

1500 SW Arrowhead Road
Topeka, KS 66604-4027

Thomas E. Wright, Chairman
Ward Loyd, Commissioner



Corporation Commission

phone: 785-271-3100
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Sam Brownback, Governor

April 1, 2011

Barb Dominguez
Kansas Secretary of State
Memorial Hall, 1st Floor
120 SW 10th Avenue
Topeka, KS 66612

Proposed

Re: Kansas Administrative Regulations – Transportation Division

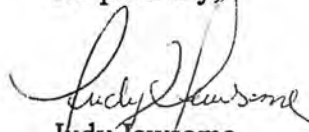
Dear Ms. Dominguez:

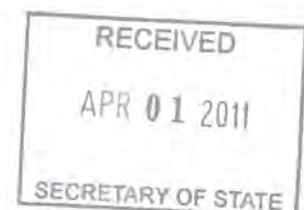
Enclosed, please find the following:

- The original and one copy of the proposed revisions to:
 - K.A.R. 82-4-1
 - K.A.R. 82-4-2a (new proposed regulation)
 - K.A.R. 82-4-3a
 - K.A.R. 82-4-3f
 - K.A.R. 82-4-3g
 - K.A.R. 82-4-3i
 - K.A.R. 82-4-6d
 - K.A.R. 82-4-8a
 - K.A.R. 82-4-20
- The original and one copy of the Economic Impact Statements for each regulation listed above, and
- The notice of public hearing establishing July 6th at 10:30 am, for the public hearing on these regulations.

Thank you in advance for your assistance. Please feel free to contact me with any questions or concerns.

Respectfully,


Judy Newsome
Litigation Counsel
785-271-3181



STATE OF KANSAS
STATE CORPORATION COMMISSION

Notice of Public Hearing on Proposed Administrative Regulation

April 1, 2011

The State Corporation Commission will conduct a public hearing at 10:30 a.m. on Wednesday, July 6, 2010, 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 proposed rule 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. All interested parties may submit written comments prior to the hearing to the Judy Jewsome, Litigation Counsel, State Corporation Commission, 1500 SW Arrowhead Road, Topeka, Kansas 66604, or by email to: j.jewsome@kcc.ks.gov. All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulations during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five (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 Dawn Dubach at (785) 271-3113 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 parking lot.

A summary of the proposed regulations and the economic impact for each 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

This regulation defines the terms used in Article 4 – Motor Carriers of Persons and Property. The proposed amendments to this regulation include edits to reflect the most recent Federal Motor Carrier Safety Administration updates and minor grammar and form corrections.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.

K.A.R. 82-4-2a

This proposed regulation explains the Commission’s jurisdiction with regards to the inspection of motor carrier operations, equipment and records and clarifies the Commission’s authority to designate certain members of the Kansas Highway Patrol and agency agents the authority to



inspect and examine motor carrier records and equipment for the purpose of determining compliance with the Kansas motor carrier safety rules and regulations and the requirements for certificates, permits and licenses.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.

K.A.R. 82-4-3a

This regulation adopts relevant portions of the Federal Motor Carrier Safety Administration's (FMCSA) regulations (Title 49 C.F.R. Part 395) governing the maximum driving times for property-carrying and/or passenger carrying 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's regulations. The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.

The Commission does not anticipate an economic impact resulting from the adoption of the proposed amendments to this existing regulation.

K.A.R. 82-4-3f

This regulation adopts relevant portions of the Federal Motor Carrier Safety Administration's (FMCSA) regulations (Title 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 Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation. This is an existing regulation establishing minimum safety requirements for those motor carriers and drivers operating commercial motor vehicles.

K.A.R. 82-4-3g

This regulation establishes the minimum duties of motor carriers with respect to the qualifications for their drivers who drive commercial motor vehicles. This regulation also establishes the minimum qualifications for those drivers who are owner and operators of the commercial motor vehicles. The proposed edits clarifies the applicability of 49 C.F.R. 391.11(b)(1) to interstate operations only and are necessary to ensure compatibility with the Federal regulations as required in 49 C.F.R. 350.

The Commission does not anticipate an economic impact resulting from the adoption of the proposed amendments to this existing regulation.

K.A.R. 82-4-3i

This regulation adopts relevant portions of the Federal Motor Carrier Safety Administration's (FMCSA) regulations (Title 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 includes edits to reflect minor grammar and form corrections and deletions and additions required to reflect the most recent updates to FMCSA's regulations.

The Commission does not anticipate an economic impact resulting from the adoption of the proposed amendments to this existing regulation.

K.A.R. 82-4-6d

This existing regulation establishes the application procedures for motor carriers and their drivers with regards to waivers of the Federal physical fitness requirements. Drivers not meeting the physical requirements established in Title 49 C.F.R. 391 may not operate a commercial motor vehicle without a valid waiver. This application process permits certain drivers an additional opportunity to prove fitness to operate a commercial motor vehicle.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.

K.A.R. 82-4-8a

This existing regulation establishes the minimum requirement for safety equipment which must be maintained by motor carriers and drivers of commercial motor vehicles. The proposed edits to this regulation adopts the Environmental Protection Agency's (EPA) toxicity standards set out in 40 C.F.R. Part82, Subpart G. Additionally, the edits include minor grammar and form changes. The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.

K.A.R. 82-4-20

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.

Title 49 C.F.R. 350 requires each state to adopt, implement and enforce the Federal Hazardous Materials Rules and Regulations. The purpose of the proposed edits to this existing regulation is to adopt the most current published version of the Federal Hazardous Material Safety Rules and Regulations in a manner which meets the federal compatibility requirements.

The Commission does not anticipate an economic impact resulting from the adoption of the proposed amendments to this existing regulation.

Susan K. Duffy
Executive Director



Proposed

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

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

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

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

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

(2) a vehicle designed or used to transport ~~16 or more passengers, including the driver~~ more than eight passengers, including the driver, for compensation;

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(3) a vehicle that is designed or used to transport more than six 15 passengers, including the driver operating in intrastate commerce for hours of service regulation under C.F.R. Part 395 only, and is not used to transport passengers for compensation; or

(4) a vehicle used in the transportation of hazardous materials in a quantity requiring placarding under 49 C.F.R. Part 172, Subpart F transporting material found by the secretary of transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding according to regulations prescribed by the secretary under 49 C.F.R. Part 172 as adopted in K.A.R. 82-4-20.

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

~~(e)~~(f) "Conviction" means any of the following, regardless of whether or not the penalty is ~~rebated~~ reduced, suspended, or ~~probated~~ 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 ~~in a court of original jurisdiction or by an authorized administrative tribunal~~;

(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.



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

(g)(h) "Distance" means airline distances.

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

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

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

(i)(j) "Driveaway operation" ~~or~~ and "towaway operation" ~~means~~ mean any operation in which ~~a~~ an empty or unladen motor vehicle with one or more sets of wheels on the surface of the roadway is the commodity being transported and one or more sets of wheels of the vehicle being transported are on the surface of the roadway during transportation. according to one of the following:

- (1) Between a vehicle manufacturer's facilities;
- (2) between a vehicle manufacturer and a dealership or purchaser;
- (3) between a dealership, or other entity selling or leasing the vehicle, and a purchaser or lessee;
- (4) to a motor carrier's terminal or repair facility for the repair of disabling damage, as defined in K.A.R. 82-4-3f, following a crash;

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

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

~~(j)~~(k) "Driver" means ~~a commercial motor vehicle operator~~ any person who operates any commercial motor vehicle.

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

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

~~(m)~~(n) "FHWA" ~~refers to~~ means the federal highway administration.

