

STATE OF KANSAS
STATE CORPORATION COMMISSION

Notice of Public Hearing on Proposed Administrative Regulations

February 27, 2019

The State Corporation Commission (Commission) will conduct a public hearing at 10:00 a.m. on Tuesday, May 14, 2019, in the First Floor Hearing Room at the office of the State Corporation Commission, 1500 SW Arrowhead Road, Topeka, Kansas, to consider the adoption of the proposed rules and regulations of the State Corporation Commission of the State of Kansas on a permanent basis.

This notice exceeds the 60-day notice requirement of the pending public hearing and shall constitute the beginning of the public comment period for the purpose of receiving written public comments on the proposed rule and regulation. A complete copy of the proposed regulation and economic impact statement may be found on the Kansas Corporation Commission website: <http://kcc.ks.gov>, or by contacting Ahsan Latif: a.latif@kcc.ks.gov.

All interested parties may submit written comments prior to the hearing to Ahsan Latif, Litigation Counsel, State Corporation Commission, 1500 SW Arrowhead Road, Topeka, Kansas 66604, or by email to: a.latif@kcc.ks.gov. All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulation during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to ask that each participant limit any oral presentation to five (5) minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five (5) working days in advance of the hearing by contacting Sandra Rak at (785) 271-3136 or the Kansas Relay Center at 1-800-766-3777. The main entrance located on the southwest side of the building is handicapped accessible. Handicapped parking is located on the southwest side of the State Corporation Commission's parking lot.

A summary of the proposed regulations and their economic impact are as follows: (Note: Statements indicating that a regulation is "not anticipated to have any economic impact" are intended to indicate that no economic impact on the State Corporation Commission, other state agencies, state employees, or the general public has been identified.)

K.A.R. 82-4-1 – Definitions.

The proposed amendments to this regulation, which defines the terms used in “Article 4 – Motor Carriers of Persons and Property,” includes the removal of certain definitions to prevent variation from the federal definitions. Additionally there are edits to reflect minor grammatical and form corrections and recent updates to Federal Motor Carrier Safety Administration (FMCSA) regulations. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-2a – Authority of agents, employees, or representatives authorized by commission.

This regulation grants special agents, employees and representatives of the Commission certain authorities which are required by the federal government for enforcement of motor carrier rules and regulations. The amendment to this regulation would update a reference to another regulation. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-3b – Procedures for transportation workplace drug and alcohol testing programs.

This regulation adopts portions of the FMCSA regulations (49 C.F.R. Part 40) governing the procedures for workplace drug and alcohol testing programs relevant to motor carriers. The proposed amendments seek to prevent the creation of a parallel state program and instead allow the Commission to simply enforce compliance with the federal program. Subparts D-N, P-Q and Appendices A-H are now deleted because they deal with the regulation of entities beyond the control of the Kansas Corporation Commission. The proposed amendments also include edits to reflect minor grammar and form corrections as well as the most recent updates to FMCSA regulations. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-3c – Testing for controlled substances and alcohol use.

This regulation adopts portions of the FMCSA regulations (49 C.F.R. Part 382) governing the procedures involved in testing for controlled substances and alcohol use. The proposed amendments seek to prevent the creation of a parallel state program and instead allow the Commission to simply enforce compliance with the federal program. Additionally, the amendments include edits to reflect minor grammar and form corrections and the most recent updates to FMCSA regulations. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-3d – Safety fitness procedures.

This regulation adopts portions of the FMCSA regulations (49 C.F.R. Part 385) governing motor carrier safety fitness procedures. The proposed amendments to this regulation include edits to reflect minor grammar and form corrections and the most recent updates to FMCSA regulations. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-3f – General motor carrier safety regulations.

This regulation adopts portions of the FMCSA regulations (49 C.F.R. 390) which establish the minimum safety requirements to be followed by motor carriers and their employees, the safety standards for commercial motor vehicles and intermodal equipment. The proposed amendments to this regulation include removal of certain variances from the federal regulations, as well as edits to reflect minor grammar and form corrections and the most recent updates to FMCSA regulations. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-3g – Qualifications of drivers.

This regulation adopts relevant portions of the FMCSA regulations (49 C.F.R. 391) which establish the minimum duties of motor carriers with respect to the qualifications of their commercial motor vehicle drivers. This regulation also establishes the minimum qualifications for those drivers who own and operate commercial motor vehicles. The proposed amendments to this regulation include edits to reflect minor grammar and form corrections and the most recent updates to FMCSA regulations. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-3h – Driving of commercial motor vehicles.

This regulation adopts portions of the FMCSA regulations (49 C.F.R. 392) which establish the minimum duties and procedures for the driving of commercial motor vehicles. The proposed amendments to this regulation include edits to reflect minor grammar and form corrections and the most recent updates to FMCSA regulations. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-3i – Parts and accessories necessary for safe operation.

This regulation adopts portions of the FMCSA regulations (49 C.F.R. Part 393) governing the parts and accessories necessary for the safe operation of commercial motor vehicles. The proposed amendments to this regulation include edits to reflect minor grammar and form corrections, deletions and additions required to reflect the most recent updates to FMCSA regulations. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-3j – Inspection, repair, and maintenance.

