(A), the phrase “in accordance with §§ 383.71(b)(1) and 383.71(g) of this chapter” shall be deleted.

(O) In paragraph (m)(2)(i)(C), the phrase “in accordance with § 383.73(b)(5) of this chapter” shall be deleted.

(7) The following revision shall be made to 49 C.F.R. 391.25: In paragraph (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, or any Federal Motor Carrier Safety Regulations or Hazardous Materials Regulations, as adopted by article 4 of the

commission’s regulations, occurring in interstate commerce.”

(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) The following revision shall be made to 49 C.F.R. 391.31: In 49 C.F.R. 391.31(c)(1), the phrase “§ 392.7 of this subchapter” shall be deleted and replaced with “49 C.F.R. 392.7 as adopted by K.A.R. 82-4-3h.”

(10) The following revision shall be made to 49 C.F.R. 391.33: In paragraph (a)(1), the phrase “§ 383.5 of this subchapter” shall be deleted and replaced by “K.S.A. 8-234b and amendments thereto.”

(11) The following revisions shall be made to 49 C.F.R. 391.41:

(A) The following revisions shall be made to paragraph (a)(2)(i)(A):

(i) The phrase “part 383 of this chapter” shall be deleted and replaced with “the Kansas uniform commercial drivers’ license act, found at K.S.A. 8-2,125 et seq.”

(ii) The phrase “in accordance with 49 CFR 383.71(h)” shall be deleted.

(B) In paragraph (a)(2)(ii), the phrase “in accordance with § 383.71(h)” shall be deleted.

(C) In paragraph (a)(2)(i)(B), the phrase “49 CFR part 383” shall be deleted and replaced with “the Kansas uniform commercial drivers’ license act, found at K.S.A. 8-2,125 et seq.”

(D) In paragraph (a)(2)(ii), the phrase “part 383 of this chapter” shall be deleted and replaced with “the Kansas uniform commercial drivers’ license act, found at K.S.A. 8-2,125 et seq.”

(E) 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.

(F) In paragraph (b)(12)(i), the phrase “as adopted by K.A.R. 82-4-3h” shall be added after the phrase “21 CFR 1308.11 Schedule I.”

(12) The following changes shall be made to 49 C.F.R. 391.43:

(A) The following revision shall be made to paragraph (a): The phrase “subpart D of part 390 of this chapter” shall be deleted and replaced with “subpart D of 49 C.F.R. Subtitle B, Chapter III, Subchapter B, Part 390.”

(B) 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.”

(C) The editorial note found after paragraph (i) shall be deleted.

(13) 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 Carrier, Driver and Vehicle Safety Standards (MCPS)” 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. 82-1-235 and K.S.A. 77-601 et seq.”

(E) In paragraph (f), the first two occurrences of the phrase “Director, Office of Carrier, Driver and Vehicle Safety Standards (MC-PS)” shall be deleted and replaced by the phrase “director of the commission’s transportation division.” The clause “or until the Director, Office of Carrier, Driver and Vehicle Safety Standards (MC-PS) orders

otherwise” shall be deleted and replaced with “or orders otherwise.”

(14) 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), “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 following revisions shall be made to paragraph (d):

(F) 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.”

(G) 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.”

(H) In paragraph (j)(1), the first two sentences shall be deleted.

(I) 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 “subchapter B of the Federal Motor Carrier Safety Regulations (FMCSRs)” shall be deleted and replaced by the phrase “as adopted by K.A.R. 82-4-3g.”

(iii) The term “FMCSRs” shall be deleted and replaced by “commission’s regulations regarding motor carrier safety.”

(15) The following revisions shall be made to 49 C.F.R. 391.51:

(A) In paragraph (b)(7)(ii), the phrase “defined at §384.105 of this chapter shall be deleted.

(B) The following revisions shall be made to paragraph (b)(8):

(i) The phrase “Field Administrator, Division Administrator, or State Director” shall be deleted and replaced by “the director of the transportation division of the commission.”

(ii) The phrase “or under K.A.R. 82-4-6d” shall be added at the end of the paragraph.

(C) Paragraph (d)(5) shall be deleted and replaced with the following: “Any medical waiver issued by the commission, including a Skill Performance Evaluation Certificate issued in accordance with 49 C.F.R. 391.49 as adopted by K.A.R. 82-4-3g, or the Medical Exemption letter issued by a Federal medical program in accordance with 49 C.F.R. Part 381.”

(16) In 49 C.F.R. 391.55, the text “as in effect on October 1, 2015, which are hereby adopted by reference” shall be inserted at the end of paragraph (b)(1).

(17) The following revision shall be made to 49 C.F.R. 391.61: The phrase “§ 390.5 of this subchapter” shall be deleted and

replaced with “49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f.”

(18) 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 contained in this subchapter” shall be deleted and replaced by “commission’s motor carrier regulations found in Article 4.”

(19) The following revision shall be made to 49 C.F.R. 391.63: In paragraph (a), the phrase “§ 390.5 of this subchapter” shall be deleted and replaced with “49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f.”

(20) 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.”

(21) 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 “§ 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.”

(22) The following revision shall be made to 49 C.F.R. 391.67: The phrase “§ 390.5 of this subchapter” shall be deleted and replaced with “49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f.”

(23) The following revision shall be made to 49 C.F.R. 391.69: The phrase “§ 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.”

(b) As used in this regulation, each reference to a portion of 49 C.F.R. Part 391 shall mean that portion as adopted by reference in this regulation.

(c) 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. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Nov. 14, 2011; amended Sept. 20, 2013; amended June 12, 2015; amended July 26, 2019.)

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, 2015 and as amended by 81 fed. reg. 47721 (2016), is hereby adopted by reference:

(1) In 49 C.F.R. 392.1 (b), the phrase “49 CFR 390.38(b)” shall be deleted and replaced with “49 C.F.R. 390.38(b) as adopted by K.A.R. 82-4-3f.”

(2) In 49 C.F.R. 392.2, the words “jurisdiction in which it is being operated” shall be deleted and replaced by “state of Kansas.”

(3) In paragraph (c) of 49 C.F.R. 392.4, the phrase “§ 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.”

(4) 49 C.F.R. 392.5 shall be revised as follows:

(A) In paragraph (a)(1), the phrase “§ 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 and dated August 10, 2005” 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 and dated August 10, 2005.”

(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 Kansas Judicial Review Act, found at K.S.A. 77-601 et seq.”

(5) In 49 C.F.R. 392.8, the phrase “§ 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.”

(6) In 49 C.F.R. 392.9(a)(1), the phrase “§§ 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.”