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

~~(n)~~(p) "General increase" ~~or~~ and "general decrease" ~~means~~ mean a common ~~or contract~~ motor carrier rate increase or decrease proposed as a general adjustment of substantially all the rates published in a tariff.

(q) "Hazardous material" means a substance or material that the U.S. secretary of transportation has determined is capable of posing an unreasonable risk to health, safety, and property when transported in commerce and has designated as hazardous under section 5103 of federal hazardous materials transportation law, 49 U.S.C. 5103. This term shall include hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous in the hazardous materials table in 49 C.F.R. 172.101 as



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adopted in K.A.R. 82-4-20, and materials that meet the criteria for hazard classes and divisions in 49 C.F.R. Part 173, subpart C as adopted in K.A.R. 82-4-20.

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

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

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

~~(e)~~(u) "License" ~~refers to~~ means the document or registration receipt evidencing the registration of an interstate common ~~or contract~~ motor carrier or interstate exempt motor carrier to operate motor vehicles in the state of Kansas in interstate commerce.

~~(r)~~(v) "Licensed medical ~~practitioner~~ examiner" means a person who meets one of the following conditions:

- (1) Is licensed by the Kansas state board of healing arts to practice medicine and surgery, osteopathic medicine and surgery, or chiropractic;
- (2) is licensed by the Kansas state board of healing arts as a physician assistant; or
- (3) is licensed by the Kansas state board of nursing as a registered professional nurse qualified to practice as an advanced registered nurse practitioner.



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

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

(u)(y) "Notice" means advance notification to shipper subscribers through ~~the~~ an organization's docket service.

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

(aa) "Out-of-service" and "OOS," when used to describe a driver, a commercial motor vehicle, or a motor carrier operation, mean that the driver, commercial motor vehicle, or motor carrier has ceased to operate or move pursuant to the statutes and regulations of the state of Kansas, the federal motor carrier safety administration regulations, or the industry standards specified in the "North American standard out-of-service criteria," including the appendixes, published by the commercial vehicle safety alliance, revised on April 1, 2010, and hereby adopted by reference.

(w)(bb) "Ownership" means an equity holding in a business entity of at least ~~5%~~ five percent.

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(x)(cc) "Permit" ~~refers to~~ means the document evidencing authority of a motor carrier to operate motor vehicles as a ~~contract~~ or private carrier.

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

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

(z)(ff) "Tariff publication" means the rates, charges, classification, ratings, or ~~rules~~ policies published by, for, or on behalf of common ~~or contract~~ motor carriers of property or passengers.

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

(aa)(hh) "USDOT" ~~refers to~~ means the United States department of transportation. (Authorized by and implementing K.S.A. 1999 2010 Supp. 66-1,112, ~~66-1,112a~~, K.S.A. 66-1,112g; 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 P- _____.)



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

- (a) Examine motor carrier equipment operating on the highways in this state;
- (b) enter upon any motor carrier's premises located in the state of Kansas and inspect and examine the motor carrier's records, books, and equipment located on the premises; and
- (c) examine the manner of the motor carrier's conduct as it relates to the public safety and the operation of commercial motor vehicles in this state. (Authorized by K.S.A. 2010 Supp. 66-1,108a and K.S.A. 2010 Supp. 66-1,108c; implementing K.S.A. 2010 Supp. 66-1,108b; effective P-_____.)

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

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

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

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

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

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

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

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

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

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

(A) The definition of “agricultural commodity” shall be deleted and replaced by the following: “Agricultural commodity’ means the unprocessed products of agriculture, horticulture, and cultivation of the soil, including wheat, corn, hay, milo, sorghum, sunflowers, and soybeans. Agricultural commodities shall not include livestock, honey, poultry products, timber products, and nursery stock.”



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

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

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

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

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

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

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

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

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

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



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

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

“(i) All violations have been corrected;

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

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

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

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

(6)(A) The phrase “special agent of the Federal Motor Carrier Safety Administration (as defined in appendix B to this subchapter),” which appears in 49 C.F.R. 395.5 and 49 C.F.R.



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395.15, shall be deleted and replaced by “any authorized representative of the commission, and any member of the Kansas highway patrol or any other law enforcement officer in the state who has been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.”

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

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

(c) No wrecker or tow truck, as defined by K.S.A. 66-1329 and amendments thereto, with a gross vehicle weight rating or gross combination vehicle weight rating of 26,000 pounds or less shall be subject to this regulation. (Authorized by and implementing K.S.A. 2009 2010 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2009 2010 Supp. 66-1,129; effective, T-82-12-16-03, Jan. 4, 2004; effective, T-82-4-27-04, May 3, 2004; effective, T-82-8-23-04, Aug. 31, 2004; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended, T-82-10-25-05, Nov. 1, 2005; amended Feb. 17, 2006; amended, T-82-3-21-06, March 21, 2006; amended June 30, 2006; amended Oct. 2, 2009; amended Oct. 22, 2010; amended P-
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82-4-3f. General motor carrier safety regulations. (a) With the following exceptions, 49 C.F.R. Part 390, as in effect on October 1, 2009, is hereby adopted by reference:

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

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

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

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

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

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

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

(A) The following definitions shall be deleted:

- (i) Conviction;
- (ii) driveaway-towaway operation;
- (iii) exempt motor carrier;



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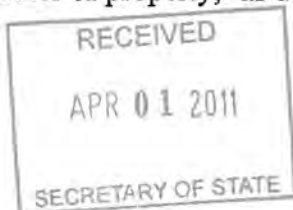
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- (iv) hazardous waste;
- (v) operator;
- (vi) other terms;
- (vii) school bus;
- (viii) school bus operation;
- (ix) secretary;
- (x) state; and
- (xi) United States.

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

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

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



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

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

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

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

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

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

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

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



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

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

(L) The definition of “out of service order” shall be deleted, and replaced by the following: ~~“Out of service order means a declaration by a special agent or authorized representative that a driver, a commercial motor vehicle, or a motor carrier operation is out of service pursuant to 49 C.F.R. 392.5, as adopted by K.A.R. 82-4-3h, 49 C.F.R. 395.13, as adopted by K.A.R. 82-4-3a, or 49 C.F.R. 396.9, as adopted by K.A.R. 82-4-3j.”~~

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

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

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

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

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



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(O) The following sentence shall be inserted before the definition of “radar detector”:
“Private motor carrier of passengers’ shall have the same meaning as defined in K.S.A. 66-1,108 and amendments thereto.”

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

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

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

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

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

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



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(B) ~~The words “or special agent” shall be inserted following: “A motor carrier shall give an authorized representative.”~~

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

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

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

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

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

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

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

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

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

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

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

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



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“(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



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

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

(F) Paragraph (h) shall be deleted.

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

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

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

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

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

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

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



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(A) In paragraphs (a), (a)(1)(B), and (a)(2)(B), the phrase “Parts 390 through 399 of this chapter” shall be deleted and replaced by “K.A.R. 82-4-3a, and K.A.R. 82-4-3f through K.A.R. 82-4-3o.”

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

(ii) The phrase “under 49 U.S.C. 31151 or the implementing regulations in this subchapter regarding interchange of intermodal equipment by contacting the appropriate FMCSA Field Office” shall be deleted and replaced by “adopted in this subchapter by filing a written complaint with the commission by: fax –785-271-3124; email: trucking_complaint_questions @kcc.ks.gov; or by mail addressed to: 1500 SW Arrowhead Rd, Topeka, KS 66604-3124. The commission may also be contacted by phone number: 785.271.3145, select option one.”

(18) 49 C.F.R. 390.46 shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2009 2010 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. ~~2009~~ 2010 Supp. 66-1,129; effective, T-82-12-



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K.A.R. 82-4-3f
p. 12

29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Oct. 8, 2010;
amended P-_____.)