This regulation adopts portions of the FMCSA regulations (49 C.F.R. Part 396) governing the inspection, repair and maintenance of commercial motor vehicles. The proposed amendments to this regulation include minor grammar and form corrections, deletions and additions required to reflect the most recent updates to FMCSA regulations. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-3k – Transportation of hazardous materials; driving and parking rules.

This regulation adopts portions of the FMCSA regulations (49 C.F.R. Part 397) governing the transportation of hazardous materials with specific respect to driving and parking rules. The proposed amendments to this regulation reflect minor grammar and form corrections, deletions and additions required to reflect the most recent updates to FMCSA regulations. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-3l – Transportation of migrant workers.

This regulation adopts portions of the FMCSA regulations (49 C.F.R. Part 398) governing the transportation of migrant workers. The proposed amendments to this regulation include edits to reflect minor grammar and form corrections, deletions and additions required to reflect the most recent updates to FMCSA regulations. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-3m – Employee safety and health standards.

This regulation adopts portions of the FMCSA regulations (49 C.F.R. Part 399) establishing motor carrier employee safety and health standards. The proposed amendments to this regulation include edits to reflect minor grammar and form corrections, deletions and additions required to reflect the most recent updates to FMCSA regulations. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-3n – Minimum levels of financial responsibility for motor carriers.

This regulation adopts portions of the FMCSA regulations (49 C.F.R. Part 387) establishing requirements for the minimum levels of financial responsibility for motor carriers. The proposed amendments to this regulation include edits to reflect minor grammar and form corrections and deletions and additions required to reflect the most recent updates to FMCSA regulations. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-3o – Imminent hazard.

This regulation adopts portions of the FMCSA regulations (49 C.F.R. Part 386, Subpart F) establishing procedures relevant to imminent hazard with respect to motor carriers. The proposed amendments to this regulation include edits to reflect minor grammar and form corrections and deletions and additions required to reflect the most recent updates to FMCSA regulations. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-20 – Transportation of hazardous materials by motor vehicles.

This regulation establishes the minimum requirements and standards to be observed in the transportation of hazardous materials by motor carriers and operators of commercial motor vehicles. The proposed edits to this regulation include edits to achieve

consistency with federal requirements including adopting the federal definition of “commercial motor vehicle” and “motor vehicle” instead of using a state specific definition. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-21 – Requiring insurance.

This existing regulation establishes the type of carriers that are required to file an insurance policy in compliance with K.S.A. 66-1,128. The proposed amendment would remove language referring to private motor carriers of household goods, which are an unregulated category of motor carriers. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-22 – Intrastate insurance requirements.

This existing regulation establishes the type of carriers that are required to maintain an insurance policy in compliance with K.S.A. 66-1,128. The proposed amendment adds language allowing carriers to file certain documents online and would remove language referring to private motor carriers of household goods, which are an unregulated category of motor carriers. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-24a – Standard insurance forms.

This regulation addresses the Commission’s standards relating to the forms used by motor carriers to report the liability and property insurance for intrastate motor carriers. The proposed change removes an obligation to file a specific form in order to mirror a federal change which already achieved the same result. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-27 – Applications for certificates of convenience and necessity and certificates of public service.

This regulation establishes the procedures for filing applications for certificates of convenience and necessity and certificates of public service. The proposed change to this regulation changes a reference from the form MCS-150 to form MCSA-1 because the form was changed on the federal level. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-30a – Applications for interstate registration.

This regulation adopts federal regulations for Unified Carrier Registration that allow the State to collect registration fees under the revised Federal Unified Carrier Registration Agreement. Kansas is required to adopt by reference the UCR fee schedule to remain in compliance with the Unified Carrier Registration System. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-40 – Passengers on property-carrying vehicles.

This regulation prohibits passengers on property carrying vehicles. The KCC proposes revoking it because K.A.R. 82-4-40 duplicates the effect of FMCSR 49 C.F.R. 392.60, adopted by K.A.R. 82-4-3h. This revocation would have no anticipated economic impact.

K.A.R. 82-4-42 – Emergency and occasional equipment.

This regulation outlines the Commission’s procedures for obtaining emergency and occasional equipment certificates, permits and licenses. The proposed updates remove a portion of the regulation which is duplicative of FMCSR 49 C.F.R. 390.23, already adopted by 82-4-3f, which deals with emergency relief from regulations. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-44 – Discontinuing service.

This regulation states that common carriers discontinuing service without approval of the KCC shall be deemed in forfeiture of their certificate. The proposed change revokes this regulation because it was enacted at a time when obtaining and holding certificates was much more contentious. Common carriers no longer need Commission approval to discontinue service. This revocation would have no anticipated economic impact.

K.A.R. 82-4-46 – Uniform system of accounts and annual reports.