(7) The following revisions shall be made to 49 C.F.R. 392.9a:

(A) In paragraph (b), the last sentence shall be deleted.

(B) In paragraph (c), the phrase “5 U.S.C. 554 not later than 10 days after

issuance of such order” shall be deleted and replaced with “K.A.R. 82-1-235 and the provisions of the Kansas Judicial Review Act, found at K.S.A. 77-601 et seq.”

(8) In 49 C.F.R. 392.9b, the phrase “49 U.S.C. 521” in paragraph (b) shall be deleted and replaced by “Kansas law.”

(9) 49 C.F.R. 392.10 shall be revised as follows:

(A) In paragraph (a)(5), the phrase “§ 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.”

(B) 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 and 107.107, both as adopted by K.A.R. 82-4-20.”

(C) In paragraph (b)(1), the phrase “§ 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.”

(10) The phrase “§ 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.”

(11) In 49 C.F.R. 392.33(a), the phrase “subpart B of part 393 of this title” shall be deleted and replaced by “49 C.F.R. Part 393, Subpart B, as adopted by K.A.R. 82-4-3i.”

(12) In 49 C.F.R. 392.51 (b), the phrase “as adopted by K.A.R. 82-4-20” shall be inserted after the phrase “Parts 171,172,173, and 178.”

(13) 49 C.F.R. 392.62 shall be revised as follows:

(A) In paragraph (a), the phrase “§ 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 “§ 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.”

(14) In 49 C.F.R. 392.80(c), the phrase “as adopted by K.A.R. 82-4-3f” shall be inserted after the phrase “49 C.F.R. 390.5.”

(b) As used in this regulation, each reference to a portion of 49 C.F.R. Part 392 shall mean that portion as adopted by reference in this regulation.

(c) 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. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Sept. 20, 2013; amended May 6, 2016; amended July 26, 2019.)

82-4-3i Parts and accessories necessary for safe operation.

(a)(1) With the following exceptions, 49 C.F.R. Part 393, as in effect on October 1, 2015 and as amended by 81 fed. reg. 47721 (2016), is hereby adopted by reference:

(A) In 49 C.F.R. 393.1 (e), the phrase “49 CFR 390.38(b)” shall be deleted and replaced with “49 C.F.R. 390.38(b) as adopted by K.A.R. 82-4-3f.”

(B) The following revisions shall be made to 49 C.F.R. 393.5:

(i) The following provision shall be added after the definition of “curb weight”: “DOT C-2, DOT C-3, and DOT C-4. These terms shall be established by figure 12-1, found in 49 C.F.R. 571.108.”

(ii) In the definition of “heater,” the phrase “§177.834(l)(2) of this title” shall be deleted and replaced with “49 C.F.R. 177.834(l)(2) as adopted by K.A.R. 82-4-20.”

(iii) 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) and amendments thereto.” 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 those structures shall be distinguishable on the structures and in its records from the series of serial numbers used for manufactured homes.”

(iv) 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.”

(v) The definition for “reflective material” shall be deleted and replaced by the following: “Reflective material means a material conforming to federal specification L-S-300c, ‘sheeting and tape, reflective: nonexposed lens,’ as in effect on March 20, 1979 and as adopted by reference, meeting the performance standard in either table 1 or table 1A of SAE standard J594f, ‘reflex reflectors,’ as revised in January 1977 and as adopted by reference.”

(C) 49 C.F.R. 393.7 shall be deleted.

(D) The following revision shall be made to 49 C.F.R. 393.11: The last sentence of paragraph (a)(1) shall be deleted and replaced with the following: “All commercial motor vehicles must, at a minimum, meet the requirements of Subpart B of 49 C.F.R. Part 393 in effect at the time of manufacture. For vehicles manufactured prior to the earliest

effective date of Subpart B of 49 C.F.R. Part 393, all commercial motor vehicles must, at a minimum, meet the requirements of Subpart B of 49 C.F.R. Part 393 as of the earliest effective date of Subpart B of 49 C.F.R. Part 393.”

(E) The following revision shall be made to 49 C.F.R. 393.13: In paragraph (a), the phrase “§ 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.

(F) The following revisions shall be made to 49 C.F.R. 393.24:

(i) In paragraph (b), the parenthetical sentence shall be deleted.

(ii) Paragraph (d) shall be deleted.

(G) In 49 C.F.R. 393.25(c) and (e), the last sentence shall be deleted and replaced with the following: “The aforementioned documents are hereby adopted by reference.”

(H) The following revisions shall be made to 49 C.F.R. 393.26:

(i) In paragraph (c), the parenthetical sentence shall be deleted and replaced with the following: “The aforementioned documents are hereby adopted by reference.”

(ii) In paragraph (d)(4), the phrase “§ 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.”

(I) In 49 C.F.R. 393.28, the clause “which is hereby adopted by reference,” shall be inserted after the phrase “October 1981,” and the last sentence shall be deleted.

(J) The parenthetical statement in 49 C.F.R. 393.42(b)(2) shall be deleted.

(K) The following revision shall be made to 49 C.F.R. 393.48: In paragraph (c)(1), the phrase “§ 390.5” shall be deleted and replaced with “49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f.”

(L) The note following 49 C.F.R. 393.51 (b) shall be deleted.

(M) In 49 C.F.R. 393.62(d)(1), the parenthetical sentence at the end of the

paragraph shall be deleted and replaced with “Pages 1-37 of this document are hereby incorporated by reference.”

(N) 49 C.F.R. 393.67(c)(3) shall be deleted.

(O) The following revisions shall be made to 49 C.F.R. 393.71:

(i) In paragraph (h)(8), the phrase “Society of Automotive Engineers Standard No. J684c, ‘Trailer Couplings and Hitches—Automotive Type,’ July 1970” shall be deleted and replaced with “society of automotive engineers standard no. J684c, ‘trailer couplings and hitches - automotive type,’ dated July 1970, which is hereby adopted by reference.”

(ii) In paragraph (h)(9), the phrase “requirements of the Federal Motor Carrier Safety Administration” shall be deleted and replaced by “Federal and Kansas requirements.”

(iii) In paragraph (m)(8), the phrase “requirements of the Federal Motor Carrier Safety Administration” shall be deleted and replaced by “Federal and Kansas requirements.”

(P) The following revision shall be made to 49 C.F.R. 393.75: In paragraphs (h)(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.”

(Q) 49 C.F.R. 393.77(b)(15) shall be deleted.

(R) In 49 C.F.R. 393.77(c), the phrase “§ 177.834(1) of this title” shall be deleted and replaced by “49 C.F.R. 177.834(1) as adopted by K.A.R. 82-4-20.”