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82-4-3g. Qualifications of drivers. (a) With the following exceptions, 49 C.F.R. Part 391, as in effect on October 1, ~~2007~~ 2009, is hereby adopted by reference:

(1) In 49 C.F.R. 391.2(c), the phrase "Sec. 390.5" shall be deleted and replaced by "49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f."

(2) 49 C.F.R. 391.11(b)(1) shall ~~be deleted~~ apply only to commercial motor vehicle operations in interstate commerce.

(3) In 49 C.F.R. 391.13, the phrase "Sec. 392.9(a) and Sec. 393.9 of this subchapter" shall be deleted and replaced by "49 C.F.R. 392.9(a), as adopted by K.A.R. 82-4-3h, and 49 C.F.R. 393.9, as adopted by K.A.R. 82-4-3i."

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

(A) In paragraphs (c)(1)(i) and (c)(2)(iii), the phrase "Sec. 395.2 of this subchapter" shall be deleted and replaced by "49 C.F.R. 395.2(a), as adopted by K.A.R. 82-4-3a."

(B) In paragraph (c)(2)(i)(C), the phrase "Sec. 392.5(a)(2)" shall be deleted and replaced by "49 C.F.R. 392.5(a)(2), as adopted by K.A.R. 82-4-3h."

(C) In paragraphs (c)(2)(ii) and (iii), the phrase "as adopted by K.A.R. 82-4-3h(b)" shall be added after the phrase "21 C.F.R. 1308.11 Schedule I."

(5) In 49 C.F.R. 391.21(b)(11), the phrase "as defined by Part 383 of this subchapter" shall be deleted.

(6) The following changes shall be made to 49 C.F.R. 391.23:

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(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."



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(D) In paragraph (d)(2), the phrase "Sec. 390.15(b)(1) of this chapter" shall be deleted and replaced by "49 C.F.R. 390.15(b)(1), as adopted by K.A.R. 82-4-3f."

(E) In paragraph (d)(2)(i), the phrase "Sec. 390.5 of this chapter" shall be deleted and replaced by "49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f."

(F) In paragraph (d)(2)(ii), the phrase "Sec. 390.15(b)(2)" shall be deleted and replaced by "49 C.F.R. 390.15(b)(2), as adopted by K.A.R. 82-4-3f."

(G) In paragraph (e), the phrase ", as adopted by K.A.R. 82-4-3b" shall be added at the end of the last sentence.

(H) In paragraph (e)(1), the phrase "part 382 of this subchapter" shall be deleted and replaced by "49 C.F.R. part 382, as adopted by K.A.R. 82-4-3c." The phrase ", as adopted by K.A.R. 82-4-3b" shall be inserted at the end of the last sentence.

(I) In paragraph (e)(2), the phrase "Sec. 382.605 of this subpart" shall be deleted and replaced by "49 C.F.R. 382.605, as adopted by K.A.R. 82-4-3c." The phrase "part 40, subpart 0" shall be deleted and replaced by "40.281 through 49 C.F.R. 40.313, as adopted by K.A.R. 82-4-3b."

(J) In paragraph (f), the term "Sec. 40.321(b)" shall be deleted and replaced by "49 C.F.R. 40.321(b), as adopted by K.A.R. 82-4-3b."

(K) In paragraph (j)(6), the following changes shall be made:

(i) In the first sentence, the comma following the phrase "safety performance information" shall be deleted, and the following text shall be inserted at the end of the first



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sentence: “if the previous employer is an interstate motor carrier, the driver may submit a complaint.”

(ii) The term “Sec. 386.12” shall be deleted and replaced with “49 C.F.R. 386.12.”

(iii) The following sentence shall be inserted at the end of the paragraph: “If the motor carrier is a Kansas-based interstate motor carrier, or an intrastate motor carrier, the driver may submit such report in writing to Director, Transportation Division, Kansas Corporation Commission, 1500 SW Arrowhead Road, Topeka, KS 66604.”

(7) In 49 C.F.R. 391.25(b)(1), the phrase “Federal Motor Carrier Safety Regulations in this subchapter or hazardous materials regulations (49 CFR chapter 1, subchapter C)” shall be deleted and replaced by “commission motor carrier safety regulations as adopted by K.A.R. 82-4-20.”

(8) The following revisions shall be made to 49 C.F.R. 391.27:

(A) In paragraph (c), the words “be prescribed by the motor carrier. The following form may be used to comply with this section” shall be deleted and replaced by “read substantially as follows.”

(B) Paragraph (e) shall be deleted.

(9) In 49 C.F.R. 391.33(a)(1), the phrase “Sec. 383.5 of this subchapter” shall be deleted and replaced by “K.S.A. 8-234b.”

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

(A) The paragraph that appears between paragraphs (a) and (b) shall be deleted.



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(B) In paragraph (b)(11), the clause “when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5 1951” shall be deleted.

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

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

(A) In paragraph (a), the phrase “licensed medical examiner as defined in Sec. 390.5 of this subchapter” shall be deleted and replaced by “licensed medical practitioner, as defined by K.A.R. 82-4-1.”

(B) In paragraph (b), the phrase “licensed optometrist” shall be deleted and replaced by “licensed medical practitioner, as defined by K.A.R. 82-4-1.”

(C) The last sentence of paragraph (f) shall be deleted.

(D) In the portion titled “Extremities” in paragraph (f), the words “Field Service Center of the FMCSA, for the State in which the driver has legal residence” shall be deleted and replaced by “commission.”

(E) The last sentence of paragraph (h) shall be deleted.

(F) The editorial note found after paragraph (h) shall be deleted.

(12) The following revisions shall be made to 49 C.F.R. 391.47:

(A) Paragraph (b)(8) shall be deleted.

(B) In paragraph (b)(9), the words “or intrastate” shall be inserted following the word “interstate.”



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(C) In paragraphs (c) and (d), the phrase “Director, Office of the Bus and Truck Standards and Operations (MC-PSD)” shall be deleted and replaced by the phrase “director of the commission’s transportation division.”

(D) The last two sentences of paragraph (e) shall be deleted and replaced by the following sentence: “Petitions shall be filed in accordance with K.A.R. 82-1-225 and K.S.A. 77-601 et seq.”

(E) In paragraph (f), the first two occurrences of the phrase “Director, Office of the Bus and Truck Standards and Operations (MC-PSD)” shall be deleted and replaced by the phrase “director of the commission’s transportation division.” The clause “or until the Director, Office of Bus and Truck Standards and Operations (MC-PSD) orders otherwise” shall be deleted.

(13) The following revisions shall be made to 49 C.F.R. 391.49:

(A) The phrase “Division Administrator, FMCSA” in paragraph (a) and the phrase “State Director, FMCSA” in paragraphs (g), (h), (j)(1), and (k) shall be deleted and replaced by “director of the commission’s transportation division.”

(B) The remainder of paragraph (b)(2) after “The application must be addressed to” shall be deleted and replaced by “: Director of the Transportation Division, Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, KS 66604.”

(C) In paragraph (b)(3), the words “field service center, FMCSA, for the state in which the driver has legal residence” shall be deleted and replaced by “director of the commission’s transportation division at the address provided in paragraph (b)(2).”



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(D) Paragraph (c)(2)(i) shall be deleted.

(E) The phrase “Medical Program Specialist, FMCSA service center” in paragraph (e)(1), the words “Medical Program Specialist, FMCSA for the State in which the carrier’s principal place of business is located” in paragraph (e)(1)(i), and the words “Medical Program Specialist, FMCSA service center, for the State in which the driver has legal residence” in paragraph (e)(1)(ii) shall be deleted and replaced by “director of the transportation division of the commission.”