This regulation requires intrastate common motor carriers of household goods to maintain and file a uniform system of accounts and annual reports with the KCC. The proposed change revokes this regulation because it was enacted at a time when such a regulation was necessary. Intrastate common motor carriers of household goods are not required to file any such information with the Commission currently and the regulation is not enforced. This revocation would have no anticipated economic impact.

K.A.R. 82-4-48 – Bills of lading, waybills, and freight bills.

This regulation requires intrastate common motor carriers of household goods to maintain and file a uniform system of accounts and annual reports with the KCC. The proposed change revokes this regulation because it was enacted at a time when such a regulation was necessary. Intrastate common motor carriers of household goods are not required to file any such information with the Commission currently and the regulation is not enforced. This revocation would have no anticipated economic impact.

K.A.R. 82-4-48a – Motor carriers of property other than household goods carriers electing to be subject to uniform bills of lading and antitrust immunity regulations.

This regulation prescribes rules regarding “bills of lading” and “anti-trust immunity regulations.” This regulation is no longer enforced. The proposed amendment would revoke this rule. This will allow Kansas to remove an antiquated and unused regulation. This revocation would have no anticipated economic impact.

K.A.R. 82-4-50 – Passenger waiting rooms.

The regulation prescribes rules requiring “passenger waiting rooms.” K.A.R. 82-4-50 is no longer enforced. Instead the proposed change replaces the current regulation with an adoption of the applicable federal standard from FMCSR 49 C.F.R. Part 374. This will allow Kansas to end a variance from the federal rules on treatment of passengers. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-51 – Treatment of passengers by common carrier.

The regulation prescribes rules requiring “treatment of passengers by common carrier” K.A.R. 82-4-51 as well as K.A.R. 82-4-50 are no longer enforced. The adoption of FMCSR 49 C.F.R. Part 374 in the proposed amendment to K.A.R. 82-4-50 renders K.A.R. 82-4-51 unnecessary. Thus the proposed amendment would revoke K.A.R. 82-4-51. This will allow Kansas to remove two antiquated and unused regulations and end a variance from the federal rules on treatment of passengers. This revocation would have no anticipated economic impact.

K.A.R. 82-4-53 – Common motor carrier rates and charges.

This regulation provides rules regarding common motor carrier rates and charges. The proposed change clarifies that it is for carriers of household good and passengers and removes certain language and requirements for such tariffs because they are no longer applicable. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-56a – Common motor carrier tariffs.

This regulations provides rules regarding common motor carrier tariffs. The proposed change clarifies that it is for carriers of household good and passengers and removes certain language and requirements for such tariffs because they are no longer applicable. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-57 – Powers of attorney and concurrences.

This regulation provides rules regarding common motor carriers who wish to grant power of attorney to an agent to issue and file tariffs on their behalf. The proposed change simply clarifies that “common” carriers are actually household good and passenger carriers and replaces the word “desire” with “want.” The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-58d –Financial filings requirements for abandonment of motor carrier passenger service.

This regulation prescribes rules for financial filings requirements for abandonment of motor carrier passenger service. The proposed amendment revokes this regulation because it was enacted at a time when regulation of motor carriers was territory based and the ability to provide motor carrier passenger service was a highly coveted licensure to acquire. This revocation would have no anticipated economic impact.

K.A.R. 82-4-63 – Contested and uncontested motor carrier hearings.

This regulation deals with contested and uncontested motor carrier hearings. The proposed change removes hearings regarding “abandonment of a motor carrier certificate” from the types of motor carrier hearings that take place because it was enacted at a time when obtaining and holding certificates was much more contentious. Common carriers no longer need Commission approval to discontinue service, therefore such hearings do not take place. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-65 – Protestants.

This regulation deals with “protests” of Transportation Division permitting actions. The proposed change removes hearings regarding “abandonment” of a motor carrier certificate from the types of motor carrier hearings that take place because it was enacted at a time when obtaining and holding certificates was much more contentious. Common carriers no longer need Commission approval to discontinue service, therefore such hearings do not take place. This revocation would have no anticipated economic impact.

K.A.R. 82-4-66 – Intrastate carriers serving specified incorporated or specified unincorporated municipalities.

The regulation states that intrastate carriers must serve within certain incorporated or unincorporated municipalities. The proposed change revokes this regulation because it was enacted at a time when the KCC regulated general commodity carriers with regards to territories. This is no longer the case. This revocation would have no anticipated economic impact.

K.A.R. 82-4-68 – Collective rate-making agreements.

This existing regulation establishes the rules regarding collective rate-making agreements. The changes to the rule remove some outdated language and clarify the types of carriers to which the rule applies. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-85 – Rate applications filed by carriers party to a collective rate-making agreement.

This existing regulation establishes the rules regarding rate applications filed by carriers that were party to collective rate-making agreements. The changes to the rule update the language for clarity and allow such applications to be filed by electronic mail. The proposed amendments are not anticipated to have an economic impact.

K.A.R. 82-4-86 – Vehicle inspection stations.

The regulation deals with vehicle inspection stations. The proposed change revokes this regulation because it was enacted at a time when such stations were in use. This is no longer the case. This revocation would have no anticipated economic impact.