(S) The following revision shall be made to 49 C.F.R. 393.86(a)(1): The third sentence shall be deleted.

(T) 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.’”

(U) The following revisions shall be made to 49 C.F.R. 393.95:

(i) In paragraph (a)(1)(i), the phrase “§177.823 of this title” shall be deleted and replaced with “49 C.F.R. 177.823 as adopted by K.A.R. 82-4-20.”

(ii) In paragraph (a)(5), “Appendix A, Appendix B, Appendix H, Appendix I, Appendix J, Appendix L, Appendix O, and Appendix P, all dated July 1, 2015, which are hereby adopted by reference” shall be added after the phrase “under 40 CFR Part 82, Subpart G.”

(iii) In paragraph (f)(2), the phrase “§ 392.22” shall be deleted and replaced by “49 C.F.R. 392.22 as adopted by K.A.R. 82-4-3h.”

(iv) In paragraph (j), the period at the end of the second sentence shall be deleted and replaced with the clause “which is hereby adopted by reference.” The parenthetical sentence following the second sentence shall be deleted.

(V) The following revisions shall be made to 49 C.F.R. 393.104(e) and its corresponding table:

(i) In paragraph (e)(1), the phrase “Standard Specification for Strapping, Flat Steel and Seals, American Society for Testing and Materials (ASTM) D3953-97, February 1998” shall be deleted and replaced with “‘standard specification for strapping, flat steel and seals,’ American society for testing and materials (ASTM) D 3953-97, February 1998.” This specification is hereby adopted by reference.

(ii) In paragraph (e)(2), the phrase “National Association of Chain Manufacturers’ Welded Steel Chain Specifications, dated September 28, 2005” shall be deleted and replaced with “pages 3-13 of the national association of chain manufacturers’ ‘welded steel chain specifications,’ dated September 28, 2005.” These pages are hereby adopted by reference.

(iii) In paragraph (e)(3), the phrase “Web Sling and Tiedown Association’s Recommended Standard Specification for

Synthetic Web Tiedowns, WSTDA-T1, 1998” shall be deleted and replaced with “pages 4-15 of the web sling & tie down association’s ‘recommended standard specification for web tie downs,’ WSTDA-T-1, revised 2015.” These pages are hereby adopted by reference.

(iv) In paragraph (e)(5)(i), the phrase “PETRS-2, Polyester Fiber Rope, three-Strand and eight-Strand Constructions, January 1993 shall be deleted and replaced with “CI 1304-96, ‘polyester (PET) fiber rope: 3-strand and 8-strand constructions,’ October 1998, which is hereby adopted by reference.”

(v) In paragraph (e)(5)(ii), the phrase “PPRS-2, Polypropylene Fiber Rope, three-Strand and eight-Strand Constructions, August 1992” shall be deleted and replaced with “CI 1301-07, ‘polypropylene fiber rope: 3-strand laid and 8-strand plaited constructions,’ May 2007, which is hereby adopted by reference.”

(vi) In paragraph (e)(5)(iii), the phrase “CRS-1, Polyester/Polypropylene Composite Rope Specifications, three-Strand and eight-Strand Standard Construction, May 1979” shall be deleted and replaced with “CI 1302A-96, ‘polyester/polyolefin dual fiber rope: 3-strand construction,’ April 1999, which is hereby adopted by reference.”

(vii) In paragraph (e)(5)(iv), the phrase “NRS-1, Nylon Rope Specifications, three-Strand and eight-Strand Standard Construction, May 1979” shall be deleted and replaced with “CI 1303-06, ‘nylon (polyamide) fiber rope: 3-strand laid and 8-strand plaited constructions,’ October 2006, which is hereby adopted by reference.”

(viii) In paragraph (e)(5)(v), the phrase “C-1, Double Braided Nylon Rope Specification DBN, January 1984” shall be deleted and replaced with “CI 1310-09, ‘nylon (polyamide) fiber rope: high performance double braid construction,’ May 2009, which is hereby adopted by reference.”

(2) As used in this regulation, each reference to a portion of 49 C.F.R. Part 393 shall mean that portion as adopted by reference in this regulation.

(b) As used in this regulation, each reference to any of the following federal motor vehicle safety standards (FMVSS) shall mean that standard in 49 C.F.R. Part 571, as in effect on October 1, 2015, which standards are hereby adopted by reference:

- (1) FMVSS 103, 49 C.F.R. 571.103;
- (2) FMVSS 104, 49 C.F.R. 571.104, sections S4.1 and 4.2.2 only;
- (3) FMVSS 105, 49 C.F.R. 571.105, sections S5.3 and 5.5 only;
- (4) FMVSS 106, 49 C.F.R. 571.106;
- (5) FMVSS 108, 49 C.F.R. 571.108;
- (6) FMVSS 111, 49 C.F.R. 571.111;
- (7) FMVSS 119, 49 C.F.R. 571.119, section S5.1(b) only;
- (8) FMVSS 121, 49 C.F.R. 571.121;
- (9) FMVSS 125, 49 C.F.R. 571.125;
- (10) FMVSS 205, 49 C.F.R. 571.205, section S6 only;
- (11) FMVSS 223, 49 C.F.R. 571.223; and
- (12) FMVSS 224, 49 C.F.R. 571.224, sections S5.1.1, 5.1.2, and 5.1.3 only.

(c) 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. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Nov. 14, 2011; amended Sept. 20, 2013; amended May 6, 2016; amended July 26, 2019.)

82-4-3j Inspection, repair, and maintenance. (a) With the following

exceptions, 49 C.F.R. Part 396, as in effect on October 1, 2015 and as amended by 81 fed. reg. 47722 (2016), is hereby adopted by reference:

(1) In 49 C.F.R. 396.1 (c), the phrase “49 CFR 390.5” shall be deleted and replaced with “49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f.” In paragraph (d), the phrase “49 CFR 390.38(b)” shall be deleted and replaced with “49 C.F.R. 390.38(b) as adopted by K.A.R. 82-4-3f.”

(2) 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.”

(3) 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 is 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 Kansas highway patrol.”

(C) In paragraph (c)(1), the term “‘Out of Service Vehicle’ sticker” shall mean “a form approved by the Kansas highway patrol.”

(D) In paragraph (d)(3)(ii), the phrase “issuing agency” shall be deleted and replaced by “the state’s lead Motor Carrier Safety Assistance Program agency.”

(4) In paragraph (h) of 49 C.F.R. 396.17, the phrase “penalty provisions of 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.”