(F) In paragraph (i), the words between “submitted to the” and “The SPE certificate renewal application” shall be deleted and replaced by “director of the transportation division of the commission.”

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

(i) The words “State Director, FMCSA, for the State where the driver applicant has legal residence” shall be deleted and replaced by “director of the transportation division of the commission.”

(ii) The phrase “the following form” shall be deleted and replaced by “a form substantially similar to the following.”

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

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

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- (14) The following revisions shall be made to 49 C.F.R. 391.51(b)(8):
- (A) The phrase “Field Administrator, Division Administrator, or State Director” shall be deleted and replaced by “the director of the transportation division of the commission.”
- (B) The phrase “or under K.A.R. 82-4-6d” shall be added at the end of the paragraph.
- (15) In 49 C.F.R. 391.55, the clause “, which are hereby adopted by reference” shall be inserted at the end of paragraph (b)(1).
- (16) The following revisions shall be made to 49 C.F.R. 391.62:
- (A) In paragraph (c), the phrase “, as adopted by K.A.R. 82-4-3f” shall be added after the phrase “49 C.F.R. 390.5.”
- (B) In paragraph (d), the phrase “under regulations issued by the Secretary under 49 U.S.C. chapter 51” shall be deleted and replaced by “under the regulations adopted by K.A.R. 82-4-20.”
- (C) In paragraph (e)(1), the phrase “Federal Motor Carrier Safety Regulations” shall be deleted and replaced by “commission’s motor carrier regulations found in Article 4.”
- (17) 49 C.F.R. 391.64 shall be revised as follows:
- (A) In paragraph (a)(2)(iii), the phrase “an authorized agent of the FMCSA” shall be deleted and replaced by “the director of the transportation division of the commission.”
- (B) In paragraphs (a)(2)(v) and (b)(3), the phrase “duly authorized federal, state or local enforcement official” shall be deleted and replaced by the phrase “any authorized representative of the commission, and any member of the Kansas highway patrol or any other

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law enforcement officer in the state who has been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.”

(18) The form set out in 49 C.F.R. 391.65 shall be revised as follows:

(A) The phrase “as adopted by K.A.R. 82-4-3f” shall be added after the phrase “Sec. 390.5.”

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

(19) 49 C.F.R. 391.67 shall be deleted.

(20) In 49 C.F.R. 391.68(a), “(b)(1)” shall be deleted.

(21) In 49 C.F.R. 391.69, the phrase “Sec. 390.5 of this subchapter” shall be deleted and replaced by “49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f.” The term “(business)” shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by K.S.A. ~~2008~~ 2010 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. ~~2008~~ 2010 Supp. 66-1,129; implementing K.S.A. ~~2008~~ 2010 Supp. 66-1,112, K.S.A. 66-1,112g, K.S.A. ~~2008~~ 2010 Supp. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended P-_____.)

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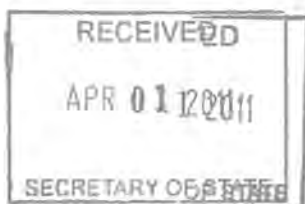
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82-4-3i. Parts and accessories necessary for safe operation. (a) With the following exceptions, 49 C.F.R. Part 393, as in effect on October 1, ~~2007~~ 2009, is hereby adopted by reference:

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

(A) The following definition shall be added after the definition of “curb weight”: “DOT C-2, DOT C-3, and DOT C-4. These terms shall be defined by figure 29, found in 49 C.F.R. 571.108 as in effect on October 1, ~~2007~~ 2009, and figure 29 is hereby adopted by reference.”

(B) In the definition of “low chassis vehicle,” the phrase “of Sec. 571.224 in effect on the date of manufacture, or a subsequent edition” shall be deleted and replaced by “found in S5.1.1, S5.1.2, and S5.1.3 of 49 C.F.R. 571.224, as in effect on October 1, ~~2007~~ 2009, and hereby adopted by reference.”

(C) The definition of “manufactured home” shall be deleted and replaced by the following: “Manufactured home means a structure as defined by K.S.A. 58-4202(a), as in effect April 21, 2005 and amendments thereto, and hereby adopted by reference. The term shall also include structures that meet the requirements of K.S.A. 58-4202(a) except the size requirements. These structures shall be considered manufactured homes when the manufacturer files with the transportation division a certification that it intends that these structures shall be considered manufactured homes. The manufacturer shall also certify that, if at any time it manufactures structures it does not intend to be manufactured homes, it shall identify those structures by a permanent serial number placed on the structure during the first stage of production and that the

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series of serial numbers for such structures shall be distinguishable on the structures and in its records from the series of serial numbers used for manufactured homes.”

(D) The following definition shall be added after the definition of “manufactured home”: “Optically combined. This term refers to two or more lights that share the same body and have one lens totally or partially in common.”

(E) The definition for “reflective material” shall be deleted.

(F) In the definition of “special purpose vehicle,” the phrase “of Sec. 571.224 (paragraphs S5.1.1 through S5.1.3), in effect on the date of manufacture or a subsequent edition” shall be deleted and replaced by “found in S5.1.1, S5.1.2, and S 5.1.3 of 49 C.F.R. 571.224, as adopted by reference above.”

(2) 49 C.F.R. 393.7 shall be deleted.

(3) ~~In 49 C.F.R. 393.11, the phrase “Section 393.22 and S4.4 of 49 CFR 571.108, Equipment combinations” in the sentence between Table 1 and the footnotes shall be deleted and replaced by the following: “49 C.F.R. 393.22. Lamp and reflector combinations which comply with the following shall also be permitted:~~

~~“Two or more lamps, reflective devices, or items of associated equipment may be combined if the requirements for each lamp, reflective device, and item of associated equipment are met, with the following exceptions:~~

~~“(a) — No high mounted stop lamp shall be combined with any other lamp or reflective device, other than with a cargo lamp.~~

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~~“(b) No high-mounted stop lamp shall be combined optically with any cargo lamp.~~

~~“(c) No clearance lamp shall be combined optically with any tail lamp.”~~

(4) The following revisions shall be made to 49 C.F.R. 393.13:

(A) In paragraph (a), the phrase “Sec. 390.5 of this subchapter” shall be deleted and replaced by “49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f.” The last two sentences of paragraph (a) shall be deleted.

(B) Paragraph (b) shall be deleted and replaced by the following: “(b) Retroreflective sheeting and reflex reflectors. Unless otherwise preempted by federal law, motor carriers shall retrofit their trailers with a conspicuity system that meets the following requirements:

“(1) Conspicuity systems. Each trailer not exempted from the commission’s safety regulations found in Article 4 of these regulations shall be equipped with either retroreflective sheeting that meets the requirements of paragraph (B), reflex reflectors that meet the requirements of paragraph (C), or a combination of retroreflective sheeting and reflex reflectors that meets the requirements of paragraph (D).

“(2) Retroreflective sheeting.

“(A) Construction. Retroreflective sheeting shall consist of a smooth, flat, transparent exterior film with retroreflective elements embedded or suspended beneath the film so as to form a non-exposed retroreflective optical system.

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“(B) Performance requirements. Retroreflective sheeting shall meet the minimum photometric performance requirements specified in Figure 29 as found in 49 C.F.R. 571.108, and adopted by reference above.

“(C) Sheeting pattern. Retroreflective sheeting shall be applied in a pattern of alternating white and red color segments to the sides and rear of each trailer, and to the rear of each truck tractor, and in white to the upper rear corners of each trailer and truck tractor as specified in this paragraph, and, as appropriate, as shown in figures 30-1 through 30-4, or figure 31 found in 49 C.F.R. 571.108. Figures 30-1 through 30-4 and figure 31, as found in 49 C.F.R. 571.108 and as in effect on October 1, ~~2007~~ 2009, are hereby adopted by reference.