(5) The following revision shall be made to 49 C.F.R. 396.19: In paragraph (a)(1), the phrase “part 393” shall be deleted and replaced with “49 C.F.R. Part 393 as adopted by K.A.R. 82-4-3i.”

(6) In paragraphs (b)(2) and (3) of 49 C.F.R. 396.21, the word “Federal” shall be deleted.

(7) The following revisions shall be made to 49 C.F.R. 396.23:

(A) The following revision shall be made to paragraph (a): The phrase “as adopted in K.A.R. 82-4-3m” shall be added after “Appendix G.”

(B) The following revision shall be made to paragraph (b)(1): The phrase “by the Administrator” shall be deleted.

(b) As used in this regulation, each reference to a portion of 49 C.F.R. Part 396 shall mean that portion as adopted by reference in this regulation.

(c) 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. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Sept. 20, 2013; amended May 6, 2016; amended July 26, 2019.)

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, 2015, is hereby adopted by reference:

(1) In 49 C.F.R. 397.1(a), the phrase “§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.”

(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. 82-4-3a and K.A.R. 82-4-3f through K.A.R. 82-4-3k.” The phrase “§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.”

(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 “§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) 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 “§177.817 of this title” shall be deleted and replaced by “49 C.F.R. 177.817 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” and “FMCSA” shall be deleted.

(B) In the definition of “Motor carrier,” the definition portion shall be deleted and replaced with the following: “‘Motor carrier’ shall have the same definition as specified in 49 CFR 390.5 as adopted by K.A.R. 82-4-3f.”

(C) In the definition of “Motor vehicle,” the definition portion shall be deleted and replaced with the following: “‘Motor vehicle’ shall have the same definition as specified in 49 CFR 390.5 as adopted by K.A.R. 82-4-3f.”

(D) In the definition of “Indian tribe,” the text “dated October 25, 1994, which is hereby adopted by reference” shall be added after “25 U.S.C. 450b.”

(E) In the definition of “NRHM,” the phrase “as adopted by K.A.R. 82-4-20” shall be added after “49 CFR 172.504.”

(F) 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) 49 C.F.R. 397.69 shall be deleted.

(11) 49 C.F.R. 397.71 shall be deleted.

(12) 49 C.F.R. 397.73 shall be deleted.

(13) 49 C.F.R. 397.75 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.”

(C) In paragraph (b)(2), the phrase “as adopted by K.A.R. 82-4-20” shall be added after “49 CFR 173.403.”

(D) In the first sentence of paragraph (d), the phrase “as adopted by K.A.R. 82-4-20” shall be added after “49 CFR 173.403.”

(E) In paragraph (e)(1)(i), the phrase “as adopted by K.A.R. 82-4-20” shall be added after “49 CFR parts 172, 173, and 177.”

(F) In paragraph (e)(2), the phrase “§391.51 of this subchapter” shall be deleted and replaced with “49 C.F.R. 391.51 as adopted by K.A.R. 82-4-3g.”

(G) In paragraph (f), the phrase “as adopted by K.A.R. 82-4-20” shall be added after “49 CFR 173.22(c).”

(H) 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:”.

(I) 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) Except for paragraph (c), 49 C.F.R. 397.103 shall be deleted.

(17) Subpart E of 49 C.F.R. Part 397 shall be deleted.

(b) As used in this regulation, each reference to a portion of 49 C.F.R. Part 397 shall mean that portion as adopted by reference in this regulation.

(c) 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. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Sept. 20, 2013; amended May 6, 2016; amended July 26, 2019.)

82-4-31 Transportation of migrant workers.

(a) With the following exceptions, 49 C.F.R. Part 398, as in effect on October 1, 2015, 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 December 16, 2014, 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 August 31, 2006, 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 “§ 398.3(b) of the Federal Motor Carrier Safety Regulations of the Federal Motor Carrier Safety Administration” shall be deleted and replaced with “49 C.F.R. 398.3(b) as adopted by K.A.R. 82-4-3l.”

(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 § 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 is 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 “§ 393.52” shall be deleted and replaced by “49 C.F.R. 393.52, as adopted by K.A.R. 82-4-3i.”

(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 “Forms MCS 63” shall be deleted and replaced by “the forms 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) As used in this regulation, each reference to a portion of 49 C.F.R. Part 398 shall mean that portion as adopted by reference in this regulation.

(c) 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. 66-1,112, K.S.A. 66-1,112g, K.S.A. 66-1,129, and K.S.A. 66-1,142a; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Sept. 20, 2013; amended July 26, 2019.)

82-4-3m Employee safety and health standards. (a)(1) With the following exceptions, 49 C.F.R. Part 399, as in effect on October 1, 2015, is hereby adopted by reference:

(A) 49 C.F.R. 399.201 shall be deleted.

(B) In 49 C.F.R. 399.205, the definition of “person” shall be deleted.

(C) In 49 C.F.R. 399.209, paragraph (b) shall be deleted.

(2) Appendix G to 49 C.F.R. Chapter III, Subchapter B, as in effect on October 1, 2015, is hereby adopted by reference, except as follows:

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. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Sept. 20, 2013; amended July 26, 2019.)

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, 2015, is hereby adopted by reference:

(1) The following revisions shall be made to 49 C.F.R. 387.3:

(A) In paragraph (a), the phrase “for-hire” shall be deleted and replaced by “public.”

(B) In paragraph (c)(1), the phrase “as adopted by K.A.R. 82-4-20” shall be inserted after the phrase “49 CFR 173.403.”

(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.

(C) The definition of “State” shall be deleted and replaced by “state of Kansas.”

(3) The following revisions shall be made to 49 C.F.R. 387.7:

(A) 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 “under §387.309” shall be deleted.

(ii) The phrase “part 385 of this chapter” shall be deleted and replaced by “49 C.F.R. 385 as adopted by K.A.R. 82-4-3d.”

(C) In paragraph (g), the term “United States” shall be deleted and replaced by “state of Kansas.”

(4) The following revisions shall be made to 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 paragraphs (b) and (d), 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 business is written” shall be deleted and replaced by “the state of Kansas.”

(6) The following revision shall be made to 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 and 49 C.F.R. 387.27(a), 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) The following revisions shall be made to paragraph (e)(2):

(i) The phrase “for-hire” shall be deleted and replaced with “public.”

(ii) The phrase “FMCSA” shall be deleted and replaced with “commission.”

(iii) The phrase “subpart C of this part” shall be deleted and replaced with “K.A.R. 82-4-3n.”

(B) In paragraph (f), the phrase “within the United States” shall be deleted and replaced by “in the state of Kansas.”

(C) In paragraph (g), the phrase “the United States” shall be deleted and replaced by “the state of Kansas.”

(11) The following revision shall be made to 49 C.F.R. 387.33: The term “for hire” shall be deleted and replaced by “public” in the schedule of limits.

(12) In paragraphs (b), (c), and (d) of 49 C.F.R. 387.35, the words “in any State in which the motor carrier operates” shall be

deleted and replaced by “in the state of Kansas.”

(13) The following revision shall be made to 49 C.F.R. 387.39: The phrase “prescribed by the FMCSA and approved by the OMB” shall be deleted and replaced with “approved by the commission.”

(14) 49 C.F.R. 387.41 shall be deleted.

(15) The following revisions shall be made to 49 C.F.R. 387.301:

(A) The following revision shall be made to paragraph (a)(1): The phrase “FMCSA” shall be deleted and replaced with “commission.”

(B) In paragraph (b), the phrase “FMCSA” shall be deleted and replaced by “commission.” The last sentence in paragraph (b) shall be deleted.

(C) In paragraph (c), the phrase “FMCSA in accordance with the requirements of section 13906 of title 49 of the U.S. Code,” shall be deleted and replaced by “commission.”

(16) The following revision shall be made to 49 C.F.R. 387.303: Paragraph (b)(4) shall be deleted.

(17) 49 C.F.R. 387.307 through 49 C.F.R. 387.323 shall be deleted.

(18) In 49 C.F.R. 387.401(c), the term “motor vehicle” shall be deleted and replaced with “motor vehicle as defined in 49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f.”

(19) The following revisions shall be made to 49 C.F.R. 387.403:

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

(B) In paragraph (b), the term “FMCSA” shall be deleted and replaced with “commission.”

(20) The following revisions shall be made to 49 C.F.R. 387.407: The first instance of the term “FMCSA” shall be deleted and replaced with “commission.” The phrase “FMCSA (or the Department of

Transportation, where applicable)” shall be deleted and replaced with “commission.”

(21) 49 C.F.R. 387.409 through 49 C.F.R. 387.419 shall be deleted.

(b) As used in this regulation, each reference to a portion of 49 C.F.R. Part 387 shall mean that portion as adopted by reference in this regulation.

(c) 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. 66-1,112, K.S.A. 66-1,112g, K.S.A. 66-1,128, and K.S.A. 66-1,129; effective Oct. 22, 2010; amended Sept. 20,2013; amended May 6, 2016; July 26, 2019.)

82-4-30 Imminent hazard. (a) With the following exceptions, 49 C.F.R. Part 386, Subpart F, as in effect on October 1, 2015, 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) Paragraph (b)(1) shall be deleted and replaced by the following text: “Whenever it is determined that a violation of the Kansas motor carrier statutes or

administrative regulations, as amended, or a combination of such violations, poses an imminent hazard to safety, the commission may order:”

(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 Kansas.”

(D) In paragraph (b)(1)(ii), the phrase “as provided by 49 U.S.C. 521(b)(5) and 49 U.S.C. 31151(a)(3)(I)” shall be deleted and replaced by “in Kansas.”

(E) In paragraph (b)(4), the second sentence of the paragraph shall be deleted and replaced by the following sentence: “Administrative hearings shall be held in accordance with the Kansas Administrative Procedure Act and the commission’s administrative regulations.”

(3) In 49 C.F.R. 386.72 (b)(6), the phrase “in subpart G of this part” shall be deleted and replaced by “by Kansas law.”

(b) As used in this regulation, each reference to a portion of 49 C.F.R. Part 386, Subpart F shall mean that portion as adopted by reference in this regulation.

(c) 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. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 66-1,129; effective Oct. 22, 2010; amended Sept. 20, 2013; amended May 6, 2016; amended July 26, 2019.)

82-4-4 and 82-4-5 Revoked. (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 Revoked. (Authorized by K.S.A. 66-1,129; 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, 1982; amended Sept. 16, 1991; amended Oct. 22, 2010.)

82-4-6b Revoked. (Authorized by and implementing K.S.A. 66-1,129; effective May 1, 1981; revoked Sept. 16, 1991.)

82-4-6c Revoked. (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 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. Each change 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 examiner, that are satisfactory to the director; and

(C) letters of recommendation from at least two licensed medical examiners, written on their personalized or institutional letterhead, including their national provider identifier assigned by the national plan and provider enumeration system, and meeting the following requirements:

(i) The reports and letters of recommendation shall indicate the opinions of the licensed medical examiners 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 diabetes shall be provided by an endocrinologist, diabetologist, or primary care physician who has treated the driver applicant;

(iv) letters of recommendation regarding limb impairment or amputation shall include a medical summary conducted by a board of qualified, or board-certified, psychiatrists or orthopedic surgeons,

preferably associated with a rehabilitation center; and

(v) 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 suspensions 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 for a waiver for limb impairment or amputation 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;

(B) a licensed endocrinologist, diabetologist, or primary care physician who attests that the glycated hemoglobin (HbA1C) is less than or equal to 8.0 mmol/mol; and

(C) a licensed medical practitioner who attests that the individual is otherwise physically qualified under the standards specified in 49 C.F.R. 391.41 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. 2011 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; amended Sept. 20, 2013.)

82-4-7 Revoked. (Authorized by K.S.A. 66-1,129; effective Jan. 1, 1971; amended Jan. 1, 1972; revoked May 1, 1981.)

82-4-7a Revoked. (Authorized by and implementing K.S.A. 66-1,129; effective May 1, 1981; revoked May 1, 1984.)

82-4-7b Revoked. (Authorized by and implementing K.S.A. 66-1,129; modified, L. 1981, ch. 424, May 1, 1981; modified, L. 1983, ch. 357, May 1, 1983; revoked May 1, 1984.)

82-4-7c to 82-4-7f Revoked. (Authorized by and implementing K.S.A. 66-1,129; effective May 1, 1981; revoked May 1, 1984.)

82-4-7g Revoked. (Authorized by and implementing K.S.A. 66-1,112, 66-

1,112a, 66-1,112g; effective May 1, 1981; revoked May 1, 1984.)

82-4-7h and 82-4-7i Revoked. (Authorized by and implementing K.S.A. 66-1,129; effective May 1, 1981; revoked May 1, 1984.)

82-4-8 Revoked. (Authorized by K.S.A. 66-1,129; effective Jan. 1, 1971; amended Jan. 1, 1972; revoked May 1, 1981.)