“(D) Sheeting length. Except for a segment that is trimmed to clear obstructions or lengthened to provide red sheeting near red lamps, each white or red segment shall have a length of 300 mm plus or minus 150 mm. Neither white nor red sheeting shall represent more than two-thirds of the aggregate of any continuous strip marking the width of a trailer, or any continuous or broken strip marking its length.

“(E) Sheeting width. Retroreflective sheeting shall have a width of not less than 50 mm for grade DOT-C2 sheeting, 75 mm for grade DOT-C3 sheeting, or 100 mm for grade DOT-C4 sheeting.

“(F) Sheeting retroreflection. The coefficients for retroreflection of each segment of red or white sheeting shall not be less than the minimum values specified in Figure 29 as adopted above for grades DOT-C2, DOT-C3, and DOT-C4.



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“(G) Location. Retroreflective sheeting shall be applied to each trailer and truck tractor as specified in paragraphs (c) and (d) below, but need not be applied to discontinuous surfaces such as outside ribs, stake post pickets on platform trailers, and external protruding beams, or to items of equipment such as door hinge and lamp bodies on trailers and body joints, stiffening beads, drip rails and rolled surfaces on truck tractors. The edge of white sheeting shall not be located closer than 75 mm to the edge of the luminous lens area of any red or amber lamp that is required by K.A.R. 82-4-3i. The edge of red sheeting shall not be located closer than 75 mm to the edge of the luminous lens area of any amber lamp that is required by K.A.R. 82-4-3i.

“(H) Certification. In order to demonstrate that the retroreflective sheeting meets the standards of paragraphs (B)(i) and (ii), the letters DOT-C2, DOT-C3, or DOT-C4, as appropriate, shall appear at least once on the exposed surface of each white or red segment of reflective sheeting, and at least once every 300 mm on the retroreflective sheeting that is white only. The characters shall not be less than 3 mm high, and shall be permanently stamped, etched, molded, or printed in indelible ink.

“(3) Reflex Reflectors. Each trailer or truck tractor to which paragraph (b)(2)(C) applies that does not conform with either paragraph (B) or paragraph (D) shall be equipped with reflex reflectors as set forth in this paragraph.

“(A) Visibility of reflector by color.

“(i) Red reflex reflector. Each red reflex reflector shall provide, at an observation angle of 0.2 degree, not less than 33 millicandelas per lux at any light entrance angle between 30



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degrees left and 30 degrees right, including an entrance angle of 0 degree, and not less than 75 millicandelas per lux at any light entrance angle between 45 degrees left and 45 degrees right.

“(ii) White reflex reflector. Each white reflex reflector shall also provide at an observation angle of 0.2 degree, not less than 1,250 millicandelas per lux at any light angle of 0.2 degree, not less than 1,250 millicandelas per lux at any light entrance angle between 30 degrees left and 30 degrees right, including an entrance angle of 0 degree, and not less than 33 millicandelas per lux at any light entrance angle between 45 degrees left and 45 degrees right. A white reflex reflector complying with this paragraph when tested in a horizontal orientation may be installed in all orientations specified for rear upper locations in paragraphs (viii) element 2, and (x), element 2 above if, when tested in a vertical orientation, it provides an observation angle of 0.2 degree not less than 1,680 millicandelas per lux at a light entrance angle of 0 degree, not less than 1,120 millicandelas per lux at any light entrance angle from 10 degrees down to 10 degrees up, and not less than 560 millicandelas per lux at any light entrance angle from 20 degrees right to 20 degrees left.

“(B) Certification. In order to demonstrate that the retroreflective sheeting meets the standards of K.A.R. 82-4-3i, the letters DOT-C shall appear on the exposed surface of each reflex reflector. The letters shall not be less than 3 mm high, and shall be permanently stamped, etched, molded, or printed in indelible ink.

“(4) Combination of sheeting and reflectors. Each trailer or ~~truck tractor~~ to which paragraph (b)(1) applies may use a combination of retroreflective materials as long as they are located as specified by paragraphs (c) and (d) below.”



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(5) (4) In 49 C.F.R. 393.17(c)(1), the phrase "under Sec. 392.30" shall be deleted.

(6) (5) In 49 C.F.R. 393.25, the last sentence shall be deleted.

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

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

(B) The following revisions shall be made to 49 C.F.R. 393.26: in paragraph (d)(4), the phrase "Sec. 177.823 of this title" shall be deleted and replaced by "49 C.F.R. 177.823, as adopted by K.A.R. 82-4-20."

(8) (6) In 49 C.F.R. 393.45, the phrase "and hereby adopted by reference" shall be added following "49 C.F.R. 517.106" in paragraph (a).

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

(10) — The following revisions shall be made to 49 C.F.R. 393.55:

(A) — In paragraph (a), the clause "that meets the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 105 (49 CFR 571.105, S5.5)" shall be deleted.

(B) — In paragraph (b), the clause "that meets the requirements of FMVSS No. 105 (49 CFR 571.105, S5.3)" shall be deleted.

(C) — In paragraph (c)(1), the clause "that meets the requirements of FMVSS No. 121 (49 CFR 471.121, S5.1.6.1(b))" shall be deleted.

(D) — In paragraph (c)(2), the clause "that meets the requirements of FMVSS No. 121 (49 CFR 571.121, S5.1.6.1(a) for trucks and buses, S5.2.3 for semitrailers, and converter dollies and full trailers" shall be deleted.



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~~(E) In paragraph (d)(1), the phrase “(49 CFR 571.121, S5.1.6.2(a))” shall be deleted.~~

~~(F) In paragraph (d)(2), the last sentence shall be deleted.~~

~~(G) In paragraph (d)(3), the last sentence shall be deleted.~~

~~(H) In paragraph (e), the clause “which meets the requirements of FMVSS No. 121 (49 CFR 571.121, S5.2.3.3)” shall be deleted.~~

~~(11) 49 C.F.R. 393.60(a) shall be deleted.~~

~~(12) The following revisions shall be made to 49 C.F.R. 393.67:~~

~~(A) Paragraph (a)(6) shall be deleted.~~

~~(B) (8) Paragraph (e)(3) 49 C.F.R. 393.67(c)(3) shall be deleted and replaced by “Threads. At least four full threads must be in engagement in each fitting.”~~

~~(C) In paragraph (f)(3), the clause “The certificate must be in the form set forth in either of the following:” and paragraphs (e)(3)(i), (e)(3)(ii), and (e)(3)(iii) shall be deleted.~~

~~(13) (9) The following revisions shall be made to 49 C.F.R. 393.71:~~

~~(A) Paragraph (h)(8) and the related footnote shall be deleted.~~

~~(B) The following revisions shall be made to paragraph (h)(9):~~

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

~~(ii) The following sentence shall be deleted: “Tow bar certification manufactured before the effective date of this regulation must meet requirements in effect at the time of manufacture.”~~



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(C) In paragraph (m)(8), the phrase "requirements of the Federal Motor Carrier Safety Administration" shall be deleted and replaced by "appropriate requirements."

(14) (10) The following revisions shall be made to 49 C.F.R. 393.75:

(A) In paragraphs (g)(1) and (g)(2), the clause "that are labeled pursuant to 24 C.F.R. 3282.362(c)(2)(i)" shall be deleted and replaced by "built."

(B) In paragraph (g)(1), the phrase "Or, in the absence of such a marking, more than 18 percent over the load rating specified in any of the publications of any of the organizations listed in FMVSS No. 119 (49 CFR 571.119, S5.1(b))" shall be deleted.