82-4-8a. Revoked. (Authorized by and implementing [K.S.A. 2012 Supp. 66-1,129](#), as amended by [L. 2013, ch. 14](#), sec. 3; effective May 1, 1981; amended May 1, 1984; amended April 30, 1990; amended May 10, 1993; amended July 14, 2000; amended Nov. 14, 2011; amended Sept. 20, 2013; revoked May 6, 2016.)

82-4-8b to 82-4-8g Revoked. (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 Revoked. (Authorized by and implementing K.S.A. 66-1,129; effective Jan. 1, 1971; amended May 1, 1981; revoked May 1, 1984.)

82-4-12 Revoked. (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 Revoked. (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 Revoked. (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 and 82-4-16 Revoked. (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 Revoked. (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 Revoked. (Authorized by K.S.A. 66-1,129; effective Jan. 1, 1971; revoked May 1, 1981.)

82-4-19 Revoked. (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 Revoked. (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) Copies of all applications for special permits pursuant to 49 C.F.R. Part 107, Subpart B, registrations of cargo tank and cargo tank motor vehicle manufacturers, assemblers, repairers, inspectors, testers, and design certifying engineers pursuant to 49 C.F.R. Part 107, Subpart F, and registrations of persons who offer transportation or transport hazardous materials pursuant to 49 C.F.R. Part 107, Subpart G shall be made available to the commission for proof of compliance with federal hazardous materials regulations.

(c) The following federal regulations, as in effect on October 1, 2015, are hereby adopted by reference:

(1) 49 C.F.R. Part 171, except 171.1(a) and 171.6;

(2) 49 C.F.R. Part 172, except 172.701, 172.804 and 172.822;

(3) 49 C.F.R. Part 173, except 173.10 and 173.27;

(4) 49 C.F.R. Part 177;

(5) 49 C.F.R. Part 178; and

(6) 49 C.F.R. Part 180.

(d) When used in any provision adopted from 49 C.F.R. Parts 171, 172, 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 “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.”

(3) The terms “Department of Transportation,” “DOT,” and “department” shall be replaced with “commission as defined in K.A.R. 82-4-1.”

(4) The term “the United States” shall be replaced with “the state of Kansas.”

(e) 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.

(f) 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. 66-1,112, K.S.A. 66-1,112g, K.S.A. 66-1,129, and K.S.A. 66-1,129b; implementing K.S.A. 66-1,112, K.S.A. 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; amended Sept. 20, 2013; amended May 6, 2016; amended July 26, 2019.)

INSURANCE

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. (Authorized by K.S.A. 66-1,112, K.S.A. 66-1,112g; implementing K.S.A. 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; amended July 26, 2019.)

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.

(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 online, at the national online registration (NOR) database administered by the motor carrier information exchange, 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) If a motor carrier is unable to provide the uniform standard insurance form required in subsection (a), 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) within the 30-day period.

(c) 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.

(d) 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. 66-1,112, K.S.A. 66-1,112g; implementing K.S.A. 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; amended July 26, 2019.)

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 Revoked. (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) Forms BMC 91 and BMC 91X shall be required for interstate regulated motor carriers in accordance with K.A.R. 82-4-3n.

(d) The uniform notice of cancellation of motor carrier insurance policies shall be form K. (Authorized by K.S.A. 66-1,112, K.S.A. 66-1,112g; implementing K.S.A. 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; amended July 26, 2019.)

82-4-25 Revoked. (Authorized by K.S.A. 66-1,128; effective Jan. 1, 1971; revoked May 1, 1981.)

82-4-25a Endorsements. There shall be attached to all insurance policies filed with and approved by the commission an endorsement of the policy on a form specified by the commission. The uniform motor carrier bodily injury and property damage liability insurance endorsement shall be form F. The uniform motor carrier cargo insurance endorsement shall be form I. (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.)

APPLICATIONS AND OTHER GENERAL PROVISIONS

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.

(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. 25, 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 MCSA-1 that the applicant intends to transport; and

(4) 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. 66-1,112 and 66-1,117; implementing K.S.A. 66-1,114, 66-1,114b, and 66-1,117; 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; amended Sept. 20, 2013; amended July 26, 2019.)

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 Revoked. (Authorized by K.S.A. 1982 Supp. 66-1,112; implementing K.S.A. 66-1,117, K.S.A. 1982 Supp. 66-1,112, 66-1,114; effective May 1, 1983; 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 Revoked. (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 Revoked. (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. 1999 Supp. 66-1,115a; effective July 6, 1992; amended Jan. 4, 1999; amended July 14, 2000.)

82-4-28 Revoked. (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 Revoked. (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 Revoked. (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 Applications for private carrier permits. Each application for a private carrier permit shall be submitted 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) a list of motor vehicles to be used by the applicant by make, year, and vehicle identification number;

(c) the commodities that the applicant intends to transport;

(d) the nature of the enterprise or enterprises for which commodities are to be transported; and

(e) evidence of compliance with K.A.R. 82-4-26(b). (Authorized by K.S.A. 66-1,112g, K.S.A. 2012 Supp. 66-1,117; implementing K.S.A. 66-1,112g, K.S.A. 2012 Supp. 66-1,115, K.S.A. 2012 Supp. 66-1,117; effective Jan. 1, 1971; amended May 1, 1981; amended May 10, 1993; amended Jan. 31, 2003; amended Sept. 20, 2013.)

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 Revoked. (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 one of the following meanings:

(A) The meaning assigned to “base-state” in [49 U.S.C. 14504a\(a\)\(2\)](#), as adopted in paragraph (a)(2) of this regulation; or

(B) if an entity does not have a principal place of business, office, or operating facility in any participating state, the participating state chosen by the entity that is nearest to the location of the entity’s principal place of business or any participating state within the entity’s FMCSA region.

(2) [49 U.S.C. 14504a\(a\)\(2\)](#), as in effect on July 6, 2012, 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 October 1, 2015 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 as defined in paragraph (a)(1). (Authorized by [K.S.A. 66-1,112](#); implementing [K.S.A. 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-82-5-12-10, May 12, 2010; amended Oct. 8, 2010; amended July 26, 2019.)

82-4-30b Revoked. (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 Revoked. (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. 60-305a, 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 Revoked. (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 Revoked. (Authorized by K.S.A. 66-1,112, 66-112a, 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 Revoked. (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 Revoked. (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 §F242, K.S.A. 66-1,139 as amended by L. 1989, ch. 208, §F1, K.S.A. 66-1329; effective Jan. 1, 1971; amended May 1, 1981; 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, or license or upon cancellation or revocation of any certificate, permit, or license by the commission, all identification cards, authority cards, and registration receipts issued under the certificate, permit, or license shall be forwarded to the commission upon the carrier's receipt of the notice of commission consent to abandon or cancel or the notice of revocation.