(C) In paragraph (g)(2), the phrase "or, in the absence of such a marking, the load rating specified in any of the publications of any of the organizations listed in FMVSS No. 119 (49 CFR 571.119, S5.1(b))" shall be deleted.

(15) (11) The following revisions shall be made to 49 C.F.R. 393.77(b): In 49 C.F.R. 393.77(15)(i), the phrase "Sec. 177.834(1) of this title" shall be deleted and replaced by "49 C.F.R. 177.834(a) as adopted by K.A.R. 82-4-20."

~~(A) The note appearing between paragraphs (7) and (8) shall be deleted.~~

~~(B) In paragraph (15), the last sentence shall be deleted.~~

~~(C) In paragraph (15)(i), the phrase "Sec. 177.834(1) of this title" shall be deleted and replaced by "49 C.F.R. 177.834(a) as adopted by K.A.R. 82-4-20."~~

~~(16) The following revisions shall be made to 49 C.F.R. 393.80:~~

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



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~~(B) — In paragraph (b), the following clause shall be deleted: “provided that if the mirrors are replaced they shall be replaced with mirrors meeting, as a minimum, the requirements of FMVSS No. 111 (49 CFR 571.111) in force at the time the vehicle was manufactured.”~~

~~(17) — The following revisions shall be made to 49 C.F.R. 393.86:~~

~~(A) — Paragraph (a)(1) shall be deleted and replaced by the following: “General requirements for trailers and semitrailers manufactured on or after January 26, 1998. Each trailer and semitrailer with a gross vehicle weight rating of 10,000 pounds or more, and manufactured on or after January 26, 1998, must be equipped with a rear impact guard. The requirements of paragraph (a) of this section do not apply to pole trailers as defined by 49 C.F.R. 390.5 and adopted by K.A.R. 82-4-3f, pulpwood trailers, low chassis vehicles, special purpose vehicles, wheels back vehicles as defined in 49 C.F.R. 393.5, and trailers towed in driveaway towaway operations as defined in 49 C.F.R. 390.5 and adopted by K.A.R. 82-4-3f.”~~

~~(B) — In paragraph (a)(6), the phrase “as required by FMVSS No. 223 (49 CFR 571.223, S5.3)” shall be deleted.~~

~~(C) — Paragraph (a)(6)(iii) shall be deleted.~~

~~(18) (12) In 49 C.F.R. 393.90, the phrase “of the Federal Motor Carrier Safety Administration’s regulations” shall be deleted.~~

~~(19) (13) 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.”~~

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(20) (14) In 49 C.F.R. 393.95, in paragraph (f)(1) the clause “that conform to the requirements of Federal Motor Vehicle Safety Standard No. 125, Sec. 571.125 of this title” shall be deleted.

(21) (15) 49 C.F.R. 393.104(e), the related table, and the related footnotes shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2008 2010 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2008 2010 Supp. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended P-_____.)

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82-4-6d. Waiver of physical requirements. (a) Any person failing to meet the requirements of ~~49 C.F.R. 391.41~~ K.A.R. 82-4-3g may be permitted to drive a vehicle, other than a vehicle transporting passengers, if the director finds that the granting of a waiver is consistent with highway safety and the public interest.

(b) The application for a waiver shall meet these requirements:

(1) The application shall be submitted jointly by the person seeking the waiver and by the motor carrier wishing to employ the person as a driver.

(2) The application shall be accompanied by the following:

(A) A copy of the driver applicant's motor vehicle driving record. Any changes to this record occurring after submission of the application shall be immediately forwarded to the commission;

(B) reports of medical examinations, administered by a licensed medical practitioner, that are satisfactory to the director; and

(C) letters of recommendation from at least two licensed medical practitioners, written on their personalized or institutional letterhead- and meeting the following requirements:

(i) The reports and letters of recommendation shall indicate the opinions of the licensed medical practitioners regarding the ability of the driver to safely operate a commercial motor vehicle of the type to be driven-;

(ii) letters of recommendation regarding vision impairments shall be provided by a licensed ophthalmologist or optometrist who treated the driver applicant-;



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(iii) letters of recommendation regarding limb impairment or amputation shall include a medical summary conducted by a board of qualified, or board-certified, physiatrists or orthopedic surgeons, preferably associated with a rehabilitation center; and

(iv) letters of recommendation shall include a description of any prosthetic or orthopedic devices worn by the driver applicant.

(3) The application shall contain a description that is satisfactory to the director of the type, size, and special equipment of the vehicle or vehicles to be driven, the general area and type of roads to be traversed, the distances and time period contemplated, the nature of the commodities to be transported and the method of loading and securing them, and the experience of the applicant in driving vehicles of the type to be driven.

(A) If the applicant motor carrier is a corporation, the application shall be signed by a corporation officer and the driver applicant.

(B) If the applicant motor carrier is a limited liability company, the application shall be signed by a company officer and the driver applicant.

(C) If the applicant motor carrier is a limited liability partnership, the application shall be signed by at least one of the members of the partnership and the driver applicant.

(D) If the applicant motor carrier is a partnership, the application shall be signed by at least one of the members of the partnership and the driver applicant.

(E) If the applicant motor carrier is a sole proprietorship, the application shall be signed by the proprietor and the driver applicant.

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(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 ~~may have been~~ was involved, and all suspension or convictions in which the person is or has been involved.

(5) By completing the application, both the driver applicant and the motor carrier applicant shall be deemed to agree that upon grant of the waiver, they will fulfill all conditions of the waiver.

(c) Each driver applicant shall complete a skill performance evaluation administered by a commission driver waiver program manager or a commission ~~handicapped driver waiver specialist~~ 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 ~~a period of~~ 12 months after the termination of the driver's employment.



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(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 ~~set forth~~ specified in 49 C.F.R. 391.41(b)(10) as adopted in K.A.R. 82-4-3g; and

(B) a licensed medical practitioner who attests that the individual is otherwise physically qualified under the standards ~~set forth~~ specified in 49 C.F.R. 391.31 as adopted in K.A.R. 82-4-3g.

(2) Each driver shall provide a copy of the ophthalmologist's or optometrist's report to the medical practitioner at the time of the annual medical examination.

(3) Each driver shall provide the motor carrier with a copy of the annual medical reports for retention in the motor carrier's driver qualification files.

(4) Each driver shall provide a copy of the annual medical reports to the commission.

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(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) ~~Transfers.~~

(1) Written notice shall be given to the director when any of the following occurs:

(A) (1) A driver ceases employment with the "original employer" with whom the waiver was first granted.

(B) (2) A change occurs in employment duties or functions.

(C) (3) A change occurs in the driver's medical condition.

(2) (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.

(3) (l) A waiver shall become void upon termination of employment from the motor carrier joint-applicant and until all requirements in this subsection are met.

(k) (m) ~~Renewals.~~ Each application for renewal of waiver shall be submitted ~~30~~ at least 60 days before the expiration date of the existing waiver. (Authorized by and implementing K.S.A. ~~1999 Supp. 66-1,112~~ 2010 Supp. 66-1,129; effective May 1, 1981; amended Sept. 16,

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1991; amended May 10, 1993; amended Oct. 3, 1994; amended Jan. 30, 1995; amended Jan. 4,
1999; amended July 14, 2000; amended P-_____.)

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82-4-8a. Accessories and equipment. ~~Every~~ Each motor vehicle that meets the definition of commercial motor vehicle shall be equipped with a fire extinguisher.

(a)(1) ~~Every~~ Each motor vehicle shall be equipped with a fire extinguisher that is properly filled and is readily accessible.