(b) If by order of the commission or otherwise, operations are suspended under any certificate, permit, or license, the carrier shall remove all identification cards issued under the certificate, permit, or license, from all vehicles upon the carrier's receipt of the notice of commission consent to abandon or cancel or the notice of revocation. (Authorized by K.S.A. 2012 Supp. 66-1,112 and K.S.A. 66-1,112g; implementing K.S.A. 2012 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2012 Supp. 66-1,119; effective Jan. 1, 1971; amended May 1, 1981; amended May 10, 1993; amended Oct. 3, 1994; amended Sept. 20, 2013.)

82-4-40 Revoked. (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; revoked July 26, 2019.)

82-4-41 Revoked. (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) 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 subsection (a). (Authorized by K.S.A. 66-1,112, K.S.A. 66-1,112g, K.S.A. 66-1,140; implementing K.S.A. 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; amended July 26, 2019.)

RULES APPLICABLE ONLY TO PUBLIC CARRIERS

82-4-43 Revoked. (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 Revoked. (Authorized by K.S.A. 66-1,112 and 66-1,119; effective Jan. 1, 1971; revoked July 26, 2019.)

82-4-45 Revoked. (Authorized by [K.S.A. 66-1,112](#), [66-1,116](#); effective Jan. 1, 1971; revoked May 1, 1981.)

82-4-46 Revoked. (Authorized by K.S.A. 2001 Supp. 66-1,112; implementing K.S.A. 2001 Supp. 66-123 and K.S.A. 2001 Supp. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1986; amended Jan. 4, 1999; amended Jan. 31, 2003; revoked July 26, 2019.)

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. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981.)

82-4-48 Bills of lading 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 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 made 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, 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. 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; amended July 26, 2019.)

82-4-48a Revoked. (Authorized by and implementing K.S.A. 2012 Supp. 66-1,112, K.S.A. 66-1,112g; effective Jan. 4, 1999; amended Oct. 22, 2010; amended Sept. 20, 2013; revoked July 26, 2019.)

82-4-49 Revoked. (Authorized by K.S.A. 66-1,112; effective Jan. 1, 1971; revoked May 1, 1981.)

82-4-49a Revoked. (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 Revoked. (Authorized by and implementing K.S.A. 1984 Supp. 66-1,112; effective May 1, 1986; revoked Jan. 31, 2003.)

82-4-49c Revoked. (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 Revoked. (Authorized by and implementing K.S.A. 1984 Supp. 66-1,112; effective May 1, 1986; revoked Jan. 31, 2003.)

82-4-49e Revoked. (Authorized by and implementing K.S.A. 1984 Supp. 66-

1,112; effective May 1, 1986; revoked Jan. 31, 2003.)

82-4-50 Passenger carriers. (a) With the following exceptions, 49 C.F.R. Part 374, as in effect on October 1, 2015, is hereby adopted by reference:

(1) Each occurrence of the phrase “49 U.S.C. subtitle IV, part B” shall be deleted and replaced by “commission rules and regulations.”

(2) In 49 C.F.R. 374.307, each occurrence of the word “Secretary” shall be deleted and replaced by “commission rules and regulations.”

(3) In 49 C.F.R. 374.307(g), the phrase “notwithstanding 49 CFR 370.9,” shall be deleted.

(4) 49 C.F.R. 374.315 shall be deleted.

(5) In 49 C.F.R. 374.401(a), the phrase “49 U.S.C. 13501” shall be deleted and replaced by “commission rules and regulations.”

(6) In 49 C.F.R. 374.501, the phrase “authorized under 49 U.S.C. 13506 [49 U.S.C. 10932(c)]” shall be deleted.

(7) In 49 C.F.R. 374.503, the phrase “or intrastate” shall be added after the word “interstate.”

(8) In 49 C.F.R. 374.505, paragraphs (c) and (d) shall be deleted.

(b) As used in this regulation, each reference to a portion of 49 C.F.R. Part 374 shall mean that portion as adopted by reference in this regulation. (Authorized by and implementing K.S.A. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; amended July 26, 2019.)

82-4-51 Revoked. (Authorized by and implementing K.S.A. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; revoked July 26, 2019.)

82-4-52 Revoked. (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 CARRIER TARIFFS

82-4-53 Common motor carrier rates and charges. (a) Common motor carriers of household goods 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.

(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 household goods and passenger rates and charges. (Authorized by K.S.A. 66-1,112; implementing K.S.A. 66-117, K.S.A. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; amended Jan. 4, 1999; amended Oct. 22, 2010; amended July 26, 2019.)

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 Revoked. (Authorized by K.S.A. 66-1,112; effective Jan. 1, 1971; revoked May 1, 1981.)

82-4-56a Household goods and passenger 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 the tariff 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) specific references to the classification and to publications containing any exceptions to the classification governing the rates named in the tariff;

(6) the issued and effective dates; and

(7) 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) Each household goods tariff 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 either 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) Each passenger tariff shall show the following information:

(1) Fares, definitely and specifically stated in cents or in dollars and cents; 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. 66-1,112](#); implementing [K.S.A. 66-117](#), [K.S.A. 66-1,112](#); effective May 1, 1981; amended Jan. 4, 1999; amended Oct. 22, 2010; amended July 26, 2019.)

82-4-57 Powers of attorney and concurrences. (a) A household goods or passenger carrier wanting 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 household goods or passenger carrier wants 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 household goods or passenger carrier wants 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 and implementing K.S.A. 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; amended July 26, 2019.)

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 Revoked. (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 Revoked. (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 Revoked. (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 Revoked. (Authorized by and implementing [K.S.A. 1997 Supp. 66-1,112](#); effective May 1, 1987; amended Jan. 4, 1999; revoked July 26, 2019.)

82-4-59 Revoked. (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 Revoked. (Authorized by [K.S.A. 66-1,112](#); effective Jan. 1, 1971; revoked May 1, 1981.)

82-4-61 Revoked. (Authorized by [K.S.A. 66-1,112a](#); implementing [K.S.A. 66-1,112e](#), [66-1,112f](#); effective Jan. 1, 1971; modified, L. 1981, ch. 424, May 1, 1981; revoked May 1, 1983.)

82-4-62 Revoked. (Authorized by [K.S.A. 1997 Supp. 66-1,112](#); effective Jan. 1, 1971; amended Jan. 4, 1999; revoked Oct. 22, 2010.)

RULES APPLICABLE TO COMMON CARRIERS AND CONTRACT CARRIERS

82-4-63 Contested and uncontested motor carrier hearings. An application for a common carrier certificate of convenience and necessity or a certificate of public service 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, 66-1,112; implementing K.S.A. 66-106, 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; amended July 26, 2019.)