(2) The fire extinguisher shall be securely mounted on the vehicle.

(3) The fire extinguisher shall be designed, constructed, and maintained to permit visual determination of whether it is fully charged.

(4) The extinguisher shall have an extinguishing agent that does not need protection from freezing. Each extinguishing agent shall meet the requirements of the toxicity provisions of the environmental protection agency's significant new alternatives policy (SNAP) regulations under 40 C.F.R. Part 82, subpart G, as adopted by K.A.R. 82-4-3i.

~~(b)(1) — The classification and rating of fire extinguishers in this regulation shall conform to the laboratory standards published in section 1-4.2 of NFPA 10, "standards for portable fire extinguishers," 1998 edition, by the national fire protection association and adopted by reference.~~

(2) ~~(5)~~ Each ~~The~~ fire extinguisher shall be labeled or marked with its underwriters laboratories rating.

(6) The fire extinguisher shall be kept in good operating condition, shall be located in an accessible place on each motor vehicle or tank vehicle, and shall be housed in a weathertight enclosure.



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~~(e) The fire extinguisher shall not use a vaporizing liquid that gives off vapors more toxic than those produced by substances shown as having a toxicity rating of five or six in the classification of comparative life hazard of gases and vapors.~~

~~(d)(1) (b)(1) Motor vehicles~~ Each motor vehicle that ~~are~~ is not used to transport hazardous materials shall be equipped with either a fire extinguisher having a rating of at least five B:C or two fire extinguishers, each of which has a rating of at least four B:C.

(2) ~~Motor vehicles~~ Each motor vehicle that ~~are~~ is used to transport hazardous materials shall be equipped with a fire extinguisher having a rating of ~~not less than~~ at least 10 B:C.

(3) ~~Cargo~~ Each cargo tank ~~vehicles~~ vehicle requiring flammable liquid placards shall be provided with at least one approved handheld fire extinguisher, whether a dry chemical or carbon dioxide type, having a rating of ~~not less than~~ at least 20 B:C. Two approved handheld fire extinguishers, either a dry chemical or carbon dioxide type, having a rating of ~~not less than~~ at least 10 B:C for each extinguisher, may be used in lieu of one 20 B:C rated extinguisher.

~~(e) Fire extinguishers shall be kept in good operating condition, shall be located in an accessible place on each motor vehicle or tank vehicle, and shall be housed in a weather-tight enclosure.~~

(f) (c) The requirements of this regulation shall not apply to ~~any bus having a seating capacity of eight or fewer persons or to~~ a driveway or towaway operation. (Authorized by and implementing K.S.A. 2010 Supp. 66-1,129; effective May 1, 1981; amended May 1, 1984;



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K.A.R. 82-4-8a

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amended April 30, 1990; amended May 10, 1993; amended July 14, 2000; amended P-

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82-4-20. Transportation of hazardous materials by motor vehicles. (a) ~~The federal regulations adopted in this regulation shall govern the transportation of hazardous materials in Kansas by interstate and intrastate motor carriers. Title 49 C.F.R. 107.105, 107.502, and Parts 171, 172, 173, 177, 178, and 180 of the federal hazardous materials regulations promulgated by the U.S. department of transportation are adopted by reference except for the following referenced materials listed under 49 C.F.R. 171.7(a)(3), as in effect on October 1, 2007:~~

- ~~(1) ASTM A 242-81 standard specification for high strength, low alloy structural steel;~~
- ~~(2) ASTM A 370-94 standard test methods and definitions for mechanical testing of steel products;~~
- ~~(3) ASTM A 441-81 standard specification for high strength, low alloy structural manganese vanadium steel;~~
- ~~(4) ASTM A 514-81 standard specification for high yield strength quenched and tempered alloy steel plate, suitable for welding;~~
- ~~(5) ——— ASTM A 516/A 516M-90 standard specification for pressure vessel plates, carbon steel, for moderate and lower temperature service;~~
- ~~(6) ——— ASTM A 537/A 537M-91 standard specification for pressure vessel plates, heat-treated, carbon manganese silicon steel;~~
- ~~(7) ——— ASTM A 588-81 standard specification for high strength, low alloy structural steel with 50 Ksi minimum yield point to 4 in. thick;~~

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(8) ~~ASTM A 606 75 standard specification for steel sheet and strip hot rolled and cold rolled, high strength, low alloy, with improved atmospheric corrosion resistance, 1975 (reapproved 1981);~~

(9) ~~ASTM A 633 79a standard specification for normalized high strength, low alloy structural steel, 1979 edition; and~~

(10) ~~ASTM A 715 81 standard specification for steel sheet and strip, hot rolled, high strength, low alloy with improved formability, 1981.~~

(b) ~~Packaging requirements shall be subject to the provisions of K.S.A. 66-1,129b, and amendments thereto. The federal regulations adopted by reference in this regulation shall govern the transportation of hazardous materials in Kansas in commerce to the extent that the regulations pertain to the transportation of hazardous materials by commercial motor vehicle.~~

(b) The following federal regulations, as in effect on October 1, 2009, are hereby adopted by reference:

(1) 49 C.F.R. 107.105, 107.107, 107.502, and 107.503;

(2) 49 C.F.R. Part 171, except 171.1(a), 171.1(b), and 171.6;

(3) 49 C.F.R. Part 172, except 172.1, 172.701, and 172.822;

(4) 49 C.F.R. Part 173, except 173.10, 173.27, and 173.31;

(5) 49 C.F.R. Part 177;

(6) 49 C.F.R. Part 178; and

(7) 49 C.F.R. Part 180.

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(c) When used in any provision adopted from 49 C.F.R. Parts 171, 173, 177, 178, and 180, the following substitutions shall be made unless otherwise specified:

(1) The terms “administrator,” “associate administrator,” and “regional administrator” shall be replaced with “director as defined in K.A.R. 82-4-1.”

(2) The term “commercial motor vehicle” shall be replaced with “commercial motor vehicle as defined in K.A.R. 82-4-1.”

(3) The term “competent authority” shall mean “the Kansas corporation commission or any other Kansas agency or federal agency that is responsible, under its law for the control or regulation of some aspect of hazardous materials transportation.”

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

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

(d) Carriers transporting hazardous materials in intrastate commerce shall be subject to the packaging provisions as provided in K.S.A. 66-1,129b, and amendments thereto.

(e)(e) Whenever the adopted federal hazardous materials regulations refer to portions of the federal hazardous materials regulations that are not included under subsection (a), those references shall not be applicable to this regulation. (Authorized by K.S.A. ~~2008~~ 2010 Supp. 66-1,112, K.S.A. 66-1,112g, K.S.A. ~~2008~~ 2010 Supp. 66-1,129, and K.S.A. 66-1,129b; implementing K.S.A. ~~2008~~ 2010 Supp. 66-1,112, K.S.A. ~~2008~~ 2010 Supp. 66-1,129, and K.S.A. 66-1,129b; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1984; amended May



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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 P-_____.)

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**KANSAS CORPORATION COMMISSION
ECONOMIC IMPACT STATEMENT
K.A.R. 82-4-1**

Proposed

I. Summary of Proposed Regulation, Including Its Purpose.

This regulation defines the terms used in Article 4 – Motor Carriers of Persons and Property. The proposed amendments to this regulation include edits to reflect the most recent Federal Motor Carrier Safety Administration updates and minor grammar and form corrections.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law.

This regulation establishes the definitions of the key terms used in the Kansas motor carrier safety rules and regulations.

III. Environmental Benefit Statement.

The Commission does not anticipate a direct environmental benefit on the industry, agency, other governmental agencies, or the general public.