82-4-64 Revoked. (Authorized by K.S.A. 66-108, 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, 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 when 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 or intervenor shall offer evidence or a statement or shall participate in the hearing. (Authorized by K.S.A. 66-1,112; implementing K.S.A. 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; amended July 26, 2019.)

82-4-66 Revoked. (Authorized by and implementing K.S.A. 1982 Supp. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1983; revoked July 26, 2019.)

82-4-67 Revoked. (Authorized by and implementing K.S.A. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; revoked Jan. 4, 1999.)

COLLECTIVE RATES

82-4-68 Collective rate-making agreements. (a) Motor carriers of household goods and passengers 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 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) recordkeeping;
- (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. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983; amended Jan. 4, 1999; amended July 26, 2019.)

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, by-laws, 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 partnership 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. 1997 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983; amended Jan. 4, 1999.)

82-4-70 Record keeping 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. 1982 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. 1982 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. 1982 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 requirement 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. 1982 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.

1982 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. 1982 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 sound recordings; and

(f) the organization maintains detailed minutes of all meetings. (Authorized by and implementing K.S.A. 1982 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 filed 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. 1982 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 nor 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. 1982 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. 1982 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. 1982 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. 1982 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. 1982 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 engaging in collective rate making before the commission. (Authorized by and implementing K.S.A. 1982 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 agreement. (a) Each carrier that is a party to a collective rate-making agreement and files 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) Each application shall be based upon data submitted for a test year. The application and schedules shall be filed with the commission by electronic mail. The size of print used in the application and schedules shall be clearly legible. Negative numbers shall be shown in parentheses. Amounts 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 specified in this subsection and shall be assembled under topical sections, with each section clearly identified 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; newspaper 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, if 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 applicant wants 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 test 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. This section 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 premiums, 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.

(c) 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.

(d) Each application found to be incomplete or not in the form prescribed in this regulation shall be rejected by the commission. (Authorized by and implementing K.S.A. 66-1, 112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983; amended Jan. 4, 1999; amended July 26, 2019.)

82-4-86 Revoked. (Authorized by K.S.A. 1983 Supp. 66-1,112 and K.S.A. 1984 Supp. 66-1313a; implementing K.S.A. 1984 Supp. 66-1313a; effective, T-85-48, Dec. 19, 1984; effective May 1, 1985; revoked July 26, 2019.)

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 of K.S.A. 66-1,129(c), found below:

(c) The provisions of 49 C.F.R. parts 390-399 adopted by reference in the rules and regulations of the commission shall not apply to the following, while engaged in the carriage of intrastate commerce:

(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) Private motor carriers domiciled in Kansas operating commercial motor vehicles (CMV) with a gross vehicle weight (GVW), gross vehicle weight rating (GVWR), gross combination weight (GCW), or gross combination weight rating (GCWR) of 10,001 to 26,000 pounds and registered pursuant to K.S.A. 8-126 et seq., and amendments thereto. Such carriers shall comply with 49 C.F.R. part 393, subpart I (load securement) and subpart F (coupling devices), as adopted by K.A.R. 82-4-3i; and 49 C.F.R. part 396.17 (annual inspection), as adopted by K.A.R. 82-4-3j. Any deficiencies related to the above regulations discovered roadside or any defects identified at the time of the annual inspection shall be corrected prior to returning the commercial motor vehicle to operational status. This exception does not apply to commercial motor vehicles, regardless of weight, which are designed or used to transport 16 or more passengers, including the driver, or intrastate public (for hire) motor carriers of property or passengers, or any motor vehicles which are used in the transportation of hazardous materials and required to be placarded pursuant to 49 C.F.R. part 172, subpart F. For the purpose of this subsection "domicile" shall mean the principal place of business of a motor carrier or a permanent location in Kansas for a vehicle or vehicles annually registered in Kansas.

(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 15 people, including the driver, 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 15 people, including the driver, 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) 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 transport by motor vehicle, from place to place, persons or the property of others who may choose to employ you.

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 found on page 84 of this book, or unless you meet one of the exemptions of K.S.A. 66-1,109, as follows:

(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;

(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. For the purpose of this subsection, "domicile" shall mean the principal place of business of a motor carrier;

(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) (1) the transportation of children to and from school; (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; or (3) motor vehicles owned by nonprofit organizations meeting the qualification requirements of section 501(c) of the internal revenue code of 1986, and amendments thereto, when transporting property or materials belonging to the owner of the vehicle;

(e) 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;

(f) 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;

(g) 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;

(h) the operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers;

(i) 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. §§ 5307, 5310 and 5311;

(j) 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;

(k) motor vehicles used to transport water for domestic purposes, as defined by K.S.A. 82a-701(c), and amendments thereto, or livestock consumption;

(l) transportation of sand, gravel, slag stone, limestone, crushed stone, cinders, calcium chloride, bituminous or concrete 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;

(m) 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;

(n) the transporting of vehicles used solely in the custom combining business when being transported by persons engaged in such business;

(o) 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;

(p) transportation by taxi or bus companies operated exclusively within any city or within 25 miles of the point of its domicile in a city. For the purpose of this subsection, "domicile" shall mean the principal place of business of a motor carrier;

(q) 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;

(r) the operation of vehicles used for transporting materials used in the servicing or repairing of the refractory linings of industrial boilers;

(s) transportation of newspapers published at least one time each week;

(t) transportation of animal dung to be used for fertilizer;

(u) the operation of ground water well drilling rigs;

(v) the transportation of cotton modules from the field to the gin;

(w) the transportation of custom harvested silage, including, but not limited to, corn, wheat and milo; and

(x) private motor carriers domiciled in Kansas operating commercial motor vehicles (CMV) with a gross vehicle weight (GVW), gross vehicle weight rating (GVWR), gross combination weight (GCW), or gross combination weight rating (GCWR) of 10,001 to 26,000 pounds and registered pursuant to K.S.A. 8-126 et seq., and amendments thereto. This exception does not apply to commercial motor vehicles, regardless of weight, which are designed or used to transport 16 or more passengers, including the driver, or intrastate public (for hire) motor carriers of property or passengers, or any motor vehicles which are used in the transportation of hazardous materials and required to be placarded pursuant to 49 C.F.R. part 172, subpart F. For the purpose of this subsection, "domicile" shall mean the principal place of business of a motor carrier or a permanent location in Kansas for a vehicle or vehicles annually registered in Kansas.

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.

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.

(1) 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.

(2) 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.