IV. Anticipated Economic Impact.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.

V. Description of Less Costly Methods Considered Addressing this Issue.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.



**KANSAS CORPORATION COMMISSION
ECONOMIC IMPACT STATEMENT
K.A.R. 82-4-2a**

Proposed

I. Summary of Proposed Regulation, Including Its Purpose.

This proposed regulation explains the Commission's jurisdiction with regards to the inspection of motor carrier operations, equipment and records.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law.

This regulation clarifies the Commission's authority to designate certain members of the Kansas Highway Patrol and agency agents with the duty to inspect and examine motor carrier records and equipment for the purpose of determining compliance with the Kansas motor carrier safety rules and regulations and the requirements for certificates, permits and licenses.

III. Environmental Benefit Statement.

The Commission does not anticipate a direct environmental benefit on the industry, agency, other governmental agencies, or the general public.

IV. Anticipated Economic Impact.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.

V. Description of Less Costly Methods Considered Addressing this Issue.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.



**KANSAS CORPORATION COMMISSION
ECONOMIC IMPACT STATEMENT
K.A.R. 82-4-3a**

Proposed

I. Summary of Proposed Regulation, Including Its Purpose.

This regulation adopts relevant portions of the Federal Motor Carrier Safety Administration's (FMCSA) regulations (Title 49 C.F.R. Part 395) governing the maximum driving times for property-carrying and/or passenger carrying 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's regulations.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law.

This regulation establishes the maximum drive times motor carriers may operate within this state. The adoption of this regulation is required under Title 49 C.F.R. Part 350.

III. Environmental Benefit Statement.

The Commission does not anticipate a direct environmental benefit on the industry, agency, other governmental agencies, or the general public.

IV. Anticipated Economic Impact.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.

V. Description of Less Costly Methods Considered Addressing this Issue.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.



**KANSAS CORPORATION COMMISSION
ECONOMIC IMPACT STATEMENT
K.A.R. 82-4-3f**

Proposed

I. Summary of Proposed Regulation, Including Its Purpose.

This regulation adopts relevant portions of the Federal Motor Carrier Safety Administration's (FMCSA) regulations (Title 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.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law.

This regulation sets out the safety rules each motor carrier and its drivers must follow during the operation of commercial motor vehicles for the purpose of transporting property, passengers and/or intermodal equipment. The adoption of this regulation is mandated by Title 49 C.F.R. Part 350.

III. Environmental Benefit Statement.

The Commission does not anticipate a direct environmental benefit on the industry, agency, other governmental agencies, or the general public.

IV. Anticipated Economic Impact.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation. This is an existing regulation establishing minimum safety requirements for those motor carriers and drivers operating commercial motor vehicles. Adoption of this regulation permits the Commission the ability to enforce the existing regulation as required by state and federal law.

V. Description of Less Costly Methods Considered Addressing this Issue.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.



**KANSAS CORPORATION COMMISSION
ECONOMIC IMPACT STATEMENT
K.A.R. 82-4-3g**

Proposed

I. Summary of Proposed Regulation, Including Its Purpose.

This regulation establishes the minimum duties of motor carriers with respect to the qualifications for their drivers who drive commercial motor vehicles. This regulation also establishes the minimum qualifications for those drivers who are owner and operators of the commercial motor vehicles.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law.

The proposed edits to this regulation clarifies the applicability of 49 C.F.R. 391.11(b)(1) to interstate operations only. The proposed edits to this existing regulation is necessary to ensure compatibility with the Federal regulations as required in 49 C.F.R. 350.

III. Environmental Benefit Statement.

The Commission does not anticipate a direct environmental benefit on the industry, agency, other governmental agencies, or the general public.

IV. Anticipated Economic Impact.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation. This is an existing regulation establishing minimum guidelines for motor carriers with respect of their supervision of drivers operating commercial motor vehicles. Adoption of this regulation permits the Commission the ability to enforce the existing regulation as required by state and federal law.

V. Description of Less Costly Methods Considered Addressing this Issue.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.



**KANSAS CORPORATION COMMISSION
ECONOMIC IMPACT STATEMENT
K.A.R. 82-4-3i**

Proposed

I. Summary of Proposed Regulation, Including Its Purpose.

This regulation adopts relevant portions of the Federal Motor Carrier Safety Administration's (FMCSA) regulations (Title 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 and deletions and additions required to reflect the most recent updates to FMCSA's regulations.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law.

This regulation establishes the minimum requirements for parts and accessories necessary on commercial motor vehicles operating in either intrastate or interstate commerce. The adoption of this regulation is required under Title 49 C.F.R. Part 350.

III. Environmental Benefit Statement.

The Commission does not anticipate a direct environmental benefit on the industry, agency, other governmental agencies, or the general public.

IV. Anticipated Economic Impact.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.

V. Description of Less Costly Methods Considered Addressing this Issue.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.



**KANSAS CORPORATION COMMISSION
ECONOMIC IMPACT STATEMENT
K.A.R. 82-4-6d**

Proposed

I. Summary of Proposed Regulation, Including Its Purpose.

This existing regulation establishes the application procedures for motor carriers and their drivers with regards to waivers of the Federal physical fitness requirements. Drivers not meeting the physical requirements established in Title 49 C.F.R. 391 may not operate a commercial motor vehicle without a valid waiver. This application process permits certain drivers an additional opportunity to prove fitness to operate a commercial motor vehicle.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law.

Drivers not meeting the physical requirements established in 49 C.F.R. 391 may not operate a commercial motor vehicle without a valid waiver. This regulation provides a means for those drivers to make an additional application requesting limited certification.

III. Environmental Benefit Statement.

The Commission does not anticipate a direct environmental benefit on the industry, agency, other governmental agencies, or the general public.

IV. Anticipated Economic Impact.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.

V. Description of Less Costly Methods Considered Addressing this Issue.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.



**KANSAS CORPORATION COMMISSION
ECONOMIC IMPACT STATEMENT
K.A.R. 82-4-8a**

Proposed

I. Summary of Proposed Regulation, Including Its Purpose.

This existing regulation establishes the minimum requirement for safety equipment which must be maintained by motor carriers and drivers of commercial motor vehicles. The proposed edits to this regulation adopts the Environmental Protection Agency's (EPA) toxicity standards set out in 40 C.F.R. Part 82, Subpart G. Additionally, the edits include minor grammar and form changes.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law.

The purpose of the proposed edits to this existing regulation is to adopt the EPA's newest standards for fire extinguishers.

III. Environmental Benefit Statement.

The Commission does not anticipate a direct environmental benefit on the industry, agency, other governmental agencies, or the general public.

IV. Anticipated Economic Impact.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.

V. Description of Less Costly Methods Considered Addressing this Issue.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.



**KANSAS CORPORATION COMMISSION
ECONOMIC IMPACT STATEMENT
K.A.R. 82-4-20**

Proposed

I. Summary of Proposed Regulation, Including Its Purpose.

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.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law.

Title 49 C.F.R. 350 requires each state to adopt, implement and enforce the Federal Hazardous Materials Rules and Regulations. The purpose of the proposed edits to this existing regulation is to adopt the most current published version of the Federal Hazardous Material Safety Rules and Regulations in a manner which meets the federal compatibility requirements.

III. Environmental Benefit Statement.

The Commission does not anticipate a direct environmental benefit on the industry, agency, other governmental agencies, or the general public.

IV. Anticipated Economic Impact.

The Commission does not anticipate an economic impact resulting from the adoption of the proposed edits to these existing regulations. To our knowledge there are not any substantive changes or edits in this proposal which would add a new burden on the motor carriers operating in this state.

V. Description of Less Costly Methods Considered Addressing this Issue.

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.

